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BOOK REVIEWS

Cover illustration: Members of Philadelphia's Mikveh Israel congregation had good reason to claim the title "Synagogue of the American Revolution." Congregants served in the revolution, and the synagogue was located for several decades near Independence Mall. In the mid-twentieth century, with the American Bicentennial looming, the congregation hoped that a new synagogue would reaffirm this status. Members hired architect Louis I. Kahn, whose bold vision for the building's interior appears on the cover. In "Mikveh Israel and Louis Kahn: New Information," authors Eugene J. Johnson and Ranana Dine use newly available evidence to detail how and why this partnership disintegrated. Louis I. Kahn, interior of Mikveh Israel Synagogue, catalog cover of The Jewish Museum, *Recent American Synagogue Architecture*, organized by Richard Meier (New York, 1963). Louis I. Kahn Collection, The University of Pennsylvania and the Pennsylvania Historical and Museum Commission.

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A Tale of a Whiskey Rebellion Judge: William Paterson, Grand Jury Charges, and the Trials of the Whiskey Rebels

Abstract: The Whiskey Rebellion of 1794 resulted in trials in the federal Circuit Court in Philadelphia in April–June 1795. US Supreme Court Justice William Paterson, who presided in several of those trials, has been represented as a partisan Federalist judge whose directed charge to the jury resulted in a treason verdict in two of those cases (*U.S. v. Mitchell* and *U.S. v. Vigol*). Sparse law reports, among other limited materials, provide little direct evidence of the trials or of the criticism of Justice Paterson's conduct of the trials. This paper provides evidence from grand jury charges that deal with the Whiskey Rebellion to add to our understanding of the trials and to test whether Justice Paterson has been fairly criticized or not. It argues, in addition, that his conduct in the trials was affected by a transition in American law from popular sovereignty to constitutional review by the courts.

I would like to express my appreciation to the following special librarians (Laurie Rofini, Chester County Archives; Tracie Meloy, West Chester University Library; and Jennifer O'Leary, West Chester University Library) for their talented assistance in support of my research and to the expert readers and editors of *PMHB* for their dedication and patience.

The western Pennsylvania Whiskey Rebellion of 1794 has been widely studied as the first act of treason against the new United States.[1] But few sources, either primary or secondary, shed much substantive light on the trials of the rebels—the first treason trials under the new US Constitution—and the light they shed is dim enough to be sure.[2] The Whiskey Rebellion came about as the result of the 1791 Excise Act, the first national tax on whiskey, a tax that Justice William Paterson, the central judicial figure in the federal rebellion trials, helped to pass as a member of the US Senate.[3] The federal act resulted in riots, protests, and attacks on excise officers in four counties. President Washington's administration blamed these acts on Francophile democratic-republican societies.[4] Washington feared the possible formation and secession of "Westsylvania" from the Union and the spread of contagion to other territories and states.[5] With little confidence that Pennsylvania courts could handle the outbreaks and a wish to demonstrate the authority and power of the federal government over the states, the president called out a nationalized militia in late September 1794.[6] He accompanied troops

[1] Terry Bouton rejects the term "Whiskey Rebellion" used by Alexander Hamilton and offers "Pennsylvania Regulation" to describe a much larger and longer movement to reform government, running from the 1760s to 1800. Terry Bouton, *Taming Democracy: "The People," the Founders, and the Troubled Ending of the American Revolution* (Oxford, 2007), 146, 204, 218.

[2] See Wythe Holt, "The Whiskey Rebellion of 1794: A Democratic Working-Class Insurrection" (paper presented at the Georgia Workshop in Early American History, Athens, GA, Jan. 23, 2004, available at http://colonial seminar.uga.edu/whiskeyrebellion-6.pdf), 74–81; Richard A. Ifft, "Treason in the Early Republic: The Federal Courts, Popular Protest, and Federalism During the Whiskey Rebellion," in *The Whiskey Rebellion: Past and Present Perspectives*, ed. Steven R. Boyd (Westport, CT, 1985), 171–77; Thomas Slaughter, "'The King of Crimes': Early American Treason Law, 1787–1860," in *Launching the "Extended Republic": The Federalist Era*, ed. Ronald Hoffman and Peter Albert (Charlottesville, VA, 1996), 58, 89–95, 102–4; Willard Hurst, "Treason in the United States III: Under the Constitution," *Harvard Law Review* 58 (1945): 818, 818n236, 829n263; Daniel D. Blinka, "'This Germ of Rottenness': Federal Trials in the New Republic, 1789–1807," *Creighton Law Review* 36 (2003): 167–70.

[3] Thomas Slaughter, *The Whiskey Rebellion: Frontier Epilogue to the American Revolution* (New York, 1986), 6, 27, 73; John E. O'Connor, *William Paterson: Lawyer and Statesman, 1745–1806* (New Brunswick, NJ, 1979), 175–80; and Charles F. Hickox III and Andrew C. Laviano, "William Paterson," *Journal of Supreme Court History* 17 (1992): 55.

[4] Robert Chesney, "Democratic-Republican Societies, Subversion, and the Limits of Legitimate Political Dissent in the Early Republic," *North Carolina Law Review* 82 (2004): 1525–79; Jeffrey A. Davis, "Guarding the Republican Interest," *Pennsylvania History* 67 (2000): 43–62; Marco M. Sioli, "The Democratic Republican Societies at the End of the Eighteenth Century: The Western Pennsylvania Experience," *Pennsylvania History* 60 (1993): 288–304; Richard H. Kohn, "The Washington Administration's Decision to Crush the Whiskey Rebellion," *Journal of American History* 59 (1972): 567–84.

[5] Slaughter, *Whiskey Rebellion*, 58.

[6] Under the Militia Act of 1792, Second Congress, session 1, chap. 28; Slaughter, *Whiskey Rebellion*, 206.

to a staging area from which General Henry Lee led the militia to a surprisingly effortless success.[7]

Treasury Secretary Alexander Hamilton privately offered that the insurrection "will do us a great deal of good and add to the solidity of every thing in this country."[8] Secretary of State Edmund Randolph added that the opportunity offered by the Whiskey Rebellion should not be lost, for, he opined, Washington's political opponents "may now, I believe, be crushed."[9] Washington offered amnesty to rebels who gave "assurances of performing, with good faith and liberality," whatever was required by the US Commission he had sent West.[10] Those who refused were prosecuted in federal circuit court in Philadelphia in May and June, and again in October, of 1795. The poor treatment of the suspects—roundups in the dead of night, forced marches, brutal winter hardships, and spurious interrogations—resulted in weak testimony, mistaken identity, and unproven facts, and all but two of those charged with treason were acquitted.[11] The Whiskey Rebellion left many feeling that the trials were bogus and others feeling that they were no more than hanging parties presided over by partisan judges beholden to Washington's Federalist administration.

We ought not to indulge too easily either outrage at the government's show of power or sympathy for the rebels, which has become the standard view.[12] Instead of the common approach stigmatizing federal judges, this study will look at how legal understanding changed from the colonial and revolutionary periods to the early republic. It contends that the central judicial figure in the trials, Associate US Supreme Court Justice William Paterson, enabled the shift to judicial review, a change from previously accepted notions of popular authority, and that he was less engaged in par-

[7] Slaughter, *Whiskey Rebellion*, 205–6, 217–19, 272n1.

[8] Alexander Hamilton to Angela Church, Oct. 23, 1794, quoted in Kohn, "Washington Administration's Decision," 582.

[9] Randolph to George Washington, Oct. 11, 1794, ser. 4, reel 106, George Washington Papers, Library of Congress; Chesney, "Limits of Political Dissent."

[10] Washington to Henry Lee, Oct. 20, 1794, in *The Papers of Alexander Hamilton*, ed. Harold C. Syrett, 27 vols. (New York, 1961–87), 17:333; Slaughter, *Whiskey Rebellion*, 196, 218.

[11] Slaughter, *Whiskey Rebellion*, 218–19. For particulars see Hugh Henry Brackenridge, *Incidents of the Insurrection in the Western Parts of Pennsylvania, in the Year 1794*, 3 vols. (Philadelphia, 1795), 3:30–33; and William Findley, *History of the Insurrection in the Four Western Counties of Pennsylvania: In the Year 1794; and an Historical Review of the Previous Situation of the Country* (Philadelphia, 1796), 203–10.

[12] Slaughter, *Whiskey Rebellion*, 196, 212–13, 217–20, 270n20; Holt, "Whiskey Rebellion of 1794," 23; Dorothy Elaine Fennell, "From Rebelliousness to Insurrection: A Social History of the Whiskey Rebellion, 1765–1802" (PhD diss., University of Pittsburgh, 1981), 259–78; Bouton, *Taming Democracy*, 216–43.

tisan activity and more engaged in complex thought on government than he has been given credit for. Like the two other judges most intimately involved in trying the rebels—Alexander Addison, president judge of the Western Courts of Pennsylvania, and Richard Peters, federal district judge for Eastern Pennsylvania—William Paterson was much maligned by his peers for his judicial service during the rebellion. These three judges found themselves shackled with a thankless task and faced with public fears of disorder that would make the law they loved either a joke or deeply hated. We cannot, as a result, tar all Federalist judges with the same brush or insist that a Federalist "elite" maintained a uniquely singular perspective on the insurrection, for all the ideological predispositions they might have held in common. Nor can we assume that Federalist judges merely did the government's bidding, toeing a purely partisan political line on popular uprisings.

The residual world of collective sovereignty must also be recognized. Drawing on concepts brought forward from the American Revolution, members of popular movements saw the people as a primary source of legal authority. The revolutionary mob, operating as a part of—not outside of—the legal landscape of the period, expressed itself in quasilegal ritual and narrative forms, serving as the people's voice in the context of English common law. The results of the rebellion moved legal culture away from this position and toward judicial review. In tracing the relationship between the people and the law, this paper profits from work done in customary law and collective sovereignty by such legal scholars as John Phillip Reid.[13]

Belief in collective sovereignty became the context within which early American constitutionalism developed.[14] In 1787 James Iredell linked popular sovereignty and judicial review, arguing that the courts had a judicial duty "to follow the sovereign people's will as explicitly declared in written constitutions."[15] James Wilson, Iredell's contemporary on the US Supreme Court, argued that the Constitution derived its power from the

[13] See John Phillip Reid, "In a Defensive Rage: The Uses of the Mob, the Justification in Law, and the Coming of the American Revolution," *New York University Law Review* 49 (1974): 1043–91; Reid, *Constitutional History of the American Revolution: The Authority to Legislate* (Madison, WI, 1986); Larry D. Kramer, *The People Themselves: Popular Constitutionalism and Judicial Review* (New York, 2004); Christian G. Fritz, *American Sovereigns: The People and America's Constitutional Tradition Before the Civil War* (New York, 2008); Steven Wilf, *Law's Imagined Republic: Popular Politics and Criminal Justice in Revolutionary America* (New York, 2010); and Bouton, *Taming Democracy*.

[14] Kramer, *The People Themselves*, 13, 32, 160.

[15] Bayard v. Singleton, 1 N.C. (Mart.) 5 (N.C. Super. 1797); Iredell argued the case as defense counsel; he was appointed to the US Supreme Court in 1790. Arthur E. Wilmarth Jr., "Elusive

sovereignty of the people. The people, the original sovereigns, gave the courts the power to check unconstitutional legislation. Popular law beliefs appropriated official readings for their own use, with transformative effects on American legal culture.[16]

Both eyewitness accounts of the Whiskey Rebellion and trial depositions confirm widespread belief in mob activity as a form of legal action linked to the precedent of the American Revolution. Rebel assemblies affirmed constitutional action, formed committees to petition, reserved the right to take positive action against "illegal" abuse, and defended the necessity for action where there was no legal recourse or where a system for redress had failed.[17] They made distinctions between tax collectors (who were resisted) and state officials (who were respected); between *all* laws and one specific, oppressive law (the whiskey excise law); and between local and state law (which rebels considered to be laws of the Union) and federal laws (which, rebels argued, were not those of the state). Local institutions and authorities, including judges, juries, sheriffs, and justices of the peace, refused to pursue, charge, indict, or convict the rebels.[18] In the early republic transition to a written federal Constitution, and to statutes legislated in conformity with it, the Whiskey Rebellion and its trials reflected

Foundation: John Marshall, James Wilson, and the Problem of Reconciling Popular Sovereignty and Natural Law Jurisprudence in the New Federal Republic," *George Washington Law Review* 72 (2003): 131–32.

[16] Wilmarth, "Elusive Foundation," 132, 144, 146; Mark David Hall, *The Political and Legal Philosophy of James Wilson, 1742–1798* (Columbia, MO, 1997), 101–2, 134, 136–37; Wilf, *Law's Imagined Republic*, 4. See Pierre Bourdieu, *Outline of a Theory of Practice*, trans. Richard Nice (New York, 1977); Linda Myrsiades, *Medical Culture in Revolutionary America: Feuds, Duels, and a Court-Martial* (Madison, NJ, 2009), 27; Bouton, *Taming Democracy,* 32; Kramer, *The People Themselves*, 33–34, 207–8; and Fritz, *American Sovereigns*, 14–15, 155–57.

[17] See Brackenridge, *Incidents of the Insurrection*; Findley, *History of the Insurrection*; William Paterson, bench notes for *U.S. v. Barnet*, GLC01114, Gilder Lehrman Institute of American History; Paterson, bench notes for *U.S. v. Miller*, folder 119, William Paterson Papers, Sarah Byrd Askew Library, William Paterson College; Paterson, bench notes for *U.S. v. Philson and Husbands* [*sic*], folder 120, William Paterson Papers, Sarah Byrd Askew Library, William Paterson College; Paterson, bench notes for *U.S. v. Porter*, MFF2739, Senator John Heinz History Center in association with the Smithsonian Institution.

[18] See Bouton, *Taming Democracy*, 28–29, 145–67, 204, 208, 218, 226, 244, and 216–43 on the Whiskey Rebellion. Bouton provides the concept of "rings of protection": collaboration by jurors, local militias, sheriffs, tax collectors, and the "rough music" of intimidation. Holt expands the idea of popular sovereignty to class warfare to argue that the Whiskey Rebellion was a story of precapitalist oppression by the rich over the poor and the well landed over the unlanded or the poorly landed; a root cause of the rebellion, in this view, was "the loss of what remained of the feudal way of life . . . and the dislocations which that caused for many people" (Holt, "Whiskey Rebellion of 1794," 81–82). See also Slaughter, *Whiskey Rebellion*, 39–60; Fennell, "From Rebelliousness to Insurrection," 1–4, 176, 264–67; and Fritz, *American Sovereigns*, 280–85 (see esp. 280–81, where Fritz distinguishes his view from Kramer's).

aspects of both popular and formal law. The trials thereby represent a transitional moment in political thought. The revolutionary-era belief in popular actions had transitioned to a new consensus in which opposition to burdensome or oppressive laws created under a Constitution that the people had created threatened the survival of the republic. In this new view, the democratic populism of the Whiskey Rebellion dishonored the legacy of the revolution. Treason law would be the true test for balancing popular sovereignty and individual rights against state stability.

In line with this perspective, federal courts would have to prove themselves as new institutions in a new federal government, and they would have to do so in the presence of a residual belief in collective sovereignty. Transitioning to meaningful constitutional review, the courts faced resistance from the people, who held that it was their sovereignty from which the Constitution took its legitimacy. With "political pressure and institutional ambiguity" among their greatest threats, judges acted in a world of flux, navigating politics and law to create precedents for criminal law—particularly for treason law.[19] Given these complex conditions, emphasizing simple partisanship on the part of Federalist judges provides an inadequate explanation for their actions. Scholars would do well to regard the Whiskey Rebellion trials as a regenerative episode in changing political and legal thought.

In guiding grand jurors to indictments and trial juries to verdicts, judges faced critical political complexities: the problematic precedent of the American Revolution, the development of a new popular consensus, the challenge of a new form of government, and the threat that democratic populism posed. One source that illuminates how they addressed such complexities—grand jury charges from 1792 to 1800—has been little studied and has much to offer students of the period.

These grand jury charges challenge assumptions of judicial partisanship and lack of restraint on the part of judges; rather, they demonstrate the legal and political sophistication and the principled underpinning of judges' practices. They offer material on political issues that go unaddressed in law reports and that reflect considerations of governance and legal authority with which both judges and grand jurors, as citizens, were preoccupied. Considering the transition that legal culture was undergoing, grand jury charges shed fresh light on the dilemma judges faced in the tri-

[19] Barbara J. Shapiro, *Beyond "Reasonable Doubt" and "Probable Cause": Historical Perspectives on the Anglo-American Law of Evidence* (Berkeley, CA, 1991), 112.

als. They fill in much that is missing about the meaning of legal and political narratives of the insurrection (narratives of popular sovereignty and the needs of state security, the establishment of an independent judiciary and preservation of the Union) and illuminate the ways in which the judiciary negotiated with the people in balancing liberty and power.

Like other federal judges, Paterson took the opportunity of his grand jury charges to serve the new government and its courts by educating grand jurors on their role in the new nation. The way in which he framed the rebellion is clearer here than in any of the published trial records or manuscript notes. Beyond adding to our understanding of his conduct of the trials, Paterson's charges provide a window into a legal mind struggling to define treason within a long tradition of treason law and to provide a reading appropriate to the new nation.

The Grand Jury

This study comprises fourteen grand jury charges by six judges over the period from 1792 to 1800, tracing events from the early days of rebellion through the trials to the residual effects of the rebellion.[20] Historically, the grand jury represented a force for citizen participation in government, "a jury of neighbors," whom English legal scholar William Blackstone regarded as a "barrier . . . between the liberties of the people, and the prerogatives of the crown."[21]

[20] A total of sixteen grand jury charges were examined, fourteen of which are discussed in the paper. Three were delivered in state courts, one in county court, two in federal district courts, and ten in federal circuit courts. Ten were delivered in Pennsylvania at various levels: one in Philadelphia criminal court, three in the western courts, two in district court, and four in circuit court. Of the remaining circuit court charges, two were delivered in Virginia and one each in New Jersey, Delaware, Georgia, and New Hampshire. The judges represented the Pennsylvania Supreme Court (Thomas McKean), the western courts of Pennsylvania (Alexander Addison), the US Supreme Court (William Paterson, John Blair, James Iredell, William Cushing, and Samuel Chase), the US Circuit Court, and the US District Court (Richard Peters).

[21] Linda S. Myrsiades, "Grand Juries, Legal Machines, and the Common Man Jury," *College Literature* 35 (2008): 158–78; Lawrence M. Friedman, *A History of American Law*, 3rd ed. (New York, 2005), 102; William Blackstone, *Commentaries on the Laws of England*, vol. 4, 13th ed. (London, 1800), 343, 349; Helene E. Schwartz, "Demythologizing the Historic Role of the Grand Jury," *American Criminal Law Review* 10 (1971–72): 701–3; Suja A. Thomas, "Blackstone's Curse: The Fall of the Criminal, Civil, and Grand Juries and the Rise of the Executive, the Legislature, the Judiciary, and the States," *William and Mary Law Review* 55 (2014): 1211. The right to a grand jury was granted in two state constitutions during the revolution: Georgia and North Carolina (Richard D. Younger, "Grand Juries and the American Revolution," *Virginia Magazine of History and Biography* 63 [1955]: 265). The grand jury was preserved in the Fifth Amendment to the federal Constitution as a right in felony cases and in the Bill of Rights as a check on federal and legislative power (Kevin K. Washburn, "Restoring the Grand Jury," *Fordham Law Review* 76 [2008]: 2346).

Relatively independent in the colonial period, it had a history of opposing authority.[22] Jurors, profiting from their "inscrutability," could not be interrogated on their refusal to indict and so could not be predictably relied upon to enforce unpopular laws or indict political defendants.[23] Grand jury powers extended in practice from finding facts and determining the law to mitigating sentences by deciding the crime for which a defendant could be tried.[24] They impeded the government's ability to enforce the law by refusing to indict; discouraged authorities from seeking indictments in matters that met with local disfavor, taxation in particular; and checked the legislature by disregarding existing law.[25]

At the same time, the grand jury maintained the stability of local government by investigating corruption, official abuse or negligence, lack of law enforcement, and public disorder. It acted as a shield against "promiscuous prosecution" in periods of political disorder.[26] In 1783, for example, Pennsylvania Supreme Court Chief Justice Thomas McKean, as prosecutor, brought Eleazer Oswald before a grand jury without recusing himself as its judge. The grand jury received witnesses not admitted by the court and refused to indict. Directed to reconvene and reconsider its decision, it refused to do so, emboldening Oswald to pursue McKean's impeachment.[27] Nullification of a judge's directions created a problem for the American judiciary, particularly in times of riot, sedition, or presumed treason.[28] Rioters might themselves serve as jurors, and jurors might refuse to indict neighbors or to indict in favor of a federal authority hundreds of miles away.[29] Between 1783 and 1792, admiralty judge Francis Hopkinson engaged in a well-publicized debate with Pennsylvania Supreme Court

[22] Washburn, "Restoring the Grand Jury," 2343; Younger, "Grand Juries," 265, 268.

[23] Established in *Bushell's Case* (1670). See John H. Langbein, *The Origins of Adversary Criminal Trial* (Oxford, 2003), 323–24, 326; Marianne Constable, *The Law of the Other: The Mixed Jury and Changing Conceptions of Citizenship, Law, and Knowledge* (Chicago, 1994); Sanjeez Anand, "The Origins, Early History, and Evolution of the English Criminal Trial Jury," *Alberta Law Review* 43 (2005): 407–32; Myrsiades, "Grand Juries," 159–60; and Shapiro, *Beyond "Reasonable Doubt*," 87.

[24] Thomas, "Blackstone's Curse," 1203–4; Washburn, "Restoring the Grand Jury," 2344.

[25] For the history of the grand jury, see Langbein, *Origins of Adversary Criminal Law*, 45; Thomas, "Blackstone's Curse," 1214; and Shapiro, *Beyond "Reasonable Doubt*," 86–92, 111–12.

[26] Younger, "Grand Juries," 257–58, 265–68; Richard D. Younger, "The Grand Jury under Attack," *Journal of Criminal Law, Criminology, and Police Science* 466 (1955): 26–49; Schwartz, "Demythologizing," 701–3.

[27] Myrsiades, "Grand Juries," 165–72; Shapiro, *Beyond "Reasonable Doubt*," 87–90; and G. S. Rowe, *Embattled Bench: The Pennsylvania Supreme Court and the Forging of a Democratic Society, 1684–1809* (Cranbury, NJ, 1994), 170–72.

[28] Younger, "Grand Jury under Attack," 26. See Alexander Addison, *Reports of Cases in the County Courts of the Fifth Circuit, and in the High Court of Errors and Appeals of the State of Pennsylvania, and Charges to Grand Juries of Those Courts* (Washington, DC, 1800), 35–53.

[29] Schwartz, "Demythologizing," 701–3, 721, 723–26.

justices McKean and George Bryan over whether the grand jury ought not to act as a mere tool of government prosecution. Justices refused to call up a grand jury when it benefitted them, and they reprimanded those that disregarded a directed charge.[30] Members of an elite group who profited from government support, judges influenced grand jury selection and threatened those who refused to serve.

The judge's ability to manipulate a grand jury depended to a large extent on its composition. In England it was common to privilege members of the elite by packing a grand jury on behalf of royalists or the upper classes.[31] In the Philadelphia treason trials of 1778–79, grand juries consisted of men who both possessed considerable wealth and had played "a significant role in Pennsylvania revolutionary politics."[32] For the Whiskey Rebellion trials, the jury was chosen by lot from a pool of qualified jurors called up by a marshal.[33] Unless the marshal summoned only those of a certain class, a mixed grand jury was possible. No distinction was made between jurors for a grand and a petite jury, and there were no landholding or voter requirements for either kind of jury.[34] Still, as jurors were paid five shillings a day and fined six pounds if they failed to appear, poor jurors from a distance would have been greatly inconvenienced if called to serve.[35] It was not clear whether some grand jurors were summoned from the western counties, where the offenses occurred.[36] Only trial juries were required to include representation from the county in which the crime

[30] Myrsiades, "Grand Juries," 165–72; Shapiro, *Beyond "Reasonable Doubt,"* 87–90; Younger, "Grand Juries," 259; G. S. Rowe, *Thomas McKean: The Shaping of an American Republicanism* (Boulder, CO, 1978), 187; Washburn, "Restoring the Grand Jury," 2341–42; Thomas, "Blackstone's Curse," 1213. On the independence of judges and the development of the grand jury, see Shapiro, *Beyond "Reasonable Doubt,"* 87–93, 111–13.

[31] Schwartz, "Demythologizing," 759–60; Younger, "Grand Jury under Attack," 28.

[32] See Carlton Larson, "The Revolutionary American Jury: A Case Study of the 1778–1779 Philadelphia Treason Trials," *Southern Methodist University Law Review* 61 (2008): 1457–62, 1511–12.

[33] The 1789 Judicial Act of Congress, section 29, relied upon state law for jury composition; the Pennsylvania Act For the Better Regulation of Juries (1785) controlled jury selection. See United States v. Insurgents of Pennsylvania, 2 U.S. (2 Dall.) 335, 341 (1795).

[34] For jury packing in sedition cases, see Schwartz, "Demythologizing," 723–24, 726, and 732.

[35] *The Statutes at Large of Pennsylvania from 1682–1801,* ed. James Tyndale Mitchell and Henry Flanders (Harrisburg, 1887), 487, 492–94.

[36] A great deal was made by defense counsel of representation from the western counties; they made liberal use of jury challenges in the trials, giving them considerable leeway in the composition of juries (Holt, "Whiskey Rebellion of 1794," 74–81). See Albert Gallatin letters for the most thorough eyewitness account on the constitution of trial juries, challenges, indictments, and convictions: to Hannah Gallatin, May 12, 15, and 18–19, 1795; to John Badollet, May 20, 1795; and to Thomas Clare, May 30, 1795, Albert Gallatin Papers, 1794–1952, New-York Historical Society (NYHS). Western juries were not packed by members of the upper classes to the exclusion of common citizens, as often happened in urban grand juries in the East.

occurred, and only for death penalty cases.[37] The different rates of grand jury indictments (73 percent) and trial convictions (20 percent) for treason suggest that jurors from the western counties did not serve on the grand jury, for they would not have indicted with such frequency as eastern jurors, particularly in the many weak cases where convictions were unlikely.[38]

Beyond the composition of the grand jury, the judge's most potent instrument in influencing its members was his charge. It was used to advise a grand jury on the law and "to inculcate in . . . listeners an understanding of the intricacies of self-government and a respect for the Constitution." A similar charge was commonly delivered in any number of different court terms.[39] Federalist judges took the opportunity to generate public support for the national government. They harangued juries with their party views and political biases, urging support for the government's position. This pattern was especially true in cases concerning sedition and treason.[40] A judge's words carried weight with jurors, as judges represented the government and the law and had control over the proceedings of the grand

[37] From the western counties only twelve out of seventy-two—thirty-six from Philadelphia County, fifteen from Delaware County, and nine from Chester County—were called to form a pool for each of the ten cases tried, from which trial jurors would be chosen; United States v. Insurgents of Pennsylvania, 2 U.S. (2 Dall.) 335, 339, 342 (1795).

[38] According to Holt, the grand jury indicted twenty-four out of the thirty-four bills for treason presented (73 percent), of which ten stood trial since of those indicted thirteen had fled and one fell under the amnesty. Of these ten, two (20 percent) were convicted. The grand jury refused to indict four rebels for misprision of treason and five rebels for misdemeanor. Two rebels were indicted for felony, twenty-six for misdemeanor, and two for misprision of treason. Only two of these were tried and convicted (Holt, "Whiskey Rebellion of 1794," 75–76). Holt argues, further, that Federalist judges would have refused to allow grand jurors from the western counties to weigh the guilt of the rebels, which would have explained the total number of fifty-two indictments (for treason, misprision of treason—a misdemeanor—felony, and other misdemeanors). Where the western counties were represented, on the petite juries, the fact that jurors would not convict was noted by the Whiskey Rebellion prosecutor, William Rawle (District Attorney Rawle to Judge Addison, Philadelphia, Oct. 29, 1795, in *Pennsylvania Archives*, 2nd ser., 4:453). Rawle appeared resigned to "a reluctance in the jury to convict the smaller engine on the testimony of their ringleaders, and a natural repugnance to capital convictions" (District Attorney Rawle to Judge Addison, Philadelphia, Aug. 15, 1795, in *Pennsylvania Archives*, 2nd ser., 4:450). Holt argues that the "nonpoor grand and petite jurors," while not rebels themselves, would have identified with them enough to reject the prosecution's elitism. Indeed, all the grand and petite jurors added their names to a petition of hundreds asking for clemency for the two rebels, Mitchell and Vigol, who were convicted of treason (Holt, "Whiskey Rebellion of 1794," 78n164, 79–81).

[39] Richard E. Ellis, *The Jeffersonian Crisis: Courts and Politics in the Young Republic* (New York, 1971), 12; "William Paterson Grand Jury Charge—Number 1," Maeva Marcus, ed., *The Documentary History of the Supreme Court of the United States, 1789–1800*, 7 vols. to date (New York, 1986–), 5:457.

[40] O'Connor, *William Paterson*, 230, 258, 275; Schwartz, "Demythologizing," 727–32, 750–51; G. Edward White, *Law in American History: From the Colonial Years through the Civil War* (New York, 2012), 206; Henry L. Snyder, "Charges to Grand Juries: The Evidence of the Eighteenth-Century Short-Title Catalogue," *Historical Research* 67 (1994): 291.

jury.[41] In the end the combination of political charges and packed juries could make indictments easier to arrange and insufficient evidence less of a problem. Even if an indictment were denied, the very fact of calling a grand jury was meant to silence public opposition.[42]

Despite such manipulation, grand juries expressed remarkably consistent support for the judicial system. Jury statements tended to recommend the publication of grand jury charges for the edification of fellow citizens, for education in the Constitution and laws, and for the dissemination of "moral and patriotic lessons."[43] Grand jurors charged by Justice McKean in a rebellion case, for example, expressed a characteristically deep pride in jury service.[44] In language that often seemed to have been lifted wholesale from a judge's charge, jurors stated their concern for assaults on the "public happiness," insisting that the taint of rebellion did not extend to their districts and that such rebellion would "remain a solitary instance in the annals of our country."[45] They defended the reputation of their state and their own "enlightened attachment to liberty and law." Voicing their disapproval of riots, anarchy, and subversion, jurors defended the government against attack by calling on friends to oppose enemies of order and encouraging political minorities to respect the general will.[46] Jury statements thus reflected both the judge's influence and the desire to claim

[41] Schwartz, "Demythologizing," 755–56; Younger, "Grand Juries," 263.

[42] Schwartz, "Demythologizing," 764–65.

[43] The sample here represents eight jury statements responding to grand jury charges by six judges who addressed rebellion against the government, the Whiskey Rebellion in particular, from 1792 to 1799: "Reply of the Grand Jury of Circuit Court for the District of Delaware," June 9, 1795, in Marcus, *Documentary History of the Supreme Court*, 3:61, in response to William Paterson, Circuit Court of Delaware; Address to James Iredell, Circuit Court of Pennsylvania, May 15, 1799, in Thomas Carpenter, ed., *The Two Trials of John Fries, on an Indictment for Treason; Together with a Brief Report of the Trials of Several Other Persons, for Treason and Insurrection, in the Counties of Bucks, Northampton, and Montgomery, in the Circuit Court of the United States* (Philadelphia, 1800), 15–16, in response to James Iredell, Circuit Court of Pennsylvania; "Presentment of the Grand Jury of the Circuit Court for the District of Georgia," Apr. 29, 1795, in Marcus, *Documentary History of the Supreme Court*, 3:39, in response to John Blair, Circuit Court of Georgia.

[44] "Charge of Chief Justice McKean and Reply of the Grand Jury, Philadelphia, Nov. 8, 1792," in *Pennsylvania Archives*, 2nd ser., 4:37.

[45] "Reply of the Grand Jury of the Circuit Court for the District of New Jersey," Apr. 2, 1796, in Marcus, *Documentary History of the Supreme Court*, 3:102, in response to James Iredell, Circuit Court of New Jersey.

[46] "Reply of the Grand Jury of the Circuit Court for the District of New Hampshire," Oct. 24, 1795, in Marcus, *Documentary History of the Supreme Court*, 3:71, in response to William Cushing, Circuit Court of New Hampshire; "Presentment of the Grand Jury for the Circuit Court for the District of Georgia," Apr. 29, 1795, in Marcus, *Documentary History of the Supreme Court*, 3:39, in response to John Blair, Circuit Court of Georgia; "Reply of the Grand Jury of the Circuit Court for the District of Pennsylvania," Apr. 12, 1796, in Marcus, *Documentary History of the Supreme Court*, 3:113–14, in response to James Iredell, Circuit Court of Pennsylvania.

"true" republicanism, to counter the spread of "false philosophy and . . . wicked principles," and to warn of the folly of "ruinous attempts" against the government.[47] If judges were Federalist in spirit, so too were many of the grand juries over which they presided.

William Paterson

The most significant judicial narrative of the Whiskey Rebellion came from the presiding judge of those trials, William Paterson. Paterson served as attorney general of New Jersey during the years of the American Revolution and became governor in 1791, at which time he gave up his legal practice. A representative to the Constitutional Convention of 1787, he defended equal representation of small states and affirmed state over private interests in western lands, easing the ratification process and gaining wide respect. Paterson's lifelong devotion to the Constitution dated from his participation in this convention.[48]

George Washington appointed Paterson to the US Supreme Court in 1793, reflecting the president's regard for the court as a central support for the new national government. Intent on selecting only the fittest men to serve, Washington discounted his preference for geographical balance on the court.[49] Nominees must have supported both the revolution and the Constitution. Men with judicial knowledge and legal experience were preferred, as were those who had served politically or in the military.[50] Paterson was not strongly Federalist in his views, but he supported a strong national government and adherence to its laws. At the Constitutional Convention, he even proposed a failed plan to authorize drastic measures against popular rebellions.[51] His appointment was thus a function of both his political bearings and his legal views. Well respected as a jurist on the

[47] Address to James Iredell, Circuit Court of Pennsylvania, May 15, 1799, in Thomas Carpenter, ed., *Two Trials of John Fries*, 15–16, in response to James Iredell, Circuit Court of Pennsylvania; "Reply of the Grand Jury of the Circuit Court for the District of Pennsylvania," Apr. 12, 1796, in Marcus, *Documentary History of the Supreme Court*, 3:113–14, in response to James Iredell, Circuit Court of Pennsylvania.

[48] O'Connor, *William Paterson*, 133–34, 181, 183, 140–43, 147, 162.

[49] Washington to John Jay, Oct. 5, 1789, and Washington to John Rutledge, Sept. 29 and 30, 1789, in Marcus, *Documentary History of the Supreme Court*, 1:1, 11, and 20–21; Brooks D. Simpson, "President Washington's Appointments to the Supreme Court," *Journal of Supreme Court History* 17 (1992): 64; Hickox and Liviano, "William Paterson," 57–58.

[50] Simpson, "Washington's Appointments," 65–66.

[51] O'Connor, *William Paterson*, 224–25, 249, 252–53, 255. Shays's Rebellion (1786) exemplified the need to authorize drastic measures to suppress popular rebellions (ibid., 147–48).

US Supreme and US Circuit Courts, Paterson was known for his "basic moderation and open-mindedness," as well as his concern for political stability in the new nation.[52]

Nevertheless, Paterson's role in the Whiskey Rebellion trials was controversial. Paterson himself wrote to his wife that he found the trials "a disagreeable necessity."[53] His biographer, John E. O'Connor, argues that Paterson's political opinions encroached on his judicial impartiality. This reading of Paterson's performance in the trials became common in later years, as adherents cast the trials in terms of "political theater," assailed Paterson for making "the verdicts inescapable," and complained about heavy-handed instructions to the jury. They accused justices of acting from pressure to convict and out of fear the rebels would go free, of choosing the cases most likely to secure convictions, and of pursuing convictions only so they could mercifully pardon the rebels later.[54] Although Paterson carefully weighed the interests of the state against those of individuals, observers considered his performance in the trials volatile, excessive, and biased.[55] The textual evidence, however, challenges this underexamined view.

The Grand Jury Charges

Paterson's grand jury charges in the year of the Whiskey Rebellion trials provide three opportunities to assess his state of mind in close proximity with the trials themselves. These charges can first be juxtaposed with his trial jury charges in *U.S. v. Mitchell* and *U.S. v. Vigol*, delivered in May. They can then be supplemented by his Supreme Court opinion in *Vanhorne's Lessees v. Dorrance*, delivered in April, and by a report he sent to the president in June. Grand jury and trial jury charges cannot, of course, be considered in the same light. The two juries had different purposes—grand juries indicted, whereas trial juries tried a case—and

[52] O'Connor, *William Paterson*, 284; see Hickox and Liviano, "William Paterson."

[53] Paterson to Euphemia Paterson, Feb. 20, 1795, in Marcus, *Documentary History of the Supreme Court*, 3:6 and 1n5.

[54] See Slaughter, "King of Crimes," 90–91; Slaughter, *Whiskey Rebellion*, 220; Ifft, "Treason in the Early Republic," 173–74; Blinka, "Germ of Rottenness," 169n200; O'Connor, *William Paterson*, 234–36, 249, 258, 270, 284; and Brackenridge, *Incidents of the Insurrection*, 2:63.

[55] Unlike Justice Iredell in the *Fries* case, Paterson failed to advise the jury in *Vigol* that its task was to consider only whether the defendant was guilty of the crime charged and not to consider if the safety of the nation required the prisoner be punished (O'Connor, *William Paterson*, 328n35). Iredell also applied in *Fries* the two-witness rule to one overt act to corroborate a confession, a rule that Paterson interpreted very loosely in *Mitchell* (Blinka, "Germ of Rottenness," 174n221).

operated according to different legal standards. Grand juries used a lower standard of probability and allowed only prosecution evidence; criminal trials used a higher standard of proof and allowed both prosecution and defense arguments and evidence.[56] The two were related, however. In his grand jury charges, Paterson justified politically the legal position he later took in the trial charges and provided an explanatory framework that made sense of his performance in the trials.

To appreciate fully Paterson's grand jury charges, they should also be considered alongside two by Pennsylvania judge Alexander Addison and two by federal judge Richard Peters in the previous year of full-blown insurrection. One of Addison's charges came immediately before the federal militia's October invasion of western Pennsylvania; the other came after it, when important trials were about to be moved to the federal circuit court in Philadelphia. State courts continued to try related riot cases throughout 1795.[57] A third charge by Addison in the early days of whiskey tax resistance offers an opportunity to gauge the development of his views over time. Peters's charges both occurred before he joined the federal militia as its judicial arm, alongside US District Attorney for Pennsylvania William Rawle. By presidential order Peters had unrestricted judicial powers in his role with the militia; Rawle later went on to prosecute the rebels in Philadelphia in trials where Peters presided as a judge.[58]

In 1792 Addison charged a grand jury to preserve the peace in the wake of an August 24 attack against Washington County army captain William Faulkner, who had rented space to excise inspector John Neville.[59] Addison contrasted the private interest (natural liberty) of the rebels to the public good (civil liberty). De-emphasizing the threat to public order, he spoke of the excise tax as a private, particular inconvenience, which "there are no legal means ready to remove." He characterized the events not as treason but as riots that dangerously combined private citizens "under specious pretences of justice" and "patriotic labours."[60] The principles Addison laid out were simple: the grand jury need not take into account the rebels' inten-

[56] See Langbein, *Origins of Adversary Criminal Law*, 33, 262, 265–66; Shapiro, *Beyond "Reasonable Doubt,"* 22, 24–25, 140; and Anthony A. Morano, "A Reexamination of the Development of the Reasonable Doubt Rule," *Boston University Law Review* 55 (1975): 516–19.

[57] Ifft, "Treason in the Early Republic," 175–76.

[58] Alexander Hamilton to Henry Lee, Oct. 20, 1794, in Syrett, *Papers of Alexander Hamilton*, 17:331–36; Francis Wharton, *State Trials of the United States during the Administrations of Washington and Adams, with References Historical and Professional* (New York, 1849), 159–61.

[59] Slaughter, *Whiskey Rebellion*, 114–15.

[60] Addison, *Reports of Cases*, 47–49, 53.

tion (blackening their faces and carrying arms "proved their designs unlawful"); whether force was necessary ("every use of force implies, that the cause is bad") or done for a good purpose ("the thing itself is criminal, whatever be the object"); or whether a rebel was guilty of an overt act ("its authors, their advisers, and abettors . . . were all guilty").[61]

By eliminating these critical legal distinctions, Addison simplified the jury's task. He minimized the illegality of the popular assault as local grievances that appeared to lack a means of redress, allowing state courts to charge riot for offenses for which a federal court would later charge treason.[62] As president judge, Addison on the one hand urged fellow judges who felt "it was not our duty to hunt after prosecutions" to do their duty and hold trials.[63] On the other hand, Addison refused to assist the federal collector in taking depositions, complaining that he was farming out his duties to "an inhabitant of this corner, everyday exposed to the passions of the people in it." Although he agreed to "take all measures as appear[ed] to [him] proper to bring justice in the proper courts of Pennsylvania," he would do no more, he declared, "until I am convinced that it is my duty to do more."[64] Addison had clearly chosen to straddle the fence by both pleasing the people and preserving his ambitions.

By September 1794, after two fitful years of unrest and stung by accusations that state courts under his authority were incompetent, Addison reached a watershed moment. He became convinced that the West faced a national crisis so awful that it risked any forgiveness by the federal government.[65] Resistance to the excise law had escalated in his mind to resistance to all laws. The Washington administration had already procured authorization from Associate Supreme Court Justice James Wilson—who later served as one of the judges in the Philadelphia trials—to launch a federal militia against the rebels.[66] "[I]f one law is repealed at the call of armed men," Addison charged a Pittsburgh grand jury, "government is destroyed: no law will have any

[61] Addison, *Reports of Cases*, 50–52.

[62] Ifft, "Treason in the Early Republic," 175.

[63] Addison to Thomas Mifflin, Nov. 4, 1792; Mifflin to George Washington, Oct. 5, 1792; Mifflin to Judges of the Pennsylvania Supreme Court, Oct. 5, 1792; *Pennsylvania Archives,* 2nd ser., 4:28–29, 32.

[64] George Clymer to Alexander Hamilton, Oct. 4, 1792, and Addison to Clymer, Sept. 29, 1792, in Syrett, *Papers of Alexander Hamilton*, 12:517–22, 519n5; Slaughter, *Whiskey Rebellion*, 125–27. George Clymer, federal supervisor of collection, had appealed to Addison to assist him in collecting taxes.

[65] Addison, "Necessity of Submission to Excise Law," in *Reports of Cases*, 100–12; *New Jersey Journal*, Sept. 24, 1794.

[66] An August 4, 1794, letter from Supreme Court Associate Justice James Wilson to President Washington provided the legal authorization from an associate justice or district judge to operationalize section 2 of the Militia Act of 1792 so that a federal militia could be sent to the western country (Wilson to Washington, Aug. 4, 1794, in *Pennsylvania Archives*, 2nd ser., 4:70).

force."[67] The nation must either exert the "whole force" of its authority or it "must cease to exist." As "guardians of the public peace," jurors were to consider whether they could survive as an independent people, for the government "must either subdue us, or cast us off."[68] Addison's words resonated with the early demands of the rebels. How would the Indians on the western frontier be repelled? How would the frontier withstand the British and the Spanish? How would the Mississippi River be opened to commerce?[69]

Following the arrival of the federal militia, Addison's condemnation of the rebels became even more explicit. In his December 1794 grand jury charge, he argued that the rebellion, the most alarming event in America for many years, demonstrated the "inefficiency of a free representative democracy."[70] Individual neighborhoods, he complained, mistakenly used the word "people" and spoke in the name of the people, each assuming a right to do as one pleased. To allow any individual to prevail in a group, any combination in a state, or any state in the Union, would be no more than to allow a part to dictate to the whole. The rebels exemplified the dangers of republican government that the Federalists most feared: a crisis in which people turned to force rather than the Constitution to redress grievances. "Forcible resistance to law," Addison held, was never acceptable, so long as "the law be consistent with the constitution."[71] Only the Constitution itself could silence a law that was "repugnant" to it. Even words and such symbolic speech as liberty poles were criminal acts and "standards of rebellion"; thus, it followed that "impunity [for such acts] begets offences, as corruption begets maggots."[72] Rebels taught "an awful lesson" of anarchy "under the semblance of zeal for the public good."[73] He reminded jurors that they had no discretion under oath "answerable to God"; they had to indict.[74]

Addison had, in sum, indicted the rebellion for demonstrating the violence and weakness some believed was inherent in representative democracy. In converting to Federalism, Addison evolved from a jurist who found space for local institutions and popular resistance to one who stood with

[67] Addison, *Reports of Cases*, 101. The fear that in rendering "one law ineffectual, the whole system of laws may be destroyed," so that "All laws will at last yield," was a common Federalist theme. Judge Richard Peters repeated this theme as late as 1799 in *Fries*. Carpenter, *Two Trials of John Fries*, 908.

[68] Addison, *Reports of Cases*, 111.

[69] Ibid., 104–5.

[70] Ibid., 113.

[71] Ibid., 115.

[72] Ibid., 126–27, 124–25.

[73] Ibid., 118, 120.

[74] Ibid., 125.

the Constitution and the federal government.[75] In the process he identified the central themes that defined the federal judiciary's response to the Whiskey Rebellion.

Indeed, Addison was caught on the horns of a dilemma, trusted neither by staunch Federalists nor by the rebels.[76] The rebels found Addison "obnoxious" for encouraging a marshal to serve writs against them; "They talked of not suffering [him] to return to the country."[77] His grand jury charges in Allegheny and Westmoreland Counties went unendorsed for publication by jurors, "who were under such apprehensions from the country as not to think it safe to manifest an approbation of the sentiments contained in the charge."[78] The rebel assembly at Parkinson's Ferry preferred a reading of a fiery pamphlet by a charismatic utopian preacher, Herman Husband, to that of an Addison grand jury charge.[79]

As a federal judge for the District of Pennsylvania, Peters's grand jury charge in August did not merely anticipate Addison's increasing concern

[75] *Albany Register* report, *Aurora*, July 25, 1799, quoted in Marcus, *Documentary History of the Supreme Court*, 3:375; see Norman L. Rosenberg, "Alexander Addison and the Pennsylvania Origins of Federalist First-Amendment Thought," *Pennsylvania Magazine of History and Biography* 108 (1984): 399–417. A signed letter published in 1795 in the *Aurora* by a pseudonymous figure, "A Militia Man," presumed two causes for Addison's change of heart from "democrat" to Federalist. First, whereas the first seeds of sedition saw him "hidden in obscurity whilst it was in his powers to bring the offenders to justice," once the offenders had been contained by the government and taken for trial, he could "unnecessarily recapitulate the enormities they have been guilty of" to undermine their popular esteem. Second, Addison was accused of publishing his September 1794 grand jury charge to "inflame and irritate the public mind" and "to depress the characters of individuals in the eyes of their fellow citizens." Addison's intent, according to the letter, was to deny the people elected representatives of their choice in the Pennsylvania state legislature elections of October 14, 1794. "A Militia Man," letter to editor, *Aurora*, Jan. 14, 1795. On the elections, see Albert Gallatin, *The Speech of Albert Gallatin, a Representative from the County of Fayette, in the House of Representatives of the General Assembly of Pennsylvania on the Important Question Touching the Validity of the Elections Held in the Four Western Counties of the State, on the 14th Day of October, 1794* (Philadelphia, 1795).

[76] Addison was, for instance, much maligned by Alexander Hamilton for being guilty of "arts of misrepresentation . . . carried to a considerable height" and for his fear of "losing the [people's] confidence by a compliance with what was desired of him." Using the judge's own words ("that constitutional resistance, which alone is justifiable in a free people") to accuse him of catering to the people, Hamilton claimed "proof by his own confession." From Hamilton's standpoint the judge had promoted noncompliance with the law, for there was no such thing as constitutional resistance "short of actual violence or breach of the peace." Addison to Thomas Mifflin, Mar. 31, 1794, *Pennsylvania Archives*, 2nd ser., 4:51; Hamilton to George Washington, Sept. 2, 1794, *Pennsylvania Archives*, 2nd ser., 4:246; see Findley, *History of the Insurrection*, 291–93.

[77] Brackenridge, *Incidents of the Insurrection*, 1:75–76.

[78] Brackenridge, *Incidents of the Insurrection,* 2:10, 14, 30. The rejection refers to Addison's September 6 and September 22 grand jury charges. Subsequent charges in Washington and Fayette counties were endorsed.

[79] Sometimes reported as "Husbands," see Ifft, "Treason in the Early Republic," 182n54; Husband was at the Redstone and Parkinson's Ferry assemblies in August 1794. See William Paterson, bench notes, *U.S. v. Philson and Husbands* [*sic*]. In one iteration, the structures of local institutions were repli-

for constitutional democracy; it went well beyond it. Peters effused on the unequivocal responsibilities citizens owed to the government, the laws, and the Constitution. Even though "treason [was] a crime of too high a nature and of too deep a dye to fall within the jurisdiction" of the district court, Peters found that the district jury was mandated, at the very least, to address the recent "unjustifiable, disgraceful and much to be lamented disturbances." In a dramatic shift away from the ethos of the recent American Revolution, Peters exhorted the grand jury to defend the newly established government rather than the right to resist oppressive laws.[80] Local interests were superseded by those of the whole nation, which fully compensated that sacrifice by its protection of the whole. Peters weighed power more heavily than liberty and saw his court as a form of public police, an essentially prosecutorial role that reinterpreted the idea of a grand jury. No longer a barrier between the government and the people, the grand jury, he offered, ought to "bring forward the offending citizen to make atonement for his transgression."[81] Invoking American exceptionalism, he called upon the jury in the names of God, nature, "our common country, and . . . the majesty of the law" to ensure heaven's blessings bestowed on the nation and to reject what he had prejudged as nothing "but rebellion, but treason."[82]

Peters's charges were delivered in a trial court for minor civil and criminal matters—one that had no authority over appeals from state courts or federal questions.[83] He subsequently found himself perfectly placed to apply his views on the insurrection when he went westward with the militia to round up and interrogate prisoners, investigate crimes, and assign charges. His prosecutorial zeal did not deter him from taking a place on the bench beside Paterson in Philadelphia; he never considered recusing

cated in popular courts that adjudicated cases in the rebel assemblies; see Brackenridge, *Incidents of the Insurrection*, 1:59–63, 65, 71–72, 79, 82–83, 108–9.

[80] It was a legacy that Pennsylvania Supreme Court Chief Justice Thomas McKean shared in a grand jury charge on January 4, 1792, where he wondered at a people "just rescued" from the bondage of a foreign power and that possessed a government "framed by themselves," who would yet "trample on laws of their own making." Having escaped "a despotic government," he added, they would "not submit to one free and equal." "Charge of Chief Justice McKean and Reply of the Grand Jury, Philadelphia, Nov. 8, 1792," in *Pennsylvania Archives*, 2nd ser., 4:36.

[81] Richard Peters, grand jury charge, District Court of Pennsylvania, *Gazette of the United States*, Sept. 30, 1794. On exceptionalism, see also Richard Peters, "Charge of Judge Peters of the U. S. Courts," [Aug. 19, 1794], District Court of Pennsylvania, in *Pennsylvania Archives*, 2nd ser., 4:152.

[82] Richard Peters, grand jury charge, District Court of Pennsylvania, *Gazette of the United States*, Sept. 30, 1794.

[83] Eduardo C. Robreno, "Learning to Do Justice: An Essay on the Development of the Lower Federal Courts in the Early Years of the Republic," *Rutgers Law Journal* 29 (1998): 560–61.

himself from the court that would try the rebels.[84] Judge Peters's high-handed management of his task in the West thus undermined subsequent prosecution in the Philadelphia Circuit Court. His preoccupation with public order left him open to accusations of unfair favoritism, biased testimony, and corrupted evidence. Trial watcher Albert Gallatin compared Peters's unjudicial temperament on the bench unfavorably to the excellent example of Justice Paterson, and scholars have since described Peters's jurisprudence as "arbitrary and tyrannical."[85]

Peters's attitude is perhaps best illustrated by his insistence in *U.S. v. Insurgents* that "all the inconveniences to the defendant . . . weigh lightly when set against the delays and obstructions [thrown] in the way of the execution of the laws of the nation."[86] Indeed, four years after the trials in another Pennsylvania case, the anti-tax Fries's Rebellion, he clarified his discretionary Federalism.[87] There, Peters relied on the precedent of the Whiskey Rebellion trials to claim that while he had rejected constructions of treason that ran afoul of "justice, reason and law . . . It is not fair and sound reasoning to argue against the necessary and indispensable *use* of constructions, from the *abuses* it has produced." He authorized juries not to be "so much alarmed about *abuses*" or to refrain from using interpretations that they found "proper and necessary."[88]

Justice Paterson did not share Peters's preference for the procedural rights of the state over the individual's right to a fair trial. His views on the insurrection appear in a lead-up to the trials in an April 1795 charge to a grand jury in the Circuit Court of New Jersey. Unlike Peters, Paterson took on the paternal role of an educator in good citizenship. Paterson called for "preventative justice," that is, education, the proper means of frustrating "hostile but colourable schemes and views" and for offsetting the designs of rabble factions and party interests or those who "work the ruin of the state."[89] Education worked hand in glove with reverence for—indeed, veneration of—the law in producing citizens who "act well our

[84] The format from 1793 consisted of one US Supreme Court justice and one district court judge presiding over a circuit court.

[85] Stephen B. Presser, "A Tale of Two Judges: Richard Peters, Samuel Chase, and the Broken Promise of Federalist Jurisprudence," *Northwestern University Law Review* 73 (1978): 38, 40, 104–6, 109.

[86] United States v. Insurgents of Pennsylvania, 2 U.S. (2 Dall.) 335, 341 (1795).

[87] Presser, "Tale of Two Judges," 38, 40, 104–6, 109.

[88] Carpenter, *Two Trials of John Fries*, 206–7.

[89] William Paterson, grand jury charge, Circuit Court of New Jersey, Apr. 2, 1795, in Marcus, *Documentary History of the Supreme Court*, 3:11–12.

parts in society."[90] Together with republican virtue, the Constitution, and the law, education could maintain the balance of liberty and order.[91]

Paterson's May 4, 1795, charge to open the Whiskey Rebellion trials just a month later was another matter entirely. It presented law as a weapon to curb disorder and castigate the rebellious. In a nation of republican character where only law, and not men, was sovereign, jurors had the duty to reprove abettors of violence. To do otherwise threatened political existence, peace, and "the majesty of the people themselves." Licentious and more dreaded "than hosts of external foes" (the destabilizing pressures from France and England), the ill-informed were contrasted to citizens on the grand jury, who should compel rioters to submit to the supreme law.[92]

This charge was not an isolated incident. In an October newspaper piece, Paterson attacked public men who were "ever busy in raising and spreading false rumours, in alarming the public mind and working up the people into sedition and rebellion."[93] In an undated, contemporaneous grand jury charge, Paterson argued that the law, "the first political maxim in a republican government," required an obedience "mistaken for slavery" by the unthinking.[94] In another undated charge, he warned that insurrection resulted from forgetting that "Order is Heaven's first law," and that such rebellion led unavoidably to "political slavery and death."[95] Despite its heavy-handed rhetoric, however, Paterson's May charge was a complex statement of political theory. It had, in effect, proposed a framework for dealing with the rebellion in the context of an existing debate on treason.

The Treason Debate

Present in both English common law and colonial statutes, treason was a familiar yet debated term in early American legal culture.[96] The term

[90] Ibid.

[91] Paterson, grand jury charge, Apr. 2, 1795, in ibid., 3:13.

[92] William Paterson, grand jury charge, Circuit Court of Pennsylvania, May 4, 1795, in Marcus, *Documentary History of the Supreme Court*, 3:41–42.

[93] Ibid. Paterson continued to be obsessed with this theme throughout the trials, addressing it as the sole theme of a piece he published in October 1795. "Horatius—N. IV," *Genius of Liberty & New-Jersey Advertiser*, Oct. 26, 1795.

[94] William Paterson, undated grand jury charge, in Marcus, *Documentary History of the Supreme Court*, 3:459.

[95] William Paterson, undated grand jury charge, in ibid., 3:463–64.

[96] Whereas Willard Hurst (the baseline authority on American treason law) examined the law of specific colonies in detail, he drew broad conclusions that allow the present paper to speak more generally where possible and appropriate. See Willard Hurst, "Treason in the United States I: Treason, Down to the Constitution," *Harvard Law Review* 58 (1944): 226, 238, 240, 243, 258.

treason was used in a restricted sense, with emphasis on the safety of the government, to which individual rights were subordinated, but with proofs and procedures designed to protect the accused.[97] While these twin poles were to provide the parameters for future insurrections, both the rights of the accused and the security of the state required that such imprecise concepts as conspiracy, subversion, and usurpation of power be clarified.[98] To do so, jurists had to differentiate between riot and treason, qualify what counted as "war," and sharpen uncertain, doubtful, or general grounds in determining what treason was.

English common law had defined treason as acts against the king, but the phrase was "expressly excluded" from revolutionary-era statutes and the Constitution.[99] Laws that punished conspiring against a king were troublesome for the new republic. Such statutes were clearly violated during the revolution and would have been difficult to apply.[100] In the new nation, acts against a government replaced acts against a king. The question, then, was what aspect of and the extent to which government had to be breached in order for an offense to constitute treason. For example, preventing execution of the law was one form of resistance against the government. However, this category could include actions as benign as legislative attempts to repeal a law. Additionally, rebellion could take the form of actions against government officials executing the law. In a republic, in what sense was an official representing government authority like an agent representing the king? In answering these questions, much of English common law depended on doctrines the framers intended to bar from American law.[101]

The only convictions for treason to precede the Whiskey Rebellion trials were those of Abraham Carlisle and John Roberts. Based on a 1777

[97] Hurst, "Treason in the United States I," 229, 237, 240–41, 248–49, 258, 263, 235–36, 243.

[98] Willard Hurst, "Treason in the United States II: The Constitution," *Harvard Law Review* 58 (1945): 396. Hamilton was careful to cite rebellion as a threat to both individual rights and state authority in his rhetoric; in practice (particularly in his investigation of treasonous acts), he reverted to the prerevolutionary position privileging the authority of the state.

[99] Matthew Hale, "Concerning Levying of War against the King," chap. 14 in *The History of the Pleas of the Crown*, vol. 1 (London, 1736), 130–58; Michael Foster, "Of Levying War and Adhering to the King's Enemies," discourse 1, chap. 2 in *A Report of Some Proceedings on the Commission for the Trial of the Rebels in the Year 1746, in the County of Surry* [*sic*]*, and of Other Crown Cases* (London, 1792); Blackstone, *Commentaries*, chap. 6, under the third species of treason ("If a man do levy war against the king"); and Hurst, "Treason in the United States I," 240–42, 251–52, 258.

[100] The *Burr* trials in 1807 demonstrated the issues with the precedent of the American Revolution. See R. Kent Newmyer, *The Treason Trial of Aaron Burr: Law, Politics, and the Character Wars of the New Nation* (New York, 2012); and Peter Charles Hoffer, *The Treason Trials of Aaron Burr* (Lawrence, KS, 2008).

[101] Hurst, "Treason in the United States III," 816.

Pennsylvania state law initially designed to prosecute loyalists, prosecutors charged them with aiding the enemy.[102] The 1778 verdicts cut two ways: while the law was restricted in its application, the trials also broadened "the types of conduct which may be relied on as the overt act necessary to make out the crime."[103] In the *Carlisle* case, the court found it sufficient "to lay in the indictment, that the Defendant sent intelligence to the enemy, without setting forth the particular letter, or its contents." While the court found that the charge of levying war was "not, of itself, sufficient," it also held that "assembling, joining and arraying himself with the forces of the enemy, is a sufficient *overt act,* of levying war."[104]

Revolutionary courts thus initiated an American application of English treason law with which the Constitution had to contend. Protecting the state required that opposition to government laws or authority by force and outside established procedures be defined as treason. Broadly defined in the Constitution, treason was not intended to apply to political opponents or domestic disturbance.[105] Rather, the Constitution ensured that "treason against the United States shall consist only in levying war against them or in adhering to their enemies" (Article III, section 3), phrases borrowed from an English statute enacted by Edward III.[106] James Wilson, the architect of Article III, saw the statute as "the governing rule" replacing creative common law while still drawing on its legacy.[107] The US Constitution thus safeguarded treason from expansion by codifying treason as a constitu-

[102] The Philadelphia trials of British sympathizers (Carlisle and Roberts among them) during the American Revolution occurred before the ratification of the Constitution; the trials were held in the Oyer and Terminer Courts, Philadelphia, September sessions, 1778: Respublica v. Carlisle, 1 U.S. (1 Dall.) 35 (1778); Respublica v. Roberts, 1 U.S. (1 Dall.) 39 (1778). See Larson, "Revolutionary American Jury," 1449–55; Hurst, "Treason in the United States I," 254–56; Henry J. Young, "Treason and Punishment in Revolutionary Pennsylvania," *Pennsylvania Magazine of History and Biography* 90 (1966): 293–94, 300, 302, 306; and Peter C. Messer, "'A Species of Treason & Not the Least Dangerous Kind': The Treason Trials of Abraham Carlisle and John Roberts," *Pennsylvania Magazine of History and Biography* 123 (1999): 303–32.

[103] Young, "Treason and Punishment," 296, 298; Hurst, "Treason in the United States I," 254, 256.

[104] *Carlisle*, 1 U.S. at 38.

[105] Hurst, "Treason in the United States I," 237–38, 245, 258.

[106] Treason Act, 1351, 25 Edw. 3, Stat. 5, c. 2; Young, "Treason and Punishment," 295.

[107] Robert Green McCloskey, ed., *The Works of James Wilson*, 2 vols. (Cambridge, MA, 1967), 2:664–65. James Wilson, the architect of the constitutional language on treason and defense counsel with William Lewis in a significant number of Pennsylvania treason cases from the revolution until the end of the century—including the trials of Carlisle and Roberts—was a US Supreme Court appointee in 1789 and author of seminal lectures on the law in 1790–91. He presided over the Whiskey Rebellion trial *U.S. v. Hamilton*. See Young, "Treason and Punishment," 294, 302; Hall, *Philosophy of James Wilson*, 27–28; Geoffrey Seed, *James Wilson* (Millwood, NY, 1978), 150; and Hurst, "Treason in the United States II," 405.

tional concern restricted to levying war or aiding the enemy. By using the term "only" to limit what qualified as an act of treason, by requiring two witnesses to a single overt act or a confession in open court as evidence of an offense, and by limiting the legislature to "the power to declare the punishment of treason," the Constitution restricted treason and protected against legislative and judicial interference.[108] It was intended, in sum, to ensure that crimes could not be charged as treason, rather than felony, unless they constitutionally qualified as treason. Article III was, moreover, to act as a bulwark against "other cases of like treason [that] may happen in time to come."[109]

In his May charge to the Whiskey Rebellion grand jury, Paterson laid out the options for applying Article III, creating a framework that informed his trial jury charge in *U.S. v. Mitchell*. *Mitchell* was the most critical of the Whiskey Rebellion trials, not only because it resulted in a rare conviction, but also because Paterson's jury charge provided the trials' fullest analysis of treason. Offering an argument compatible with the English common law commentaries of Foster, Hale, and Blackstone, and one that anticipated the prosecution's case in the upcoming trials, he identified two approaches to defining treason. Both approaches expanded the definition to include acts that might have been misdemeanors or felonies, such as riot or misprision (concealment or nondisclosure) of treason, but that did not qualify outright as war against the government. The first approach relied upon a litany of acts that qualified as "levying war" under English common law: taking up arms, gathering in great numbers, marching in combination, engaging in intimidation by force and violence, and assembling in the posture of war (with leaders, by a party's array in a military manner, with physical attacks against persons and property, or by insurrection). This definition fit Wilson's discussion of levying war in his 1790–91 law lectures, the only subsequent analysis of substance that survived from a member of the Constitutional Convention.[110] The second approach focused on resisting the administration of justice or the execution of laws, rising in rebellion under pretense of redressing public grievances, forcing the repeal of a law, or altering government measures. This definition leached into the realm of constructive treason, a more arbitrary common-law denomination of uncertain and ambiguous offenses and not

[108] Hurst, "Treason in the United States III," 811.
[109] McCloskey, *Works of James Wilson*, 2:664–65; Hurst, "Treason in the United States II," 404.
[110] McCloskey, *Works of James Wilson*, 2:663, 668; Hurst, "Treason in the United States II," 404.

of actual insurrection.[111] Paterson's dual approach primed the grand jurors in two ways: it allowed jurors to choose one version over the other, giving the judge a safety net for an indictment; and it allowed toggling between the two definitions, capitalizing on the benefits of each without choosing one over the other, to double the persuasive possibilities of a directed charge.

Paterson confirmed this framework twice more. The first confirmation occurred in unpublished bench notes for three other trials (*U.S. v. Barnet*, *U.S. v. Miller*, and *U.S. v. Philson and Husband*) that did not result in convictions.[112] In all three trials, Paterson not only itemized rebellious actions but also underlined, sidelined, and made marginal notes in the manuscripts to focus attention on them. This accrual of acts substituted for a clear indication of intent. In *Barnet*, for example, Paterson noted that "intention goes hand in hand with the facts." He did not privilege, as Wilson did, that "the fact of levying war" could more clearly be evinced "from the purpose for which, rather than from the manner in which, the parties assemble."[113] Wilson said what Paterson did not: that intent led to the determination of treason. Consistent with the cases that resulted in convictions, *U.S. v. Vigol* and *U.S. v. Mitchell*, Paterson's legal standard relied on creating a fact pattern by accumulating acts until they reached a critical mass. Rather than applying a legal rule, he used the facts to infer a rule.

Following English authority, *Barnet* also noted that "the mind of the prisoner must be manifested by some overt act."[114] Paterson's position thereby appears to have evolved, shifted, or contradicted itself. On the one hand, an act without intent was not treason, and purpose (or conspiracy, often conflated with purpose) alone did not suffice without a treasonous act. In either case, neither intent nor an overt act stood alone, nor did one precede or preempt the other; they acted synchronously. On the other hand, Paterson did not require that a given thought lead to or cause an act, rather that the act and the thought should occur hand in hand, or that an act should occur that demonstrated an intent.[115]

[111] McCloskey, *Works of James Wilson*, 2:663, 667.

[112] Paterson, bench notes for *U.S. v. Barnet*; Paterson, bench notes for *U.S. v. Miller*; Paterson, bench notes for *U.S. v. Philson and Husbands* [*sic*].

[113] McCloskey, *Works of James Wilson*, 2:667.

[114] Hale, *Pleas of the Crown*, 144–46; an act without intent was not treason, and purpose alone did not suffice without a treasonous act.

[115] Hurst, "Treason in the United States III," 829–30, 839. The question here is whether there has been movement from one proposition (the realm of thought) to another (conduct that acted on what was in one's mind).

Without the manuscript notes from the three trials, Paterson's position would remain unclear. But his own words in his own hand provide a process of thought that is quite clear.[116] Whereas Paterson accepted that an act without intent was not treason, that did not prevent him from aggregating instances of conduct from which intent could be inferred. Once inferred, that intent could be said to work hand in hand with the acts, a tautology of treason that would serve his purpose in *Mitchell* and *Vigol*.[117] When he claimed in his May charge that "the universality of the intention marks the line of discrimination between acts of treason and acts of riot," he implied that acts could rise from riot to treason by virtue of some vague generality of intent inferred from the acts themselves.[118]

The second confirmation of Paterson's framework appeared in a June 1795 report solicited by Secretary of State Randolph to inform the president's consideration of pardons in the two treason convictions. Paterson called the report "a short narrative of the cases made out in the trials of Mitchell and Vigol" and begged off going "into more detail." He was dashing off to the circuit court in Delaware. Here again, Paterson recited a litany of acts, leaving them to speak for themselves: the rebels "assembled in the appointed place"; they "found themselves in a line"; they "commenced their attack."[119] While his language was more temperate than in *Vigol* and *Mitchell*, he relied on a similar method of demonstrating guilt.

As before, Paterson weighted the posture of war more heavily than clear intent. He did not address whether the threat to the United States rose from riot (which has no purpose against the state) to treason (which must intend to subvert the state). He did not consider the difference between acts of riot and of levying war or the importance of intent in distinguishing lesser and greater acts.[120] Paterson simply used lower-level offenses

[116] Paterson's words must not be confused with the reconstruction by Dallas in the law reports or Marshall's interpretation in *Burr*. Chief Justice John Marshall's opinion in *Burr* (1807) took Paterson's statement in *Vigol* ("combining these facts and the design," 347) to mean that treason required "actual force with a treasonable design" (United States v. Burr, 25 F. Cas. 187 [C.C.D. Va, 1807] [No. 14,694], 11), noting that elsewhere in the trial charge Paterson had made the crime "dependent on the intention"; that is, whether an act was criminal depended upon its intent, not whether an act of treason required actual force without a treasonous intent.

[117] Hurst, "Treason in the United States III," 834–35, 845. The question here is whether planning to subvert or conspiring to levy war could stand for the act of levying war or if an overt act without intent could be taken as evidence of intent.

[118] Paterson, grand jury charge, May 4, 1795, in Marcus, *Documentary History of the Supreme Court*, 3:42.

[119] Paterson to Edmund Randolph, June 6, 1795, ser. 4, George Washington Papers, Library of Congress.

[120] Hurst, "Treason in the United States III," 824. The colonial period gave "levying war" a broad interpretation, expanded it by including conspiracy, and did not require specific intent (Hurst, "Treason in the United States I," 238, 241, 243, 262). The Constitution, however, restricted treason by including

(misdemeanors, felonies, riot, and force) to add up to treason. It was the same "grossly deficient" construction that, Wilson had argued in his law lectures, infected the common law of treason.[121]

With his May grand jury charge as a precursor, Paterson's trial jury charge in *Mitchell* embraced an expansive common-law definition of treason. He conflated undermining a single law with an "usurpation of the authority of government . . . of a general nature," so that one law thereby assumed the role of law in general.[122] If obedience to the law were the overriding standard against which to measure treasonous acts, interfering with an act of Congress and suppressing excise offices surely counted as treason.[123] Article III, the defense, and even English commentaries warned against such doubtful constructions.[124]

In a separate construction of constitutional language—where two witnesses were required to a single overt act—Paterson joined witnesses from different acts, included conspiracy as an act, and held that those acts were not different but coterminous. In this way he could both admit that "a bare conspiracy is not treason" and hold "that intention and the act, the will and the deed, must concur."[125] Thus, forming the intention at one time and place, marching from that place to carry "the traitorous intention into effect," and committing a violent act at yet another time and place were regarded as a single act requiring a total of two witnesses.[126]

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an overt act as a separate element of the offense (combined with a fixed proof by two witnesses to prevent perjury); inferring intent from an overt act not truly connected to intent did not honor the Constitution's restrictive construction of the term (Hurst, "Treason in the United States II," 403, 406, 412, 429).

[121] McCloskey, *Works of James Wilson*, 2:663.

[122] Slaughter, "King of Crimes," 93–95; United States v. Mitchell, 2 U.S. (2 Dall.) 348, 355 (1795).

[123] Paterson, grand jury charge, May 4, 1795, in Marcus, *Documentary History of the Supreme Court*, 3:41–42.

[124] "Doubtful constructions" referred to what Blackstone called the "abundance of constructive treasons" that resulted from the "great latitude left in the breast of judges" (Blackstone, *Commentaries*, 75). Blackstone found these "forced and arbitrary constructions" were never intended to be treason and differed greatly from that which was treason. Conspiracy constituted one such construction, unless directed "at the person of the king or his government" (ibid., 82). Like conspiracy, according to Hale, encroaching royal power was difficult to discern as well as to prove and thereby was too general and "very uncertain" a charge (Hale, *Pleas of the Crown*, 80). It was a charge that could not be easily defended against: "Subverting the realm . . . bred a great insecurity" in the people. Determining whether it made for treason rather than that "which must be only a riot," he contended, "should be well considered." As an overt act constituting treason, assembling a force without arms, albeit in great numbers, was, for Hale, a matter that seemed to him a case of "constructive levying of war" (ibid., 84, 151).

[125] *Mitchell*, 2 U.S. at 356.

[126] The lack of two witnesses to the overt act and the presence of four witnesses for the conspiracy were reconciled by finding that the treason and the conspiracy were to be considered "as one act." In a statement made after the presentation of the prosecution case, Paterson directed defense counsel to address whether the conspiracy at Couche's Fort "was not in legal contemplation, an actual levying of war" and to consider whether the acts at the house "were not a continuation of the act, which originated at Couche's Fort" (ibid., 350).

Surprisingly, in neither the *Vigol* nor the *Mitchell* trial did Paterson substantively address "levying war," the very charge of which the defendants were found guilty. He merely presumed that preventing the execution of a law by force constituted treason by levying war and that usurping government authority was present once levying war occurred. Paterson, in sum, breached the restricted or limited definition of treason intended by the framers of the Constitution; he extended one law to all law, entertained "doubtful" constructions, eliminated boundaries between riot and treason, and manipulated the two-witness requirement. Rather than limiting the application of levying war, as the US Constitution intended, he expanded it by way of English common law.

Paterson's analysis of treason law in the *Mitchell* and *Vigol* charges seemed determined to direct the jury to reach a guilty verdict. In *Vigol* Paterson expressed such confidence that he appeared to leave the jury virtually no choice.[127] Not only, he noted, had the evidence harmonized "in all its parts" to prove the prisoner was involved, but "there is not, unhappily, the slightest possibility of doubt" about the accused's intention. The judge concluded that "combining these facts, and the design, the crime of High Treason is consummate."[128] In *Mitchell* Paterson was open to balancing certainty against doubt but not to asserting doubt as a superseding standard. He considered only that the jury might weigh "circumstances, which carry irresistible conviction to the mind" against the most positive testimony, but such conviction had both to be undeniable and to overcome strong evidence, thus giving doubt little weight. The jury might "consider how far this aids the doubtful language" of a witness, a weak standard at best given Paterson's correlative that "the prisoner must be declared guilty."[129] The possibility of reasonable doubt—then understood as moral certainty, informed conscience, or fully satisfied belief—was thereby minimized rather than embraced.[130] At the same time, Paterson neglected to direct the jury to consider the guilt of the individual rather than the security of the state. In this regard he behaved like a political judge.

However heavy-handed Paterson might appear, the *Mitchell* and *Vigol* law reports do not give a full picture of where Paterson stood in spring 1795. Law reports were still in their infancy, and they were often

[127] See Marcus, *Documentary History of the Supreme Court*, 3:2; O'Connor, *William Paterson*, 234.

[128] United States v. Vigol, 2 U.S. (2 Dall.) 346, 346–47 (1795).

[129] *Mitchell*, 2 U.S. at 356.

[130] Shapiro, *Beyond "Reasonable Doubt,"* 18–25; Langbein, *Origins of Adversary Criminal Law*, 33, 261–66; Morano, "Reasonable Doubt Rule," 516–19.

imperfect, unofficial, partial, and "not particularly detailed," creating the impression in later years that the Whiskey Rebellion trials were "of limited importance."[131] Indeed, the author of the rebellion trial reports, Alexander Dallas, "found such miserable encouragement" for his law reports in general that he wished in the end "to call them all in and devote them to the rats in the State House."[132] Fortunately, in the April term of the US Supreme Court, Paterson expressed his jurisprudence in *Vanhorne's Lessee v. Dorrance,* an opinion meant to draw a bright line between what was constitutional and what was not.[133]

In the *Vanhorne* opinion, Paterson addressed two areas of consequence for the Whiskey Rebellion trials. First, he was mindful that "no opinion of a single judge can be final and decisive . . . if erroneous, it will be rectified."[134] Admittedly, Paterson's role in *Vanhorne* was to write the Supreme Court's appellate opinion, rather than—as in the Whiskey Rebellion trials—to deliver a grand jury or a trial jury charge. Nevertheless, his Supreme Court opinion signaled the limitation of a justice's charge in a case at the circuit court. Further, he accepted that a jury needed at times to take a broader role, one that might impinge on a judge's responsibility to decide the law. He allowed "that when this is done in a proper manner, it gives stability to judicial decisions, and security to civil rights."[135]

Paterson's *Vanhorne* opinion suggests that the judge may have been more open to jury self-direction and less insistent on directed verdicts than Dallas's law reports led people to believe. Whether *Vanhorne* anticipated or confirmed Paterson's jurisprudence in *Mitchell* and *Vigol*, the judge appeared prepared to accept greater freedom for juries. As a result, the accusation that he directed verdicts in the circuit court trials might not, in fact, accurately reflect how he saw his role, or even his actual performance

[131] Presser, "Tale of Two Judges," 181; see Morris L. Cohen and Sharon H. O'Connor, *A Guide to the Early Reports of the Supreme Court of the United States* (Littleton, CO, 1995).

[132] Alexander Dallas to Jonathan Dayton, Oct. 18, 1802, as quoted in Craig Joyce, "The Rise of the Supreme Court: An Institutional Perspective on Marshall Court Ascendancy," *Michigan Law Review* 59 (1985): 1306. Joyce cites the George Dallas Papers, Historical Society of Pennsylvania, and credits James R. Perry, coeditor of the Documentary History Project, for locating the letter. On law reports, see Erwin C. Surrency, "Law Reports in the United States," *American Journal of Legal History* 25 (1981):48–66; and Gerald T. Dunn, "Proprietors—Sometimes Predators: Early Court Reporters," *Yearbook, Supreme Court Historical Society* (1976): 61–70.

[133] Vanhorne's Lessee v. Dorrance, 2 U.S. (2 Dall.) 304, 308 (1798). Paterson's support for the Constitution in the *Vanhorne* opinion is reinforced by his previous roles in two venues: representative from New Jersey to the Constitutional Convention of 1787 and, as a US Senator, coauthor of the 1789 Judiciary Act, which created the federal court system.

[134] Ibid., 304.

[135] *Vanhorne*, 2 U.S. at 307.

in the trials, as much as the way in which Dallas constructed the law reports.[136] Where the *Mitchell* and *Vigol* reports expressed a determined and directive attitude on the part of the judge, contemporaneous accounts by trial watchers did not cite Paterson for intemperance, unfairness, or manipulation of the jury.[137] Moreover, the trial jury charges showed a jurist struggling to frame treason law in a reasonable way, with sound and balanced analysis, albeit in the context of an unsettled body of American law that was still deeply indebted to English authority.

The second area of consequence in *Vanhorne* revealed Paterson's understanding of the Constitution's function. A written constitution, he believed, must precede in importance a legislated law. While "the one [the Constitution]" was "the work of the Creator [the people] . . . the other [the law]" was the work "of the Creature [the legislature]."[138] For Paterson, law inconsistent with "principles of reason, justice, and moral rectitude," by which he meant the principles of the Constitution, were void: "Thus far ye shall go and no further. Not a particle of it should be shaken, not a pebble of it should be removed." Unlike in *Vanhorne*, Paterson was not testing legislative law against the Constitution in the Whiskey Rebellion trials. Rather, he was determining the application of Article III, section 3, of the Constitution in relation to common law. Still, he freely interpreted the Constitution in the trials (the two-witness rule, "levying war"). Several possibilities exist to explain Paterson's simultaneous fealty to the Constitution and willingness to expand its terms: he believed his analysis in the trials was consistent with the Constitution; he did not think the Constitution spoke to the issue; or he so desired a given verdict that he either allowed himself more discretion than was justified or deceived himself.

[136] Even if Dallas had access to Paterson's notes, which is very likely, or combined them with his own observations, which is even more likely, Paterson's unpublished notes from Whiskey Rebellion trials (*Barnet, Miller, Philson and Husbands* [*sic*]*, Porter*) suggest that Dallas's renovations would have been substantial. Paterson, bench notes for *U.S. v. Barnet*; Paterson, bench notes for *U.S. v. Miller*; Paterson, bench notes for *U.S. v. Philson and Husbands* [*sic*]; Paterson, bench notes for *U.S. v. Porter*.

[137] No claims have come forward that Paterson mistreated the defense or denied it an opportunity to argue its case. Nor was he at any point in his career brought up for impeachment for his judicial work, as in fact Addison and Peters subsequently were; Addison was convicted. Hugh Henry Brackenridge, who testified in three Whiskey Rebellion trials where Paterson presided, concluded that the trials provided an exactness and abundance of evidence that would have allowed him as potential counsel the ability to fashion a true defense for the rebels (he later withdrew from the defense as an interested party). See Brackenridge, *Incidents of the Insurrection*, 3:151.

[138] *Vanhorne*, 2 U.S. at 308.

There was much to admire in Paterson's conduct in the trials. Full evidence was presented, and weak charges and cases were dismissed.[139] That grand juries sent up for trial only eleven out of thirty-five cases brought before them, and trial juries convicted only two defendants of treason, undermines the argument that the judge directed jury verdicts. The trial process dismissed inadequate evidence, addressed technicalities, and respected jury verdicts. Rather than a failure of the judicial system, the government's decision to discontinue the Whiskey Rebellion prosecutions after its October losses in two trials could equally be regarded as a success for the court and a failure for the prosecution. US District Attorney General Rawle prosecuted too many cases, leading to haste, poor preparation, and flawed performances.[140]

As the dismissive, almost ungracious tone of his report to President Washington revealed in the aftermath of the trials, Paterson became defensive about Republican objections to his performance.[141] Paterson was clear in his own mind about his common-law, constructivist approach to the trials, and he believed that he had delivered justice, even if the two men he sentenced were subsequently pardoned by the very administration whose goal of enforcing order he felt he had well served.[142] Paterson likely felt that the pardons followed the model of the revolution in making examples of the rebels and then responding to jury petitions for clemency.[143] A legal authority of some repute, he apparently never looked back to reexamine his jurisprudence or his politics.

On balance, Paterson was a moderating presence on the Whiskey Rebellion bench. If Paterson were to be faulted for his constructivist approach or his reliance on English precedents and common law doctrines already in use in American courts, such criticism only reflects that he was

[139] Paterson's opinion in *United States v. Insurgents* was not only in favor of the defendants but also demonstrated a fair-handed set of procedures and findings. The decision demonstrated that he had in fact recognized and was prepared to accommodate what was necessary to prepare a proper defense. See United States v. Insurgents of Pennsylvania, 2 U.S. (2 Dall.) 335, 342 (1795). For charges that were dropped or reduced to misdemeanors, see Albert Gallatin to Hannah Gallatin, May 12, 15, and 18–19, 1795; to John Badollet, May 20, 1795; and to Thomas Clare, May 30, 1795. See also Holt, "Whiskey Rebellion of 1794," 75–76.

[140] See here, Holt, "Whiskey Rebellion of 1794," 75–79; and District Attorney Rawle to Judge Addison, Aug. 15, 1795, in *Pennsylvania Archives*, 2nd ser., 4:450.

[141] O'Connor, *William Paterson*, 275, 329n39; Paterson to Edmund Randolph, in Marcus, *Documentary History of the Supreme Court*, 3:56; Paterson to Edmund Randolph, June 6, 1795.

[142] O'Connor, *William Paterson*, 270, 275, 329n39.

[143] Blinka, "Germ of Rottenness," 170n200; Slaughter, "King of Crimes," 91.

a product of his time. He shared that fault with most of his contemporary judges, Federalist and otherwise, all of whom faced an undeveloped body of American statutory law.[144] Paterson did what was common at the time: apply the law as it existed. He would have been surprised and disappointed to find himself criticized for undermining the Constitution or bending too far in the direction of English authority.

Appearing in the Circuit Court of Delaware shortly after he completed his report to the president, Paterson echoed the concerns of his April and May charges. Reprising his cry to the rebels in May that "Ye disorganizing spirits from henceforth obey," he hoped that the nation's citizenry had learned the lesson of rebellion: "May no factions . . . arise within thy peaceful vales to generate and foment internal discord and strife; may insurrection never more rear her crest; may neither foes at home nor foes abroad disturb this our rare and high felicity. But may we all, as becomes good citizens, lead quiet lives under the guidance and government of the laws." The judge had come out of the worst of the trials much maligned and yet clear in his own conscience.[145] The safety and welfare of fifteen states diversely constituted and loosely linked depended upon "co-operation and confederacy" to ensure "the prosperity and happiness of the Union at large."[146] Paterson moderated the tone that had characterized his grand jury charge at the opening of the rebellion trials, but he was clear that the happiness of the nation depended upon the grand jury pursuing transgressions against the nation. "The justice of the nation," he noted, "[wa]s committed to their care."[147]

Paterson felt deeply threatened by the rebellion, which affected his performance and led to serious criticism. This criticism is not, however, entirely warranted. Paterson and most of his peers were unnerved by the

[144] Federalist judges like Richard Peters—and Alexander Addison, in his later years—were open to the possibility of an expansive federal common law, that is, punishing offenses not proscribed by laws passed by Congress (Presser, "Tale of Two Judges," 46–47). This represented an attempt to expand the limits of federal government. Republicans feared that federal common law would undermine legislated law and become a weapon for Federalists to punish their political opponents (Robreno, "Learning to Do Justice," 572–73).

[145] See Holt, "Whiskey Rebellion of 1794," 77, 77n162; William Rawle seemed ready to terminate the trials after he lost two more in the October term. Just before the Circuit Court met in April 1796, he did in fact drop the remaining charges. Paterson, grand jury charge, Circuit Court of Delaware, June 8, 1795, in Marcus, *Documentary History of the Supreme Court*, 3:57. William Paterson, grand jury charge, Circuit Court of Pennsylvania, May 4, 1795, in Marcus, *Documentary History of the Supreme Court*, 3:42.

[146] Paterson, grand jury charge, June 8, 1795, in Marcus, *Documentary History of the Supreme Court*, 3:59.

[147] Ibid., 3:59, 60.

prospect that a combination of internal and external enemies was poised to destroy the Union. The democratic-republican societies, the Indian wars, Shays's Rebellion, the Whiskey Rebellion, and the unresolvable conflict between England and France had combined to besiege the new nation. In March 1795, just as the trials were about to begin, news of Secretary of State John Jay's treaty with England led to a public furor. Expressions of discontent similar to those exhibited in the Whiskey Rebellion—public assemblies, protests, and libelous attacks—were aimed at the Jay Treaty. In June Paterson tried and acquitted the millennial prophet Herman Husband for preaching inflammatory visions of a New Jerusalem to rebel gatherings. Federalists Alexander Hamilton and William Rawle found Husband's words both "extremely inspirational" and clearly troublesome.[148] For Paterson, the political ogre he had struggled with in the rebellion trials continued to threaten the republic.[149]

Wholesale criticism of Paterson's performance seems unjustified. He cannot be seen simply as an ill-tempered partisan who held the line on Federalism or a jurist gone bad who betrayed his characteristically thoughtful and temperate self. Rather, Paterson navigated with what he believed was a reasonable jurisprudence, course-correcting against a backdrop of conflicting national and international forces.

Collateral and Aftermath Narratives

Paterson was not alone in his concern for the state of the Union or his devotion to the Constitution. His fellow justices drew similar conclusions in their grand jury charges, suggesting a common judicial perspective—considerably Federalist, as they were administration appointees. Nonetheless, Paterson was more restrained in his approach to the Whiskey Rebellion trials than were other judges, actually tamping down the heated rhetoric of the times. By contrast, US Supreme Court

[148] Paterson tried Herman Husband for a misdemeanor; see Fennell, *"From Rebelliousness to Insurrection,"* 192–221; Holt, "Whiskey Rebellion of 1794," 54–57, 78–79, 79n165, 81–82; Fritz, *American Sovereigns*, 154–55; Slaughter, *Whiskey Rebellion*, 276n27; Bouton, *Taming Democracy,* 42–43; Findley, *History of the Insurrection,* 212; and Sacvan Bercovitch, *The American Jeremiad* (Madison: University of Wisconsin Press, 1978).

[149] Bouton has made a case that unwittingly reinforces Federalist fears of popular uprisings as a threat to the stability of the republic and, in the process, justifies Paterson's sense that the nation was under siege by popular uprisings; a continuing revolution from 1754 to 1799 makes Paterson's fears of a systemic threat appear less like paranoia and more like a realistic assessment. Bouton, *Taming Democracy,* 28–29, 145–67, 204, 208, 218, 226, 244.

Justice John Blair harangued his grand jury on the events of the western rebellion.

In a charge to a grand jury in the Circuit Court of Georgia in the same April term as the rebellion trials, Blair warned that "the governing principle of the late commotion [was] an overstrained conception of liberty, deriving to certain combinations of men, and almost to individual characters, all the sacred rights of the people, and dignifying with *their* name and authority their own pernicious systems."[150] Embodying the nascent Federalist narrative of the Whiskey Rebellion trials, Blair essentially reinvented the social contract: whoever opposed authority "with pertinacious petulance private to public opinion" undermined the public good and thereby threatened "the eversion of our happy government."[151] However evil the law, the evil of rebellion decidedly outweighed it. However untenable the principle of law, forcible resistance belonged to a state of nature, not a civil society, and was "repugnant to the common sense of mankind, to the principle of every consociation."[152] Force against tyranny was entitled to legal protection—surely his answer to the precedent of the American Revolution—but the present use of power with a "cruelty and distraction inseparable from civil war" derogated the authority of the Constitution. Blair regarded the Constitution as "fundamentally one of the finest fabrics the world had yet seen" and one that the people had themselves deliberately enacted. Appropriating the message of popular constitutionalism, Blair claimed that to defy the Constitution invaded the rights of the people and usurped their sovereignty.[153]

Justice Blair anticipated the sentiments of grand jury charges that followed the trials, chief among which were the charges of US Supreme Court Justice James Iredell. Slated to sit on the circuit court that tried the Whiskey rebels, only to be reassigned at the last moment, Iredell in the year after the rebellion took a temperate tone.[154] Treason, he argued, was an offense that caused "the greatest accumulation of public and pri-

[150] John Blair, grand jury charge, Circuit Court of Georgia, Apr. 27, 1795, in Marcus, *Documentary History of the Supreme Court*, 3:32.

[151] Ibid.

[152] Ibid., 3:33.

[153] Ibid., 3:34–35.

[154] Iredell was originally scheduled to sit as a second Supreme Court justice with Paterson at the Philadelphia trials, but Justice Cushing's illness required Iredell's continued presence on the Eastern Circuit. Marcus, *Documentary History of the Supreme Court*, 3:1; James Iredell, grand jury charge, Circuit Court of Virginia, Nov. 23, 1795, in ibid., 3:74–79; Circuit Court of Pennsylvania, Apr. 12, 1796, in ibid., 3:106–14; Circuit Court of Pennsylvania, Apr. 11, 1799, in ibid., 3:332–45.

vate misery any crime can possibly occasion." Yet, he reasoned, the "great engine of Judicial tyranny" allowed so loose a definition of treason that judges could "charge that as an act of Treason which was never intended to be deemed such" by the Constitution.[155] Mindful of the abuses of English courts and the French Revolution, Iredell maintained that a beneficent government must extend "every indulgence which humanity as well as justice could declare" in offering the convicted "the scepter of Mercy."[156]

Iredell was less forgiving four years later. Seeking indictments in Fries's Rebellion, the crux of his charge was the importance of preserving the government from the specter of anarchy and chaos.[157] It was a theme that would resonate with members of a jury in the same circuit court that tried the rebels and for whom the events of 1794 were still fresh. Restating threats expressed in grand jury charges from Addison to Blair, Iredell warned of dire results should the jury fail in its duty. "If you suffer this government to be destroyed," he demanded, "what chance have you for any other?" Iredell's closing sentiments on the rebellion, like those of Peters and Paterson, played on a theme that had become prevalent in this period of religious awakening—that a jeremiad had been called down upon a nation that risked its blessed state by rebelling against authority. "May that God whose peculiar providence seems often to have interposed to save these United States from destruction," he exhorted, "preserve us from this worst of all evils. And may the inhabitants of this happy country deserve his care and protection by a conduct best calculated to obtain them."[158]

The specter of the Whiskey Rebellion had clearly not subsided in the imagination of the republic.[159] The continuing activities of the democratic-republican societies, protests against the Jay Treaty, and the uproar over the 1798 Sedition Act exacerbated the sense of threat the rebellion seemed to pose to the Union. US Supreme Court

[155] Iredell, grand jury charges, Apr. 12, 1796, and Nov. 23, 1795, in ibid., 3:107, 75–76.

[156] Ibid., 3:76–77.

[157] Iredell, charge to the grand jury of the Circuit Court for the District of Pennsylvania, Apr. 11, 1799, in Carpenter, *Two Trials of John Fries*, 1–16.

[158] Iredell, charge to grand jury, Circuit Court of Pennsylvania, Apr. 11, 1799, in Carpenter, *Two Trials of John Fries*, 15.

[159] District Judge Peters, in an ominous postscript to an April 24, 1799, letter to Justice Paterson, begged for Paterson's presence in Philadelphia for the Fries trial: "On Monday the first Treason Trial begins & in the Fate of that the whole may be involved." Peters's concern extended to the prospect that a wrong turn ("ridiculous or weak") could energize "the Party, forever on the Watch for such Events" and thereby spread "to all the combustible Matter too generally dispersed in other Quarters." The "State," he opined, had been "twice disgraced by infamous Insurrection," recalling the precedent set by the Whiskey Rebellion. All quotes in Marcus, *Documentary History of the Supreme Court*, 3:353.

Justice William Cushing directly tied the Sedition Act to the Whiskey Rebellion. Resistance to the 1798 legislation recalled the "Pittsburgh insurrection," "raised under the groundless pretext of opposing an arbitrary law about a small matter *of excise*" but actually assaulting a fundamental power in the Constitution—the necessary means "for the support of government, for the common defence and for the general welfare."[160] Speaking in the same court in which both the Whiskey and Fries's Rebellion trials had been held, US Supreme Court Justice Samuel Chase, a devoted Federalist, offered a final iteration of this message in 1800.[161] In a federal Union, he offered, one section of the country may not object to the execution of a law that it finds objectionable without encouraging other sections to do the same. Repealing acts on such a basis could only dissolve the government; it would "be the height of folly to expect afterwards to see any law executed."[162] Chase's "political truth" was a basic Federalist principle shared by many of his fellow judges: only the law could provide for the security of the Union, the impartial administration of justice, and the protection of lives, liberty, and property.

Conclusion

Several factors have led historians to question whether William Paterson's role in the Whiskey Rebellion trials was a function of principle or Federalist partisanship. Treason law was in a state of flux at this time, and US law on treason was just beginning to develop its own constitutional identity separate from that of English common law and statutory law. Law talk and legal decisions in the Whiskey Rebellion infused new life into that debate, which was not resolved until *U.S. v. Burr* (1807).[163] Vestiges of popular sovereignty, moreover, exerted the coercive force of democratic populism and its unwritten constitution to complicate the jurisprudence of a judge like Alexander Addison at the state level and displace the authority of state courts. But popular sovereignty had also authorized the Constitution, with which future law must be consistent. This was the dilemma in which the rebellion was caught: by turning against a government created by the people, the rebellion risked dishonoring the legacy of the American Revolution.

[160] William Cushing, grand jury charge, Circuit Court of Virginia, Nov. 23, 1798, in Marcus, *Documentary History of the Supreme Court*, 3:313.

[161] Ellis, *Jeffersonian Crisis*, 79.

[162] Samuel Chase, grand jury charge, Circuit Court of Pennsylvania, Apr. 12, 1800, in Marcus, *Documentary History of the Supreme Court*, 3:413–14.

[163] *Burr*; see Newmyer, *Treason Trial of Aaron Burr*; and Hoffer, *Treason Trials of Aaron Burr*.

As a voice of the federal judiciary, Peters was much less conflicted than Addison. He unequivocally declared the people's responsibility to their own Constitution and the laws that flowed from it. In this view the judicial authority of the courts and the Constitution superseded the people. Noting his respect for "the majesty of the people themselves," Paterson walked back Peters's promotion of state power, an indication that the movement away from popular sovereignty and toward the authority of the courts and the written federal Constitution was incremental and in conflict throughout the 1790s. It was a conflict that continued to inform judicial thought for some time.

Paterson's Whiskey Rebellion grand jury and trial charges ultimately reflected his judicial philosophy and its underlying principles. His grand jury charges fleshed out the jurist's political mindset, while his conduct in the trials operated within the constraints of traditional law and judicial principle.[164] In *U.S. v. Insurgents*, for instance, Paterson rejected the irascible analysis of his district court partner on the bench, Judge Peters, in favor of a resolution that respected the procedural rights of the defendants. Like Justice Wilson in *U.S. v. Hamilton*, he exhibited judicial restraint and reasonableness in his treatment of the rebels. If his inclination was, like that of most Federalist judges, to privilege common law and constructivist reasoning based in English rules, doctrines, and precedents, it is difficult to fault him considering that the alternative relied upon the unpredictable vagaries of common sense and local institutions.[165] Accepting the law as it was understood at the time provided for Paterson a basis for judicial reasoning within a history and tradition rooted in custom and precedents. Thus, his trial charge analyses were tied to jurisprudential reasoning, not common logic or party politics. His reasoning was closely aligned with a theory of government and a reading of the Constitution that responded to the vicissitudes of existing and emerging law. Paterson had to deal with legal concepts of treason that postconstitutional American courts had not yet addressed and for which the 1778 trials of British sympathizers were the closest precedent. Whether or not one agreed with the trial court charges in *Mitchell* or *Vigol,* they were principled rather than partisan. Paterson's contemporaneous Supreme Court opinion in *Vanhorne* supports this conclusion. Here, Paterson signaled his acceptance of the shifting roles of judges and juries, acknowledged the importance of appellate review, and

[164] Ifft, "Treason in the Early Republic," 173–74.
[165] See Kramer, *The People Themselves*, 162, referring to Reid, "Defensive Rage."

embraced the central role of the Constitution. The principles and precedent apparent in this opinion informed Paterson's future jurisprudence at both the circuit court and Supreme Court levels.

Paterson's work derived more from political theory than from party loyalty. A conscientious judge concerned with the relationship of governance and law, Paterson was caught in the transition from popular to constitutional sovereignty. The revolution's legacy was best protected, he believed, by curbing democratic populism when it turned against the government created by the people and threatened the welfare of the nation. The sacrifices of the revolution to create the Union would be honored best by preserving that Union. If Paterson was partisan, it was to a theory of government, not a party. A revised appreciation of the part William Paterson played in the story of the Whiskey Rebellion is vital to our understanding of judges in the early republic as well as to the larger questions of the relationships between the individual and the state and between popular democracy and constitutional government.

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The Tragedy of Edward "Ned" Davis: Entrepreneurial Fraud in Maryland in the Wake of the 1850 Fugitive Slave Law

Abstract: The celebrated trials of Anthony Burns, Shadrach Minkins, and Thomas Sims were not the only compelling slave cases to occur after the passage of the 1850 Fugitive Slave Law. The little known slave case of Edward "Ned" Davis was arguably just as stunning as they. Although it did not receive the same attention or entail the same fanfare that these other, better-known slave cases did, Davis's case nevertheless exposed a depth of corruption in the nation's legal, economic, and political systems that they did not. Unlike Burns, Minkins, and Sims, Davis was not initially a slave; he was a free man of color like Solomon Northup. Unlike Northup, though, who had been illegally deceived and enslaved in the 1840s, Davis's entrapment was perfectly legal. By 1851, multiple forces in local, state, and federal government—particularly in Pennsylvania, Maryland, and Delaware—had converged in such a way as to make it impossible for even a defense team composed of an abolitionist and a slaveholder to prevail. The Davis case scandalized Philadelphia's abolitionist community, and launched the career of the prominent abolitionist poet Frances Ellen Watkins Harper.

> The Daily *Register* of Monday morning contained an account of a daring attempt of a colored man, supposed to be a slave, to escape from Savannah, Georgia, on board the steamship Keystone State. . . . His name is Edward Davis; he . . . used to live in this city [Philadelphia]. . . . About two years ago two white men persuaded him to go with them to Baltimore.
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> —*Cyrus M. Burleigh et al., "Perilous Adventure,"* Pennsylvania Freeman, *Mar. 23, 1854*

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From March until May of 1854, Cyrus Moses Burleigh—abolitionist editor of the *Pennsylvania Freeman* and younger brother of abolitionist orator Charles C. Burleigh—ran a series of articles on the slave case of Edward "Ned" Davis. Davis was a free black laborer who was entrapped in a complex web of legalized prejudice, manipulation, enslavement, and entrepreneurial fraud after the passage of the 1850 Fugitive Slave Law. This federal statute subjected free people of color, not just runaway slaves, to apprehension, imprisonment, trial, and enslavement without recourse if an individual produced a court affidavit claiming them as property. Frederick Douglass's famous epithet for this legislation—"The Bloodhound Law"—deftly characterized its facilitation of both open and clandestine means of trapping, kidnapping, remanding, and enslaving runaways and free blacks. The celebrated cases of Shadrach Minkins, Thomas Sims, and Anthony Burns, runaway slaves from Virginia and Georgia, resulted from this law. What is not so well known is the extent to which entrepreneurial fraud flourished as a result of it—particularly in border states such as Maryland, where existing black codes and race prejudice encouraged such abuses—and deliberately aligned the capture of unwitting free blacks with "the dark dreams" of white empire that had long made slavery an insidious form of capitalism.[1]

Davis's tragedy—a little-known slave case created by Maryland's black codes and tried under the 1850 Fugitive Slave Law—illustrates this well. Like Solomon Northup's better-known case, Davis's situation involved deception—indeed several levels of subterfuge implemented by individuals, prison officials, and slave traders. Unlike Northup's case, though, everything that occurred in Davis's situation was legal, from his arrest and fine for violating Maryland's 1839 law against free blacks entering that state; to his imprisonment and enslavement under that code for not

[1] Cyrus M. Burleigh et al., "Perilous Adventure," *Pennsylvania Freeman*, Mar. 23, 1854; "Case of Edward Davis," *Pennsylvania Freeman*, Mar. 30, 1854, p. 2, cols. 4–5; "Edward Davis," *Pennsylvania Freeman*, Apr. 6, 1854, p. 2, col. 6; "The Case of Edward Davis," *Pennsylvania Freeman*, Apr. 20, 1854, p. 2, cols. 2–3; "The Slave Catching Outrage," *Pennsylvania Freeman*, Apr. 27, 1854, p. 3, cols. 1–3; "Edward Davis," *Pennsylvania Freeman*, May 18, 1854, p. 3, col. 4; Ira V. Brown, "An Anti-Slavery Agent: C. C. Burleigh in Pennsylvania, 1836–1837," *Pennsylvania Magazine of History and Biography* 105 (1981): 66–67; "The Fugitive Slave Law of 1850," in *Against Slavery: An Abolitionist Reader*, ed. Mason Lowance (New York, 2000), 325–31; Margaret Washington, *Sojourner Truth's America* (Urbana, IL, 2009), 196; Gary Collison, *Shadrach Minkins: From Fugitive to Citizen* (Cambridge, MA, 1997), 1–3, 9–13, 39–90, 110–33, 190–91; Albert J. von Frank, *The Trials of Anthony Burns: Freedom and Slavery in Emerson's Boston* (Cambridge, MA, 1998); Walter Johnson, *River of Dark Dreams: Slavery and Empire in the Cotton Kingdom* (Cambridge, MA, 2013), 1–45, 86–87, 176–208, 244–302. Note also with Johnson, Sven Beckert, *Empire of Cotton: A Global History* (New York, 2014); and Edward E. Baptist, *The Half Has Never Been Told: Slavery and the Making of American Capitalism* (New York, 2014).

being able to pay the fine; to his trial in Delaware under the 1850 Fugitive Slave Law for daring to assert his freedom; to his remanding to slavery in Georgia, his penalty for seeking justice. In other words, Davis's case was not only initiated by entrepreneurs who profited from putting him into the slave system, as was Northup's situation; but it was also created, facilitated, and sustained by two government entities determined to exploit blacks for the express purpose of profiting whites.[2]

In late 1850 and early 1851, just after the passage of this infamous federal law, the Maryland state legislature held a convention at which representatives from various counties debated control of the state's free black population. Several legislators voiced their and other white Marylanders' long-held worries about the exponential growth of the number of free blacks in their slaveholding state. These legislators were not simply concerned about a growing, uncontrolled, free black population, however; they were particularly afraid that this population would threaten whites' political and economic self-interest and material wellbeing in the wake of Congress's recent "Compromise." Representatives Robert Brent and Charles Gwinn of Baltimore City and Louis McLane of Cecil County summarized these concerns well. Brent characterized free blacks as an "incubus" or evil spirit oppressing whites and instigated a call for their removal: "The new census exhibits the alarming fact, that while the number of slaves has diminished, that of the free colored persons has increased. . . . [A] time may come, when it will be necessary for our tranquility and security, to banish . . . [this] incubus on the prosperity of the State."[3] Gwinn argued that Maryland was central to national unity and that a "fanatical" antislavery "opinion" threatened the Union: "Maryland is a BORDER State. . . . Her internal harmony creates a bond between north and south. . . . [T]he growth of fanatical opinion within her territory, would do more towards the dissolution of the Union, than all the wickedness and perversity of external

[2] Davis's case received the most attention in the Philadelphia metropolitan area. It was discussed in Burleigh's articles in the *Pennsylvania Freeman*, in the *Twenty-First Annual Report of the Philadelphia Female Anti-Slavery Society* (Philadelphia, 1855); and in William Still's biographical sketch of Frances Ellen Watkins Harper in *The Underground Rail Road* (Philadelphia, 1872), 757–58. For Solomon Northup's case, which garnered national attention in 1853 and 1854, see Solomon Northup, *Twelve Years a Slave*, ed. Sue Eakin and Joseph Logsdon (Baton Rouge, LA, 1968).

[3] "Proceedings and Debates of the 1850 Constitutional Convention," in *Debates and Proceedings of the Maryland Reform Convention to Revise the State Constitution*, 2 vols. (Annapolis, MD, 1851), reproduced in William Hand Browne and Edward C. Papenfuse et. al., eds., *Archives of Maryland*, 215+ volumes (Baltimore and Annapolis, MD, 1883–), vol. 101, *Debates*, 1:195 (hereafter cited as *Archives of Maryland*). This series is ongoing and available online at http://aomol.msa.maryland.gov, where volumes, collectively or individually, can be searched electronically.

influence."[4] And McLane sounded the alarm: "[T]hese people ought to be removed as soon as it can be done with propriety. . . . [W]e are not bound to wait until the danger becomes more imminent . . . [, for] the principle of abolition . . . has [already] operated on the colored people."[5]

Although Brent, Gwinn, McLane, and their fellow legislators initially disagreed on how to get rid of free blacks without infringing upon the rights of white resident aliens with the same legal status, they all agreed that free blacks functioned as "incendiaries" under the "principle of abolition." Natural residents and those from out of state could both foment discord between blacks and whites and aid and abet runaway slaves. These potential collusions were particularly threatening because they took place precisely as the federal government looked to Maryland to help make the new slave law effective. Thus, they concluded that Maryland should more strictly and consistently enforce the black codes that it had passed in 1831 and 1839, in the aftermath of the Nat Turner Rebellion. In their view, if these statutes were better enforced, the activities and movements of resident free people of color would be appropriately curtailed until this population could be properly removed—preferably to Africa. Furthermore, the attempts of nonresident free blacks to enter and settle in the state could be prevented by severe fines, imprisonment, and enslavement.[6]

Chapter 320, Section 1 of the 1839 Maryland statute on free people of color makes this point clear:

[4] Ibid., 101, *Debates*, 1:197.

[5] Ibid.

[6] Ibid., 101, *Debates*, 1:194–98, esp. 195 and 197; "Laws of Maryland.—1831," and "Laws of Maryland.—1839," in Clement Dorsey, *The General Public Statutory Law and Public Local Law of the State of Maryland: From the Year 1692 to 1839 Inclusive, with Annotations Thereto, and a Copious Index*, 3 vols. (Baltimore, 1840), reproduced in *Archives of Maryland*, 141:1068–70, 2343. The 1839 statute against the immigration of free blacks into Maryland was still on the books in the early 1850s, when Davis was enslaved, and it remained so into 1860. Laws restricting, eradicating, or calling for the colonization or re-enslavement of free blacks were also still being discussed in state constitutional conventions from 1850 to 1864. See, for example, "Immigration of Free Negroes," in *The Maryland Code: Public General Laws and Public Local Laws*, comp. Otho Scott and Hiram McCullough (Baltimore, 1860), reproduced in *Archives of Maryland*, 145:458–60; "Proceedings and Debates of the 1850 Constitutional Convention," in *Proceedings of the Maryland State Convention, to Frame a New Constitution, Commenced at Annapolis, November 4, 1850* (Annapolis, 1850), reproduced in *Archives of Maryland*, 101:496–505; James Warner Harry, *The Maryland Constitution of 1851* (Baltimore, 1902), reproduced in *Archives of Maryland*, 631:57–62; "Proceedings of the House, 1860, February 10, 17," from *Proceedings of the House, 1860* [GENERAL ASSEMBLY, HOUSE (Journal), 1860, MdHR 821075–1, 2/1/6/8] (Annapolis, 1860), reproduced in *Archives of Maryland*, 660:364, 468; "Proceedings and Debates of the 1864 Constitutional Convention," in *The Debates of the Constitutional Convention of the State of Maryland, Assembled at the City of Annapolis, Wednesday, April 27, 1864*, 3 vols. (Annapolis, MD, 1864), reproduced in *Archives of Maryland*, 102:109–12, 124–28.

> Be it enacted, by the General Assembly of Maryland, that after the passage of this act, no free negro or mulattos, belonging to or residing in any other state, shall come into this state, whether such free negro or mulatto intends settling in this state or not, under the penalty of twenty dollars for the first offense; and no free Negro or mulatto shall come into this state a second time where he or she has been arrested under the provisions of this act, under the penalty of five hundred dollars.[7]

Delaying a discussion of the smaller, though not inconsequential, fine until the end of the section, the statute focuses first on the second and more substantial fine by delineating how, by, and to whom it was to be disbursed:

> [T]he one-half of the said sum of five hundred dollars to the informer, and the other half to the sheriff, for the use of the colonization society of the state of Maryland, to be recovered on complaint and conviction before the county court of the county, or during the recess, the orphans court of said county in which he or she shall be arrested.[8]

The informer was to make $250 for turning in a person of color from out of state, while the Maryland State Colonization Society (MSCS), via the presiding sheriff, was to earn another $250. In other words, black violators of this law were used to encourage individual whites to entrap them so that they could help to pay the cost of sending resident free blacks and mulattos to Africa—purportedly with their consent, as the Christian leaders of the colonization movement often put it. All of this assumed, of course, that said offender of color was willing and able to pay the $500 fine. If this person refused, neglected, or could not pay the fine, the penalty was swift and brutal:

> [A]ny free negro or mulatto refusing or neglecting to pay said fine, shall be committed to the jail of the county, and shall be sold by the sheriff at public sale, to the highest bidder, whether a resident of this state or not, first giving ten days notice of such sale, to serve in the character and capacity of a slave.[9]

After delineating the penalty for not paying the $500 fine, the law once again addressed how the proceeds from the sale of the offending free black person or mulatto was to be disbursed and by and to whom:

[7] "Laws of Maryland.—1839," in *Archives of Maryland*, 141:2343. This statute was a supplement to the Act of 1831, Chapter 323, "An Act Relating to Free Negroes and Slaves."

[8] Ibid.

[9] Ibid.

> [T]he said sheriff, after deducting prison charges and a commission of ten percent, shall pay over one-half of the net proceeds to the informer, and the balance he shall pay over, if sold in a county on the eastern shore, to the treasurer of said shore, or if sold in a county on the western shore, to the treasurer of the western shore, for the use of the colonization society of the state of Maryland.[10]

In this instance, the informer and the MSCS were not the only ones to make money on the out of state offender. The prison system and the prison official did as well, since they purportedly needed to be remunerated for handling the prisoner. The prison official's payment, however, was not simply an incentive for him to cooperate, but it was also a requirement that carried its own penalties if he did not comply:

> [F]or all sums of money so received by the said sheriff, his bond shall be answerable on his failure to pay the same over, in an action at law in the name of the State of Maryland, for the use of the parties entitled to receive the same by this act; and all sheriffs and constables are hereby required to arrest any free negro or mulatto, who may come into this state contrary to the provisions of this act.[11]

At stake in law enforcement's compliance, then, was the white informer's and the MSCS's profit and the state's ability to get rid of free blacks. Indeed, getting rid of free blacks was so important to the state that the statute authorized others outside of law enforcement to act in this capacity: "all other persons are authorized to arrest any such free negro or mulatto."[12] The statute then concluded by delineating the disbursements and penalties accompanying the first offense of the law and its smaller fine of twenty dollars:

> [S]uch sheriff, constable, or any other person as may arrest any free Negro or mulattos, who shall have come once into the state contrary to the provisions of this act, shall be entitled to the penalty of twenty dollars hereby inflicted, to be recovered on complaint and conviction as before stated, and such free negro or mulatto shall pay the said penalty of twenty dollars, and all jail fees and expenses incident to his or her arrest and detention, or upon his or her failure to do so, he or she shall be committed and sold as herein

[10] Ibid.
[11] Ibid.
[12] Ibid.

> provided in relation to those who have incurred the penalty of five hundred dollars; Provided, that if said negro or mulatto shall not remove out of the state within five days after he [or she] shall have paid the said sum of twenty dollars, he [or she] shall be deemed to have come a second time into the state and shall be liable as if he [or she] had so done.[13]

Thus, whether or not a free person of color committed a first or second offense of entering Maryland, said person was subject to heavy fines, imprisonment, and enslavement.[14]

In the case of Edward Davis, this was the statute that was enforced in the wake of and in conjunction with the 1850 Fugitive Slave Law. Coupled with the federal law, the strict enforcement of this state code consolidated the institutionalization of race prejudice in Maryland and declared unequivocally that free blacks such as Davis "had no rights that the white man was bound to respect"—to use the now infamous remark of Chief Justice Roger B. Taney, a Maryland lawyer and slaveholder, in the Dred Scott decision of 1857. In this climate fraud was inevitable and ineradicable. It could not effectively be recognized or dismantled as injustice in a court of law when the justice systems of Maryland and the United States were complicit.

Cyrus Burleigh's three-month account of the Davis case reveals these abuses in detail. In March of 1854, Burleigh broke this tragic story as it unfolded with Davis's harrowing, but unsuccessful, escape on the *Keystone State*, a Pennsylvania steamship that regularly ran between Philadelphia and Savannah. Davis, a thirty-seven-year-old free black and common laborer from Philadelphia, had been deceived into going into Maryland, where he was sold into slavery and ultimately sent to Georgia. His enslavement caused an uproar in Philadelphia's African American and abolitionist communities when it came to light in late March. Young Frances Ellen Watkins, soon to become a famous abolitionist poet, was so disturbed by Davis's plight that she told her close friend and colleague William Still that it was on Davis's grave that she "pledged herself to the anti-slavery cause."[15]

[13] Ibid., 141:2343–44.

[14] Note that Maryland's 1831 black code provided the contours for the 1839 statute used in Davis's case, including guidelines for the distribution of funds collected; see "Laws of Maryland.—1831," in ibid., 141:1068–69.

[15] Burleigh et al., "Perilous Adventure," *Pennsylvania Freeman*, Mar. 23, 1854; Philadelphia Female Anti-Slavery Society, *Twenty-First Annual Report*, 14; Still, *Underground Rail Road*, 757–58. For an extended treatment of this case as presented from Watkins Harper's perspective, see Marcia C. Robinson, *"The Noblest Types of Womanhood": Frances E. W. Harper and the Negotiation of Female Citizenship in Anti-Slavery Electoral Culture*, currently under review by the University of North Carolina Press.

Like black common laborers elsewhere in the United States at the time, Davis was initially not so much concerned about causes, even anti-slavery ones. Rather, he was concerned about surviving and helping his family to survive. Because he encountered a great deal of competition for jobs in Philadelphia, particularly among free blacks, poor whites, and European immigrants, he was compelled to go from town to town looking for work.[16] According to the *Pennsylvania Freeman*, on September 5, 1851, Davis was on his way from Philadelphia to Hollidaysburg, near Altoona in western central Pennsylvania, when he was approached in Harrisburg by two white men who told him that there was work down the Susquehanna River at Havre de Grace, Maryland, on the Chesapeake Bay.[17] Unaware of Maryland's 1839 statute against free blacks entering the state, Davis went to Havre de Grace to work on a Baltimore oyster schooner called the *Thomas and Edward*.[18] On the morning of September 6, 1851, the schooner left Havre de Grace for St. Michael's on the Eastern Shore, where Frederick Douglass, James W. C. Pennington, Henry Highland Garnet, and Harriet Tubman had all been enslaved.[19]

[16] Christopher Phillips, *Freedom's Port: The African-American Community in Baltimore, 1790–1860* (Urbana, IL, 1997), 194–204; Charles Sellers, *The Market Revolution: Jacksonian America, 1815–1846* (New York, 1991), 103–71, 353–55; Allen F. Davis and Mark H. Haller, eds., *The Peoples of Philadelphia: A History of Ethnic Groups and Lower-Class Life, 1790–1940* (Philadelphia, 1973), 111–54; Russell L. Weigley, Nicholas B. Wainwright, and Edwin Wolf 2nd, eds., *Philadelphia: A 300-Year History* (New York, 1982), 352–53, 385–86; Wolf, *Philadelphia: Portrait of an American City* (Philadelphia, 1990), 150–52.

[17] Davis seems to have given two versions of his story. In the first, the story from the *Register* that appears in the March 23, 1854, issue of the *Pennysvlania Freeman*, Davis did not mention that he had been a slave in Georgia. He only admitted to being approached by two white men who persuaded him to go with them to Baltimore, and who then detained him for months, paying him money, while taking him further south, but never selling him. Davis probably gave this account in order to raise the least amount of suspicion that he had indeed been a slave in Georgia. After printing this story, Burleigh indicated in the March 30, 1854, issue of the *Pennsylvania Freeman* that an unnamed "friend, "who ha[d] taken much pains to acquaint himself with the facts"—that is, conducted a careful interview with Davis—got the wronged man's full account of how he came to work on the *Thomas and Edward* and what occurred thereafter. The story that Burleigh then printed in the April 20, 1854, issue of the *Freeman*, which was mostly written by this "friend," clarified, corrected, and expanded the details of the initial story, corroborating the basic outlines of Davis's story as it emerged in the state and federal trials in Delaware. Hence, the best account of Davis's story prior to the two trials in Delaware, and the one on which this article is based, appears in the April 20 issue of the *Freeman*. For more on this story, see Robinson, *"The Noblest Types of Womanhood."*

[18] Burleigh et al., "The Case of Edward Davis," *Pennsylvania Freeman*, Apr. 20, 1854; "Laws of Maryland.—1831," and "Laws of Maryland.—1839," in *Archives of Maryland*, 141:1068–70, 2343.

[19] Burleigh et al., "The Case of Edward Davis," *Pennsylvania Freeman*, Apr. 20, 1854. See also Frederick Douglass, *Narrative of the Life of Frederick Douglass, an American Slave, Written by Himself*, Norton critical ed., ed. William L. Andrews and William S. McFeely (New York, 1997), 12–27, 70; C. Peter Ripley et al., *The Black Abolitionist Papers*, 5 vols. (Chapel Hill, NC, 1991), 3:477–78n4 ; Joel Schor, *Henry Highland Garnet: A Voice of Black Radicalism in the Nineteenth Century* (Westport, CT, 1977), 4; and Kate Clifford Larson, *Bound for the Promised Land: Harriet Tubman, Portrait of an American Hero* (New York, 2004), 1–54.

There, Davis participated in what he thought was an honest day's labor fishing, hauling, and unloading the catch in Baltimore.[20]

On returning to Havre de Grace, Davis immediately sought a job at a grocery run by a Mr. Sullivan.[21] He was at work at Sullivan's grocery when he was confronted and arrested by a Constable Smith, who had clearly been tipped off by the white men who told Davis about the job on the *Thomas and Edward*—men who may well have been the owners of that schooner.[22] If these men were indeed the owners of that schooner, they probably knew that they could not only get Davis's labor cheap in oyster fishing but also make some extra money by turning him in to the police, as the 1839 black code stipulated. Common laborers like Davis did not earn much more than a dollar a day at best, more likely sixty to ninety cents per day.[23] His deceivers knew, then, that his wages for working on the *Thomas and Edward* were not going to be anywhere near the twenty dollars needed to pay the fine for violating the 1839 law against free blacks entering the state.[24] Davis would have to work nearly a month or more for that. They probably also knew that they could receive anywhere from $10 to $250 on Davis, depending upon whether authorities claimed he had violated this law before and whether or not they actually received half of the fine against Davis.[25] In other words, informing on a free black man could give a white man willing to do a little bounty hunting anywhere from 10 to nearly 420 times the wages of a common laborer—or half a month to over a year's work—without resistance. What a profitable and easy business for someone with no regard—or compassion—for a fellow human being, especially a poor, struggling, and nearly middle-aged man.[26]

[20] Burleigh et al., "The Case of Edward Davis," *Pennsylvania Freeman*, Apr. 20, 1854. Interestingly, Frederick Douglass and several other men planned an escape from the St. Michael's area nearly twenty years earlier than Davis's brief employment in the area. See Douglass, *Narrative*, 39, 56–61.

[21] Burleigh et al., "The Case of Edward Davis," *Pennsylvania Freeman*, Apr. 20, 1854.

[22] Ibid.

[23] Robert A. Margo, *Wages and Labor Markets in the United States, 1820 to 1860* (Chicago, 2000), 14–15, 42, 44–45, 51, esp. tables 3.1, 3A.5, and 3A.9. Cf. James M. Wright, *The Free Negro in Maryland, 1634–1860* (New York, 1921), 161–62; Phillips, *Freedom's Port*, 108–9, 270nn66–67; and Douglass, *Narrative* (Norton critical ed., 1997), 64.

[24] See Margo, *Wages and Labor Markets*, tables 3.1, 3A.5, and 3A.9; and "Laws of Maryland.—1839," in *Archives of Maryland*, 141:2343.

[25] "Laws of Maryland.—1839," in *Archives of Maryland*, 141:2343.

[26] According to the 1850 US Census, white and free black men, as well as black male slaves, were expected to live into their forties. Half of the men who made it to their twenties, the peak age and the largest population group of men and women, were dead by forty-nine. See J. D. B. DeBow, "Abstract of the Census Legislation of the United States, from 1790 to 1850 Inclusive," in *The Seventh Census of the United States: 1850* (Washington, DC, 1853), xlii–liv, tables xxi–xxiii.

Davis was upset about this callous treatment and terrified upon his arrest. According to him, he was first taken by Constable Smith before a magistrate named Graham to pay the twenty-dollar fine.[27] When he could not produce the money, he was taken to Bel Air Prison in Harford County.[28] While there, he tried to locate a friendly white person who could vouch for his character and his freedom and pay his fine in time for his trial. Sheriff Gaw, the warden of the prison, agreed to help by writing a letter to a Mr. Maitland on his behalf.[29] It is not clear who Maitland was. He may have been Davis's most recent employer, prior to working for the owners of the *Thomas and Edward*, or someone he knew who lived near the Pennsylvania-Maryland border. In any case, Davis learned just before his trial that Maitland had died.[30] As a result, he had no way to pay the fine when he was brought before Judge C. W. Bellingslea of Harford County's Orphans' Court on October 14, 1851.[31] And so Bellingslea sentenced him to be sold into slavery in order to pay the fine and "all other costs incurred by his violation of the 1839 act of Assembly."[32] In other words, Davis was not only responsible for the twenty-dollar fine, but he was also responsible for the arrest and jail fees that had accrued as the 1839 black code stipulated. This amounted to fifty dollars—twenty for the fine and thirty for the fees—since he was tried for a first violation of the law and sold by the state at that rate.[33] Put in terms of Davis's labor, this amounted to between around fifty and eighty days—or nearly two to three months of work.

Harford County's prison official, Sheriff Robert McGan, tightened the noose around Davis's neck by acting in accord with the Maryland congress-

[27] Burleigh et al., "The Case of Edward Davis," *Pennsylvania Freeman*, Apr. 20, 1854. Note that this event does not appear in the court records presented in the April 27 issue of the *Pennsylvania Freeman*. It only appears in Davis's account in the issue cited here.

[28] Ibid. Bel Air is also spelled "Bell Air" in the accounts in the *Pennsylvania Freeman*.

[29] Ibid.

[30] Ibid. The April 20 article does not indicate who Maitland was, just that Gaw wrote to him and was told that Maitland had died and that none of his family members knew Davis.

[31] Ibid.; and Burleigh et al., "The Slave Catching Outrage," *Pennsylvania Freeman*, Apr. 27, 1854. Davis and his first master's brother, Stevenson (also spelled "Stephenson") Archer, gave different names for the judge who tried Davis's first case. Davis's account in the April 20 issue of the *Pennsylvania Freeman* says that the judge's name was Grier, while Archer's account and the court records quoted in the April 27 issue have the judge's name as Bellingslea. I use Bellingslea here because it appears to be corroborated by other accounts and by other particulars in Davis's account. Note also that according to the 1839 statute, the Orphans' Court had the authority to try cases like Davis's when the County Court was not in session. See "Laws of Maryland.—1839," in *Archives of Maryland*, 141:2343; and cf. the certified deposition of C. W. Bellingslea in the "Slave Catching Outrage."

[32] Burleigh et al., "The Case of Edward Davis," *Pennsylvania Freeman*, Apr. 20, 1854; cf. "The Slave Catching Outrage," *Pennsylvania Freeman*, Apr. 27, 1854. Quotation slightly modified.

[33] Ibid.; and "Laws of Maryland.—1839,"in *Archives of Maryland*, 141:2343.

men, who, in revitalizing the 1839 black code, set the fines and fees well out of Davis's and other ordinary working black people's reach.[34] Indeed, as the *Pennsylvania Freeman* revealed, McGan created an environment of deception very much like that which the bounty hunters affiliated with the *Thomas and Edward* created. He deliberately sold Davis in a manner that was neither truly public nor transparent—a corruption of the implied spirit of the 1839 law made possible by the vagueness of its letter.

Although McGan did presumably advertise Davis's sale for the requisite ten days, he did not advertise it in the newspapers, the most public place possible.[35] That would easily have brought forth objections from Davis's family and friends across the border in Philadelphia, not to mention from Philadelphia's abolitionist community. Instead, McGan advertised Davis in a quiet manner that brought forth only one bidder, a man from Louisiana who was willing to take Davis out of state, as state representatives Brent, Gwinn, and McLane desired. Advertising Davis in this way was perfectly legal. The 1839 statute did not say that the sale of prisoners such as Davis had to be advertised in the newspapers; it only implied this.[36] Similarly, McGan also failed to bring Davis in front of the courthouse—the most appropriate place for the sale of a prisoner—in order to auction him off to the highest bidder, as the law required.[37] Selling Davis in front of the courthouse, though, would have made it clear to Davis that he was being sold and to whom. But again, as the law did not literally require this, McGan did not do so.[38] Instead, he allowed the sole bidder, Dr. John Archer, to observe Davis in jail in a way that Davis did not notice or fully understand.[39] As a result, Davis did not know that Archer had bought him on November 10, 1851, via an agent named John B. McFadden, who was acting on the express directions of the doctor's brother, Stevenson Archer.[40] Nor was

[34] "Laws of Maryland.—1831," and "Laws of Maryland.—1839," in *Archives of Maryland*, 141:1068–70, 2340–41, 2343.

[35] Burleigh et al., "The Slave Catching Outrage," *Pennsylvania Freeman*, Apr. 27, 1854; and "Laws of Maryland.—1839," in *Archives of Maryland*, 141:2343.

[36] "Laws of Maryland.—1839," in *Archives of Maryland*, 141: 2343.

[37] Burleigh et al., "The Case of Edward Davis," *Pennsylvania Freeman*, Apr. 20, 1854; and "The Slave Catching Outrage," *Pennsylvania Freeman*, Apr. 27, 1854; cf. "Laws of Maryland.—1839," in *Archives of Maryland*, 141:2343.

[38] "Laws of Maryland.—1839," in *Archives of Maryland*, 141:2343.

[39] Burleigh et al., "The Slave Catching Outrage," *Pennsylvania Freeman*, Apr. 27, 1854; cf. Burleigh et al., "The Case of Edward Davis," *Pennsylvania Freeman*, Apr. 20, 1854. Unlike Frederick Douglass, who was born a slave and thus would have understood this dynamic in the jail, Davis, a freeborn man, did not. See Douglass, *Narrative*, 60–61.

[40] Burleigh et al., "The Case of Edward Davis," *Pennsylvania Freeman*, Apr. 20, 1854; and "The Slave Catching Outrage," *Pennsylvania Freeman*, Apr. 27, 1854.

Davis aware that he was John Archer's slave when he was put to work in a Baltimore slave pen, cooking for between fifty and sixty other slaves.[41] Davis was told that he was working to pay off his fine for violating the Maryland statute, not working to defray the cost of his board at the slave pen until Archer could have him sent to Louisiana.[42] McGan's point, then, was not to be clear; it was to minimize resistance by exploiting the lack of procedural precision in the letter of the law.

In the meantime, the owner of the slave pen, B. M. Campbell, was working on his own line of deception, a scheme aimed at separating Davis's new master from his slave. When Archer's agents came to retrieve Davis, Campbell claimed that Archer owed more money. Campbell said that he had discovered that Davis had been a criminal in Pennsylvania—something Burleigh's readers recognized immediately as a lie—and that Archer would have to pay a considerable penalty (presumably to the state of Maryland, Pennsylvania, or both) in order to transport Davis to Louisiana—another lie. Archer, whom Campbell suspected would want to sell Davis quickly, did just that via another agent, a Mr. Denning, who, on the instructions of Stevenson Archer, dispensed with Davis for fifty dollars. This allowed Campbell to acquire Davis in the cheapest possible manner. Campbell then sold Davis to William Dean, a Georgia planter and railroad entrepreneur, for $300, a modest sum for a field hand, but a $250 profit for himself. Campbell undoubtedly "kicked back" some of this money to his aiders and abettors in Harford County so that they would continue sending him such profitable opportunities. Thus, Davis became a nice source of revenue for the Baltimore slave trader; for the Georgia planter, who would literally work him to death on his railroad venture; for the original deceivers affiliated with the *Thomas and Edward*; and for the state of Maryland, particularly the head prison officials, the state treasuries, and the state colonization society, since they were all the beneficiaries of the 1839 black code.[43]

[41] Burleigh et al., "The Case of Edward Davis," *Pennsylvania Freeman*, Apr. 20, 1854.

[42] Ibid.

[43] Burleigh et al., "The Slave Catching Outrage," *Pennsylvania Freeman*, Apr. 27, 1854. See also Burleigh et al., "The Case of Edward Davis," *Pennsylvania Freeman*, Apr. 20, 1854; "Laws of Maryland.—1839," "Proceedings and Debates of the 1850 Constitutional Convention," and "The Maryland Constitution of 1851," in *Archives of Maryland*, 141:2343, 101:502–3, and 631:59–60. In regard to Campbell's deception, Stevenson Archer's statement before the court on April 16, 1854, indicates how Campbell attempted to extort money from John Archer in regard to Davis. Archer did not directly accuse Campbell of this offense, probably because his brother broke even on the sale of Davis to Campbell, and probably because his brother did not pay Campbell to keep Davis in the slave pen. Therefore, Archer simply made clear his brother's reasons for wanting to dispense with Davis.

This, however, was not the end of the abuse. After almost three years of wrongful enslavement, Davis escaped from Georgia by stowing away on the *Keystone State*, the Pennsylvania steamship that ran a regular route between Philadelphia and Savannah. As the ship steamed along the coast of Delaware, Davis was discovered and forced to endure two trials—one of which was a travesty—without any support from his family. Delaware, where both of his trials took place, seemed to be colluding with Maryland in precluding his mother and sister from visiting him in jail, even though they were only thirty-nine miles away from Newcastle, where he was held and tried.[44] Instead, Delaware welcomed the disreputable captain of the *Keystone State* so that he could thwart the release that Davis's first trial almost effected and make the case a matter for the new federal slave law—another source of profit for whites.

The first trial was a state case at which the white friends and/or employers of the Davis family testified. On the testimonies of Joanna Dimond, a white woman who had known Davis since he was two years old; Martha C. McGuire, Mrs. Dimond's sister, who had known Davis since he was twenty-five or twenty-six; and John H. Brady, a white man who had known Davis since he was twenty-eight, Delaware justice of the peace John Bradford declared that Davis be immediately released from custody in Newcastle. There was no reason why a free man of color should be imprisoned as a runaway slave. Before Davis could leave the prison, though, Robert Hardie, the captain of the *Keystone State*, came forward to declare that Davis was indeed a slave. Hardie first testified that Davis was his slave. When that did not work, he acquired a court-certified affidavit that declared that Davis was a fugitive slave from Georgia, a procedure made possible by the recent passage of the 1850 Fugitive Slave Law. With

This incident, though, exposes other problems with the case and its official record that revealed bad faith and corruption on the part of the state. For example, several pieces of evidence were missing during the trial, including copies of the advertisement of Davis' sale, which Stevenson Archer testified were handwritten, not printed in the newspapers, as far as he knew, and legal documentation for Campbell's claim that Davis was a criminal in Pennsylvania, which was very likely fabricated so that Campbell could make money on Davis. Recognizing the fraud afoot in the case, Davis's Delaware attorneys—the Honorable John Wales of Wilmington, an abolitionist senator, and John C. Groome of Elkton, a slaveholder vehemently opposed to both abolitionists and the illegal acquisition of slaves—objected to the admission of Archer's testimony in regard to the advertisements of Davis's sale and alleged criminality because neither claim rested on submitted evidence.

[44] Burleigh et al., "Case of Edward Davis," *Pennsylvania Freeman*, Mar. 30, 1854; "Edward Davis," *Pennsylvania Freeman*, Apr. 6, 1854; "The Case of Edward Davis," *Pennsylvania Freeman*, Apr. 20, 1854; "The Slave Catching Outrage," *Pennsylvania Freeman*, Apr. 27, 1854; and "Edward Davis, " *Pennsylvania Freeman*, May 18, 1854.

this Davis was crushed by the full weight of slavery's pervasive and pernicious power.[45]

Aimed at balancing the economic and political interests of northern and southern whites, the 1850 Fugitive Slave Law favored the interests of southern slaveholders in part by providing measures that allowed them to recover their runaway slaves in a quicker, easier, and more effective manner than earlier federal slave laws had done.[46] It granted them and their agents the authority to apprehend and make legal property claims on any person of color fitting the description of their slave, as long as they presented court-certified affidavits or depositions to this effect.[47] As the veracity of such claims were entirely dependent upon the slaveholder or the slaveholder's representative, as well as the judge certifying the slaveholder's claims—in the Davis case, William Dean, Robert Hardie, and US Commissioner Samuel Guthrie, respectively—the 1850 Fugitive Slave Law effectively eliminated due process for individuals of color claimed as slaves. It prohibited them from testifying on their own behalves. In the interest of the slaveholder's desire for a speedy resolution, it also prohibited any other legal processes that might delay a quick recovery of the slave, such as a defendant's right to petition for release from unlawful imprisonment—the now well-known writ of habeas corpus—and right to a jury trial; legal action that might be pursued by another person or persons on behalf of the defendant; and judgments that might be made by other magistrates, judges, or courts as a result of all of these actions. Davis only received the trial under Bradford—and was only able to testify on his own behalf during that trial—because his case had not yet been determined as a fugitive slave case under the federal statute. Once it was turned over to Commissioner Guthrie, Davis was no longer allowed to testify, nor was he granted any

[45] Ibid. Captain Hardie's last name also appears in the newspapers as "Hardy." Cf. Hardie's claims as outlined in the March 30, April 20, and April 27 issues of the *Pennsylvania Freeman*, e.g., with: "The Fugitive Slave Law of 1850," in Lowance, *Against Slavery*, 325–31; Wilbur H. Siebert, *The Underground Railroad from Slavery to Freedom* (New York, 1898; repr., North Stratford, NH, 2000), 309–15, 361–66 (appendix A contains a copy of the 1850 Fugitive Slave Law); Leon F. Litwack, *North of Slavery: The Negro in the Free States, 1790–1860* (Chicago, 1961), 248–49; and James Oliver Horton and Lois E. Horton, *In Hope of Liberty: Culture, Community, and Protest Among Northern Free Blacks, 1799–1860* (New York, 1997), 252–53.

[46] Michael F. Holt, *The Political Crisis of the 1850s* (New York, 1978 and 1983), 67–99, esp. 82–99; James Oakes et al., eds., *Of the People: A History of the United States*, concise ed. (New York, 2011), 396–98; and James West Davidson et al., eds., *Nation of Nations: A Narrative History of the American Republic* (New York, 1991), 518–20.

[47] Sections 6 and 10 of the law in Lowance, *Against Slavery*, 327–28 and 330–31; and Siebert, *The Underground Railroad*, 363–64 and 365–66.

rights other than defense. Furthermore, the judgment rendered by Justice Bradford, which established Davis's freedom, was overturned.[48]

The 1850 slave law did not stop there in eliminating due process for blacks like Davis. It also made it difficult for anyone—black, white, or otherwise—to help a person or persons caught in such a trap. Like its Maryland counterpart, it severely fined and prosecuted marshals and deputies who refused to carry out warrants or who allowed alleged slaves to escape.[49] It forced citizens and bystanders to participate in the recapture of alleged fugitives on pain of criminal prosecution, something civil disobedience advocate Henry David Thoreau objected to vigorously in his "racy" antislavery speech, "Slavery in Massachusetts."[50] And it criminalized any person who willingly helped said fugitives to escape, particularly if the individual knew that these persons had been identified as runaway slaves.[51] Stiff fines and substantial prison sentences were the consequences of such compassion.[52] So too was the seizure of an offender's property, because helping a slave or purported slave to escape was equivalent to making the slaveholder lose the value of the slave, as well as the slave's services.[53] These provisions no doubt gave Captain Hardie a legal excuse for declaring Davis to be a fugitive slave; Davis had secreted himself onto Hardie's ship, making Hardie and the owners of the *Keystone State* liable to William Dean and the law for helping Davis to escape. Hardie knew, though, that he would be rewarded by Dean, the Georgia planter and railroad entrepreneur, for turning Davis in to the law, which is undoubtedly why he was so intent on doing so.[54]

Finally, the 1850 Fugitive Slave Law also gave Commissioner Guthrie a legal excuse for ruling against Davis. It essentially rewarded federal commissioners and judges for taking on fugitive slave cases and particularly

[48] Section 6 of the law in Lowance, *Against Slavery*, 328; and Siebert, *The Underground Railroad*, 363–64. Cf. Burleigh et al., "The Case of Edward Davis," *Pennsylvania Freeman*, Apr. 20, 1854; and "The Slave Catching Outrage," *Pennsylvania Freeman*, Apr. 27, 1854.

[49] Section 5 of the law in Lowance, *Against Slavery*, 326; and Siebert, *The Underground Railroad*, 362.

[50] Section 5 of the law in Lowance, *Against Slavery*, 326–27; and Siebert, *The Underground Railroad*, 362–63; Henry David Thoreau, "Slavery in Massachusetts," *Liberator*, July 21, 1854, p. 4, cols. 2–5. Famous abolitionist editor William Lloyd Garrison dubbed Thoreau's speech "racy" in "The Meeting at Framingham," *Liberator*, July 7, 1854, p. 2, col. 5.

[51] Section 7 of the law in Lowance, *Against Slavery*, 328–29; and Siebert, *The Underground Railroad*, 364.

[52] Ibid.

[53] Ibid.

[54] According to the April 27, 1854, issue of the *Pennsylvania Freeman*, the Philadelphia and Savannah Steam Company supported Hardie legally, in spite of their reputation for being humane and honorable. They were worried about being held liable for helping Davis, so they retained a lawyer named Keyser, who was present at the trial, and who was ready to defend them and Hardie, if needed.

rewarded them for remanding blacks to slavery.[55] They received ten dollars, or about a week's pay, when they ruled in favor of the slaveholder, and only five dollars when they did not.[56] In light of the Davis case, then, the federal government solidified the union of commercial interests and race prejudice. As Victor Hugo put it in his reaction to the execution of John Brown, Davis's "emancipation" had clearly "been assassinated by" white entrepreneurs' unchecked "liberty."[57] The convergence of this federal law, aimed at runaway slaves, with the black codes of middle states, aimed at free people of color, made black freedom impossible. It is no wonder, then, that young Frances Ellen Watkins—a woman of color living at the border of Pennsylvania, Maryland, Delaware, and New Jersey—was radicalized by this case. The level of fraud for the sake of money and power was simply stunning.

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[55] Section 8 of the law in Lowance, *Against Slavery*, 329–30; Siebert, *The Underground Railroad*, 364–65; and Litwack, *North of Slavery*, 248.

[56] Section 8 of the law in Lowance, *Against Slavery*, 329–30; Siebert, *The Underground Railroad*, 364–65; and Margo, *Wages and Labor Markets*, table 3A.7.

[57] Hugo to the editor of the *London News*, Dec. 2, 1859, in *Echoes of Harper's Ferry*, ed. James Redpath (Boston, 1860; repr. Westport, CT, 1970), 102. Based on an earlier draft of this essay, Mooney used this letter in a work on American philosophy. See Edward F. Mooney, "On Victor Hugo's Plea," in *Lost Intimacy in American Thought: Recovering Personal Philosophy from Thoreau to Cavell* (New York, 2009), 219.

Old Buck's Lieutenant: Glancy Jones, James Buchanan, and the Antebellum Northern Democracy

ABSTRACT: Partisan relationships have always been fundamental to American politics. In antebellum Pennsylvania the personal and political partnership of Democrats James Buchanan and Jehu Glancy Jones was absolutely critical to state and national events. While much scholarship exists on Buchanan, few historians have examined the life of Jones, a man of undeniable importance to Buchanan's rise to the presidency, the passage of now-infamous antebellum legislation, and the fracturing of the Democratic Party. By studying Jones's career, we can better appreciate the role of political underlings, dispel myths about the motives and principles of antebellum Democrats, and clarify the links between state and national politics.

"THE DEMOCRACY OVERTHROWN!" announced the *Milwaukee Sentinel* on October 18, 1858. "The President has suffered a most annihilating defeat." Not only did Democrats go down to crushing losses across the North in the fall 1858 elections, but President Buchanan's own "lieutenant," Jehu Glancy Jones of Pennsylvania's Eighth District, was also handily bested by a Republican upstart. The next day, the *Sentinel* explained that Jones had been Buchanan's "right hand man" in Congress, "in consequence of which he suffered a most humiliating defeat at the late election in Pennsylvania, in what has hitherto been looked upon as one of the strongest Democratic Districts in the Northern States." Even a chaplain of the US Senate was gratified by the returns, denouncing, in a letter to the governor of Virginia, both the Buchanan administration and "that King of *Asses* Jehu Glancy Jones."[1]

[1] "The Democracy Overthrown!" *Milwaukee Sentinel*, Oct. 18, 1858; "Appointment of J. Glancy Jones," *Milwaukee Sentinel*, Oct. 19, 1858; Henry Clay Dean to Henry Wise, Nov. 11, 1858, Henry Clay Dean Letter, single folder, no box, Henry Clay Dean Collection, Chicago Historical Society.

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Why such vitriol for Jehu Glancy Jones, a Keystone Democrat largely forgotten by history? The balding and paunchy Jones, known simply as Glancy, was James Buchanan's political underboss of the antebellum Pennsylvania Democratic Party. Not only were Buchanan and Jones close personal friends, but theirs was also an important political partnership. It resulted in Buchanan's rise to the presidency and the passage of disastrously divisive Congressional legislation. Jones assisted Buchanan in running the state machine in the 1840s and 1850s. When Buchanan was appointed minister to the Court of St. James's in 1853, Jones ran the Pennsylvania Democracy in his stead. Buchanan, in turn, orchestrated Jones's election to the House of Representatives, where he acted as Old Buck's most trusted agent. Jones solicited crucial Northern votes for the Kansas-Nebraska Act in 1854; worked with the Southern party bosses to ensure Buchanan's presidential nomination in 1856; and led House Democratic forces in 1858 to achieve passage of the notorious Lecompton Constitution of Kansas, which would force slavery on an unwilling population. Jones paid dearly for his service to the Slave Power, the term used by contemporaries and historians alike to describe the national political domination by Southern enslavers. His defeat in the 1858 elections was widely considered a serious rebuke to the president and a sign that the Northern Democracy was in serious trouble. If President Buchanan's lieutenant was not safe from voter retribution, who was? Democratic electoral defeats in 1858 signaled the rapid decline of the party of Jefferson and Jackson and an electoral crisis for the United States. Within two years an antislavery Republican was elected to the presidency, and the nation was plunged into civil war.

Studying Jones's career serves four purposes. First, we can better appreciate the role of personal relationships in antebellum politics. Jones may seem just one among hundreds of members of Congress in the 1850s, but he was intimately involved in the passage of momentous legislation and the rise of an enormously important president. Jones's ascent was due to his relationship with Buchanan, and Buchanan's success, in turn, was due in large measure to the efforts of Jones. Second, Jones's career reminds us not to be too focused on presidents and famous orators at the expense of the politicos and wire-pullers who made legislation and policy possible. It is easy to attribute political developments to Buchanan or to such towering figures as Stephen Douglas, but they were working with teams of important people. This is not to say, of course, that the "giants" of the antebellum era do not deserve a great deal of attention, but focusing on them oversimpli-

fies the issues and events and obscures the real mechanics of legislation and party operations. Third, Jones's career demonstrates that not all antebellum Democrats were romantic champions of the laboring masses, as some historians have asserted.[2] Instead, we see careful partisan manipulators and well-financed machines dedicated to maintaining local political elites and national minority rule. Finally, investigating Jones's partisan activities provides much-needed insight into the operations and machinations of the young Democratic Party, as well as the nature of "doughfaceism" (a term used to describe Northerners who supported slavery). Democratic doughfaces like Jones, it will be shown, not only aided and facilitated proslavery policies but also held controversial antidemocratic, minority-rule principles. Understanding doughfaces is critical to understanding the sectional crises that led to disunion.

Nevertheless, few scholars have ever heard of Jehu Glancy Jones, let alone studied his career and his impact on antebellum politics. Often relegated to footnotes or Congressional lists in appendices, Jones gets only passing reference in the grand narrative march to the Civil War. Equally disappointing, his role in the rise of James Buchanan—a man of undeniable importance—has also been overlooked. All the familiar books on the "coming of the Civil War" suffer the same disregard for forgotten "Glancy." Only in studies of local and state politics, such as John Coleman's *The Disruption of the Pennsylvania Democracy* (1975), or of the Democratic Party itself, namely Roy Nichols's *The Disruption of the American Democracy* (1948), does Jones get his due as a shrewd political operator and key party leader. Otherwise, Jones is lost in Buchanan's shadow. There has been only one biography, *The Life and Public Services of J. Glancy Jones*, published by a relative in 1910. The two volumes are a mix of edited letters and apologetics, more concerned with placing blame for "the negro problem" than exploring the nuances of antebellum partisanship.[3]

In monographs that address the 1850s and the causes of the Civil War, Northern Democrats are often deemed less significant than the rise of the Republican Party, the collapse of the Whigs, or the course of Southern secession. David Potter's *The Impending Crisis, 1848–1861* (1976), is prob-

[2] See Arthur Schlesinger, Jr., *The Age of Jackson* (New York, 1945); Sean Wilentz, *Chants Democratic: New York City and the Rise of the American Working Class* (New York, 1984); Sean Wilentz, *The Rise of American Democracy: Jefferson to Lincoln* (New York, 2005).

[3] John F. Coleman, *The Disruption of the Pennsylvania Democracy, 1848–1860* (Harrisburg, PA, 1975); Roy Franklin Nichols, *The Disruption of American Democracy* (New York, 1948); Charles Henry Jones, *The Life and Public Services of J. Glancy Jones*, 2 vols. (Philadelphia, 1910), 1:ix.

ably the best known and most frequently cited of this genre, but Potter is hopelessly infatuated with Southern grandees and seems bent on justifying secession and placing blame for the war on abolitionists. His work offers a useful starting point in understanding the events of the 1850s, but it in no way provides a fair assessment of the political issues and developments of the decade. William Freehling's masterful two-volume study of secession and antebellum politics, *The Road to Disunion* (1990 and 2007), is crucial to our understanding of the causes of the Civil War, but it is primarily concerned with Southerners. Likewise, *The Political Crisis of the 1850s* (1978), by Michael Holt, is focused on the ethnocultural dynamics of the sectional crisis rather than the centrality of slavery; Northern Democrats play only a supporting role in his controversial interpretation.[4]

In more recent years, attention has begun to shift away from the "crisis" approach to more expansive studies of prewar American politics and political culture. In 1983 Jean Baker published *Affairs of Party: The Political Culture of Northern Democrats in the Mid-Nineteenth Century*. Fascinated by the concept of "political culture," Baker eschews a study of party machinery in favor of investigating the social-cultural links between partisan identity and community. While she makes some interesting observations about Democratic racism and party loyalty, she does not specifically address either the actions of Northern Democrats or their policies. Political history enjoyed a revival in the 2000s, and several important works on antebellum partisanship have been published. These include Leonard Richards's *The Slave Power: The Free North and Southern Domination, 1780–1860* (2000), Jonathan Earle's *Jacksonian Antislavery and the Politics of Free Soil, 1824–1854* (2004), and Nicole Etcheson's *Bleeding Kansas: Contested Liberty in the Civil War Era* (2004). However, there is still much work to be done on Northern Democrats such as Jehu Glancy Jones.[5]

In addition to the historiographic gaps, there are significant interpretative differences over how to treat Northern Democrats. Until recently,

[4] David M. Potter, *The Impending Crisis, 1848–1861* (New York, 1976); William W. Freehling, *The Road to Disunion*, vol. 1, *Secessionists at Bay, 1776–1854* (New York, 1991), and vol. 2, *Secessionists Triumphant, 1854–1861* (New York, 2007); Michael F. Holt, *The Political Crisis of the 1850s* (Hoboken, NJ, 1978).

[5] Jean H. Baker, *Affairs of Party: The Political Culture of Northern Democrats in the Mid-Nineteenth Century* (Ithaca, NY, 1983); Leonard L. Richards, *The Slave Power: The Free North and Southern Domination, 1780–1860* (Baton Rouge, LA, 2000); Jonathan H. Earle, *Jacksonian Antislavery and the Politics of Free Soil, 1824–1854* (Chapel Hill, NC, 2004); Nicole Etcheson, *Bleeding Kansas: Contested Liberty in the Civil War Era* (Lawrence, KS, 2004).

historians enamored with compromise have celebrated Northerners, such as Buchanan and Jones, who labored to maintain the Union by appeasing Southern demands. To these historians, the Civil War was a cataclysmic event that could have, and should have, been avoided. Thus, giving in to white Southerners on proslavery legislation was a worthwhile endeavor because it staved off disunion. Moreover, Americans in general seem attached to the notion of compromise as the highest good, since it implies that they can agree on fundamental values and find common ground on all issues. Rejecting the compromise paradigm forces us to acknowledge some very disturbing things about the American past, namely that the Slave Power was real and that the United States was dominated by a powerful minority built on human torture, bondage, and murder. As scholars such as Eric Walther, Manisha Sinha, Walter Johnson, and Ed Baptist have shown, the sheer brutality and monomaniacal mentality of the planter elite rivaled that of the Nazis.[6] How could there possibly have been compromise with such a monstrous group? To discard the compromise ideal is to confront the fact that the United States was, for a significant part of its history, a minority-rule nation controlled by murderous maniacs. Unsettling indeed.

If, however, we see the Civil War as a glorious moment wherein the majority of Americans rose up to defeat the enslaver elites and set millions of people free, then our understanding of antebellum appeasers changes dramatically. Then, men like Buchanan and Jones appear to be abettors and tools of the Slave Power; their willingness to spread slavery, increase Southern supremacy, and postpone a civil war then seem despicable and shameful. Put another way, the longer the Civil War was delayed, the longer millions of people were kept in torturous bondage, and the longer the United States remained a minority-rule nation. The present essay takes the more critical approach, viewing Northern Democrats who pursued a proslavery agenda as willing, willful agents of the Slave Power. Jehu Glancy Jones was not an enslaver, nor was he a Southerner, but his calculated actions in the interests of slavery and the slave states nevertheless warrants the label "proslavery."

Jones's rise to political power was unusual, to say the least. Many Northern Democrats, such as Jesse Bright of Indiana, Daniel Dickinson

[6] Eric Walther, *The Fire-Eaters* (Baton Rouge, 1992); Manisha Sinha, *The Counterrevolution of Slavery: Politics and Ideology in Antebellum South Carolina* (Chapel Hill, 2000); Walter Johnson, *River of Dark Dreams: Slavery and Empire in the Cotton Kingdom* (Cambridge, MA, 2013); Edward Baptist, *The Half Has Never Been Told: Slavery and the Making of American Capitalism* (New York, 2014).

of New York, and William Richardson of Illinois, were born to hardscrabble families and advanced themselves through determination, merit, ruthlessness, and chicanery. Jones, on the other hand, was privileged, reticent, and devout. Born in 1811 to a family of wealthy Pennsylvania landowners and Episcopal ministers, he grew up not on the rough-and-tumble frontier but in the beautiful Conestoga Valley. Studious and intelligent, he rose quickly in his chosen profession, the clergy. In 1831, at age twenty, he completed his theology training in Cincinnati; he returned to the Keystone State the following year to marry the daughter of a prominent family. His first assignments were to small congregations in southern New Jersey, then, in 1838, to the wilds of north Florida. He rose to prominence in the diocese but grew tired of his duties and decided that law was more to his liking. Early in 1841, Jones withdrew from the ministry, moved to neighboring Georgia, and joined the bar at twenty-nine years old. He worked for a time in the Peach Tree State, then in Elkton, Maryland, before settling in Easton, Pennsylvania, where he quickly became involved in local Democratic politics.[7]

Absent definitive primary evidence, we can only surmise that it was during the Pennsylvanian's extended stay in the slave states of Florida, Georgia, and Maryland that he developed his proslavery principles and devotion to the Democratic Party. Jones exhibited no qualms about ministering to his slave-owning congregations, and, like most white Northerners, he may have held white supremacist values long before his trek southward. More importantly, his decision to become active in the party of Andrew Jackson and Martin Van Buren in the midst of Indian removal, the gag rule debates, the burning of antislavery petitions by Democratic postmasters, mob violence by Democratic partisans, the Seminole Wars, and the *Amistad* trial is telling. Whether in Pennsylvania or Georgia, Jones did not live in a vacuum. Even if he personally was not a supporter of black slavery, his actions on behalf of a proslavery Democratic Party signal that he was at least tolerant of such views, and his contemporaries recognized him as such. His "sound constitutional views on the sectional question," for instance, were celebrated by leading enslavers such as Howell Cobb and Alexander Stephens. "When you remember that it is in the support and defence of the constitutional rights of our section of the country that Mr. Jones will be engaged," wrote Cobb and Stephens to Georgia Democrats, "we feel assured that you will concur with us, not only in approving his course, but in the expression of our appreciation."[8] We may not have all

[7] C. H. Jones, *Life of Jones*, 1:1, 10, 50–51, 54–55, 58–59, 62–67, 71, 76–107.
[8] J. F. Dowdell et al. to Georgia Democrats, July 2, 1856, in C. H. Jones, *Life of Jones*, 1:343–44.

of Jones's words, but we do have most of his actions. He chose to dedicate himself to proslavery politicians and proslavery legislation; thus, we can effectively label him proslavery. In short, actions speak louder than words.

Soon after his return to Pennsylvania, Jones became Buchanan's protégé. By 1844 Old Buck could call him one of his "true-hearted and faithful friends," and the two worked closely together in that year's elections—both supporting the slave-owning expansionist James Polk of Tennessee for president. In 1845, when Buchanan moved to Washington City to become secretary of state in the Polk administration, Jones moved to Reading, in Berks County, which was thoroughly Democratic and thus offered more political opportunities. Buchanan watched his friend's rise with pleasure and paved the way for his entry into public office. "With the support of the Democracy of old Berks, and with your ability and energy," he penned to Jones in March 1847, "you can choose your time for coming to Congress which would open to you the appropriate field for distinction and future honors."[9] Though he was an enthusiastic supporter of the invasion of Mexico, Jones did not join the army, accepting instead a plum patronage appointment as district attorney. By 1849 he was chairman of the state Democratic convention, and in October 1850 he was elected to the US House of Representatives, a remarkable achievement for one who had lived in the area less than six years. During the crises of 1850, Buchanan used the opportunity to school young Jones on Congressional activity and pro-Southern Democratic doctrine.[10]

In Congress, Jones was a dutiful doughface. He shied away from debate and oratory, content to observe proceedings and work behind the scenes. In his entire first session of Congress, he did little more than present petitions and quarrel with the speaker over parliamentary procedure. Nevertheless, he followed instructions from Southern party bosses and provided precious votes in support of various proslavery measures. For his loyalty he was rewarded with a seat on the powerful Ways and Means Committee. He also continued to serve as Buchanan's protégé, providing his mentor with valuable insider information and seeing to his interests in Congress. "My most important business is with you," wrote Buchanan to Jones in

[9] Buchanan to J. G. Jones, May 21, 1842, Jan. 2, 1844 (quoted), Mar. 30, 1847 (quoted), and Mar. 8, 1850, box 5, James Buchanan and Harriet Lane Johnston Papers, Manuscript Division, Library of Congress, Washington, DC (hereafter Buchanan and Johnston Papers, LOC). See also ibid.

[10] C. H. Jones, *Life of Jones*, 1:138–39, 141, 144–50, 155–57; Buchanan to J. G. Jones, Mar. 8, 1850, box 5, Buchanan and Johnston Papers, LOC; "Pennsylvania Election Legislature," *Trenton (NJ) State Gazette*, Oct. 11, 1850.

November 1851, "& of all things I desire to pass part of a day without interruption in your company. I have much very much to say to you."[11] The two became political partners, so much so that Jones declined to run for reelection in 1852, preferring instead to return to Pennsylvania to manage campaigns and to handle Buchanan's affairs while he was away in London as minister to the Court of St. James's. "I had determined to visit you at Wheatland today with the view of having a private & uninterrupted interview," Jones penned in a typical letter in November 1851. "I am perfectly at your command," was Buchanan's usual reply. "You are on the spot & you can best inform me when & how to act."[12]

Jones's assistance in the 1852 state elections—in which Buchanan battled partisan rival Simon Cameron for control of the state machine—was especially critical. While lifelong politician Buchanan aimed to please the Southern bosses by defending slavery and opposing tariffs, businessman Cameron demanded tariff protection for Keystone industries and leaned toward an antislavery position. Cameron gauged public opinion and saw the marked shift against the Slave Power. "The [fight] against slavery is yearly becoming stronger in this state," he observed in 1849, "and the more the question is agitated the stronger will become the sentiment."[13] To combat the Cameron threat, Buchanan and his supporters draped

[11] Cong. Globe, 32nd Cong., 1st Sess. 438, 671, 685, 859, 1051, 1362 (1851–52); C. H. Jones, *Life of Jones*, 1:157–59, 163; "Thirty-Second Congress—First Session," *Washington National Era*, Dec. 18, 1851; "Movement in the House on the Compromise Measures," *Washington National Era*, Mar. 4, 1852; Buchanan to J. G. Jones, May 14, June 1, June 12, Sept. 10, Oct. 18, Nov. 11, and Nov. 17 (quoted), 1851, Apr. 3, 1852, box 5, Buchanan and Johnston Papers, LOC.

[12] J. G. Jones to J. Lawrence Getz, June 10, 1852, in C. H. Jones, *Life of Jones*, 1:200–201; J. G. Jones to Buchanan, Nov. 19, 1851 (quoted), box 21, folder 25, James Buchanan Papers (Collection 91), Historical Society of Pennsylvania (hereafter Buchanan Papers, HSP); Buchanan to J. G. Jones, Sept. 10, Nov. 15, Nov. 19, Dec. 7, Dec. 13, Dec. 15, and Dec. 21, 1852, Jan. 31, Feb. 18, Feb. 21, Mar. 4 (quoted), Mar. 12, Apr. 26, 1853, box 5, Buchanan and Johnston Papers, LOC; "Hon. J. Glancy Jones," June 21, 1852, *Baltimore Sun*.

[13] Roy Franklin Nichols, *The Democratic Machine: 1850–1854* (New York, 1923, repr. 1967), 59; Henry Walsh to Buchanan, Dec. 28, 1850, box 20, folder 31, William Bigler to Buchanan, Mar. 29, 1851, box 21, folder 6, James Campbell to Buchanan, May 11, 1851, box 21, folder 11, Alfred Gilmore to Buchanan, Sept. 26, 1851, box 21, folder 20, Buchanan Papers, HSP; Buchanan to J. S. York, Mar. 6, 1851, James Buchanan (1791–1868) collection, 1829–1865, New-York Historical Society (hereafter Buchanan Collection, N-YHS); J. G. Jones to Bigler, June 24, 1850, box 1, folder 12, and Aug. 21, 1850, box 1, folder 14, George Sanderson to Bigler, Aug. 20, 1850, box 1, folder 14, William Bigler Papers (Collection 51), Historical Society of Pennsylvania (hereafter Bigler Papers, HSP); Buchanan to J. G. Jones, June 1 and June 12, 1851, and George Plitt to Buchanan, June 13, 1851, box 5, Buchanan and Johnston Papers, LOC; John Savage, *Our Living Representative Men. From Official and Original Sources* (Philadelphia, 1860), 93–94; Simon Cameron to Burke, June 15, 1849 (quoted), container 3, Edmund Burke Papers, Manuscript Division, Library of Congress, Washington, DC (hereafter Burke Papers, LOC).

themselves in the "Compromise of 1850" and punished dissent. Support for the South, the Democracy, and the compromise was the only way to preserve the Union, they argued. But rhetoric was not enough to maintain hegemony in the state, especially because the Cameron faction controlled much of the state patronage, and Cameron himself was determined to both regain his old seat in the US Senate and thwart Buchanan's presidential run in 1852.[14]

In February 1850 Cameron took the offensive and launched a press war again Buchanan and his doughface machine. He enlisted the help of senator-elect Richard Brodhead, who believed that Buchanan had opposed his election. Their object was to undermine Buchanan's influence in Pennsylvania and erode his Southern support by making it appear that Buchanan could not unite and carry the state in a national election.[15] With this in mind, Cameron early threw his support behind Lewis Cass for the 1852 presidential nomination, dividing Pennsylvania Democrats and embarrassing Buchanan. "I am well aware," fumed Buchanan agent Alfred Gilmore, "that Cameron & that rotten part of the democracy of our State that adheres to him will endeavor to cripple you in this State, through the instrumentality of Genl. Cass." Cass was only too willing to have a friend in Pennsylvania, since a wounded Buchanan would increase Cass's chances at another nomination. Buchanan and his supporters, on the other hand, had no respect for the Cameron upstarts and openly labeled the Cass-Cameron alliance "the plunderers."[16]

[14] Coleman, *Disruption of the Pennsylvania Democracy*, 42; Bigler to Committee of Invitation, June 26, 1851, William Bigler Collection, MG-22, Pennsylvania State Archives, Harrisburg, PA; Nichols, *Democratic Machine*, 59–60; Walsh to Buchanan, Aug. 25, 1850, Buchanan Papers, HSP; Buchanan to William L. Marcy, Nov. 21, 1850, book 18, William L. Marcy Papers, Manuscript Division, Library of Congress, Washington, DC (hereafter Marcy Papers, LOC).

[15] George Plitt to Buchanan, Oct. 27, 1851, box 5, Buchanan and Johnston Papers, LOC; Richard Brodhead to John Forney, Jan. 20, 1851, box 21, folder 1, G. H. Goundie to Forney, Jan. 22, 1851, box 56, folder 7, Richard Brodhead to Buchanan, Jan. 27, 1851, box 21, folder 2, A. H. Reeder to Buchanan, Sept. 10, 1851, box 21, folder 19, and J. G. Jones to Buchanan, Sept. 12, 1851, box 21, folder 19, Buchanan Papers, HSP; Brodhead to Coryell, Sept. 28, 1851, box 4, folder 9, Lewis S. Coryell Papers (Collection 151), Historical Society of Pennsylvania (hereafter Coryell Papers, HSP); E. A. Penniman to Bigler, Jan. 11, 1851, box 1, folder 19, Bigler Papers, HSP; Marcy to James Berret, Dec. 14, 1851, book 21, W. W. Snow to Marcy, Dec. 27, 1851, book 22, Marcy Papers, LOC; Coleman, *Disruption of the Pennsylvania Democracy*, 41–42.

[16] Alfred Gilmore to Buchanan, Sept. 9, 1850, box 20, folder 24, Nov. 3, 1850 (quoted), box 20, folder 27, (quoted), Dec. 24, 1850, box 20, folder 31, Henry Walsh to Buchanan, Aug. 25, 1850, Dec. 28, 1850, Charles Brown to Buchanan, Feb. 14, 1851, box 21, folder 3, Buchanan Papers, HSP; Sanderson to Bigler, Aug. 20, 1850, J. G. Jones to Bigler, Aug. 21, 1850, John Forney to Bigler, Aug. 23, 1850, box 1, folder 14, Bigler Papers, HSP; Charles Eames to Marcy, Sept. 14, 1851, book 20, Marcy Papers, LOC; Buchanan to York, Mar. 6, 1851 (quoted), Buchanan Collection, N-YHS; Coleman, *Disruption of the Pennsylvania Democracy*, 51.

In December, Cass and Cameron met in New York City to coordinate against Old Buck. Cameron's plan was to introduce and push through pro-Cass resolutions at the various county and district conventions, which would weaken Buchanan's claims to control the Keystone State. The plan was largely successful. "The opposition here have kept up a Cass feeling," reported Jones from Reading on September 12, 1851. With Buchanan playing the above-the-fray statesman, Jones had to manage his boss's interests both at home and in Washington. "The coolness of the Cass interest in the state is draining," he wrote with optimism in November, "the whole body of delegates & leaders on the Tariff question, to yourself—I intend at Washington to refer to these men as Cass men & your policy & that of Penna. is to ratify & sustain at the proper time." Though Cameron's men were able to frustrate Buchananites at conventions, Cameron was unable to prevent the nomination and election of William Bigler, another Buchanan loyalist, as governor. Many Keystone Democrats distrusted Bigler, but Jones saw promise in his colleague and was eager to recruit as many potential partisans as possible. Meanwhile, Brodhead used his franking privilege as senator to send copies of anti-Buchanan pamphlets to the South. Brodhead also reached out to both William Marcy and Daniel Dickinson of New York to create political confusion and cast doubts about Buchanan's strength. Buchanan men came to hate Brodhead almost as much as they hated Cameron. "He is corrupt and selfish," wrote an angry A. H. Reeder to Buchanan, "but has a sort of foxiness which has enabled him thus far to conceal it from the democracy abroad. At home he is well known, and among other things is noted for treachery to and desertion of his friends."[17]

Bigler's victory over antislavery Whig governor William Johnston in November 1851 boded well for the Buchanan machine and was generally seen as an indication of his continued strength within the state, despite the machinations of his enemies. From Washington, Jones wrote, "It would do

[17] Coleman, *Disruption of the Pennsylvania Democracy*, 41, 51–52; Buchanan to J. G. Jones, Sept. 10, 1851, box 5, Buchanan and Johnston Papers, LOC; Buchanan to York, Mar. 6, Aug. 30, 1851, Buchanan Collection, N-YHS; J. G. Jones to Bigler, May 22, 1850, box 1, folder 11, June 10, 1850, box 1, folder 12, Aug. 21, 1850, Oct. 18, Oct. 31, 1851, Buchanan to Bigler, Mar. 24, 1851, Bigler Papers, HSP; Bigler to Buchanan, Mar. 29, 1851, Reeder to Buchanan, Sept. 10, 1851 (quoted), J. G. Jones to Buchanan, Sept. 12, 1851 (quoted), Nov. 19, 1851 (quoted), Buchanan Papers, HSP; "Democratic State Convention—Bigler Nominated," *Philadelphia North American and United States Gazette*, June 6, 1851; "Governor Bigler," *Philadelphia North American and United States Gazette*; "Hon. Wm. Bigler," *Columbia Daily South Carolinian*, Jan. 25, 1856. Franking privilege allowed members of Congress to send mail without paying for postage.

your heart good to see the feeling that exists here in your behalf." In the governor's chair, Bigler oversaw the partial repeal of the state's 1847 personal liberty law and pardoned a notorious kidnapper who had been convicted under it. Bigler's rise was regarded as a solid win for conservatives, with implications for the 1852 races. "The result is deeply felt through all parts of the Union," wrote Isaac Toucey of Connecticut, "& will exert a controlling influence upon the events of '52."[18]

In that year's presidential contest, populous Pennsylvania was more important than ever. If Buchanan could not deliver his own home state, then the Northern wing of the party was in far more danger than anticipated. Old Buck, however, was in no mood to help Franklin Pierce, who had unexpectedly snatched the nomination from Buchanan's hands, and did not take an active role in the campaign until his political machine was seriously threatened by the increasingly potent antislavery movement. For much of the summer, he sat on his hands at his estate fighting bilious attacks and bad teeth. Antislavery sentiment had spread noticeably in the Keystone State, and voters were angry over Buchanan's open pandering to the South. In addition, since Buchanan's failure at the Baltimore convention, challengers like Cameron were emboldened to make more aggressive attacks on the traditional party apparatus.[19]

Once Buchanan grasped the antislavery threat to his personal base, he mobilized his supporters and got to work. On the stump, though, he displayed questionable political judgment when he defended the odious Fugitive Slave Law of 1850 and hailed Pierce's pro-Southern credentials.

[18] Coleman, *Disruption of the Pennsylvania Democracy*, 42; Thomas D. Morris, *Free Men All: The Personal Liberty Laws of the North, 1780–1861* (Baltimore, 1974), 154–56; Seth Salisbury to Bigler, July 14, 1851, box 1, folder 26, Buchanan to Bigler, Oct. 18, 1851, box 1, folder 30, J. G. Jones to Bigler, Oct. 18, 1851, box 1, folder 30, Oct. 31, 1851, box 1, folder 32, Andrew Beaumont to Bigler, Oct. 21, 1851, box 1, folder 31, T. M. Pettit to Bigler, Oct. 22, 1851, box 1, folder 31, Bigler to Buchanan, Oct. 28, 1851, box 1, folder 32, Bigler Papers, HSP; H. K. Smith to Marcy, Nov. 5, 1851, book 20, Marcy Papers, LOC; D. B. Taylor to Buchanan, July 25, 1851, box 21, folder 16, John Houston to Buchanan, Sept. 4, 1851, box 21, folder 19, Cave Johnson to Buchanan, Sept. 15, 1851, box 21, folder 20, William King to Buchanan, Oct. 14, 1851, box 21, folder 21, J. D. Hoover to Buchanan, Oct. 17, 1851, box 21, folder 21, John Parker to Buchanan, Oct. 31, 1851, box 21, folder 22, Isaac Toucey to Buchanan, Nov. 13, 1851 (quoted), box 21, folder 24, J. G. Jones to Buchanan, Dec. 1, 1851 (quoted), box 21, folder 27, Buchanan Papers, HSP.

[19] John Slidell to Buchanan, Sept. 15, Sept. 27, 1852, box 22, folder 27, Buchanan Papers, HSP; J. S. France to Bigler, Mar. 27, 1852, box 2, folder 4, Joseph Thompson to Bigler, Mar. 29, 1852, box 2, folder 5, David Tucker to Bigler, Sept. 2, 1852, box 2, folder 26, Bigler Papers, HSP; Buchanan to Johnson, June 24, 1852, in George Ticknor Curtis, *Life of James Buchanan: Fifteenth President of the United States*, 2 vols. (New York, 1883), 2:40; Philip S. Klein, *President James Buchanan: A Biography* (University Park, PA, 1962), 221–22.

His more practical subordinates fretted about the large "Catholic vote" of the state, though they were confident they could better court that community than could the Whigs. "There is no doubt about Pennsylvania," asserted German American Democrat Francis Grund: "the victory is easy." In Washington, Jones continued to see to Buchanan's interests, cosigning press releases with other Democrats and employing his growing influence to shore up support for Old Buck. Never, however, did Jones join the partisan choir of Congressmen singing the praises of their chosen candidates. Jones preferred to work in the shadows, eschewing all calls for grand orations or stump speaking. "A number of friends were anxious when the Presidential excitement was up in the House a month ago that a speech should be made in your behalf," Jones explained to Buchanan. "I was opposed to it . . . I have never favored *noise*; some think they must always be making some public demonstration or organization &c. This very course cost Clay, Calhoun, Cass, Webster & will Douglas the loss of the prize." Back in Pennsylvania, Cameron and Democratic dissidents were brought in line for the state and presidential elections through patronage promises and power-sharing deals. Thanks to low voter turnout and Whig divisions, Democrats emerged victorious in October, much to the relief of Democrats across the country. "The returns from Pennsylvania seem to have settled the presidential contest," exclaimed one observer.[20]

With "Handsome Frank" Pierce now in the White House, the scramble for patronage began in earnest. After the drought of the Taylor and Fillmore years, Democrats looked forward to the fruits of victory. Even Jones caught the patronage bug and requested a foreign assignment to Rio de Janeiro or Honolulu, although in his meetings with Pierce he was clear that he only wanted a two-year stint so as not to miss important political

[20] Lynde Eliot to Bigler, Sept. 20, 1852, box 2, folder 29, J. G. Jones to Bigler, Sept. 28, 1852, box 2, folder 31, Kerry Welsh to Bigler, Sept. 28, 1852, box 2, folder 31, Bigler Papers, HSP; Klein, *President James Buchanan*, 221–22; Benjamin Brewster to Burke, Sept. 3, 1852, container 3, Burke Papers, LOC; James Buchanan speech, Greensburgh, PA, Oct. 7, 1852, in Curtis, *Life of Buchanan*, 2:43–67; Francis Grund to Cobb, Oct. 29, 1852 (quoted), in *The Correspondence of Robert Toombs, Alexander Stephens, and Howell Cobb*, ed. Ulrich Bonnell Phillips, vol. 2 (Washington, DC, 1913), 321; Simon Cameron to Coryell, Oct. 7, 1852, box 4, folder 10, John Forney to Coryell, Oct. 22, 1852, box 4, folder 10, Coryell Papers, HSP; Coleman, *Disruption of the Pennsylvania Democracy*, 54–57; Public Statement, Copy, "The undersigned Democratic Representatives in Congress from the State of Pennsylvania," J. Glancy Jones and Alfred Gilmore et al., likely Mar. 1852, box 22, folder 5, J. G. Jones to Buchanan, Apr. 2, 1852 (quoted), box 22, folder 8, James Van Dyke to Buchanan, July 10, 1852, box 22, folder 25, Gilmore to Buchanan, Aug. 22, 1852, box 22, folder 26, F. Byrdsall to Buchanan, Oct. 21, 1852, box 22, folder 28, Andrew Miller to Buchanan, Oct. 29, 1852 (quoted), box 22, folder 29, Franklin Pierce to Buchanan, Nov. 1, 1852, box 22, folder 29, August Belmont to Buchanan, Nov. 5, 1852, box 22, folder 30, Buchanan Papers, HSP.

events at home. As he reported to Buchanan, "I have just had an interview with the President for an half hour; he is much pressed for all the leading appointments, & said that Governor & others of high standing were seeking these consulates; he thought they were the most valuable men abroad, & said two years ought to be sufficient for any man. . . . I said I wanted to be back at my post politically before any movements of a national character were begun." The appointment never came.[21]

Buchanan, for his part, expected a top cabinet post, preferably secretary of state.[22] Instead, he received the mission to Great Britain. From Pierce's point of view, the decision was a wise one. Buchanan had previously served as secretary of state and thus had diplomatic experience; it was the top foreign post and thus would assuage Buchanan's bruised ego; and it would get Pierce's leading rival out of the country. Old Buck, however, was less than thrilled. "I have not the least desire to go abroad as a foreign minister," he confessed to Jones. He did not want to be removed from his base of operations in Wheatland and give up control of his state organization, nor did he relish the idea of being subordinate to rival partisan William Marcy of New York, the new chief at the State Department. "Marcy is not friendly to you, he is not open but he does not conceal it," Jones confided.[23]

When Buchanan departed for London in the summer of 1853, he left his state machine in the hands of his capable acolyte Glancy Jones. It was critically important that Buchanan's Pennsylvania affairs be handled by a skilled operator he could trust. Buchanan coveted the presidency and

[21] J. G. Jones to Buchanan, Feb. 11, 1853, box 23, folder 6, Feb. 25, 1853, box 23, folder 8, Mar. 3, 1853 (two letters dated Mar. 3), box 23, folder 10, Mar. 6, 1853, box 23, folder 10, Mar. 9, 1853, box 23, folder 11, Mar. 14, 1853 (quoted), box 23, folder 12, Mar. 28, 1853, box 23, folder 15, May 1, 1853, box 23, folder 26, Buchanan Papers, HSP.

[22] Nichols, *Democratic Machine*, 174; David Wagener to Buchanan, Nov. 6, 1852, box 22, folder 30, J. G. Jones to Buchanan, Nov. 22, 1852, box 22, folder 34, Buchanan Papers, HSP; Plitt to Buchanan, Aug. 30, 1852, and Buchanan to J. G. Jones, Dec. 7, 1852, box 5, Buchanan and Johnston Papers, LOC.

[23] Klein, *President James Buchanan*, 223, 235; Roy Franklin Nichols, *Franklin Pierce: Young Hickory of the Granite Hills* (Philadelphia, 1931, 1967), 256, 287; J. G. Jones to Buchanan, Feb. 24, 1853 (quoted), Belmont to Buchanan, Mar. 26, Apr. 15, June 18, June 25, 1853, Slidell to Buchanan, Mar. 30, 1853, Van Dyke to Buchanan, Mar. 24, Mar. 31, 1853, Pierce to Buchanan, Mar. 30, June 26, 1853, Bancroft to Buchanan, Apr. 12, 1853, Nahum Capen to Buchanan, Apr. 14, 1853, Wise to Buchanan, Apr. 16, 1853, King to Buchanan, July 15, 1853, Buchanan Papers, HSP; Buchanan to J. G. Jones, Mar. 12 and Mar. 15 (quoted), 1853, box 5, Buchanan to Campbell, Apr. 3, 1853, reel 1, and Buchanan to Harriet Johnston, Apr. 7, 1853, series 1, Buchanan and Johnston Papers, LOC; Frederick Moore Binder, *James Buchanan and the American Empire* (Cranbury, NJ, 1994), 167–68; Coleman, *Disruption of the Pennsylvania Democracy*, 60; Ivor Debenham Spencer, *The Victor and the Spoils: A Life of William L. Marcy* (Providence, RI, 1959), 221; Curtis, *Life of Buchanan*, 2:76.

did not want his political organization to wither in his absence.[24] Jones reported regularly to his distant boss, keeping him abreast of partisan news. "Pierce, poor fellow, has no hold on the nation," Jones penned in October 1853, explaining the new president's growing unpopularity: "he is the accidental head of an organization, without any cohesive power, individually or upon principle. . . . [N]o one fears him no one [*sic*] feels much interest in his personal welfare."[25]

Much to Jones's and Buchanan's surprise, Jones was returned to the House in January 1854, following the death of his successor. "Here I am," he sighed to Buchanan, "notwithstanding all my own plans & arrangements [*sic*] destined to be a member of Congress." Jones arrived in the Capitol in February, just in time to aid passage of the Kansas-Nebraska Act. "I gave my cordial and hearty support," he later recounted. He also began building support for Buchanan's 1856 presidential run. Once again, Jones preferred to work behind the scenes rather than make sensational orations. "On the Nebraska Kansas question I contented myself with *voting*," he explained to Buchanan. "Mr. Jones," observed a Florida periodical, "was one of the staring band of the 44 Northern Democrats whose votes carried the Nebraska Bill." "The bill will pass & become popular," Jones chirped with optimism.[26]

Jones and the Northern Democrats were gravely mistaken. The Kansas-Nebraska Act, which nullified the Missouri Compromise line and permitted the spread of slavery into formerly free territory, enraged free state voters. Various anti-Democratic groups, such as the Whigs,

[24] Buchanan to Harriet Johnston, Mar. 15, Mar. 19, Apr. 7, and Aug. 17, 1853, series 1, Buchanan to James Campbell, Apr. 3, 1853, reel 1, Buchanan to J. G. Jones, Mar. 12, Mar. 15 (quoted), and Apr. 26, 1853, Apr. 26, 1854, Jan. 11, Nov. 30, Dec. 7, and Dec. 18, 1855, and Feb. 19, Mar. 7, Mar. 25, May 1, and June 27, 1856, box 5, Buchanan to Henry Wise, June 1, 1853, reel 2, Buchanan and Johnston Papers, LOC; C. H. Jones, *Life of Jones*, 1:329–43; "Cass and Buchanan," *New York Tribune*, May 13, 1856, in James Pike, *First Blows of the Civil War: The Ten Years of Preliminary Conflict in the United States, from 1850 to 1860* (New York, 1879), 332–33; Nichols, *Disruption of American Democracy*, 13; J. G. Jones to Buchanan, May 18, Aug. 14, 1854, Daniel Jenks to Buchanan, Dec. 26, 1854, May 14, 1855, Buchanan Papers, HSP.

[25] J. G. Jones to Buchanan, Oct. 3, 1853 (quoted), box 24, folder 3, Buchanan Papers, HSP.

[26] "Hon. J. Glancy Jones," *Baltimore Sun*, Jan. 30, 1854; "Mr. Glancy Jones," *Baltimore Sun*, Feb. 14, 1854; "J. Glancy Jones," *Trenton (NJ) State Gazette*, Feb. 1, 1854; "J. Glancy Jones," *Delaware State Reporter*, Feb. 14, 1854; C. H. Jones, *Life of Jones*, 1:202–3, 209–10, 256–57, 315–22; J. G. Jones to Buchanan, Mar. 29, 1854 (quoted), box 24, folder 24, May 18 (quoted), July 9, 1854 (quoted), box 25, folder 22, Aug. 14, 1854, May 9, 1855, box 26, folder 15, Buchanan Papers, HSP; Address to Columbia County Democrats, Oct. 2, 1857 (quoted), in C. H. Jones, *Life of Jones*, 1:374–88; Buchanan to J. G. Jones, Apr. 26, 1854, and Jan. 11, 1855, box 5, Buchanan and Johnston Papers, LOC; Cong. Globe, 33rd Cong., 1st Sess. 1254 (1854); "A Tempest in a Tea-Pot," *New Haven Columbian Register*, May 20, 1854; "Nebraska Bill," *Austin Texas State Gazette*, June 10, 1854; "Hon. J. Glancy," *Tallahassee Floridian and Journal*, Sept. 9, 1854.

Know-Nothings, and Free Soilers, combined forces at the polls to express their disapproval. Pennsylvania politics became especially confused and chaotic. Due to the economic prosperity of the early and mid-1850s, nativism and slavery had replaced the perennial Keystone State topic of tariff protection. Moreover, nativism proved especially potent in immigrant-heavy Pennsylvania, and the Know-Nothings had won their first victories there. Two events, in particular, enflamed nativist passions. The first was the elevation of Catholic James Campbell—first to Governor Bigler's cabinet, then to the position of Pierce's postmaster general—after his rejection by Pennsylvania voters in 1850. The second was Monsignor Gaetano Bedini's visit to Pittsburgh in 1853. As a personal agent of the Pope, his presence in the Keystone State stoked nativist fears of a nefarious Catholic plot.[27]

In addition to these outside forces, Democrats were suffering from serious internal divisions. Twelve Keystone Democrats, including maverick senator Richard Brodhead, had voted for the Kansas-Nebraska bill despite voter opposition. When the March 1854 Democratic state convention in Harrisburg failed to address Kansas-Nebraska, both sides left frustrated. The regular Democrats (supporters of Buchanan and Jones) had demanded a firm endorsement, and anti-Nebraska Democrats (in the majority) had wanted a rejection. The latter subsequently bolted the party for the opposition, simultaneously cleansing Democratic ranks and giving a boost to anti-Democratic forces. The split was made official when the state committee endorsed Kansas-Nebraska and read the bolters out of the party. "We are in a strong mess politically in Pennsylvania," noted Buchanan agent George Sanderson in June.[28]

[27] William E. Gienapp, *The Origins of the Republican Party, 1852–1856* (New York, 1987), 139, 173; "Shipwreck in New Hampshire," *New York Tribune*, Mar. 22, 1855, in Pike, *First Blows of the Civil War*, 292–94; Colfax to Rev. Jackson, Dec. 12, 1854, Colfax Manuscripts, Lilly Library, Indiana University, Bloomington, IN; Coleman, *Disruption of the Pennsylvania Democracy*, 61, 64–66; Tyler G. Anbinder, *Nativism and Slavery: The Northern Know Nothings and the Politics of the 1850s* (New York, 1992), 30, 53–55, 57; John Forney to Breckinridge, Sept. 13, 1854, book 171, Breckinridge Family Papers, Manuscript Division, Library of Congress, Washington, DC (hereafter Breckinridge Family Papers, LOC); James Reynolds to Buchanan, Oct. 23, 1854, box 25, folder 30, J. G. Jones to Buchanan, July 9, 1854, J. Franklin Reigatt to Buchanan, July 28, 1854, box 25, folder 24, J. S. Black to Buchanan, Feb. 17, 1855, box 26, folder 6, John Forney to Buchanan, July 13, 1855, box 26, folder 32, Buchanan Papers, HSP; Thompson to Bigler, Mar. 29, 1852, Col. Hopkins to Bigler, Sept. 10, 1852, box 2, folder 27, Eliot to Bigler, Sept. 20, 1852, James Campbell to Bigler, Sept. 21, 1852, box 2, folder 29, Peter Wager to Bigler, June 17, 1853, box 4, folder 17, Bigler Papers, HSP.

[28] Gienapp, *Origins of the Republican Party*, 139, 143, 173; Coleman, *Disruption of the Pennsylvania Democracy*, 61, 64–66, 68–69; Anbinder, *Nativism and Slavery*, 53–55, 57; Forney to Breckinridge, Sept. 13, 1854; Reynolds to Buchanan, Oct. 23, 1854, J. G. Jones to Buchanan, July 9, 1854, Reigatt to Buchanan, July 28, 1854, Black to Buchanan, Feb. 17, 1855, John Forney to Buchanan, May 25, 1854, box 25, folder 12, July 13, 1855, James Van Dyke to Buchanan, Mar. 22, 1854, box 24, folder

To make matters worse for the Democrats, Governor Bigler had made himself unpopular by his ill-conceived appointments and flip-flopping on temperance. When it came to Kansas-Nebraska, he tried initially to avoid the subject, then finally announced his support months after it had been made party policy. "Bigler has behaved with great weakness and cowardice on the Nebraska question," observed newspaper editor John Forney. His equivocation on slavery deeply frustrated Democrats and further demoralized them before the October elections. Their only chance of success lay with the collapse of the fusion forces arrayed against them, a distinct possibility given the potency of nativist sentiment. "Prospects in Penna. are decidedly gloomy," Jones told Buchanan. "In fact our only hopes are in the want of cordial fusion in the elements of opposition to the democracy." In the end, fusion candidate James Pollock crushed Bigler, and anti-Nebraska candidates carried most of the 1854 Congressional races. "Many prominent men have been swept out of sight by the late Tornado, I will not run over the whole list of the '*dead and wounded*,'" reported Daniel Jenks. But Buchanan's trusted lieutenant survived. Unlike most other Northern Democrats, Jones enjoyed the full support of the party machinery and the significant influence of his mentor.[29]

Regardless, the Pennsylvania Democracy had been defeated, and Democrats consoled themselves with the thought that their party was now largely free of antislavery sentiment. "It has severed many rotten branches

22, George Sanderson to Buchanan, Mar. 10, 1854, box 24, folder 20, June 22, 1854 (quoted), box 25, folder 20, Wilson Candless to Buchanan, June 12, 1854, box 25, folder 19, Buchanan Papers, HSP.

[29] Michael F. Holt, *The Rise and Fall of the American Whig Party: Jacksonian Politics and the Onset of the Civil War* (New York, 1999), 881–86; Gienapp, *Origins of the Republican Party*, 140–42, 145; Forney to Breckinridge, Sept. 13 (quoted), and Oct. 19, 1854, book 171, Breckinridge Family Papers, LOC; John Forney to Buchanan, Mar. 19, May 25, Sept. 25, 1854, box 25, folder 29, Van Dyke to Buchanan, Mar. 22, 1854, John Slidell to Buchanan, Mar. 25, 1854, box 24, folder 23, James Campbell to Buchanan, Mar. 16, 1854, box 24, folder 21, George Plitt to Buchanan, Apr. 8, 1854, box 24, folder 28, Henry Slicer to Buchanan, June 10, 1854, box 25, folder 18, Daniel Jenks to Buchanan, July 7, 1854, box 25, folder 21, Aug. 18, 1854, box 25, folder 26, Oct. 13, 1854, box 25, folder 30, Oct. 17, 1854, box 25, folder 30, Nov. 13, 1854 (quoted), box 25, folder 32, William Hopkins to Buchanan, Sept. 11, 1854, box 25, folder 27, Wilson Candless to Buchanan, June 10, 1854, box 25, folder 18, Lewis Clover to Buchanan, June 15, 1854, box 25, folder 19, George Sanderson to Buchanan, June 22, Oct. 24, 1854, box 25, folder 31, Reigatt to Buchanan, July 28, 1854, J. G. Jones to Buchanan, July 9, 1854 (quoted), Buchanan Papers, HSP; John Forney to Bigler, Aug. 11, 1853, box 4, folder 25, "Extract from letter of Mr. Strong under date of Aug. 23rd 1853," box 4, folder 28, Bigler Papers, HSP; Anbinder, *Nativism and Slavery*, 58–60; G. Bailey to Pike, June 6, 1854, in Pike, *First Blows of the Civil War*, 247; Coleman, *Disruption of the Pennsylvania Democracy*, 68–70, 74–75; C. H. Jones, *Life of Jones*, 1:260; Buchanan to J. G. Jones, Jan. 11, 1855, box 5, Buchanan and Johnston Papers, LOC; "Hon. J. Glancy Jones," *New Haven Columbian Register*, Sept. 2, 1854; "Elections," *Boston Courier*, Oct. 9, 1854; "Pennsylvania Election," *Baltimore Sun*, Oct. 12, 1854.

from the tree of Democracy, whose places will be more than supplied by fresh . . . & vigorous branches," wrote Buchanan. The Democracy, agreed Sanderson, had been "purified in the furnace of affliction." "Recently our party has met with some reverses," Jones told disgruntled Democrats at the July 1855 state convention, "the courage of some began to fail. . . . But truth is mighty and will prevail. This freshet has carried off the drift-wood of the party. What some feared was going to be a permanent disease has only proved to be a slight epidemic, and our party now rises prouder, nobler, and higher than ever." As in Indiana, the Pennsylvania state legislature, now controlled by the anti-Democratic fusionists, was unable to elect a new US Senator. Simon Cameron, now firmly in anti-Democratic ranks and soon to become a Republican, had received the most votes, but fell short of a majority. Instead of pushing through the deadlock, the legislature postponed the election until 1856. Brodhead would serve as the only senator from Pennsylvania for the next year.[30]

As the sectional crisis deepened and the ranks of Northern Democrats dwindled, Jones became increasingly important to the party. In the December 1855 caucus, he was elevated to leader of the Democratic House, and he commanded attention as one of the most reliable doughfaces in Congress. "My position at present in Congress is made personally very agreeable, as you will see by the papers," he wrote to Buchanan with pride. Just two days later, Jones overcame his distaste for House dramatics to make a remarkable defense of Northern Democrats and Democratic policy. Assailed by his colleagues for doughfacism, Jones stood defiant: "I have never cast a southern vote in my life. The only thing that has ever been asked of me (and I have always given it to the best of my humble ability) was to cast my vote for the South as far as she had rights guaranteed by

[30] Buchanan to J. G. Jones, Jan. 11 and May 4 (quoted), 1855, box 5, Buchanan and Johnston Papers, LOC; Gienapp, *Origins of the Republican Party*, 140–42, 145, 173, 208–9; John Forney to Buchanan, Mar. 19, 1854, box 24, folder 21, May 25, Sept. 25, 1854, Van Dyke to Buchanan, Mar. 22, 1854, Slidell to Buchanan, Mar. 25, 1854, Campbell to Buchanan, Mar. 16, 1854, Plitt to Buchanan, Apr. 8, 1854, Slicer to Buchanan, June 10, 1854, Daniel Jenks to Buchanan, Mar. 17, 1854, box 24, folder 21, July 7, Aug. 18, Oct. 13, Oct. 17, Nov. 13, 1854, Mar. 6, 1855, box 26, folder 8, Oct. 15, 1855, box 27, folder 18, Hopkins to Buchanan, Sept. 11, 1854, Candless to Buchanan, June 10, June 12, 1854, Clover to Buchanan, June 15, 1854, George Sanderson to Buchanan, June 22, Oct. 24, 1854, May 2, 1855 (quoted), box 26, folder 14, Reigatt to Buchanan, July 28, 1854, J. G. Jones to Buchanan, July 9, 1854, Reynolds to Buchanan, Oct. 23, 1854, Black to Buchanan, Feb. 17, 1855, Buchanan Papers, HSP; Address to Democratic State Convention, July 1855 (quoted), in C. H. Jones, *Life of Jones*, 1:251–55; Forney to Breckinridge, Sept. 13 and Oct. 19, 1854, Breckinridge Family Papers, LOC; Anbinder, *Nativism and Slavery*, 58–60, 127, 150–54; Coleman, *Disruption of the Pennsylvania Democracy*, 68–70, 74–75, 77–78; Savage, *Living Representative Men*, 94–95.

the Constitution; and I have made up my mind long ago that I will stand by those rights, if I stand alone." Concerning the Kansas Territory, Jones defended the corrupt, proslavery, Democratic governor Andrew Reeder, and when Jones witnessed the vicious beating of Senator Charles Sumner of Massachusetts by Representative Preston Brooks of South Carolina in May 1856, he did not intervene.[31]

Jones was Buchanan's voice in Congress and a power broker who avoided the spotlight; politicos high and low understood that Jones was the voice of the likely future president. The *New York Tribune*, for instance, labeled Representative Jones "the immediate friend and champion of Mr. Buchanan in the House." When President Pierce sought a rapprochement with the Buchanan camp in November 1855, he reached out to Jones.[32] When Buchanan critics mobilized in the House in May 1856, it was Jones who delivered a rousing speech in Old Buck's defense and charged his detractors with "false and spurious" allegations. "All such accusations as these against Mr. Buchanan," exclaimed Jones with unusual passion, "are answered by thirty-six years of devotion to the Constitution of the United States." Early opposition to abolitionism, burning of antislavery mail, favoring the admission of new slave states, support for the annexation of Texas, endorsing the Fugitive Slave Law, hostility to personal liberty laws, "unyielding opposition" to the Wilmot Proviso—these actions, all proslavery, were cited by Jones to prove Buchanan's dedication to the nation.[33] At the 1856 national convention, Jones both advised Buchanan and carried out his instructions. In fact it is safe to say that without Jones's exertions, Old Buck's nomination would not have been secured. On the resolutions and platform committees, Jones guaranteed that the party would extol proslavery principles, and, in league with other

[31] "Democratic Congressional," *Boston Daily Atlas*, Dec. 4, 1855; Alexander Stephens to Unknown, Dec. 2, 1855, in *Life of Alexander H. Stephens*, by Richard Malcolm Johnson and William Hand Browne (Philadelphia, 1883), 299; A. Gallatin Talbott to John Breckinridge, Dec. 2, 1855, book 180, Breckinridge Family Papers, LOC; C. H. Jones, *Life of Jones*, 1:265–66; Etcheson, *Bleeding Kansas*, 67; J. G. Jones to Buchanan, May 9, Dec. 16, 1855 (quoted), box 27, folder 33, William Marcy to Buchanan, June 18, 1855, box 26, folder 27, Daniel Jenks to Buchanan, Dec. 10, 1855, box 27, folder 31, Buchanan Papers, HSP; Cong. Globe, 34th Cong., 1st Sess. 39 (1855) (quoted); Robert W. Johannsen, *Stephen A. Douglas* (New York, 1973), 504; "The Outrage on Mr. Sumner," *New York Tribune*, May 22, 1856, in Pike, *First Blows of the Civil War*, 338–39; "And Still Another," *St. Paul Daily Pioneer*, June 6, 1856.

[32] "The Administration vs. James Buchanan," *New York Weekly Herald*, Apr. 5, 1856; "Black Republicans," *New York Tribune*, Aug. 12, 1856 (quoted); Nichols, *Franklin Pierce*, 426–27; J. G. Jones to Buchanan, Nov. 18, 1855, box 27, folder 26, Buchanan Papers, HSP; J. G. Jones to A. O. P. Nicholson, Nov. 18, 1855, American Historical Manuscripts Collection—Jones, J. Glancy, New-York Historical Society.

[33] Cong. Globe, 34th Cong., 1st Sess. 1194–95 (1856) (quoted).

"Buchaneers," he handed out cash and threats to ensure that state delegations would cast votes for Old Buck.[34]

Though Buchanan was the favorite of both the slave states and Northern conservatives, his election was far from certain. The antislavery tide was sweeping the free states, and anti-Democratic forces were uniting into the new antislavery, entirely Northern Republican Party. Buchanan faced a three-way race with former president Millard Fillmore of New York, nominated by the nativist Know-Nothings, and the dashing adventurer John Frémont, put forth by Republicans. To complicate matters, the American Party (the political vehicle of the Know-Nothings) split over slavery in early 1856. "North Americans," as the Northern wing was called, opposed the expansion of slavery and rejected Fillmore, while "South Americans" were proslavery and supported him. This unusual partisan situation made for an exciting political environment, with voter enthusiasm unmatched since the hard-cider and log-cabin campaigns of 1840. "The canvass had no parallel in the history of American politics," recalled politician and lawyer George Julian.[35]

In the ensuing campaigns, Jones led the state effort and was invited to speak across the South. He worked closely with Buchanan to craft an effective national strategy based on white supremacist fears and threats of Southern secession. Buchanan, Democrats claimed, was the only candidate whose election would not result in disunion and race war; a vote for Fillmore or Frémont, conversely, would rend the Union and imperil whites. "*The union is in danger & the people every where begin to know it*," was the motto given by Buchanan to Jones. To pay for the massive national effort, a special committee was created in Washington to direct pamphlets, speaking tours, and letters. Jones labored alongside party titans Jesse Bright of Indiana, John Slidell of Louisiana, Howell Cobb of Georgia, and Washington, DC, banker William Corcoran to pull the wires, force state organizations into line, and raise as much money as possible.

[34] J. G. Jones to Buchanan, Mar. 7, 1856, box 28, folder 5, Buchanan Papers, HSP; J. G. Jones to Buchanan, May 30, 1856, in C. H. Jones, *Life of Jones*, 1:345–46; Democratic Party, *Official Proceedings of the National Democratic Convention, Held in Cincinnati, June 2–6, 1856* (Cincinnati, OH, 1856), 15; C. H. Jones, *Life of Jones*, 1:347; Nichols, *Disruption of American Democracy*, 42; "The Political Thermometer," *Columbus Daily Ohio Statesman*, June 1, 1856; "Democratic National Convention," *Boston Daily Atlas*, June 3, 1856; "Mr. Buchanan on Squatter Sovereignty," *Macon (GA) Weekly Telegraph*, Jan. 6, 1857.

[35] Archibald Dixon to Breckinridge, June 9, 1856, book 183, Breckinridge Family Papers, LOC; Anbinder, *Nativism and Slavery*, 202–9; Paul Finkelman, *Millard Fillmore* (New York, 2011), 133–34; Nichols, *Disruption of American Democracy*, 19–20, 41; George W. Julian, *Political Recollections, 1840 to 1872* (Chicago, 1884), 145, 152–54, 153 (quoted).

The Keystone State was a must-win for Buchanan. Democrats knew they could carry the solid South, but they still needed populous Pennsylvania. Further, it was Old Buck's home state, and it would be an embarrassment if he could not deliver it. All eyes turned to state elections in October to see how the state would go in November. "If we can carry Pa. for our state ticket every thing is safe—if we lose that election I fear that all is lost," wrote Cobb to Buchanan. "Too much importance cannot be attached to the result of your state elections," he added. The challenges faced by Keystone Democrats were similar to those confronting their associates in other states in 1856: Democrats were unpopular, but the opposition was fragmented. Fusion among Know-Nothings and Republicans had gone poorly, and nativist sentiment continued to be a powerful force, distracting from the central issue of slavery. In addition, Democrat-turned-Republican Simon Cameron maintained his own political organization separate from Republicans, hampering fusion. While Buchanan sat at Wheatland spreading fears of the "imminent danger of disunion, should Fremont [*sic*] be elected," as he phrased it in several letters, Jones took command of the state canvass, aided by Philadelphia newspaper editor John Forney. As chairman of the Pennsylvania State Central Committee, Forney flooded the state with speakers and pamphlets and saw to the mobilization of the immigrant vote through hasty and sometimes fraudulent naturalization proceedings.[36]

Unlike in neighboring New York, Pennsylvania Democrats were firmly united behind skilled, energetic leadership. Money, primarily from Wall Street, poured into the state, allowing Jones and Forney to counter

[36] A. Birdsall to Breckinridge, Aug. 19, 1856, book 186, and James Buchanan to Breckinridge, Sept. 2 and Sept. 25, 1856, book 186, Breckinridge Family Papers, LOC; Klein, *President James Buchanan*, 259; Curtis, *Life of Buchanan*, 2:174; "The Canvass in Pennsylvania," *Boston Daily Atlas*, Sept. 13, 1856; Howell Cobb to Buchanan, July 27, 1856 (quoted), in Phillips, *Correspondence of Toombs, Stephens, and Cobb*, 377–78; Anbinder, *Nativism and Slavery*, 238–39, 242; Richard Brodhead to Coryell, Sept. 24, 1856, box 5, folder 5, Coryell Papers, HSP; Coleman, *Disruption of the Pennsylvania Democracy*, 88–89, 92, 95–96; Buchanan to Capen, Aug. 27, 1856, in Curtis, *Life of Buchanan*, 2:180; Buchanan to J. G. Jones, June 29 (quoted), July 6, July 11, July 24, and July 29, 1856, box 5, Buchanan and Johnston Papers, LOC; J. G. Jones to A. O. P. Nicholson, Nov. 18, 1855, American Historical Manuscripts Collection—Jones, J. Glancy, New-York Historical Society; C. H. Jones, *Life of Jones*, 1:344–45, 347; John Forney, *Anecdotes of Public Men*, 2 vols. (New York, 1873–81), 2:237–40; Nichols, *Disruption of American Democracy*, 47; William Dusinberre, *Civil War Issues in Philadelphia, 1856–1865* (Philadelphia, 1965), 27–28, 30; David Edward Meerse, "James Buchanan, the Patronage, and the Northern Democratic Party, 1857–1858" (PhD diss., University of Illinois, 1969), 99; Forney to John Dix, Sept. 11, 1856, Dix to Forney, Sept. 15, 1856 in Dix, *Memoirs*, 1:321; Mark W. Summers, *The Plundering Generation: Corruption and the Crisis of the Union, 1849–1861* (New York, 1987), 241; Buchanan to William Reed, Sept. 14, 1856, in Curtis, *Life of Buchanan*, 2:182.

the opposition at every move. "We spent a great deal of money," recalled Forney years later. Fear continued to be the best weapon, and newspapers and traveling orators filled the heads of Pennsylvanians with images of bloody disunion and gruesome race war. African Americans, claimed the *Pennsylvanian*, were so dangerous that they must be kept in bondage to protect whites. Cobb and Herschel Johnson of Georgia were brought in for a whirlwind proslavery speaking tour. "The state has been canvassed with extraordinary zeal & energy by the ablest Democrats of the party," assured William Preston to Democratic vice-presidential nominee John Breckinridge. Charges that Frémont was a Catholic were especially potent in Pennsylvania, and many conservative Whigs preferred the Democracy to the Republicans. These small advantages gave narrow victories to the Democrats, including the reelection of Jones to Congress in a hard-fought, bitter contest in the former Democratic stronghold of Berks County. "The glorious results of the elections of the 14th Inst in Pennsylvania, Indiana . . . have made the calling and election of *B[uchanan]* and *B[reckinridge]* by the people next month 'a fixed fact!'" exclaimed Democrat W. Grandin to Senator Robert Hunter of Virginia.[37]

As one of the relatively few Northern Democrats who achieved reelection and with his mentor now president-elect, Jones's position within the party was stronger than ever. Compare him to another Northern Democrat in 1857, Stephen Douglas: Douglas is well known and features prominently in studies on antebellum politics, but in 1857 he was alienated from the new administration, and his reelection was uncertain. Jones, on the other hand, who is virtually unknown to us today, was one of the new president's closest advisers, the Democratic House leader, and chairman of the Ways and Means Committee (of the Thirty-Fifth Congress). Despite the wave of antislavery sentiment sweeping the North, he had just been reelected. He was, arguably, in a much better position to shape policy and partisanship than the famed Little Giant.[38]

[37] Forney, *Anecdotes*, 2:240 (quoted); Buchanan to Breckinridge, Sept. 25, 1856, William Preston to Breckinridge, Oct. 11, 1856 (quoted), book 188, and J. G. Jones to Breckinridge, Nov. 17, 1856, book 189, Breckinridge Family Papers, LOC; Nichols, *Disruption of American Democracy*, 46–47; Coleman, *Disruption of the Pennsylvania Democracy*, 90–101; Meerse, "Patronage," 21; Dusinberre, *Civil War Issues in Philadelphia*, 31–32, 41–42; Curtis, *Life of Buchanan*, 2:175; C. H. Jones, *Life of Jones*, 1:345, 347; "A Base Fraud Somewhere," *Washington National Era*, Sept. 25, 1856; J. G. Jones to W. Grandin, Oct. 31, 1856, box 28, Papers of RMT Hunter, Hunter-Garnett Collection, Special Collections Library, University of Virginia, Charlottesville, VA; "The News," *Washington Daily Globe*, Oct. 16, 1856; W. Grandin to Hunter, Oct. 18, 1856 (quoted), in *Correspondence of Robert M. T. Hunter, 1826–1867*, ed. Charles Henry Ambler (New York, 1971), 199–200.

[38] Nichols, *Disruption of American Democracy*, 54–55, 66; Klein, *President James Buchanan*, 264.

Nevertheless, Buchanan knew his "right hand man," as the *New Orleans Daily Creole* called Jones, could not survive long in the face of the antislavery onslaught, even in the "Gibraltar of the Democracy," Berks County. Old Buck wanted to reward Jones with a cabinet position, but by 1857 Jones had enemies at home in Pennsylvania ("shafts of envy," as Jones described it). John Forney had grown jealous of Jones's power and prestige and threatened to divide and disrupt Buchanan's state machine if Jones was appointed. This was more than Buchanan was willing to risk. As distasteful as it must have been, Old Buck gave in to the undisciplined editor, dumped Jones, and selected the humorless Jeremiah Black as attorney general. "I have arrived at the conclusion," Buchanan penned to his protégé, "that the interest of my administration, in this State, as well as your own interest & comfort . . . will deprive me of your valuable services in the Cabinet." "You are to be the judge of all this," replied Jones, "& to you I leave it." To his niece Harriet, Buchanan confided: "The conspirators against poor Jones have at length succeeded in hunting him down. Ever since my election the hounds have been in pursuit of him. I now deeply regret;—but I shall say no more."[39]

Jones's failure to gain a cabinet appointment was indicative of Buchanan's mounting patronage problem. Once installed in office, the new president faced a rather unusual situation: this was the first Democratic administration to follow a Democratic administration since Van Buren succeeded Jackson in 1837. Democrats were already in patronage positions in 1857, and Buchanan had to be careful choosing whom to replace and why. In the end, the new president decided to purge the government of all but the most dedicated doughfaces and proslavery

[39] Nichols, *Disruption of American Democracy*, 67, 72, 220; Klein, *President James Buchanan*, 266; C. H. Jones, *Life of Jones*, 1:348–72; "Buchanan Not In Favor of Slavery," *New Orleans Daily Creole*, Nov. 4, 1856; "Hon. J. Glancy Jones," *New Haven Columbian Register*, Sept. 2, 1854; "Cabinet Making," *New York Herald*, Dec. 16, 1856; "War Among the Democratic Cliques For The Spoils," *New York Herald*, Dec. 20, 1856; "From Washington," *Baltimore Sun*, Feb. 21, 1857; "J. Glancy Jones and the Cabinet," *Philadelphia North American*, Feb. 27, 1857; J. G. Jones to Buchanan, Mar. 9, 1856 (quoted), box 28, folder 6, Buchanan Papers, HSP; William Bigler to Buchanan, Feb. 17, 1857, John Cochrane to J. G. Jones, Feb. 18, 1857, Henry May to J. G. Jones, Feb. 25, 1857, and J. G. Jones to Buchanan, Feb. 20, 1857 (quoted), in C. H. Jones, *Life of Jones*, 1:349, 357, 360–62; Buchanan to Jeremiah Black, Mar. 6, 1857, in *The Works of James Buchanan, Comprising His Speeches, State Papers, and Private Correspondence*, ed. John Bassett Moore, 12 vols. (Philadelphia, 1908–11), 10:114; Buchanan to J. G. Jones, Nov. 29, 1856, Feb. 17 (quoted), Feb. 22, Feb. 28, and July 28, 1857, box 5, Buchanan to Harriet Johnston, Oct. 15, 1858 (quoted), series 1, Buchanan and Johnston Papers, LOC; Robert Toombs to Alexander Stephens, Feb. 24, 1857, in Phillips, *Correspondence of Toombs, Stephens, and Cobb*, 397–98; Wm Ludlow to Sam Tilden, July 1857, box 16, folder 51, Samuel J. Tilden Papers, Manuscripts and Archives Division, New York Public Library.

politicos. "Pierce men are hunted down like beasts," cried one correspondent to William Marcy.[40]

Buchanan used his "rotatory rule" selectively. To reduce disruption to government business, for instance, he allowed more capable Pierce appointees, such as Minister to France John Y. Mason of Virginia, to complete their diplomatic assignments before being replaced. There was also a distinct sectional bias in his application of the rule—it was only applied in the free states. Buchanan allowed the Southern bosses to make their own decisions and did not interfere with their plans. "Southern men very generally denounced it [rotation] and claimed—nay more—demanded—that their section of the country should be exempt from its operation," wrote Marcy with disgust. "This demand has been complied with." Such patronage decisions, politically motivated and sectionally charged, produced the desired partisan discipline but resulted in staggering corruption. Ideological purity was valued above all else, and party hacks were sometimes chosen above qualified professionals.

Buchanan's doughface appointees in the free states were unpopular with voters, who depended on them for public services. "The offices were made the sport of shear [*sic*] personal caprice," groaned Marcy. Within just two years, Buchanan's patronage decisions produced unprecedented levels of corruption at the local level, when wielded by machines such as Tammany Hall in New York, as well as in the federal government, such as Secretary of War John Floyd's pilfering of the War Department through land-selling schemes and no-bid contracts. "You have systematized corruption," complained a correspondent of Secretary of the Treasury Howell Cobb in June 1858. An acquaintance of Senator James Henry Hammond complained of the "branded, corrupt few of the worst desperados in policies, [who] trade off for pay and promises by wholesale the Peoples' Highest Office to some of the vilest of mankind." Congressional inquiries and investigations later revealed the depths of corruption—everything from secret slush funds to

[40] Klein, *President James Buchanan*, 278–80; Meerse, "Patronage," 22, 55–63, 78, 180; Van Dyke to Buchanan, Feb. 23, 1855; Buchanan to John Y. Mason, Dec. 29, 1856, in Moore, *Works of James Buchanan*, 10:100–101; F. Bigger to English, Mar. 30, 1857, box 2, William Hayden English Family Papers, Indiana Historical Society (hereafter English Family Papers); J. G. Jones to Burke, Feb. 9, 1857, container 4, Burke Papers, LOC; J. S. Black to Breese, Aug. 7, 1858, J. Cook to Breese, Sept. 21, 1858, Sidney Breese Papers, Lincoln Presidential Library and Museum, Springfield, IL; Summers, *Plundering Generation*, 27–28; Diary Entries, Mar. 17, Mar. 24, Mar. 25, and Apr. 4, 1857, Marcy to McClelland, Apr. 6, 1857, Unknown to Marcy, Mar. 27, 1857 (quoted), in Thomas M. Marshall, "Diary and Memoranda of William L. Marcy, 1857," *American Historical Review* 25 (1919): 642–43, 645–46, 646–47, 647, 648–49, 649–50.

buy votes in Congress to exorbitant printing contracts given to cronies. The "Buchaneers" were indeed ruthless political pirates.[41]

Though he failed to win the attorney generalship, Glancy Jones remained a powerful member of the House of Representatives and an influential partisan. "For all the public men living on this side of Mason and Dixon's Line," commented the *New York Tribune*, "Mr. Jones is most thoroughly Southern in his political complexion." His final service to both his party and his beleaguered boss came in the monumental Congressional debates over the Lecompton Constitution of Kansas. When the Kansas-Nebraska Act of 1854 removed the Missouri Compromise line of 1820, white Southerners, primarily from neighboring Missouri, rushed into the new Kansas Territory to plant their "peculiar institution." Antislavery, free-state Northerners, too, migrated to Kansas, and in far larger numbers. Moreover, while the Missouri "border ruffians" were only temporary interlopers with the single goal of expanding slavery and Southern political power, Northern settlers, constituting the vast majority of the fast-growing Kansas population, intended to start new lives and stay for the long term. Nevertheless, the proslavery minority used violence and terrorism to manipulate elections, intimidate voters, and gain control of the fledgling territorial government.[42]

On February 19, 1857, the proslavery territorial legislature called for a constitutional convention to be held in Lecompton on September

[41] Meerse, "Patronage," 56–63, 65–67, 122–38; Summers, *Plundering Generation*, 27–28, 239, 242–48; Buchanan to John Y. Mason, Dec. 29, 1856, in Moore, *Works of James Buchanan*, 10:100–101; F. Bigger to English, Mar. 30, 1857; Klein, *President James Buchanan*, 280–81, 284; Diary Entries, Mar. 17, Mar. 24 (quoted), 1857, Unknown to Marcy, Mar. 27, 1857, in Marshall, "Diary of Marcy," 646–47; Nichols, *Disruption of American Democracy*, 83–85, 91; Johannsen, *Stephen A. Douglas*, 550, 554–55; Douglas to Treat, Feb. 5, 1857, in *The Letters of Stephen A. Douglas*, ed. Robert W. Johannsen (Urbana, IL, 1961), 372; Buchanan to Wise, Dec. 26, 1856, reel 2, Buchanan and Johnston Papers, LOC; Dix, *Memoirs*, 2:327; W. B. Maclay to Burke, Dec. 16, 1856, container 4, Burke Papers, LOC; William E. Gienapp, "'No Bed of Roses': James Buchanan, Abraham Lincoln, and Presidential Leadership in the Civil War Era," in *James Buchanan and the Political Crisis of the 1850s*, ed. Michael Birkner (Selinsgrove, PA, 1996), 102–3; Stephen Dillaye to Cobb, June 8, 1858 (quoted), in Phillips, *Correspondence of Toombs, Stephens, and Cobb*, 439; W. M. Corry to Hammond, Nov. 11, 1858 (quoted), box 25, James Henry Hammond Papers, Manuscript Division, Library of Congress, Washington, DC; Republican Congressional Committee, "The Ruin of the Democratic Party: Reports of the Covode and Other Committees," accessed Mar. 14, 2016, https://archive.org/details/ruinofdemocratic01repu.

[42] For detailed treatments of the Kansas-Nebraska Act and the subsequent territorial violence, see Etcheson, *Bleeding Kansas*, and Michael Todd Landis, *Northern Men with Southern Loyalties: The Democratic Party and the Sectional Crisis* (Ithaca, NY, 2014). "J. Glancy Jones," *New York Tribune*, Feb. 26, 1857. The Missouri Compromise had prohibited the spread of slavery in the former Louisiana Territory north of the parallel 36°30′ except within the boundaries of the proposed state of Missouri.

7. The legislature planned to ignore the free-state majority and craft a proslavery, minority-rule document that would preserve slavery and enthrone the Democratic Party. Despite President Buchanan's guarantees to Governor Robert Walker that under no circumstances would Kansas be admitted to the Union without a popular ratification of the constitution, the legislature had no intention of submitting the final product to a vote. To make matters worse, the election of convention delegates, scheduled for June, would be based on an old, unrepresentative census conducted by proslavery commissioners. The free-state majority, rightly incensed, boycotted the June election, thereby guaranteeing that the September convention would be unrepresentative; roughly 10 percent of the territorial population, mainly from proslavery areas, elected the sixty total delegates. The resulting document—the Lecompton Constitution—was both baldly proslavery and blatantly unrepresentative.[43]

From December 1857 to March 1858, Congress wrestled with the Lecompton Constitution. Southerners demanded that it be ratified immediately and that slavery be forced on unwilling Kansans, and Northerners fought to kill the constitution and defend majority rule. Jones belonged to the small band of Northern Democrats who endorsed the Lecompton Constitution and supported Buchanan's attempts to force it through Congress. As chairman of the Ways and Means Committee and confidant of the president, he had enormous influence over the direction of legislation. Jones joined his fellow Democrats in enunciating a stunningly conservative, antidemocratic creed in defense of Lecompton. "Non-intervention," he asserted, should be the watchword of Congress. The violence and fraud in the Kansas Territory, he maintained, were none of Congress's business; they were purely under the purview of the territorial legislature. Furthermore, majority rule was less important than "law and order." Of paramount importance was not that the territorial government had been usurped by proslavery terrorists representing a tiny minority but that the territorial government be obeyed and its dictates followed at all costs. Congress, he concluded, could deal only with the territorial government, regardless of its mani-

[43] For the extent of proslavery voter fraud in Kansas, see Summers, *Plundering Generation*, 248–51; Etcheson, *Bleeding Kansas*, 141–58; Klein, *President James Buchanan*, 291, 296–97; Republican Congressional Committee, 1857–59, "The Ruin of the Democratic Party: Reports of the Covode and Other Committees," 6–7.

festation, for the territorial government was the only *legal* expression of the people of Kansas.[44]

This troubling doctrine was the script President Buchanan determined for Northern Democrats in his December 8, 1857, message to Congress. Downplaying electoral fraud in Kansas, Buchanan declared that because the elections that produced the constitutional conventional in Lecompton appeared legal, the results must be binding, regardless of the will of the majority. The free-state majority that boycotted the elections, he reasoned, had been given every opportunity to exercise its voting rights and had chosen not to do so, thus forfeiting its right to oppose the outcome. "A large portion of the citizens of Kansas," he explained, "did not think proper to register their names and to vote at the election for delegates; but an opportunity to do this having been fairly afforded, their refusal to avail themselves of their right could in no manner affect the legality of the convention." Or, as Senator Graham Fitch of Indiana later stated, "That many, and perhaps a majority of the citizens of Kansas did not vote either at the election of representatives to the Territorial Legislature, or delegates to the convention, may be true. Where is your remedy? You cannot compel men to vote. They can only be permitted and invited to do so." Buchanan concluded his message by implying that the entire discussion of majority will in Kansas was pointless, given that the Supreme Court had recently ruled in the *Dred Scott* decision (March 1857) that slaves were property protected by the US Constitution. Many free-state voters were appalled that the president ignored the glaring fraud and violent intimidation in Kansas elections. Republicans, in particular, insisted that a new round of elections be held, and that the territorial constitution be placed before the public for an authentic, legitimate vote.[45]

In the end Buchanan, Jones, and the Democrats were successful: Lecompton passed both houses of Congress on April 30, 1858. When exuberant Democrats arrived at his Washington residence to sing his praises, Jones offered only a few remarks. Lecompton, he assured them, was "a good cause" worth "a good deal of intense labor." Its passage was a testament to American government and a victory over nefarious ne'er-do-wells who hated freedom and liberty. "It was the sublime spectacle," he explained:

[44] C. H. Jones, *Life of Jones*, 2:2–3, 15–16; J. G. Jones to Democrats of Philadelphia, Dec. 26, 1857 (quoted), in ibid., 2:5–7; "Powers of the Kansas Constitutional Convention," *Macon (GA) Weekly Telegraph*, Nov. 3, 1857; "Hon. J. Glancy Jones on the Kansas Question," *Harrisburg (PA) Weekly Patriot and Union*, May 20, 1858.

[45] Cong. Globe, 35th Cong., 1st Sess. 4–5, 138 (1857); Cong. Globe, 35th Cong., 1st Sess. appendix 1–5 (1857); Etcheson, *Bleeding Kansas*, 141–52.

> after months of painful suspense, exhibited in the halls of Congress by the representatives of the true patriots of our common glorious country, in yielding up their personal and peculiar views, but not principles, to offer on the common alter of their country their devotion to that Union which their patriotic sires had founded in this heaven-born spirit of mutual concession for the welfare of the common brotherhood.[46]

All the rhetoric, however, could not mask that the Democratic Party was trying to force slavery on an unwilling populace. Free-state voters were irate, and Northern Democrats were cut down at the polls. Even Jones's Berks Country ("the very back bone of democracy," as the *Macon Weekly Telegraph* described it) turned against the Democracy. The new Republican opposition had an easy time painting Jones as a tool of the Slave Power and a minion of the unpopular president, accusations which, of course, were both true. "He only secured his renomination," noted the *New York Tribune*, "by making Buchanan conciliate his leading foes with fat contracts, and the revolt against him will go even beyond the Anti-Lecompton men." Jones, for his part, denied that a sectional crisis even existed and refused to acknowledge the severe economic downturn that struck the nation in 1857. "There are no questions that are agitating the country now," he insisted: "[W]e are now in the midst of peace and prosperity." Such platitudes were laughable, and in 1858 the "King of *Asses* Jehu Glancy Jones" went down to defeat. Given his high-profile relationship with the president and his leadership on Lecompton, Jones's downfall garnered national attention and indicated that the Democratic Party was in serious trouble. Buchanan rightly viewed the defeat as a personal rebuke and vowed to spare his friend further humiliation. "With the blessing of Providence," Buchanan confided to his niece, "I shall endeavor to raise him up & place him in some position where they cannot reach him." With that in mind, Old Buck appointed Jones Minister to Austria. "He is thus rewarded by the President for betraying the People," concluded the *Milwaukee Sentinel*, while the *Charleston Mercury* gushed, "This compliment to a distinguished Pennsylvanian will be gratifying to the great majority of our citizens."[47]

[46] Cong. Globe, 35th Cong., 1st Sess. 1892–99, 1900–1906 (1858); "Washington, May 2," *Pittsfield (MA) Sun*, May 6, 1858; C. H. Jones, *Life of Jones*, 2:15, 18–21, 19 (quoted).

[47] Nichols, *Disruption of American Democracy*, 220, 223; Klein, *President James Buchanan*, 330; Coleman, *Disruption of the Pennsylvania Democracy*, 117; Forney, *Anecdotes of Public Men*, 1:120; "Hon. J. Glancy Jones," *Macon (GA) Weekly Telegraph*, Sept. 7, 1858 (quoted); "The Washington District," *Harrisburg (PA) Patriot*, July 1, 1858; "Pennsylvania Politics," *New York Tribune*, June 19, 1858 (quoted); "Glancy Jones," *New York Tribune*, Oct. 14, 1858; "Pennsylvania," *New York Tribune*, Oct. 14, 1858; C. H. Jones, *Life of Jones*, 2:79–80, 81–82 (J. G. Jones campaign speech, quoted), 86, 88, 91; "Reading,

And that is where the tale of Jehu Glancy Jones essentially ends. He was removed from his diplomatic post by the Lincoln administration, returned to Reading, Pennsylvania, to resume his law practice, and never held office again. Politically conservative, he sympathized with the Southern rebellion, publicly condemned Lincoln as a "despot," authored and published essays critical of Republican policy, defended clients who were active in the antiwar movement, and vigorously opposed civil rights for African Americans.[48]

Despite its inauspicious end, Jones's career is instructive to historians. It reveals a great deal about Northern proslavery sentiment and the nature of the Northern Democracy. Leading Northern Democrats such as Jones and Buchanan were not romantic defenders of working men, as some scholars have claimed; nor were they moderates striving to save the Union from extreme sectionalism. Rather, they were proslavery activists whose willful actions had direct and disastrous effects on the nation. Their policies enraged free-state voters and caused the fatal split in the Democratic Party that resulted in Lincoln's election, which, in turn, triggered disunion. They were culpable and responsible—a fact that should not be forgotten or overlooked.

Tarleton State University MICHAEL TODD LANDIS

Pa.," *Lowell (MA) Daily Citizen and News*, Oct. 20, 1858; "Hon. J. Glancy Jones," *Philadelphia Public Ledger*, Oct. 22, 1858; Dean to Wise, Nov. 11, 1858; Buchanan to Harriet Lane, Oct. 15, 1858 (quoted), in Moore, *Works of James Buchanan*, 10:229–30; "Latest News," *Milwaukee Sentinel*, Oct. 18, 1858; "The Democracy Overthrown!" *Milwaukee Sentinel*, Oct. 18, 1858; "Appointment of J. Glancy Jones," *Milwaukee Sentinel*, Oct. 19, 1858; "The Appointment of J. Glancy Jones," *Milwaukee Sentinel*, Oct. 23, 1858 (quoted); "Hon. J. Glancy Jones," *Charleston Mercury*, Oct. 23, 1858 (quoted).

[48] C. H. Jones, *Life of Jones*, 2:131, 135–38, 139–49; "The News in Brief," *Lowell (MA) Daily Citizen and News*, Dec. 27, 1861; "Political News," *New York Tribune*, Oct. 31, 1861; "Berks County," *Harrisburg (PA) Patriot*, Apr. 30, 1863; "A Scheme," *Windsor Vermont Journal*, June 6, 1863; "From Old Berks," *Philadelphia Age*, Oct. 2, 1863; "Pennsylvania," *Philadelphia Age*, July 6, 1864; "J. Glancy Jones," *New Haven (CT) Palladium*, Oct. 12, 1863.

NOTES AND DOCUMENTS

Mikveh Israel and Louis Kahn: New Information

ABSTRACT: The commission that Congregation Mikveh Israel gave to the Philadelphia architect Louis Kahn in 1961 finally ended when he was fired in January 1973, before ground could be broken on the new structure to have it ready for the Bicentennial Celebration in 1976. Kahn's design would have produced one of the great interior spaces of the twentieth century, but disagreement between the architect and the congregation over functional and spiritual aspects led to the eventual sad outcome. Based on newly discovered documents, this article clarifies what is known about the end of the commission, explores the thinking of the congregation that led to Kahn's dismissal, and reveals the steps that were taken to find a replacement firm from a list of Philadelphia architects.

In 1961 Mikveh Israel Congregation of Philadelphia commissioned Louis Kahn to design a new synagogue for a site on Fifth Street abutting Independence Mall. Neither the congregation nor the architect could have foreseen the sad, contentious demise of the project in 1973. The history of the Mikveh Israel commission has been meticulously chronicled by Susan G. Solomon. Solomon, however, did not have documentation to pinpoint the precise end of the relationship between the synagogue and the architect.[1] Information unavailable to Solomon has recently come to light in the papers of Daniel C. Cohen, a Philadelphia lawyer and member of the congregation who was involved

The authors would like to thank Daniel C. Cohen for his generous cooperation. Our thanks also go to William Whitaker and Nancy Thorne at the University of Pennsylvania Architectural Archives, Claire Pingel at the National Museum of American Jewish History, Louis Kessler at the Mikveh Israel Archives, Sarah Dine, and Michael J. Lewis.

[1] Susan G. Solomon, *Louis I. Kahn's Jewish Architecture: Mikveh Israel and the Midcentury American Synagogue* (Hanover, NH, 2009). See also the earlier account by Michelle Taylor, "Mikveh Israel Synagogue," in *Louis I. Kahn: In the Realm of Architecture*, ed. David B. Brownlee and David D. DeLong (New York, 1991), 362–65.

in the project from beginning to end.[2] Cohen, whose papers are held in the archives of the National Museum of American Jewish History, is also the great uncle of Ranana Dine, one of the authors of this essay.[3] His papers clarify what happened between 1970, when an urgent push to complete the project began, and January 1973, when, we now know, Kahn was officially dismissed in a letter from Meyer Klein, the president of the congregation.[4] As the Cohen papers demonstrate, the congregation asked that Kahn modify his design to make fundraising easier and the building less expensive to construct and maintain. Kahn tried at first to work with the proposed changes. Ultimately, however, he rejected them, and the congregation fired him.

As Kahn's drawings reveal, had his synagogue been built, it would have contained one of the great interior spaces of the twentieth century (see cover image). This scheme, Kahn's fifth proposal for the synagogue, was established by October 1962.[5] Kahn's vision for the interior of the sanctuary was featured by the Jewish Museum, New York, in 1963 on the catalogue cover of an exhibition of new synagogue architecture.[6] The exhibition was organized by a young architect, Richard Meier, who soon achieved his own fame with such commissions as the Getty Center in Los Angeles. Kahn's plan included separate structures: a large, polygonal sanctuary with circular towers at each corner; a small chapel, also with corner towers; a sukkah with six piers to support the temporary roof; and a school building with a rather standard rectilinear form (fig. 1). The chapel would have had an oval interior, intended to recall the sanctuary of 1822 that noted Philadelphia architect William Strickland had erected for the congregation at its original location at Third and Cherry Streets.[7]

[2] Bernard Alpers to Daniel Cohen, Apr. 24, 1961, Daniel Cohen Papers, Archives, National Museum of American Jewish History, Philadelphia (hereafter ANMAJH); Minutes of Board of Managers, Apr. 10, 1973, Archives, Congregation Mikveh Israel, Philadelphia (hereafter ACMI). In April 1961, at the invitation of Dr. Bernard Alpers, chair of the architectural committee—and the employer of Kahn's wife, Esther—Cohen attended a meeting of that committee. Twelve years later, at a meeting of the board of managers of the congregation, Cohen seconded a motion to hire the firm of Harbeson Hough Livingston and Larson to replace Kahn.

[3] This essay comes out of a tutorial on Kahn's architecture taught by Johnson at Williams College in the fall of 2013. Dine, a student in the tutorial, recalled that Cohen was a member of the Mikveh Israel congregation and sent him an email, to which he replied on Nov. 4, "I was the man who fired him." Thus began this inquiry.

[4] Meyer Klein to Louis Kahn, Jan. 17, 1973, Daniel Cohen Papers, ANMAJH.

[5] Solomon, *Kahn's Jewish Architecture*, 105.

[6] The Jewish Museum, *Recent American Synagogue Architecture*, organized by Richard Meier (New York, 1963).

[7] Agnes Addison Gilchrist, *William Strickland, Architect and Engineer, 1788–1854* (Philadelphia, 1950), 62–63.

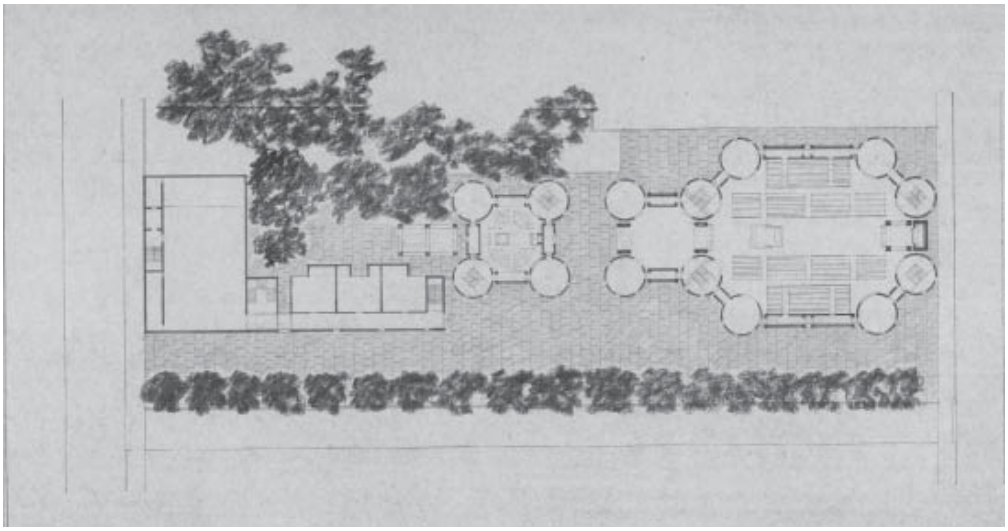

Fig. 1. Louis I. Kahn, plan of Mikveh Israel Synagogue, Oct. 31, 1962 (Kahn Collection, 030.1.C.615.2). Louis I. Kahn Collection, The University of Pennsylvania and the Pennsylvania Historical and Museum Commission.

Founded around 1740, Mikveh Israel is the second-oldest Jewish congregation in North America. By the mid-twentieth century, the group wished to move from its current location at Broad and York Streets and return to the historic center of Philadelphia, near Independence Mall. Mikveh Israel's importance in the history of American Jewry, and the roles some of its members played in the American Revolution, stood behind this desire.[8] Kahn used a bird's-eye perspective to demonstrate the proximity of the proposed new Mikveh Israel complex on Fifth Street to Independence Hall (fig. 2).

Williams Strickland's synagogue of 1822 replaced a smaller structure that the congregation had erected on the site at Third and Cherry in 1782. Prior to that year members met in rented houses located in the same area. The choice of Strickland, who also designed the Second Bank of the United States, was perspicacious. It established a tradition continued for the design of the third Mikveh Israel synagogue, commissioned in 1858 from John McArthur, who produced a medievalizing, round-arched structure. Later in his career McArthur designed the towering Philadelphia City Hall. Pressures of a growing congregation, the result of the arrival of large numbers of immigrants, led to the need for the new building, dedicated in 1860 at Seventh and Arch Streets. The fourth synagogue was

[8] For a history of the congregation's sites, see Mark I. Wolfson, "The Synagogue Buildings," *Mikveh Israel History*, Mar. 3, 2013, http://mikvehisraelhistory.com/2013/03/01/the-synagogue-buildings.

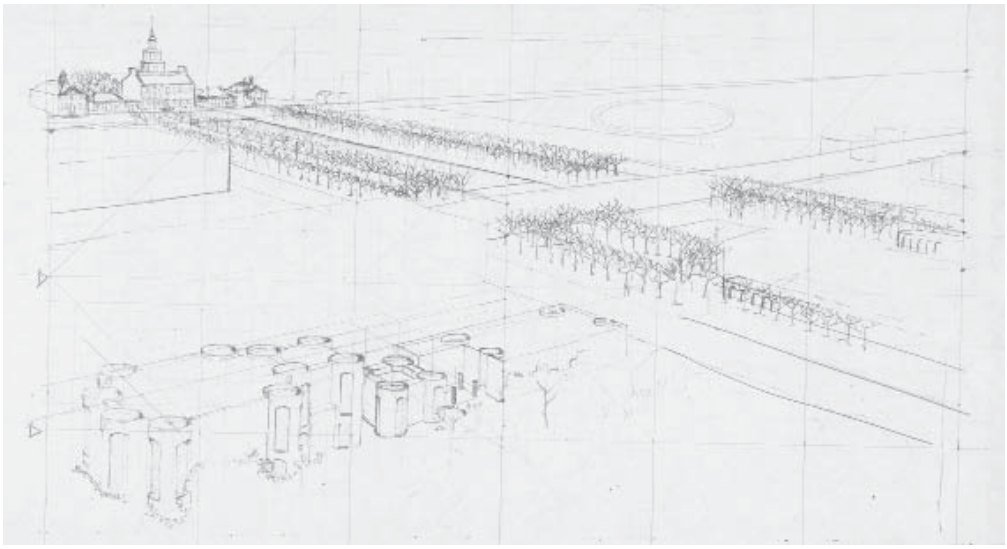

Fig. 2. Louis I. Kahn, bird's-eye view of proposed Mikveh Israel complex (foreground) and Independence Hall (background), graphite and red pencil on trace, circa 1963. (Kahn Collection, 030.1.C.615.3). Louis I. Kahn Collection, The University of Pennsylvania and the Pennsylvania Historical and Museum Commission.

erected in the early twentieth century. Members selected a capacious site at Broad and York Streets, north of the historic center of the city and in a newly fashionable area. Separate buildings for Gratz College and Dropsie College, educational institutions associated with Mikveh Israel, joined the new sanctuary. The New York firm of Pilcher and Tachau, well known for synagogue designs, designed all three buildings in the Beaux-Arts style. After World War II, out-migration to the suburbs led to a smaller congregation and a declining neighborhood. The Broad Street site became untenable.

To summarize Susan Solomon's account, the Mikveh Israel congregation began to think of reclaiming its roots in the historic center of Philadelphia in the mid-1950s. Kahn received the commission in 1961, largely thanks to backing from Dr. Bernard Alpers, head of the congregation's building committee. An admirer of Kahn's work, Alpers also employed Kahn's wife, Esther, at Jefferson Medical College. In 1961 Kahn was just beginning to reach the fame that he enjoyed later in the decade. Kahn helped the congregation select a new site at Fifth and Commerce Streets. Slowly (as was his wont), he worked to develop a final design, arrived at in October 1962. In November the rabbi of the congregation announced that he would leave before the next High Holy Days, in the fall of 1963. The search for a new rabbi brought the architectural project to a halt until a new appointment

was made in the summer of 1964. More obstacles remained, however. Raising the money to build Kahn's design, estimated initially to cost three million dollars, was always a problem. Not able to afford the project on its own, the congregation knew from the start that it would have to seek outside contributions. An important member of the congregation noted in 1963 that Mikveh Israel had on its hands

> a historical undertaking which requires national support and $3,000,000 is not an impossible undertaking, if nationally prominent Jews regard it obligatory to have a symbol such as is being proposed. Gifts must come from individually sponsored Foundations and men and women of substantial wealth. Their imaginations must be fired and the plan for raising the funds must be one that will appeal nationally.[9]

Lack of both funds and direction led to an almost decade-long pause in the project, with only fitful attempts to revive it. By 1970 the congregation had not yet broken ground. Members expressed an urgent desire to have the new synagogue erected by 1976, in time for the American Bicentennial. The congregation began to refer to itself as the Synagogue of the American Revolution.[10] However, progress was still not forthcoming. On December 12, 1970, Daniel Cohen noted that Mikveh Israel was "in a membership, financial and existence crisis." It was losing members and operating at "a continuing deficit."[11]

Concern about the design compounded these financial problems. Kahn was a controversial choice from the beginning. Several members wanted the new building to be a copy of the Strickland synagogue. Among those was Gustav Klein.[12] A late-joining member of the architectural committee, Klein objected not only to Kahn as a person, but also, citing functional and theological grounds, to his design. Klein argued that Kahn's design was problematic according to Jewish law (halacha) regarding synagogue construction. He objected in particular to the lack of large windows, quoting from rabbinic sources to argue that windows were necessary in a synagogue.[13] In this

[9] D. Hays Solis-Cohen to David Arons, Jan. 7, 1963, Daniel Cohen Papers, ANMAJH. David Arons was then president of the congregation.

[10] Daniel Cohen to Louis Kahn, May 4, 1970, A.38.22, Louis I. Kahn Collection, University of Pennsylvania and Pennsylvania Historical and Museum Commission, Philadelphia (hereafter Kahn Collection); Solomon, *Kahn's Jewish Architecture*, 131.

[11] Solomon, *Kahn's Jewish Architecture*, 131. Cohen was then president of the congregation.

[12] Email from Daniel Cohen to Ranana Dine, Dec. 10, 2014.

[13] Gustav Klein to D. Hays Solis-Cohen, May 20, 1966, Daniel Cohen Papers, ANMAJH. See appendix for the full letter.

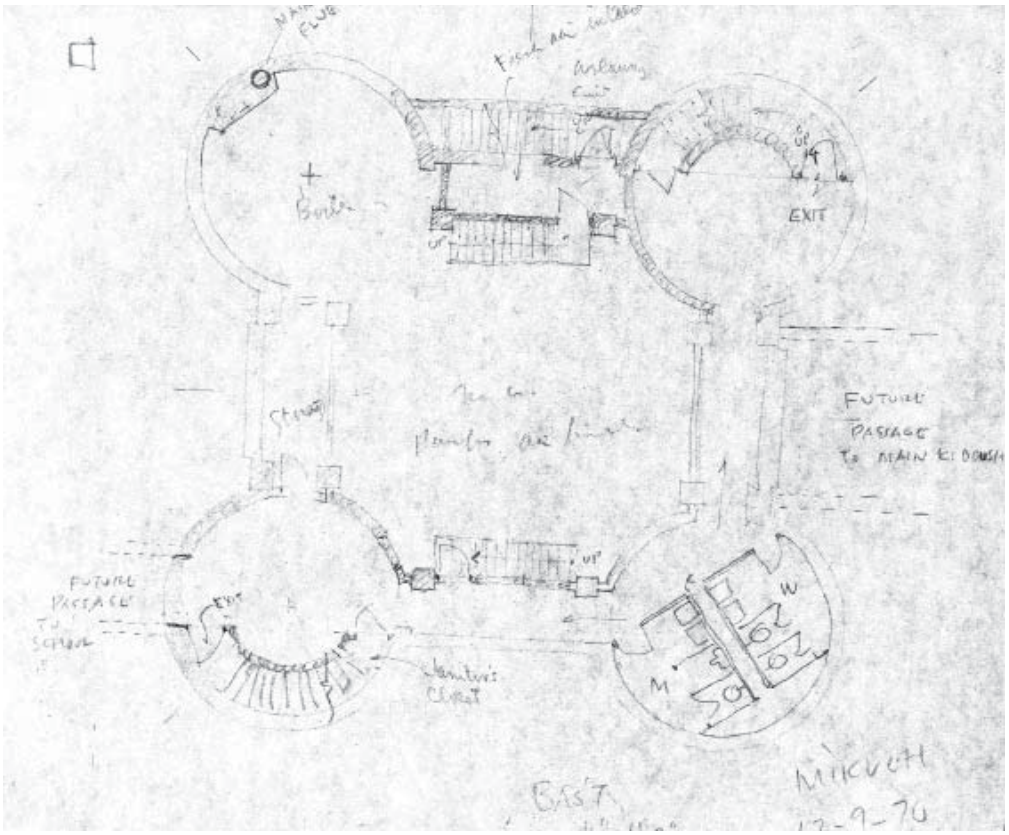

Fig. 3. Louis I. Kahn, plan of basement, Mikveh Israel chapel, Dec. 9, 1970, print (Kahn Collection, 030.11.A.38.17c). Louis I. Kahn Collection, The University of Pennsylvania and the Pennsylvania Historical and Museum Commission.

instance one suspects that Klein had difficulty reading architectural drawings, given the importance Kahn attached to the presence of natural light in his buildings.[14]

But Kahn also had strong supporters within the congregation. When a call arose in a city council committee for all new buildings near the Independence Mall to be Georgian in style, Daniel Cohen vigorously defended the Kahn design:

> I felt I had to mention that Mikveh Israel was interested in moving to the Mall not as a museum but as a living example of a religious tradition and that living modern institutions did not belong in Colonial museum shells. I also mentioned the fact that Kahn's design had been approved by our Architectural Committee, approved by our Board, *in principle* . . . and critically acclaimed where it has been exhibited.[15]

[14] Solomon, *Kahn's Jewish Architecture*, 108–12, stresses the importance of natural light to Kahn in this project.
[15] Daniel Cohen to David Arons, Dec. 10, 1963, Daniel Cohen Papers, ANMAJH.

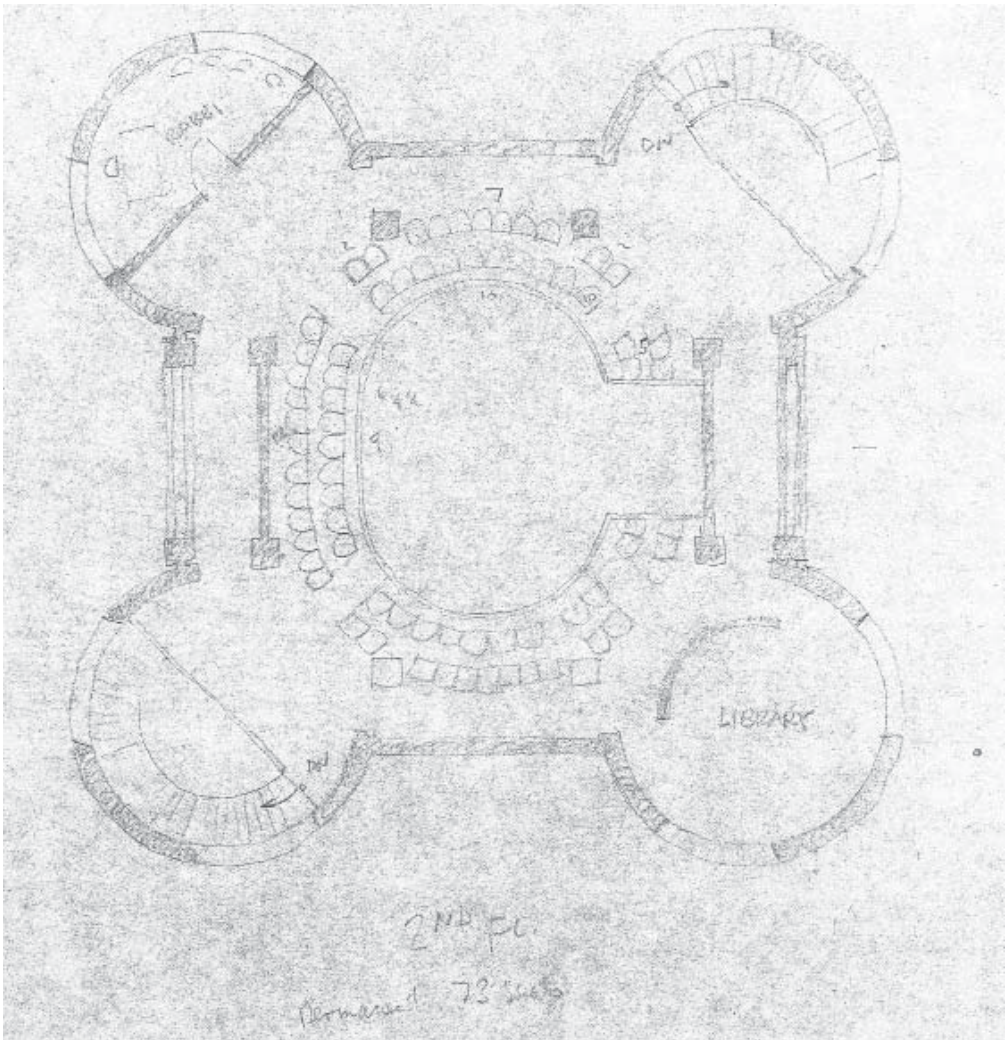

Fig. 4. Louis I. Kahn, plan of second floor, Mikveh Israel chapel, Dec. 9, 1970, print (Kahn Collection, 030.11.A.38.17b). Louis I. Kahn Collection, The University of Pennsylvania and the Pennsylvania Historical and Museum Commission.

A proposal to construct the chapel alone as an affordable first step surfaced. At the annual meeting of the congregation, Cohen proposed "that this part of the building program be financed from within the congregation and its close friends."[16] If there could be no sanctuary in time for the bicentennial, at least there could be a chapel that revived William Strickland's oval plan of the second synagogue, accompanied by a promise of the grand future sanctuary.

Kahn agreed to this proposed piecemeal course of construction.[17] He sent Cohen drawings, heretofore unpublished, that include careful calcula-

[16] Minutes of Annual Meeting, Dec. 10, 1970, ACMI.
[17] Minutes of Mall Steering Committee, Nov. 19, 1970, ACMI.

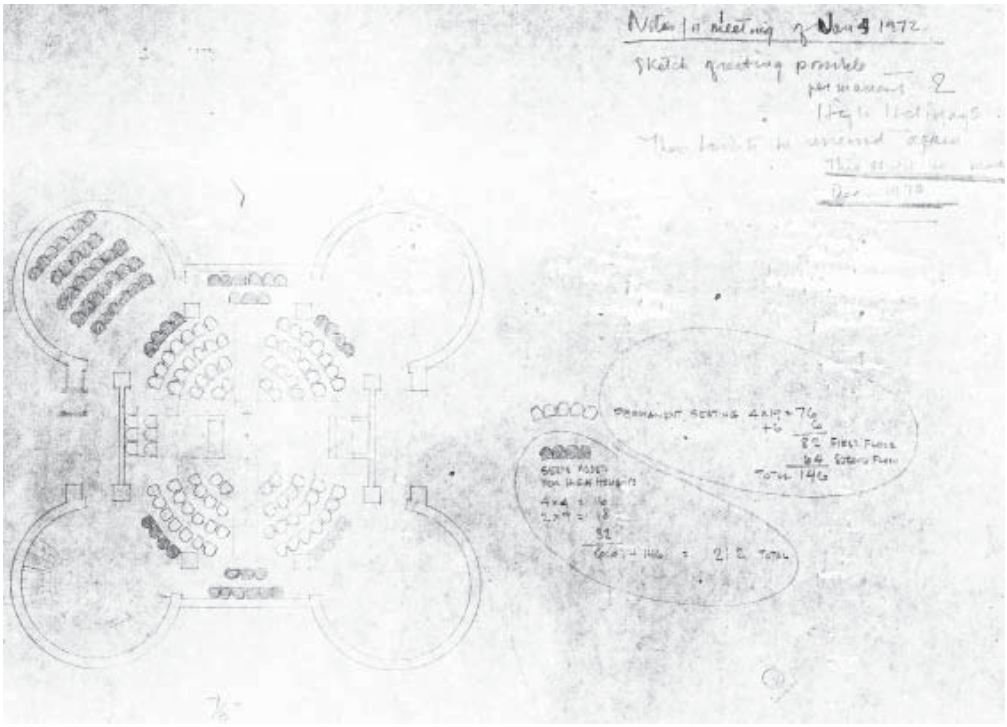

Fig. 5. Louis I. Kahn, plan of ground floor, Mikveh Israel chapel, Dec. 1970 and Jan. 1972, print (Kahn Collection, 030.11.A.38.17a). Louis I. Kahn Collection, The University of Pennsylvania and the Pennsylvania Historical and Museum Commission.

tions of the seating capacity of the three-story chapel (figs. 3, 4, and 5).[18] Additionally, these drawings show a basement that would connect to the future sanctuary and school. Kahn depicted the outline of the plan of the sanctuary, with its circular towers at the intersections of the polygonal walls. The shape of the plan was to be laid out at full size on its intended site as a grass plot surrounded by brick pavers to make its outline clear (fig. 6). A gate with benches marks the end of the sanctuary toward the chapel.

Why this tantalizing proposal came to naught is not clear. In the fall of 1971, the congregation was examining the possibility of abandoning

[18] Louis I. Kahn, Building Plans, A.38.17a, A.38.17b, A.38.17c, and A.38.5, Kahn Collection. There would have been 82 permanent seats on the first floor and 64 on the second. An additional 32 seats would increase the total to 212 for High Holy Days. A sheet of two estimated costs for the project list them at $599,200 or $981,750. These totals bear a date of January 4, 1971. To our knowledge, these plans have not been published.

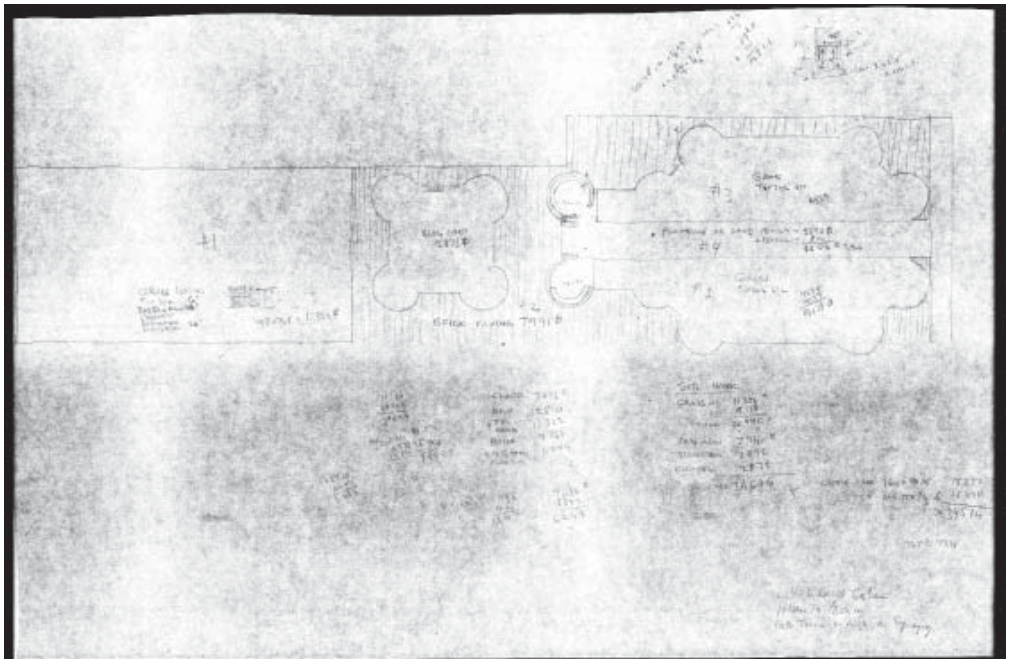

Fig. 6. Louis I. Kahn, plan of project to erect Mikveh Israel chapel and mark footprint of future sanctuary in grass outlined by brick pavers, Dec. 1970 (Kahn Collection, 030.11.A.38.17d). Louis I. Kahn Collection, The University of Pennsylvania and the Pennsylvania Historical and Museum Commission.

the Kahn plan and moving existing buildings, either the old Friends Meeting House or its current synagogue, to the site on Fifth Street abutting the Mall. The synagogue had purchased this site from the Philadelphia Redevelopment Authority. Both of these possibilities were rejected.[19]

On December 28, 1971, the board of managers of Mikveh Israel brought in a new head of the building committee, Ruth B. Sarner, who created an action committee to move the project forward. Immediately she called a meeting, at which Kahn apparently planned to present once again the December 1970 scheme to build only the chapel. An inscription in Kahn's own hand notes that the drawing will be presented at the meeting of January 1972 and that the sketch dates from December 1970 (fig. 5).

[19] Meeting of Board of Managers, Nov. 10, 1971. See also Solomon, *Kahn's Jewish Architecture*, 203n103.

Notes for meeting of Jan 4 (?) 1972
Sketch of seating possible permanent & High Holidays
These have to be reviewed again
This sketch was made Dec. 1970 [20]

The revived lone chapel proposal gained no traction, and during 1972 the relations between Kahn and the congregation deteriorated.[21] Sarner's effort to get the project moving led to major changes in the plan, which she described in a letter of February 17, 1972, to Kahn: "the amended project . . . shall consist of two units, a synagogue reminiscent of the Synagogue of the American Revolution [i.e., the Strickland building] and a Museum of American Jewish History."[22] For Sarner the move to the mall was urgent:

> The imminence of the Bicentennial makes it imperative that Mikveh Israel relocate on the Mall. It was invited to do so by the Redevelopment Authority so that it might rejoin the other religious institutions in that area, give representation to the Jewish faith and thereby dramatize the significance of religious liberty in the United States.[23]

Sarner hoped that the creation of a museum of Jewish history would attract donations from outside the congregation, and even outside Philadelphia, as the proposal for the synagogue alone had not. Further, a museum would be eligible for government funding, whereas the sanctuary would not.[24] On May 2 Kahn presented a preliminary plan for the new scheme, and on May 23 he showed a model of it to the action committee.[25] The committee asked Kahn to reduce the cost of the building by almost 50 percent, a request that must have included eliminating the towers. On September 6 Kahn composed a handwritten statement entitled "Window Room."

[20] Louis I. Kahn, plan of ground floor, Mikveh Israel chapel, Dec. 1970 and Jan. 1972, A.38.17a, Kahn Collection.

[21] Solomon, *Kahn's Jewish Architecture*, 131–35.

[22] Ruth Sarner to Louis Kahn, Feb. 17, 1972, A.38.11, Kahn Collection.

[23] Ruth Sarner to Morris Kravitz, Federation of Jewish Agencies, Feb. 15, 1972, Daniel Cohen Papers, ANMAJH.

[24] Email from Daniel Cohen to Ranana Dine, Dec. 10, 2014.

[25] Solomon, *Kahn's Jewish Architecture*, 133.

The Basic Idea from the very beginning
and
What makes this plan unique
is
The "Window Room"
Primary [*sic*] the Window Room or Area
is a device to give shield to glare (and)
(Note entrance to large areas with
windows in remote corner which
momentarily blinds the eye
before getting adjusted)

Can be made useful
as a room at the
same time.
($)
↓
(The window is expensive
but the room cost
[*sic*] nothing)
This is it's [*sic*] initial
architectural quality
<u>and uniqueness</u>

Because we [*sic*] now we need more rooms
the use of the stairs in the "window room"
had to be abandoned and a new place be found for stairs.

The Entrance Lobby of the Synagogue is
given broadness and grace by making
the accommodations [*sic*] of entrance (cloakroom etc)
in the window room.

We cannot at any time (though there was expressed the promise of trying)
to substitute the characteristic
window room for another type
of window for the sake of
Architectural consistency

Louis I. Kahn,
Architect—Sept 6 72[26]

[26] Copy of Louis Kahn, "Window Room," Sept. 6, 1972, Daniel Cohen Papers, ANMAJH. In the text we have preserved Kahn's arrangement of words on the page to reproduce the visual effect he intended his statement to have.

Fig. 7. Louis I. Kahn, project for Mikveh Israel Synagogue with museum (left) and sanctuary joined, elevation, circa Oct. 9, 1972, charcoal on yellow trace (Kahn Collection, 030.I.A.615.67). Louis I. Kahn Collection, The University of Pennsylvania and the Pennsylvania Historical and Museum Commission.

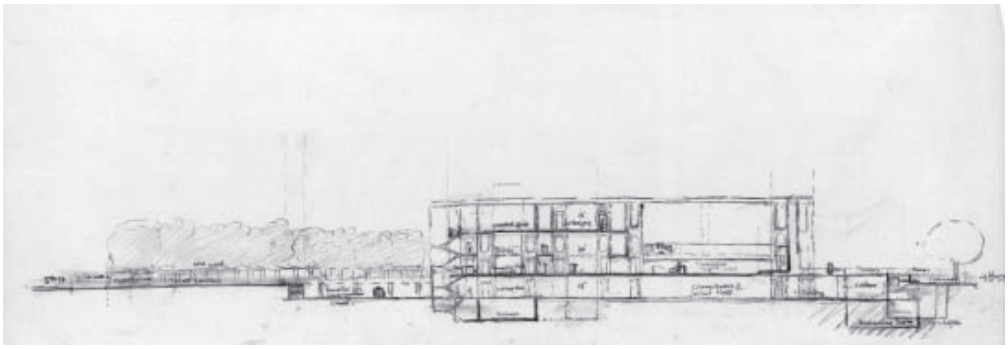

Fig. 8. Louis I. Kahn, project for Mikveh Israel Synagogue, longitudinal section with museum (left) and sanctuary joined, Oct. 9, 1972, charcoal/pastel on yellow trace (Kahn Collection, 030.I.A.615.48). Louis I. Kahn Collection, The University of Pennsylvania and the Pennsylvania Historical and Museum Commission.

In September a dispute that predated Kahn's hiring re-emerged. Sarner and the building committee wished for the two buildings to "share a common foyer."[27] Kahn's assistant, David Wisdom, had told Sarner on September 22, "You'll never have that." Shocked, Sarner ordered Kahn's office to stop work on the project until the issue was resolved.[28] At a meeting on October 9, Kahn showed the committee two very large drawings—an elevation and a longitudinal section—that represented his attempt to

[27] In an undated letter written prior to May 1961, the president of the congregation indicates that the museum and synagogue "may be joined by a central and spacious exhibit hall and lobby." Quoted in Solomon, *Kahn's Jewish Architecture*, 92.

[28] Ruth Sarner to Louis Kahn, Sept.25, 1972, Daniel Cohen Papers, ANMAJH. Solomon did not have access to the actual date of the letter and hypothesized, correctly, that it was written before December 19 (Solomon, *Kahn's Jewish Architecture*, 124). In the letter Sarner outlined the rationale for the common entrance space, which included the money-saving notion of having only one employee at a sales desk serving as salesperson and receptionist/guard.

fuse the museum and the synagogue, a step he was not happy to make (figs. 7 and 8).[29] He believed strongly that the sacred sanctuary should be separated from the secular museum. As far as the congregation was concerned, however, traditional synagogue architecture did not require such a strict separation of functions.

The first of Kahn's two drawings, the elevation, presents a clumsy junction of the two parts. The length to height proportion is ungainly, and the two doors, designed so at least the entrances would be separate, are awkwardly mismatched. Did Kahn deliberately make the architecture look bad in the hope that the committee might reject it? We will never know for sure. On October 10 Sarner wrote that the committee had appreciated the opportunity "to observe the manner in which you have apparently resolved the problem of a foyer linking the synagogue and the museum."[30] Her sentence hardly showed enthusiasm for the design. Sarner reiterated her expectation that Kahn would soon bring in a proposal to reduce the cost, estimated at this point to come to perhaps five million dollars, to the desired, drastically lower level.[31]

At the annual meeting of the congregation on December 10, Kahn presented another set of large drawings that returned to his preferred solution of two separate buildings. In the elevation the museum is on the left, and the sanctuary on the right. The two are joined below grade, but not at ground level (fig. 9). Kahn drew the elevation from a slightly lower position than he chose for the elevation of the joined buildings. In the latter he needed to have the point of view at a greater height in order to make clear that the two parts were fused. He did not need to do so in the December drawing, in which the separation of the buildings is clear. In the section drawing he indicated the location of all the functions that the building was to serve, as he had done two months earlier (fig. 10). Apparently Kahn; his attorney; Daniel Cohen; and another lawyer, Martin Spector, also met to discuss the new contract that Kahn had requested several months earlier. The meeting was unsuccessful, as they failed to reach an agreement on the contract.[32]

[29] Figs. 7–10 appear in *The Louis I. Kahn Archive: Personal Drawings: The Completely Illustrated Catalogue of the Drawings in the Louis I. Kahn Collection, University of Pennsylvania and Pennsylvania Historical and Museum Commission*, 7 vols. (New York, 1988), 2:409, 398, 410, and 397, respectively.

[30] Copy of Ruth Sarner to Louis Kahn, Oct. 10, 1972, Daniel Cohen Papers, ANMAJH. On October 19 Sarner reported on the meeting of October 9 to the Board of Managers. Solomon, *Kahn's Jewish Architecture*, 134.

[31] Minutes of the Board of Managers, July 7, 1972, ACMI.

[32] Ruth Sarner to Daniel Cohen, Aug. 8, 1972, Daniel Cohen Papers, ANMAJH.

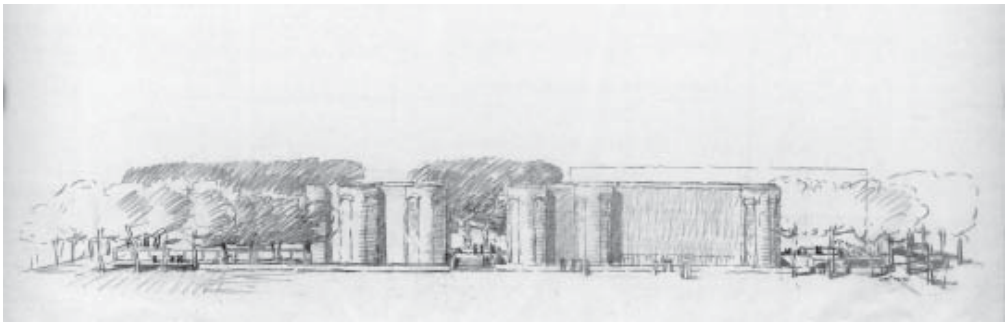

Fig. 9. Louis I. Kahn, project for Mikveh Israel Synagogue with museum (left) and sanctuary separate, elevation, Dec. 1972, charcoal on yellow trace (Kahn Collection, 030.I.A.615.68). Louis I. Kahn Collection, The University of Pennsylvania and the Pennsylvania Historical and Museum Commission.

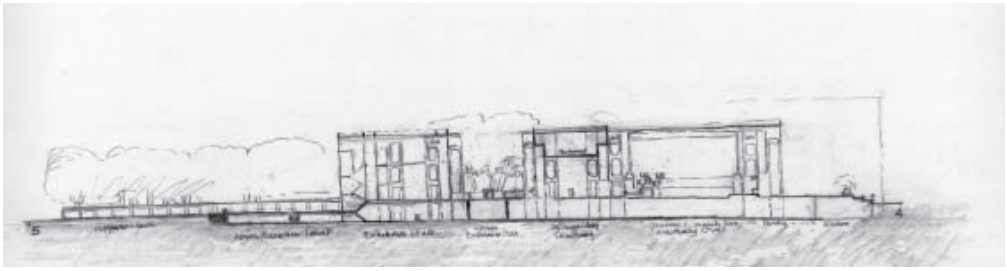

Fig. 10. Louis I. Kahn, project for Mikveh Israel Synagogue, longitudinal section with museum (left) and sanctuary separate, early Dec. 1972, charcoal on yellow trace (Kahn Collection, 030.I.A.615.47). Louis I. Kahn Collection, The University of Pennsylvania and the Pennsylvania Historical and Museum Commission.

Kahn's decision to present a design that defied the committee's specification of a single building was a disastrous move. As Sarner put it in a report to the congregation,

> the architect brought to that meeting, without our prior knowledge or consent, yet another design incompatible with our specifications (requirements). He later advised that this, in essence a retrogression to already rejected concepts, represented only a partial step toward completion of the *initial* design phase.[33]

On December 19 the building committee voted to fire Kahn. Sarner sent a copy of the committee's decision to William Fishman, a successful Philadelphia businessman who was not a member of Mikveh Israel but who was helping the action committee raise the funds to build the new

[33] Solomon, *Kahn's Jewish Architecture*, 134.

synagogue and museum.[34] Sarner's letter is telling, as it characterizes the mood of the meeting and the problems the congregation felt they faced with Kahn.

> Dear Bill:
>
> The enclosed memorandum of tonight's Building Committee meeting is the product of serious consideration of recent events beginning with the annual meeting and including the reviews given me by telephone by both Martin Spector and Daniel Cohen of the meeting with Kahn and his attorney. The year-long delay in reaching this 75% of completion point in the Schematic Development Phase was also taken into consideration, plus the protracted timetable suggested by Mr. Kahn. The additional factors which produced the two resolutions were Kahn's proven unreliability as to timing
>
> unresponsiveness to our needs
> financial irresponsibility
> intractability
>
> There was an enormous sense of relief which accompanied the decision. It was generally agreed, too, that this decision will be more beneficial than otherwise; we trust it will meet with your approval.
>
> Your suggestions or response to the list of architects will be appreciated and an early meeting to discuss procedure might be in order.[35]

The enclosed memorandum formally outlined the building committee's determination:

> At a regular meeting of the Building Committee held Tuesday, December 19, 1972, the following resolutions were adopted:
>
> That, in view of the difficulty in effecting a viable contractual relationship which will insure timely and satisfactory completion of the Mikveh Israel project, it is hereby resolved that counsel be instructed to terminate the relationship with Louis I. Kahn, Architect.
>
> That, immediately upon termination of the present architectural agreement with Louis I. Kahn, the Building Committee shall promptly communicate with a list of suggested Architects to determine their availability and interest in assuming the project.
>
> Both of the above passed unanimously. Present were Leonard Leventhal, Chairman, Henry Cohen, Hirsch Segal, Rabbi E. H. (?) Musleah, Meyer Klein, President of M. I., Cliff B and Ruth B. Sarner. Absent: Florence Finkel and Kate Solis-Cohen. Telephone proxy of consent from Jay Aster.

[34] Ruth Sarner to William Fishman, Dec. 19, 1972, Daniel Cohen Papers, ANMAJH.
[35] Ibid.

It was agreed that the above proceedings will be held in confidence until a new architect is appointed, and that it will then be Mrs. Sarner's responsibility to advise the Redevelopment Authority and OPDC, as well as any other official bodies necessary.

The following Architects will be reviewed as to philosophy, completed projects and reputations at the next meeting scheduled January 2, 1972 [*sic*]:

Mitchell Giurgolo [*sic*]
Venturi and Rauch
Bower and Bradley
Suer, Livingston and Demas
Norman Rice
Roy Larson of Harbeson, Hough, Livingston and Larson
Cope and Lippincott
Moshe Safdi [*sic*] (Israeli)
Geddes, Brecher, Quales [*sic*] and Cunningham
Demchick, Berger and Dash
David Zuckerkandel

Copies to William S. Fishman, Ruth Sarner, Martin Spector, Esq., Daniel C. Cohen, Esq., Peter Lehrer[36]

Ignorant of the synagogue's decision to fire Kahn, his office continued to work on the project. Indeed, there are drawings for the project dated as late as December 28.[37] Even as late as January 16, 1973, a representative of Kahn's office presented another proposal to Daniel Cohen.[38] The next day a letter from the president of the congregation, Meyer Klein, officially terminated the relationship with the architect.[39] On February 11 the

[36] Ibid.

[37] Solomon, *Kahn's Jewish Architecture*, 134.

[38] Memo to Daniel Cohen, Jan. 16, 1973, Daniel Cohen Papers, ANMAJH. The congregation was not pleased to receive this latest set of plans. As Sarner wrote Cohen in a letter containing a litany of complaints against Kahn,"I completely empathize with your position yesterday, when Vince Rivera presented you with ANOTHER set of plans." Ruth Sarner to Daniel Cohen, Jan. 17, 1973, Daniel Cohen Papers, ANMAJH. Cohen does not recall the precise day he went to Kahn's office to tell Kahn that he had been fired. It may have been after the visit of Vince Rivera to Cohen's office on January 16, or, possibly, after he had received the draft of the letter firing Kahn. Daniel Cohen, telephone conversation with Dine and Johnson, March 14, 2014. On January 16 Sarner telephoned a draft of that letter to Cohen's office, asking for his comments: "Mrs. Sarner called and dictated the following letter which she said that Mr. Klein has approved—should you want to make any changes, she has the authority to send out the letter over Mr. Klein's signature."

[39] Meyer Klein to Louis I. Kahn, Jan. 17, 1973, Daniel Cohen Papers, ANMAJH. The text has only minor adjustments in that suggested in the draft dictated over the phone to Daniel Cohen by Ruth Sarner (see above). The burden of the letter is as follows: "It is with deep regret that I must advise you of the decision to terminate our relationship with regard to the Mikveh Israel Mall project. We

building committee interviewed five architectural firms.[40] Minutes of a board of managers meeting held on April 10, 1973, document that "Mrs. Sarner moved, Daniel Cohen seconded the motion that the Congregation employ the architectural firm of Harbeson Hough Livingston and Larson (H2L2) to design the Mall Project. There was brief discussion as material demonstrating the firm's capability was circulated. The motion carried unanimously."[41]

We do not have a record of Kahn's side of the story, but Daniel Cohen recalls that, by the time he visited Kahn's office to deliver the news, Kahn had already intuited that his role in the Mikveh Israel project was finished. Cohen remembers walking to Kahn's office, wondering how he would break the news. Seeing him enter, Kahn asked, "You've come to fire me, haven't you?" Cohen, his burden instantly eased, replied, "Yes."[42]

Appendix

Gustav Klein to D. Hays Solis-Cohen, May 20, 1966, ANMAJH

Dear Hays:

As per conversation we had last Sabbath, I will endeavor to herewith give you in detail as briefly as possible, the many valid reasons for my objections to the present "set up" of building the mall Synagogue.

When the present Architectural Committee was appointed, I was not one of its chosen members, I was however asked by the Chairman to join the Committee, which I did; which was sometime after it was functioning.

The first meeting I attended, I was introduced to Mr. Kahn, and during various discussions, I made a couple of suggestions which he rejected with the comment, "No one tells me what to do, I tell them what to do." I then asked, "Let me understand you; Does that mean, if I consulted you to design a three story house and you felt that it should be a two story, you would refuse to design the one I wanted?" He answered, "That is exactly right." I mention this for you to draw your own conclusion.

---

appreciate your great personal commitment to the project since its inception and had hoped that we could work through with you to its successful completion. Time and cost factors, however, press heavily upon us and force this painful conclusion."

[40] Minutes, Meeting of Board of Managers, Feb. 13, 1973, ACMI**.** The names of the interviewed firms are not noted.

[41] According to Daniel Cohen's recollection, the design H2L2 submitted, ironically, came in at five million dollars and was eventually reduced to three million. Email from Daniel Cohen to Ranana Dine, Dec. 10, 2014.

[42] Email and telephone exchanges between Ranana Dine and Daniel Cohen, 2013.

His first model of the Synagogue was one with out any windows, all light he advised was to be artificial. I strenuously objected to this, he changed the model to the present one, using the towers or silos that are 21 feet from the Synagogue proper.

This design is a "take off" of the French bastile [*sic*], a model of which is on display at the Washington exhibit Mount Vernon Va. [a] photo of which I have in my files.

The present design has one narrow window in each of the towers which are 21 feet in diameter and not part of the Synagogue proper, therefor [*sic*] the only light for the Synagoague [*sic*] would be what daylight that trickles thru the arch openings separating the towers from the Synagogue.

I refer you to a booklet entitled "Recent American Synagogue Architecture" by the Jewish Museum, New York City, which features all the modern Synagogues that were displayed at their recent exhibit, including Mr. Kahn's version of M.I.'s. It also contains various Rabbis, [*sic*] remarks.

I refer you to page 14 of the above book and take the liberty of quoting Rabbi Raphael Posner. Remarks pertaining to Synagogue windows.

> A Synagogue should have windows facing towards Jerusalem (Babylonian Talmud) [(]Berachot 34b) (Rashi ad locum in order to be able to see the sky and achieve a suitable frame of mind for prayer) codified in the Mishneh Torah, Laws of Prayer, Ch. 5 (Orach Chaim 90:4) The Zohar Pikudei, rules that there should be 12 windows, symbolic, perhaps, of the 12 Tribes of Israel.

On page 16 there is a lengthy article by Rabbi Seymour Siegel, Jewish Theological Seminary, which corroborates the above.

Mr. Kahn is an Artist and his designs are out of the ordinary yet each occupant of the various buildings he designed, all seem to voice the same complaints, "Not designed for its intended use."

To bear out the above I take the liberty of refering [*sic*] you to an article in Horizon Magazine Sept. 1962 which carefully and quite eloquently describes his talents as well as his short comings, I am enclosing herewith pertinent copy of this article.

I also refer you to an article that appeared in the Evening Bulletin 3/12/1966 which describes Mr. Kahn's Alfred Newton Richards Medical Research Building at the University of Penna. (The article is too lengthy for me to transcribe so will get a copy made next week and mail it to you.) I refer you to one comment,

"No other new building has such a reputation for being a failure as these Labs. do.) The article makes interesting reading on the many short comings.

In the Mikveh Israel Record (Nov 1963) it mentions the article that appeared in the New York Times, and I quote one sentence "Kahn's buildings move the spectator tremendously even <u>when they work less than well</u>.

I refer you to the American Federation of Labor Medical Center on Race St. Philadelphia. A personal call there, will give you an "Ear Full." The reply to my inquiry when I asked how they liked the building was, "There is so much wrong with this building, Its [*sic*] a mess.

No one on the Committee seems interested enough to make inquiries as to the practicability of this Man's finished product, and I cannot find any one of the ultimate users that have a good word to say about their adaptability.

I have no personal grievances against Mr. Kahn, but I think that we are entitled to a building that is practical and within our price, and this is neither.

Sincerely yours
Gus

P.S. Regarding the Towers, besides being of very little or no value they are quite an item of the cost of the building. Each one is 21 ft. in dia. each having an area of 346.36 sq. ft. a total for the 10–3463.6 sq. ft., based on Mr. Kahn's estimated cost of the building of $30.00 per sq. ft. the total for the 10 silos would be $103,908, which to my mind could be eliminated.

Copy to Philip Margolis.

Williams College EUGENE J. JOHNSON and RANANA DINE

BOOK REVIEWS

Elizabeth Haddon Estaugh, 1680–1762: Building the Quaker Community of Haddonfield, NJ, 1701–1762. By Jeffrey M. Dorwart and Elizabeth A. Lyons. (Haddonfield, NJ: Historical Society of Haddonfield, 2013. 314 pp. Illustrations, notes, bibliography, index. $25.)

Elizabeth Haddon Estaugh's more than half century in western New Jersey left an indelible imprint. Yet, much of her story is shrouded in mystery. Arriving in the Delaware Valley on an unknown ship sometime in 1701, she devoted more than a decade to developing an imposing homestead. She then dedicated the ensuing five decades to helping establish an enduring Quaker community in the region of what is now Delaware, western New Jersey, and southeastern Pennsylvania. Over time, her life grew into the basis for legends. These included her possible encounter with Pennsylvania founder William Penn, romantic narratives of her love affair with husband John Estaugh, and unsupportable explanations for why she was childless. Abolitionist author Lydia Maria Child, who published the first admiring biography of Haddon Estaugh in 1846, portrayed her subject as a larger-than-life legend. Just as Haddon Estaugh remained an inspiration to women, Child's biography provided a model for Quaker hagiographers.

But what was the real story of Elizabeth Haddon Estaugh? To write this most recent study of the Quaker woman's life, history detective Elizabeth Lyons spent more than forty years combing through archives in Britain, America, and the West Indies. Lyons and her brother Stewart made a valiant attempt to sort out the "reality" of the "elusive figure resistant to research" (24). Unfortunately, their search was in vain. Both died before they completed this volume or found some indication of Elizabeth Haddon Estaugh's own perspective on her story. What emerged instead were myriad bits of information about the eighteenth-century Quaker woman's context: her parents, the London neighborhood of her childhood, the New Jersey neighbors whose marriages she witnessed, the purchasers of her father's American land holding, and her sponsorship of her nephew in America. Completed by Jeffrey Dorwart, emeritus professor of history at Rutgers University, the story also explores the economy of eighteenth-century England and its transplantation to the New World, the goals of John Estaugh and other religious missionaries, the fragility of life in both Old World and New, and the growth of Haddonfield Quaker Meeting. The book "steps back from the Elizabeth Haddon legend and examines Elizabeth's world through the religious and business relationships that

she had with the men and women around her"; it is "concerned less with guessing about Elizabeth Haddon Estaugh's innermost motives and feelings . . . [and more] with discovering her life (seen largely through the eyes of her contemporaries who left more documented evidence" (xiii). Even with this more limited goal, however, the pages of the Lyons/Dorwart volume are peppered with equivocal words like "probably," "most likely," and "possibly," as there remain significant lacunae in the available documentation.

The Lyons team has done the tedious task of plowing through hundreds of archival boxes of sometimes difficult penmanship, and Dorwart has reported their work almost as a series of visual and verbal snapshots. The result is an invaluable resource for anyone wishing to reconstruct Quaker familial and economic networks in the early decades of western New Jersey settlement. It is clear that Elizabeth Haddon Estaugh and her family were integral parts of those networks. However, while Dorwart and Lyons have woven together the threads of several decades of fresh research on her story, much of Elizabeth Haddon Estaugh's life in western New Jersey remains shrouded in mystery.

Haverford College EMMA J. LAPSANSKY-WERNER

Women in Early America. Edited by THOMAS A. FOSTER. (New York: New York University Press, 2015. 320 pp. Notes, index. $28.)

In her afterword to this fine collection of essays edited by Thomas A. Foster, Jennifer L. Morgan confronts the issue of whether or not such a volume should be published at all. "There is a contradiction," she writes, "in gathering a set of essays under the rubric of women in early America in which the essential argument is that one cannot write the social history of early America without women" (274). Morgan argues further that we are not at the point where writing essays on the history of women is "impossibly old-fashioned," particularly if those studies uncover the experiences of women from many backgrounds and demonstrate the significance of gender in political, economic, and social history (274). Foster makes the case in his introduction that research on women's lives remains necessary, despite the contributions and increasing popularity of gender history among studies of early America, because "[i]t is still largely acceptable for men to be portrayed as the universal historical subject" (3). Historians must still probe stubborn archives, using gender theory, to understand how Native American, African American, and European women participated fully in the development of North American societies.

These essays fulfill this mandate admirably. Ramón A. Gutiérrez explores the complex story of the aristocratic Doña Teresa de Aguilera y Roche of seventeenth-century New Mexico, who, caught in the web of masculine honor culture, faced the Inquisition in Mexico City. At the same time she took advantage of her class, mistreating her servants and slaves. Kim Todt focuses on seventeenth-century New Netherland, further demonstrating that the status of English women did not represent women's experiences in colonial North America as a whole. Under Dutch law, women retained greater control over property and participated more fully in commerce than did Anglo-American women. Matthew Dennis and Elizabeth Reis return to Salem, Massachusetts, to examine the patriarchal role of witch-hunting in Puritan New England, then consider witch-hunting in African and Native American societies and the ways in which Euro-Americans used gendered accusations of witchcraft as tools of colonization.

Betty Wood's essay, "Servant Women and Sex in the Seventeenth-Century Chesapeake," is similarly instructive. She reveals that white women and enslaved men of African descent defied Virginia and Maryland law despite severe penalties, including thirty or thirty-one years of servitude for their children. Joy A. J. Howard discusses the role of Rebecca Kellogg Ashley as a translator and negotiator between the Mohawks and New England missionaries. Christine Walker convincingly explains how, within the skewed demography of colonial Jamaica and with their male counterparts, women slaveholders assumed authority over enslaved Africans, creating an oppressive regime while at the same time aspiring for gentility. Karen L. Marrero explores the variety of ways women shaped Native-French interactions and trade. Susan Sleeper-Smith discusses the importance of native women's work in building productive agrarian towns in the Ohio Valley. She demonstrates how the United States government in the 1790s targeted these towns, kidnapping and imprisoning women and children and burning houses and crops to conquer the region. Ruma Chopra discusses loyalist women in British-held New York City during the American Revolution. Mary C. Kelley emphasizes the significance of female academies in providing higher education for American women from 1790 to 1850.

Erica Armstrong Dunbar presents a study of Ona Judge, who successfully fled slavery in Philadelphia. George and Martha Washington, her owners, had planned to give her to their granddaughter Eliza Custis Law. Judge escaped before her transfer south, while she could obtain assistance from the Philadelphia free black community. Judge's narrative is emblematic of others in this collection, which shows women taking action and experiencing oppression in ways integral to understanding the history of early America as a whole.

Lehigh University JEAN R. SODERLUND

The Philadelphia Country House: Architecture and Landscape in Colonial America. By Mark Reinberger and Elizabeth McLean. (Baltimore: Johns Hopkins University Press, 2015. 430 pp. Illustrations, maps, notes, index. $69.95.)

For the importance of its subject, the intelligence of its argument, and its visual quality, this is the best book on the architectural history of British colonial America. Its first half provides a richly authoritative transatlantic analysis of the "bourgeois country house" that gained architectural hegemony in Philadelphia. Based on a comprehensive series of individual estates' histories, the second half is an even more impressive narrative of country house building.

Reinberger and McLean unnecessarily freight their interpretation with the overdetermining "bourgeois," when "regent," "notable," "patrician," or even "would-be aristocratic" would less anachronistically identify the patrons of the estates studied. Country house building in Philadelphia began with the first generation of colonists, who followed the lead of founder William Penn. The builders were nearly all Quakers, and they intended their creations to be "long-term, even permanent retreats from the city where they could practice God's work, agriculture, and live frugally and plainly" (209). Diverse early designs belied this unity of intent, but the colony's second generation of builders, still predominantly Quakers, adopted "a more standard house type, the compact, or double-pile house": "two and a half stories, five to seven bays, hipped roof, brick, central-hall Georgian plan" (209–10). Here, Philadelphia's "bourgeois" residents drew on designs fashionable among the English gentry, and they gave a corresponding priority to agriculture. This gentrification of Philadelphia intensified in the 1730s and 1740s, with estates built by the proprietor, Thomas Penn (no Quaker), Governor James Hamilton (no bourgeois), and William Peters (a lawyer for *rentiers* and eventually head of the Penns' Land Office), but now with Palladian-styled aristocratic villas modeled on those being built up-Thames from London. Penn's Springettsbury was "the first predominantly ornamental pleasure garden in Pennsylvania" (234). It even had a deer park, a landscape redundancy in deer-infested North America but the height of conspicuous spatial consumption according to aristocratic traditions in the mother country. The architectural elegance of these pleasurable retreats proclaimed their builders' "artistic, intellectual, and epicurean" refinement (265). In their wake came a flood of more modest imitators. Even people in Germantown built such houses "as newcomers distanced themselves from the older town and its inhabitants" (264). Such distancing, however, often synthesized vernacular traditions in highly original ways, most notably with John Bartram's estate. Socially, the story culminates where it began, with Governor John Penn's Lansdowne, built in the 1770s and described breathlessly by John Adams in a 1795 letter to Abigail: "very retired, but very beautiful—a splendid house, gravel walks, shrubberies, and clumps of trees in the English style—on the banks of the Schuykill" (327).

The Johns Hopkins University Press has invested resources appropriate for a fine coffee table book on a first-rate piece of scholarship. Its generous format allows solid amounts of text, large-scale illustrations, and subsidiary comments and details to be integrated on single pages. The paper stock has just the right balance between low reflection for readability and glossy finish for precise images. The buildings come to life visually, with over two hundred figures—architectural plans and elevations, natural history illustrations, maps, landscape drawings and prints, and photographs—nearly two dozen of them in color. Mark Reinberger took most of the present-day photographs, which provide superb images that precisely develop the analysis. One can only hope that other presses will take this book as a model for publishing visual culture history.

Dalhousie University JOHN E. CROWLEY

America's First Chaplain: The Life and Times of Reverend Jacob Duché. BY KEVIN J. DELLAPE. (Bethlehem, PA: Lehigh University Press, 2013. 232 pp. Illustrations, notes, bibliography, index. $75.)

In *America's First Chaplain: The Life and Times of Reverend Jacob Duché,* Kevin J. Dellape examines the life of Jacob Duché Jr., the Anglican clergyman who opened the First Continental Congress with a moving prayer and served as chaplain to this body until October 1776, when he resigned for stated health reasons and his duties at Christ Church, Philadelphia. In truth Duché had second thoughts about independence and chose to stay in town for the British occupation of Philadelphia, when he was arrested as a notorious revolutionary. In October 1777 he authored a private letter to General Washington suggesting that the general stop fighting and negotiate a settlement with the British. After the letter became public knowledge, Duché found himself ostracized from both sides in the conflict. He departed for England later that year to explain his actions to the Bishop of London. In his absence Pennsylvania authorities proscribed him as a traitor, confiscated his property, and barred him from reentry. Following the 1783 peace, Duché unsuccessfully lobbied for permission to return from exile. By 1793, after moderates, many of them friends of Duché, gained power in Pennsylvania, the minister was allowed to return and given a pardon.

While Duché was satisfied to return to his town of birth, historians have long struggled to categorize his political leanings. In contrast to the majority of historians, who view Duché as a reluctant loyalist, Dellape sees his loyalty as fixed. He argues that Duché's support for the boycott of British goods and war against the empire is less important than his proposal "that independence be rescinded and negotiation for American rights commenced"(138). In Dellape's view, the

minister became a non-revolutionary after becoming disaffected with the idea of independence and the policies of radical constitutionalists in Pennsylvania. Whether one agrees or disagrees with Dellape, Duché cannot be seen as a passive participant.

More so than other ministers, Anglican clergymen owed fidelity to the king, who headed the church, and they raised weekly prayers for the monarch from the *Book of Common Prayer*. Duché's faith made him a uniquely unifying figure for the First Congress and the cause of American liberty. Duché's public role as first chaplain in fact multiplied the shock of his disaffection from the patriot cause and attempt to influence Washington. In pointing this out, Dellape both acknowledges and furthers the goal of recent scholarship demonstrating the intimate ties and connections between so-called patriots, loyalists, and newly emphasized disaffected and neutral parties. For example, while Duché traveled to England to explain his actions to the Bishop of London, British chaplains attached to regiments in the city offered to aid his assistant minister. By the following year, Duché's assistant and many church vestrymen evacuated with the British. Prominent patriots promptly occupied positions in the church vacated by exiles.

Beyond his advocacy on behalf of Duché's status as a non-revolutionary, Dellape demonstrates Duché's extensive roots in his congregation and community. The son of a Huguenot turned Anglican, Duché attended the College at Philadelphia and Clare Hall in Cambridge when Christ Church, Philadelphia, called him as their assistant minister. Four years later, in 1762, he received ordination from the Bishop of London and assumed this post. In 1775 he was elevated to rector. A member of Philadelphia's elite society, Duché married into a powerful Anglican family, but the clergyman managed to occupy a middle ground between evangelicals and rationalists in the colony. He went so far as allowing George Whitfield use of his pulpit. Dellape makes a strong case for the vibrancy of Anglicanism and prevalence of religious politics in eighteenth-century Pennsylvania as well as Duché's public whig sentiments and oratorical skills. The latter qualifications and knowledge of the necessity of binding southern Anglicans to the American cause swayed Samuel Adams to recommend Duché as chaplain to the First Continental Congress.

While biographies by definition are limited in scope, Dellape misses an opportunity to place Duché in context with disaffected and loyal members of his congregation who over the course of the war similarly left Philadelphia and faced banishment. He nevertheless provides a useful examination of the Duché family and the Anglican Church in Pennsylvania, as well as the particular predicaments faced by Anglican clergymen during and after American independence.

Northeastern University Ross A. Newton

Picture Freedom: Remaking Black Visuality in the Early Nineteenth Century. By Jasmine Nichole Cobb. (New York: New York University Press, 2015. 288 pp. Illustrations, notes, index. Cloth, $89; paper, $27.)

In *Picture Freedom*, Jasmine Nichole Cobb examines a series of visual strategies that white and black people undertook to make sense of the idea of black freedom in the early republic. In this incisive volume, the interplay between the concepts of visibility—how one is seen/understood in the eyes of others—and Black visuality—"the entire sum of the visual as experienced by people of African descent"—reveals the highly potent and contested nature of visual culture during this era (9). Cobb marshals a rich variety of sources, including prints collected for parlors, Jim Crow plays, oil portraits, wallpaper, runaway advertisements in newspapers, sentimental literature, black women's friendship albums, and joke books to underscore the magnitude of the debates surrounding African American freedom. In doing so, her illuminating project appeals to scholars in many disciplines in the humanities and social sciences.

The five chapters of *Picture Freedom* interweave theory and analysis of popular cultural artifacts to explain how African Americans staged interventions that disrupted dominant modes of visuality. The first chapter provides the foundation for understanding how practices of slavery established ways of seeing blackness. Cobb argues that slavery practices taught white Americans that blackness *should* be looked at, indeed scrutinized, for the purpose of controlling free and enslaved black people. The freedom suit of Elizabeth Freeman and multiple escapes from slavery, notably the Mende people aboard the *Amistad*, are examples of black efforts to claim their freedom. The second and third chapters focus largely on the domestic space of the parlor. This room was both a site wherein racial caricatures responded to white anxieties of encountering free black people in public spaces and one where black women abolitionists "cultivated critical looking practices and subversively engaged perceptions of free Black womanhood" (22). Cobb's analysis of the friendship albums that black women circulated among their activist friends and family is especially impressive. Chapters 4 and 5 display African Americans' growing public claims of freedom in print sources, while a powerful transatlantic visual culture rebuffed these claims. Waves of print culture produced by African Americans collided with increasingly voluminous print and visual cultures that sought to organize, harness, and undercut claims of black freedom domestically and across the Atlantic. In a short epilogue, Cobb examines the election and "sheer *representability*" of President Obama within the long history of debates that separated black freedom from black citizenship (221).

Throughout the book, the analysis of black feminist visual practices and methodologies of cultural analysis allow scholars to understand the debates occurring over the legitimacy of black freedom during the early republic. Cobb's work

cogently argues that black women "manipulate[d] popular discourses to suit their own lives" by refashioning ideas of blackness, womanhood, and respectability (71). However, her notion that it was impossible to render free black bodies as sentimental needs more evidence. Additionally, framing the debates of black freedom in the British empire by including responses to the Slavery Abolition Act of 1833 would greatly add to Cobb's analysis of white anxieties of black freedom. These fears are present in several of the print series examined in the book. Notwithstanding these suggestions, *Picture Freedom* greatly advances our understanding of the role of print culture in reflecting, and sometimes shaping, individuals' identities during the early republic.

Salisbury University ASTON GONZALEZ

The Long Shadow of Lincoln's Gettysburg Address. By JARED PEATMAN. (Carbondale: Southern Illinois University Press, 2013. 296 pp. Illustrations, notes, bibliography, index. $34.50.)

Across the Bloody Chasm: The Culture of Commemoration among Civil War Veterans. By M. KEITH HARRIS. (Baton Rouge: Louisiana State University Press, 2014. 232 pp. Notes, bibliography, index. $42.50.)

As Confederate armies began to surrender in April 1865 and the nation's Civil War came to a close, Union and Confederate veterans sought to reconcile their memories of the war and its results. In doing so, Civil War veterans initiated commemorative traditions that heralded the valor of their comrades, mourned those who had fallen, and simultaneously debated the war's causes and consequences. Civil War historians have since produced an exciting dialogue on commemorative traditions, the nature of reconciliation and reunion, and the divisive and complex ways in which Americans remember the Civil War. Two recent contributions to the historiography include Jared Peatman's *The Long Shadow of Lincoln's Gettysburg Address* and M. Keith Harris's *Across the Bloody Chasm: The Culture of Commemoration among Civil War Veterans*. Together, these two works explore the ways in which Americans remembered and appropriated the Gettysburg Address and struggled with the war's meanings and implications.

Without question, Gettysburg stands as the epicenter of the Civil War and its commemorative events. Four months after the nation's bloodiest battle, President Abraham Lincoln visited Gettysburg. He was there not only to dedicate the Soldiers' National Cemetery but also to articulate his vision for a postwar nation. Though the Battle of Gettysburg claims the bulk of battle-related studies, not until recently have historians redirected the conversation from issues of strategies and tactics to exploring the battle's aftermath, the process of preserving the landscape,

and the creation and perpetuation of Civil War memory. Jared Peatman, director of curriculum for the Lincoln Leadership Institute at Gettysburg, explores the contested memories of Lincoln's Gettysburg Address. He argues that while the Gettysburg Address remained an essential component to American culture and memory, Americans often deliberately ignored Lincoln's intent. In the decades after the Civil War, Americans resurrected the Gettysburg Address for propaganda purposes, often in times of domestic and international turmoil. During the First and Second World Wars, the Cold War, and the civil rights movement, for example, Americans used the speech to support different ends, selecting particular lines to bolster their purpose or agenda. While Americans freely invoked the words of the Gettysburg Address, however, it was not until the 1960s that Americans reconciled with the president's meaning.

Peatman lays the necessary background to twentieth-century interpretations of the Gettysburg Address by examining the events of November 19, 1863, the dedication of the Soldiers' National Cemetery at Gettysburg, and immediate responses to the president's speech. Central to Peatman's argument is his understanding of Lincoln's message and meaning. Drawing a clear connection from the Declaration of Independence to the Gettysburg Address, Peatman asserts that Lincoln "intended the Gettysburg Address as his most eloquent statement that a democracy could only persist with equality at its core" (2). In this aspect, Peatman concurs with the argument Garry Wills makes in his Pulitzer Prize-winning *Lincoln at Gettysburg: The Words That Remade America* (1992). Unlike Wills, however, Peatman maintains that Lincoln's words did not "remake" America. In 1863, the nation remained unwilling to embrace racial equality. Rather, it was not until 1963 that Americans began to accept Lincoln's argument that a democracy must include equality for its people.

In the days following the dedication of the Soldiers' National Cemetery, Americans contested and debated the president's address. Examining four locales—Gettysburg, Richmond, New York, and London—Peatman demonstrates how coverage of the day's events and the president's speech varied. Over the next century, Americans selected lines from the address as a means to "advance their own interests even though many were in direct conflict with Lincoln's true meaning" (114). The Second World War propelled the Gettysburg Address to domestic and international prominence. Domestically, Americans used the address with a patriotic fervor, as a means to encourage the sacrifices necessary to uphold the ideals Lincoln espoused in 1863. Internationally, foreign dignitaries used Lincoln's address as a means to forge a common cause with the United States and to envision an international world order.

In the seminal work on Civil War commemorative culture, *Race and Reunion: The Civil War in American Memory* (2001), David Blight argues that reconciliation became the nation's dominant postwar commemorative tradition. Blight concludes that Northerners and Southerners forged a narrative that heralded the

bravery and honor of Union and Confederate veterans alike. In doing so, and in order to establish this consensus narrative, Northerners and Southerners deliberately ignored the war's causes and consequences. In *Across the Bloody Chasm*, Keith Harris, an independent historian, challenges Blight's conclusions, finding veterans' commemorative traditions to be more complicated and divisive. Harris argues that both Union and Confederate veterans "worked tirelessly to preserve sectional memories that advanced one side over another and conjured fear, anger, and resentment among formerly warring parties" (1–2). He maintains that the story of "reconciliation and Civil War memory is thus a story of competition, negotiation, and contestation" (4).

Specifically, Harris finds that veterans remained fiercely devoted to their respective causes. Such rhetoric did not undermine a commitment to reconciliation, however. Harris suggests that while veterans accepted reconciliation, they found no contradiction in criticizing their former antagonists. Union veterans, for example, celebrated the preservation of the Union. Whereas Blight concludes that sectional reconciliation came at the expense of African Americans, Harris argues that Union veterans placed emancipation at the center of their commemorative culture. "Veterans galvanized behind their efforts," Harris writes, "to destroy slavery and elevated it to near equal importance with union" (92).

Meanwhile, Confederate veterans crafted their own commemorative culture, often in response to Northern claims. Disassociating the Confederate cause from slavery became a herculean task. Southerners asserted that slavery had nothing to do with secession, and some even went so far as to claim that Northerners introduced slavery into the nation and benefited from the institution. Arguing that they upheld the ideals of the founding fathers, Confederate veterans often portrayed the war as one fought to defend the homeland.

By demonstrating the contested nature of the Gettysburg Address, as well as its appropriation and malleability over subsequent generations, Peatman's work opens an important dialogue not only on Lincoln's address but also on interpretations of the nation's most famous speech. Similarly, Harris's *Across the Bloody Chasm* furthers the discussion on the war's legacy and the culture of commemoration. By challenging Blight's consensus interpretation, Harris shows that veterans' memories were often not monolithic but instead demonstrated continual antagonism toward former foes. Each work offers a critical contribution to the ever-growing body of Civil War memory, while also exploring the meanings of union, freedom, emancipation, and democracy in America's past and present.

The University of Virginia's College at Wise Jennifer M. Murray

Mourning Lincoln. By MARTHA HODES. (New Haven: Yale University Press, 2015. 406 pp. Illustrations, notes, bibliography, index. $30.)

"It was an evening that would ruin their lives," New York University history professor Martha Hodes writes of April 14, 1865 (1). Indeed, it was an evening that ruined many lives, not just those of Union Army Major Henry Rathbone and his fiancée, Clara Harris, the other occupants of the Lincolns' box at Ford's Theater. However, it was also an evening that brought a sense of retribution and hope to many, including not only Confederates but also Copperhead Northerners. It was an evening that still shapes our daily lives after 150 years.

Mourning Lincoln is a sobering return to that time and place in American history following the assassination of Abraham Lincoln. Motivated by her own memories and reactions to September 11, 2001—she was walking to NYU when the planes hit the World Trade Center—and, to a lesser extent, the assassination of John F. Kennedy, Hodes portrays the country as a place still as emotionally and politically divided after the war as it was at the beginning. The days, weeks, and months following Lincoln's assassination are presented through the letters, diaries, journals, and newspapers of Northerners and Southerners, men and women, children and adults, blacks and whites, slaves and slave owners, soldiers and civilians, politicians and clergymen. Hodes shows us that the war's most notable casualty was both revered and reviled as probably no other figure in our nation's history.

Hodes's research is breathtaking in both scope and depth. Drawing on approximately one thousand total sources, she examines diaries, collections of letters, newspaper articles, and other forms of writing. We hear from hundreds of citizens and soldiers, who remind us of the larger fears and issues that both surrounded and went beyond Lincoln's death. We have heard from some of these figures, such as Frederick Douglass and Mary Chestnut, before. We hear from others for the first time. Hodes selects representative figures, Northerners Albert and Sarah Browne and Southerner Rodney Dorman, whom she uses to frame the debates regarding Lincoln's death and its consequences. The Brownes were well-off Protestants from Salem, Massachusetts, whose moral and sociopolitical beliefs in free labor and abolitionism contrasted with those of Rodney Dorman, a Northerner transplanted to Jacksonville, Florida, and a convert to the Southern cause whose extraordinarily fierce proslavery and secessionist sentiments turned into a palpable hatred of Lincoln. These new voices reinforce our sense of the disparate emotions of the time.

There are many other voices who add their own emotions to the dialogue. Some are recognizable, like the Virginia fire-eater Edmund Ruffin, who found news of Lincoln's assassination "entertaining reading" (78). Ruffin committed suicide shortly thereafter, unwilling to live under the perceived yoke of the Union and accept civil rights for former slaves. Radical Republican George Julian, a rep-

resentative from Indiana, expressed his disgust that the "universal feeling among radical men here [Washington, DC] is that his death is a godsend." Former slaves truly mourned his death, but even some abolitionists did not.

Even for readers who know and have read a great deal about the Civil War, *Mourning Lincoln* will introduce a greater appreciation for the life and service of Abraham Lincoln. Whether he was loved or hated, the triumph of his presidency and the tragedy of his death were felt by all Americans. Historians should be grateful to Martha Hodes for that important reminder.

The Abraham Lincoln Foundation
of the Union League of Philadelphia James G. Mundy Jr.

Sisterly Love: Women of Note in Pennsylvania History. Edited by Marie A. Conn and Thérèse McGuire. (Lanham, MD: Hamilton Books, 2014. 208 pp. Notes. Paper, $32.99.)

The frameworks of place and time shape a biographical collection. So too does the disciplinary focus of each author. Edited by Marie A. Conn and Thérèse McGuire, *Sisterly Love* reflects the backgrounds of the authors, from history to religious studies, literature to mathematics. There are varied approaches to each subject; some are chronologically driven narratives, some reflect on the roots of the subject's ideology, and others are oral histories of women still living.

One theme is religion. Anna Johanna Piesch Seidel led the Sisters Choir in the early settlement of Bethlehem. Sister Assisium McEvoy, SSJ authored the *Course of Christian Doctrine: A Handbook for Teachers*, used throughout the world. Anna Kugler bridged both the medical and religious worlds as a doctor and missionary in India. Kate Drexel founded the Sisters of the Blessed Sacrament in 1891 and was canonized in 2000. Joan Dawson McConnon, cofounder of Project H.O.M.E. with Sister Mary Scullion, created one of the most effective existing organizations for the homeless. Women who are already well studied make up another group. These include actress and abolitionist Fanny Kemble; artist and muralist Violet Oakley; environmentalist Rachel Carson; impressionist painter Cecelia Beaux; and Ida Tarbell, the original muckraker.

The volume also includes stimulating discussions of twentieth-century entrepreneurs and pioneers in fields where women were rarely found. Mary Brooks Picken wrote over ninety books, including the iconic *Singer Sewing Book*, which allowed generations of women to learn how to sew at home. Gertrude Hawk founded a chocolate empire in northeastern Pennsylvania. Kathleen McNulty Mauchly Antonelli was one of a handful of hitherto little-known women working on the famous ENIAC computer at the University of Pennsylvania.

This volume could be used in the classroom as a model for student biograph-

ical explorations. The writers model research on the lives of women both for whom primary sources are few and for whom sources are available on the Internet. Sources are delineated at the end of each essay, which will be helpful to readers who want to learn more.

Commenting on the collection as a whole is difficult, both because of the range of work in which the women were involved and the varied authorial focus. Even so, *Sisterly Love* adds to our understanding of "women of note" in Pennsylvania. It is a welcome addition to that small bookshelf of biographical collections on Pennsylvania women. The goal of this volume by the Southeastern Pennsylvania Consortium of Higher Education (SEPCHE) was to increase readers' interest in searching for other women whose lives had an impact on society. This it certainly does. To this end, two other good state models exist: *Virginia Women: Their Lives and Times*, in the Southern Women: Their Lives and Times collection by the University of Georgia Press (2015), and *North Carolina Women: Making History* (1999).

Readers will not want to complete this book in one sitting and will rather find that it is best read by delving into two or three essays at one time. The intent of the editors and the SEPCHE leaders is to provoke more investigations like this one. After reading the volume, many educators and historians may hope that it will do so.

Philadelphia University MARION ROYDHOUSE

Engineering Philadelphia: The Sellers Family and the Industrial Metropolis. By DOMENIC VITIELLO. (Ithaca, NY: Cornell University Press, 2013. 288 pp. Illustrations, notes, index. $35.)

In the first edition of Mark Twain and Charles Dudley Warner's novel *The Gilded Age*, respected Philadelphia engineer Escol Sellers appeared as a delusional speculator. Angered by this portrayal, Sellers eventually produced a firsthand version of his remarkable career. According to author Domenic Vitiello, Sellers's own account, written in the 1880s, also depicted the process of industrialization "as a sincere pursuit of public import" (2). In *Engineering Philadelphia*, Vitiello makes the "public import" of the careers of several generations of the Sellers family into his central point. Other members were not only inventors, engineers, and machinists, but also educational, civic, and social activists in Philadelphia, Wilmington, Delaware, and Cincinnati.

Vitiello demonstrates that these two seemingly disparate realms of activity—activism and industry—were, in fact, interdependent. This is the double meaning of the book's title. Vitiello examines the significant contributions Philadelphia engineers made to the regional, national, and international economy in the nine-

teenth and early twentieth centuries. More to his purpose, the author shows how these engineers and manufacturers deliberately reshaped (i.e, engineered) the urban environment: their efficient and productive firms changed the physical landscape, offered employment, created model worker housing (at Edge Moor, Delaware), engaged in such civic projects as creating sewer systems, and developed educational opportunities that made the industrial city an enriching environment for many workers. With few exceptions,the Quaker Sellers family "generally sought to engineer social and material life to build what they viewed as a moral economy" (3). The author presents a detailed story of the positive side of industrialization, providing a necessary corrective to the usual unrelentingly dismal tales.

Vitiello's focus on successive generations of one family neatly lends itself to a rise and decline narrative. Such an intent is evident in the final chapter title, "Roots of Decline." In 1850, for instance, the Bush Hill section of Philadelphia was one of the major centers of machine building in the world; by the 1930s, the Sellers family tool works was the only important machine builder left in that vicinity, and in the early 1940s the family would sell the plant. The author finds in the fortunes and choices of later generations of the Sellers family an example of the quick and overwhelming decline of Philadelphia's manufacturing economy in the twentieth century.

Several factors originating in the early twentieth century, though, contributed to the deindustrialization of the city, not least of which was the concentration of capital in the hands of large financiers mainly based in New York. Perhaps Vitiello's main contribution here is his argument that the City Beautiful movement—often celebrated by architectural historians for the creation of beautiful civic buildings and spaces—consolidated an anti-industrial vision of the city. The City Beautiful movement established a principal of "metropolitan improvement through factory removal and the construction of highway connections between downtown and the suburbs," which mid-century planners incorporated into their own urban renewal programs (201). As manufacturing Bush Hill was transformed into the Benjamin Franklin Parkway, factories, working-class social institutions, and hundreds of workers' homes were removed to make way for a broad avenue lined with museums and other cultural institutions. The center of industrial education and innovation, the Franklin Institute, became a museum. The creation of the parkway accelerated the departure of manufacturers to suburban locations and began the transformation of the workhouse of the world into a destination for leisure, culture, and the arts.

West Chester University of Pennsylvania ANNE E. KRULIKOWSKI

Becoming Penn: The Pragmatic American University, 1950–2000. By JOHN L.PUCKETT and MARK FRAZIER LLOYD. (Philadelphia: University of Pennsylvania Press, 2015. 447 pp. Illustrations, notes, index. $49.95.)

Founded in 1749 by Benjamin Franklin and his associates, the University of Pennsylvania was first located "downtown" at Ninth and Chestnut Streets. In 1872 it moved across the Schuylkill River to Thirty-Fourth and Walnut Streets, then the Philadelphia "suburbs." However, authors John L. Puckett, a Penn professor, and Mark Frazier Lloyd, a Penn archivist, argue that, by 1950, the university resided in a very urban West Philadelphia. It was the dawn of urban redevelopment.

Becoming Penn documents the university's participation in this process in great detail. Administrators worked closely with Edmund Bacon's Planning Department and the City of Philadelphia Redevelopment Authority (RDA) to buffer the urban university from outside changes. Penn and the city feared an encroaching blight engendered by deindustrialization and an increasingly impoverished and growing African American population in West Philadelphia. Indeed, spearheaded in the 1960s by Penn, the West Philadelphia Corporation, and plentiful federal renewal dollars, the urban renewal process involved massive "Negro Removal." These actions not only earned Penn the bitter enmity of its black neighbors but also sparked the fear (and sometimes the reality) that, like its counterpart ninety miles north, Columbia University, Philadelphia's Ivy League university existed in an urban war zone. The authors contend that in the 1970s a chastened Penn rose to the occasion and launched the West Philadelphia Initiatives, a huge, transformational institutional commitment that undertook large-scale neighborhood revitalization in partnership with the university's black neighbors. Penn's new, southern-born president, Sheldon Hackney, led these initiatives.

The book, however, focuses on more than urban redevelopment. It also examines Penn's postwar presidential leadership, from Harold Stassen to Gaylord Harnwell, Martin Meyerson, Sheldon Hackney, and Judith Rodin. The authors especially highlight the role of Hackney. Following the modernist extravagances of urbanist Meyerson, Penn took steps under Hackney to address the hostile political repercussions caused by the excesses of redevelopment projects. Unit 3, for example, resulted in the demolition of blocks of salvageable "blighted" neighborhood housing. While Rodin was a self-described CEO who brought "corporatization" to Penn's leadership, she continued the university's engagement with the community as well. Like Hackney, she heightened the university's reputation for applied scientific research and seriously elevated undergraduate as well as graduate academic standards.

Nor do the authors fail to chart in great depth the physical transformation of Penn's campus. Viewing all of West Philadelphia as the canvas for university growth, postwar campus planners magisterially remade the once sleepy, ivy-covered cluster of nineteenth-century Victorian libraries and halls into the historic

core of a sprawling, glittering "University City." With the support of the City of Philadelphia, trolley track–lined streets were removed, city land was generously deeded to the university, and buildings needed for campus expansion were condemned. West Philadelphia was literally remade into what is today described as a magnificent, monumental corpus of "Eds and Meds."

To some degree this book could be described as pure panegyric, the saga of how the University of Pennsylvania arose from being a hallowed, but moldering, playground for a student body of rich, preppy, academically slothful "joe college" types into a major, academically distinguished research powerhouse where service education and community involvement are prioritized over fraternity life. In fact, the battle to tame fraternities, whose actions often appeared racist and sexist, occupies a modest, albeit important, subset of the Penn story. Indeed, the taming in part involved the demolition of the school's historic "fraternity row."

Despite the panegyric undertone, the authors temper their conclusion. University City, the University City Science Center, and the Penn Medicine (Hospital of the University of Pennsylvania) complex overwhelmed West Philadelphia. The disjunction between the wealth of the university and West Philadelphia's still-marginalized black neighborhoods continues to breed tension, despite Penn's heavy involvement in neighborhood education and other partnership activities aimed at social, economic, and physical revitalization. The book is heavily illustrated, clearly written, and accessible. It richly chronicles Penn's modern history and offers a powerful case study of the power of an urban university to shape the contours of the twentieth-century city.

University of Southern Maine JOHN F. BAUMAN

Ethnic Renewal in Philadelphia's Chinatown: Space, Place, and Struggle. By KATHRYN E. WILSON. (Philadelphia: Temple University Press, 2015. 278 pp. Tables, illustrations, notes, index. Cloth, $84.50; paper, $29.95.)

The central theme of author Kathryn E. Wilson's book is "saving Chinatown." Beyond its descriptive discussions and lively historical documents, the book is one of the first efforts to systematically conceptualize "ethnic renewal." "Ethnic renewal" is paradoxical. Ethnic indicates legacy; renewal denotes progress. "Ethnic renewal" is a dance between present and past, a negotiation between change and continuity. Those undertaking this process must decide what to save and what to renew. Using Philadelphia's Chinatown as a case study, this book documents the history of Chinatown's struggle and survival in the urban warfare against marginalization, objectification, gentrification, and ethnic suburbanization.

This book enhances and complicates the understanding of spatial justice that applies to other marginalized urban space. Chinatown is not just a themed

and commodified space. As Wilson puts it, "it is territory, a space for expression, identity and cultural inheritance" (12). Historically, Chinatown served as a sanctuary for Chinese laborers and merchants who were discriminated against in mainstream society. Now it is a cultural, social, and economic center for Chinese residents of the metropolitan area. Above all, Chinatown is home. It is a "living community for multiple generations old and new" (169). The houses, shops, community churches, and streets are the material carriers of people's memories and identities. To reclaim, maintain, defend, and expand the space is to protect culture and claim identity. Its changing boundaries embody the history of oppression from outside and resistance from within.

Wilson's book documents a history of ethnic autonomy and empowerment from below, both at the individual and organizational levels. Empowerment, advocacy, and resistance from inside are reactions to the enforcement from outside. However, as Wilson sees it, the key to ethnic renewal is the exercise of "self-determination," including self-Orientalism in reaction to discrimination and marginalization and self-representation within neoliberal celebrations of multiculturalism.

This book also portrays a fragmentary Chinatown. The power of "ethnic renewal" largely lies in bridging divisions and negotiating conflicts. These exist between tourists and residents, city government and community organizations, urban planners and activists, and Chinatown and its neighboring communities. The divisions are also within Chinatown, across gender, generation, class, and linguistic lines. Wilson details the difficulties of compromising, negotiating, and balancing within the community as well as the formations of solidarities while facing challenges beyond the community border. "Ethnic renewal" balances the need for outside resources with the desire to maintain the community's authenticity, allowing its members to be part of a city's progress in their own ways.

Wilson's book is timely. It appears in a period of consumption-driven urban development, which often leaves ethnic and minority communities facing the similar challenges of Disneyfication or dislocation. Notable examples include Chinatowns in Portland, Seattle, Chicago, San Francisco, New York, and Washington, DC. Thus, this book also provides a toolkit for urban planners, activists, community organizations, and city governments, not only for Chinatowns, but also for other ethnic and minority communities.

However, the question of transnational contributions to ethnic renewal still lingers. Increasing waves of new immigrants have come from mainland China. Moreover, a high percentage of Chinatown residents do not speak English, leaving readers to wonder how representational Wilson's English-only interviews are. Readers will remain curious about the voices of non-English-speaking Chinatown residents.

Rhodes College SHAOLU YU

Contributors

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Linda Myrsiades is professor emeritus of comparative literature and English from West Chester University in Pennsylvania. Her most recent published works in the interdisciplinary study of literature, rhetoric, medicine, and law include several books—*Law and Medicine in Revolutionary America* (2012), *Medical Culture in Revolutionary America* (2009), and *Splitting the Baby: The Culture of Abortion in Literature and Law* (2002)—and articles in such journals as *Cultural Studies* (2002) and the *Pennsylvania Magazine of History and Biography* (2014).

Marcia C. Robinson teaches the history of Christian thought and culture at Syracuse University. She is currently writing a book entitled "'The Noblest Types of Womanhood': Frances E. W. Harper and the Negotiation of Female Citizenship in Antislavery Electoral Culture." This manuscript focuses on the formation and early activist career of Frances Ellen Watkins Harper in Maine's antislavery electoral arena and the impact of this experience on her subsequent social reform career.