

Polk, Politics, and Patronage: The Rejection of George W. Woodward's Nomination to the Supreme Court

ARLY IN HIS ADMINISTRATION, THE NEWLY elected James K. Polk received a sharp political rebuke from senators in his own party. On January 22, 1846, the Senate, containing a supposedly comfortable Democratic majority of six (31-25), voted twenty-nine to twenty against confirming Pennsylvania jurist George Washington Woodward to the Supreme Court of the United States. For various reasons, six Democrats crossed party lines to join twenty-three Whigs in a mutual endeavor to humiliate Woodward. The judge was not the first candidate to experience defeat; in fact, he was the ninth person discredited by rejection, withdrawal, postponement, or by not being acted upon. He was, however, only the fourth victim of outright Senate repudiation, and the first Pennsylvanian so

THE PENNSYLVANIA MAGAZINE OF HISTORY AND BIOGRAPHY Vol. CXXI, No. 3 (July 1997)

¹ Milo M. Quaife, ed., Diary of James K. Polk (4 vols., Chicago, 1910), 1:183-84 (hereafter, Quaife, Diary of Polk). Charles G. Sellers, James K. Polk Continentalist, 1843-1846 (Princeton, 1966), 353. Journal of the Executive Proceedings of the Senate of the United States of America from December 1, 1845 to August 14, 1848 (12 vols., Washington, D.C., 1887), 7:88. Five Democrats and two Whigs abstained.

tarnished. His defeat was the first major patronage setback of the new administration.²

Why did it happen to the new Polk presidency? Why were these six Democratic senators so intransigent? Among the more significant reasons for their behavior, several stand out: political factionalism within the Democratic Party of the Keystone State that ensnared the nominee within its tangled web; candidate Woodward's own political errancy, which became a grievous handicap; Woodward's inconsistency on the contentious issue of the tariff that surfaced during the confirmation deliberations, burdening his political credibility; the aloof and go-it-alone attitude of Polk during the nominating process, particularly when he ignored senatorial courtesy, which not only violated the institutional prerogative of the upper house but also challenged and antagonized powerful political brokers; and, finally, of utmost importance, the implacable hostility of the junior senator from the Commonwealth of Pennsylvania, Simon Cameron. Cameron construed the nomination as a direct insult to him and his allies and responded with a focused effort to thwart confirmation. All of these factors, either singly or in

² Floyd E. McCaffree, "The Nomination and Confirmation of Justices of the Supreme Court of the United States, 1789-1849," Ph.D. diss., University of Michigan, 1937, passim. Henry J. Abraham, Justices and Presidents: A Political History of the Appointments to the Supreme Court (3d. ed., New York, 1992), 109. Supreme Court nominees blocked by the Senate were: John Rutledge, 10-14, Dec. 15, 1795, George Washington; Alexander Wolcott, 9-14, Feb. 13, 1811, James Madison; John J. Crittenden, confirmation indefinitely postponed, February 1828, John Q. Adams; Roger B. Taney, confirmation indefinitely postponed, March 1835, later renominated and confirmed, Andrew Jackson; John C. Spencer, 21-26, Jan. 31, 1844, John Tyler; Reuben Walworth, not acted upon, 1844, John Tyler; Edward King, not acted upon, 1844, John Tyler; and John M. Read, not acted upon, 1844, John Tyler. John S. Goff, "The Rejection of United States Supreme Court Appointments," American Journal of Legal History 5 (1961), 358-62. Rona Hirsch Mendelsohn, "Senate Confirmation of Supreme Court Appointments: The Nomination and Rejection of John P. Parker," Howard Law Journal 14 (1967), 105. See also Philip A. Dynia, "Senate Rejection of Supreme Court Nominees: Factors Affecting Rejection, 1795-1872," Ph.D. diss., Georgetown University, 1973, 11. The rate of rejection for Supreme Court justices is proportionately higher than for any other office. Ibid., 56. Interestingly, prior to 1845 five nominees appointed and confirmed by the Senate declined the honor. They were William Cushing, who refused the promotion to chief justice, George Washington; Robert H. Harrison, George Washington; John Jay, John Adams; Levi Lincoln, James Madison; John Q. Adams, James Madison. Mendelsohn, "Senate Confirmation," 106. Of far more significance is that up to 1894 at least one aspirant was denied confirmation for one reason or another in "virtually every decade." See Thomas Halper, "Senate Rejections of Supreme Court Nominees," Drake Law Review 22 (1972), 102. Also Henry Paul Monoghan, "The Confirmation Process: Law or Politics?" Harvard Law Review 101 (1988), 1202. Laurence H. Tribe, God Save This Honorable Court. How the Choice of Supreme Court Justices Shapes Our History (New York, 1985), 142-44. Two previous Pennsylvanians, James Wilson and Henry Baldwin, enjoyed easy confirmation.

combination, persuaded a coterie of Democrats to follow Cameron and to link up with much of the Whig opposition in repudiating both the president and his protégé.³

Why did Cameron react as he did? Why was he at odds with the chief executive of his own party and so hellbent on undermining him? The answers can be found in the context of Pennsylvania politics, particularly in the roles of Cameron and Woodward in the political brawls of that era.

Of Simon Cameron much is known. He was a resourceful and well-known figure who had a host of warm friends and partisans throughout Pennsylvania and the nation. Unlike Woodward, who was relatively young, Cameron was a mature man of forty-six when he entered the Senate in 1845. He was also a powerful politico within the Pennsylvania Democracy who had labored tirelessly in the party's behalf for over twenty years. During that time he had been on friendly terms with such notables as Andrew Jackson, Martin Van Buren, James Monroe, John C. Calhoun, and, especially, James Buchanan, his political mentor. As a rich, shrewd, and successful businessman with interests in newspapers, banks, real estate, iron, and railroads, Cameron had many friends and associates within the business community. Concerning Cameron's political prowess a gubernatorial candidate told Polk in 1844: "No man knows Pennsylvania better than he does and he can give

³ Others who examined the controversy take a slightly different approach. Charles G. Sellers views the nomination as a rebuke to Cameron. According to Sellers, Buchanan was so enraged that he intervened actively against the president's nomination and aided in the rejection "in order to obtain the office for himself." Sellers, *Polk*, 353.

Philip Shriver Klein says nothing about the appointment as a censure to the newly elected senator from Pennsylvania. Although Buchanan complained to Polk that he was not consulted about the matter and that he would not have recommended Woodward, Klein denies that the secretary of state had conspired with Cameron to sabotage the appointment. Klein, *President James Buchanan*, *A Biography* (University Park, Pa., 1962), 170-71.

Following Sellers, John M. Belohlavek says that the appointment of Woodward would be a reproach to Cameron. The author neither censures nor absolves Buchanan's conduct during the controversy, although Belohlavek does mention that many Democrats were furious with the secretary of state for aiding in Woodward's defeat. John M. Belohlavek, *George Mifflin Dallas, Jacksonian Patrician* (University Park, Pa., 1977), 106, 110.

Paul H. Bergeron follows the traditional point of view in agreeing that the nomination was to be a "sort of reprimand to Cameron." The author does not implicate Buchanan in the defeat, although he does mention that the president did blame Buchanan for the failure. Bergeron, *The Presidency of James K. Polk* (Lawrence, Kans., 1987), 164-65.

Charles McCool Snyder contends that Polk appointed Woodward to right "'the wrong' done to him in the Senate defeat. The author does assert that Woodward was not the choice of Buchanan, Dallas, or other leaders. Snyder, *The Jacksonian Heritage* (Harrisburg, 1958), 192-93.

you much valuable and correct information as to its present political state." In a similar vein, at about the same time, Buchanan said of Cameron: "His energy and activity and skill will always make him a formidable [political] foe or a useful friend." Senator Cameron, then, was a recognized political broker with masterly skill and was indefatigable in his pursuits.

But who was George W. Woodward? And how did his career, politics, and constitutional beliefs affect the final result of this sad affair? Born in Bethany, Wayne County, Pennsylvania, on March 26, 1809, to a distinguished political family, he began the practice of law in 1830 in Wilkes-Barre, Luzerne County, usually known as the Wyoming Valley, which was then slowly evolving into a major anthracite mining center. Personally talented, an able speaker, a literate, highly acclaimed lawyer with "a large and lucrative practice," Woodward early became recognized in the community as bright, articulate, and up-and-coming. In 1837, when only twenty-eight, his district chose him as a senatorial delegate to the constitutional convention called that year to revise and to modernize the state's out-of-date constitution.⁵

During these sessions, which amended the 1790 constitution to meet the needs of the time, Woodward's voice and vote on two inflammatory issues of the day—restriction of voting rights and officeholding by foreigners and scrapping of lifetime judicial tenure—brought him immediate acclaim. His stand on these issues temporarily enhanced his political standing but left a residue of distrust that would handcuff his early political career. Speaking before the convention as a member of the Judiciary Committee and as a spokesman for a sizable, emerging nativist antipathy, Woodward urged that the constitution be amended "so . . . as to prevent any foreigner who may arrive in the State after the 4th of July, 1841, from acquiring the right to vote

⁴ Henry A. Muhlenberg to James K. Polk, Aug. 6, 1844, Simon Cameron MSS, Library of Congress (hereafter, LC). James Buchanan to Francis R. Shunk, Aug. 14, 1844, James Buchanan MSS (hereafter, Buchanan MSS), Historical Society of Pennsylvania (hereafter, HSP). Lee F. Crippen, Simon Cameron, Ante-Bellum Years (Oxford, Ohio, 1942), 15-45. James B. McNair, Simon Cameron's Adventure in Iron, 1837-1846 (Los Angeles, 1949), 1-18.

⁵ George A. Woodward, Biography of George Washington Woodward (n.p., 1924), 16.

⁶ It was common knowledge among politicians that Woodward lacked sufficient insight into or grasp of modern politics. See Jesse Miller to Polk, March 14, 1845, Polk MSS, LC. Alex K. McClure, Old Time Notes of Pennsylvania (2 vols., Philadelphia, 1905), 1:93. Woodward had incurred the enmity of too many people during his political career, which proved costly to him in his Supreme Court nomination.

or to hold office in the commonwealth." Despite repeated admonitions from friends and political allies to desist, the impulsive and opinionated delegate spoke harshly and rashly in his tirade against foreigners, explaining why the ballot box and officeholding should be off limits to them, even offering an amendment to that effect. Although the onset of political sanity ultimately persuaded him to withdraw the nativist proposal, it was too late. Antiforeignism became publicly, inextricably linked with his name. Henceforth, whenever he sought political distinction his enemies derisively and publicly smeared him with the epithet "nativist." Many even dubbed him "the father of nativism." Although his political opponents never failed to repeat the accusation—an affront that tormented him throughout the rest of his life—it ultimately had no lasting effect on his influence or his later political career. ¹⁰

Similarly, his advocacy of limited judicial tenure, which was subsequently incorporated into the revised constitution of 1838, provoked enmity and political retribution from vindictive members of the judiciary, who vilified and denounced him. Woodward later testified to their animosity. He remarked that in 1837 he had "many friends" and not "a single enemy" in the judiciary, but he observed gloomily, pointing out the consequences of his stand, "that was the last day I could say I had no enemy in that department of government." 11

Still, his forceful and commanding role in these "reform" proceedings, where he came to be looked upon as "one of the strongest, if not the strongest man of his party in the convention" bequeathed to him a statewide

⁷ Circular: Political Record of George W. Woodward Showing Him to be the Father of Native Americanism Citizens of Foreign Birth, Read Before You Vote (n.d.), Woodward Family Papers (hereafter, Circular), Wyoming Historical and Geological Society, Wilkes-Barre, Pa. (hereafter, WHGS).

⁸ Philadelphia Spirit of the Times, Dec. 15, 1845. Proceedings and Debates of the Convention of the Commonwealth of Pennsylvania to Propose Amendments to the Constitution Commenced at Harrisburg, May 2, 1837 (13 vols., Harrisburg, 1837-39), 5:443-52 (hereafter, Proceedings).

⁹ Circular. See also Wilkes-Barre Advocate, July 9, 1845.

¹⁰ Woodward effectively neutralized the issue. Repeatedly he denied the allegation, condemned nativism, and regretted "that such a party should have sprang [sie] into existence." Wilkes-Barre Republican Farmer and Democratic Journal, Jan. 7, 1846. Woodward, Biography, 26-27.

¹¹ Woodward to the editors of the Philadelphia *Pennsylvanian*, Feb. 28, 1846. He was one of the leaders in the fight for this reform, contending among other reasons "that it would make judges in some degree accountable to the people." *Proceedings*, 4:329. Eventually the revised constitution required judges of the supreme court to hold office for 15 years, the president judge of the several courts of common pleas for 2 years, and the associate judges of common pleas for 5 years. Roy H. Akagi, "The Pennsylvania Constitution of 1838," *Pennsylvania Magazine of History and Biography* 48 (1924), 328.

reputation as an eloquent spokesman for the Democratic Party. ¹² Thus, three years later, in 1841, thanks to his stature in the party and to the active intercession of Hendrick B. Wright, classmate, roommate, personal friend, and political patron, who was a representative in the Pennsylvania Assembly and on warm terms with the Democratic governor, James Porter, ¹³ Woodward received a commission as president judge of the Fourth Judicial District, an office he held until 1851. ¹⁴

Newly acquired judicial status did not lead to permanent political disengagement, for the new jurist retained an avid interest in the politics of his home bailiwick, a community marked by acrimonious infighting among the Jacksonians. Few counties in Pennsylvania surpassed the savage and factional bashings that periodically racked this Democracy. In Luzerne County, which is situated in the northeastern section of the state, the party split over disparate ideological convictions caused by the transition of a predominantly agricultural region into a growing mining complex dependent upon the extraction of anthracite. Accelerating economic transformation generated substantial heresy among Democratic Party members, leading to the establishment of two major blocs within the party, both in Luzerne and elsewhere in the commonwealth. One faction, the traditionalists or members of the "older school," as they referred to themselves, insisted on fidelity to Democratic principle in rejecting a tariff except for revenue;¹⁵ their opposites, the conservatives or "modernists," 16 as they styled themselves, demanded protection for coal and iron, the state's two principal commodities. Other differences divided the two factions. Traditionalists spurned, while modernists sanctioned, government help to banks and corporations and completion of the North Branch Canal. Personal factors also intruded; intense rivalries, petty jealousies, clashing ambitions, and patronage disputes

¹² New York Morning Courier and New York-Enquirer, Dec. 25, 1845. In 1845 one source considered him "decidedly the most powerful man in the party in Pennsylvania." Francis Wharton to John C. Calhoun, April 19, 1845. Clyde N. Wilson, ed., The Papers of John C. Calhoun (23 vols. to date, Columbia, S.C., 1993), 21:499.

¹³ The governor backed Wright in his failed quest for the speakership. David R. Porter to Wright, Dec. 1, 1841, Hendrick B. Wright Papers, WHGS. *Biographical Directory of the American Congress, 1774-1989* (Washington, D.C., 1989), 2090. Woodward to George M. Hollenback, Jan. 30, 1842, Hollenback Family Papers, WHGS.

¹⁴ Woodward, Biography, 19.

¹⁵ One of them spelled out their beliefs. See Andrew Beaumont to Polk, July 7, 1844, Polk MSS.

¹⁶ Hendrick B. Wright to Buchanan, Jan. 23, 1844, Buchanan MSS.

aggravated animosity fueled by ideology. Luzerne County was not unique in this regard; similar extremism prevailed throughout state and local politics as hardcore ideological diehards struggled for domination.

In 1844 an uneasy truce between the modernist or the Improvement faction,¹⁷ led by Hendrick B. Wright, former speaker of the assembly, and the traditionalists, led by Andrew Beaumont, one of the "original Jackson men" committed to Martin Van Buren,¹⁸ collapsed over preferences for candidates for governor and for president.

The gubernatorial convention of March 4, 1844, met to choose between Henry A. Muhlenberg, long identified as an Improvement man, and Francis R. Shunk, the former secretary of the commonwealth in the recent administration of David R. Porter and "decidedly the candidate of the majority of the Democracy of Luzerne," in the opinion of the Beaumontites. Wright, an uninstructed delegate, bypassed Shunk and embraced Muhlenberg. Using the political virtuosity that was his forte, Wright convinced a majority of the delegates to join him. Muhlenberg intimates admitted that Wright's "tireless and skillful politicking" was mainly instrumental in gaining the nod for their chief. 19 But among the Luzerne upholders of Democratic purity, Wright's conduct brought denunciations instead of accolades. Both publicly and privately his enemies berated him for his alleged perfidy in abandoning "the candidate of Luzerne." And to his chagrin, George W. Woodward now found himself numbered among these faultfinders in the anti-Improvement camp. He chastised Wright, his friend and sometime political partner, for the Muhlenberg alliance. 21 This quarrel opened a serious, personal breach between the two men that took a long time to mend.

¹⁷ Stephen Wilson to Wright, Aug. 8, 1843; John W. Dean to Wright, Sept. 5, 1843; Warren Woodward to Wright, Feb. 29, 1844, Wright Papers. See Wilkes-Barre *Advocate*, Jan. 22, 1851. Opponents observed that the tariff was a dividing line between them.

¹⁸ Martin Van Buren to Beaumont, Dec. 14, 1842, Andrew Beaumont MSS, LC. Benjamin Bidlack to Van Buren, Nov. 25, 1844, Martin Van Buren MSS, LC.

¹⁹ J. Pringle Jones, the political architect for Muhlenberg, told him that much of the credit for his success belonged to Wright. See Jones to Muhlenberg, March 6, 1844, Henry A. Muhlenberg MSS, microfilm, American Philosophical Society, Philadelphia.

²⁰ Hollenback to Francis R. Shunk, March 19, 1844 (copy), Hollenback Family Papers, WHGS. Ironically, less than a year earlier, Beaumont and his clan had declared for Muhlenberg. Wilkes-Barre Republican Farmer and Democratic Journal, July 12, 1843. The reversal occurred when Muhlenberg's "Friends" failed to support Beaumont's bid for a nomination to the Canal Commission. Dean to Wright, Sept. 5, 1843, Wright Papers, WHGS.

²¹ Woodward to Buchanan, Nov. 14, 1844, Buchanan MSS.

The twins of ideological and practical politics dictated Wright's behavior. He found himself more in harmony with the beliefs and aspirations of the Muhlenberg circle. In addition, he owed a political debt. Earlier Muhlenberg had backed Wright in his quest for the speakership of the assembly. Finally, political ambition became an important factor. Wright reached an understanding with the nominee prior to the convention. He Muhlenberg won, as expected in the pro-Democratic Keystone State, then Wright was to have considerable say in the allocation of patronage. He was also to have Muhlenberg's backing for the forthcoming Senate vacancy. But fate intervened, as it so often does in the political arena, and Muhlenberg unexpectedly died of apoplexy in August, before the October election. Although Cameron and others in the conservative wing of the party sought another candidate for governor, the Democracy speedily settled on Shunk. Logic, time, and the dynamics of practicality left no viable alternative. Shunk's ascendancy was an ominous setback for the Improvement men.

Prior to this reversal, Wright had further exacerbated party discord by his role in selecting the national ticket. Sent as a delegate from Pennsylvania to the Baltimore national convention in May 1844, where he was made chairman, Wright became an integral cog in the machinations of the "Nocturnal Committee," a cabal determined to replace Martin Van Buren as the Democracy's leader. By astute use of parliamentary procedure, abetted by Wright's legerdemain as chairman, the group vanquished the "Little Magician" by implementing a rule that required the approval of two-thirds of the delegates for a nomination. When this obstacle proved insurmountable for the ex-president, he dropped out of the race. The convention then chose the dark horse from Tennessee, James K. Polk, as its national standard bearer.

Mindful that his Pennsylvania delegation, although pledged to Van Buren, had favored the two-thirds rule by a narrow majority, Wright defended his about-face, saying it was for "the common good of the party." Once again, stigmatized as a "defrauder" and "traitor" by Van Buren

²² George P. Steele to Wright, Feb. 27, 1844, Wright Papers. Wright to Muhlenberg, March 8, 1844, Muhlenberg MSS.

²³ On May 28 Wright lectured his colleagues on the fundamentals of everyday politics. He emphasized, as justification for his own action, that the individual at times had to "be sacrificed for the common good of the party." Victory, he implied, was the primary objective of partisan politics. Baltimore Sun, May 29, 1844. James C. N. Paul, Rift in the Democracy (New York, 1961), 168.

followers throughout the state, and especially in Luzerne, the former chairman, who feared for his political career if the Democracy failed,²⁴ buttressed his stand with cogent political and economic arguments. For a "modern man" the elevation of Van Buren meant that "the superannuated and [broken down] politicians in Luzerne will have full swing" and the "modern men must step into the rear of the political chorts [sic]."²⁵ And even more persuasive to this hard-nosed campaigner was the specter of disaster. To run Van Buren invited almost certain defeat. His waffling on the annexation of Texas and his aversion to a protective tariff would assuredly lead to sizable defections in Democratic ranks in a critical state such as Pennsylvania.

A sizable protectionist segment in the Democratic Party seconded this appraisal. Van Buren's free-trade view made him anathema to businessoriented Democrats such as Simon Cameron, who favored and wanted to retain the Tariff of 1842 with its protection for iron and coal. These men urgently sought a replacement for the former president. They knew, as did the party, that Pennsylvania was a tariff state and had been so since 1842. Even Polk, recently selected by them to run for the presidency, recognized, after a briefing, the vital importance of this issue to his success in the Keystone State. In a letter to a Pennsylvania Democrat published throughout the state, Polk, hiding his true opinion, proclaimed that he favored "a tariff for revenue" which would at the same time "afford reasonable incidental protection to our home industry." With this "jewel" of a position, he soon became known as as "good a Tariff man as [Henry] Clay."26 Using skillful propaganda and tortured reasoning, Democratic publicists succeeded in convincing a majority of the electorate of the truth of this statement. But they deluded themselves, as they soon discovered to their consternation, when Polk

²⁴ Wright to Polk, June 12, 1844; Dec. 29, 1845, Polk MSS.

²⁵ Wright to Buchanan, Jan. 23, 1844, Buchanan MSS.

²⁶ Charles McCool Snyder observes that by 1842 both Whigs and Democrats defended protection. Snyder, *Jacksonian Heritage*, 183. Malcolm Rogers Eiselen notes that in the presidential election of 1844 the tariff "easily overshadowed all other issues" in Pennsylvania. Eiselen, *The Rise of Pennsylvania Protectionism* (New York, 1974), 153. Many prominent Democrats emphasized to Polk the importance of the tariff for the state. See especially Robert J. Walker to Polk, May 31; Muhlenberg to Polk, June 3; Isaac G. McKinley to Polk, June 3; James M. Porter to Polk, June 5, Wright to Polk, June 12; John Galbraith to Polk, June 17; Jesse Miller to Polk, June 20, 1845, Polk MSS. Polk responded to their concern in the Kane letter. See Wayne Culter and James P. Cooper, Jr., eds., *Correspondence of James K. Polk. Vol. VII: January-August 1844* (8 vols. to date, Nashville, 1989), 267. On Polk as a tariff advocate, see Wilson McCandless to Polk, Aug. 14; Cameron to Polk, Oct. 18, 1844, Polk MSS. Eiselen, *Pennsylvania Protectionism*, 153-69.

strongly backed the lowered tariff of 1846.²⁷ When Wright asserted that "there is a revolution in Pennsylvania on the question . . . of the tariff and the Democracy must recognize it to avoid prostration," he was merely reminding his party of something already well known and accepted.²⁸

Pleased by his notable role in the convention, a euphoric Wright, who had earned high praise from the anti-Van Burenites for his political artistry, ²⁹ planned for the future. An ambitious man with a shrewd grasp of politics, he knew that without his efforts and the efforts of others like him, Polk would have faded into historical obscurity; instead, Polk was now in charge of the party, and, should the Democracy win in the fall, his place in history would be assured. If this happened, and Wright felt confident it would, then he himself would reap rewards, and justifiably so, since he had risked much of his political capital for the nominee.

During the campaign of 1844, both parties in Pennsylvania waged aggressive efforts to elect their candidates on both state and national levels. For the Whigs, the choice of Henry Clay as presidential candidate received enthusiastic endorsement from the party faithful and their organs. In selecting Joseph Markle as their gubernatorial candidate, the Whigs hoped his military reputation would make the voters forget his previous defeats for the state house of representatives and for Congress. Markle had fought with Gen. William Henry Harrison in the Northwest Territory in 1812 against the British and the Indians, and party leaders believed his military renown would offset his being unknown in many parts of the state.

After Polk made his ostensible sympathy to protectionism known, the Democrats rejoiced. Also, their selection of Francis R. Shunk to replace the deceased Muhlenberg, their first choice as gubernatorial candidate, was wise. Shunk had a genuine ability to retain the friendships of all party factions. With strong candidates for president and governor, the Democrats correctly sensed victory. Both Polk and Shunk were elected, but by a much lower margin than expected, although the Democrats did retain control of both houses of the state legislature.

Election results on national, state, and local levels brought general rejoicing plus the alluring prospect of political patronage for the factionalized

²⁷ See note 116 for more on this matter.

²⁸ Wright to Buchanan, Dec. 4, 1843; Jan. 23, 1844, Buchanan MSS.

²⁹ Wright to Robert J. Walker, June 12, 1844, Society Miscellaneous Collection, HSP. Paul, *Rift in the Democracy*, 168.

Democracy of Luzerne. Improvement zealots relished the triumph of William S. Ross, a Democrat elected to the state senate with undisguised Whig cooperation over the regularly endorsed Democrat, Andrew Beaumont. The Wright faction's connivance with the Whigs in this campaign was an augury of future dealings, for, as it later turned out in February 1845, this victory gave Ross the power to defeat a Beaumont follower by another amalgamation with the Whigs. Polk's narrow mandate from the electorate induced Wright to seek the powerful position of collector of the Port of Philadelphia, while Democratic ascendancy in the state elections persuaded the Beaumont group to promote their native son, Woodward, for Daniel Sturgeon's expired term in the United States Senate.

At the Democratic caucus held in Harrisburg on January 13, 1845, to elect a replacement for Sturgeon, the meeting became tumultuous. Shunk and Muhlenberg men were deadlocked; each barred the other's choice. The Muhlenberg group easily blocked Woodward, whom they considered a traitor because of his defection from their ranks. Ross, the newly elected maverick, sneered that Woodward's appearance before the caucus "did not amount to much. . . . He gave in caucus a long judiciary opinion why he was the greatest Democrat in creation but he could not make the boys believe it." Because the Wright partisans intensely disliked Woodward, frustrating his advancement became their obsession. As a consequence, the party eventually fell back on Daniel Sturgeon, the cautious and inoffensive physician-incumbent. Although he was a political lightweight with little influence in the Senate, he was identified with neither of the warring factions.

Party turmoil intensified, with anti-Improvementites backstabbing Wright and his followers, who reciprocated.³³ When James Buchanan

³⁰ I. G. Fell to Wright, Sept. 18, 1844; William S. Ross to Wright, Oct. 2, 1844, Wright Papers.

³¹ For convention highlights, see Harrisburg Democratic Union, Jan. 15, 18, 1845.

³² Ross to Wright, Jan. 14, 1845, Wright Papers. The highest vote Woodward received was 11. Sturgeon took the prize on the third ballot with 42 votes. William A. Crabb to Wright, Jan. 14, 1845, Wright Papers. Woodward had little hope that he would be elected. Woodward to Buchanan, Nov. 14, Dec. 13, 1844, Buchanan MSS. Daniel Sturgeon served several terms in the Pennsylvania House and Senate, 1818-30. He also was state auditor general, 1830-36, and state treasurer, 1838-39. First elected to the U.S. Senate in 1839, he served until 1851.

³³ See Ross to Wright, March 11; F. L. Bowman to Wright, Feb. 18; also Steele to Wright, Feb. 13, 1845, Wright Papers. One of the many rumors circulating in the community had Woodward going to Washington to remonstrate against the selection of Wright. Fell to Wright, Feb 22, 1845, ibid. In addition to Wright, George F. Lehman, Henry Welsh, and Henry Horn also vied for the collectorship. All three had far more influential backers than the Luzernite.

resigned his Senate seat on February 17, 1845, to take over the Department of State, Harrisburg again became the main battleground. Again, Woodward sought the coveted vacancy. Again, the caucus assembled. This time, however, a bitterly dissatisfied segment of the party, raging at Shunk for betraying an earlier promise of patronage impartiality, jettisoned party policy and boycotted the caucus.³⁴ Only 48 of the 73 eligible members participated; and, of this number, a scant 25 settled on the Shunk-backed Woodward as their preference.³⁵ Despite the razor-thin margin, Shunk strategists felt confident of the legislature's agreement. After all, their man received the party's endorsement. Then, too, they assumed that his residence in the northern part of the state would attract the votes, even those of Improvementites. They utterly overlooked the impact of geography. For if Woodward were to succeed, then Wright would fail in his quest for the collectorship, since party tradition precluded advancement of two men from the same part of the state. Likewise, the Woodward backers disregarded the deep-seated resentment of the boycotters toward the caucus candidate as a paladin of the detested Shunk administration.

When the legislature convened, Woodward managers soon learned how badly they had miscalculated. Sixteen Democrats deserted their party, shunned the caucus representative, and sided with 44 Whigs and 7 Native Americans [the party] to select Simon Cameron by the convincing margin of 67 to 55. Cameron's achievement was no fluke. It resulted from a well-planned, well-executed strategy abetted by some wily and devious bargaining. To the Whigs, Cameron promised a steadfast commitment to

³⁴ See George Mish to Hollenback, March 7, 1845, Hollenback Family Papers. Shunk had no outstanding ability but was a man of unblemished integrity. Wayland Fuller Dunaway, *A History of Pennsylvania* (2d. ed., New York, 1948), 393. Crippen, *Cameron*, 56.

³⁵ O[liver] Watson to Wright, March 15, 1845, Wright Papers.

³⁶ Woodward garnered 54, 53, 56, 55, and 55 votes on the five ballots cast.

³⁷ Henry R. Mueller, *The White Party in Pennsylvania* (New York, 1922), 116. Crippen, *Cameron*, 60. According to one informant, when Buchanan "was debating about entering the Cabinet," he questioned Cameron about who would be the successor in the Senate. The latter replied, "I think Simon Cameron will." Quoted in Eugene Coleman Savidge, *Life of Benjamin Harris Brewster, with Discourses and Addresses* (Philadelphia, 1891), 71. Cameron had skillfully orchestrated the outcome. One month after Polk's victory, Cameron exulted over his growing political clout. "I am beginning to stand pretty high in the esteem of several gentlemen, whose notice flatters me very much." Cameron to James Buchanan, Dec. 7, 1844, Papers of James Buchanan and Harriet (Lane) Johnston, microfilm, LC. More than two weeks before the tally, Cameron laid out the scenario for his coup. "Strange as it may seem," Cameron observed, "I can be the successor of Mr. Buchanan. . . . The election will not . . . be made by a caucus this time." Cameron to Col. Schoch, Feb. 27, 1845, Cameron Item, Lancaster Historical

uphold unchanged the protectionist Tariff of 1842, while to the Natives he pledged to lobby for more rigorous naturalization restrictions.

In the end, practical politics directed the course of the bolting Democrats who were the key to Cameron's tour de force. For them, obedience to caucus only meant patronage proscription. Better, they reasoned, to adopt an ideological compatriot who would raise his voice on their behalf in Washington. With Cameron in the Senate, they would possess some political clout; without him, none. To undermine Woodward and to advance their own interests, they exploited the tariff issue. They flayed their adversary as a free trader, as one hostile to Pennsylvania's economic well-being. A Wright fugleman was most persuasive in disseminating this damaging charge, as one Woodward partisan substantiated when he complained to Polk that Woodward was defeated through "the influence of Senator Ross of Luzerne, the warm and intimate friend of H. B. Wright, who circulated that he [Woodward] was a free trade man." Ross confirmed the criticality of the tariff issue when he bragged that Cameron "knows he would not have

Society, quoted in Klein, *Buchanan*, 167. Early in January gossip of some delegates abandoning the caucus made the front page of many newspapers. Accounts indicated that a rigorous effort was underway to bypass the caucus in deciding upon the U.S. senator. Wilkes-Barre *Republican Farmer and Democratic Journal*, Jan. 8, 1845. See also Thomas McCully to Wright, Dec. 1, 1844, Wright Papers.

Cameron had plotted his course with meticulous care in procuring the help of northern Improvement men. See Mish to Hollenback, March 7, 1845, Hollenback Family Papers. So certain was he of his own power base that Cameron afterward boasted that he needed no help from Buchanan to attain the senatorship. Cameron to Buchanan, March 27, 1845, Papers of Buchanan and Johnston. It is worth noting that Cameron held no elective office prior to this achievement. Rather than come up through the ranks, he began near the top. Ironically, Woodward rebuffed the very Native contingent that Cameron embraced. Before the actual counting of votes, the "Natives asked [Woodward] . . . if elected by their votes, would he favor their measures for changing the naturalization laws." When he answered no, "they threw every vote they could command against . . . [him] and raised a shout of triumph over their victory." Woodward, Biography, 34.

³⁸ Jesse Miller to Polk, March 14, 1845, Polk MSS. In exchange for Wright's help, Cameron agreed to help him win the collectorship. Watson to Wright, March 14, 1845, Wright Papers. One member of the rank and file, in condoning Wright's animosity, denounced Woodward as "an unprincipled demagogue" who "is distrusted in his own county by all parties and factions, even by H. B. Wright, having in turn acted traitor to them all." David Petrikin to Cameron, March 19, 1845, Papers of Buchanan and Johnston.

been elected had it not been for your humble servant."³⁹ Very bitter at his loss, Woodward felt "cheated by the result."⁴⁰

Polk received a thorough but somewhat skewed briefing of this episode from several informants, including his vice president, George M. Dallas, all of whom condemned the transaction as a blatant treachery and demanded reprisal. Even Andrew Jackson could not contain his indignation. Along with others he cautioned his fellow Tennessean of the dangers to the Democratic Party if Cameron was to have interest in or control over the administration. As expected, these scathing denunciations firmed Polk's resolve to ignore Cameron's patronage recommendations. When this newcomer discovered that his appeals on behalf of Wright and others were not being acted upon by the president, Cameron, a formidable and seasoned competitor with a decided bent for political sabotage, retaliated. At once, he prepared to attack and to block those presidential nominations he found politically undesirable or personally obnoxious. A master at political infighting and a sharp-witted legislator, Cameron had an uncompromising

- ⁴⁰ Woodward to William Bigler, Oct. 18, 1855, William Bigler Papers, HSP.
- ⁴¹ George M. Dallas to Wright, March 17, 1845, Wright Papers. Jesse Miller to Polk, March 14, 1845, Polk MSS.
- ⁴² Andrew Jackson to Polk, April 7, 1845, Polk MSS. See also David Wilmot to Polk, Feb. 24, 1845, Letters of Application and Recommendation during the Administrations of James Polk, Zachary Taylor and Millard Fillmore, 1845-1853, Henry Welsh file, National Archives. Miller to Polk, March 14, 1845, Polk MSS.
- ⁴³ Cameron intended to be a loyal Democrat, supporting the administration in all its measures, even on such a politically sensitive issue as the tariff. Cameron to Buchanan, March 13, 1845, Papers of Buchanan and Johnston. According to one highly influential source, "Cameron will be perfectly orthodox in all his votes, except the tariff, nor will he be very obstinate on that point." Lewis Coryell to Calhoun, April 6, 1845, Papers of Calhoun, 21:469.

³⁹ Ross to Wright, March 26, 1845, Wright Papers. See also Steele to Wright, March 16, 1845, ibid. Ross righteously justified his vote by insisting that he would violate his pledge to his constituents if he favored Woodward, since it was well known that he "was not a real friend of the tariff of 42." Ross to Wright, March 17, 1845, ibid. Ross cited a talk with an influential Whig in Luzerne, Chester Butler, who declared that in a conversation with Woodward the latter asserted there was no constitutional basis for protection. Ross to Wright, March, 30, April 10, 1845, ibid. The Whig paper in Woodward's hometown also attributed failure to his free trade sympathies. Wilkes-Barre *Advocate*, March 19, 1845. It was common knowledge that the defeated nominee was "opposed to the tariff of 1842." Francis Wharton to Calhoun, April 19, 1845, *Papers of Calhoun*, 21:499. Woodward's friends were enraged. See Minor S. Blackman to Buchanan, March 18, 1845, Buchanan MSS. These Democratic defections produced an uproar in the ranks of the party faithful. Administration stalwarts, headed by Jesse Miller, Benjamin Champneys, and Reah Frazer, began a campaign to stigmatize the turncoats, but the attempt collapsed. Wiser heads in the party, preferring unity to discord in the face of the upcoming elections in October, persuaded the press and the Shunk echelon to cancel the vendetta.

political creed based upon a mélange of political quid pro quo, personal fealty, and doctrinal compatibility. He never forgot a favor or failed to repay a debt or slight. "His rule of . . . life" was "to serve those who served him." If Polk or any other political power broker shunted aside or disparaged Cameron's recommendations or advice then they would learn the folly of such policy. I have lived long enough," mused Cameron, in reflecting on the vagaries of politics, "to know that we shall not be respected if we do not exercise the power that we may have."

The first opportunity for the senator to flex his considerable political muscle arose with a judicial vacancy on the Supreme Court, a problem Polk inherited from the previous administration. Tyler had repeatedly tried to fill it, but found himself thwarted by a defiant Senate. At first Polk offered the honor to Buchanan, his newly installed secretary of state, who accepted, hesitated, and later declined, preferring to remain in the cabinet for its political influence.⁴⁷ But, while withdrawing his own name, he pressed that of a well-known figure in the state Democracy, John M. Read of Philadelphia,⁴⁸ whom Buchanan had previously recommended to Tyler. Read did receive the nomination, but the Senate refused to gratify the lame-duck Tyler and adjourned without taking any action.

Freed from the obligation of appointing his secretary of state, whom he wanted to retain in the cabinet, Polk scrutinized the doctrinal credentials of the active applicants. First of all, for philosophical reasons, he would have nothing to do with Read. "Mr. Read, I learned," commented Polk, "was until 10 or 12 years ago a leading Federalist and a representative of that party in the Legislature." And, the president observed, "I have never known an instance of a Federalist who . . . after arriving at the age of $30 \dots$ was to be

⁴⁴ Cameron to Wright, March 20, 29, 1845, Wright Papers. See also Cameron to Buchanan, Dec. 7, 1844, Papers of Buchanan and Johnston. Erwin Stanley Bradley, Simon Cameron, Lincoln's Secretary of War (Philadelphia, 1966), 47.

⁴⁵ Cameron to Wright, March 29, 1845, Wright Papers.

[&]quot;Cameron to Wright, July 18, 1845, Wright Papers. It was later charged that Cameron concurred with the remark of Senator James Westcott applicable to Polk, that "the only way to treat an ugly Negro who was unruly, was to give him a d—n drubbing at the start, and he would learn to behave himself." Quaife, Diary of Polk, 1:199.

⁴⁷ The encouraging developments in the Oregon boundary dispute with Great Britain also played a role. Klein, *Buchanan*, 170.

⁴⁸ Quaife, Diary of Polk, 1:137. Klein, Buchanan, 170.

relied on in his constitutional opinions."⁴⁹ Citing the dismal record of Andrew Jackson, who, in Polk's judgment, "had been most unfortunate in his appointments [to] the Bench in this respect,"⁵⁰ the president resolved "to appoint no man who was not an original Democrat and strict constructionist and who would be less likely to relapse into the Broad [sic] Federal doctrines of Judge [John] Marshall and Judge [Joseph] Story."⁵¹ Uppermost in the litany of presidential desiderata was strict constructionism. The key component of strict constructionism is restraint,⁵² and Polk wanted a man who exemplified that doctrine.

He detested politically minded and activist jurists who construed federal power in the widest latitude while hobbling and limiting state authority. He rejected legal innovation, arbitrary decisions that willfully strayed from the original-intent principle of the Framers, judge-made law, and judicial interventionists who legislated rather than adjudicated. Polk had a narrow and regionally influenced view of the authority and responsibility of the chief court of the land.

As he focused his search for a candidate with these views, one who resided in the jurisdiction of the Third Circuit (to maintain geographical balance on the court), he soon concluded that all the contenders, including the anti-Buchanan candidate Robert C. Grier, wore the same legal robe as Read.⁵³

⁴⁹ Quaife, Diary of Polk, 1:137. Polk's knowledge of Read's background probably came from Dallas and his kinsman, Secretary of the Treasury Robert J. Walker. Walker married a niece of the vice president and had earlier helped block Read's first attempt. Belohlavek, Dallas, 106.

⁵⁰ Quaife, Diary of Polk, 1:137-38.

⁵¹ Ibid., 138. John McLean and James M. Wayne incurred the ire of Jacksonians, and undoubtedly Polk, for their deviations on questions of constitutional law. See Abraham, *Justices and Presidents*, 97-98. Polk also disliked Henry Baldwin's protectionist preferences.

⁵² Tribe, God Save This Honorable Court, 42.

⁵³ Quaife, Diary of Polk, 1:138. Regional representation was an influential consideration probably because it was deemed prudent and practical to locate the jurists near the circuits assigned to them. William J. Daniels, "The Geographic Factor in Appointments to the United States Supreme Court: 1789-1976," Western Political Quarterly 31 (1978), 227. On a list of candidates, see Ellis B. Schnable to Wright, December 1845 (date of receipt), Wright Papers. See also Wright to Polk, Aug. 29, 1845, Letters of Application and Recommendation during the Administrations of James Polk, Zachary Taylor and Millard Fillmore, 1845-1853, Ellis B. Lewis file, National Archives. Lewis to Wright, Nov. 27, 1845, Wright Papers. Wright to George Bancroft, Dec. 1, 1845, George Bancroft MSS, Massachusetts Historical Society. John R. Thomson to Polk, Dec. 16, 1845, Letters of Application and Recommendation during the Administrations of James K. Polk, Zachary Taylor and Millard Fillmore, 1845-1853, Robert C. Grier file, National Archives.

Thus, he saw the wisdom of turning to a young unknown, George W. Woodward of Luzerne County, whom Polk had first met early in October 1845 in the White House.⁵⁴ Mindful of the recent foul play in the senatorial election and undoubtedly still deeply provoked by this glaring violation of party fidelity, the president was impressed by Woodward.⁵⁵ In addition, encouragement from influential members of his cabinet helped convince him that Woodward was the ideal choice. But how would Cameron react? Polk intended to find out. Early in December at a presidential reception, Polk raised Woodward's name to gauge Cameron's reaction toward his recent rival.

Cameron appeared sympathetic as well as reassuring. "Well, make a nomination and we will support it." This unexpected expression of cordiality seemed to enhance Woodward's prospects. The statement suggested, at the very least, Cameron's neutrality, if not downright concurrence. At that time even Woodward believed that Cameron "was disposed to favor the nomination," as it would "eliminate him [Woodward] as a factor in Pennsylvania politics and so help clear the field for Cameron's own future operations." Such political naivete ignored political reality. For Cameron to stand meekly aside on this nomination would undermine his own power base, alienate his followers, and go against his deeply ingrained beliefs on patronage expediency. As a highly intelligent political practitioner, he knew that nothing could destroy a budding career in politics more quickly than having no power to block the advancement of enemies.

Cameron reacted immediately. Upon returning to his lodgings after the reception, he quickly scribbled brief notes to allies in the commonwealth,

⁵⁴ Woodward to the editors of the Philadelphia *Pennsylvanian*, Feb. 28, 1846. Woodward's foes denied the happenstance of the meeting. They contended it was the brainchild of Beaumont and others to draw the president's attention to their neighbor. Polk and Dallas testified that Woodward did not solicit the office. Dallas (signature scissored out) to Wright, January 1846 (date of receipt), Wright Papers. Quaife, *Diary of Polk*, 1:139. See also the Washington (D.C.) *Daily National Union*, Jan. 9, 1846.

⁵⁵ Andrew T. McClintock, recalling the incident many years later, said the president was so impressed "with the personal appearance and intellectual powers of Judge Woodward that... without solicitation and to the surprise of the Judge," he nominated him to the Supreme Court. Quoted in Woodward, *Biography*, 61.

⁵⁶ Quaife, Diary of Polk, 1:216.

⁵⁷ Quoted in Woodward, *Biography*, 21. Cameron's reversal occurred, Woodward claimed, because "his nomination on all sides was represented as intended by the President to be a rebuke" to the senator "for the course he had pursued in compassing his own election to the Senatorship." Ibid., 21-22.

alerting them to this unexpected development.⁵⁸ The feedback was prompt. Shocked, Wright forces and others beseeched Cameron and pestered Buchanan to use their influence with the president to prevent submission of Woodward's name.⁵⁹ Geography was again an added stimulant. Wright needed no reminder then or later "that Woodward being nominated from your county, it would seem . . . [to] interfere" with the collectorship.⁶⁰

But Polk brushed aside all caveats and gave full attention to Woodward instead of to a less divisive candidate. At times stubborn to the point of obstinacy, the resolute chief executive was determined on this occasion to exercise his own best judgment.⁶¹ Yet, he knew that no matter how talented the person, party elements in the Keystone State would object vociferously and vigorously to anyone other than their own. Echoing the sentiments of his predecessors, who also had to grapple with the backlash that accompanied most patronage decisions and who had pleaded to be spared the burden of this anxiety, Polk blurted out on one occasion, "I sincerely wish I had no office to bestow."

Notwithstanding, the strong-willed president, conscious that "the path of duty lies plain before me" and must be pursued "whatever may be the consequences to myself," insisted on the yardstick of Democratic purity and passivity of constitutional interpretation as the bedrock of judicial orthodoxy in his administration. And to his way of thinking, more and more George W. Woodward emerged as a first-rate man who accepted and articulated this standard. Polk's assessment was on target. George Woodward was thoroughly ingrained in "old time Jeffersonian democracy." He boldly affirmed

⁵⁸ Cameron to Wright, Dec. 7, 1845, Wright Papers.

⁵⁹ Harrison Wright to Ross, Dec. 19, 1845; Ross to Cameron, Dec. 19, 1845, Papers of Buchanan and Johnston. The protests of both James Campbell and Benjamin Brewster had deeper roots. The two men both preferred Read and hoped to head off Woodward. James Campbell to Polk, Dec. 15, 1845, Records of United States Senate, 29th Congress, Judiciary Committee, Woodward, George W., Nomination of a Justice of the Supreme Court (hereafter, Judiciary Committee), National Archives. Campbell to Polk, March 12, 1845, Letters of Application and Recommendation during the Administrations of James K. Polk, Zachary Taylor and Millard Fillmore, 1845–1853, John M. Read file, National Archives. Brewster to Polk, Dec. 15, 1845, Judiciary Committee. Brewster to Polk, March 24, 1845, Polk MSS.

⁶⁰ Daniel Jenks to Wright, Dec. 29, 1845, Wright Papers.

⁶¹ Quaife, Diary of Polk, 1:187.

⁶² Polk to Silas Wright, July 8, 17, 1845 (copies), Polk MSS, quoted in Sellers, *Polk*, 298. See also Norman A. Graebner, "James K. Polk: A Study in Federal Patronage," *Mississippi Valley Historical Review* 38 (1952), 614.

his hostility to the whole theory of centralization and argued wholeheartedly for "maintaining in their full vigor the reserved rights of the States." On slavery he was also in total agreement with the southern view. He opposed "interference of slavery where it legally existed." To one omniscient witness, it was clear by December 16 that the president had definitely given the nod to the Jeffersonian Democrat. 64

Polk ultimately made up his mind to nominate Woodward for two reasons, of unequal weight but each essential to the final decision. First, the prior disservice done to the candidate stirred the president. He honored the dishonored with a higher station than that denied him by the apostate Democrats. 65 Vice President Dallas made this a focal point in his brief championing of Woodward. Six months earlier in a blistering tirade published in the Harrisburg Democratic Union, Dallas lashed out at "those, who, professing attachment to the political party . . . suddenly disclaim the usages, principles and candidates of that party, and form, in order to oppose and defeat it, a coalition with its avowed adversaries."66 Dallas had neither political nor personal affection for Cameron, a Buchanan partisan, although the new senator was then on an uneasy political footing with the secretary of state. For Dallas, therefore, a Woodward advancement represented a political setback and snub of Cameron. It would also, indirectly, mean a loss of face for Buchanan, who was a serious challenger to the vice president for party leadership. When Polk pledged to hold office for one term only, he caused a spirited campaign between Dallas and Buchanan for the role of heir apparent. Both were ambitious men and to them 1848 appeared to be the year for a presidential candidate from Pennsylvania. Hence, the fierce battle over patronage allocation.

Very careful to work behind the scenes in sponsoring Woodward, Dallas publicly denied any influence on the nomination. When questioned he could

⁶³ George B. Kulp, comp., Sketch of the Life and Character of George W. Woodward Together with the Proceedings of the Supreme Court and Several of the Various Bar Meetings Held on the Occasion of His Death (n.p., 1875), passim.

⁶⁴ John R. Thomson to Polk, Dec. 16, 1845, Read file, National Archives.

⁶⁵ Part of the New York press interpreted the move as a way to heal the bitter feeling in the Democracy emanating from Woodward's earlier defeat, although it cautioned that it would probably fan rather than dampen the flames of discord. New York Morning Courier and New York-Enquirer, Dec. 25, 1845. McClure also saw the action as an attempt to vindicate Woodward. McClure, Old Time Notes, 1:99. See also Hamlet Kerr to Cameron, Dec. 30, 1845, Judiciary Committee. Sellers, Polk, 352.

⁶⁶ See Harrisburg Democratic Union, June 25, 1845. Also Snyder, Jacksonian Heritage, 191.

honestly answer that "Grier and Read were the chief combatants [and they] literally destroyed each other," thus requiring the selection of another man. ⁶⁷ Dallas's dissimulation deceived no one, including Cameron. ⁶⁸ The evidence strongly suggests that the vice president, assisted by Secretary of the Treasury Robert J. Walker, originally drew the president's attention to Woodward, and that it was the attentiveness of the vice president to the nomination that helped to convince Polk. The president confirmed this when he noted in his personal journal that "Woodward... was warmly recommended by Mr. Dallas." Obviously the president also viewed the placement as a gesture of reconciliation to his running mate, with whom he had been at loggerheads over Pennsylvania patronage. ⁷⁰

The second, and most important, element that solidified Polk's determination to select Woodward was Andrew Beaumont's confirmation of Woodward's legal rectitude and basic constitutional outlook. Beaumont, Woodward's newfound ally in Luzerne, had served with Polk in the House and had maintained cordial relations with his colleague over the years, having recently paid a courtesy call on him in late 1845. Vice President Dallas knew of the high premium placed by Polk on the advice proffered by friends he had known since his days in Congress, and of his warm ties with Beaumont, then one of Dallas's political managers in the commonwealth.

To cement Woodward's candidacy Dallas wrote to Beaumont on December 12: "I cannot forbear saying confidentially to you that there are several excellent reasons why a republican of such ancient date and fixed principles as yourself, so well known to the President should immediately repair to the seat of government. . . ." He sent a copy of this letter to the president, appending an explanation for its dispatch. "Some things which I heard immediately before leaving Washington induced me . . . to 'assume the responsibility'" of writing to Beaumont. In obvious reference to the pending Supreme Court opening, Dallas asserted ever so unobtrusively: "It would seem to me that your mind should be perfectly confident before final action,

⁶⁷ Dallas (signature scissored out) to Wright, January 1846 (date of receipt), Wright Papers.

⁶⁸ Cameron to Wright, Dec. 31, 1845, ibid. David Petriken to Cameron, Dec. 28, 1845; Jones to Cameron, Jan. 1, 1846, Judiciary Committee.

⁶⁹ Quaife, Diary of Polk, 1:139.

⁷⁰ Ellis Lewis to Wright, Nov. 27, 1845, Wright Papers. F[itzwilliam] Byrdsall to Calhoun, Dec. 31, 1845, Papers of Calhoun, 22:382-85.

⁷¹ Beaumont to Polk, Oct. 23, 1844; July 7, 1845, Polk MSS. Polk to Beaumont, Sept. 14, 1846, Beaumont MSS, LC.

as I am satisfied that an effort will be made to perplex you." On the reverse of this Dallas message, Polk jotted down that the subject matter was the court vacancy, "concerning which I had said to Mr. D[allas] I would be pleased to consider Mr. Beaumont's view."⁷²

As advised, Beaumont hastened to Washington. There, on December 22, he joined Congressmen Owen Leib and David Wilmot in writing a letter that was hand-delivered to the president, recommending Woodward in the highest terms. Polk underscored the great value he placed on these inputs which erased all his reservations. I became satisfied, recorded the president, from information received from Vice-President Dallas, Hon. Mr. Wilmot, Mr. Leib of the Ho[use] of Representatives and Hon. Andrew Beaumont, with whom I served in Congress and in whom I have great confidence, that Judge George W. Woodward was a sound, original, a consistent [D]emocrat, of the strict construction school, that he was a man of fine talents well qualified. Neither here nor anywhere else did the chief executive ever refer to or consider the issue of nativism.

Among the administration stalwarts, few, if any, entertained any serious doubt about confirmation.⁷⁵ Polk, like his Democratic predecessors, dismissed the possibility of rejection from his mind, automatically assuming a rubber stamp by a compliant and complacent Senate. Several factors lulled the president into quiescence, the most weighty being the tacit consent of the influential Simon Cameron. Then, too, recent information on Buchanan's attitude reinforced Polk's confidence. Early in December, Benjamin Patton, who functioned as a quasi-campaign manager for the reserved and apolitical Grier, revealed to Polk the substance of a conversation he and four other rank-and-file Democrats had had with his secretary of state. According to this questionable version from Patton, Buchanan pleaded "that now his desire was that the President might make an appointment without inviting his [sic] to a consultation on the subject and that he might not be

⁷² Dallas to Beaumont (copy), Dec. 12, 1845; Dallas to Polk, Dec. 12, 1845, Polk MSS.

⁷³ David Wilmot, Andrew Beaumont, Owen Leib to Polk, Dec. 22, 1846, ibid.

⁷⁴ Quaife, *Diary of Polk*, 1:138. The president assumed that judicial patronage to the high court was essentially his prerogative. See Wayne Sulfridge, "Ideology as a Factor in Senate Considerations of Supreme Court Nominations," *Journal of Politics* 42 (1980), 561. Undoubtedly Polk would concur with the assessment of one prominent Philadelphia Democrat who asserted what "great importance" it is that a man should fill the vacant seat whose views will be orthodox on the great questions of slavery. Wharton to Calhoun, Nov. 26, 1844, *Papers of Calboun*, 20:374-75.

⁷⁵ Dallas (signature scissored out) to Wright, January 1846 (date of receipt), Wright Papers.

called upon, from an authoritative source, to interfere in the matter." Moreover, Patton emphasized that the secretary wanted this message passed on to the president.⁷⁶ Presumably this information helped manipulate Polk into bypassing Buchanan in the consultation process.⁷⁷

Other considerations solidified presidential optimism. Merit was a decided factor; the personal quality and the professional caliber of the Luzerne County lawyer convinced Polk that he had made the best choice in the commonwealth.⁷⁸ Democratic ascendancy was another component. The substantial Democratic majority in the Senate almost guaranteed smooth sailing. Finally, precedent helped. Senate ratification of Levi Woodbury, who replaced the deceased Justice Story,⁷⁹ may have suggested a similar outcome for Woodward.

Unknown to the administration, however, angry voices resolved to repudiate this presidential decision. High among the complaints that aroused passions and created misgivings among malcontented Buchananites and Cameronites were both the birth of the appointment and the secrecy attending it. The latter especially rankled the secretary and his followers and exposed Patton's mendacity. Buchanan complained "that the impression was becoming general among his friends in Pennsylvania that the patronage of the Government here was wielded against him." He griped that Polk had slighted him by failing to consult with him on so consequential a patronage offering. Moreover, the president had compounded this political sacrilege by sending the nomination to the Senate without first briefing Buchanan, an omission interpreted in the boarding houses and taverns of the capital as a calculated insult to the leading politician in Pennsylvania.

One Whig reflected this consensus when he commented: "Woodward from Pa. is nominated by the President for the vacant seat on the Bench of the Supreme Court, and Buck [Buchanan] does not hear of this till a friend [Dr. Joel B. Sutherland] drops him a note (in pencil) saying 'it has been done yesterday.' Thus, Dallas & Walker prevail over 'Pennsylvania's favorite son,'

⁷⁶ Benjamin Patton to Polk, Dec. 8, 1845, Judiciary Committee.

⁷⁷ Also, Polk had already given Buchanan a substantial share of the Pennsylvania patronage. Quaife, Diary of Polk, 1:190.

⁷⁸ Ibid., 1:216.

⁷⁹ Ibid., 1:37.

⁸⁰ Ibid., 1:144-46.

yet the ass bears his burden & still shakes his ears, & is Secy of State!"81 Another onlooker derided Buchanan in the same vein. "We hear that the Secretary of State was not advised of the nomination of Woodward until after it was sent to the Senate! Modern politicians are like spaniels; the more they are beaten, the more they love their masters."82

Was the omission deliberate, an oversight, or the result of Patton's duplicity? Earlier, the president broke the news that he was nominating Woodbury to the entire cabinet at a regular meeting when all members were present. However, at the cabinet meeting of December 19, before he sent Woodward's name to the Senate later that day, Polk "read... this and other nominations to some members who had come in" while the cabinet was assembling. Buchanan had not yet arrived. Later Polk denied any intention to mortify the secretary or to conceal the news from him. Polk defended himself by contending that he knew of Buchanan's leaning toward Read, that as president his mind was made up and nothing would change it, and that thus he had not thought it necessary to have further conversation on the subject. Yet it seems hardly credible that a knowledgeable and experienced officeholder like the president would be unaware of the political fallout that would emanate from such omission.

Polk's secrecy and evasiveness suggest that he was aware that Buchanan would oppose the candidate because of the political implications inherent in this patronage allocation. Politics in the Keystone State was a maze of anxieties, tensions, and contradictions. Either teamed with Walker or alone, Dallas in his quest for political supremacy over Buchanan had fought a losing battle for control of Pennsylvania jobs. The presidential election of 1848 was too close and too powerful a lure to ignore. 85 Every office in the commonwealth that Dallas obtained for his faction became a personal

⁸¹ Thomas Corwin to William Greene, Jan. 14, 1846, "Letters of Thomas Corwin to William Greene, 1841-1845," Quarterly Publication of the Historical and Philosophical Society of Ohio 13 (1918), 14. Polk said Buchanan did know of the nomination before the note. Quaife, Diary of Polk, 1:145. Much later, Buchanan insisted he received the news from a senator. Buchanan to Wright, Jan. 14, 1848, Wright Papers. One of the leading Whig newspapers derided the lack of respect shown to the secretary by the president. New York Tribune, Jan. 29, 1846.

⁸² Richard Peters to John McLean, Dec. 25, 1845, John McLean Papers, quoted in Charles Warren, The Supreme Court in United States History (2 vols., Boston, 1926), 2:146.

⁸³ Quaife, Diary of Polk, 1:37.

⁸⁴ Ibid., 1:144-46.

⁸⁵ To some the appointment was "the first move in a great game for the succession." Philadelphia Spirit of the Times, Dec. 27, 1845.

triumph, ⁸⁶ and Buchanan's preoccupation with patronage allocations revealed an identical mind-set.

With the presidency at stake, Buchanan's apprehension over this Dallas coup was understandable. Polk's stubborn insensitivity was not. His deliberate attempt to circumvent his secretary and his partiality in recognizing a ranking member of the Shunk forces violated a code of political behavior that the president had affirmed. He had "resolved from the beginning to know no divisions of the Democratic party, as the only means of keeping it united and preserving its strength." But the president suffered from political amnesia when convenient, as many could verify from personal experience.

Whether intentional or not, Polk's action surprised Simon Cameron, who understood "the President to say that he did not intend" to make the nomination.88 Cameron hastened to Washington on Christmas Day to confer with Buchanan on this undesirable placement.89 Cameron did not see him immediately because Buchanan was at the White House discussing the appointment with Polk. Shortly thereafter, the freshman senator outlined to the secretary the dangerous overtones implicit in this award. The seasoned and prudent secretary refused to commit himself to an overt policy of obstructionism, but he did not discourage his onetime associate. Buchanan's position then and later was "to express no opinion pro or con . . . to take no part."90 Even without the secretary of state, Cameron had ample help in contesting the appointment, for Polk's choice infuriated a dedicated and potent coalition unwilling to accept this decision as a fait accompli. Centered principally in Philadelphia and in the northeastern section of the commonwealth, with active partisans scattered throughout other enclaves, a combination of Muhlenberg men, protectionists, Buchanan followers, anti-Van Buren people, and opportunists rallied behind Cameron to foil the president.

Publicly, the Spirit of the Times of Philadelphia spearheaded the campaign

⁸⁶ Savidge, Life of Brewster, 72-73. Belohlavek, George Mifflin Dallas, 100.

⁸⁷ Polk to Wright, July 8, 1845 (copy), Polk MSS. Quaife, Diary of Polk, 1:190.

⁸⁸ Cameron to Buchanan, Dec. 25, 1845, Papers of Buchanan and Johnston. New York *Tribune*, Jan. 1, 1846. Many were perplexed by the nomination. "Who is he?" was a common refrain of press and politicians. New York *Herald*, Dec. 31, 1845. John McKeon to Lewis Cass, Dec. 29, 1845, Judiciary Committee.

⁸⁹ Cameron to Buchanan, Dec. 25, 1845, Papers of Buchanan and Johnston.

⁹⁰ Buchanan knew the dangerous political implications to him if this appointment held. See Luther Kidder to Cameron, Dec. 30, 1845, Judiciary Committee. John T. Sullivan to Benjamin Rusk, Jan. 9, 1846, ibid.

with an attack on the character and professional competency of Woodward. The paper highlighted on the first page Woodward's earlier nativist remarks, alongside a remonstrance submitted by several unnamed foreign-born Democrats denouncing the judge as unfit by reason of his bigotry. 91 Subsequent issues of the newspaper downplayed the intolerance aspect, and like many objectors, concentrated instead on attacking his professional reputation, charging that he was "not fit for the station." 92

His past views on the nativist issue were not as damaging to Woodward's prospects as was his equivocal tariff record, which alarmed so many of the protesters. They knew that a young man like Woodward could serve for decades on the bench; thus, his decisions could have momentous economic consequences well into the future. For them, it was the determining factor for repudiation. They interpreted "this nomination, [as] a design on the part of the Administration to establish by Supreme Judicial Tribunal Constitutional principles. . . . that protection to the Industry of the Country . . . is unconstitutional."93 "If it was proper to defeat him for the Senate in consequence of his free trade opinions," declared Senator George Darsie of Allegheny and Butler counties, who was a protectionist, "it is equally so in this case as it is not improbable but the tariff question may before long come before the Supreme Court."94 Even though Woodward publicized his acceptance of the Tariff of 1842 and halfheartedly accepted protection when he sought the Senate seat, his defenders and detractors alike always categorized him as a free trader and interpreted Polk's motivation to be consistent with his appointment of Justice Woodbury; i.e., that the president only wanted men with the southern view on tariff occupying seats on the highest court in the land.95

⁹¹ Philadelphia Spirit of the Times, Dec. 25, 1845. One source attributed the abusive treatment of Woodward to the fact that it was "sustained by Catholic subscription and donation." Henry Horn to Polk, Dec. 29, 1845, Polk MSS.

⁹² J. W. Maynard to Cameron, Jan. 12, 1846; George Rahn to Cameron, Jan. 14, 1846, Judiciary Committee. Benjamin Brewster to Calhoun, Jan. 14, 1846, Papers of Calhoun, 22:441. These objections were merely a smokescreen. Mostly they disguised a real opposition to the nominee on political or economic grounds. Kenneth C. Cole, "The Role of the Senate in the Confirmation of Judicial Nominations," American Political Science Review 28 (1934), 889.

⁹³ William Watts to Cameron, Dec. 29, 1845, Judiciary Committee.

⁹⁴ George Darsie to Cameron, Dec. 31, 1845, ibid.

⁹⁵ New York *Herald*, Dec. 31, 1845. David Cummings to Cameron, Jan. 6, 1846, Judiciary Committee. In regard to the tariff Woodward hedged, declaring: "I am in favor of protecting domestic production and labor according to the capacity of a revenue tariff. I consider the tariff of '42 a revenue

Opponents cunningly employed the tariff as a double-edged sword. To tariff backers they characterized Woodward as a free trader, while to southerners they depicted him as soft on the issue. Cameron lieutenant Benjamin Brewster, "a sort of minor American Mirabeau," cleverly applied this tactic in proselytizing a southern senator, James Westcott of Florida. Brewster claimed that Woodward was attempting to "secure support by enlisting the favor of the South asserting that he is a free trade man!" But, huffed Brewster, "He [Woodward] is in this particular just as unsound as he has shown himself to be on the right of suffrage. He has purged himself of all free trade and publicly recanted that heresy of his youth."

Far more skeptical and utterly unconcerned with the professional qualities or the constitutional positions of the honoree, a substantial number of the dissenters sided with Cameron on political grounds. They argued that the nomination was a calculated insult to Cameron and his adherents, they ridiculed the contention that it would ameliorate the dissensions unleashed by the senatorial election, they recited a litany of harassing events performed by their enemies during the previous twelve months, and they noted that nothing would be gained and much lost "from . . . confirmation." They all underlined the need to defeat Woodward. He must not win a seat on the Supreme Court. 98

Nativism was scarcely an issue. Except for the first mention by the *Spirit* of the Times and occasional sniping by a tiny segment of the Whig press, few stressed Woodward's past nativist affiliation or marked it as an impediment of grave dimension.⁹⁹ Undeniably, Woodward had helped hamstring this

tariff and I believe it offers, in a judicious manner for the most part, that incidental protection which is the right and duty of government to give to home interests." Woodward to William Hollingshead, Jan. 9, 1845, ibid. His friends, however, insisted he was "a strong personal advocate . . . [of] free trade." Wharton to Calhoun, Dec. 24, 1845, Papers of Calhoun, 22:360.

⁹⁶ William Cook to Robert J. Walker, April 15, 1845, quoted in Savidge, Life of Brewster, 73.

⁹⁷ Brewster to James Westcott, Jan. 7, 1846, Judiciary Committee. Philadelphia's Spirit of the Times also charged that there were attempts to make Woodward a free trader to enlist southern sympathy. Philadelphia Spirit of the Times, Jan. 12, 1846. See also the Wilkes-Barre Republican Farmer and Democratic Journal, Jan. 7, 1846.

⁹⁸ Petriken to Cameron, Dec. 28, 1845, Jan. 1, 1846; Luther Kidder to Cameron, Dec. 30, 1845; Jones to Cameron, Jan. 1, 1846; Rahn to Cameron, Jan. 7, 1846; Sullivan to Benjamin Rush, Jan. 9, 1846, Judiciary Committee.

⁹⁹ Peter Lingmaster, on behalf of many German naturalized citizens, to Chester Ashley, Dec. 31, 1845, ibid. The New York *Tribute* chose to emphasize Woodward's nativist background. New York *Tribute*, Dec. 25, 30, 1845; Jan. 6, 1846.

issue by an earlier public statement. In his mea culpa, he concurred with his party that once a foreigner had been naturalized, he was entitled to all the benefits bestowed by the Constitution, with no limits whatsoever. Woodward also conceded that there should be no extension in the term of naturalization because this was the "general opinion among those . . . fellow citizens" who compose "the Democratic party and he would be guided by their wishes if elected to public office." Long before the senatorial election, he pleaded that he had never had a "syllable of intercourse" with the Native Americans "on any subject whatsoever." And during the rest of his active political career he continued either to ignore or to censure these people.

A far greater threat to his candidacy was the spate of unfavorable letters and memoranda that flooded Washington. To counteract this torrent of abuse, Woodward and his sympathizers began a systematic and highpowered push to marshal all available resources to bolster his case and to respond to, as well as to refute, the negative accusations of his enemies. 102 Specifically, Woodward asked those friendly to his cause to direct their recommendations and comments to members of the Judiciary Committee. where his nomination was under review. Woodward knew that a favorable response there would almost ensure confirmation, since the Senate traditionally endorsed the committee's action. Also, he asked Charles Miner, a well-known and highly respected Whig in the community, to intercede with Daniel Webster for him. "If he could be propitiated," Woodward asserted, the Whig party in the Senate would be likely to follow his lead. 103 Woodward realized that he had no powerful patron to argue for him and to press his application: that was his political Achilles' heel. He needed Webster or someone of his stature in his corner.

Despite exertions by well-wishers, the climate for Woodward's chances darkened appreciably as his opponents lobbied assiduously and with forceful impact. A distraught Woodward, sensing his peril and the damage that defeat would inflict upon the administration, advised the president to withdraw the nomination if it "would relieve him of an embarrassment" or

¹⁰⁰ Woodward to Hollingshead, Jan. 9, 1845, Judiciary Committee.

¹⁰¹ Woodward to Buchanan, Dec. 13, 1844, Buchanan MSS.

¹⁰² Charles A. Miner to William Woodbridge, Dec. 29, 1845; John Conyngham to Daniel Sturgeon, Dec. 29, 1845; Conyngham to Chester Ashley, Jan. 3, 1846; Garrick Mallery to David Wilmot, Jan. 5, 1846; Francis R. Shunk to Dallas, Jan. 5, 1845 [6]; Jesse Miller to Ashley, Jan. 6, 1846; Beaumont to Ambrose H. Sevier, Jan. 9, 1846; Wilmot to Ashley, Jan. 9, 1846, Judiciary Committee.

¹⁰³ Woodward to Miner, Jan. 9, 1846, Charles A. Miner MSS, WHGS.

promote the "prosperity of his administration." Polk made no reference or response to this message. Woodward's withdrawal request stemmed partly from witnessing the unprecedented hostility directed against him by the anti-Beaumont people in his hometown. They were adamant and vindictive in disparaging him. Led by Judge Luther Kidder, Hendrick B. Wright, and George P. Steele, the group mocked Woodward's political and legal status, interpreting Polk's action as a purely political attack on Cameron. Evident in this torrent of criticism from these northern foes was the theme of humiliation. Kidder succinctly summarized their anxieties when he denounced the appointment as an insult to Cameron, his friends, and the state; more importantly, success in this endeavor would mean that Woodward "will 'lord it over' those . . . more deserving." Ross conveyed the same apprehension when he implored Cameron to go "for any man rather than have that 'great Aristocrat' domineering it over us."

The flood of mail opposing Woodward, along with the encouragement for Cameron, reinforced and even intensified Cameron's resolve. As he urged objectors to keep sending their protests to Washington, he did his own homework sub rosa among his senatorial peers, and he was very pleased with the result. Scarcely one week after his return to Washington, Cameron confided to one of his trusted lieutenants in the commonwealth: "Say nothing of what I intend doing, and I hope to give you a good account." By the end of the first week of January, Cameron was in a buoyant mood, as he felt very confident of success "in doing his duty to his friends fearlessly

¹⁰⁴ Woodward to Polk, Jan. 22, 1846, Polk MSS. Philadelphia *Pennsylvanian*, Feb. 28, 1846, published in the Wilkes-Barre *Republican Farmer and Democratic Journal*, March 4, 1846. Writing on the same day the Senate defeated his nomination, Woodward explained the proffered resignation as follows: "I saw in some papers not now recollected, a statement to the effect that the President had been deceived in regard to me and regretted the nomination and was desirous to withdraw it. I wrote a note to him to say 'I would withdraw.' " Ibid.

¹⁰⁵ Kidder to Cameron, Jan. 1, 4, 1846; Wright to Cameron, Dec. 27, 1845, Jan. 6, 1846; Steele to Cameron, Jan. 1, 1846, Judiciary Committee. See also Wright to Polk, Dec. 29, 1845 (copy), Wright Papers. See also Steele to Buchanan, Jan. 5, 1846, Buchanan MSS. In addition to Woodward, Polk aided two other enemies of the Wright faction: Andrew Beaumont as commissioner of public buildings in Washington and former Congressman Benjamin Bidlack as consul to Bogotá, Colombia. Cameron jeered that the appointment was economically too much for Bidlack, since "he would have been happy with an \$800 clerkship." Quaife, *Diary of Polk*, 1:220-21.

¹⁰⁶ Kidder to Cameron, Dec. 30, 1845; Ross to Cameron, Dec. 13, 1845, Judiciary Committee.

¹⁰⁷ Cameron to Wright, Dec. 31, 1845, Wright Papers.

and to my country" in achieving the common goal they all desired. 108

The Senate soon confirmed his prediction. On Tuesday, January 20, it began deliberations behind closed doors, as was customary. (From 1794 until 1929 the Senate normally discussed, debated, and decided nominations secretly.) Chester Ashley, chairman of the Judiciary Committee, presented the recommendation of its membership, which the Senate took under advisement. The Senate Journal makes no mention of the committee's finding, although a segment of the press reported it as unfavorable. 109 (Despite the injunction of privacy, the media frequently published leaks about Senate transactions, thereby distressing and embarrassing some of the legislators.) On the following day, on a motion by Cameron, debate resumed but the Senate adjourned without a vote. 110 Thursday, January 22, the members picked up where they had left off. Fearing an unfavorable outcome, Daniel Sturgeon, an administration loyalist, motioned for postponement until the week of February 2, but his colleagues opposed this motion twenty-eight to twenty-one. The Senate then voted to reject George W. Woodward's nomination to the Supreme Court. When Sturgeon introduced a follow-up request to lift the lid of secrecy "so as to publish the votes," the Senate, as usual, tabled it. 111 Polk received the gloomy tidings in late afternoon of the same day from James Shields of the Land Office. 112

A dismayed president provided a detailed explanation of the result. In his diary the chief executive dissected the vote and concluded that after an examination of the "Executive Journal of the Senate, it appears that the entire

¹⁰⁸ Cameron to Wright, Jan. 8, 1846, ibid. See also John Sullivan to Richard Rush, Jan. 9, 1846, Judiciary Committee.

¹⁰⁹ Philadelphia Public Ledger, Jan. 24, 1846; Wilkes-Barre Republican Farmer and Democratic Journal, Feb. 11, 1846. Those unsympathetic to Woodward were treated to an exercise in hypocrisy when an anti-Woodward editorialist justified the committee's action as being motivated entirely by selfless factors. Said the Lancaster Democrat: "Judge Woodward's case was referred to the action of a committee . . . composed of gentlemen of the loftiest intellect and of the most unspotted integrity. It was apparent to that committee . . . that Judge Woodward was not competent and on that ground only, they reported adversely to his confirmation." Quoted in the Wilkes-Barre Luzerne Democrat, Feb. 11, 1846.

¹¹⁰ Journal of the Executive Proceedings of the Senate, 7:38.

¹¹¹ Ibid., 37-38, 50. Sturgeon's conduct puzzled some in view of Woodward's earlier attempt to unseat him. See Kidder to Cameron, Jan. 1, 1846, Judiciary Committee. Polk had high praise for the senior Pennsylvania senator. He agreed to consult with him before making another nomination. Quaife, Diary of Polk, 1:201. It appears the Senate paid little attention to evidence submitted in behalf of confirmation, as this study confirms. See Cole, "The Role of the Senate," 891.

¹¹² Quaife, Diary of Polk, 1:183.

Whig party and six Democratic Senators voted against . . . confirmation."¹¹³ And he identified the defecting Democrats as "Mr. [Simon] Cameron of Pen[n]., Mr. [Thomas Hart] Benton of Mo., Mr. [Ambrose H.] Sevier and Mr. [Chester] Ashley of Arkansas, and Mr. [David] Yulee & Mr. [James D.] Wescott of Florida."¹¹⁴ The Whigs, according to an entry in the presidential journal, voted against Woodward "because of his opposition to corporations and his orthodox republican principles."¹¹⁵

Like most of the Democratic deserters, the Whigs disdained any consideration of the professional distinction, legal talent, or personal merit of the Pennsylvania jurist. They focused strictly on his outlook, position, and professional beliefs relative to the Constitution and his place on the political spectrum. His advocacy of certain doctrines alarmed the Whigs who had their own vision of the nation's future. For the Whigs the Jeffersonian doctrine—opposed to corporate growth, vested rights, banks, and industrialization as inconsistent with true Republican ideology—was now a dangerous aberration. They upheld fervidly and participated actively in the newly emerging industrialized order, and they abhorred any belief system that objected to or obstructed the attainment of commercial profit or income maximization or that sought to interfere with the transformation of America from an agrarian to an industrialized economy. To them Woodward was an anachronism, "a radical," as one Whig dubbed him, a partisan judge who tended to allow his political opinions to influence his legal decisions. Hence, he must not be elevated into such a sensitive position of power and influence as the bench of the nation's highest tribunal. Then, too, the Whigs had a political motive, for they hoped to humiliate and weaken the administration. One Whig even went so far as to boast that repudiation would probably result in the restoration of their party to power in Pennsylvania. 116

¹¹³ Ibid., 1:184.

¹¹⁴ Ibid. Since it was then the policy not to record debate in executive sessions of the Senate when nominations were under consideration, much confusion, speculation, even out-and-out distortion occurred in reports of the results. The Senate never disclosed why it voted as it did.

¹¹⁵ Quaife, Diary of Polk, 1:188. They were also upset by his views on vested rights. New York Tribune, Dec. 30, 1845.

¹¹⁶ James Cooper to Willie P. Mangum, Jan. 4, 1846, in Henry Thomas Shanks, ed., *The Papers of Willie Parson Mangum* (5 vols., Raleigh, N.C., 1955), 4:345-46. The idea was entertained seriously in Whig circles. See New York *Tribune*, Jan. 26, 1846. They had strong grounds for thinking Pennsylvania would be a Whig state. Cameron's election seriously divided the party between Shunk and anti-Shunk men and appeared to demoralize the Democracy. More importantly, Polk's determination to reduce the tariff, after being promoted as a tariff backer by his party in the Keystone State (a tactic the Whigs

What about the six Democratic political delinquents, Cameron, Benton, Sevier, Ashley, Yulee, and Wescott? What goaded them, what convinced them to repudiate party principle and solidarity and respond as they did? Polk charged that Wescott, although elected from Florida as a Democrat, was "a Whig in disguise." To the president, Wescott's recent conduct justified the label, for allied with Benton, the Florida backslider frequently clashed with the administration on key issues. But Wescott had even stronger incentives for his vote. Not only did he board at the same lodging house as Cameron, where the two developed a warm camaraderie, but he was also a close friend of Buchanan. Wescott intended his nay as a rebuke for the ill-treatment inflicted on the secretary by the administration. In addition, Wescott preferred Jacob Vroom of New Jersey for the Supreme Court position. Hence, a combination of senatorial courtesy and partisanship directed his course.

Yulee of Florida, who was heavily invested in railroad development, had different reasons for voting against confirmation. For him the tariff reigned and proscribed. As Polk noted, the maverick Democrat bluntly told him that the ambiguous stance of Woodward on tariff identified him as being "not a free-trade man." And Yulee counseled Polk to "appoint none other than free-trade men to office in the North & by that means make them feel the necessity of reducing the tariff." Yulee stressed his uncompromising commitment to free trade by warning the president that "if Mr. Buchanan was nominated he [Yulee] would vote against him, for the same reason." Thus, the economic dimension—strict adherence to free trade—became the litmus test for this "pseudo Democrat," as Polk characterized him.

The president knew from the onset of his administration that Benton from Missouri was decidedly unfriendly toward him. Just after the opening of Congress in December 1845, one New York pundit disclosed that Benton and his faction had serious grievances with the new administration. ¹²⁰ Still sulking and resentful over the bold-faced deception used at Baltimore to

decried as a gigantic fraud), convinced the Whigs the Democrats would lose the state permanently. See Eiselen, *Pennsylvania Protectionism*, 189, and Sellers, *Polk*, 353. See also *Congressional Globe*, 29th Congress, 1st Session, Appendix 938, for the Whig prediction that enactment of the tariff of 1846 would lead to permanent Whig control in the state.

¹¹⁷ Quaife, Diary of Polk, 1:185. Sellers, Polk, 353. Harrisburg Pennsylvania Telegraph, Jan. 15, 1846.

¹¹⁸ Quaife, Diary of Polk, 1:211-12.

¹¹⁹ Ibid., 1:212.

¹²⁰ New York *Herald*, Dec. 7, 1845.

defraud his ally Martin Van Buren and to advance Polk, Benton also had fundamental differences with the president over foreign policy. 121 Moreover, the Missouri senator roiled at the treatment meted out to Francis B. Blair, editor of the Washington Globe. The president had withdrawn the federal printing contract from that paper and transferred it to the Washington Union. Eager to retaliate for these grievances, as well as for the independent path taken by the president in making this judicial selection without input, Benton also saw his dissenting vote as a means to help Buchanan, who once again yearned for the high bench. Immediately after the Senate roll call, Benton dashed off a memo to Polk recommending the secretary as a person who would receive "the immediate sanction of the Senate" and thus "put an end to all the trouble on the question." The Missourian's vote revealed a desire for revenge, as well as preference for another Pennsylvanian. It had no connection with Woodward's political or legal positions.

Sevier of Arkansas had close ties with Buchanan, which was widely known throughout the capital. He visited the secretary at his quarters at least three times a week. The senator's disapproval of Woodward demonstrated his displeasure at the refusal of Polk to follow precedent and consult with senior leaders of the Pennsylvania Democracy, especially his cabinet member. Polk asserted in his diary that during discussion of the nomination Sevier bragged that "Gen'l Jackson could make appointments over the heads and against the will of his Cabinet, but . . . he [Sevier] would teach me that I could not." Buchanan's interest in a seat on the court was another factor in Sevier's repudiation of Woodward. Thus, once again, a senator's opinion of Buchanan became a factor on which the decision hinged. In this instance, Polk's snub of Sevier, which could be interpreted as having violated senatorial courtesy, linked with Secretary Buchanan's reawakened desire for a court seat, explained the outcome.

Polk regarded Cameron with deep suspicion, believing the senator cared little for the administration or its agenda. A private meeting between the two men reinforced this belief. At that time, Cameron outlined his position and clarified his conduct toward Woodward, an accounting that Polk held to be "unsatisfactory," although he was too discreet to blurt out his opinion. Recalling his earlier guarantee of support, Cameron justified his change of

¹²¹ Quaife, Diary of Polk, 1:140-42; Sellers, Polk, 321-24.

¹²² Benton to Polk, Jan. 22, 1846, Polk MSS. Quaife, Diary of Polk, 1:88-89.

¹²³ Ibid., 1:187.

mind by saying that "since Polk had spoken of Woodward in the past tense," it was his impression that the chief executive was not then looking at the judge for the position on the high court. During the exchange of views, Cameron's appraisal of the caliber of the persons chosen by the administration for Pennsylvania patronage positions displayed clearly his political pragmatism—that appointments were for the purpose of rewarding friends and punishing enemies.¹²⁴ In this light his strenuous and successful campaign against Woodward can be understood: the judge was a rival who had to be checkmated.¹²⁵

It is reasonable to conclude that Ashley shared the same motives as the other disapproving senators. As chairman of the Judiciary Committee, he knew the composition and point of view of the opposition. As a southerner he probably resented the judge's fuzzy position on free trade; at the least he must have been influenced by the desire to maintain senatorial courtesy. Finally, he preferred Buchanan and acted to assist the secretary in achieving his lifelong ambition.

What about Buchanan? What was his role in this episode? All Washington wondered and speculated. At first the president surmised that his secretary not only encouraged but even abetted the betrayal. 126 Vigilant in maintaining the integrity and the independence of his office, the president resolved to act with promptness and with firmness, heedless of any consequences if his suspicions proved correct. 127 Buchanan seemed unperturbed. Acutely aware of the charges and whisperings swirling in the rooms, corridors, and streets of the capital, that he had plotted against the "confirmation of Judge Woodward," Buchanan cavalierly dismissed them with the flippant observation that "it is all such stuff as dreams are made

¹²⁴ Ibid., 1:216. Regarding patronage, Cameron contended that it served to accomplish either of two objectives: "love or fear." Cameron to Buchanan, Dec. 7, 1844, Papers of Buchanan and Johnston.

¹²⁵ Quaife, Diary of Polk, 1:218-21. McClure, that wise chronicler of Pennsylvania politics in the 19th century, while conceding that Cameron was gratifying a "personal resentment," also recognized the political-economic motive: "that Woodward would be a dangerous judge of the political questions which sooner or later demand judicial solution." McClure, Old Time Notes, 1:99. Such is the nature of politics that in 1852 when Woodward ran for a judicial office he had the active backing of Cameron. See Cameron to Woodward, Oct. 2, 9, 1852, Wright Papers.

¹²⁶ Quaife, Diary of Polk, 1:153.

¹²⁷ Ibid. When jotting down a conversation with James Shields, who revealed that Buchanan was anxious to have the seat, Polk wryly commented: "I thought it strange that Mr. Buchanan should have expressed such a wish to anyone pending the nomination of Mr. Woodward before the Senate." Ibid., 1:183.

of."¹²⁸ No convincing evidence is available to suggest that the Pennsylvanian had a direct hand in the outcome. The secretary was too accomplished and too adroit to leave fingerprints. But there is a strong impression that he intimated to his cronies the harm done to him in this affair and the need for atonement. It was politically infeasible for the secretary to allow such presidential highhandedness to pass unchallenged or to permit a major Pennsylvania appointment to pass without his approbation. As an added incentive, there was his own longing for the honor, which he now made no effort to disguise. The prevailing view among Washington insiders was, as recorded by Polk and later confirmed by Buchanan himself, that if Buchanan had been consulted the nomination "would have been confirmed."¹²⁹

The Wright people in the northeastern Pennsylvania Democracy viewed the reproof with gleeful relief, feeling righteously justified. ¹³⁰ If they had not advanced their own interest by the humbling of a detestable adversary, at least they avoided further mortification. Allied with Cameron they still hoped to benefit from having helped to elect Polk, and they persisted in the political feud with their ideological opposites. When a rumor spread through the community that Woodward's name was to be resubmitted, they contacted Cameron. The senator disbelieved the story, retorting "but if he [Woodward] does he will return with a flea in his ear.' "¹³¹ During the entire Polk presidency, this "modern" faction was ostracized, prompting a perplexed Wright later to ruminate that he "never did know and do not now know, the cause of Mr. Polk's turning a deaf ear to every suggestion I made to him on the subject of local patronage." ¹³² Ironically, those whom Polk pampered, such as Woodward and subsequently Beaumont, eventually turned against the administration. ¹³³

¹²⁸ Buchanan to C. Edwards Lester, Jan. 30, 1846, Simon Gratz Collection, HSP. Long after the episode the charge still persisted in the Wyoming Valley. As a Dimock to Buchanan, Dec. 3, 1847, Buchanan MSS. Woodward, Biography, passim. Wilmot had no hesitation in reminding Polk that Buchanan had controlled "both Cameron and Westcott and had been the cause of" the disaster. Quaife, Diary of Polk, 1:200. Still another rumor saw the reputed opposition of Buchanan and his friends as circulated by Dallas men to prejudice the prospects of Buchanan in Pennsylvania and to promote those of the vice president. Philadelphia Public Ledger, Jan. 27, 1846.

¹²⁹ Quaife, Diary of Polk, 1:194.

¹³⁰ Ross to Wright, Jan. 22, 1846, Wright Papers.

¹³¹ Cameron to Wright, May 7, 1846, ibid.

¹³² Hendrick B. Wright, Historical Sketches of Plymouth, Luzerne County, Pennsylvania (Philadelphia, 1875), 414.

¹³³ Kidder to Cameron, Feb. 14, 1848; Wright to Buchanan, Nov. 13, 1848, Buchanan MSS.

This indignity sensitized Polk to the political minefield underlying the political patronage issues. While he grudgingly conceded the Senate's constitutional right to make its own separate judgment on an applicant's fitness, he also carped that the unwillingness of a legislature dominated by his own party to accept his "principal nominations" weakened the power of his administration to carry out the measures already proposed. He also regarded the action of the renegade senators as a direct challenge to the personal power and influence of his office. Although unchastised by this reversal, Polk delayed submission of another name until he could assess the probable future conduct of this factious Democratic clique. The propagation of the debacle. The propagation of the debacle.

The selection of another candidate signified the triumph of political pragmatism and expediency over ideology. After very careful investigation of Buchanan's behavior in the matter, the president judged his cabinet member blameless and offered to nominate him for the Supreme Court position. ¹³⁷ But he waited until near the end of the congressional session. In his acceptance of June 28, Buchanan pleaded for an immediate appointment, fearing delay would bar confirmation. Polk apprehended no such danger. He refused to act at that time because to do so "would... put in jeopardy the reduction in the tariff and all the leading measures... now pending before Congress." Equally compelling, the vacancy in the State Department would mobilize each faction of the Democratic Party to press for a favorite replacement, thus creating for the chief executive a "position [that] would be one of perfect torment and vexation until the end of the Session." To avoid these pitfalls, Polk planned to send both nominations (for the Supreme Court and the State Department) to the Senate at the same time, just before

¹³⁴ Quaife, Diary of Polk, 1:216-17.

¹³⁵ Ibid., 1:222.

¹³⁶ One way to avoid this eventuality was to choose Governor Jacob Vroom of New Jersey, since the nomination of another citizen from Pennsylvania "would increase or continue the heartburnings in that state." George Sykes to Polk, Jan. 22, 1846, Polk MSS.

¹³⁷ Polk believed that the secretary had remained merely a detached onlooker. "I had no knowledge that he [Buchanan] had taken affirmative action to cause such a result, but . . . I had no doubt that an intimation from him to his friends in the Senate who voted against . . . [Woodward] such as Cameron, Westcott, Sevier would have prevented rejection." Quaife, Diary of Polk, 2:192.

adjournment. The understanding between the president and his cabinet member was that "nothing was to be said [publicly] . . . until the close of the Session," when Polk would act. 138

As the weeks passed, Buchanan became more and more apprehensive about his prospects. Finally on August 1, barely one month after receiving assurances of the seat, Buchanan, in a conversation with the president, abandoned his efforts to try for the position. Fearing he could not be confirmed, he expressed the desire to "remain in the Cabinet" and finish out the term of the administration. 139 Polk then made a wise and expeditious choice. He nominated the uninspired Robert Grier, who he had initially rejected for ideological reasons but who he now accepted because political common sense demanded it. 140 Polk had wasted too much political capital on this issue; it was time to put it behind him. Along with powerful constituencies in the Keystone Democracy, both Cameron and Buchanan gave their blessing to Grier, 141 which enabled him to easily win Senate approval on August 4, only one day after submission of his name. Thus ended a vexatious tug of war between two branches of government over an office for which two presidents had sent five names to the Senate over a period of twenty-eight months. 142

In retrospect, several factors of historical significance stand out about this confrontation. First, with his initial choice, Polk opted essentially for ideological compatibility, a common basis for judicial appointments of this

¹³⁸ Ibid., 2:1-2, 4, 5, 7, 21-24. Polk offered the seat to a surprised but pleased Buchanan on June 10, 1846. The secretary promised to consider it. Ibid., 1:464-65. Buchanan feared that the Oregon boundary dispute and the tariff controversy "would array 54°40' men" and "a portion of the free trade" senators against him. Ibid., 2:24.

¹³⁹ Cameron to Wright, Aug. 3, 1846, Wright Papers. Even Polk admitted Buchanan would have been "violently opposed." Quaife, *Diary of Polk*, 2:135.

¹⁴⁰ Earlier that year, a newspaper in western Pennsylvania conjectured that Woodward was defeated "for the benefit" of Grier. *The Erie Observer*, Jan. 31, 1846. Grier had the following to recommend him: an abundance of legal recommendations from the bar and court of many counties; a talented legal and judicial reputation; and no bitter or powerful political enemies, since he remained aloof from partisan politics and views that were "orthodox." See Grier file, National Archives, where the contents are overwhelmingly favorable, with scarcely a negative comment.

¹⁴¹ Quaife, Diary of Polk, 2:61. Cameron to Wright, Aug. 3, 1846, Wright Papers. McClure, Old Time Notes, 1:99. James Blaine concluded that Cameron compelled the nomination of Grier. James G. Blaine, Twenty Years of Congress: from Lincoln to Garfield (2 vols., Norwich, Conn., 1884), 1:196. One scholar asserted that the selection of Grier was a recognition of the claims of the Calhoun wing of the party. Eugene Irving McCormack, James K. Polk A Political Biography (New York, 1965), 339.

¹⁴² Tribe, God Save This Honorable Court, 59.

magnitude. For the same reason the president accepted the Senate's right to apply the same test during the debate. The senators showed a pressing concern for the philosophical views of the prospective jurist. It is clear from the tabulation of votes that a majority of the membership cast their ballots mainly on that basis. Ideology, then, or the candidate's potential impact on future legal cases, weighed most heavily in the adverse finding. Yet at the same time, the record shows the candidate's alleged ideological affinity for nativism had little or no bearing on the Senate tally. The principle of senatorial courtesy, so thoughtlessly brushed aside by Polk, was also an important consideration. To weigh, to reflect, and to decide this issue without full consultation and the endorsement of two of the most influential captains in the state Democracy was an open invitation to defiance and disaster, as Polk discovered to his regret. Finally, to antagonize a sizable segment of the Pennsylvania Democracy by the ennoblement of one of their enemies was bound to touch off a retaliatory response. These were painful lessons for Polk to absorb. Wisely, he learned from this experience, as the speedy confirmation of Woodward's replacement demonstrated.

King's College

DANIEL J. CURRAN