Spring 2013

MARYLAND
Historical Magazine

Cover

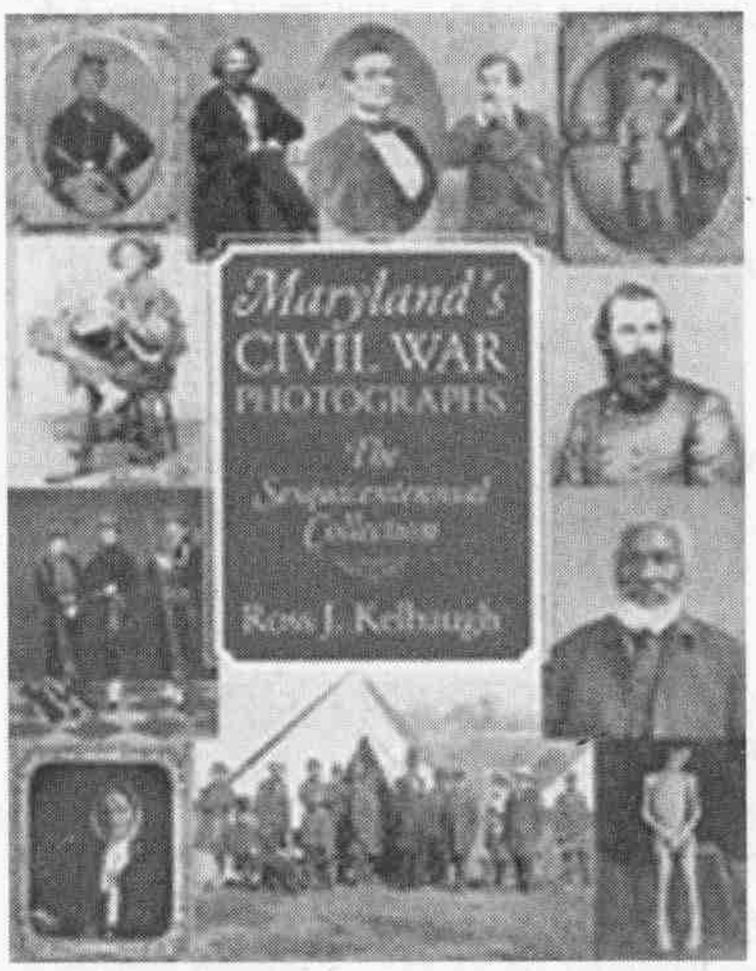
"The Notorious Belle of Baltimore": Elizabeth Patterson Bonaparte, 1785–1879

In 1803, Elizabeth "Betsy" Patterson, daughter of Baltimore merchant William Patterson and Dorcas Spear Patterson, married Jerome Bonaparte, Napoleon's younger brother. The furious emperor recalled Jerome to France and annulled the marriage, leaving Betsy alone to raise their son. Remembered more for her beauty, wit, scandoulous clothing, celebrity marriage, and divorce, this talented and tenacious child of an enterprising and successful Irish merchant also spent decades working to secure the imperial title for herself and her son. What's more, through the remaining seventy years of her life, she transformed the annuity from Napoleon into a fortune that totaled over one million dollars—upwards of twenty-three million dollars today. (*Elizabeth Patterson Bonaparte,* by George D'Almaine after Gilbert Stuart, 1856, Maryland Historical Society.)

PDA

Friends of the Press of the Maryland Historical Society

THE PUBLICATIONS COMMITTEE continues its stalwart support of Maryland Historical Society books with the funding of two titles during this season of commemorating the sesquicentennial of the Civil War and the bicentennial of the War of 1812.



Ross J. Kelbaugh, *Maryland's Civil War Photographs: The Sesquicentennial Collection*, is a vast photographic record of the people, places, and events surrounding the war. It is also the largest collection of original Maryland-related Civil War photographs ever published.

Donald R. Hickey's *187 Things You Should Know About the War of 1812* is a concise and informative introduction to the often complex issues surrounding that conflict, presented in an engaging question-and-answer format.

These books are numbers five and six of the Friends of the Press titles, continuing the society's mission to bring forth the best new Maryland history. We invite you to become a supporter, to follow the path first laid out with the society's founding in 1844. Help us fill in the unknown pages of Maryland's past for future generations. Become, quite literally, an important part of Maryland history. If you would like to make a tax-deductible gift to the Friends of the Press, please direct your gift to Development, Maryland Historical Society, 201 W. Monument Street, Baltimore, MD, 21201. For additional information on MdHS publications, contact Patricia Dockman Anderson, Editor, 410-685-3750 x317, or panderson@mdhs.org.

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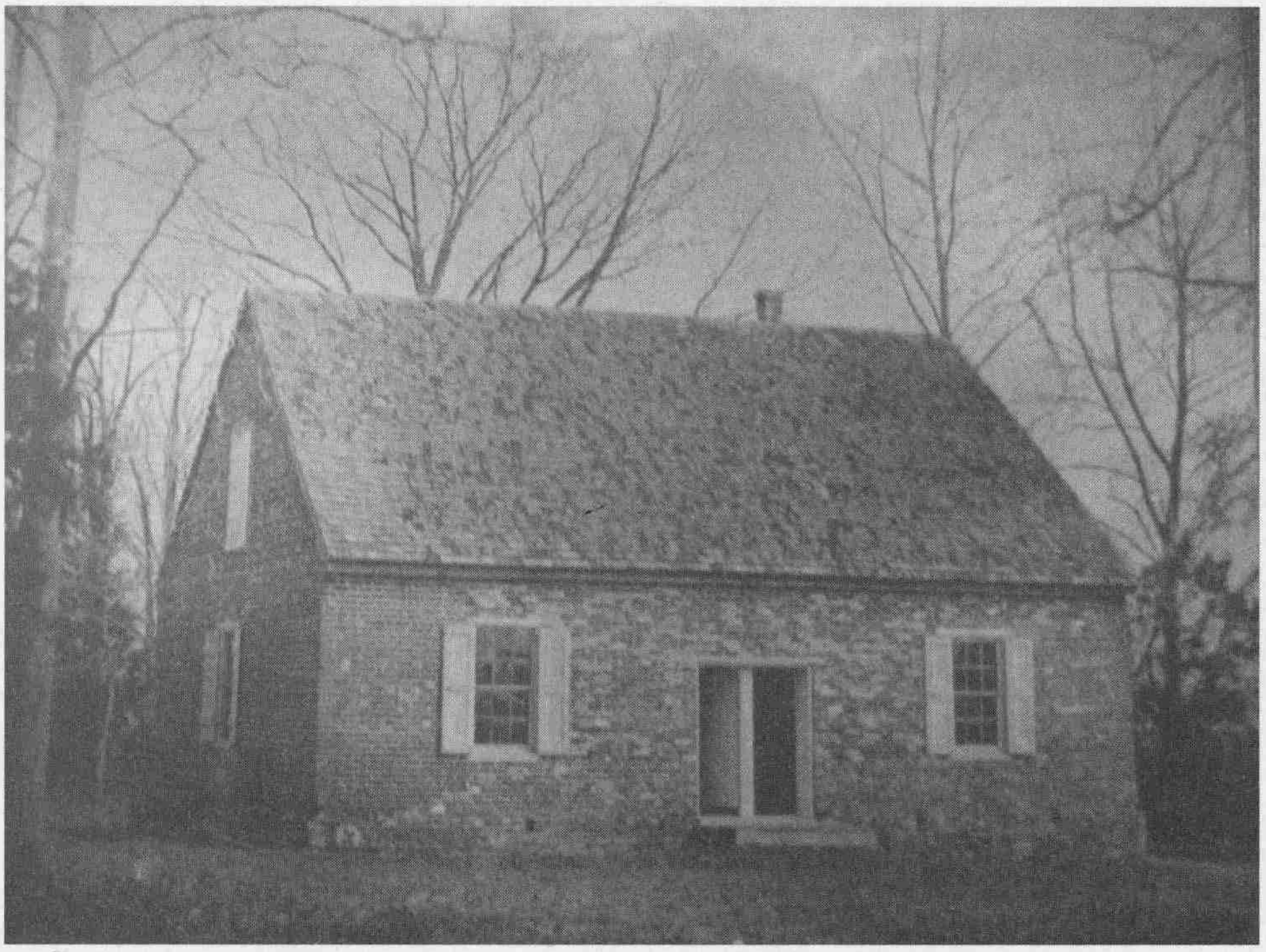


Cecil Meeting House, Kent County, Maryland, photographed c.1900–1910. Eastern Shore Quakers aided runaway slaves and protected free blacks as fear and tension escalated following passage of the Fugitive Slave Act. (Maryland Historical Society.)

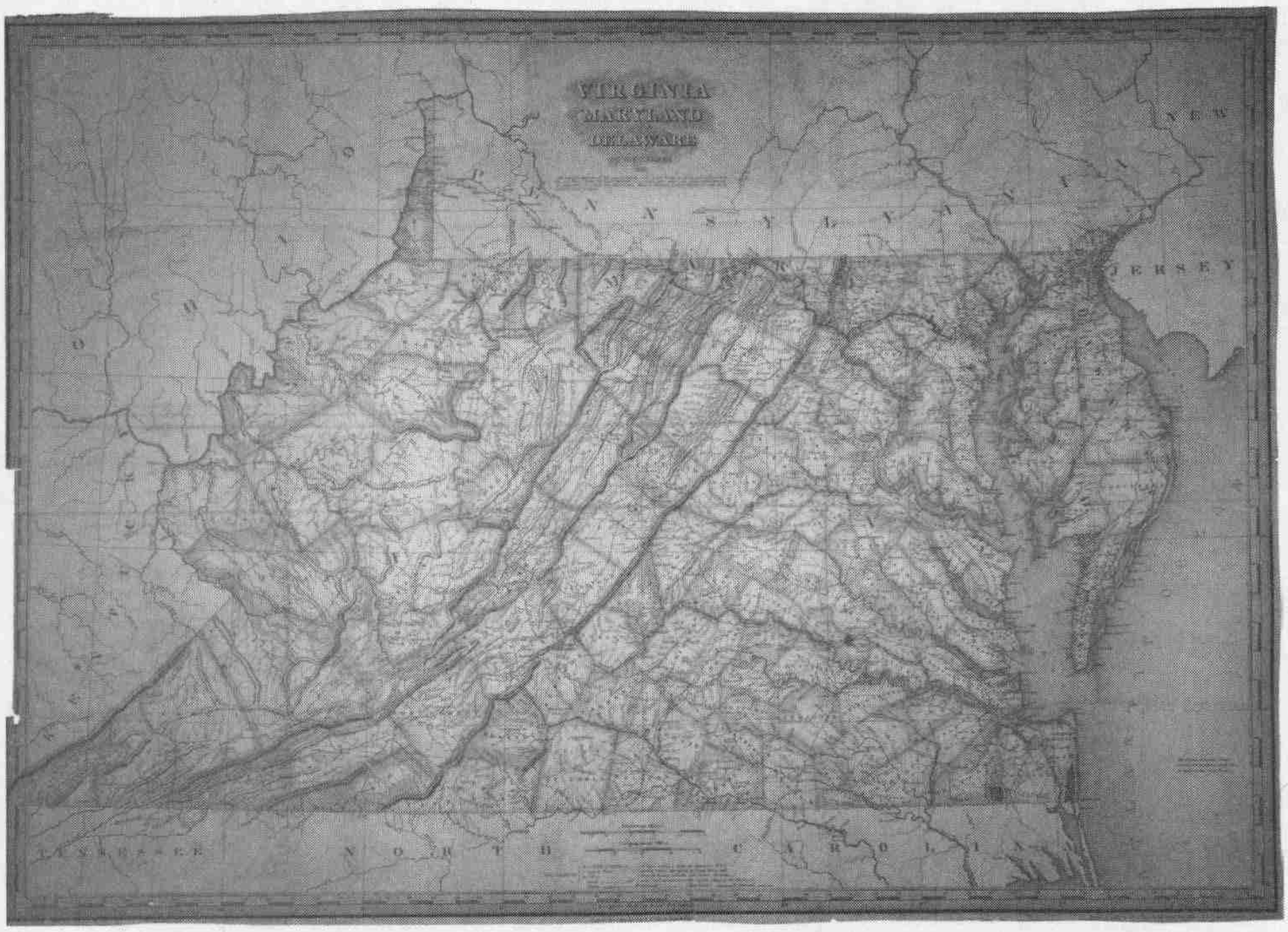
"A Local Question": Kent County Quakers, the Underground Railroad, and a Woman Named Harriett

LUCY MADDOX

The history of the Underground Railroad on the Eastern Shore of Maryland is closely identified with the name of Harriett Tubman—for good reasons: she was an extremely effective agent, an intriguing person, and by now a figure of almost mythical status. As her most recent biographer notes, "We all believe that we know Harriett Tubman." Her notoriety, however, has probably drawn attention away from others who were active on the Eastern Shore at the same time. Tubman was very likely assisted in her initial flight to freedom by Quakers in Caroline County, and it is becoming clear that the Quaker presence across the Eastern Shore was crucial to the success not only of Tubman's subsequent trips to the area but of the Underground Railroad in general. In Kent County, a small group of Quakers put their lives in danger to aid runaway slaves and abused freedmen, and there is strong evidence that they shared their work with another intriguing black woman named Harriett whose tracks are every bit as hard to follow as Tubman's.[1]

It is impossible to know how many slaves escaped from Kent and other Eastern Shore counties in the years immediately before the Civil War. Contemporary estimates can be either vague or subject to one bias or another. To take one example: a representative from Georgia announced in Congress in 1860 with clear outrage but fuzzy statistics that abolitionist activity in the border states had accounted for "thousands and millions of dollars worth of property" lost annually. Even in the absence of hard numbers, it is clear that the rates of escape were high enough from the late 1840s through the first years of the Civil War to disturb slaveholders on the Eastern Shore and intensify their anger against abolitionists. As an early historian of the Underground Railroad asked rhetorically, "Can it be thought strange that the disappearance week by week and month by month of valuable slaves over the unknown routes of the underground system should have produced wrath, suspicion and hostility in the minds of people who could justly claim to have a constitutional guarantee, the laws of Congress, and the decisions of the highest courts on their side?"[2]

Lucy Maddox is a retired professor of English and American Studies at Georgetown University. She now lives in Chestertown, Maryland.



Maryland's northern border is the Pennsylvania line, a geographic advantage for fugitive slaves. Henry S. Tanner, Virginia, Maryland, and Delaware, *1839. (Maryland Historical Society.)*

Slaveholders in Kent County had already formed a "Mutual Protection Society" in 1846 to insure themselves against financial loss from runaways. In September 1849, an antislavery newspaper in Ohio reported on the large number of slaves who had recently fled from Maryland and observed that their flight was causing "great commotion" among slaveholders. The paper noted with satisfaction the "absconding of whole gangs and families of slaves, who are seldom ever caught." Three months later, the same paper again reported on the excitement in Maryland, this time shifting its rhetoric significantly by referring to the "panic" among slaveholders "especially on the Eastern Shore," and observing that many slaves were being sold to traders, "their owners considering them very unsafe property while the facilities of the 'underground railroad' remain so available." The paper singled out the specific situation in Kent County, quoting a slaveholder there as predicting that at the current rate of escapes, in five years the number of slaves in the county would be reduced by one-third. About the same time, a proslavery newspaper in Delaware, the *Wilmington Chicken*, also reported on the increasing number of runaways from Maryland and Delaware, though with alarm rather than complacency. The *Chicken* expressed a belief that "the underground railroad extends a considerable distance down the State, and that branches have even entered Maryland." Noting that slave property was "insecure" in both Maryland and Delaware, the paper concluded that soon "we shall not have a

Kent County, Maryland, bottom center, less than sixty miles from the free state of Pennsylvania. Detail, Tanner, Virginia, Maryland, and Delaware.

slave worth keeping. The young and hearty who are able to work, run away, leaving behind the old and children, too young to be of much service."[3]

The number of escapes from Maryland did not decrease after the passage of the Fugitive Slave Act of 1850; in fact, it is likely that the number increased. In October 1855, the *Kent News* reported "another stampede" of eighteen slaves from Kent County in a single day and concluded, "if this underground railroad is not put a stop to, we advise [slaveholders] to ship their negroes to the South." By 1858 the *News* was registering the serious ramifications of the runaway problem in the county:

> It is well known that this county, for some years, has suffered severely from the loss of slaves, and that this number has been so great that in some sections there is now an insufficiency of this kind of labor for agricultural purposes. Few are willing to invest their capital in supplying this deficiency, on account of its admitted insecurity. In the year 1856, not less than 60 slaves ran away from their owners in this county, whose aggregate value exceeded $60,000. . . . The fact that negroes who had never been within many miles of the northern limits of the county make good their escape without leaving behind them any evidence of their direction, has forced the conviction upon the public mind that they have derived assistance from some one. So successful have been past attempts

> to run away, that a few hours' start has been ample to prevent apprehension. These circumstances have naturally excited alarm, suspicion and conjecture on the part of slaveholders.

The newspaper's estimate of sixty runaways in a year seems unrealistically low and may reflect the newspaper's fear that higher numbers would alarm slaveholders and further encourage potential runaways.[4]

It is not surprising that slaves frequently ran away from Kent County. The county's proximity to the free state of Pennsylvania and to the active Quaker communities in Delaware and Pennsylvania encouraged escapes. There were also a large number of free blacks in the county—3,100 in 1850, as compared to 2,625 slaves—who were available to help escapees. Slaves also helped other slaves. In 1855 Thomas Garrett wrote to William Still of George Wilmer, a Kent County slave, that he "was a true man, and forwarder of . . . some twenty-five [slaves] within four months."[5] In addition, slaves in the county had before them the prospect of being sold by owners who no longer needed them, or feared losing their investment if a slave ran away, or preferred to hire seasonal workers who would not need to be cared for when they could no longer work. Newspapers in Kent and surrounding counties regularly ran advertisements from slave dealers, such as Chestertown's own John Denning, eager to buy Eastern Shore slaves and sell them farther south through the Baltimore markets.[6]

The consternation caused by these "stampedes" of slaves from Kent County was not limited to owners who saw profitable assets disappearing. The anger and especially the anxiety and fear that spread across the Eastern Shore in the antebellum period affected most of the population—slaveholders, slaves, free blacks, and antislavery whites, including those who were not willing to declare themselves abolitionists. The extent of the nervousness and fear, and some indication of its causes, are indicated by a letter written from Kent County by Kate Kennard on the first of October 1855, three weeks before the *Kent News* reported on the flight of eighteen slaves. Kate was the daughter of Thomas Kennard, a physician from Still Pond who was listed in the 1850 census as owning nineteen slaves. She wrote to her brother Tom in St. Louis:

> I suppose John told you about the negro excitement; fifty-odd left in less than a week and also of Mr. Newman's shooting at Mr. Wm Spry because he thought he had induced his woman to ask to be sold, Mr. John Comegys is broken up by their loss has rented the farm and intends living with [unintelligible]. It must be very painful, to have to sell old family servants, but I do not know what else we are to do under such circumstances. Ours have been very uneasy since, and talk incessantly about it. Andy says it gives "me great stress of mind to think cause one sent away, all have to be sold," and I think it does seem hard that the servant should suffer for the guilty.

If Kennard was right, or even close to being right, about the number of runaways

William Still (1821–1902), member of the Pennsylvania Anti-Slavery Society and author of The Underground Railroad, *an account of the society's work containing detailed information on many of the runaways they helped. (Maryland Historical Society.)*

from the county in less than a week, then the *Kent News* estimate of sixty for all of 1856 seems very low indeed, as does the U.S. census report of only 279 escapees from all of Maryland for the year ending June 30, 1850. Whether her estimate is accurate or not, her letter describes a pattern that was common across the Eastern Shore: reports of the flight of a very large number of slaves; suspicion among neighbors that led to violence; a farmer's abandonment of his farm, apparently because he no longer had enough slave labor to work it; other slaveholders' anticipation of having to sell their own slaves to prevent a severe financial loss; the slaves' fear of being sold to unknown owners in unknown places; and a general atmosphere of perplexed anxiety.[7]

RUNAWAYS FROM THE Chesapeake could count on finding help among the Quakers of Maryland, Delaware, and Pennsylvania, who married into each other's families and communicated with one another regularly, and whose network of safe houses and conductors was well used. William Still of Philadelphia remarked that "Underground Railroad operations were always pretty safe and prosperous where the line of travel led through Quaker settlements." The identities of some of the busiest of the Quaker conductors, such as Thomas Garrett and John Hunn in Delaware, were well known during their lifetimes. Garrett was quoted as declaring publically in 1858 that he had already assisted more than two thousand runaways, most of them from the Eastern Shore. On the Eastern Shore itself, though, while there was clearly a network in place, the identities of most of those who were actively involved have remained obscure. In Wilbur Siebert's 1898 list of Underground Railroad conductors, for example, over 250 names from Pennsylvania are included, as compared to only five names from Maryland, none of whom was from Kent County.[8]

Cecil Meeting in Kent County provided at least two men who left evidence of their involvement in the Underground Railroad, especially during the 1850s and early 1860s, when the number of runaways was greatest.[9] James Lamb Bowers and Richard Townsend Turner were both descended from strong Maryland Quakers—the Bowers family in Kent County and the Turners in Baltimore. Richard Townsend Turner's father, Joseph, a successful merchant in Baltimore, served as clerk of the Lombard Street Meeting in the city. His mother, Rebecca, who remained in Baltimore after her husband's death in 1850, was a minister among Friends at the Lombard Street Meeting, one of the founders of Swarthmore College, and a founding member of the Friends Association in Aid of Freedmen. During the Civil War, she spent most of her days at the headquarters of the association to help with the rush of sometimes desperate former slaves who had been set free with no resources and no place to go. Richard married Elizabeth Betterton, who came from an established Philadelphia Quaker family. Shortly after his father's death, Richard moved his family from Baltimore to a place on the Chesapeake Bay in Kent County, which he named Betterton after his wife, and ran a profitable business from there, selling lumber and shipping grain to Baltimore, Philadelphia, and New York. He and his mother corresponded and visited often. A Turner family member later remembered Rebecca as a woman of "vast energy, powerful constitution, and fine capability—emphatically a 'Flame,' the Bonaparte of her race." The same family member recalled Richard, with somewhat less veneration but in ways that are borne out by his public actions, as "a free thinker; readily won over by kindness; may be made a strong friend of, or as much of an enemy. A man of veracity and strict integrity. Exceedingly sensitive with strong prejudices."[10]

James Bowers had strong Baltimore connections as well. His sister Mary Ann married John Needles, a prominent Quaker furniture-maker and activist in Baltimore who was a president of the Friends Association in Aid of Freedmen and a founding member of the Baltimore Association for the Moral and Intellectual Improvement of the Colored People. In the brief autobiography Needles wrote late in his life, he described putting antislavery materials into the drawers of furniture he made and using it for packing material when shipping furniture to buyers in the south, many of whom, reportedly, were not pleased. Mary Ann Bowers Needles was appointed a traveling minister by Cecil Meeting in 1847; John Needles joined her in her travels when he retired from his furniture business. The memorial produced by Baltimore Monthly Meeting after John Needles's death emphasized his "fearful integrity" as an abolitionist living in a city with a busy slave-trading port. "He would go to the slave pens and ask permission to go through to look for those legally entitled to their freedom; and through his efforts many were set at liberty, to their great joy and his satisfaction." Ellwood, the house that Richard Townsend Turner built at Betterton, contained at least one piece of furniture built by John Needles.[11]

James Bowers first got into trouble with his slaveholding neighbors and with the

law in 1853, when he was charged with helping a slave to escape by forging a pass for him. The slave, who belonged to a Dr. Davidson in neighboring Queen Anne's County, was captured and subsequently named Bowers as the one who had signed Davidson's name to the pass.[12] In what now seems a nice irony, the slave was not able to testify against Bowers, since Maryland law decreed that no black person could testify against a white person in a court of law. No white witnesses could be found who were willing to confirm that the handwriting on the pass convicted Bowers, and the case was abandoned, although, as subsequent events made clear, it was not forgotten by many in the county. Five years later, an anonymous letter to a newspaper in neighboring Cecil County from "a Citizen of Kent" claimed that Bowers had been "emboldened" enough by his escape from the law in the Davidson case to have "again and again obtruded his opinions insolently upon men, even after many warnings as to what might be the result. . . . He declared upon all occasions, his abolition proclivities, until they became intolerable."[13]

One sign of the extent of the continuing anger against Bowers, and the nervousness induced by the explosive atmosphere in the county, appears in a letter sent to the *Kent News* in January 1856 by a neighbor of Bowers, J. W. Corey. Corey explained that he was writing to refute rumors that he had been complicit in the recent escape of several slaves, rumors based on the fact that he had left Kent County for a few days, during which time some of the escapes took place, and that he had visited James Bowers on his return. Corey explained that he visited Bowers in an effort to collect a debt and assured readers that his views on slavery, while really no one's business, were "not materially at variance with those entertained by slave-holders generally of this county."[14]

A particularly horrific outcome of the slaveowners' panic occurred in June 1856, when a white resident of the county was killed by a black man, probably a free black. A month earlier, county officials had responded to the "stampede" of slaves by authorizing a special police force to patrol the borders of the county, especially the northern border, and instituting a schedule of bounties for the capture of runaways: anyone who captured an escaping slave within the county was entitled to 20 percent of the sale price of the slave; if the capture occurred outside the county but within the state, the bounty was 30 percent; for a capture outside the state, it was 50 percent. On June 23, George Vansant and another white man, apparently in response to the county's new policies, were patrolling in Head of Sassafras (now Sassafras), when a black man carrying a scythe approached. Vansant and his companion, at least one of whom was armed with a pistol, accosted the man and tried to arrest him. An altercation ensued, and the black man struck Vansant with the scythe, nearly severing his head. The black man fled, and no arrests were made in the case until after the governor of Maryland offered a two hundred dollar reward for the apprehension of the killer. A free black named Albert Reed was arrested in late July and charged with murder. The reward for his conviction went unclaimed, however, since the statement

of charges against Reed was so riddled with errors that the case finally had to be dismissed, after several changes of venue and at least one effort at a retrial.[15]

The anger directed specifically against James Bowers had resulted in at least one court case, in 1857, when John Biddle, a slaveholder, was fined five dollars and costs for injuring Bowers by throwing a pitcher at his head.[16] On a night in June of 1858, local anger against Bowers turned much more violent, with results that had far-reaching effects on whites and blacks, slave and free, within the county and beyond. In reporting on the events of that night, the *Kent News* cited the Davidson case as a source of the troubles:

> Since then, suspicion has been directed against [Bowers], and possibly it may have been confirmed, from the fact that his immediate neighborhood has suffered to a considerable extent from the loss of [slave] property. Reports say that the proceedings of Wednesday night had its origin in recent preparatory consultations and arrangements of sundry slaves to abscond, their arrest, and the developments made by them, connected with various antecedents of a similar character.

In his account of the same night, the "Citizen of Kent," quoted above, similarly implied that Bowers had brought all his problems on himself: "The present time, several negroes were caught in the act of running off, and they laid the blame upon Mr. Bowers. Finding that he could not be detected, and being fully satisfied that he was an incendiary amongst our community, a number of gentlemen waited upon him and gave him ample time to leave, but Bowers disregarded all their admonitions and threats."[17]

On June 20, the "gentlemen" returned to Bowers's home, this time determined to supply the kind of justice they had not been able to secure elsewhere. What happened next inflamed the county and attracted national attention. The men called Bowers out of his house at midnight on the pretext that a neighbor needed help with a broken wagon. Taking him into the woods, they tarred and feathered him and extracted a promise from him that he would leave the state within twenty-four hours. Bowers's pregnant wife tried to come to his assistance but was forced back into the house. Reports about whether or not she was injured, or how badly, vary so widely as to make it impossible to determine the truth. The mob, of somewhere between ten and thirty men, then moved on to the house of a free black man named Butler in search of a woman named Harriett Tillison, also a free black, whom they apparently suspected of working in collusion with Bowers. Butler denied that Tillison was in his house. When a search of the house revealed her hiding there, the mob whipped Butler, then stripped Tillison to the waist and tarred and feathered her. In its report of the event, the *Kent News* took some trouble to describe Tillison:

> The woman, who has a strong infusion of the Anglo-Saxon, was taken some

> distance from the house, and the upper portion of her person subjected to a similar application of tar and feathers. This woman, it is alleged, lives in Cecil [County], and for several years has frequently visited almost every section of the county, without any ostensible business, exerting, wherever she goes, her wonderful powers of conjuration and fortune-telling. . . . She is represented to be about fifty years of age, dwarfish in appearance, scarcely weighing fifty pounds, and is calculated to excite a great influence upon the more superstitious portion of blacks. She leads a migratory life, and is usually found in the houses of free negroes. Her advent in this county has been followed by the escape of slaves on more than one occasion.[18]

The slaveholders of Kent County, who were eager to rid the county of as many free blacks as possible, even the law-abiding ones, were especially intent on being rid of this migratory female troublemaker.

The news of the attack on Bowers spread rapidly in the county, as did the fear engendered by the violence of the mob, especially among other Quakers. Two days after the event, Richard Townsend Turner wrote to his wife, who was away from home, expressing his outrage and grief and tacitly acknowledging that his own participation in the Underground Railroad had put him and his family in danger:

> James Bowers has been taken from his own house by a party of disguised ruffians and tarred and feathered. His wife lies very ill from the effect upon her spirits and mind,—verily Slavery is a most efficient aid to the Evil one. How my very soul abhors the institution and it seems to me so strange that so many very excellent and correct people are dead and lifeless on this great abomination and some even countenancing and supporting. . . . I feel that my position is but little better than that of J.B. The midnight hour may yet be disturbed with savage cries of brutal men thirsting for my blood. Yet I do not feel alarmed. I have done nothing that my conscience condemns, nor anything unpeaceful.[19]

Richard Turner was right to anticipate more organized attacks on abolitionists and more violence in the summer of 1858, although he and his family managed to escape it themselves. The *National Era* described the situation in Kent County as "a kind of guerrilla warfare between the Anti-Slavery and Pro-Slavery men of the vicinity, in which the former seem to have been so far the winners." The town of Chestertown erupted in fights on the Saturday following the tarring-and-feathering, but the real battles occurred at the Fourth of July celebrations, when the Bowers sympathizers were reported to have gone on a rampage, thrashing the editor of the *Kent News* with a cane, knocking down a reported twenty-five of the proslavery party, running two of them out of town, and sending another into hiding for two days. The *National Era* cited "men who know" in reporting that "at least three-quarters of the people are on Bowers's side: nearly all the laboring class or non-slaveholders, with a

part of the slaveholders themselves, condemn it." The "Citizen of Kent" who wrote to the *Cecil Democrat* took a more sanguine and less political view of events, attributing the uproar in Chestertown to the effects of "firewater and some misunderstanding by parties who had their hearts peculiarly tender at the effects of liquor."[20]

The proslavery forces, led by Dr. Thomas Kennard, U.S. Senator James Alfred Pearce, and Ezekiel Chambers, chief judge of the Second Judicial District, met in Chestertown on July 17 to plan, consolidate their forces, and make a public statement about the legality and morality of their position. The inclusion of a judge and a senator in the leadership must certainly have given encouragement to any who had qualms about the legality of the actions against Bowers. The meeting, held just over a month after Abraham Lincoln's "house divided" speech, echoed the Illinois senatorial candidate's characterization of the country as dangerously split on the issue of slavery. Rather than issuing a call for unity, however, as Lincoln had done, Kent slaveholders issued a call to take sides and stand tough. Attendees at the meeting endorsed a declaration that "in such a contest there can be no neutrality; he that is not for us must be regarded as against us." Judge Chambers had begun the proceedings by declaring that, even if one disapproved of the methods used to restrain James Bowers, he had to be restrained, given his "criminal and mischievous intercourse with our slaves." It was now the duty of all law-abiding citizens to align themselves against the abolitionists, who were surely under the influence of "religious fanaticism or political organizations." The alternative, in Chambers's eyes, was to submit to being "gradually stript of our property by the great machinations of those who operated in the dark and only in communion with blacks, who could not legally testify against them, and to the threats and assaults of their adherents." Senator Pearce spoke next, abjuring the judge's high moral tone to declare Bowers a "perfidious scamp—an enemy of the community in which he lived, and dangerous to its peace and security." Interestingly, Chambers's mention of "religious fanaticism" as one source of abolitionist activity is the only statement in the published record of the meeting that could be construed as a reference to Bowers's Quakerism. Similarly, in all the press coverage of the entire Bowers affair, the proslavery papers were more likely to mention that Bowers was a Quaker than were the antislavery papers, as if editors on both sides recognized that, at least in the slave states, his Quakerism would be a strike against him.[21]

The posse that originally went after James Bowers was also in search of Harriett Tillison, whom they knew by name. It is therefore fair to assume that she had been working with Bowers in aid of runaway slaves, or at least that the posse had reason to suspect her. It can hardly be coincidence, then, that three days after the proslavery meeting, on July 20, a circuit court judge required the sheriff of Kent County to detain a woman named Harriett Lee and to hold her under "whatever name she shall be called."[22] It is possible that Harriett Lee and Harriett Tillison were the same person, that the judge's stipulation recognized her history of using different

names, and that her arrest was a follow-up to her tarring and feathering. If Harriett Tillison and Harriett Lee were indeed the same person, she left a deeply fascinating but frustratingly obscure trail that leads at least through Baltimore, Cecil County, and Kent County.

Shortly after Harriett Lee's reported arrest in Chestertown, the *Baltimore Sun* reported on the breaking-up by police of a meeting at the Zion Independent A.M.E. Church at Howard and Montgomery Streets in Baltimore, at which an address was to be given by "a colored woman named Tillison, who was handled rather indignantly by the residents of Chestertown, Kent County, several weeks ago." According to the *Sun*, the woman had spoken at the same church the previous week about her experience in Chestertown, including her incarceration, and had promised to return and describe a plot against the black people she had heard discussed while she was in jail. The second meeting was broken up before Tillison could speak, on the grounds that it violated an 1831 Maryland law forbidding blacks to hold a religious meeting without a white person in charge. A few days later, the *Cecil Democrat* reported on what was apparently the same meeting at Zion Independent Church, setting the number of black people present at the alarmist figure of five thousand and calling the speaker Harriett Lee, "a kind of itinerant preacher, who was recently sent to the Chestertown jail for having in her possession incendiary documents for distribution among the negroes of that locality. The excitement and indignation of the sable multitude ran high," the newspaper story continued, "and the police finally had to disperse them." For the *Democrat*, the event was one more disturbing bit of evidence of the increasing "excitements" among "the sons of Ham." In these parallel stories, Harriett Tillison and Harriett Lee seem to be the same person.[23]

As if sorting out the identity of Harriett Tillison/Lee (or the identities of Hariett Tillison and Harriett Lee) were not confusing enough, the *Sun* had reported in February 1857 on a meeting at the same Zion Independent Church, at which an estimated fifteen hundred people had come to hear an unnamed "colored woman, said to be uncommonly intelligent and with very meritorious power of language." This time the meeting was disrupted, apparently deliberately and maliciously, by shouts of "Fire!" that sent the audience into a frantic scramble for the exits and resulted in several injuries and serious damage to the building. Six months later, in July 1857, the *Easton Gazette* reported that the sheriff of Kent County had committed to jail, as a runaway, a woman calling herself Harriett Lee.[24]

In their various reports, which of course drew on one another for information, the newspapers may well have made mistakes in printing the last name of this woman named Harriett, perhaps conflating Harriett Tillison and Zarena Lee, an itinerant black preacher who had preached widely in Baltimore and on the Eastern Shore in the 1840s (but was probably no longer living by the mid-1850s).[25] More likely, Harriett Tillison changed her name, probably more than once, to help hide her identity and her whereabouts.[26] Her presence in Kent County, at a time when slave escapes

were frequent enough to send slaveholders out with their buckets of tar, suggests that she was probably one of a number of free blacks (such as the unidentified Butler, in whose house she was found) who were actively working with area Quakers like the Bowers and Turner families in assisting runaways to make it out of the county. A letter to the *Cecil Democrat* published on September 11, 1858, spoke of the numbers of free blacks coming and going around Elkton who might well be enticing away local slaves. The letter went on to say, tantalizingly, that one of the roving free black persons "is believed by many here to be the *agent* of the 'underground railroad' at this point, but of this there is perhaps no *positive* proof, though abundance of circumstantial." One would like to fit Harriett Tillison into that role of agent in Elkton, but, like the letter-writer, one has no positive proof, only circumstantial.

Her subsequent history is even more elusive than her history in the 1850s. Shortly after the attack on her, the antislavery *Delaware Republican* reported that the woman who was tarred and feathered had died "in consequence of the shock given to her system on that occasion." The *Cecil Democrat* was quick to declare the story a "gross falsehood" perpetrated by abolitionists. A "colored woman named Harriett Tillison" reappeared in Elkton much later, in 1879, when she reportedly saved an elderly man by pulling him out of the way of a train. According to the newspaper account, the man was a boarder at Tillison's house. The 1880 census lists Harriett Tillison, widow, age fifty, living in Elkton and running a boarding house, and Cecil County documents record the death of a Harriett Tillison, "colored," in 1884. She was buried somewhere in Cecil County, her goods and chattels sold for $67.94.[27]

James Bowers left the county after the attack on him in June 1858, but only after pressing charges against the eight men in the mob that he was able to recognize. He returned in mid-October to testify against them, bringing his wife and staying at his sister's house, where his wife gave birth almost immediately. The news of his return re-energized the local proslavery faction, many of whom had, under the leadership of Chambers and Pearce, virtually pledged to do their duty, whether they owned slaves or not, in helping to rid the county of lawbreaking abolitionists. This time, they were determined to see that Bowers left the county. A large crowd, some armed with pistols, appeared at the house of Bowers's sister and demanded that Bowers come with them.[28] He at first resisted and then relented, for reasons he explained in a letter he sent to the *North American*, written from Philadelphia: "Under certain solemn promises of protection to myself, and of attention to be rendered to my wife—whom I can hardly hope again to see alive, after such great excitement in her prostrate condition," he agreed to be driven to the railroad station and packed off to Philadelphia. Bowers went on to deny a charge that had been leveled against him—that he was being funded by an abolitionist society. He also identified by name a total of thirty-three men who had been part of the group surrounding his sister's house. Clearly, these were people he knew personally.[29]

Tom Kennard in St. Louis received another letter about the Bowers episode,

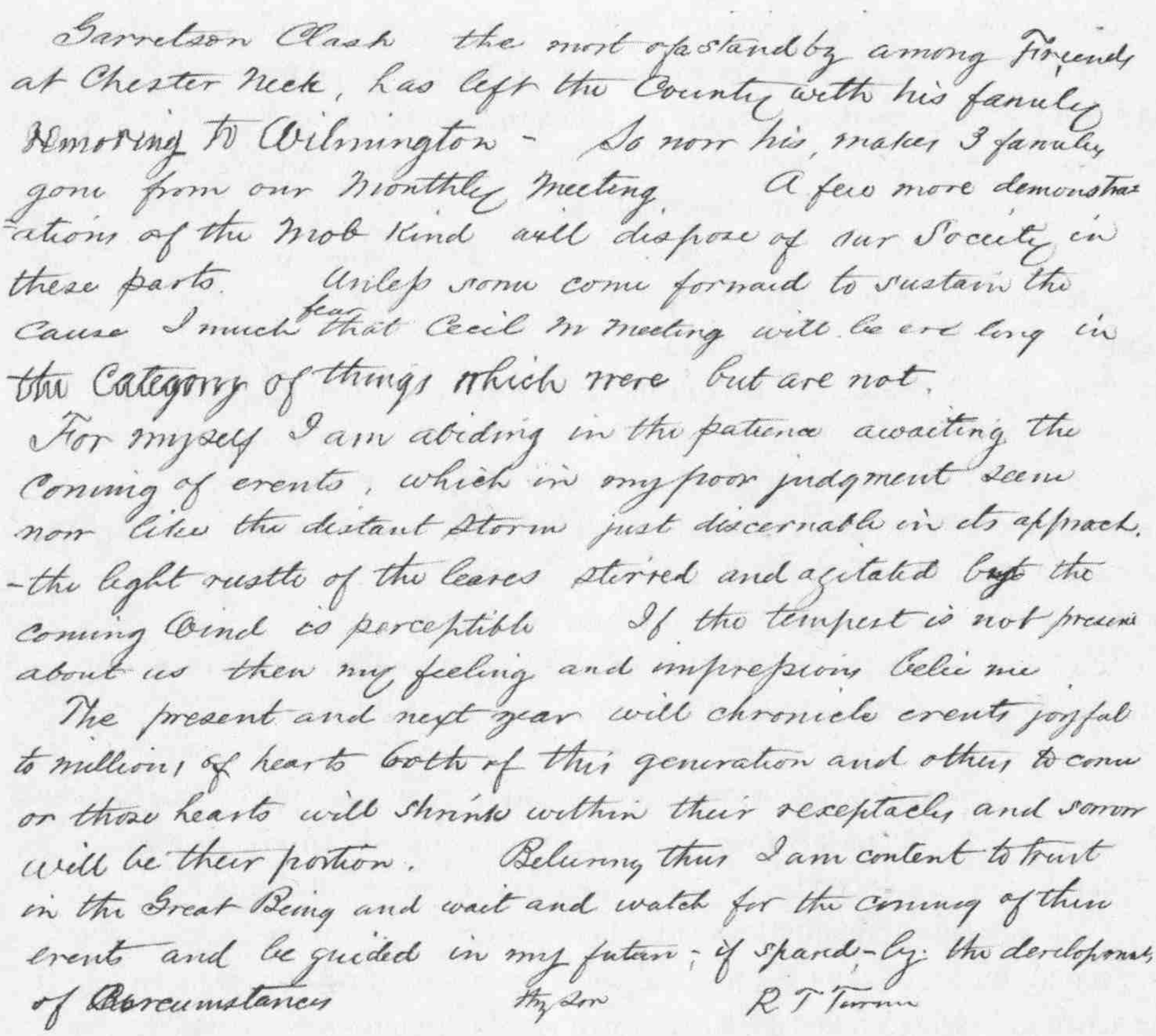
this time from his father, Thomas Kennard. "Last week we had some excitement created by the return of James Bowers, to our County, from which he was expelled last spring, after receiving a coat of tar and feathers, and a promise never to return, in consequence of his complicity in the underground railroad scheme for assisting our Negroes to run away from their owners." Doctor Kennard recounted the mob kidnapping of Bowers and his forced journey to Philadelphia, "with the distinct and full understanding it would be the last time he would ever leave in safety." He then supplied the information, which was absent from the newspaper accounts, that a prominent local lawyer, Leeds Barroll, had attracted trouble to himself by encouraging Bowers to return to Chestertown when the court met. "Leeds denies his complicity in his return," Kennard wrote, "but is not believed, and a strong feeling is excited against him for his conduct throughout and threats are common to subject him to the same ordeal as Bowers."[30] The threats against Barroll were, apparently, more common than serious, since he escaped any retribution.

The *Cecil Democrat* reported rather gleefully on the expulsion of Bowers and noted that he was lucky not to suffer serious injury, since:

> we are assured the whole county was in motion, fights occurred between the Bowers and anti-Bowers men, culminating in knock-downs, black eyes and bloody noses, in every direction. . . . After what happened [to] him before, we should not have thought him so fool-hardy as to venture on the Eastern Shore even for business purposes, much less to make a foolish effort to regain a residence so basely forfeited as in his case. As to the leaders of the party effecting so happy a riddance, it is enough to say that they were among the first men in the community—men of wealth and men of intelligence—who, after smarting for years under injuries inflicted by underground railroad agents, came to the wise conclusion, in convention, sometime ago, to execute summary vengeance upon every trespasser.[31]

After this second assault, Bowers remained away from Kent County for several years. The 1860 census lists him as living in Camden, New Jersey. In 1865 his sister Mary Ann and her husband John Needles sold Bowers three tracts of land in Kent County near the village of Worton—the same three tracts that Bowers had sold to John Needles for the same price in 1852—and in the 1870 census Bowers is listed as living in Worton. Apparently none of his attackers, in either group, was ever brought to trial.[32]

There is no evidence that the family of Richard Townsend Turner was ever disturbed by the kind of midnight mob that attacked Bowers, although his antislavery activities did give him cause to fear retaliation. In April 1857 he had taken the bold step of securing as a cook for Ellwood a young free black woman named Hannah Houston who had recently been released from the penitentiary in Baltimore. When



Garretson Clark the most of a standby among Friends at Chester Neck, has left the County with his family removing to Wilmington - So now his, makes 3 families gone from our Monthly Meeting. A few more demonstrations of the Mob kind will dispose of our Society in these parts. Unless some come forward to sustain the Cause I much fear that Cecil Qr Meeting will be ere long in the Category of things which were but are not.

For myself I am abiding in the patience awaiting the Coming of events, which in my poor judgment seem now like the distant Storm just discernable in its approach. - the light rustle of the leaves stirred and agitated by the coming Wind is perceptible If the tempest is not present about us then my feeling and impressions belie me

The present and next year will chronicle events joyful to millions of hearts both of this generation and others to come or those hearts will shrink within their receptacles and sorrow will be their portion. Believing thus I am content to trust in the Great Being and wait and watch for the coming of these events and be guided in my future; if spared, by the developments of Circumstances thy Son R T Turner

Quaker abolitionist Richard Townsend Turner wrote to his mother Rebecca "[slavery] . . . is a local question—as well as one of general nature and common humanity." (Rebecca Turner Collection, Friends Historical Library of Swarthmore College.)

she was fifteen or sixteen, Houston had been convicted of setting fire to the barn of Judge Ezekiel Chambers. She served a five-year sentence, was released, and then apparently remained in Maryland for at least two months. Under a law first instituted in 1826 and still in effect in 1857, all free black persons who served a prison term in Maryland were banished from the state when released. Those not leaving the state within sixty days could be apprehended and sold as slaves for the term of their original conviction. Turner apprehended Houston—presumably by prearrangement and with her cooperation—and was awarded ownership of her for five years. Turner then immediately sold her for a nominal price to another Quaker abolitionist, William Kelley, from Caroline County. That same day, Kelley manumitted Houston, and she went to work for the Turners as a free woman. [33]

Turner wrote often to his mother, Rebecca, in the prewar years, speaking plainly to her about his fears in increasingly pessimistic terms. At the end of 1858 he wrote to her about his concern that he was becoming tiresome with his constant talk of slavery. For him, the problem was everywhere and inescapable: "With me it is a local

question—as well as one of a general nature and common humanity." By 1859 he was worried about the fate of the local Quaker community. He reported to Rebecca that three families had left the area recently, presumably out of fear for their safety. "A few more demonstrations of the mob kind will dispose of our Society in these parts. Unless some come forward to sustain the cause I much fear that Cecil Meeting will be ere long in the category of things which were but are not." Aware of the "distant storm" he was sure was coming, Richard did not know whether to hope or fear:

> The present and next year will chronicle events joyful to millions of hearts both of this generation and others to come or those hearts will shrink within their receptacles and sorrow will be their portion. Believing thus I am content to trust in the Great Being and wait and watch for the coming of these events and be guided in my future—if spared—by the developments of circumstances.

Richard was not as content to just wait and watch as his letter indicates. In April 1860 he wrote to Rebecca about his response to the latest machinations of the proslavery faction in the county. This time, a grand jury had instructed local postmasters to refuse delivery of antislavery newspapers. This high-handed move had led Turner to circulate a petition of protest (whose signatories included Thomas Kennard and several other slaveholders) and to pay a visit to the circuit court judge, but with no success in finding a sympathetic ear. "In the mean time," he assured his mother, "don't give thyself any uneasiness. I think we will be sustained ultimately in our rights and rest assured I shall endeavor to vindicate them in a Christian way only."[34]

A year later, despite his reassuring words to his mother, Turner and his family fled in fear from the toxic atmosphere of Kent County. On April 30, 1861, Elizabeth Turner wrote to relatives from Camden, Delaware, where the family was staying with Hunn Jenkins, a member of another prominent Quaker family. Elizabeth was clearly frightened.

> I dare say you have heard through the folks in Philadelphia of our flight from home last 5th day with only such of our clothes as we could take in the carriages. It became unbearable, with all the exciting news from Baltimore, Washington and other places, to have daily reports that R was to be hung that week, that a mob was to burn our property, and other things,—so at last I got Richard to consent to leave, then I was afraid he would be molested before he got out of the state, so we concluded we would all go, so what happened to one, the rest would share. . . . I *think* I would rather live on bread and water than be subjected to the torture of mind, that has so often been my lot for more than 2 years.[35]

Richard Turner explained the family's departure more specifically in a letter to William Bowers, a Quaker cousin of James Bowers:

> I expect it took thee and many of our friends by surprise, when you heard of our departure. The fear of *impressment* into the military service determined me early on 5th day morning. I thought there was a plot on hand to get possession of some 2 or 3 of us in that way, and thus under guise of military law, every description of evil could be practiced. I had no fears for the rest of the Republicans—and I think you may, if you do not, rest in peace.[36]

Turner and his family did not stay out of Kent County very long after their flight to Delaware. The flight, however, and the fear that produced it, seem to have made him even more disheartened about the prospects for any reasonable resolution of the conflicts he saw in his neighborhood as well as in the nation as a whole. He wrote to his mother in September 1861 that "I am so inoculated with abhorrence to slavery that most of the time I feel but little joy and less hope in the Union cause. I fear it will but strengthen the Bonds instead of loosing them." For the slaves in particular, he wrote, "I see no relief from bloodshed." By March 1862 he had become even more despondent and despairing of his own ability, or anyone else's, to have any effect on ending slavery or the war. "I have lost most of my interest in the war. . . . The virus of slavery is too thoroughly impregnated throughout the body politic and moral to admit of [reform]. No, the judgments alone of Providence will be required to purge us of this taint, this leprosy."[37]

At the end of the war, Richard Turner once again became embroiled in disputes with his neighbors over racial matters, and once again he turned to his mother for advice and aid. This time, the trouble arose over the indenturing of black children to their former owners or to other whites. Since Maryland had not seceded from the Union, the state's slaves were not freed by the Emancipation Proclamation but by a new state constitution that did not go into effect until November 1, 1864. The new constitution, ratified by only four hundred votes out of sixty thousand cast, granted slaves immediate freedom but did not provide them with the legal rights necessary to fully protect themselves and their families from those who had once claimed them. Former slaveholders rushed to take advantage of an old statute that allowed local orphans courts to bind out as apprentices any free black children—which, under the new constitution, now meant *all* black children—whom the courts considered in need of the discipline and material support that apprenticeship to a white master could provide. In practice, of course, the statutes allowed whites to secure for themselves a very cheap workforce while insisting that the indentures were in the best interests of the children. Although the statutes stipulated that the parents of the child should be present at the indenture hearing and must agree to any indenture agreement, this requirement was generally overlooked. Kent County, like other counties on the Eastern Shore, saw a rush of whites, mostly former slaveholders, to the orphans court as soon as the new constitution went into effect. In November and December of 1864 alone, 153 children were bound out as apprentices in the county. Though a

handful of these were white children, the vast majority were black. The *Cecil Whig* reported on a "great run . . . on the Orphans' Court for the indenturing of the little darkies"; the *Whig* saw the indenturing as a good solution to the problem of "great numbers of colored children run[ning] at large."[38]

Richard Turner responded to these developments by soliciting the help, through his mother, of the Friends Association in Aid of Freedmen. He wrote to her in November of 1864, lamenting that,

> the slaveholders with Judge Chambers at their head are dragging the little children of Emancipated parents before proslavery magistrates and a proslavery Orphans Court, and are having them bound to their former masters without even a regard to the forms of law. . . . Many wish to leave here and my object is to solicit the aid of your Society in providing places of refuge in the City until homes in the Country can be had. I have one family to look after now mother and four children.[39]

Turner's letter found its way into the possession of his mother's friend, John Needles, who enclosed it in a letter of his own to General Lew Wallace of the Freedmen's Bureau, who had taken responsibility for providing government aid and protection to recently freed slaves in Maryland.

Wallace was hearing about indentures from others in the state as well; he responded by requesting that the orphans courts in the state suspend the indenturing and that they turn over to him the names of all black children indentured since the adoption of the new state constitution and the names of those to whom they were bound. In reporting the suspension, the *Kent News* expressed some surprise that there was "evidently a disposition among negro parents to hold on to their children, even in cases where they have no visible means of supporting them."[40] In Kent as in other counties, the suspension did not last long. On December 17, 1864, the *Kent News* published a long editorial in support of the practice of indenture, insisting that its impulse was entirely humanitarian and its aim only to provide support and training to the children involved. Before the end of the year the flood of indentures had recommenced.

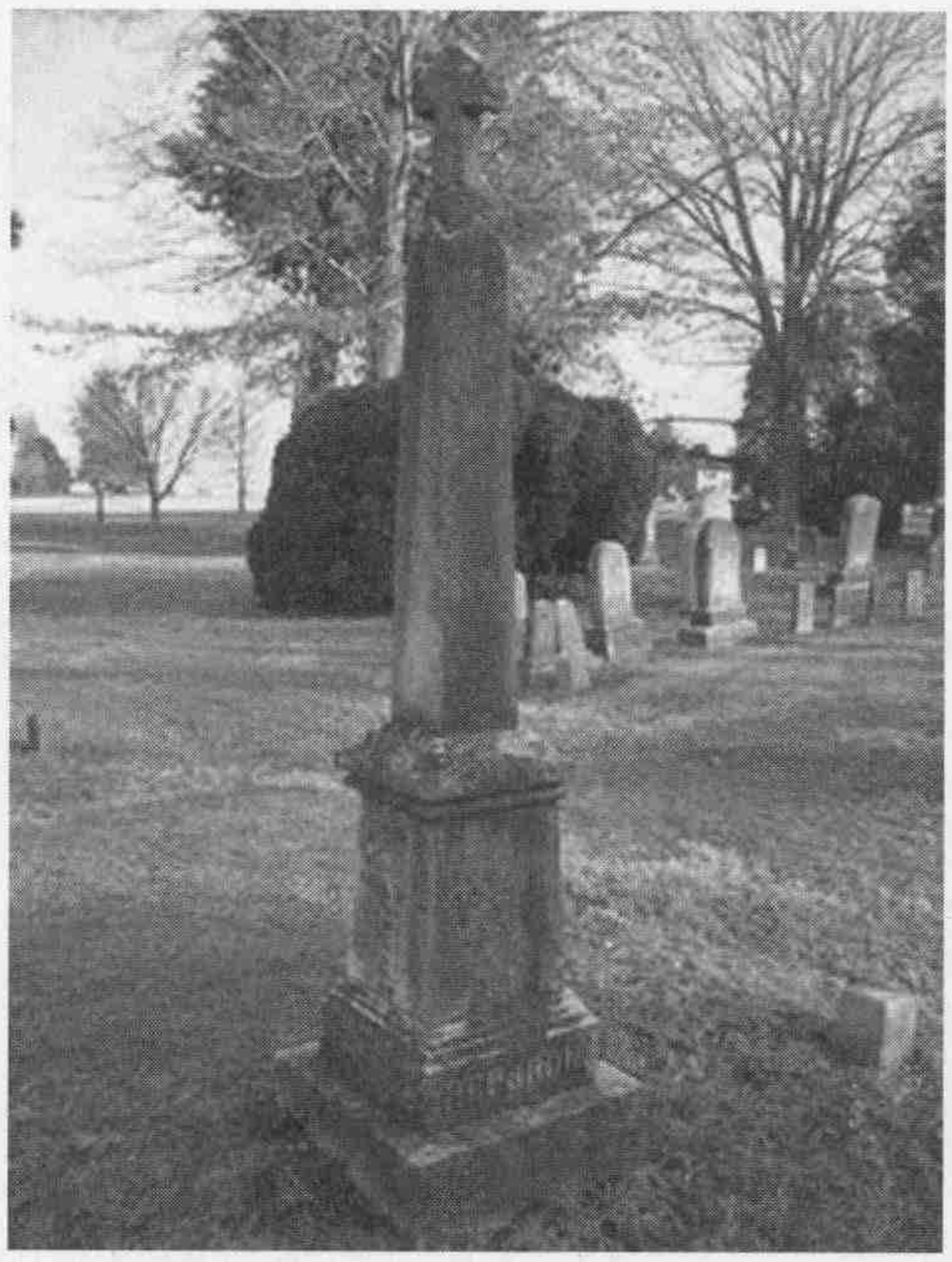
One of those former slaveholders of Kent County who hurried to indenture children at the end of 1864 was Sewell Hepbron, a neighbor of Richard Turner, a vocal southern sympathizer, and a member of the mob that had run James Bowers out of town. Hepbron, who had been listed in the 1860 census as owning fifteen slaves, successfully indentured nine black children through the orphans court on December 27, 1864. The sequence of events from this point on is not clear, nor is the extent of Richard Turner's involvement in them, although his involvement was at least deep enough to lead Hepbron to file a lawsuit against him. The *Kent News* reported on January 7, 1865, that Sewell Hepbron had just returned from Baltimore, where he

RELEASED.—Sewell Hepbron, Esq., of this county, who was arrested by military authority and taken to Baltimore a few weeks ago, was released on Tuesday upon taking the oath of allegiance, and giving $2,000 bond to report for trial when so ordered.

Former slaveholder and southern sympathizer Sewell Hepbron indentured black children through the Orphan's Court following Maryland's 1864 decision to abolish slavery. Kent News, *January 7, 1865.*

had been held by military authorities until he was released after taking an oath of allegiance and paying a two-thousand-dollar bond. (Since 1861, the federal troops who were occupying much of Maryland had been allowed to arrest Confederate sympathizers in the state and to require loyalty oaths as a condition of release.) The author of a Hepbron family history attributes Sewell's arrest to his politics: "During the Civil War, he was so emotionally identified with the cause of the confederacy and so outspoken in his views that he was imprisoned for a time in Maryland as a dangerous Confederate sympathizer." The timing of the arrest, however, suggests that it could well have been the indenturing of the children that finally landed Hepbron in jail. Not surprisingly, he had the sympathy of the local newspaper. In an 1865 test case, the Maryland Court of Appeals reversed a lower court's decision and declared that binding out apprentices was legal and constitutional. In reporting, and applauding, this decision, the *Kent News* spoke supportively of a group of "our citizens," among whom was probably Sewell Hepbron, who had been forced to appear in court more than once "to answer for the alleged illegal holding of apprentices which had been legally bound to them by the Orphans Court of this county."[41]

The conflicts over the issue of apprenticeship continued in the newspapers and in the courts for the next two years. The effort to keep indentures legal was led in the Maryland legislature by a delegate from Kent County, George Vickers, who introduced a bill in the state senate in March 1867 making valid all indentures and contracts of apprenticeship made since the beginning of 1865; the bill passed by a vote of 16–1. Not until October 1867 did Chief Justice Salmon P. Chase, who also served as a judge of the U.S. Circuit Court for Maryland, end the practice of indenture by ruling that apprenticeships were a form of forced servitude and therefore unconstitutional. By



Sewell Hepbron family marker. (Courtesy Steve Keefe, Calvert, Maryland.)

that point, thousands of Maryland children had been indentured. The Freedmen's Bureau estimated that in May 1867 there were still 221 children indentured in Kent County and 3,281 in the state of Maryland. The bureau also estimated that more than two thousand children had already been released from their indentures because of the threat of legal action.[42]

Richard Turner and Sewell Hepbron came into open conflict over apprenticeships shortly before the practice became illegal, although again the sequence of events is difficult to sort out. In an article reprinted in the *Chestertown Transcript* of September 21, 1867, the *Philadelphia Press* reported, without supplying any dates, on Sewell Hepbron's abduction of a black child from its parents' home while they were absent. Richard Turner, according to the *Press* story, wrote a letter to the governor of Maryland asking him to intervene and accusing Hepbron of kidnapping. The governor sent the letter to the district attorney of Kent County, who took no legal action but instead made the governor's letter public. Hepbron in turn sued Turner for slander, asking for the astonishing sum of forty thousand dollars in damages. The *Transcript* took the publication of the story of Hepbron's abduction of the child as one more "effort of the Radical press to array the public mind of the Northern States against the government and people of Maryland." The *Transcript* also offered Hepbron the chance to respond to the *Press*. Declining to give his version of the theft of the child and not referring to Turner by name on the grounds that his suit was still impending in court, Hepbron instead offered a sardonic and irrelevant defense of the state of Maryland, declaring that "no where in the United States, not even in Philadelphia itself, are the true rights of the negro better cared for than here, in the

State of Maryland, nor any where is he more kindly treated, even by those monsters, their former masters."[43]

The absence of dates from the story is perplexing, since the diaries of Rebecca Turner suggest that Turner and Hepbron had somehow settled their differences by the spring of 1866. Rebecca's entry for April 15 of that year includes a note that she has received a letter from Richard "giving an account of a satisfactory settlement of a difficulty between one of his neighbours and himself, on account of a boy being claimed by the person who was former master."[44] Unfortunately, Richard's letter has not survived, nor are court records available to indicate the outcome of the suit. It is possible that either the *Philadelphia Press* or the *Chestertown Transcript* had resurrected a year-old story, for its own reasons; it is also possible, although not likely, that Turner was involved in two very similar incidents, or that Turner and Hepbron settled their "difficulty" but that for some reason Hepbron was allowing the suit to go forward in the courts.

Turner made the local news again in 1866, when he represented the "Unconditional Union Men of Kent County" at a meeting in Baltimore. Of the six delegates from the county, three were Quakers, members of Cecil Meeting (the others were Bartus Trew and Thomas E. Norris). The name of the group called attention to its platform of unconditional support of the federal government's reconstruction policies; since these policies included black suffrage, the local press was quick to publicize the names of the members and assure readers that it was quite a small organization.

Turner died at his home in Kent County in 1892; the memorial contributed by Cecil Monthly Meeting was revealing but appropriately modest and understated:

> It is due to his devotion to the principles of George Fox and his untiring attendance that Cecil Monthly meeting has been kept up. . . . His sympathy for the downtrodden and oppressed led him into more political prominence before and during the War than was pleasant, but believing it to be his duty to maintain all testimonies of the Society at any cost, he maintained a steadfast friend of the slave—never in disguise—but openly and with great eloquence.

In her history of Cecil Meeting, Elizabeth Chandlee Forman called Richard Turner "Cecil's foremost advocate of liberty for those in bondage. . . . Richard worked for the Negroes' freedom and saw it accomplished. But his attitude was at variance with accepted southern tradition and caused him much suffering."[45]

James Bowers seems to have lived quietly after his return to Kent County—though less comfortably, apparently, than Richard Turner. Little is known about his life after his return until his death in 1882. When his accounts were settled after his death, it was revealed that his property consisted of little more than two horses, a grind stone, old wheels, some damaged corn and wheat, and four hundred chestnut rails, and that he had outstanding debts of nearly eight hundred dollars. These records

suggest that Bowers's last years in Kent County must have been years of financial struggle, and they seem to have been lived in quiet isolation.[46]

The work of Kent County's Quaker families on behalf of slaves and freedmen was an important component of the mission of Cecil Meeting, and while the violence of the conflicts over race in the county may have frightened away some Quaker families, those conflicts may also have kept the Meeting alive and energized. It is certainly not coincidental that the Meeting dissolved after the deaths of James Bowers (1882), his sisters Mary Anne (1879) and Annie (1883), and of Richard Turner (1892). Speaking of these deaths, a historian of the Kent County Quakers says that "the losses were great and the Meeting did not survive."[47]

NOTES

1. Kate Clifford Larson, *Bound for the Promised Land: Harriett Tubman, Portrait of an American Hero* (New York: Ballantine Books, 2004), xiv, 80–84.
2. William Siebert, *The Underground Railroad from Slavery to Freedom* (New York: Macmillan, 1898), 342, 351.
3. Jeffrey Richardson Brackett, *The Negro in Maryland: A Study of the Institution of Slavery* (Baltimore: Johns Hopkins University Press, 1889), 91; Salem, Ohio, *Anti-Slavery Bugle*, September 22, 1849, December 22, 1849; from the *Wilmington Chicken*, reprinted in the *Anti-Slavery Bugle*, December 22, 1849.
4. *Kent News*, October 27, 1855; June 23, 1858.
5. William Still, *The Underground Railroad: A Record of Facts, Authentic Narratives, Letters, Etc.* (Philadelphia: Porter & Coates, 1872), 638.
6. The antislavery *Delaware Republican* observed in 1853 that the number of reported runaways from Delaware was being skewed by the fact that some slaves were being kidnapped and sold. "From all we have heard, we have not the least doubt that a great many slaves, who have the credit of running away from this State, have been conveyed on the back-track of the underground railroad—going to the South instead of the North." Reprinted in the *National Intelligencer*, February 2, 1853.
7. Kennard Papers, Historical Society of Kent County; Barbara Jeanne Fields, *Slavery and Freedom on the Middle Ground: Maryland during the Nineteenth Century* (New Haven: Yale University Press, 1985), 16.
8. Cited in the *Cecil Democrat*, August 28, 1858; Still, *The Underground Railroad*, 485; Siebert, *The Underground Railroad from Slavery to Freedom.* Two of the men Siebert named were Quakers from Caroline County, and one was a Quaker from Baltimore. The fourth was a free black man from Caroline County.
9. Two other Quaker meetings in Kent County declined earlier than Cecil Meeting. Head of Chester Meeting closed in 1840 and Chester River Meeting in 1860.
10. Richard Chandlee Forman, *The Rolling Year on Maryland's Eastern Shore* (Centreville, Md., 1985), 44, 123.
11. Edward Needles Wright, ed., "John Needles (1786–1878): An Autobiography," *Quaker History* (Spring 1969): 11; "Memorial of Baltimore Monthly Meeting concerning John Needles," Baltimore Monthly Meeting Records, Friends Historical Library, Swarthmore College.
12. James Davidson advertised in 1851 for a runaway named Tom Barrett; Barrett may have

been the person who implicated Bowers in his escape. *Kent News*, April 19, 1851. The *New York Tribune* (July 21, 1858) reported that Bowers had been accused of assisting "some negroes" to escape and that the escapees "were induced, by threats of punishment and promises not to sell them out of the country, to charge Mr. Bowers with furnishing them with a forged pass."

13. *Cecil Democrat*, July 24, 1858.

14. *Kent News*, January 5, 1856.

15. Accounts of the Reed case, with some slight variations among them, can be found in the *Kent News*, August 4, 1856; March 21 and 28, April 11, 18, and 25, and May 2, 1857; *The Liberator*, August 1 and October 17, 1856; *Baltimore Sun*, May 4, 1857; *Cecil Whig*, August 2, 1856; April 11, 18, and 25, 1857; January 23, 1858; *Zion's Herald and Wesleyan Journal*, July 8, 1857.

16. Kent County Circuit Court records, Grand Jury, April term, 1857.

17. *Cecil Democrat,* July 24, 1858.

18. Reprinted in *The Liberator*, July 9, 1858.

19. Richard Townsend Turner to Elizabeth Betterton Turner, June 25, 1858; Rebecca Sinclair Turner Papers, Friends Historical Library, Swarthmore College. H. Chandlee Forman, a descendant of the Turner family, recounts the family story that Richard Turner's children were often afraid to go to bed because from the upstairs windows in their house, Ellwood, they could see strange men hiding in the trees and watching the house. For this reason, Forman says, Turner installed two very small windows, one upstairs and one down, so that he could better keep an eye on who was approaching the house. *The Rolling Year on Maryland's Eastern Shore*, 64–65.

20. *National Era*, July 29, 1858; *Cecil Democrat*, July 24, 1858.

21. *New York Times*, July 20, 1858.

22. Circuit Court Records, Kent County, 1858.

23. *Baltimore Sun*, July 29, 1858; *Cecil Democrat*, August 7, 1858.

24. Cited in the *Kent News*, February 21, 1857; *Easton Gazette*, July 3, 1857.

25. The newspapers may also have confused Harriett Tillison and Harriett Tubman, especially since Tubman is known to have made a number of trips to the Eastern Shore between 1855 and 1860.

26. The *Cecil Democrat* referred to her once (July 24, 1858) as "the negro woman Tillotson." There was a black family named Tillotson in Cecil County that gave its name to the community of Tillotsontown, a mile below Elkton. One branch of that family was practicing unlicensed medicine and surgery in the 1820s. A free black man in Kent County is referred to in one record as Cuff Tillison and in another as Cuff Tillotson.

27. *Cecil Democrat*, July 24, 1858; Baltimore *American Citizen*, April 18, 1879.

28. The size of the crowd was variously reported in the press. The *Easton Gazette* and the *Cecil Democrat*, both proslavery papers, put the number at about three hundred, while the *Lowell* [Mass.] *Daily Citizen and News* offered an estimate of one hundred.

29. Reprinted in the *National Era*, November 18, 1858.

30. Thomas H. Kennard to Thomas H. Kennard Jr., October 27, 1858, Kennard Papers, Historical Society of Kent County.

31. *Cecil Democrat*, October 23, 1858.

32. Other accounts of the Bowers story can be found in Fields, *Slavery and Freedom on the Middle Ground*, 63–66 and Kevin Hemstock, "For Opposing Slavery, They Were Tarred and Feathered," *Tales of Kent County* (Chestertown, Md.: Kent News, n.d.), 26. Another Quaker, Arthur Leverton, was run out of Caroline County in the late 1850s for helping runaway slaves.

33. Kent County Bills of Sale and Bonds, 1851–1857, Kent County Courthouse.

34. Richard Townsend Turner to Rebecca Turner, April 24, 1860, Rebecca Sinclair Turner papers, Friends Historical Library, Swarthmore College.
35. Elizabeth Betterton Turner to John and Hannah Turner, April 30, 1861, Rebecca Sinclair Turner Papers.
36. Richard Townsend Turner to William Bowers, April 29, 1858; Rebecca Sinclair Turner Papers.
37. Richard Townsend Turner to Rebecca Turner, September 4, 1861; October 16, 1861; March 17, 1862; Rebecca Sinclair Turner Papers. In 1860, the census still listed more than six hundred slaveholders in Kent County
38. See Ira Berlin et al., eds., *Freedom: A Documentary History of Emancipation*, series I, vol. II (New York: Cambridge University Press, 1993), 493–530; Kent County Orphans Court Records, 1864; *Kent News*, November 19, 1864.
39. Richard Townsend Turner to Rebecca Turner, November 10, 1864; Rebecca Sinclair Turner Papers.
40. *Kent News*, December 3, 1864.
41. Frank Snowden Hopkins, "The Hepburn Family of Kent County, Maryland (1665–1932)," Kent County Historical Society; *Kent News*, November 11, 1865.
42. *Kent News*, February 11, 1865; *Baltimore Sun*, October 17, 1867.
43. *Chestertown Transcript*, September 21, 1867.
44. Journals of Rebecca Sinclair Turner, 1866; Rebecca Sinclair Turner Papers.
45. Memorial to Richard Townsend Turner, Rebecca Sinclair Papers. Elizabeth Chandlee Forman, *Old Cecil Meeting on the Eastern Shore of Maryland, 1696–1900* (n.p., n.d.), 20.
46. Kent County Inventories, microfilm copy, Miller College Library, Washington College, Chestertown, Maryland.
47. Evelyn Detherage Hughes, *Minding the Light: A History of Quakers in Kent County, Maryland 1650–2006*, n.d., 15.

Campaign ribbon, 1860. Abraham Lincoln's election to the presidency polarized Maryland's political leaders. Through the winter of 1860–1861, secessionists urged Governor Thomas Holliday Hicks to call a special session of the legislature or a sovereign state convention. (Maryland Historical Society.)

"The Susquehanna Shall Run Red with Blood": The Secession Movement in Maryland

TIMOTHY R. SNYDER

Abraham Lincoln's election to the presidency in 1860 and the subsequent debate in Maryland on whether the state should secede from or remain in the Union have been well covered. Some who considered aligning this border state with the Confederacy pushed Governor Thomas Holliday Hicks toward convening a special session of the legislature or a sovereign convention to consider the question. This essay analyzes the six public meetings called during the winter and spring of 1860–1861, the attendees and their speeches, resolutions, and published proceedings, in an attempt to identify the point at which the secession movement emerged, its place in the national discussion, and ultimately why this faction failed to lead the state into alignment with the south.

During the third week of December 1860, Mississippi governor John J. Pettus appointed Alexander Hamilton Handy, judge of that state's High Court of Errors and a former Marylander, to visit his native state. In response to Lincoln's election Mississippi's legislature had passed an act to establish a sovereign convention that was set to convene on January 7, 1861. Pettus instructed Handy to urge Maryland's governor to call a meeting of the General Assembly "for the purpose of counseling with the constituted authorities of the State of Mississippi." Maryland's legislature met biannually and was not due to meet again until 1862. On December 18, Handy met with Hicks and later left a letter for him in Annapolis. The next day Hicks declined Handy's request. "Our state is unquestionably identified with the Southern States in feeling and by the traditions and habits which prevail among us," he wrote. "But she is also Conservative, and, above all things devoted to the union of these States under the Constitution."[1]

Lincoln had garnered very little support in Maryland, less than 3 percent of its vote. The day after the election, the *Baltimore Sun* stated sourly, "As we cannot offer to the readers of The Sun one word of congratulations upon so inauspicious a result, we are disposed to do no more than announce the fact this morning, and await the developments that may ensue."[2]

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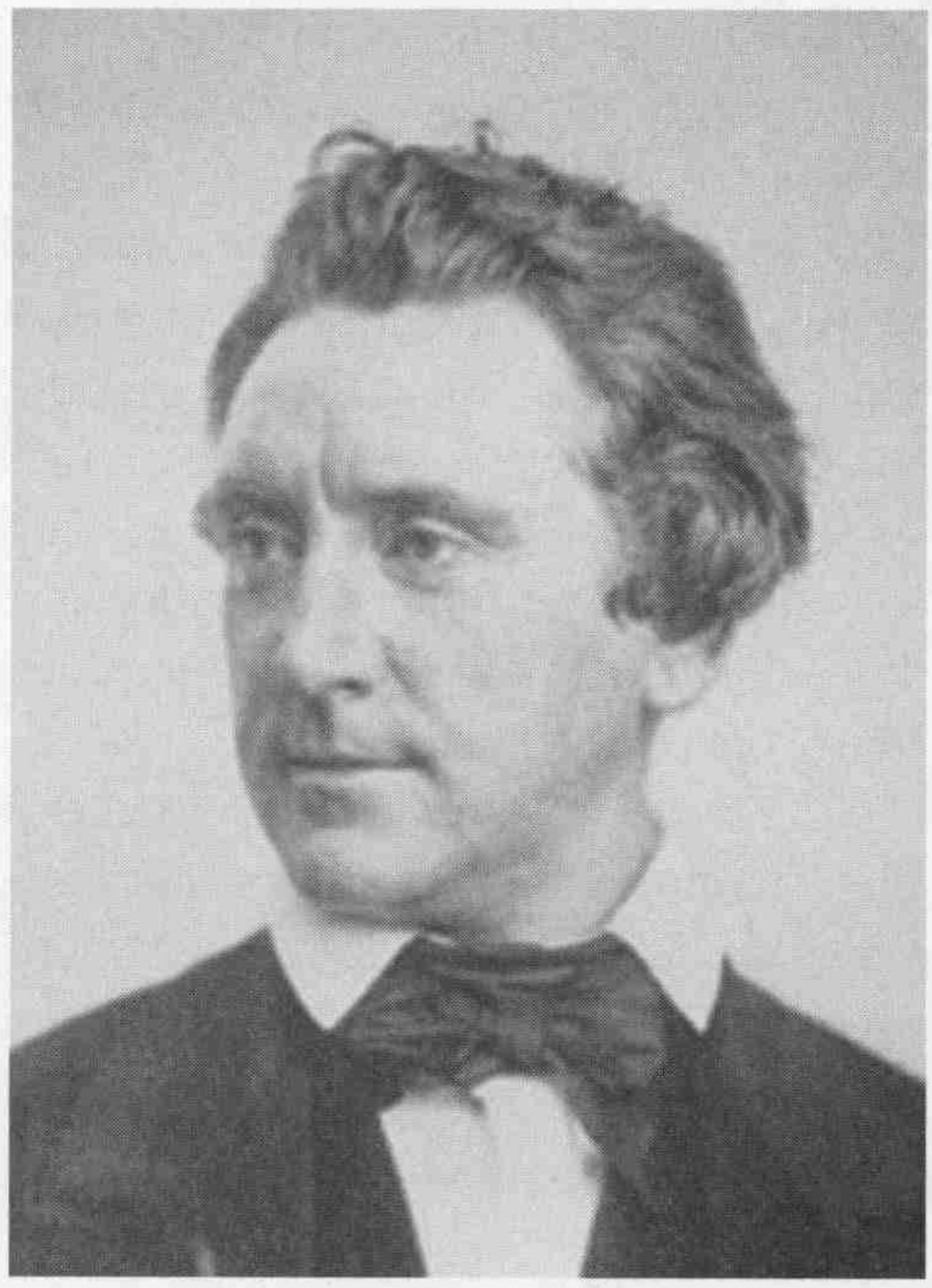
In the six weeks between Lincoln's election on November 6 and the secession of South Carolina on December 20, a number of groups and local organizations called for Hicks to convene the General Assembly, yet there was no unity among the organizations that sought to influence him. On November 21, a number of current and former state officials, led by former governor and ex-U.S. senator Thomas G. Pratt, suggested that Hicks convene the legislature to consider "the present momentous crisis, and provide, if practicable, some remedy for the threatened danger." Hicks denied that request on the twenty-seventh, proclaiming that although he had personally opposed Lincoln's candidacy "he has been constitutionally chosen at an election where we all presented our favorite candidates, and the South is bound in honor to recognize and respect the result, as we would have required the North to do, had either of the other candidates been elected." Hicks proposed that Maryland await the outcome of efforts to seek the repeal of the personal liberty laws passed by many northern states to impede the capture of slaves who had escaped to the North. He also wrote that he would consult with the other border states, particularly Virginia, and that Marylanders should wait to hear the president-elect's views on the secession crisis and the response of Congress, which was due to reconvene on January 3, 1861.[3]

One of the earliest local meetings occurred in Leonardtown in St. Mary's County on November 22, 1860. Although it ultimately passed a resolution urging Hicks to call the General Assembly "to consider what steps it is right, proper and necessary for Maryland to take," there was much disagreement, "exciting debate, motions to adjourn, refer, postpone, &c." The first man nominated to chair the meeting declined, stating that he preferred Maryland take no action until after Pennsylvania, Virginia, and North Carolina had acted and until after the state's more populous counties had spoken. Another attendee opposed the resolution on the grounds that it might be construed as a prelude to secession, preferring that the General Assembly defend Maryland's rights within the Union first. The meeting adjourned after appointing a six-member delegation to deliver its final resolution to the governor.[4]

On November 27, the same day Hicks wrote to Pratt, John Contee of Prince George's County wrote Hicks suggesting that he assemble the legislature. The governor, who received the letter a day or so later, replied that since his reply to Pratt and his associates "nothing has occurred . . . to alter my convictions of my duty." But Hicks also gave hope to those who foresaw the state's destiny lying with the South by suggesting that if all attempts at reconciliation failed he was perfectly willing to sanction secession. He again urged the petitioner to allow time for repeal of northern personal liberty laws. "After allowing reasonable time for action, on the part of the Northern States, if they shall neglect or refuse to observe the plain requirements of the Constitution, *then* in my judgment we shall be fully warranted in demanding a division of the country." Hicks, a conservative by nature, then drew back slightly, adding that he was "utterly opposed to this precipitate action by one, two, or three States." He cautioned that, due to its long border with the free states, within ten



John Carroll LeGrand (1814–1861), chief judge, Maryland Court of Appeals, presided over the first of six secessionist meetings. (Maryland Historical Society.)

years of Maryland's secession, all of her slaves will have fled north. Additionally, he warned that if civil war began, Maryland "must become the battle ground of the hostile sections, subject to all the horrors of border warfare."[5]

The most significant catalyst to an organized secession movement in Maryland was the December 20, 1861 secession of South Carolina. A mere two days later a meeting took place from which an incipient Maryland secession movement emerged. A number of prominent professional men gathered at the Universalist Church, at the corner of Calvert and Pleasant Streets in Baltimore. John Carroll LeGrand, chief judge of the Maryland Court of Appeals, presided and remarked that their purpose was to consider the necessity of urging Governor Hicks to convene the General Assembly. The meeting's moderate character soon became evident. Attorney William H. Ryan described it as "forming one great Constitutional Union Party" and envisioned the South obtaining its constitutional rights within the Union. Failing that, the South might be forced to form its own "more perfect Union," but not "until after the last constitutional effort shall have been made *in* the Union." Calling the legislature, he declared, would put Maryland in a position to act in concert with the other southern border states.[6]

State senator Coleman Yellott and William Henry Norris, both Baltimore attorneys, also addressed that meeting and it is important to note that both of these future Confederate officers spoke with moderate voices. Although Yellott predicted that after his inauguration Lincoln would send troops into the South, abolish the Supreme Court, and reverse the Dred Scott decision, he did not call for Maryland's

secession. He suggested that since Maryland and Virginia had much in common, they should act together. Declaring that only the seven slave states of the upper South had a reasonable chance of restoring the Union, he recommended that they meet in Washington before the inauguration. Norris, for his part, argued that the South must make an effort to live with the North, but if that attempt failed the sections must be willing to live as two nations. He suggested that the northern states repeal their personal liberty laws, recognize that the territories are the common right of both sections, and acknowledge that slaves are not citizens. The meeting directed a four-member committee to urge the governor to convene the General Assembly and adjourned late in the evening to loud "cheers for the South, and derisive exclamations concerning Lincoln."[7]

On December 24 the delegation met with the governor, who still refused to call the legislature into session. He told them he was awaiting the action of Missouri, Kentucky, Tennessee, and Virginia, that he disapproved of the "precipitate" action of South Carolina, and that he was opposed to secession. Hicks would later testify before a congressional committee charged with investigating plots against the government that members of the Universalist Church committee taunted him. "My personal safety was alluded to, and reference was made to the hazard I would run if persisting in declining to convene the legislature; reference was made to shedding blood, and refusing to allow Lincoln to be inaugurated."[8]

On December 28, eleven state senators, half of the full senate, of whom several would participate in the secession movement, including Coleman Yellott, urged the governor to convene the General Assembly. The state senate, a majority of whom were Democrats, pledged to Hicks (of the nativist American Party) that if convened it would put aside party considerations and consider only legislation that would address the present national crisis. Hicks replied that the state constitution created a separation of powers among the three branches of government, and implied that it was somehow inappropriate for members of the legislative branch to attempt to influence the chief executive. He pointed out that according to the constitution the governor "may" convene the legislature "on extraordinary occasions" as his discretion indicated, but he had not yet determined that an extraordinary occasion had arisen.[9]

The agitation to convene the General Assembly gave rise to a conservative reaction in Baltimore. On December 27, a "Meeting of the Friends of the Union" was held at the Law Buildings on the corner of Lexington and St. Paul Streets. The attorneys, politicians, and other prominent Baltimoreans present endorsed Hicks's refusal to call the legislature, and, after some debate, resolved to call a mass meeting at a future date while supporting "the course of the Governor so far."[10]

Perhaps not coincidentally, on the same date an "informal" meeting was held at Barnum's Hotel in Baltimore "for the purpose of conferring together upon the position of Maryland in the national crisis, and her relations to the South." Prominent attendees who would later be associated with the Maryland secession movement

included William Henry Norris and Severn Teackle Wallis. A committee was appointed to select and invite citizens from all of the counties to a future conference, to ascertain the views of citizens in other parts of the state, and to consider "the propriety of convening the Legislature." Those invited "were not selected without regard to party, but with such consideration of it as to make the conference one including representative men of both parties."[11]

Again perhaps not coincidentally, both groups planned larger meetings for January 10, 1861, but several developments occurred before they were held. On January 3, Hicks wrote a widely published letter to "The People of Maryland" in which he addressed the issues raised by those who had urged him to convene the legislature and explained his reasons for not doing so. Disunion would inevitably lead to civil war, and Maryland's location—bordering the North and enveloping the national capital—would make it a battleground. His easiest path, and "the most certain to find favor with the floating mass of noisy politicians, who can only breathe with comfort in an atmosphere heavy with discord and excitement," would be to convene the General Assembly, but he was communicating with other border state governors and was hopeful that discussions would avert secession and armed conflict. Hicks also presented another reason why he had refused to convene the legislature, one that reflected his conservatism: "I have been forcibly impressed with the fact . . . that every Disunionist in Maryland . . . is an earnest advocate for the immediate call of the Legislature." Just days earlier, a local meeting in Anne Arundel County had called for the establishment of a southern confederacy and Maryland's cooperation with it and other like-minded states. It, too, had called upon the governor to convene the General Assembly, which would establish a sovereign state convention. None other than the speaker of the House of Delegates, Elbridge G. Kilbourn, had spoken in favor of the resolutions.[12]

Hicks then disclosed that he was privy to secret information. He had been "repeatedly warned" that "secession leaders in Washington" had determined that the border states, especially Maryland, would be "precipitated into secession" with the Cotton South before March 4.

> They have resolved to seize the Federal Capital, and the public archives, so that they may be in a position to be acknowledged by foreign governments as the "United States," and the assent of Maryland is necessary, as the District of Columbia would revert to her in case of a dissolution of the Union. . . . The plan contemplates forcible opposition to Mr. Lincoln's inauguration, and consequently civil war, upon Maryland soil, and a transfer of its horrors from the States which are to provoke it.
>
> The voices of those who favor this scheme are unanimously for a special session, and every effort has been made, and will be made, henceforth, to manufacture public opinion in this State, to force me to convene that body.[13]

Several days earlier, the governor had given the *Baltimore American* an extract from a December 25, 1860 letter, whose anonymous author had warned the governor of this conspiracy to force Maryland into secession by disreputable means. Published on January 1, the letter would put Maryland's secession movement on the defensive. Throughout the spring its leaders repeatedly and pointedly disavowed any knowledge of or support for such plans. Many claimed they were not secessionists at all and only wanted Maryland in a position to respond to events in concert with Virginia and other border slave states. Some used rhetoric suggesting the label "secessionist" or "disunionist" was an insult.[14]

Another significant development occurred when Congress reconvened on January 3. Hicks hoped it would propose a compromise measure providing a way out of the secession crisis. Four days later, Virginia's legislature met in special session, adding a sense of urgency to those who felt that Maryland's legislators should be called into session so that the two states to act together. Then on January 9, the *Star of the West*, an unarmed U.S. steamer sent by Washington to resupply the garrison of Fort Sumter, was fired upon off the South Carolina coast, further heightening tensions. That same day, Mississippi became the second state to secede from the Union.

On January 10, the same day reports of Mississippi's action and the *Star of the West* appeared in Baltimore's newspapers,[15] the Friends of the Union met at the Maryland Institute. Presiding officer Archibald Stirling Jr., an attorney and former member of the House of Delegates from Baltimore, stated that the purpose of the gathering was to "preserve and perpetuate the Union" and to arrest "the progress of secession." Maryland's future governor, Augustus W. Bradford, proposed that since conservative men in the North were pressuring their legislatures to repeal the personal liberty laws, conservatives in Maryland and the upper South should match their efforts by confronting the "southern revolutionaries" who, during the 1860 presidential campaign, had denied that secession was their aim but who now, just fifty days later, were in "open revolution." Besides, he argued, if Maryland joined a southern confederacy, slaveholders would have no constitutional protection against the enticement of northern abolitionists. Although hoping for compromise, Bradford noted that the state could only exert influence toward a settlement if it remained in the Union.[16]

Reverdy Johnson, former U.S. senator, attorney general during the Zachary Taylor administration, and counsel for the defense in the 1857 Dred Scott case, gave the final address—a powerful denunciation of any constitutional "right" of secession. The Constitution, he said, corrected the notion that the Union was a mere compact or league of states that could be dissolved by any one state because the Constitution acts on citizens directly, not on the states. Therefore, though the federal government had no constitutional power to prevent the departure of a *state* from the Union, state *officials* were nevertheless bound by oath to support and defend the Constitution, and their failure to do so amounted to treason.[17] The current crisis, Johnson maintained, was caused by Lincoln's election, not northern personal liberty laws, all of

which had been passed years earlier. He further maintained that Lincoln was only opposed to the expansion of slavery in the territories, his views were conservative, and that there was no need for alarm. Johnson found it particularly troubling that because some in the South feared the president-elect *might* institute policies that would destroy the Union, the South would destroy it first.[18]

Although Johnson laid most of the blame for the crisis on the North, the South also bore responsibility. He joined those calling for compromise proposals like those being discussed in congressional committees, which would satisfy the South and permit seceded states to rejoin the Union. In the event that Congress failed to find a solution, he called for a border state conference to effect a settlement.[19]

Clearly trying to emphasize Maryland's bond with the Union, the assembly adopted a series of resolutions, the first four of which were taken from George Washington's Farewell Address of 1796. They emphasized the Union as the founders' cherished legacy and warned that all should watch for and discourage threats to it—a unified government was essential for its longevity and success. Other resolutions called for a repeal of northern personal liberty laws, a check on abolitionist "aggressions," compromise and conciliation, and praise for Congress's work toward a settlement.[20]

A "Conference of the Counties," on the other hand, that met over two days at the Law Buildings in Baltimore, had a different agenda. According to the *Sun,* delegates representing the city and all of the counties had been selected "by invitation of some gentlemen of this city." The published purpose of the meeting was to discuss the national difficulties and to urge Governor Hicks to convene the legislature, which, in turn, would pass a law authorizing a sovereign state convention. But the first day's proceedings revealed a split within the ranks. The majority proposed resolutions that would establish a committee to visit Hicks and discuss calling an election of delegates to a state convention by proclamation, thus bypassing the need for the General Assembly. If he disagreed, the group recommended he issue a proclamation that would allow the people to decide the question by popular vote. If Hicks refused both recommendations, the conference planned to ask the people of Maryland for delegates to a convention unsanctioned by the government.[21]

A spokesman for the minority, A. B. Hagner of Anne Arundel County, noted that the meeting was "only a conference, and had no delegated powers, and as such it was proper that moderation should be used." If the majority only put forth the resolution asking Hicks to call an election in which the voters would decide whether to form a convention, the minority intended to withdraw its report. The minority opposed secession as "too extreme and dangerous" and maintained that the Constitution contained remedies for all grievances. Until those powers had been utilized, the Union should not be abandoned. They called on the North to repeal its personal liberty laws and the federal government to eschew the use of force against the seceded states until it first fully executed its own laws, an unstated reference to the Fugitive Slave Act of 1850.[22] If all efforts at compromise failed, Maryland should act with the

other southern states and demand separation from the Union based on the right of revolution, because a constitutional right to secession was "dubious." The minority gave Hicks much more latitude and resolved that when the governor decided the time was right the legislature should be convened. That body would then pass the law to establish a sovereign state convention. Dr. William H. Duvall of Prince George's County, who introduced the minority report, commented that Hicks's actions thus far had been "patriotic and proper," and that if the state seceded its leaders could not function as mediators between the sections.[23]

The second day of this Conference of the Counties produced a compromise, clearly indicating that the minority had pushed the majority toward a more moderate position. William Henry Norris, who in two months would call for Maryland's secession, proclaimed that they "were all Union men," and, with Hicks's January 3 accusation of secret plots still on his mind, Norris wanted to "refute the slanders which had been hurled upon them." The delegates "did not contemplate, with drunken rowdies, an attack upon the capital of the country." Norris's southern inclinations became evident when he asked rhetorically, if the rest of the slaveholding states seceded, "what would be the condition of Maryland, a single slave state left with the North?" Nonetheless he, like the others in attendance, wanted the popular view to be expressed at the ballot box and declared his willingness to submit if the people declined to authorize a convention.[24]

In consultation, attendees adopted three new resolutions. The first proclaimed Maryland to be "true to the American Union" and would use its influence toward a peaceful settlement of the crisis. A second resolution stated that Marylanders would accept John J. Crittenden's proposals "as a fair and proper settlement" of the national calamity. (Known as the Crittenden Compromise, the Kentucky senator had proposed six constitutional amendments and four resolutions that made heavy concessions to southern demands.)[25] The final resolution authorized a committee of six to push Hicks toward calling an election to determine whether voters wished to authorize a sovereign state convention. If they did, the governor would then call for a second ballot to select delegates. The decision to bypass the General Assembly was likely done not only to bring the convention into session more quickly, but to address concerns about the cost of an extra session and the mischief the legislature might foment, both of which Hicks had warned of in his January 3 letter.[26]

The six-member committee from the Conference of the Counties met with Hicks on January 11. Unlike the last meeting between the governor and a committee from the December 22 Universalist Church group, this was of a friendly character. Hicks again refused to accede to the committee's proposals, countering that members of the conference had as much right to call a convention as he did. Instead, he professed his intention to wait to see if the Crittenden Compromise would be adopted by Congress.[27]

Despite making public pronouncements that gave secessionists an illusion of

hope, Hicks steadily aligned himself with the Union. On January 25 he wrote to General Winfield Scott and asked to borrow two thousand muskets in the event of an emergency, specifically Lincoln's upcoming March 4 inauguration. "I do not know what the minority of desperate men in Maryland may work out. You may notice by the papers that our Secessionists are straining every nerve to get up agitation here; so far it is a poor effort."[28]

A Secession Movement Is Born

The next meeting of Marylanders from which a secession movement would emerge took place on February 1, but before then a number of significant events took place. Between January 10 and January 26, Florida, Alabama, Georgia, and Louisiana seceded. Texas voted to secede on February 1, which was subsequently approved by referendum. On January 14, Virginia's General Assembly established a sovereign convention to consider its response to the secession crisis. Then, on January 19, Virginia's legislature issued a call for each state to send delegates to a conference that would meet in Washington and consider possible solutions to the crisis. What would become known as the "Washington Peace Conference of 1861" began on February 4.[29]

A formal Maryland secession movement emerged out of the February 1 meeting at the Maryland Institute in Baltimore. Prior to it, the goal of the loosely organized group was to compel Hicks to convene the General Assembly or call a convention, to work for a compromise measure with other border slave states, and to be in position to respond in some undefined manner should negotiations fail. While still giving a nod to a potential compromise measure, the meeting's leaders were now more focused: if a settlement could not be reached, Maryland should act in concert with Virginia, which was expected to secede. They dismissed any potential alignment with the North as beyond the realm of possibility. Moreover, attendees had clearly lost patience with Hicks and had begun to suspect him of duplicity. Their rhetoric revealed their utter contempt for the governor and even threatened violence.

Since those who opposed Hicks's actions could not circumvent the constitutional language that gave him discretion—rather than a mandatory obligation—to call an extra session of the General Assembly, many turned for support to the state constitution. Maryland's Declaration of Rights was a set of general principles that precede the constitution proper and encapsulate the values that underlie it. Article 2 of the Declaration of Rights, for example, highlighted the role of the people, who "ought to have the sole and exclusive right of regulating the internal government and police thereof." Article 4 proclaimed:

> That all persons invested with the legislative or executive powers of government are the trustees of the public, and as such accountable for their conduct; whenever the ends of government are perverted, and public liberty manifestly

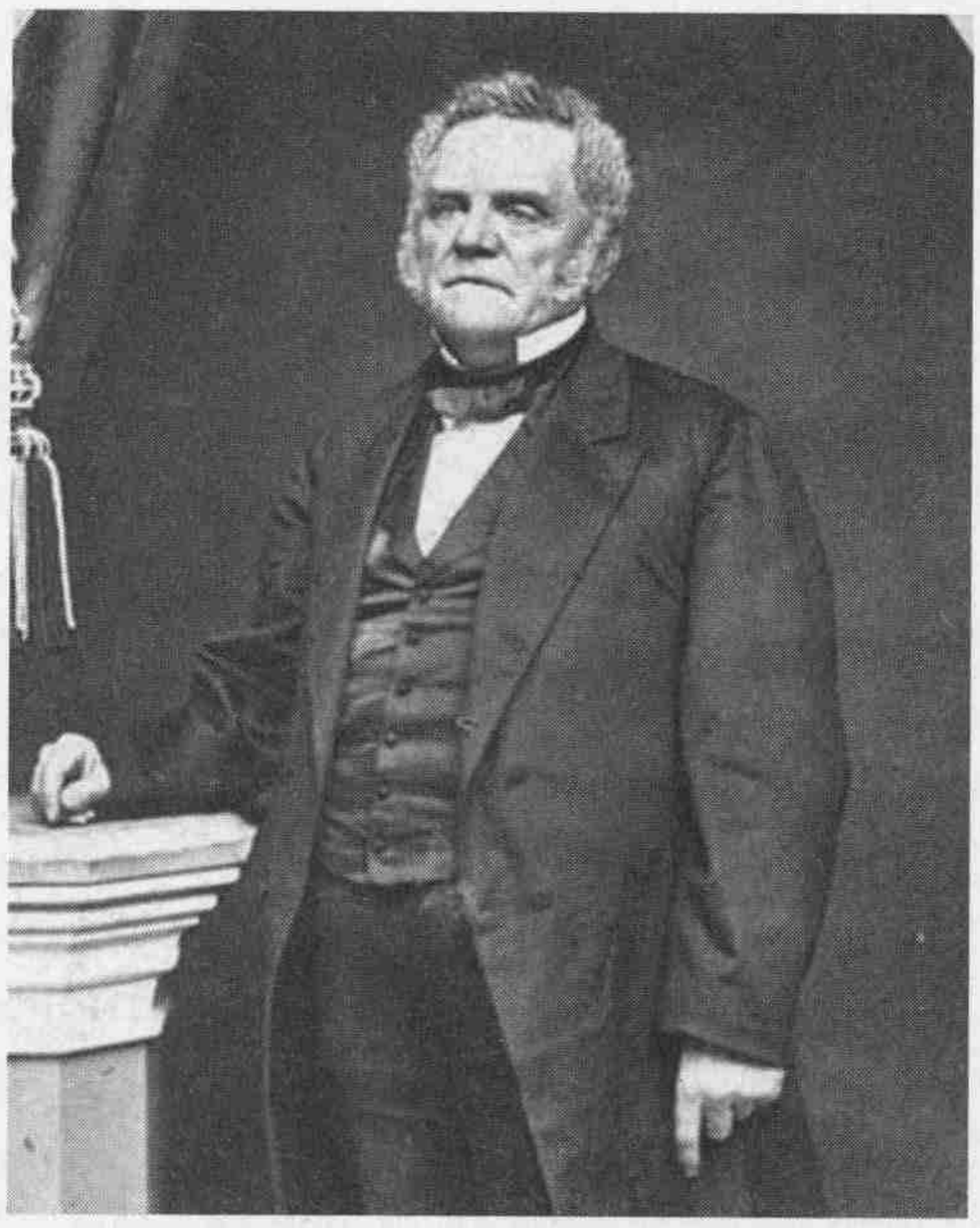
> endangered, and all other means of redress are ineffectual, the people may, and of right ought to reform the old or establish a new government; the doctrine of non-resistance against arbitrary power and oppression is absurd, slavish and destructive of the good and happiness of mankind.

Resentful that Hicks was making decisions they believed the people should make through their elected representatives, Article 6 also seemed to apply: "That the legislative, executive and judicial powers of government ought to be forever separate and distinct from each other; and no person exercising the functions of one of said departments shall assume or discharge the duties of any other." Although the Declaration of Rights delineated no powers, the *Baltimore Sun* reported that the call for a people's convention was being made "as authorized by the bill of rights."[30]

The secession of five more states and the formation of Virginia's state convention seemed to give the February 1 conference a sense of urgency, a fear that Maryland was being left behind. Baltimore physician Alexander C. Robinson chaired the meeting. William Henry Norris predicted that the Union was about to receive a "fatal blow," that it was on the eve of "dismemberment," and claimed that Hicks had been elected by fraud akin to "submission to black republicanism"—a reference to widespread violence and fraud in Baltimore during the 1857 election. Baltimore's congressmen, he added, were also elected by fraud, their commissions "stained with blood." With Hicks thwarting all efforts to convene the General Assembly or call a convention, Norris proposed that citizens could still represent themselves in "primary assemblies" provided for by the "bill of rights."[31]

Robert M. McLane, West Point graduate, attorney, former member of the House of Delegates, and a two-term congressman, informed the gathering that the Republican Party intended to adhere to its Chicago platform and enforce federal laws in the South. That, he said, would require military force and amounted to despotism. McLane, known to be an exceptional orator, soared to new rhetorical heights for a movement that heretofore had spoken in moderate, if not conservative, tones. "By the living God, fellow countrymen, the Susquehanna must be the boundary. They had spoken of the Potomac, but the Susquehanna shall run red with blood before it shall be crossed. . . . I will pledge my life and heart to march with you to the Susquehanna. For what? To prevent a single human being from crossing into Maryland to execute the laws of the United States against a seceding State."[32]

Severn Teackle Wallis devoted most of his speech to picking apart Hicks's reasons for refusing to call the General Assembly or a convention. Hicks "intended that Maryland shall be kept inert and silent" until after Lincoln's inauguration, at which time the citizens would be rallied to support the Union and therefore the Republican Party. But "clinging to the North means clinging to the Republican party," he declared. Marylanders will never "submit to have religion and morality manufactured for them by Massachusetts." He also criticized Hicks's selection of delegates to the



Governor Thomas Holliday Hicks (1798–1865) ultimately committed Maryland to the Union. (Maryland Historical Society.)

Washington Peace Conference—particularly Reverdy Johnson and Augustus W. Bradford—as being unrepresentative of Maryland popular opinion.[33]

Perhaps caught up in the passion of a night that featured some of the state's best speakers, former governor Enoch Louis Lowe—another renowned orator—also took up the rhetoric of violence. Three nights before, he had been summoned to Washington to testify before the House committee charged with investigating rumored plots against the federal government, including those whose alleged goal was to prevent Lincoln's inauguration. He had denied knowledge of any conspiracy to the committee, but told the crowd at the Maryland Institute that "when the people of Maryland shall determine to act—when the hour shall come to strike for their rights, it should not be in secret, but in the open daylight, with arms in their hands." If Governor Hicks should continue to deny the people voice through the General Assembly or a convention, "I lift within the State the banner of revolt against him!" Lowe even made an indirect threat against Hicks's life: "If it shall become manifest that after Virginia has taken action, we cannot act for ourselves—if it shall hereafter become manifest that we are to be sold, *we'll gibbet the seller*!! . . . If that be revolution, then I am a revolutionist!" In the event Marylanders decided to stay with the North, he would abandon the state and "seek in another land a more genial abode."[34]

The convention once more expressed devotion to the Union and a willingness to accept the Crittenden Compromise as a settlement, but now it explicitly declared that if negotiations failed, Maryland should cast its lot with "Virginia and the other slaveholding states." It further declared that Hicks's failure to call a sovereign convention did not reflect the sentiments of Maryland, nor did his choice of delegates

to the Washington Peace Conference, and called for the formation of paramilitary organizations in Baltimore to resist any attempt to coerce the seceded states. The meeting established a process by which Baltimore and the counties would elect delegates to a convention that would meet without official sanction on February 18. Localities were to select delegates to countywide and citywide meetings, which, in turn, would select delegations to what they termed a Conference Convention.[35]

Hicks was not without support during these dark days of acrimony and mockery. Attorney William Price, for example, wrote of the February 1 meeting: "They censure Gov. Hicks in round terms because he declines to give up his own judgment and take theirs, and that on a great subject which the Constitution confides to his discretion alone." Price's letter was published in the *Baltimore American* of February 5, 1861 and then as a pamphlet. State senator Anthony Kimmel of Frederick County was an ally from the American Party who on January 26 assured the governor that seven-eighths of Marylanders approved of his course. Baltimore attorney William H. Collins spoke before the January 10 "Friends of the Union" meeting and wrote two addresses that advocated the Unionist position and were first published in newspapers and then in pamphlet form. Local and county meetings in other portions of the state—particularly in western Maryland—passed numerous resolutions commending the governor's stance.[36]

The Conference Convention met in Baltimore on February 18–19 at the Universalist Church. Opening the meeting to delegates from across the entire state subjected it to moderating influences. A Worcester County meeting first elected delegates sympathetic to the goals of the February 1 meeting, but after that meeting adjourned another was held that elected delegates sympathetic to Hicks. Both slates of delegates arrived at the convention expecting to be seated, but the committee on credentials turned away the Hicks supporters.[37]

In something of a surprise, the convention elected Ezekiel F. Chambers of Kent County as president. Chambers was an avowed conservative, a War of 1812 veteran who had served in the state and U.S. Senate and as an appeals court judge, and had been a delegate to the state constitutional convention of 1850. After the explosive rhetoric of the February 1 meeting, perhaps the delegates hoped to gain credibility with his selection.[38]

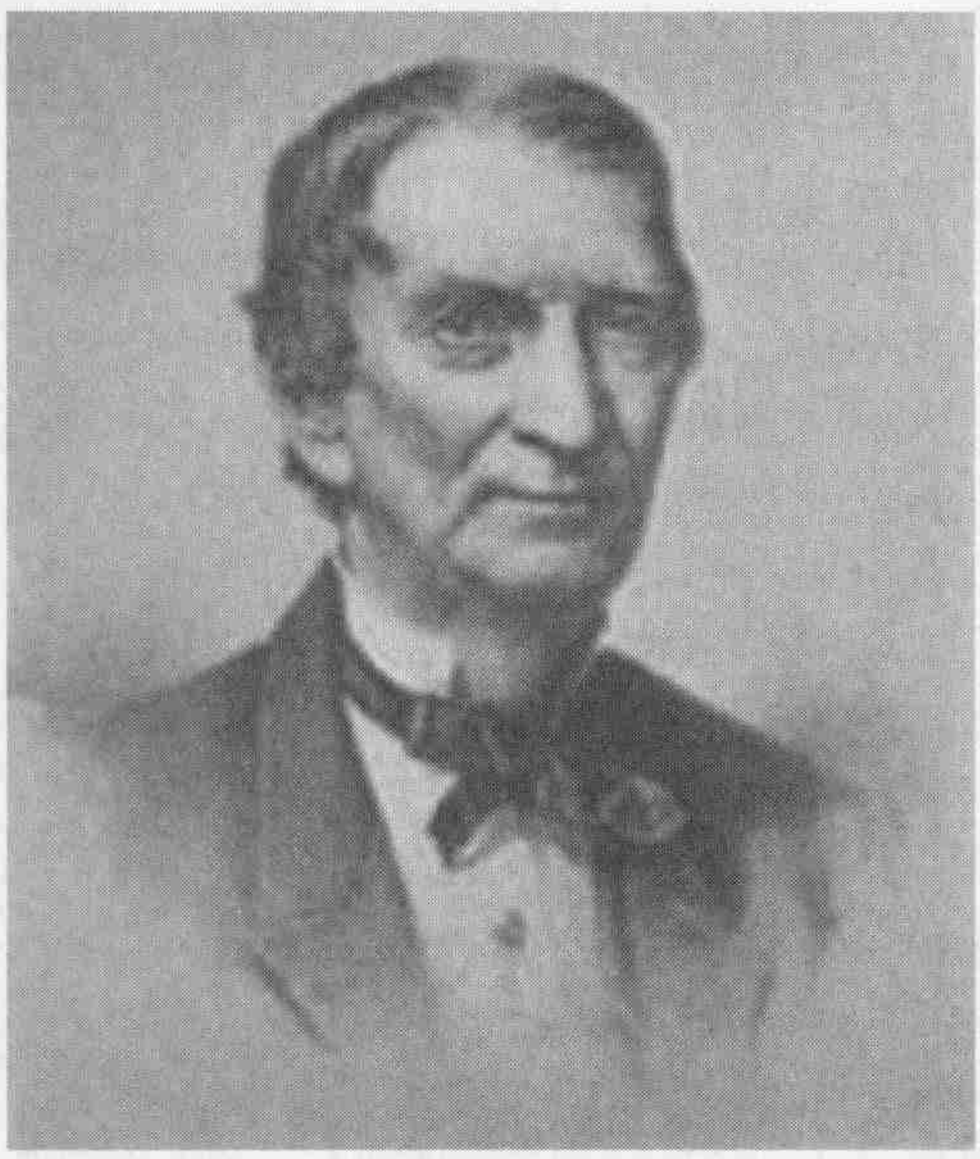
Chambers tried to put to rest any notion that this was a secession convention by asserting that there were "no more Union loving" people than those present and that secession was "the greatest political curse that could afflict our country." On the other hand, if her dignity and honor were endangered, Maryland should choose secession. His ultimate goal was to arrange for the election of delegates to a convention with official sanction, which he defined as one selected by a majority of Maryland's legal voters and requiring some action by Hicks. He also informed the assembly that he had recently been in contact with men close to Hicks and had learned that the governor was awaiting the outcome of the Washington Peace Conference and whatever

action Congress might take, after which he would call an election to determine if Maryland voters supported the idea of a convention to decide on secession. In a letter to Dr. Joseph J. Duvall, published on February 9, Hicks had written that if attempts at compromise failed he would "go to the people as asked by the Committee sent by the Counties' Convention." Chambers proposed that the Conference Convention delay any action until the Peace Conference had concluded its business, and that any action should be directed toward adding weight to Hicks's anticipated announcement. Out of respect for Chambers, or perhaps believing that Hicks had finally relented to its demands, the delegates went along with this suggestion.[39]

The Conference Convention then proclaimed that the "aggression of the non-slaveholding states" had caused the secession crisis, that Maryland should act in concert with Virginia "to associate with her in confederation with our sister States of the South," and that Maryland "should not permit its soil to be made a highway for federal troops, sent to make war upon our sister States of the South." It also announced its approval of the governor's "alleged" intention to issue a proclamation calling for a state convention. To allow time for Hicks to act, it adjourned until March 12 unless Virginia seceded before that date, in which case, if the governor had not yet called for a convention, the Conference Convention would reassemble upon the call of President Chambers.[40]

Enoch Louis Lowe read an address that had been prepared by the convention's business committee. Why the committee chose Lowe, who had previously proposed revolt and the governor's assassination, is unclear, but the address rejected accusations that Maryland's Southern Rights men were secessionists and disunionists as unjust. Lincoln's election, however, had brought to power a party whose principles violated the constitution and the honor and equality of the slaveholding states, it proclaimed, and had Maryland and the other border slave states convened conventions earlier, the crisis might have been averted. A border slave state conference held in November or December, for example, might have controlled the actions of the cotton states by presenting the Crittenden Compromise to the North as an ultimatum, after which northern public opinion might have moved its leaders to relent. Had efforts to reach a settlement failed, Maryland's Southern Rights men could have devoted their efforts to a peaceful separation of the sections. As it now stood, reconstruction of the Union was probably impossible, but the convention wished to make one last attempt. If that too failed, "an overwhelming majority of the people of Maryland [are] loyally and thoroughly with the South." Maryland should act with Virginia in its effort to reconstruct the Union, or, if unsuccessful, "then to unite the fortunes of Maryland with those of Virginia and the South."[41]

On February 18, A. R. Wright visited Maryland as a commissioner from Georgia and happened to be in Baltimore during these proceedings. Because the convention "had no power to commit their State to any line of policy," his visit to it was unofficial but he was given a seat on the floor. His impression, written a month later, was that



Kent Countian Ezekiel F. Chambers (1788–1867), elected president of the Conference Convention, declared unfailing support for the Union, unless Maryland's honor was disgraced. (Maryland Historical Society.)

although they thought "the cotton States had acted with undue haste and precipitancy," the convention's members were "almost unanimous for resistance to Black Republican rule, and determined to co-operate with the seceding States in the event that Virginia should determine to withdraw from the Federal Government."[42]

When the Conference Convention reconvened on March 12 at the Universalist Church in Baltimore, Lincoln had been inaugurated. All efforts to resolve the crisis through Congress and the Washington Peace Conference had come to naught, but Virginia, despite expectations, had not seceded. Delegates were divided regarding their next step, and the *Baltimore Sun* questioned why they had assembled at all, given their earlier resolution that Maryland should follow the course of Virginia.[43]

Ezekiel Chambers called the sparsely attended convention to order and explained that so many delegates were absent because he and other leaders had anticipated that Hicks would call for a vote on a sovereign state convention, news of which he had expected to find in the papers. He had recently been in contact with men close to the governor, though, and informed the assembly that Hicks had changed his mind. As the governor explained the following December, the state constitution did not give him the authority to call for a vote that would establish or decline to establish a sovereign convention.[44]

Robert M. McLane, who at the February 1 meeting had called for marching to the banks of the Susquehanna to resist the approach of northern troops, now took a decidedly conservative turn. Because Virginia had not yet seceded, he said, Maryland was "helpless"—caught between the sections—and should work within "the Union and under the constitution." He rejected the notion that the conference was composed of "revolutionists" and said Maryland should take no action that would put

it in conflict with state or federal authority. Clearly, since Virginia had not seceded, "it would be madness in Maryland to do so." He recommended that the state adhere to the Union so long as its constitutional rights were protected. Most agreed with McLane that Virginia's secession was essential before Maryland could consider a similar course, because without it Maryland would have no physical border with the Confederacy. Dr. John Hanson Thomas then presented a resolution criticizing the inaction of Congress and Governor Hicks as well as the "dilatory action of the State of Virginia."[45]

The next day McLane rose again, this time to decry any right of the federal government to bring the seceded states back into the Union by force. Although some—particularly Reverdy Johnson at the January 27 Friends of the Union meeting—had argued that there was no constitutional right to secession, McLane explained that whether secession was a right was immaterial because the withdrawal of seven states was an "accomplished revolution" and the right to revolution was a right no less sacred and "forever vested in the American people." He repeated his recommendations of the day before, suggesting that Maryland fight for its rights within the Union as long as possible, but when the border slaveholding states could no longer defend their rights within the Union, "we will be found at their side a united people, whether it be to *revolt*, or to *secede*."[46]

The Conference Convention soon began to divide into opposing camps. Like McLane, Judge Chambers took a conservative position. Delegate and future Confederate general Bradley T. Johnson of Frederick County proposed that federal attempts to retake forts or other property in the South, or to blockade southern ports be interpreted as an act of war on the South. He also proposed that the commencement of war between the federal government and seceded states would dissolve the compact between the remaining states and the Union. Chambers argued against the Johnson resolutions because they departed from the "conservative course" of the conference and because they would, if war began, declare Maryland out of the Union and result in the Conference Convention being seen "as a body of secessionists." Maryland could not exist as an independent nation, and, so long as some hope remained of preventing further secession and bringing back the seceded states, the Union was not broken. Chambers favored exhausting all possibilities of preserving the Union first. McLane also opposed Johnson's resolutions because this was not a "Sovereign Convention" but a "Conference Convention" and as such possessed no authority to commit the state to secession. So long as Virginia remained in the Union, McLane and Chambers generally agreed with Governor Hicks.[47]

William Henry Norris, on the other hand, preferred that Maryland leave the Union and apologize to Virginia for doing so first, as in the Revolutionary period. A border state conference would only protract the crisis and bring economic stagnation. The best chance of reconstructing the Union, he said, would be if the remaining slave states were annexed by the seceded states (which would preclude the necessity

for the border slave states to convene legislatures and establish sovereign conventions). Once all of the slaveholding states were out of the Union, they would be in a position of greater strength and could present terms to the North that might lead to reconstruction. Norris's conjecture may have appeared a little odd, since none of the seceded states had expressed a desire to rejoin the Union, but only if Virginia opposed annexation by the deep South, he said, should Maryland participate in a border slave state convention.[48]

Despite the discord among attendees, the Conference Convention passed four resolutions. Adhering to their February 18 resolutions, they voted to take no action until Virginia settled the question then being debated in its state convention of whether to call a convention of border slave states. Another resolution expressed Maryland's support for the proposed border slave state convention and arranged for a delegation to deliver the news to the Virginia convention. A late resolution recommended to Virginia that if it authorized a border slave state conference, delegates should be chosen by popular election or by state conventions rather than appointment by their governors or legislatures. With that, the meeting adjourned to await any action by Virginia or Chambers's call to reconvene.[49]

The six-member delegation authorized by the Conference Convention to communicate with Virginia's convention—minus Enoch Louis Lowe, who was home ill—arrived in Richmond on March 15. The next day they were given seats and informed the Virginians that Maryland would accept an invitation to a border slave state convention but would prefer the border state delegates be chosen by popular election or in a state convention. Still angry over Hicks's choice of delegates to the Washington Peace Conference and uncertain of their own legislature's intentions, they informed the Virginia convention that should "any existing department" of Maryland's government attempt to select delegates to a border state conference the action would "undoubtedly be resisted by the people." To avoid such a collision, they asked the Virginia convention to change the language in its resolution so that those delegates "should be elected, either directly by the people, or through the agency of a sovereign State Convention."[50]

Although their message was ultimately printed and made a part of the Virginia convention's proceedings, the Marylanders must have had some misgivings when Delegate Samuel McDowell Moore of Rockbridge County questioned their authority to act on behalf of the state, which highlighted their lack of credibility outside of their own supporters. The Virginia convention was already "annoyed enough by the proceedings of county meetings and other matters, without being burdened by the printing of communications from other States" and considered the letter and requests of the Maryland delegation "as rather an assumption on their part."[51]

Behind the scenes, Hicks continued his efforts to thwart the secession movement. On March 18 he again wrote to General Scott asking for two thousand stand of arms because the "spirit of insubordination is increasing" and he feared an uprising

if Virginia seceded. On March 28 he wrote Secretary of State William H. Seward: "I am not a Republican, but a Union man and supporter of your Administration as far as it may be wise and proper, and, thus far I have no fault with it." He offered to provide advice on the proper course to be taken in the border states and to sustain the policy of the administration as much as possible.[52]

Within a month, matters came to a head. On April 12, Confederates bombarded Fort Sumter, which surrendered two days later. On the fifteenth, Lincoln called for 75,000 volunteers to put down the rebellion, including four militia regiments from Maryland. Two days later, Virginia seceded. These events sent shockwaves through Marylanders who sought alignment with the South. On April 17 a call published in Baltimore newspapers asked "States' Rights Men" who were "opposed to the despotism of the Republican Administration, and in favor of maintaining the Rights of the South" to assemble in their wards and select ten delegates to meet the next evening in Taylor's Building on Fayette Street. On that same evening, William Henry Norris, who during the spring had urged local Southern Rights clubs to arm and drill, took steps to organize armed resistance to the passage of northern troops through Maryland.[53]

The next day, before the States' Rights meeting could take place, the Northern Central Railroad delivered troops to Baltimore. Some were U.S. Army regulars, who subsequently marched to Fort McHenry. Three un-uniformed companies from Pennsylvania also marched through town to the Mount Clare Depot. They were verbally assaulted and a few bricks were thrown, but, under police escort, there were few casualties. That evening, Dr. Alexander C. Robinson, who had served as president of the raucous February 1 meeting, was elected to chair the States' Rights meeting. This gathering was not affiliated with the Conference Convention, although its membership and goals certainly overlapped. In fact, the meeting on April 18 appears to have been an amalgamation of two distinct groups. When published, its resolutions were described as being a product of "the State Rights and Southern Rights Convention." Maintaining that Lincoln's intent to recapture federal forts and property in the South would lead to bloodshed, disruption of the Union, and the "irreconcilable estrangement" of North and South," one resolution protested any attempt to garrison troops from the free states in the South or in the District of Columbia. That would create "a standing menace to the State of Maryland, and an insult to her loyalty and good faith, and will . . . alienate her people from a government which thus attempts to overawe them by the presence of armed men, and treats them with contempt and distrust." Another resolution called upon Marylanders to defend "our home and our firesides, to avert the horrors of civil war, and to repel, if need be, any invader who may come to establish a military despotism over us." The *Sun* reported that after the meeting had adjourned, those who supported the resolutions were told to reassemble in their wards "for thorough organization" under the direction of their delegates to the convention—likely a reference to military organization.[54]

That day, too, Hicks and Baltimore mayor George William Brown issued proclamations urging Marylanders to remain calm and to observe existing laws. Hicks informed the populace that officials in the Lincoln Administration had assured him that any Maryland troops sent in response to the call for volunteers would only be utilized to defend Washington. But in closing Hicks surely angered and frustrated those who had urged him repeatedly to convene the General Assembly or to arrange for a sovereign state convention. Despite all that had occurred—the failure of reconciliation in the Washington Peace Conference and Congress, the outbreak of hostilities at Fort Sumter, and Lincoln's call for troops—he advised further delay. Lincoln had called for a special session of Congress to address the national crisis. The election of congressmen would not occur until June, but Hicks assured Marylanders that it was in that election that they finally would have an opportunity to "express their devotion to the Union, or their desire to see it broken up."[55]

The next day, April 19, violent rioting broke out in Baltimore when citizens clashed with the 6th Massachusetts Volunteers, who were marching along Pratt Street between train stations on their way to Washington. Published resolutions by the Conference Convention that had protested against any passage of U.S. troops over Maryland soil, and one by the States' Rights and Southern Rights convention that called for citizens to "repel . . . any invader," and the creation of paramilitary organizations such as the Southern Volunteers and the National Volunteers, the latter reputed to have been formed to prevent the inauguration of Lincoln, only increased the likelihood of confrontation. Such rhetoric and military activity, championed by prominent men, made bloodshed almost inevitable.

The evening after the Pratt Street riot, an impromptu meeting took place in Baltimore's Monument Square. Attorney John L. Thomas Jr. of Baltimore, later a Unionist delegate to the 1864 state constitutional convention and in 1865 a member of the U.S. House of Representatives, was present at Mayor Brown's office when the governor decided to go to Monument Square. He wrote that Hicks had been physically removed from his room at the Fountain Hotel and taken to the mayor's office, where his life was threatened by those who opposed his decision to not call out the General Assembly. Thomas overheard others say that they hoped the governor would make a speech at Monument Square where he might be shot. Thomas told Hicks of these threats and remembered Hicks's response:

> Gentlemen, if I can save the State from civil war and further bloodshed by going to Monument Square, I shall do so. I am an old man; I have endeavored to save my State from civil war; I have kept back the remonstrances and petitions sent by rebels from nearly every town in the State, for a meeting of the Legislature. I think I have done my duty heretofore, and if need be I am ready to die in Monument Square, or anywhere, to save my State.[56]

Among those affiliated with the Maryland secession movement who spoke at Monument Square were Alexander C. Robinson, Severn Teackle Wallis, and Robert M. McLane. Wallis told the crowd that his "heart was with the South" and that he was "ready to defend Baltimore." Governor Hicks, under the influence of strong pro-southern sentiment, again took an equivocal position: "I am a Marylander, and I love my State, and I love the Union, but I will suffer my right arm to be torn from my body before I will raise it to strike a sister State."[57]

The next day Maryland militia units burned six railroad bridges north of Baltimore to prevent the arrival of more northern troops. Hicks later denied having authorized the bridge burning, although others such as Enoch Louis Lowe and Mayor Brown later said that he had. John L. Thomas Jr. was at Brown's office when the decision was made to burn the bridges, and he supported Hicks's denial of complicity in the act:

> I was present when Coleman Yellott, Robert L. [*sic*] McLane and others of that ilk came in, and asked Governor Hicks to sign the order for the burning of the railroad bridges and destruction of the tracks and telegraphs. Governor Hicks refused, and told them that so far as he was concerned, although he had no authority, he would do all he could to prevent it. And when General Charles Edgerton came in and told Governor Hicks that he had just given orders to tear up the railroad tracks and cut down the telegraph poles, Governor Hicks raised up his hands and said—"My God! gentlemen, what is it you have done? I have given no such orders. There were gentlemen present here, when Mr. McLane and Mr. Yellott came in here, and they heard what my opinions were on that subject. You have done it on your own responsibility."[58]

To restore order in Baltimore, Hicks had activated the Maryland Militia in Baltimore, which was commanded by George Hume Steuart. The police board enrolled volunteers in un-uniformed companies, said to total 15,000 men, and asked Isaac Ridgeway Trimble to take command of them. Steuart and Trimble would both become generals in the Confederate army. Hicks would later write that the loyal militia in Baltimore was unarmed and unorganized. As a result, those in sympathy with the South had control of the city. Trimble appointed five prominent citizens to positions as aides, including William Henry Norris, Robert M. McLane, and Enoch Louis Lowe. Volunteer surgeons were requested to report with their instruments to Dr. Alexander C. Robinson's office at the corner of Charles and Saratoga streets.[59]

One of the resolutions of the last meeting of the Maryland Conference Convention called for its reassembly if Virginia seceded. Accordingly on April 19, Ezekiel Chambers called the Conference Convention to assemble on April 30 in Baltimore.[60]

On April 22, however, Governor Hicks finally relented to pressure of events and called for an extra session of the General Assembly to meet in Annapolis on April 26.

Two days later, with U.S. troops in control of Annapolis, he changed the location to Frederick in central Maryland, an area more sympathetic to the Union. The governor later explained that his previous refusal to convene the General Assembly had been designed to buy time for the "zealots" to moderate their opinions but that the Pratt Street Riot had shown him how much he had miscalculated. As a result of Hicks's decision to call out the legislature, on April 24 Chambers cancelled the scheduled meeting of the Maryland Conference Convention. It would not meet again.[61]

Other pro-southern assemblies were held throughout Baltimore. On the evening of April 22, Dr. Robinson chaired another meeting of the States' Rights and Southern Rights Convention at Taylor's Building. Its only published business was the nomination of candidates for a citywide election to fill ten vacancies in the House of Delegates. The 1860 session of the General Assembly had declared the seats vacant due to widespread fraud in the 1859 election. Of the ten nominated, most had been associated with the Maryland secession movement—including Severn Teackle Wallis and Dr. John Hanson Thomas—and in time they and the entire Baltimore delegation in the lower house would be arrested by the government on suspicion of disloyalty. In an atmosphere in which southern sentiment was ascendant, and in which pro-southern militias were on prominent display, no opposition party was organized to present another slate of candidates. As a result, the ten nominated by the States' Rights and Southern Rights Convention were elected.[62]

Immediately after the riots in Baltimore, Mayor Brown and Governor Hicks had urged the federal government to avoid sending more troops through Baltimore. Gen. Benjamin F. Butler, commanding the 8th Massachusetts Volunteers, took a steamer from Perryville to Annapolis and the Naval Academy. His men then repaired the damaged tracks of the Annapolis and Elk Ridge Railroad and rode by train first to Annapolis Junction, thence via the Baltimore and Ohio to Washington. The disturbance in Baltimore had impeded reinforcements to the nation's capital for about a week.

On April 26, the same day Butler's men arrived in Washington, the General Assembly convened in extra session at Frederick. In a written address to the body, Governor Hicks—as usual giving a nod toward the possibility of secession—now advocated neutrality:

> I cannot counsel Maryland to take sides against the General Government, until it shall commit outrages upon us which would justify us in resisting its authority. As a consequence, I can give no other counsel than that we shall array ourselves for Union and Peace, and thus preserve our soil from being polluted with the blood of brethren. . . . The course I suggest has all the while been the sole groundwork of my policy.[63]

Because of Hicks's successful efforts at delay, those members of the legislature who were working with or sympathetic to the secession movement abandoned their

attempts to establish a sovereign convention, probably because it would have taken too long to arrange for elections, conduct a campaign, and subsequently deliberate the issue, all while the North and South were preparing for war. Instead, using the General Assembly as its vehicle, secessionists and their allies attempted to pass the Public Safety Bill, introduced in the senate by Coleman Yellott in a secret session, which would have taken control of the Maryland Militia from Hicks and delivered it to Southern Rights men prepared to act in concert with the South. Such an unconstitutional tactic quickly drew the disapproval of many citizens, legislators, and newspaper editors, and the bill died with the May 14 adjournment of the first session of the General Assembly's extra session.[64]

Casual observers of the secession crisis tend to view the loyalties of those who lived through it as simply for the Union or for secession, but close examination of the writings and speeches of significant Marylanders reveals that theirs was a more nuanced and conditional response. In many cases, the views of those who eventually would favor secession and those who would throw their allegiance to the Union had much in common through March 1861. Most favored some sort of compromise, including major concessions from the North. The most significant difference was over the necessity of convening a special session of the General Assembly or of establishing a state convention. Additionally, the views of many Marylanders often changed in response to unfolding events.

Maryland's secessionists were of a moderate variety—even conservative in the case of some actors—as Hicks suggested to Judge Handy and as was typical of the border states of the Upper South. No prominent Marylander called for the state's immediate secession following the election of Abraham Lincoln on November 6, 1860. Only after South Carolina withdrew from the Union on December 20, 1860 did a formal secession movement began to evolve in Maryland. Initially it only pressed Governor Hicks to convene an extra session of the General Assembly so that body would be in a position to respond to ongoing events in an undefined way. These early meetings declared devotion to the Union and a commitment to mediation. It was only at the February 1 meeting, which followed the secession of five more states and the convening of Virginia's state convention, that the meeting's rhetoric and goals took a decided turn toward the South. While still urging compromise, it acknowledged that upon the failure of efforts to reach a settlement Maryland should act in concert with Virginia and the other slaveholding states. In the event that the Union dissolved, several speakers pointed out, continued alignment with the North was unfathomable. A few even threatened violence against Hicks or northern troops who might attempt to pass through Maryland to enforce federal laws in the South.

But as winter turned to spring, Virginia remained in the Union. Rendered powerless by virtue of Hicks's inaction, the secession movement in Maryland devolved into dissension and factionalism, and came under the influence of conservative men. Now it sought delay of its own to await Virginia's secession, the establishment of a

border state conference, or some action by the governor. Two prominent men—future Confederate officers Bradley T. Johnson and William Henry Norris—publicly called for Maryland's secession under certain conditions.

Although at least one recent writer has attributed the failure of Maryland's secession movement to a lack of leadership and formal structure, it possessed both. What it lacked was legal standing to act on behalf of all Marylanders as a result of Hicks's intransigence. Without that, the secession movement lacked consensus and credibility with a significant segment of the population and with other southern states as well. Even a number of its leaders, such as Ezekiel Chambers and Robert M. McLane, publicly recognized the secession movement's lack of official authority to act on behalf of Maryland. The Conference Convention and earlier meetings arranged by Southern Rights supporters did, however, establish a formal structure led by prominent men that gave it status and respect from its supporters and which served to discourage extralegal expressions of Southern Rights sentiment.[65]

After the firing on Fort Sumter, Lincoln's call for volunteers, and Virginia's secession, sentiment in favor of the South could no longer be contained or adequately expressed within the Conference Convention but erupted in the streets in the form of the Pratt Street riot and in subsequent paramilitary activity. Hicks, realizing that the dynamics had changed, quickly called for an extra session of the General Assembly, which served to purge some of the excessive pro-southern mania by giving its followers some expectation that its views would come to fruition in the legislative session. In light of momentous events that were taking place in the nation, though, allies of the secession movement in the General Assembly abandoned what they had called for all spring—a sovereign convention to vote on the state's course—in favor of an attempt to reorganize the Maryland Militia, which would have permitted Maryland to quickly cooperate with the South militarily.

It can be argued that Governor Hicks almost single-handedly thwarted the secession movement in Maryland. Although Maryland's constitution gave him the exclusive authority to summon the legislature at his own discretion, and his inaction helped "save" Maryland for the Union, it must also be acknowledged that he denied the average Marylander a voice during a time of great national crisis. There is no certainty that a Maryland state convention, if convened at an early date, would have voted to secede in the end. Like Virginia, it probably would have sought compromise until the last possible moment. But after Fort Sumter and Lincoln's call for troops, would a Maryland convention have followed Virginia out of the Union, or would it have followed the course promoted by Hicks, who sought neutrality and tentative alliance with the Union? This question has been debated from 1861 to the present without resolution. Maryland indeed had more in common with Virginia than with any other state, but it also had significant differences that preclude determining with certainty whether a majority of Marylanders would have desired the state to blindly follow Virginia. Maryland had more economic, commercial, and transportation links

with the North than did Virginia. In addition, Virginia was much more invested in the slave economy than was Maryland; nearly 31 percent of its population was enslaved, compared with 13 percent in Maryland.

Ultimately, Maryland's decision to secede or not may have turned on how representation in a statewide convention was determined. If it was based on a county's representation in the General Assembly, the southern Maryland counties would have been over-represented and Baltimore under-represented. If based on total population, Baltimore would have had more influence. If the state's free blacks and slaves counted like white citizens toward each county's and Baltimore's representation (as they did in determining representation in the General Assembly) it would have added most significantly to southern Maryland's strength in the convention. Southern Maryland had the most in common with the southern slave economy.

Despite widespread fraud and intimidation in Baltimore, the 1859 election resulted in Democratic control of forty-five seats in the House of Delegates, while the American Party won only twenty-nine seats. In the state senate, Democrats held twelve of twenty-two seats. Since that election took place only weeks after John Brown's raid on Harpers Ferry had heightened fears of slave insurrection and raised mistrust against northern abolitionists, certainly most of the Democrats elected were, or were inclined to sympathize with, Southern Rights supporters. Stephen A. Douglas's poor showing in the 1860 presidential election also illustrates the weakness of the northern wing of the Democratic Party in Maryland. These things together may be why Hicks was so mistrustful of, and reluctant to convene, the General Assembly. In addition, ten American Party seats in the House of Delegates that had been voided at the end of the 1860 legislative session as a result of fraud in Baltimore were filled by Democrats without opposition in the aftermath of the Pratt Street riot. That increased the Democratic majority in the House to fifty-five of seventy-four seats. As a result of the composition of the General Assembly, it would be reasonable to expect that, if convened, Southern Rights Democrats would have sought to establish representation in a sovereign state convention that would have maintained their majority status. With so much at stake, certainly there would have been a great deal of angry debate across the state over how each county was represented in a convention that would determine the allegiance and fate of Maryland.

Yet another question comes to mind: If a Maryland convention voted to secede, would it have submitted its decision to popular referendum, as did Virginia? If so, and if the political labels "Democrat" and "American" were replaced with "Southern Rights" and "Union," the taint of corruption and fraud attached to the American Party may have subsided and improved the Union showing. But would a referendum have been conducted free of political and military interference? Given Baltimore's history of violent and fraudulent campaigns in the previous decade, and the presence of U.S. volunteers in the state beginning in April, there is no certainty that a fair election would have been conducted. Whatever decision was made about representation

Union flag on a Lafayette Street storefront in Baltimore, 1861. (Maryland Historical Society.)

and a referendum, given what was at risk there almost surely would have followed charges of treachery, fraud, and sinister motives that would still have clouded our view of Maryland's ultimate allegiance.

When the first session of the General Assembly adjourned on May 14, the Committee on Federal Relations, chaired by Severn Teackle Wallis, published a number of resolutions on behalf of the House of Delegates. Declaring the war "waged by the Government of the United States upon the people of the Confederate States" as

unconstitutional, one resolution called for the recognition of the Confederacy as an independent nation. The final resolution acknowledged the defeat of the aims of the secession movement: "That under existing circumstances, it is inexpedient to call a Sovereign Convention of the State at this time, or to take any measure for the immediate organization or arming of the militia." With this last failed attempt to cooperate with the South in the General Assembly, the Maryland secession movement died under the weight of divided opinion in Maryland, the flight of its most ardent supporters to Virginia, and the force of U.S. arms.[66]

NOTES

1. Handy to Hicks, December 18, 1860, and Hicks to Handy, December 19, 1860, Governor (Letterbook) MSA SC M3169: 152–155, Maryland State Archives, Annapolis.
2. *Baltimore Sun*, November 7, 1860.
3. Ibid., November 29, 1860.
4. Ibid., November 24, 1860.
5. *Hagerstown Herald of Freedom and Torch Light*, December 26, 1860.
6. *Baltimore Sun*, December 24, 1860.
7. Ibid.
8. Ibid., December 24 and 27, 1860; Testimony of Thomas H. Hicks, February 13, 1861, in Report No. 79, "Alleged Hostile Organization Against the Government within the District of Columbia," in *Reports of Committees of the House of Representatives, Made During the Second Session of the Thirty-Sixth Congress, 1860–'61* (Washington, D.C.: Government Printing Office, 1861) 2:168, 173.
9. Nuttle, Smith, Watkins, Yellott, Lynch, Brooke, McKaig, Franklin, Whitaker, Goldsborough and Heckard to Hicks, December 28, 1860, Governor (Letterbook) MSA SC M3169, 149–151, Maryland State Archives; *Baltimore American and Commercial Advertiser*, January 7, 1861.
10. *Baltimore Sun*, December 28, 1860.
11. Ibid., December 28, 1860; ibid, January 2, 1861.
12. *Hagerstown Herald of Freedom and Torch Light*, January 16, 1861; *Baltimore Sun*, January 2, 1861.
13. *Hagerstown Herald of Freedom and Torch Light*, January 16, 1861.
14. *Baltimore American*, January 1, 1861. Hicks discussed the sources of his information in Testimony of Thomas H. Hicks, February 13, 1861, Report No. 79, "Alleged Hostile Organization Against the Government," 2:166–78.
15. See, for example, the *Baltimore Sun*, January 10, 1861.
16. *Proceedings and Speeches at a Public Meeting of the Friends of the Union, in the City of Baltimore, Held at the Maryland Institute, on Thursday Evening, January 10, 1861* (Baltimore: John D. Toy, 1861), 4, 12, 13, 17, 19.
17. Ibid., 24–28.
18. Ibid., 46–49.
19. Ibid., 50–51, 55. There was a point beyond which Johnson would not go, however, and he soon became one of the state's most ardent and influential Unionists, declaring that Fort Sumter should be held at all hazards as a symbol of national power, even at the cost of blood.
20. Ibid., 6–8.

21. *Baltimore Sun*, January 11, 1861.
22. One piece of the Compromise of 1850 legislation, passed to enforce article 4, section 2 of the Constitution, required the return of those "held to Service of Labour in one State" who had fled to another state.
23. Ibid.
24. Ibid., January 12, 1861.
25. Among the most significant proposals was one that reestablished the Missouri Compromise line to the Pacific Ocean, below which slavery would be allowed. Another amendment would prohibit Congress from repealing or altering any of the amendments once they had passed, which would serve to guarantee the legality of slavery in the South for all time.
26. Ibid.
27. Ibid., January 15, 1861.
28. Hicks to Scott, January 25, 1861, Governor (Letterbook) MSA SC M3169: 177, Maryland State Archives.
29. Texas voted to secede on February 1, subsequently approved by referendum.
30. Constitution of 1851, Declaration of Rights, Articles 2, 4, and 6; *Baltimore Sun*, February 2, 4, 1861.
31. *Baltimore Sun*, February 2, 1861. When the February 4, 1861 *Baltimore Sun* printed articles 2, 4, and 6 from the Maryland constitution's Declaration of Rights, it referred to them as the "Bill of Rights." In his speech, Norris, an attorney, was probably referring to the U.S. Constitution's Bill of Rights, of which the First Amendment guarantees the right to peaceful assembly.
32. *Baltimore Sun*, February 2, 1861.
33. *Speech of S. Teackle Wallis, Esq. as Delivered at the Maryland Institute, on Friday Evening, February 1st, 1861* (Baltimore: Murphy & Co., n.d.), 4, 9–10, 12, 15.
34. Testimony of Enoch Louis Lowe, February 1, 1861, Report No. 79, "Alleged Hostile Organization," 2:97–103; *Baltimore Sun*, February 2, 1861. In the February 2, 1861 *Baltimore American's* transcription of Lowe's speech, the former governor's threat on Hicks's life was direct: "We only ask one thing, just and true, that we shall be permitted to decide the question at the ballot-box. If an arbitrary Governor should refuse our request, and with his power endeavor to prevent the exercise of these rights, then we will raise the banner of revolt against him. . . . If after Virginia and Tennessee have spoken, and the loyal men of Maryland have spoken, he refuses, we will gibbet him. I am a revolutionist then."
35. *Baltimore Sun*, February 2, 1861.
36. William Price, *The Position of Maryland. Letter of William Price, Esq. of Baltimore* (Murphy & Co., [1861]); Kimmel to Hicks, January 26, 1861, MS 1313, Thomas Holliday Hicks Papers, 1860–62, Maryland Historical Society, Baltimore. William H. Collins, *An Address to the People of Maryland* (Baltimore: James Young, 1861); William H. Collins, *Second Address to the People of Maryland* (Baltimore: James Young, 1861).
37. *Baltimore Sun*, February 19, 1861.
38. Ibid.
39. *Address and Resolutions Adopted at the Meeting of the Southern Rights Convention of Maryland, Held in the Universalist Church, in the City of Baltimore, February 18th and 19th, 1861: Together with the Address Delivered by the President, Hon. Ezekiel F. Chambers, on Taking His Seat* (Baltimore: J. B. Rose, 1861), 6–9; *Frederick Examiner*, February 27, 1861.
40. *Address and Resolutions Adopted at the Meeting of the Southern Rights Convention*, 10.
41. Ibid., 10–13.

42. *The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies*, series 4, vol. 1:151.
43. *Baltimore Sun*, March 13, 1861.
44. Ibid.; *Message of the Governor of Maryland to the General Assembly. Special Session, December, 1861* (Annapolis: Thomas J. Wilson, 1861), 4.
45. *Baltimore Sun*, March 13, 1861.
46. *Speech of the Hon. Robt. M. McLane, in the State Conference Convention, on the 14th of March, 1861* (Baltimore: Murphy & Co., [1861]), 6–8.
47. *Baltimore Sun*, March 14, 1861; *Speech of the Hon. Robt. M. McLane*, 3.
48. *Baltimore Sun*, March 14, 1861.
49. Ibid.
50 *Richmond Daily Dispatch*, March 16, 18, and 19, 1861.
51. Ibid., March 19, 1861.
52. *The War of the Rebellion*, series 1, vol. 51, part 1:317. Hicks to Seward, March 28, 1861, cited in William J. Evitts, *A Matter of Allegiances: Maryland from 1850 to 1861* (Baltimore: Johns Hopkins University Press, 1974), 162.
53. *Baltimore Sun*, April 17, 1861; Charles W. Mitchell, ed., *Maryland Voices of the Civil War* (Baltimore: Johns Hopkins University Press, 2007), 48.
54. *Baltimore Sun*, April 19 and 20, 1861.
55. Ibid., April 19, 1861.
56. *The Debates of the Maryland Constitutional Convention of the State of Maryland, Assembled at the City of Annapolis, Wednesday, April 27, 1864* (Annapolis: Richard P. Bayly, 1864), 1:411
57. *Baltimore Sun*, April 20, 1861.
58. Ibid. Hicks's defense of his course, along with extracts from the written views of Mayor Brown, Enoch Louis Lowe, and Police Marshal George P. Kane, appeared in *Baltimore Sun*, June 11, 1861. Isaac Ridgeway Trimble later wrote that he received the orders to burn the bridges from Mayor Brown, see Mitchell, ed., *Maryland Voices*, 62–63.
59. George William Brown, *Baltimore and the Nineteenth of April, 1861: A Study of the War* (Baltimore: N. Murray, 1887; repr., Baltimore: The Johns Hopkins University Press, 2001), 63; *Message of the Governor of Maryland . . . December, 1861*, 5; Mitchell, ed., *Maryland Voices*, 73; *Baltimore Sun*, April 22, 1861.
60. *Baltimore Sun*, April 23, 1861.
61. *Message of the Governor of Maryland . . . December, 1861* (Annapolis: Thomas J. Wilson, 1861), 4. *Baltimore Sun*, April 25, 1861. Additionally, one day after the Pratt Street Riot State Senator Coleman Yellott issued an extralegal call for the General Assembly to meet in Baltimore on April 25. Hicks's announcement effectively checked Yellott's move as well. Ibid, April 22, 1861.
62. *Baltimore Sun*, April 23, 1861.
63. *Message of the Governor of Maryland to the General Assembly. In Extra Session, 1861.* Document A (Frederick: E. S. Riley, 1861), 6–7.
64. For more on the Public Safety Bill and the intentions of those who promoted it, see Timothy R. Snyder, "Making No Child's Play of the Question": Governor Hicks and the Secession Crisis Reconsidered," *Maryland Historical Magazine*, 101 (2006): 304–31.
65. Mitchell, ed., *Maryland Voices*, 4.
66. *Resolutions of the Committee on Federal Relations of the House of Delegates of Maryland, with Senate Amendments. Extra Session, 1861.* Document E (Frederick: Beale H. Richardson, printer, 1861), 3, 4.

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The Dream Deferred: The Assassination of Martin Luther King Jr. and the Holy Week Uprisings of 1968

PETER B. LEVY

"If riots come, ask the question: Who is responsible: those who have been drawn to desperation or those who drive them to desperation."
— Rev. Henry J. Offer, Baltimore, Maryland[1]

As the sun began to set on Saturday, April 6, 1968, Robert Bradby, a twenty-one-year-old black steelworker, was relaxing at his girlfriend's house, when a crowd of black men and women began to congregate about a mile away on Gay Street in East Baltimore. Two days earlier, Martin Luther King Jr. had been assassinated in Memphis, Tennessee, and the black communities in Washington, D.C. and Chicago had erupted but Baltimore, in the words of government officials, remained "calm."

Concerned about the safety of his girlfriend's children, Bradby set out to find them. After learning that the children were safe, Bradby stopped for a beer at Club Federal, a local hangout at the corner of Federal and Gay. From the bar he could see a raucous crowd, which, when he left the bar, he did his best to avoid. To his surprise, gunshots rang out, nearly hitting him. Presumably, the shots were fired either by the owner of Gabriel's Spaghetti House, John Novak, or by Clarence Baker, a forty-seven-year-old white bartender, both of whom feared that the crowd was about to ransack their business.[2]

Bradby responded by concocting an improvised Molotov cocktail and throwing it into the restaurant. A small fire erupted. It was about to go out when another man threw a bigger firebomb into the building. As a result, the fire spread. By the time firemen arrived, much of the building had been destroyed. Unbeknownst to Bradby, Louis Albrecht, a fifty-eight-year-old white resident of Baltimore, who, ironically, had sought refuge in the restaurant, died in the blaze.[3] Around the corner another dead body, that of James Harrison, an eighteen-year-old black man, was later located.

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Albrecht and Harrison were two of Baltimore's six fatalities during the Holy Week uprising of 1968.[4]

At about the same time that Bradby left to search for his girlfriend's children, Joe DiBlasi, a student at the University of Baltimore, was returning home from a National Guard drill session in Parkville, Maryland, one of the nearby suburbs. Though he witnessed a few kids throwing rocks at cars, he did not expect such juvenile pranks to escalate into a riot. No sooner had he returned home, however, than he received a call from the National Guard ordering him to report to the federal armory as quickly as possible.[5]

Subsequently, DiBlasi was placed in charge of a squad of twelve men and given orders to take up a position at the corner of North and Pennsylvania Avenues, near the historic center of the African American community in Baltimore. From his post, DiBlasi witnessed looting, burning buildings, and defiant crowds. By the time he returned to civilian life five days later, Baltimore had suffered more than $12 million in damage and over 10,000 troops (Maryland National Guardsmen and federal forces) had encamped in the city. Looking back, DiBlasi emphasized the surreal nature of the event. "You would just look around and say, 'how can this be happening?'"[6]

The Pats sisters, Sharon and Betty, in their teens in 1968, together with their parents Sid and Ida, had gone to bed on the night of Saturday, April 6, just about the same time that looting broke out at the corner of North and Pennsylvania Avenues. Earlier in the day, a black woman from the neighborhood had warned their family that they "better get out." And Sharon Pats [Singer] later recalled that things had been tense in the neighborhood ever since King's assassination. Nonetheless, when the Pats girls awoke on Sunday morning, they felt secure enough to drive to Hebrew School and to go shopping. Not until Sharon steered her family's car down North Avenue did she realize that much of her neighborhood was in smoke. Winding her way around crowds of people, Sharon quickly picked up the rest of her family and drove away.[7]

Shortly afterward, the Pats' home and business were looted. A day later their building was burned to the ground. It "was the end of [our] life as [we] knew it." Her sister, Betty Pats [Katznelson] elaborated: "My mom was out of her job and what she did. My dad was out of his job and what he did. . . . Nothing was right." Ironically, prior to the riots there was a great deal of excitement about the prospect of renewing the neighborhood with funds raised by the Mid-City Development Corporation. But, as Ida Pats put it, the re-development "never materialized."[8]

Louis Randall, one of the first African Americans to graduate from the University of Maryland Medical School, three years after the Brown decision, was delivering a baby at Provident Hospital in West Baltimore when he heard the sounds of windows being broken. From the hospital he could smell the acrid smoke from stores being burned. As soon as he could, Randall rushed home and then dashed off to his office building, which he had recently opened with several other black doctors. Like many

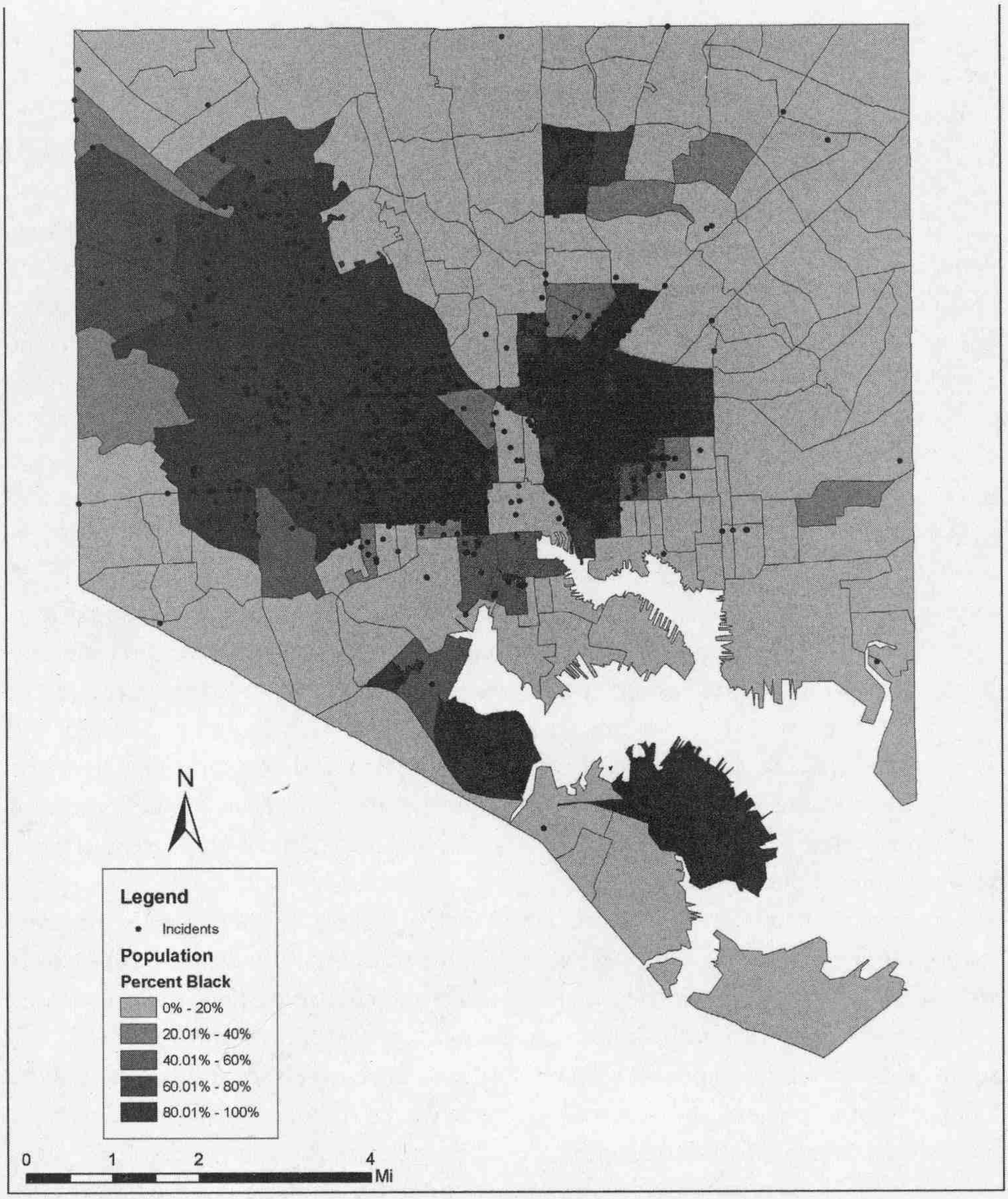
other African American business owners, Randall placed a "Soul brother" sign on his door to make clear to would-be looters that his was a black-owned business. Still, not trusting the sign alone, Randall vigilantly stood guard, shotgun in hand, hoping he would not have to shoot anyone in order to preserve what he had worked so hard to achieve.[9]

These four stories provide a glimpse at the riots or uprisings that erupted across America in the wake of Martin Luther King Jr.'s assassination. Each one hints at the challenges historians face in trying to reconstruct the past. Whose story do we tell and which ones do we leave on the cutting board? How do these stories fit into the established understanding of the times? And what do they tell us about the causes and consequences of the urban or racial disorders of the 1960s?

While this article focuses on Baltimore, it is important to remember that the uprising was widespread. Between the evening of April 4, when James Earl Ray shot Martin Luther King Jr., and Easter Sunday, April 14, 1968, 196 cities in thirty-six states plus the District of Columbia experienced looting, arson, or sniper fire.[10] Fifty-four cities suffered at least $100,000 in property damage, with the nation's capital and Baltimore topping the list at approximately $15 and $12 million, respectively. Thousands of small shopkeepers saw their life's savings go up in smoke. All told, forty-three men and women were killed, approximately 3,500 were injured, and 27,000 were arrested. Not until over 58,000 National Guardsmen and regular Army troops joined local state and police forces did the uprisings cease.[11] Put somewhat differently, during Holy Week 1968, the United States experienced its greatest wave of social unrest since the Civil War.

In spite of the magnitude of the Holy Week uprisings, historians have virtually ignored them.[12] With the exception of *Ten Blocks from the White House*, collectively written by the reporters of the *Washington Post* in the immediate wake of King's assassination, little has been written about the riots that followed King's death.[13] A survey of twenty texts on postwar America or the 1960s reveals scant discussion of the King uprising. In contrast, most of these same works spend a considerable amount of time and space on student-centered disturbances, such as those that took place at Columbia University and in Chicago during the Democratic Party's convention, in the spring and summer of 1968, respectively.[14]

This said, even before the spring of 1968, scholars and laymen already had developed detailed analyses and theories as to why "rioting" or "disorders" were taking place. A large cluster of them concluded that the riots were rooted in the conditions of the ghetto. As the Kerner Commission declared, the nation's failure "to make good the promises of American democracy to all citizens" stood as the central cause of the disorders.[15] Another cluster of scholars and laymen strongly disagreed. They contended that that the riots were the byproduct of radical agitators or "riotmakers," to borrow the words of Eugene Methvin. In some cases, this school of analysis also blamed liberals for molly-coddling the militants, either directly or by promot-



Map A: Race, Residence, and Rioting. Created by Peter Levy and Kathryn Kulbicki.

ing permissive values that allowed individuals to shirk their responsibilities.[16] Put somewhat differently, one school cast the disorders as rational political events, as a form of protest against unjust circumstances, while the other school contended that the riots represented the irrational actions of individuals who were "seeking the thrill and excitement occasioned by looting and burning?"[17] In addition to providing a broad overview of the Baltimore uprising, the following analysis allows us to test both schools of thought.

BASED ON MULTIPLE sources, including police logs, and the U.S. Army's "After Action Report," the "initial disturbance" took place on the 400 and 500 blocks of North Gay Street in the heart of East Baltimore, between 5:15 and 5:20 P.M. on Saturday, April 6, two days after King's assassination. As orders were issued for all off-duty police to report to their respective districts, crowds grew in size and a fire bomb was thrown into a vacant house. According to one source, policemen on the scene were commanded to withdraw rather than confront the crowd, but this claim cannot be confirmed. There is no question, however, that about an hour later, two new fires broke out at the Ideal and Lewis furniture stores on the 700 block of Gay Street, and that crowds continued to gather in East Baltimore.[18]

By some reports, the crowd quickly grew to over 1,000 men and women. Like a slow-moving wave, it rode its way up Gay Street and spilled over to Harford Road and Greenmount Avenue. Quickly, Police Commissioner Donald Pomerleau ordered K-9 units to deploy downtown, and state police set up posts around the state office building. Just before 8 P.M. Governor Spiro T. Agnew declared a state of emergency. A couple of hours later he signed executive orders that established an 11 P.M. to 6 A.M. curfew and banned the sale and distribution of alcoholic beverages. In the same time period, Maryland National Guardsmen began to report to duty and to deploy around the city.[19]

"Situation Reports" that flowed into the White House provided a keen sense of the speed with which circumstances changed in Baltimore. Whereas one report issued on the afternoon of the sixth relayed that a peace rally had taken place in Baltimore "without incident," a separate report, issued about six hours later, stated that twenty fires had erupted, that "firemen [were being] pelted with bricks and stones," and that stores were being "ransacked."[20] By 4 A.M. on the seventh, situation reports noted that Baltimore had recorded five deaths, three hundred fires, and 404 arrests.[21]

Just as important, the uprising, which began in East Baltimore, began to spread to the Pennsylvania Avenue corridor in West Baltimore. Eventually, thirteen distinct neighborhoods and at least a half-dozen commercial districts experienced at least twenty incidences of looting, vandalism, or arson. Every major black section of the city, with the exception of Cherry Hill in Southwest Baltimore, was affected. Areas that were predominantly white and the downtown business section remained relatively unaffected. Faced with this escalating situation, President Lyndon B. Johnson authorized the use of federal forces, commanded by General Robert York, to join Maryland National Guard units that had already deployed. All told, 10,956 troops deployed in Baltimore; an additional 610 were held in reserve.[22] (See Map A.)

One tense moment occurred on the afternoon of April 9 due to miscommunications between federal, state, and local authorities. At midday about two hundred men and women began to assemble at Lafayette Square in West Baltimore, for a peace rally. Unknown to federal officers, Maryland National Guard commander General George Gelston had given his approval for such a rally. When General York

instructed commanders that no permit to assemble had been issued, federal forces began to disperse the crowd. Local commanders requested the right to unsheathe their bayonets should the crowd resist. As the crowd proceeded to march down Pennsylvania Avenue, tensions and the chance for a confrontation peaked. Fortunately for all involved, Major William "Box" Harris, the top black police officer in the city, appeared. After fielding a barrage of jeers, Harris announced, to cheers, that the rally would be allowed to take place after all.[23] One other tense situation involved a white mob that assembled near Patterson Park. Vowing to have it out with blacks, it dispersed only after federal troops and National Guard units made clear that they would not allow the whites to cross into the black section of town.

Some looting may have been augmented by organized crime. Intelligence sources reported that seasoned criminals paid children to help them steal valuable items. Young looters did this by creating diversions, serving as lookouts, and quickly fencing larger goods to adults who parked pickup trucks in back alleys behind appliance, furniture, and other stores. At the same time, one of Baltimore's best known criminals, "Little Melvin," helped quell the uprising. With the permission of General Gelston, on April 8, Melvin, along with Clarence Mitchell III, called upon people in the community to "cool it." As he recalled, "I . . . stood on a . . . a car hood or roof and said that: You have taken all there is to take out of this black community. You've taken the heart out of your own area. But more importantly, I've been told by this General [Gelston] that in the event that you cross Howard and Franklin Streets . . . they are going to kill you all."[24] Ironically, Melvin was arrested two weeks after helping to cool things down for allegedly pointing a machine gun at a police officer.[25]

The number of incidents dropped on the ninth of April, allowing the Baltimore Orioles to play their opening game on April 10, one day later than originally scheduled. One final casualty of the uprising was a concert by the "king of soul," James Brown. Scheduled to perform at the Civic Center on Friday, April 12, Brown had to cancel his appearance in part because the venue was still being used to house an overflow crowd of riot-related arrestees. Ironically, the decision to allow Brown to go ahead with his scheduled appearance in Boston on April 6, helped avert significant turmoil there.[26]

Even though the media called these events "race riots," there were only a couple of confirmed acts of violence between blacks and whites. Baltimore experienced few fatalities, especially in comparison to the "riots" of 1967 and/or to those earlier in the century. Six individuals were killed, five blacks and one white. In contrast, thirty-four and forty-three men and women were killed in Watts and Detroit, respectively. Somewhat along the same lines, even though they had to face large and unruly crowds, most often with unloaded weapons, few National Guardsmen or federal troops suffered serious injuries.[27] And while close to 1,000 businesses were affected and hundreds were ransacked or torched, public and community buildings,

including symbols of the establishment, such as schools, government buildings, and churches, were largely spared.[28]

Indeed, the greatest difference between the riots that took place during Holy Week 1968 and those that took place between 1965 and 1967 was the substantial decrease in fatalities. This was not due to luck. Rather, the decrease in fatalities grew out of decisions that federal authorities made following their study of the disorders of the summer of 1967. More specifically, based upon recommendations put forth by Cyrus Vance, the federal government developed detailed procedures for responding to urban disorders and, building on these procedures, conducted intensive riot-training programs for law enforcement officials from across the nation. Branches of the military, including the National Guard and Army, did the same. The most significant change was to deploy troops with orders that they were not to load their weapons and that they were to refrain from shooting looters. This decision garnered much public wrath and, as we shall see, galvanized conservative attacks on liberalism. Paradoxically, it also saved hundreds of American lives.[29]

This analysis should not divert us from recalling the pain suffered by many merchants, especially in Baltimore's case, of many Jewish merchants. Close to 80 percent of all establishments that suffered damages were owned by whites, a disproportionate number by Jews. Some of these Jewish merchants were Holocaust survivors. Others had fled Russian pogroms earlier in the century or descended from those who did. A number of commentators explicitly compared what had happened to Jewish merchants during the riots to what had happened during the Russian pogroms.[30] Still, those who vandalized, looted, and torched buildings did not, with rare exceptions, attack white men and women themselves. Reports of sniper fire were vastly exaggerated and no one was killed by whatever actual sniper fire took place.[31]

Over the course of the week, 5,512 men and women were arrested. Ninety-two percent of the arrestees were black; 85 percent were males. The plurality of arrestees were over the age of thirty. Sixty-three percent of all of the arrestees were charged with curfew violations and an additional 7 percent with disorderly conduct. Nine hundred and ten men and women were charged with larceny but many of these charges were later dropped because of the difficulty of proving them in a court of law. Only thirteen men (no women) were charged with arson, few of whom were convicted. Given time and space constraints, this paper will not survey the strains that the uprising put on the criminal justice system. Suffice to say, authorities resorted to extraordinary measures, ranging from holding many of the arrestees in the city's main indoor arena to getting defendants to accept pleas to lesser charges in exchange for light sentences, during the crisis.[32]

Unlike riots in the early decades of the twentieth century, when whites attacked blacks in black neighborhoods, the Holy Week uprising remained a very local affair. Surveys showed that the vast majority of those imprisoned were arrested within ten blocks of where they lived. As Map A makes clear, incidents of looting, arson, and

vandalism took place almost exclusively in black neighborhoods. One reason this was the case, as suggested above by Little Melvin, was because state troopers quickly cordoned off downtown, and blacks had reasons to believe that they would be shot if they ventured outside of their own communities.[33]

If Martin Luther King Jr. could have come back to life, there is little doubt how he would have answered the question: "What caused the uprising?" A year and a half before his assassination, King appeared in Baltimore to receive the Baltimore Community Relation Commission's "Man of the Decade" prize. Upon receiving the award, King delivered a prescient speech entitled "The Other America," in which he reflected on the social forces that had given rise to the riots that had already taken place. "One America," King explained, "is invested with enrapturing beauty. In it we can find many things that we can think about in noble terms. . . . This America is inhabited by millions of the fortunate whose dreams of life, liberty, and the pursuit of happiness are poured out in glorious fulfillment. . . . In this America," he continued, "little boys and little girls grow up in the sunlight of opportunity."[34]

In contrast, in the other America, "we see something that drains away the beauty that exists. . . . In this [other] America," King continued, "thousands of work-starved men walk the streets every day in search for jobs that do not exist. . . . In this America, people find themselves feeling that life is a long and desolate corridor with no exit signs. In this America, hopes unborn have died and radiant dreams of freedom have been deferred."[35]

As King easily could have gleaned from his visits to Baltimore, in housing, employment, education, and health care the dreams of scores of Baltimore's black residents, like those in many of America's cities, had been deferred. Many of the city's black residents felt trapped in a "long and desolate corridor with no exit signs." Moreover, they felt trapped at a time of heightened expectations and these heightened yet unfulfilled expectations amplified a widely held view that the American dream remained out of reach.[36]

One of the most salient characteristics of Baltimore was the prevalence of residential segregation upon which so many of the city's inequities were built. Between World War II and 1968, Baltimore's overall population remained fairly stable, yet its racial makeup changed dramatically. In 1950 over 700,000 whites lived in the city. Less than a generation later, fewer than 500,000 did. During the same two decades, the number of blacks rose from under 220,000 to over 400,000.[37] When viewed from a metropolitan perspective, the magnitude of this demographic shift appears even clearer. In 1950, the entire population of Baltimore County, which surrounds Baltimore City like a horseshoe, stood at less than 250,000, approximately 20,000 of whom were black. Twenty years later the county's population had risen to over 600,000, all but 20,000 of whom were white.[38] Even within city limits, as Edwin Orser's fine study on blockbusting documents, Baltimore witnessed a racial sea

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change, as entire sections of the city went from being virtually all white to all black in a very short span of time. About the only change that did not take place was that whites did not move into predominantly black neighborhoods.[39]

Not only did blacks and whites live in separate neighborhoods, they inhabited qualitatively unequal homes. Nearly 50 percent of homes in inner-city neighborhoods were rated as "very poor." Nor did the postwar building boom alleviate the housing shortage faced by blacks. While housing construction skyrocketed in largely white suburban Baltimore County during the 1960s, it came to a standstill in the city of Baltimore. Without new construction, older housing, especially older rental units in communities disproportionately inhabited by blacks, fell into increasing disrepair.[40]

City-wide, the infant mortality rate stood at 28.4 out of 1,000 live births in 1965. Yet in census tracts targeted by the Model City program, which were largely black and poor, infant mortality rates often exceeded 50 per 1,000. The same areas had twice the crime rate as the city as a whole, which was at least twice as high as the surrounding suburban communities.[41] While skyrocketing crime rates alarmed whites, leading conservatives to adopt "law and order" as one of their main demands and campaign slogans, we need to remember that blacks were victimized by crime at a

far greater rate than whites, making it harder and harder for them to experience the American dream.[42]

Concomitantly, the city began to experience considerable economic pain. Long a blue-collar town, synonymous with work on the docks, garment shops, and steel mills, an increasing percentage of Baltimore's workforce found employment in the service sector, such as in the health care industry and in the public sector. Since blacks in Baltimore disproportionately depended on work in manufacturing, this economic shift had a greater impact on them than it did on whites. During the 1960s, the number of men and women employed in manufacturing in Baltimore City declined over 25 percent, in spite of heavy demand for defense-related goods due to the escalation of the Vietnam War. Looked at from a regional perspective, the transformation of the labor market took on even greater significance. Between 1945 and 1968 the total number of jobs in Baltimore City increased 11 percent, the vast majority in sectors of the economy with the lowest rates of black employment. During the same period, in Baltimore County, where few blacks lived, the number of jobs grew a whopping 245 percent.[43]

Unemployment statistics illustrated the disparate world that blacks and whites of the Baltimore region occupied. Nationally, the unemployment rate in 1968 was less than 4 percent, suggesting a booming economy. Yet, in Baltimore, the rate for blacks was more than double this and in some inner-city census tracts unemployment hovered just below 30 percent, or at Great Depression rates.[44] Even in segments of the labor market where things looked bright for blacks on the surface, such as at Bethlehem Steel Corporation, they appeared gloomy beneath it. As a report by the U.S. Civil Rights Commission observed, blacks were "virtually unseen" in office work but were found abundantly in the most dangerous and worst-paying jobs.[45]

Although headline stories catalogued breakthroughs that blacks made in the public sector, from the first black police sergeant in 1947 and the first black housing inspector in 1951, to the "assignments" of seventy-eight black firemen in 1954 and appointment of the first black judge in 1957, overall, blacks remained underrepresented in government jobs and even more underrepresented on construction sites paid for with federal, state, and city funds.[46] Whereas blacks made up over 40 percent of the city's population, less than 18 percent of the entire Baltimore government's workforce was black in 1966.[47]

Given that Baltimore's political leaders, unlike those throughout much of the nation south of the Mason-Dixon Line, chose to comply with rather than fight *Brown v. Board of Education*, one might expect that education stood out as a bright spot. Yet, even though de jure segregation died in Baltimore, de facto segregation and perhaps just as importantly, unequal education, remained the rule. In addition, achievement gaps between white and black schools remained large; even within racially balanced schools, significant gaps between blacks and whites existed. And glaring gaps between inner-city and suburban schools persisted.[48]

This said, it needs to be remembered that in contrast to political leaders in the Deep South, where whites formed Citizens Councils to resist challenges to their way of life and rallied behind calls for "segregation forever," Baltimore's elite sought to address the racial divide. As noted above, Baltimore complied with the *Brown* decision. A decade later, it actively pursued various "War on Poverty" funds. (Ironically, the city's grant applications provide some of the best documentation on the distress of the city's inner-city neighborhoods.) One such program that won funding was Baltimore's Community Action Commission or CAC. Headed by Parren Mitchell, who went on to become Baltimore's first black congressman, Baltimore's CAC established job training and Head Start programs that sought to revive the dream of a better life. [49]

Moreover, there was some evidence that Baltimore's police department, unlike those in other cities, was making strides toward overcoming the racial divide. In March 1968, *Reader's Digest* specifically contrasted Baltimore's police to those in many of the nation's cities. The department had developed a "novel" form of policing, *Reader's Digest* reported. This included the "expansion" of a biracial Community Relations Department," that had orders to "penetrate the Negro community, not with a gun and nightstick but with service." Baltimore's top black police officer, Major William "Box" Harris, the article continued, had become a folk hero in the black community. Under Harris's direction, the police even sought to open lines of communication with advocates of Black Power. "'We're going to have to deal with them, one way or another—either over the barricades with fire bombs falling about us," Harris explained, "or over a glass of beer in some gin mill. My department is trying the latter."[50]

Is it possible that these efforts along with Baltimore's willingness to comply with *Brown* further raised expectations that the racial divide would decline? Perhaps it was a pure coincidence that rioting first erupted in the Gay Street corridor of East Baltimore, a section of the city that wasn't simply poor but one that had been slated for urban renewal since 1963. Community members participated in over forty conferences on the plan to revive the neighborhood. "Militant civil rights leaders" and ordinary residents had "crowded into the City Council's chambers," in the fall of 1967, to get it to approve Phase I of the plan. Yet as of April 1968, residents still awaited final approval of the plan by bureaucrats in Washington, D.C.[51]

Put somewhat differently, the fact that they earned more or had attained more years of education than had their parents mattered less than the fact that they continued to have less access to good housing, well-paying jobs, and quality education than whites. Their expectations had been raised but left unfulfilled by everything from LBJ's promise of a Great Society to advertisements and television shows that consistently displayed Americans enjoying the "good life." The election of Mayor Thomas J. D'Alessandro III, who won 93 percent of the black vote and quickly appointed blacks to top positions, including making George Russell the first black city solicitor, certainly reinforced the sense that things were supposed to be getting better.

Of course, critics of the Kerner Commission, like Spiro Agnew and William F. Buckley, were quick to retort that the riots were not caused by "poverty or frustration" but rather by radicals, who incited them, and individual men and women, who chose to violate the law. "It was no mere coincidence," Agnew proclaimed in the immediate wake of the uprising, "that a national disciple of violence, Mr. Stokely Carmichael, was observed meeting with local black power advocates and known criminals in Baltimore on April 3, 1968, three days before the Baltimore riots began." The leaders of SNCC, CORE, and other black militant groups, Agnew continued, were "riot-inciting, burn-America down" types who never did anything constructive.[52] And Agnew was hardly the only Maryland official to accuse black militants of inciting the riot. Mayor D'Alesandro proclaimed that he was "an apostle of the view that this thing was planned and well-organized."[53] Similarly, Judge Liss, who oversaw the murder trial of Robert Bradby, blamed agitators for planning the riots and getting Bradby to do their dirty work. These people, Liss declared, made individuals like Bradby "do things that [they] would never have done under normal circumstances." These people, "planned" the riot; they "inflamed the community and got . . . damn fools like Bradby and others to do their dirty work for them," and they, Liss indignantly concluded, "are walking away scot-free." (Nonetheless, lamenting that the law tied his hands, Liss sentenced Bradby to life in prison.)[54]

But if the "riots" were planned, why were authorities so unsuccessful in identifying and prosecuting a single instigator? Certainly, not for lack of trying. Believing that militants hoped to cause riots, authorities carefully monitored their movements from the moment King was shot and quickly placed them under arrest whenever the slightest suspicion about their actions arose. For instance, Stuart Weschler and Danny Grant of CORE, U-JOIN leader Walter Lively, and SNCC activist Robert Moore were carefully monitored or arrested during the uprising. All charges against them were subsequently dropped.[55]

Nor can those who contend that the uprising was planned explain how radicals knew King was going to be assassinated on April 4. Rather than acknowledge this flaw, some FBI officials, including J. Edgar Hoover, even followed up on a lead from an anonymous source that claimed that black radicals themselves had assassinated King so that they could foment a rebellion.[56] Moreover, the FBI and other government agencies had information that contradicted their own claims. Rather than organizing a riot, an FBI memorandum showed that Carmichael had come to Baltimore the day before King's assassination to help plan for his pending wedding.[57] Not surprisingly, authorities chose not to release such exculpatory evidence to the public.

But if the uprising was not instigated by radicals, what else explains it? One way to answer this question is to look at the one black community in Baltimore, Cherry Hill, that did not experience looting or arson. Cherry Hill suffered only one isolated incident of vandalism and arson, none during the main wave of rioting that swept across the city from April 6 to April 9. None of the traditional variables highlighted

by social scientists to explain the disorders of the era help us understand why this was the case. Put somewhat simply, Cherry Hill suffered from essentially all of the same socioeconomic woes as East and West Baltimore. It did not stand out in terms of educational achievement, family income, poverty rates, or homeownership.

While I cannot prove a counterfactual, in other words why something did not take place, three key factors appear to explain why Cherry Hill did not, as Langston Hughes put it, "explode." First and foremost, the residents of Cherry Hill still felt that the American dream was within reach. Cherry Hill was established in the wake of World War II as a new enclave for blacks in Baltimore. Rather than build desegregated public housing in white communities, the government developed the previously largely uninhabited section known as Cherry Hill into an all-black neighborhood. It built public housing and nurtured the construction of private homes. As a result, by the mid-1950s, over 20,000 African Americans lived there, in a mixture of public and private housing. In a short period of time, a library, shopping center, movie theater, and recreational associations, all of which served to reinforce a sense of community or common destiny and which helped keep alive the dream of a better life, arose. This common history, as well as a high level of community activism, led one resident to describe Cherry Hill as "the closest neighborhood I have ever lived in." This sense of pride, reinforced by a strong tradition of civic activism, persisted up to King's assassination.[58]

Second, Cherry Hill was cut-off or isolated from the rest of the city. This isolation acted as a buffer. Whereas looting and vandalism tended to spill over from one black neighborhood in the inner city to another, it could not spread to Cherry Hill because of its spatial isolation. To do so, it would have had to jump over the inner harbor or through adjacent white neighborhoods and physical barriers.[59]

Third, Cherry Hill's commercial establishments were spatially different from those in other sections of the city. In most of Baltimore's neighborhoods, merchants lined specific shopping fares or roads, such as Pennsylvania Avenue or Gay Street. In contrast, Cherry Hill's clothing stores, small supermarket, and pool hall were clustered in a shopping center. Up through at least the mid-1960s, Cherry Hill's residents gathered at this shopping center on Friday nights and treated it as their village square. The perception of the shopping center as a sort of modern-day commons mitigated against vandalism and looting as well.[60]

Cherry Hill's actions or lack thereof during the uprising smashes another parcel of conventional wisdom, that a firmer hand by the state, ranging from a stronger show of force to shooting looters, would have averted the turmoil. In the aftermath of the King uprisings a major debate erupted over whether authorities had responded properly to the rioting. Chicago Mayor Richard Daley's order to shoot to maim looters and kill arsonists won him a good deal of support. In contrast, Attorney General Ramsey Clark's criticism of Daley and support for limited use of force earned him the venom of a large segment of the population.[61] Spiro Agnew's metamorphosis from

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a relatively unknown Rockefeller Republican to the second highest public official in the land rested to a large part on his get-tough persona. In a speech critical of the Kerner Report, Agnew proclaimed that it was not white racism but permissiveness that caused the riots. One example of this permissive climate, Agnew exclaimed, was the order to disallow police officers to shoot looters. Agnew added that the federal government, not he, issued the command that limited the use of force.[62]

Yet as the case of Cherry Hill suggests, the use of force did not directly correlate to a lack of rioting. No federal troops or National Guardsmen were rushed into the neighborhood. Nor did police or state troopers increase their presence. On the contrary, off the beaten path, Cherry Hill remained out of sight and out of mind during the uprising. Put somewhat differently, community activism and engagement, not shotguns and bayonets, appear to have been the best defense against lawlessness.

WHAT WERE THE consequences of the uprising? According to conventional wisdom, the "riot" marked a turning point in Baltimore's history. One oral history after another, as well as most retrospective newspaper articles on the event, declares that the city was never the same again. Yet, careful analysis suggests that the Holy Week uprisings had a much more nuanced impact on the local scene than often presumed.

For instance, in a comprehensive study of the Jewish business district on Lombard Street, Deb Weiner shows that merchants did *not* desert the area in the wake of the uprising, even though many suffered considerable damage at the time. Rather, Lombard Street's Jewish business district, known as Corned Beef Row, died a slower death, due in part to white suburban perceptions that the neighborhood was not safe, in part because of the gradual rise of shopping malls and chain stores, which began before the uprising, and in part due to a reconfiguration of the Lombard Street that commenced in the early 1970s—the widening of Lombard Street made the neighborhood less accessible to patrons who no longer lived in the neighborhood because they found it more difficult to find parking, especially while road construction was taking place.[63]

Put somewhat differently, the Baltimore uprising was an extremely significant event in the city's history but more so for what it symbolized than for what it did. It was both cause and effect, or perhaps more precisely effect and cause. Much of the social distress that we assume was the outcome of the uprising was well-entrenched prior to April 1968, from white flight to weaknesses in the traditional urban economy. The uprising consolidated these trends but it did not cause them. Or to borrow Howie Baum's words, the uprisings produced a "gestalt shift," whereby developments that had been in the background now appeared in the foreground. In turn, these changed perceptions reinforced shifts already taking place.[64]

But if the impact of the Holy Week uprising on the local level has been exaggerated in the community's collective psyche, its affect on the national scene has been underappreciated—in part, as suggested above, because historians have disproportionately focused on other major events of the year, such as student rebellions, suggesting that they were the most pivotal events in the watershed year of 1968. Yet, there can be little doubt that the Holy Week uprisings shattered one of Lyndon Johnson's primary goals, namely making American cities great, reinforced the dissipation of the liberal coalition, and boosted the fortunes of the New Right, particularly its rallying cry of "law and order."[65]

One way Baltimore affected this shift was through the rise of Spiro T. Agnew as a national spokesperson for the New Right. Agnew symbolized both the rightward shift of many moderate Republicans and urban ethnics away from liberalism and articulated the conservative attack on those who sought to keep alive the view that a great society depended on great cities. Agnew's metamorphosis from unknown moderate Republican to Richard Nixon's running mate rested on his get-tough reaction to the disorders of 1967 and 1968 and to the liberal response to them. On April 11, 1968, he dressed down black moderates in Baltimore, accusing them of having not done enough to stop the riots and of having helped precipitate them by refusing to break with black militants and their incendiary rhetoric and demands. Agnew was well aware that his speech would alienate urban black voters, who had helped elect him to office in 1966, and whose votes still played a key role in electing other moderate Republicans.

Ironically, as the 1968 campaign got underway, Republican leaders pondered how they could retake the White House. One option, long forgotten, was the idea of reaching out to black voters, to bring them back to the party of Lincoln. When Richard Nixon ran as Dwight Eisenhower's running mate, in fact, Republicans won about half of the black vote. And one could interpret Johnson's landslide victory over Goldwater as proof that the Republicans could not win without regaining black support. Instead of trying to revive the party of Lincoln, Nixon chose to pursue a southern strategy. Rather than reaching out to blacks he decided to try to convince southern whites that their natural home was in the Grand Old Party. His nomination of Agnew signaled this decision. The fact that Agnew had been a moderate Republican and was from a border state legitimized the Republicans' turn away from blacks, the Great Society and its commitment to urban America.[66]

Even if the Democrats had won the 1968 presidential election, the United States probably would have turned away from the ideals of the Great Society. Even before King's assassination, LBJ had refused to publicly endorse the findings of the Kerner Commission. Neither Jimmy Carter nor Bill Clinton placed the urban agenda at the center of their agenda. Rather, Carter pledged to bring integrity back to the political arena and Bill Clinton, empowerment zones notwithstanding, aimed his agenda at the largely suburban middle class, the so-called soccer moms. Nonetheless, it is important to remember that King's assassination played a pivotal event in these developments, both by ending the life of one if not the most prominent progressive spokesman of the era and by sparking a nationwide uprising, which in turn gave a shot in the arm to the New Right. It is equally important to recognize that the Holy Week uprisings grew out of long-term urban ills, and that our re-examination of them provides us with the opportunity to refocus our attention on the need to address these ills.

NOTES

1. Quoted in Paul Fairfax Evans, *City Life: A Perspective From Baltimore, 1968–1978* (Columbia, Md.: C. H. Fairfax, 1981).
2. "Stenographic Transcript in the Case of *State of Maryland vs. Robert Bradby*," Criminal Court of Baltimore, Part V, June 5, 1969, T495-1103, Case #3330, Maryland State Archives, Annapolis, Maryland (henceforth MSA). Also see *State v. Robert Badby*, Post-Conviction Files, 1972, Baltimore Criminal Court, 92105-2106, MSA.
3. "Stenographic Transcript in the Case of *State of Maryland vs. Robert Bradby*"; "Police Charge 2 in Arson Death," *Baltimore Sun*, April 26, 1968, p. C28.
4. "First Looter Shot to Death," Baltimore *News-American*, April 8, 1968, p. 1; "Federal Troops Leaving the City, Order Restored, York Says," Baltimore *Evening Sun*, April 12, 1968, p. 1.
5. Interview with Joe DiBlasi, November 3, 2006, Baltimore '68: Riot and Rebirth Project, http://www.ubalt.edu/template.cfm?page=1638 (accessed July 15, 2008).
6. Ibid.; "Federal Troops Leaving the City, Order Restored, York Says," *Baltimore Evening Sun*, April 12, 1968, p. 1.

7. Interview with Sharon Pats Singer, Ida Pats, and Betty Pats Katznelson, February 20, 2007, Baltimore '68: Riot and Rebirth Project.
8. Ibid.
9. Interview with Louis D. Randall, November 30, 2006, Baltimore '68: Riot and Rebirth Project.
10. Contemporaries employed various terms, ranging from riots and civil disorders to rebellions and revolts. This paper favors the term uprising because of the magnitude and widespread nature of the incidents.
11. Different sources arrive at different estimates of the number of disturbances. See: Thomas F. Parker, ed., *Violence in America, Volume 2, 1968–72* (New York: Facts on File, 1974), pp. 15–29; "April Aftermath of the King Assassination," *Riot Data Review*, No. 2 (August 1968); Kavin Maroney to Ramsey Clark, April 15, 1968, "Riot Statistics, 1967–1968," Personal Papers of Ramsey Clark, Box 75, Lyndon B. Johnson Library, Austin, Texas; "Attachment A," Lyndon Johnson Papers, Aides: James Gaither, Box 37, Riots 1968: Dr. King [2]. Among other hard-hit cities were (est. damage in parenthesis): Washington, DC ($15 mil.), Chicago ($8.5 mil.), Pittsburgh ($2 mil.), Kansas City ($500,000), Trenton ($560,000), Wilmington, Del. ($500,000), Newark ($500,000), Memphis ($400,000), New Orleans ($400,000), Richmond ($400,000), Nashville ($300,000), Savannah ($300,000), Cincinnati ($200,000), Durham ($100,000), Dallas ($100,000), Raleigh ($100,000), and High Point, N.C. ($100,000). Additional cities are listed in Warren Christopher Papers, Civil Disturbances, 1968, #3. One other way to measure the severity of the Holy Week uprising is by the number of National Guardsmen called to duty. From 1945 to 1960, 33,539 troops were called into service to help restore order; from 1960 to 1965, 65,867 were; in 1967, 43,300 were ordered to help restore order; in 1968 a record 150,000 were. See: National Guard Association of the United States, "Use of National Guard During Civil Disorders in 1968," January 1, 1969, National Guard Files, Civil Disturbances, 1968 July/December.
12. One example of the limited nature of the coverage of the Holy Week uprisings can be found in the "comprehensive" two-volume *Encyclopedia of American Race Riots*. Though the encyclopedia contains a separate entry on King's assassination, this entry provides little detail on the riots and vastly underestimates the number of incidents. Only Washington, D.C.'s riot rated a separate entry, even though much less severe riots at different times in history receive far more coverage in U.S. history. This lack of coverage reflects the prevailing knowledge, or lack thereof, on the uprisings. See: Walter Rucker and James Nathaniel Upton, eds., *Encyclopedia of American Race Riots* (Westport, Conn.: Greenwood Press, 2007). After this essay was written, a book devoted to the post-King riots was finally published. See: Clay Risen: *A Nation on Fire: America in the Wake of the King Assassination* (Hoboken: N.J.: John Wiley & Sons, 2009).
13. Ben Gilbert and the Staff of the Washington Post, *Ten Blocks from the White House: Anatomy of the Washington Riots of 1968* (New York: Praeger, 1968; Medrika Law-Womack, "A City Afire: The Baltimore City Riot of 1968: Antecedents, Causes and Impact," M.A. thesis, Morgan State University, 2005.
14. For instance, in his popular text *The Sixties*, Terry Anderson writes that following King's murder "rioting swept the nation. Blacks poured out into the streets of over a hundred cities, venting their frustration. Sections of Boston, Detroit, and Harlem sank into chaos, but the worst was Washington, D.C. Over 700 fires turned the sky dark; smoke obscured the Capitol. Nationwide officials called out more than 75,000 troops to patrol the streets, to keep the peace. This because one violent white man slaughtered a nonviolent black man who called

on America to live up to its promise." That's it. In contrast, Anderson spends four pages on Columbia, and five on the demonstrations in Chicago.

15. *Report of the National Advisory Commission on Civil Disorders* (Washington, DC: GPO, 1968); Robert Fogelson, *Violence as Protest: A Study of Riots and Ghettos* (Garden City, N.Y.: Doubleday, 1971).

16. Eugene Methvin, *The Riot Makers: The Technology of Social Demolition* (New Rochelle, N.Y.: Arlington House, 1970). Methvin's view that "riot makers" caused the riots was also published in *Reader's Digest* and the *National Review*. In addition, a film, with the same title, was widely distributed by the FBI to police departments across the nation.

17. The sociological literature on the rioting of the era is vast. Some studies incorporate data on those that took place after King's assassination. But these studies provide little description of the Holy Week uprisings. Instead, they use data from April 1968 to refine theories largely based on studies of the riots of 1965–1967. See: Daniel J. Myers, "Racial Rioting in the 1960s: An Event History Analysis of Local Conditions," *American Sociological Review*, 62 (1997): 94–112; Greg Lee Carter, "In the Narrows of the 1960s U.S. Black Rioting," *The Journal of Conflict Resolution*, 30 (1986): 115–27. For a brief review of the literature on the urban riots of the era see, Heather Ann Thompson, "Rethinking the Politics of White Flight in the Postwar City: Detroit, 1945–1980," *Journal of Urban History*, 25 (1999): 163–98. While little consensus exists over the causes of the urban riots or uprisings of the 1960s, scholars generally agree that they played a key, if not pivotal role, in altering the trajectory of the nation. See, for instance, William H. Chafe, *The Unfinished Journey: America Since World War II* (New York: Oxford University Press, 2003), 366–68; and Irwin Unger and Debi Unger, *Turning Point, 1968* (New York: Scribner, 1988).

18. "After Action Report: Task Force Baltimore, 7–13, April 1968," Warren Christopher Papers, Box 12, Civil Disturbances 1968 #2, Lyndon B. Johnson Library, Austin, Texas; "Action Reports," Emergency Headquarters Command Post, 5 April–11 April, 1968, http://mysite.verizon.net/vzesdp09/baltimorepolicehistorybywmhackley2/id76.html (July 30, 2007); City of Baltimore, "Report of Baltimore Committee on the Administration of Justice Under Emergency Conditions," May 31, 1968.

19. "Action Reports," Emergency Headquarters Command Post, 5 April–11 April, 1968, http://mysite.verizon.net/vzesdp09/baltimorepolicehistorybywmhackley2/id76.html (July 30, 2007).

20. "Situation Reports," Ramsey Clark Papers, Box 67 (?), Summaries—Riots—April 8, 1968; City of Baltimore, "Report of Baltimore Committee on the Administration of Justice Under Emergency Conditions," May 31, 1968; "Daily Staff Journal/Duty Officer's Log," April 5, 1968–April 10, 1968, National Guard Files, 5th Regiment Armory, Baltimore, Maryland.

21. "Situation Reports," Ramsey Clark Papers, Box 67 (?), Summaries—Riots—April 8, 1968;

22. LTG Robert H. York, "After Action Report: Task Force Baltimore, 7–13 April, 1968," Warren Christopher Papers, Civil Disturbances 1968 #2, Lyndon B. Johnson Library, Austin, Texas; "Executive Order: Providing for the Restoration of Law and Order in the State of Maryland," April 7, 1968, White House Central File, HU2-ST20-ST21, Box 26, Lyndon Johnson Library.

23. Ibid.

24. LTG Robert H. York, "After Action Report: Task Force Baltimore, 7–13 April, 1968"; Ben Franklin, "Patrol of Negro Peacemakers Sent Out in Baltimore," *New York Times*, April 10, 1968; interview with Melvin Douglas Williams, Baltimore '68: Riot and Rebirth Project, Baltimore.

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26. National Public Radio, "The Night James Brown Saved Boston," http://www.npr.org/templates/story/story.php?storyId=89273314 (accessed July 15, 2008).
27. "April Aftermath of the King Assassination," *Riot Data Review*, No. 2 (August 1968); Thomas F. Parker, ed. *Violence in the United States,* 2 vols. (New York: Facts on File, 1974); Morris Janowitz, "Social Control of Escalated Riots," The University of Chicago Center for Policy Study, in White House Central File, HU2, Box 7, Folder March 1, 1968–April 7, 1968, Lyndon B. Johnson Library, Austin, Texas.
28. The Maryland Crime Investigating Committee, "A Report of the Baltimore Civil Disturbance of April, 1968," June 4, 1968.
29. Papers of Warren Christopher, Box 11, Civil Disturbances 1968 [1 of 2 and 2 of 2], Lyndon B. Johnson Library, Austin, Texas.
30. See: Baltimore *Jewish Times*, April 12 and 19, 1968.
31. "Situation Reports," in Personal Papers of Ramsey Clark, Summaries—Riots-April 8, 1968.
32. The Maryland Crime Investigating Committee, "A Report of the Baltimore Civil Disturbance of April, 1968," June 4, 1968; Jane Motz, "Report on Baltimore Civil Disorders, April 1968" (Baltimore: Middle Atlantic Region, American Friends Service Committee, 1968).
33. Stephen J. Lynton, "Arrests Present a Profile of City Rioters," *Baltimore Sun*, April 22, 1968, p. C1.
34. King's "The Other America" speech is quoted at length in Baltimore Community Relations Commission, "Tenth Annual Report, 1966: A Decade of Progress," 39–42.
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37. United States Commission on Civil Rights, "Staff Report: Demographic, Economic, Social and Political Characteristics of Baltimore City and Baltimore County," August 1970 (Washington, D.C.: GPO, 1970).
38. Ibid.
39. W. Edward Orser, "Flight to the Suburbs: Suburbanization and Racial Change on Baltimore's West Side," *The Baltimore Book: New Views of Local History*, eds. Elizabeth Fee, Linda Shopes, and Linda Seidman (Philadelphia: Temple University Press, 1991), 203–26; W. Edward Orser, *Blockbusting in Baltimore: The Edmondson Village Story* (Lexington: University Press of Kentucky, 1994).
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41. U.S. Commission on Civil Rights, "Staff Report."
42. International Association of Chiefs of Police, "A Survey of the Police Department, Baltimore, Maryland," 1965; Police Department, City of Baltimore, "Annual Report," 1966; Hebert Lee West Jr., "Urban Life and Spatial Distribution of Blacks in Baltimore, Maryland," Ph.D. diss., University of Minnesota, 1973.
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Model Cities Neighborhood"; Kenneth Durr, *Behind the Backlash: White Working-Class Politics in Baltimore* (Chapel Hill: University of North Carolina Press, 2003), 199.
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45. Maryland Commission on Human Relations, "Systematic Discrimination: A Report on Patterns of Discrimination at the Bethlehem Steel Corporation, Sparrows Point, Maryland," (1970); "Negro Workers Picket Steel Firm," *Washington Post*, January 20, 1968, C5.
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49. City of Baltimore, "Baltimore Model Cities Neighborhood: Application to the Department of HUD," 1966.
50. Floyd Miller, "How Baltimore Fends Off Riots," *Reader's Digest* (March 1968), 109–13.
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52. Spiro T. Agnew, "Statement at Conference With Civil Rights and Community Leaders, State Office Building, Baltimore," April 11, 1968, in *Is Baltimore Burning? Maryland State Archives: Documents for the Classroom* (Annapolis: Maryland State Archives, n.d.). An electronic version of this speech is available at: http://teachingamericanhistorymd.net/000001/000000/000061/html/t61.html (accessed August 24, 2007).
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54. "Stenographic Transcript in the Case of *State of Maryland vs. Robert Bradby*," Criminal Court of Baltimore, Part V, June 5, 1969; Baltimore City Criminal Court, Criminal Papers, 1968, Box No.: 82, "Indictments State of Maryland vs. Robert Bradby File #3330," Maryland State Archives, MSA SC 5458-10415.
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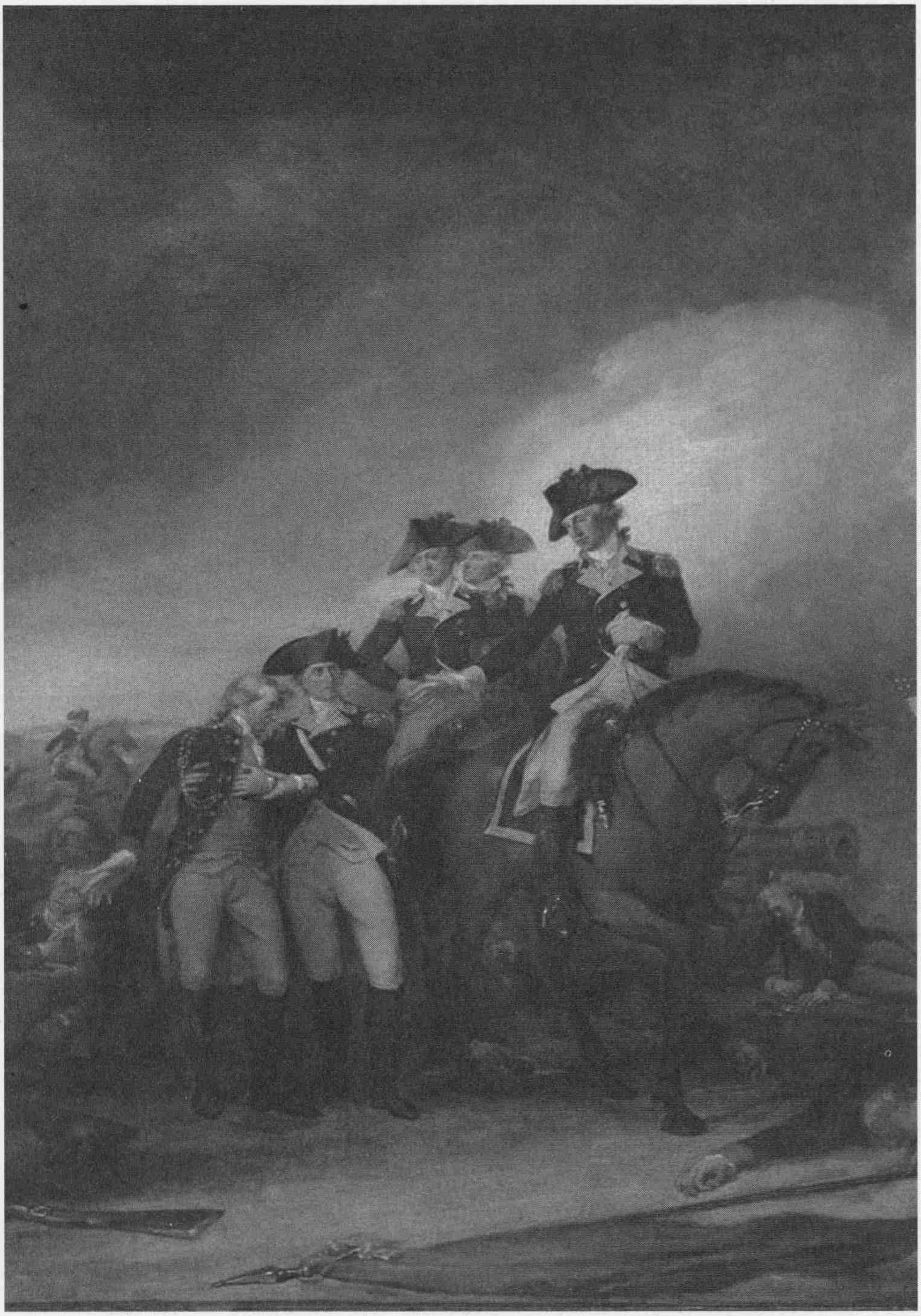

Lieutenant Colonel Robert Hanson Harrison (1745–1790), aide-de-camp to General George Washington, is pictured here as the mounted figure behind Washington's outstretched hand. (Detail from John Trumbull, The Capture of the Hessians at Trenton, December 26, 1776, *painted 1786–1828. Oil on canvas. Courtesy Yale University Art Gallery.)*

Research Notes & Maryland Miscellany

If Only for a Season: Robert Hanson Harrison, Favorite Son of Maryland

LUKE F. McCUSKER

This paper analyzes and interprets documents and records of Robert Hanson Harrison, one of President George Washington's original appointees to the United States Supreme Court. Although few of his personal papers survive, it is possible to gain an understanding of a man whose nation, state, and family held in high esteem. Through his letters, family information, an examination of positions accepted and declined, and the opinions of those who knew him a richer portrait of a Maryland son emerges.

Washington asked Harrison to serve as an associate justice of the U.S. Supreme Court because of the exemplary service he had rendered in several areas. His qualifications included legal training and practice, an even temperament, professional service to Washington prior to and during the Revolutionary War, and his position as Chief Justice of the Maryland General Court. All of these distinguished roles positioned Harrison as most qualified to hold high federal office, but events in his personal and family life affected his career. Despite the urging of state and federal officials, conflict between family needs and those of an emergent nation seeking service by its finest men ultimately moderated his accomplishments.

Robert Hanson Harrison was born in 1745 near "Walnut Landing," his family's home in Charles County along the Potomac River. The family had settled in the county nearly a century earlier and continued acquiring land until by 1776 it paid taxes on nearly 2,000 acres. His parents were Richard Harrison and Dorothy Hanson Harrison, a marriage that brought together two distinguished Maryland families and produced three sons, of which Robert H. was the eldest. Each earned his own distinction. William became a planter, a colonel in the Continental Army, Charles County justice, delegate to the Continental Congress, and a U.S. congressman from 1785 to 1787. In 1779 his youngest brother, Walter Hanson Harrison, was elected

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rector of Durham parish. Extended family members also served their country with distinction, notably Alexander Contee Hanson, a second cousin. He and Robert served together on the Maryland General Court for several years.[1]

Little is known about Robert Hanson Harrison's early years, but his mother's death undoubtedly affected her six-year-old son. Robert's father buried her—his second wife—alongside his first wife, Elizabeth, who had also borne him three children. Once reaching the age of majority, Robert moved to Alexandria, some forty miles north, and prepared for a career in the law. No particular evidence of his beginnings in the profession exists, but he did have family relations living in the area. The Hooe families, cousins on the Harrison side, were local merchants and may have facilitated his studies with a local attorney. Harrison met George Johnston Sr., a Maryland colleague of Patrick Henry and a prominent lawyer in Fairfax County. It is unknown whether Harrison read law under Johnston, but he did marry his daughter Sarah Anne and gained entry to Alexandria's well-heeled circle of patriots.[2]

Harrison's preparation for the bar was first recorded on August 22, 1765, when examiners for the Fairfax County Court sought to confirm his character in preparation for service. Scant records exist for his law practice during the next few years, but his name did appear in the June 18, 1767, *Virginia Gazette* regarding a hundred acres of his land to be taken in execution by one John Price of London. The nature of this unpaid debt is unknown. By 1769 George Washington paid the young lawyer £11.11.0 for the disposition of a suit brought by Warren Dent of Charles County against William Shilling, a considerable fee indicating high caliber work. Harrison also drafted a document that arranged for the indenture of Washington's slave, Nat, to Peter Gollatt for three years to learn blacksmithing. In a letter dated October 7, 1769, Washington hired Harrison on his own behalf to replace a lawyer who could no longer represent him due to illness, and spoke of a pending case brought by creditors against both himself and business colleague, John Posey. Journal entries show that Washington paid Harrison £3.0.0 for his services on this case.[3]

Washington turned to Harrison in a matter involving a neighbor who would be adversely affected by diverting a stream flowing through Mt. Vernon. In a letter dated April 5, 1770, Harrison quoted precedent, including *Blackstone's Commentaries on the Laws of England*, and advised Washington that he would be vulnerable to future legal action as well. Washington paid Harrison £0.12.0 for his opinion and continued sending Harrison his personal business. In 1772 the lawyer advised him against buying neighboring lands subject to ongoing litigation between two other parties. Rather, Washington should buy land free of dispute; Harrison suggested acreage belonging to John West. Harrison's work resolving the prenuptial agreement of married friends prompted Washington to write that his lawyer was "well skilled and diligent in his profession."[4]

Their professional relationship continued through 1773 and included lawsuits, land leases, and "Sunday opinions," probably legal matters. A case of particular inter-

est involved a suit that Washington brought in a Maryland court for nonpayment. In a letter dated February 12, 1773, Harrison advised his client how best to proceed in the state court system. Thomas Johnson, future governor of Maryland and Supreme Court justice, litigated the case in the Virginian's favor.[5]

Their working relationship expanded as relations with Great Britain devolved and the men of Alexandria sought a response to the Crown's harsh treatment. Men of sound judgment, legal acumen, and writing skill were essential to the cause, and the Virginia patriots known as the Fairfax Committee chose Harrison as their clerk and instructed him to formulate a strong response. George Washington chaired a committee opposed to the Stamp Act and, on July 18, 1774, put forth the Fairfax County Resolves.[6] Harrison served as clerk of the committee, and was intimately involved in this written assertion of the rights of Virginia, a role that let him display his skills among influential men, notably George Mason, Patrick Henry, and Richard Henry Lee. Harrison served another group, the Fairfax Independent Company, in practical ways. He wrote to Washington requesting "a pair of colours, two drums, two fifes and two Halberts."[7] He also posted in the local paper the decision of the December 19 meeting, directing that the profits from the sale of goods on a recently arrived Irish ship be used to aid the suffering poor of Boston.[8]

Tension between Great Britain and the colonies continued to escalate, and on January 17, 1775, the Fairfax County Committee resolved to form a militia, as Maryland had done, in lieu of establishing a paid army. Harrison wrote on behalf of the company to congratulate Washington on becoming its commander in chief, assuring him that it was being "disciplined and prepared" if needed in conflict. Washington probably took this assurance in a more literal way than Harrison intended. On September 28, 1775, he wrote his distant cousin, Lund Washington, who was managing his affairs at Mount Vernon, asking him to "sound out" Harrison about becoming an aide-de-camp. Lund reported back that Harrison seemed conflicted between the needs of his two young children and service to Washington. Harrison had hesitated in joining the army but said in hindsight that he might as well have joined during the previous summer, as conflict was inevitable. Discussion completed, Harrison delivered Lund Washington's written response by his own hand and reported for duty on October 15, 1775. General orders from Cambridge read, "Robert Hanson Harrison, Esq. is appointed aide-de-camp to his Excellency the Commander in Chief, and all orders, whether written or verbal, coming from the General, through Mr. Harrison are to be punctually obeyed."[9]

Harrison met Washington's original criteria for selecting the men who would serve in his wartime family—highly capable and well connected, and the sons of prominent politicians in their respective colonies.[10] Such men included Joseph Reed, highly valued but whose family and legal affairs kept him busy in Pennsylvania and Virginia. Edmund Randolph also served but was often away on family matters. Alexander Hamilton, nicknamed "the little lion," served in spite of his inclination

Harrison's duties included writing letters for general publication, some of which featured battle descriptions. He is shown here with Washington and Captain Tench Tilghman following the Battle of Trenton. (Trumbull, The Capture of the Hessians at Trenton.*)*

toward a field command.[11] Their service proved sporadic, and competing demands on their time frustrated Washington. The general also realized that men such as Harrison had but limited understanding of military and political life at the highest levels. In a letter to the absent Joseph Reed, Washington described Harrison as, "Sensible, clever and perfectly confidential, [but] has never moved upon so large a scale as to comprehend at one view the diversity of matter which comes before me."[12] Washington based his expectations on the capability of those who could faithfully serve and concluded that diligent men with good education, temperament, and sensibilities, as well as good writing skills, sufficed.[13]

Robert Harrison's wartime service followed a path similar to his legal duties in Virginia. His early letters as aide-de-camp communicated Washington's orders on military matters, such as sending letters of thanks, the need for additional soldiers, and limiting civilian aid to the British. Harrison became involved in larger issues over a period of time, most notably the British attempt to afflict American troops with smallpox, an "unheard of and abominable scheme."[14] His letter to the Council of Massachusetts, dated December 3, 1775, reflected Washington's deep concern over the matter. Access to camp headquarters was severely restricted, and additional serious measures such as quarantine and heightened security within Washington's inner circle were taken to prevent the spread of smallpox among the soldiers.

Harrison himself left camp for a trip home in the days following, and wrote to

Washington to inquire whether his return to service could be dispensed with. In a letter to Joseph Reed, dated January 23, 1776, Washington alluded to "an occurrence in Virginia which, I fear will compel Mr. Harrison to leave me, or suffer considerably by his stay."[15] This seems to indicate that a serious health issue had begun, but Harrison returned to Washington's service promptly, writing letters for general publication through October 1776, some of which included firsthand descriptions of battles.

Harrison returned home late in 1776, and he corresponded with Washington from Charles County through mid-January 1777. Rather than speaking to Harrison as though he were ill or an invalid, Washington sought his advice and assistance on several military matters, including arrangement for a new aide-de-camp, coordinating the commissioning of officers, prisoner exchanges, and communication with Congress on military matters. A more personal tone appeared in some letters, with Washington speaking to Harrison as an "affectionate friend."[16] In addition to discussing military problems and the superior British forces, Washington asked Harrison to "advise and direct" efforts to keep smallpox from spreading in the army and encouraged him to employ radical measures. One wonders if Harrison had survived a bout with smallpox himself, as Washington was "exceedingly glad" to hear he was doing better. It is likely that he recognized Harrison as particularly qualified to work on this problem; Washington also wrote that a Doctor Cochrane was being sent to assist him in preventing the spread of the disease.[17]

Harrison returned to Washington's service a short time later, and newspapers printed several notices from Harrison on Washington's behalf, dealing with limited amnesty for deserters from the Continental Army, the treatment of traitors, and the like. Local papers also carried postings on military action from Harrison to Washington, including one dated September 11, 1777, concerning the progress of fighting at Chadd's Ford, Pennsylvania, the possibility of additional conflict, and enemy troop strength.[18] In October 1777, Harrison joined the troops at Valley Forge. He had developed considerable military insight, and Washington discussed with members of Congress considering Harrison for appointment to the Board of War.[19] Congress created this body on October 17, 1777, and staffed it with three of their members. In that the board's purpose was to oversee the actions of Congress in prosecuting the war, it was determined that an additional two members should be added who were not members of that body. The board was first established in York, Pennsylvania, and became the Department of War on February 2, 1781.[20] Despite Washington's confidence in his abilities, Harrison declined the position and continued as Washington's personal secretary, a promotion that made room for Alexander Hamilton to join Washington's military family as aide-de-camp on March 1, 1777.[21]

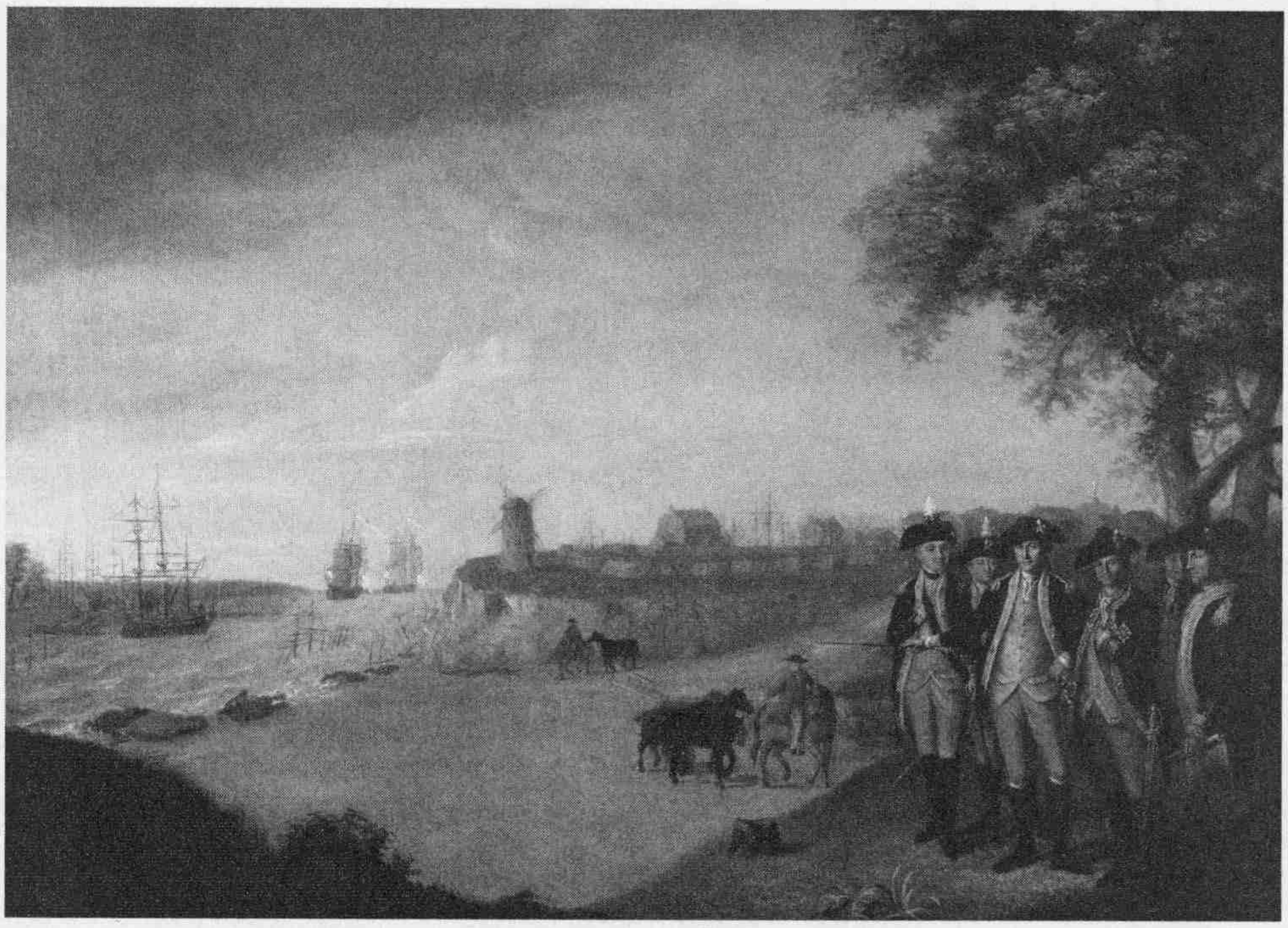
Hamilton and Harrison began a friendship that would last for many years. Though ten years apart in age, a fondness developed between the men that would serve them during trying times. Each looked to the other for emotional support, with Hamilton referring to his senior as the "old secretary." Their relationship was free of

jealousy, a remarkable feat when one considers the position and ability of each.[22] In a letter dated December 12, 1778, and in a follow-up letter as well, they worked as a team to facilitate the exchange of commissioned prisoners-of-war with the British army, using proper military decorum to accomplish this end. Other instances in life gave Harrison and Hamilton reason to express their affection for one another, including Hamilton's desire to see Harrison prior to leaving the general's service.

As in previous years, Harrison went home to Charles County during the late fall–early winter of 1780. Unfortunately, this trip would include his need to settle the estates of both his father and mother-in-law, who died during the period. These demands on him, as well as his desire to meet the needs of his motherless daughters, delayed his return to Washington's headquarters.[23] As family lawyer, Harrison performed the legal transactions needed to complete his father's final wishes, including his receiving a third of his father's property, amounting to some 650 acres. Harrison included military information in his letter, specifically British commanding general Lord Cornwallis's retreat and the valiant fighting of Maryland troops. He also reported the movement of British ships on the Chesapeake Bay, political changes in Maryland, financial struggles, and inquired about which military associates he might visit with while staying in the area.

In response to a letter from Washington dated January 9, 1781, Harrison wrote of the difficulties found in military life, both physical and financial. He described enemy activity in Virginia and the need to complete the settlement of two estates before his return, which he expected to happen in the next few days.[24] Perhaps the letter gave Washington an indication of Harrison's inability to serve any longer, for the general sent him a "Certificate of Services" on March 25, 1781, saying that Harrison was a man marked by the "strictest integrity, and the most attentive and faithful services."[25]

On March 26, 1781, Harrison came to New Windsor, New York, to bid farewell to both Washington and Hamilton. Not finding Hamilton there, Harrison wrote him a lengthy letter expressing respect and affection: "Tomorrow I am obliged to depart; and it is possible that our separation may be forever. But be this as it may, it can only be in respect to our persons; for as to affection, mine for you will continue to my latest breath."[26] He confided to Hamilton that among his reasons for leaving the army, financial needs were the most urgent. Harrison needed to attend to the settlement of his father's estate, pay related taxes and debts, and complete a family home that his father had not finished. His children's education was a great concern and required prompt attention to his diminishing fortunes, which had suffered during the war years. Harrison also told Hamilton about his appointment to the chief judgeship of the Maryland General Court in 1781, an opportunity he had to seize quickly or lose to another qualified man. Harrison added that he wished to maintain relationships developed over the years, with Hamilton in particular, and urged him to visit his Charles County home when practicable.



Ill health and family responsibilities forced Harrison to resign from Washington's service before the American victory at Yorktown. (Charles Willson Peale, George Washington and His Generals at Yorktown. *Oil on canvas, c.1781, Maryland Historical Society.)*

Despite Harrison's decision to serve on the Maryland General Court, he and Washington continued correspondence on a variety of subjects, including Cornwallis's surrender, a longing for peace, and the need to maintain military readiness in the event Great Britain changed its mind regarding an end to the conflict.[27] Washington continued to ask Harrison to recommend able men for his service as well. Perhaps in consideration of Harrison's fragile health, Washington gave Harrison a voucher for full use of the facilities to be found in Bath, a restorative resort town now known as Berkeley Springs, West Virginia.[28]

SERVICE ON THE Maryland General Court was a good fit for Robert Harrison. The court was created by the ratification of the Maryland Constitution in 1776, with judges beginning service in 1778. The court first met in Easton, then Annapolis. Harrison had shown capability and a moderate temperament during his career, and these characteristics were essential for success in Maryland, a state in transition. The state courts asserted their authority gradually and carefully. Cases included civil and criminal matters, the latter involving treason, insurrection, and rioting. The court strove to maintain order and stability, and those found guilty were usually lightly fined and released. This was important to the court's gaining acceptance of its author-

ity among an independent-minded citizenry.[29] Harrison replaced William Paca as chief judge, despite the presence of his second cousin, Alexander Contee Hanson, on the bench from its inception. He brought unity to the court rather than division, and led the court with his relative in a subordinate position for his entire tenure, with both leaving service in 1790. The docket of cases was relatively light, covered in a single volume of records by the court clerk.[30] By 1787, Harrison was receiving £150 per quarter for his services, a considerable sum at the time.[31] This did much to restore his depleted fortunes of earlier years.

Harrison's exemplary service garnered attention from those who wanted to take advantage of his abilities in other venues. On March 9, 1785, a legal notice was posted in the *Connecticut Journal*, appointing Harrison to serve at a federal court meeting in Williamsburg to settle a dispute between New York and Massachusetts. Among the lawyers appointed with him were future Supreme Court Justices Thomas Johnson, John Rutledge, and William Patterson.[32] Harrison declined the appointment. On April 23, 1787, the Maryland legislature selected five delegates to assist in revising the Articles of Confederation, including Harrison, Charles Carroll of Carrollton, Thomas Stone, James McHenry, and Thomas Sim Lee.[33] Harrison received the highest number of votes, but again declined to serve.[34]

Maryland displayed its highest esteem for Harrison by casting six electoral votes for him in the vice presidential election of 1789, hoping that he would serve alongside the unanimously elected George Washington. John Adams received a plurality of votes among the thirteen states and became vice president. Among the electors voting for Harrison was Alexander Contee Hanson, his fellow judge and second cousin.[35] Maryland's confidence in Harrison's abilities would be repeated seven months later, as both the state of Maryland and President Washington nominated him for high positions in the judiciary.

Maryland sought to make Harrison chancellor, succeeding John Rogers, and nominated him on October 1, 1789.[36] The office was modeled after a position in the British king's court, and those who served acted as a conscience to the judiciary and people of Maryland.[37] Harrison's response was swift. He sent his regrets to Governor John Eager Howard within a few days. The nature of the position necessitated a move to Annapolis, and his home life would have suffered.

President Washington nominated Harrison as an associate justice of the Supreme Court on September 24, 1789, placing him among the "fittest characters to expound the law and dispense justice" among the states.[38] Harrison, like other nominees, had considerable experience in public affairs and an observable commitment to the Constitution.[39] He was viewed in this way by the general public, and the president expressed his admiration and affection in a personal letter. Once more, Harrison knew the realities of accepting such a position and the effect it would have on his personal health and family life. He posted a letter of regret within the month, thanking the president for his esteem and trust but declining nonetheless.[40]

Yet this time, Harrison reconsidered and wrote to James McHenry, a valuable aide to the president, within a few weeks. McHenry relayed Judge Harrison's change of position to Washington, and wrote of Harrison's high value, character, and dedication to the president. That prompted Washington to return the commission to Harrison with mention of the likelihood that riding circuit would be eliminated from the position's responsibilities shortly. He also informed Harrison that all other commissions had been accepted. Alexander Hamilton wrote to Harrison regarding the matter as well, expressing fondness, shared memories, and disappointment that Harrison had declined the position. He asked Harrison to reconsider and stated that with the removal of circuit riding, he might be home as often as he now was.[41]

Harrison began the long trip to New York on January 14, 1790, but his health began to fail during the early part of his journey and caused him to spend several days in Alexandria before attempting to reach New York. Yet by the time he arrived in Bladensburg, he knew he could not continue and wrote to Washington to tell him of his inability to serve on the court. He returned home, and died on April 2. His death notice appeared in the *Maryland Gazette* a few days later. [42]

Harrison's death was difficult for his family. His daughters sought to complete his worldly affairs without the benefit of a will, aided by their father's cousin, Robert Hooe of Alexandria, and their uncle Walter H. Harrison, who was acting as administrator.[43] Sarah Easton and Dorothy Storer divided their father's 672 acres equally, as well as the balance of his estate, which included more than forty slaves and a library with two hundred volumes, dominated by books on the law.[44] With the help of Sarah's husband, John Easton, Harrison's daughters began a long process of pleading with the state of Maryland and Congress for compensation owed from their father's service. They eventually received a federal land bounty of six hundred acres in Virginia on February 3, 1817. Their petition for additional land and owed pension monies was first read by Congress on March 19, 1822, and granted on January 29, 1830. Maryland also directed payments to be made to Harrison's family over a period of years, culminating with a final payment on April 11, 1840.[45]

Though a favorite son of his state and nation, Harrison did not establish a legacy for several reasons. He did not apply for a military pension during his lifetime. The number of acres left to his daughters was quite similar to the number he inherited some ten years earlier from his father's estate, and no will exists for our reference. His personal papers were lost or destroyed after his death, and his place of burial is unknown. His daughter's original petition to the U.S. House of Representatives for back pension compensation was misplaced for many decades as well, unavailable to historians.[46] He left little to remember him by, save his reputation among those who served with him. Many letters do exist that speak of his service from men whose legacy is well known, including George Washington, Lafayette, James Monroe, James McHenry, Alexander Hamilton, and John Jay.[47]

NOTES

1. George T. Ness Jr., "A Lost Man of Maryland," *Maryland Historical Magazine*, 35 (1940): 316, 326; Margaret Brown Klapther and Paul Dennis Brown, *The History of Charles County, Maryland* (La Plata, Md.: Charles County Tercentenary Inc., 1958), 90–91; Harry Wright Newman, *Charles County Gentry* (Washington, D.C.: Published by the Author, 1940), 224. Dorothy's father, Robert Hanson, was first cousin to John Hanson, first president of the United States under the Articles of Confederation. Gerson G. Eisenberg, *Marylanders Who Served the Nation: A Biographical Dictionary of Federal Officials from Maryland* (Annapolis: Maryland State Archives, 1992), 91; Archives of Maryland, Historical List, Judges of the General Court, 1778–1805, Maryland State Archives, www.msa.md.gov/speccol (accessed June 6, 2010).
2. Maeva Marcus and James R. Perry, eds., *The Documentary History of the Supreme Court of the United States, 1789–1800, Volume 1, Part 1: Appointments and Proceedings* (New York: Columbia University Press, 1985), 31–43; Ness, "Lost Man of Maryland," 317; *Maryland Journal*, June 1, 1784. This family relationship continued through his lifetime, and was published in 1784 when Robert Hooe served as agent for his cousin regarding a property rental. National Society Daughters of the American Revolution: Linda Tinker Watkins, President General, *D.A.R. Patriot Index, Volume II* (Baltimore: Gateway Press, 2003).
3. Marcus, *Supreme Court*, 31; "To Be Sold," *Virginia Gazette*, June 18, 1767; W. W. Abbot and Dorothy Twohig, eds., *The Papers of George Washington, Colonial Series, June 1767–December 1771* (Charlottesville: University Press of Virginia, 1993), 8:208, 250–53. Washington showed a strong grasp of the issues of the case, and suggested to Harrison how to best dispose of it.
4. Harrison to Washington, April 5, 1770 and January 10, 1772, series 4, reel 32, George Washington Papers, Reference Department, Manuscript Division, Library of Congress [hereinafter Washington Papers, LC]; Abbott 8:77, 322, 325–26; George Washington to Sarah Bromford, December 23, 1773, in W. W. Abbot and Dorothy Twohig, eds., *The Papers of George Washington, Colonial Series, January 1772–March 1774* (Charlottesville: University Press of Virginia, 1993), 9:412–13.
5. Harrison to Washington, February 12, 1773, series 4, reel 32, Washington Papers, LC; Abbot and Twohig, eds., *Papers of George Washington, Colonial Series, January 1772–March 1774*, 9:176–77. Washington received Charles County acreage in settlement.
6. Abbot and Twohig, *Papers of George Washington, Colonial Series, March 1774–June 1775*, 10:119.
7. Harrison to Washington, October 19, 1774, series 4, reel 33, Washington Papers, LC.
8. "Article", *Virginia Gazette*, December 29, 1774, http://www.genealogybank.com/gbnk/newspapers/doc/v2:12AE45BF0A3FEE90@GBNEWS-12C8B98842E443D0-12C8B9885B149A18-12C8B988A1B666D0/?search_terms=Virginia%7CGazette%7CHarrison%7CRobert&s_dlid=DL0110070521314901669&s_ecproduct=SUB-Y-6995-R.IO-30&s_ecprodtype=RENEW-A-I&s_trackval=&s_siteloc=&s_referrer=&s_subterm=Subscription%20until%3A%2007%2F07%2F2010%2011%3A02%20AM&s_docsbal=%20&s_subexpires=07%2F07%2F2010%2011%3A02%20AM&s_docstart=&s_docsleft=&s_docsread=&s_username=lukefm001@yahoo.com&s_accountid=AC0107062714541210869&s_upgradeable=no (accessed June 7, 2010).
9. Abbot and Twohig, eds. *Papers of George Washington, Colonial Series, March 1774–June 1775*, 10:236. Philander D. Chase, ed., *Papers of George Washington, Revolutionary War Series* (Charlottesville: University Press of Virginia, 1985), 1:77–78, 2:115, 172, 308.

10. Catherine Murtaugh Childs, "Virginia Patriarch: George Washington and His Aides," *D.A.R. Magazine*, April 1980, 446–449.
11. Ron Chernow, *Alexander Hamilton* (New York: Penguin Press, 2004), 85, 92.
12. Chase, *Papers of George Washington, Revolutionary War Series*, 2:172, 407.
13. George Washington to Robert H. Harrison, January 9, 1777, in *Report of the Committee on Pensions and Revolutionary Claims, on the Petition of Sarah Easton and Dorothy Storer, March 19, 1822*, U.S. House of Representatives, House Report 17, Serial Set Vol. No. 86, Session Vol. No 1, December 12, 1822, http://www.genealogybank.com/gbnk/documents/doc/v1:0FECFF8887BD52C0/idb00.0FE1682E66153CB0/?search_terms=Easton%7CSarah&s_dlid=DL011007060004212880 4&s_ecproduct=SUB-Y-6995-R.IO-30&s_ecprodtype=RENEW-A-I&s_trackval=&s_siteloc=&s_referrer=&s_subterm=Subscription%20until%3A%2007%2F07%2F2010%2011%3A02%20AM&s_docsbal=%20&s_subexpires=07%2F07%2F2010%2011%3A02%20AM&s_docstart=&s_docsleft=&s_docsread=&s_username=lukefm001@yahoo.com&s_accountid=AC0107062714541210869&s_upgradeable=no (accessed June 10, 2010).
14. Peter Force, *American Archives, Fourth Series, Containing a Documentary History of the English Colonies in North America, From the King's Message to Parliament of March 7, 1774 to the Declaration of Independence by the United States* (Washington, D.C.: M. St. Clare Clark and Peter Force, 1843), 168.
15. Ibid., 831–32.
16. *Petition of Sarah Easton and Dorothy Storer*, 11–12.
17. Ibid., 13.
18. Harrison to Washington, September 11, 1777, http://www.genealogybank.com/gbnk/newspapers/doc/v2:109CDC735859DF18@GBNEWS-10A2401B83567630-10A2401BD3DD6360-10A2401C70E49DE8/?search_terms=Harrison%7CRobert&s_dlid=DL011007142247492718 2&s_ecproduct=SUB-Y-6995-R.IO-30&s_ecprodtype=RENEW-A-R&s_trackval=&s_siteloc=&s_referrer=&s_subterm=Subscription%20until%3A%2007%2F07%2F2011%2011%3A59%20PM&s_docsbal=%20&s_subexpires=07%2F07%2F2011%2011%3A59%20PM&s_docstart=&s_docsleft=&s_docsread=&s_username=lukefm001@yahoo.com&s_accountid=AC0107062714541210869&s_upgradeable=no (accessed July 13, 2010).
19. Ness, "Lost Man of Maryland," 320, 321.
20. Trevor N. Dupoy and Gay M. Hammerman, eds., *People and Events of the American Revolution* (New York: R. R. Bowker Company, 1974), 152; Terry M. Mays, *Historical Dictionary of the American Revolution*, 2nd edition (Lanham, Maryland: Scarecrow Press, 2001).
21. Conway W. Sams and Elihu Riley, *The Bench and Bar of Maryland: A History 1634–1901* (Chicago: Lewis Publishing Company, 1901), 211–12. Francis B. Heitman, *Historical Register of the Officers of the Continental Army during the War of the Revolution, April 1775 to December 1783* (Baltimore: Genealogical Publishing Co., Inc., 1973), 277.
22. Broadus Mitchell, "Hamilton's Quarrel with Washington, 1781," in *William and Mary Quarterly*, Third Series, 12 (1955): 207.
23. Harrison to Washington, November 28, 1780, series 4, reel 73, Washington Papers, LC.
24. Harrison to Washington, February 26, 1781, series 4, reel 75, Washington Papers, LC.
25. Washington to Harrison, March 25, 1781, series 3H, reel 28, volume 4, Washington Papers, LC.
26. John C. Hamilton, ed., *The Works of Alexander Hamilton* (New York: John F. Trow, Printer, 1850), 1:215–17.
27. Washington to Harrison, October 21, 1781, in *Petition of Sarah Easton and Dorothy Storer*, 13.

28. Voucher of Possession, July 28, 1788, Series 2, Reel 6, 15:194, Washington Papers, LC.
29. Ronald Hoffman, "Popularizing the Revolution: Internal Conflict and Economic Sacrifice in Maryland, 1774–1780," *Maryland Historical Magazine,* 68 (1973): 136–37.
30. Thomas Harris Jr., and John McHenry, *Maryland Reports being a Series of the Most Important Law Cases argued and Determined in the General Court and Court of Appeals of the State of Maryland from May 1780 to May 1790* (New York: C. Wiley, 1812), 2.
31. *Journal and Correspondence of the Council of Maryland, 1784–1789*, 71:221, http://aomol.net/000001/000071/html/am71--221.html (accessed June 6, 2010).
32. "New York, March 2," *Connecticut Journal*, March 9, 1785, http://www.genealogybank.com/gbnk/newspapers/doc/v2:1035C6AC8931AEF8@GBNEWS-1034DDB5B31778B1-1034DDB5D863CBB5-1034DDB68752F6A4/?search_terms=Harrison%7CRobert&s_dlid=DL011007171442140855 3&s_ecproduct=SUB-Y-6995-R.IO-30&s_ecprodtype=RENEW-A-R&s_trackval=&s_siteloc=&s_referrer=&s_subterm=Subscription%20until%3A%2007%2F07%2F2011%2011%3A59%20PM&s_docsbal=%20&s_subexpires=07%2F07%2F2011%2011%3A59%20PM&s_docstart=&s_docsleft=&s_docsread=&s_username=lukefm001@yahoo.com&s_accountid=AC0107062714541210869&s_upgradeable=no (accessed June 7,2010).
33. James McSherry, *History of Maryland* (Baltimore: Baltimore Book Company, 1904), 272.
34. "By the House of Delegates," *Maryland Journal*, April 27, 1787. http://www.genealogybank.com/gbnk/newspapers/doc/v2%3A108D68C94D87BEC0%40GBNEWS-10FA09C-C06C36A30-10FA09CCD3E2F910-10FA09CDF32815A8/print.html (accessed July 6, 2010.
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36. Ness, "Lost Man of Maryland," 330.
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Review Essay

Of Laws and Land: The Doctrine of Discovery in History and Historiography

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"Narratives of discovery and claims of possession go hand in hand."
—Patricia Seed, *Ceremonies of Possession*

On February 28, 1823, Chief Justice John Marshall handed down a unanimous Supreme Court ruling in *Johnson v. McIntosh* that ended nearly a half-century of litigation over the validity of the land purchases made by the United Illinois and Wabash Land Companies. His appeal to the Doctrine of Discovery as the fundamental legal principle on which United States land title was based gave legal approval to a prevailing ideology with devastating consequences for Native Americans. In his thirty-three-page opinion, Marshall declared that "the Indian inhabitants are to be considered merely as occupants" and that the "discovery" of America had given "exclusive title to those who made it." This opinion set the precedent on which the limited Native "occupancy" rights and European/American title have since been based. The case therefore marked a turning point. A new legal relationship, not totally severed from its historical antecedent, but wielded in a new manner, had been established. It marks, for example, an important new development in the semantics of Discovery ideology. By asserting a new kind of land right—that of "occupancy," Marshall vested in the federal government a superior legal right to American lands and lent teeth to the idea that Natives were ephemeral, transient "occupants" receding before the on-going march of civilization. Native American sovereignty rights were, according to Marshall, "necessarily diminished" with the arrival of Europeans as Natives could only sell their occupancy title to the European sovereign, which thereby transformed the "occupied" land into real property. In this way, race and racial hierarchy were integrated into the very nature and legality of land ownership. Moreover, this understanding was projected into the past, resetting the history of Native land title and the legal import of "Discovery." Thus, occupancy rights, the right to occupy but not own or sell land, embodies the legacy of the Discovery Doctrine in American law.

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Through law, Marshall's codification of occupancy rights redefined the land and reconfigured Discovery ideology. Both a legal principle and the historical and cultural perspective in which the long history of European contact and Native dispossession has been set, the Discovery Doctrine has informed Western perceptions of American lands and peoples since Europeans first arrived in the fifteenth century. Though its appeal has fluctuated and its meaning evolved, the Doctrine, ever in the background, has emerged at particular times in the past when title to America, or parts of it, were, from the European perspective, not clearly defined. During such times, Discovery ideology emerges but is never employed in quite the same way or with quite the same nuance. Its application reflects the ideological milieu of its historical context, and looking at such moments may help us to understand the direction and impulse of current historical and historiographical trends. The recent resurgence of questions concerning "how the Indians lost their land" reveals an increased emphasis on the historical linkages between the history of Indigenous land loss and the expansion of Western legal systems in the New World. The tone and direction of this recent scholarship suggests that we may currently be on the cusp of a new era in "Discovery" law.

This essay examines the recent fluorescence of scholarship regarding the Discovery Doctrine and the 1823 *Johnson v. M'Intosh* ruling that not only established the Doctrine of Discovery as the "baseline principle" by which the U.S. government would confront Native American land title, but also set an international precedent for other settler societies to follow.[1] This historiographical resurgence, spurred in part by the recent UN Declarations on the Rights of Indigenous Peoples as well as the emergence of a generation of Indigenous legal scholars, has prompted a reevaluation of the status of Indigenous property rights, the past justifications for taking Native lands, and the influence of such precedents in the present. By looking at how the ideology of discovery, particularly in its legal context, has evolved, this essay asks if we might again be at a moment when historical circumstances contribute to a realignment of legal theory and practice.

As one of the earliest examples of international law, the Discovery Doctrine to which Marshall appealed in 1823 has roots stretching back well into the medieval period, when the Roman Catholic Church began to claim worldwide papal jurisdiction. By the thirteenth century, Pope Innocent IV was interrogating the legitimacy of Christian invasions of heathen lands.[2] He argued that it indeed was legitimate because such actions constituted "just" wars in the "defense" of the Church, and the natural rights of non-Christians were qualified by the Church's divine mandate to see to the spiritual health of all human beings. This mandate thus gave Christians the *legal* authority to circumscribe non-Christian property and sovereignty rights. Following the expansion of European exploration during the fifteenth century, Pope Alexander VI issued a papal bull in 1493 that would become the foundation for the 1494 Treaty of Tordesillas, which established a line of demarcation divid-

ing the American hemisphere between the current competing powers, Spain and Portugal.[3] Tordesillas was meant to head-off sovereignty disputes, and subsequent treaties solidified the agreement by the early sixteenth century. The writings of Popes Innocent and Alexander and later papal bulls and edicts allowing for the usurpation of the property and sovereignty rights of infidel populations greatly influenced sixteenth- and seventeenth-century legal scholars, such as Franciscus de Victoria and Hugo Grotius (often labeled the father of international law), as they began to look for legal precedents legitimating the confiscation of the land, property, and sovereignty of non-Christian peoples.

By the late sixteenth century, other European nations, particularly England and France, entered the scramble to claim American lands and took a particular interest in the principles of Discovery. After breaking their teeth in Ireland, England became a leading advocate of Discovery ideology, initially basing their claims on the late fifteenth-century expeditions of John Cabot. France, for its part, began sending Jesuit missionaries to North America by the late sixteenth century. Prior to this, however, France and England, both subject to the authority of the Pope, feared infringing on Alexander VI's papal declaration, but, rather than give up their opportunity to share in these new territories and assets, they turned to the Discovery Doctrine itself and "devised slightly new theories of Discovery" that legitimated their country's rights to claim and colonize in the New World.[4] The new theory, primarily developed by English legal scholars, argued that the English would not be in violation of the 1493 bulls if they kept to lands not yet discovered by Portugal, Spain, or any other Christian monarch.

This broader reading of Alexander VI's declaration was further augmented in the 1580s by Elizabeth I, who added a significant new element to the international law. She and her legal advisors argued that the Doctrine required that a country must occupy the new lands in order to validate a Discovery title. In many ways a reasonable response to the growing problem of false discovery claims, this new element of Discovery ideology altered the focus of Discovery claims from legal-religious ceremonies of possession (legal theory) to long-term acts of physical occupation (controlling physical space). This development also shifted the emphasis of the Doctrine away from a legally defined theoretical ownership vis-à-vis other European nations and toward a legally recognized physical possession. This malleability as a legal concept and the possibility for reconfiguration and redeployment marks a definitive characteristic of the five-hundred-year history of the Doctrine of Discovery. Discovery ideology, then, is a shorthand for the changing package of assumptions, rights, and prerogatives that European (and American) nations maintained over the centuries in their claims to American lands. And by making the Discovery Doctrine the modern basis for European sovereignty and property claims in American lands, the *Johnson* ruling represents the most recent permutation in Discovery ideology. The subtle historical variations in Discovery ideology have prompted scholars to see

the Discovery Doctrine as an on-going discourse through which the institutions of law, power, and property are defined and negotiated and look to historical context as they attempt to establish the intellectual origins and historical vicissitudes of Discovery ideology.

During the early twentieth century, the ethnocentrism inherent in the Doctrine was well received by scholars.[5] One significant exception was George Bryan, whose 1924 book, *The Imperialism of John Marshall: A Study in Expediency,* cast the decision as a "morally wrong . . . bow to expediency rather than right." Although heavily criticized, the work presaged critiques by later scholars, such as Vine Deloria Jr., James Youngblood Henderson, and Robert Williams, who initiated a re-examination of the history of and current status of Native title, *Johnson v. M'Intosh,* and the Doctrine of Discovery.[6] In 1977, James Youngblood Henderson, a member of the Oklahoma Chickasaw Nation and a graduate of Harvard Law School, published "Unraveling the Riddle of Aboriginal Title," a review article in which he argued that Native title "slowly but perceptibly changed from its original concept as established in the Marshall Court" from a property right "as sacred as the fee simple of the whites" to "naked possession." While Henderson may have over-emphasized the strength that the *Johnson* ruling vested in the "limited possessor" occupancy title granted to Natives, his basic point was nonetheless clear: the "modern paradigm of Indian title" had become an increasingly powerful weapon of imperialism that "demands reappraisal."[7] Legal scholars responded with a number of books and articles during the 1980s that presented new ways of exploring and understanding the legal and historical development of Native land rights and the role of *Johnson* and the Discovery Doctrine in that development.[8] In many ways, Kent McNeil's *Common Law Aboriginal Title* exemplifies the ascendency of the critical scholarly discourse suggested by George Bryan sixty-five years earlier. *Common Law,* however, reads like a legal brief that utilizes the legal rules of the colonizers to demonstrate that "indigenous people did—and in some cases no doubt still do—have title to the lands occupied by them." Although McNeil contends that Marshall erred when he codified the idea of "Indian title"—a property right "unknown to the common law," grounded in "doubtful premises," and derived from a misreading of international law—he nonetheless grants that the Crown possessed sovereignty and possibly a right of preemption.[9]

While modern scholars continue to disagree on *Johnson's* underlying rationale, the effects of the decision, and the nature of the property rights it created, the rejection of it as an appropriate application of jurisprudence is all but universal. The *Johnson* decision is viewed in the legal profession as a repudiated ruling along the lines of the *Dred Scott* decision, the glaring difference being that *Dred Scott* is no longer a binding legal precedent. Recent research, however, suggests that the legalities created by the *Johnson* ruling are under attack at both the national and international levels as Indigenous intellectuals make themselves heard in increasingly, though at times

begrudgingly, sympathetic legal systems. A new generation of scholars, led most famously by Vine Deloria Jr. and Robert Williams Jr. have pushed beyond McNeil and brought to bear a critique that borders on criminal indictment, most forcefully (and comprehensively) exemplified by Williams's characterization of Discovery ideology as an inherently racist discourse and the *Johnson* ruling as a foreordained outcome of "the inescapable framework" in which history had set "Marshall's legal discourse."[10] Johnson's is one of the most thorough-going and disparaging critiques, presenting Discovery ideology as fundamentally a marriage of racial, legal, and imperial discourses.

Harvard Law School graduate and member of the Lumbee Indian Tribe of North Carolina, Williams, in his seminal work *The American Indian in Western Legal Thought: The Discourses of Conquest* (1990), meticulously maps, from the medieval period through the *Johnson* ruling, the legal epistemology that informed the status of Indigenous peoples and their lands in Western legal thought. The core precedent of this legal framework—the Doctrine of Discovery—took its origins from a "systematically elaborated legal discourse on colonization" that Williams labels "the Medieval Discourse of Crusade." The discourse of crusade was grounded in the idea that "normatively divergent non-Christian peoples could rightfully be conquered and their lands could lawfully be confiscated by Christian Europeans." From here Williams lays out the intellectual genealogy linking papal jurisdiction over "heathen" lands to Renaissance-era legal theorists. In doing so, he highlights an important expansion in the Western legal dominion and of the "conceptual boundaries of the West's will to empire over the entire non-Christian world."[11] This expansion came ultimately in response to the crisis in legal theory triggered by the "discovery" of the "New" World, and as changing legal and colonial circumstances dictated, the Discovery Doctrine was continually brought to bear and proved to be a pliable legal precedent useful to the needs and desires of the imperial enterprise.

Over the course of the early modern period, the legal justification for dispossessing non-Christian peoples shifted away (though never completely) from a religiously defined "natural law" and moved toward a vision in which property, particularly land and its use, increasingly defined "natural law." In this way, a religious mandate to subjugate "infidels" and "subdue, replenish, and improve" any "Vacant and Uninhabited part of the World" became a legal basis for sovereignty and property rights.[12] With the expansion of colonialism in the New World, the Discovery Doctrine developed into a legal "discourse of conquest" that imposed and legitimated the Western "will to empire" through a "colonizing rule of law."[13] Through its marriage of law and empire, Williams argues, the West was able to impose its vision of truth on New World peoples and landscapes. Williams makes a powerful case for the interdependence of Western law and conquest and demonstrates, at times with excruciating detail, that while some foundational legal-ideological assumptions underlie the Western will to empire, the "discourses of conquest"—the institutions, instruments, and ideologies

("Truth," "Power," "Knowledge")—continually evolve along with and in response to the means and methods of Western imperial ambitions. Thus, Marshall's appeal to the Discovery Doctrine in 1823, while being used to deal with a different set of problems than it had during the Crusades or the "Age of Discovery" or the colonial period, was nonetheless, according to Williams, simply the continuation of an on-going discourse of "European racism and colonialism directed against non-Western peoples."[14] So that Marshall's appeal to the Discovery Doctrine in 1823, while drawing on a long history of Western legal precedent, was an attempt to deal with a different set of legal and imperial issues. The newness of these problems hinged on who the claims of discovery were intended to inform—other European nations or Indigenous populations. Following the Seven Years War and particularly after the American Revolution, the focus of the European/American sovereign shifted from defending sovereignty and property claims against other European to stripping such claims from Native populations. The new set of issues this introduced, Williams argues, prompted the recalibration of the on-going racist, imperial discourse. Following the Revolution, the Founders ultimately compromised, vesting in the federal government sovereignty over "frontier lands" and the exclusive right to extinguish Native occupancy claims. The *Johnson* ruling forty years later became the textual precedent for United States land title and one of the basic principles of federal Indian law. Thus, the appeal to the Discovery Doctrine in the *Johnson* ruling represents, for Williams, a point of closure as much as a point of origin in Western colonizing discourse.

The Doctrine of Discovery, then, in Williams's view, was and remains the basis for a "discourse of conquest" in which law is the instrument of empire. The law, he argues, was the primary mechanism by which imperial actions were energized and legitimated. The legal theory underlying the treatment of Native Americans rests on the idea that the "discovery" of "vacant" land or land occupied by non-Christians imparted superior legal and political rights to European "discoverers" over the land and any Indigenous populations. For Williams, this "discourse of conquest" was the constitutive element of "the West's lawful power to impose its visions of truth on non-Western peoples through a racist, colonizing rule of law." Furthermore, he contends that the legitimating function of law and legal discourse "extended far beyond providing passive defenses and apologies for the exercise of colonizing power." The "immunizing" function of law and legal discourse also served as an effective tool for "dismissing or deflating demands for further justifications or examinations of the colonizing enterprise," a legacy that current historiography has begun to expose.[15]

Since Williams's magisterial treatise, scholars have begun to look more closely at the role of law in imperial discourse and the Discovery Doctrine (and by extension *Johnson v. M'Intosh*) as the primary intellectual premise underlying European title to and sovereignty over Native lands, a historiographical turn that has been accelerated and emphasized by the recent emergence of Indigenous rights as an international issue. In this sense, Williams's broad survey provides an important

context and jumping off point for the two central questions of this essay: How has the Discovery Doctrine been employed as a "discourse of conquest," and what can the recent flowering of scholarship concerning the Discovery Doctrine, the *Johnson* ruling, and the history of Indigenous property rights tell us about the current state of the Doctrine as an ideological tool in the on-going struggle between Western legal systems and Indigenous land rights? Aside from the recent impetus provided by international interest in recognizing Indigenous rights, the volumes reviewed here highlight contemporary anxieties about how Native peoples were dispossessed, how Native lands were acquired, and how those processes affected Native peoples. Though they emphasize (and implicate) the law as the, in Bourdieuian terms, "structuring-structure" by which property and sovereignty were defined and recognized in the Americas, these works complicate Williams's analysis of the Discovery Doctrine as the "perfect instrument of empire" while nevertheless emphasizing and repudiating the "universalized, hierarchical . . . , and archaic, medievally derived legal discourse" and the disconnect between "natural" and civil law that it entails.[16] In doing so, they stand as evidence of a changing metrics for how we perceive the history of Native land rights and the future relationship between land and law.

After more than twenty years of negotiation and advocacy by Indigenous peoples, the 2007 United Nations Declaration on the Rights of Indigenous Peoples passed the UN General Assembly with only four votes against. Those four votes, perhaps not surprisingly given their relationships with Indigenous Peoples, were cast by Australia, Canada, New Zealand, and the United States.[17] All four have large Indigenous populations and similar histories of subverting and obscuring the rights and histories of these groups. The similarity reflects the common English social, legal, and cultural systems that shaped these countries. In their recent edited collection, *Discovering Indigenous Lands: The Doctrine of Discovery in the English Colonies* (2010), Indigenous legal scholars Robert Miller, Jacinta Ruru, Larissa Behrendt, and Tracey Lindberg argue that the Doctrine of Discovery stands as "a more basic and invidious" explanation for why those four countries voted against the declaration.[18]

The common legal and cultural heritage of these four countries, they argue, has heavily influenced how they have interpreted Native land rights and implemented Discovery doctrine. The Doctrine, in their view, much like Williams, is grounded in an invidious, racial understanding of human cultures and methods of land use that has provided the legal justification for appropriating Native lands and has mediated the relationship in these countries between Native land and settler law since the arrival of Europeans. *Discovering Indigenous Lands* brings to bear the work of four Indigenous law professors who represent part of the emerging work of a first generation of Indigenous legal scholars. These scholars highlight the irony and inconsistency of "allegedly 'liberal' countries" with "domestic legal regimes that aspire to incorporate broader human rights concerns" wielding the Discovery Doctrine

to justify and legitimate a hierarchical vision of human societies, the circumscription of Native rights, and the appropriation of Native lands, and argue ultimately that the Doctrine of Discovery "should no longer form a part of any country's legal framework."[19]

According to the authors, the Discovery Doctrine did not gain its validity by discovery per se—all four countries acknowledged the previous occupants of the land as such—but under the pretense of marking the first *civilized* people to occupy the land. They compellingly demonstrate that the issue was not a question of discovery—*who* occupied the region when—but *how* the landscape was utilized by those occupants. Thus, the idea of "discovery," and by extension ownership, was grounded in assumptions about cultural superiority ("European society is at a more advanced stage of social development"), racial ascendancy ("Europeans are at a more advanced stage of human development"), and the appropriateness of these hierarchies (they are inherent in the natural order). Moreover, the land was perceived as empty—*terra nullius*—and the Natives as a fleeting presence.[20] One of the significant strengths of this book is that it shows that, on some level, this framework is not only still with us, but is regularly cited by the very legal systems that promote the universal sanctity of private property and liberal jurisprudence.

Initially developed from a policy attempting to mediate among European nations concerning their claims in the "New World," the Discovery Doctrine evolved into an ideology of legal conquest and Indigenous dispossession. The completeness of this transition can be glimpsed in the normalization of Indigenous displacement and removal in settler colonial histories and in the incredulous shrugs that one gets when asking the question: "If the Indians had "discovered" Europe (which they did at least once in 60 BCE), could they have claimed ownership by appealing to a "Doctrine of Discovery?"[21] Though people today would likely not appeal to blatant racism like "Native methods of land use and social organization categorized them as intrinsically uncivilized and thus unable to 'own' or exercise sovereignty over their lands," their explanation would probably contain appeals to *either* technological advancement, political development, and intensive land use *or* conquest. But, as Williams and others have shown, the ideology of Discovery preceded actual conquest and was part of a broader legal-colonial discourse of conquest that evolved along with the imperial project. Thus, rather than a natural outcome of force (might makes right) or of a superior civilization dominating an inferior one, the Discovery Doctrine is the product of the historical pursuit of empire for which land and law were, and continue to be, the primary instruments of wealth, power, and control.

The most significant contribution of *Discovering Indigenous Lands* is that it demonstrates the presence and persistence of the Discovery Doctrine in contemporary international law, bringing the Doctrine full circle, as the Treaty of Tordesillas was in many ways the origin of modern international policy. Moreover, it makes clear that Discovery ideology "is not just an esoteric and interesting relic of our histories" but

part of an on-going discourse concerning the lands, laws, and peoples of the "New" World. With this in mind, the book provides insight into the current state of the Discovery Doctrine as both a legal principle and an ideology of conquest, how changing interpretations of the past have informed its evolution, and how the historical deconstruction of this "discourse of conquest" may help to inform a de-colonizing discourse. Though the Doctrine is at the ideological core of the Western legal and cultural perspective, its force waxes and wanes in response to the changing power dynamics between Western and Indigenous peoples. Thus, if we are to effectively historicize not only the Doctrine but also the current state of Western-Indigenous relations, then we must attempt to contextualize discursive changes wherein power relations are reconfigured and map those changes on to surges in the force of Discovery ideology. One effective way of doing so, as Stuart Banner demonstrates, is to think in terms of continuums rather than binaries.

In *How the Indians Lost Their Land: Law and Power on the Frontier* (2005), Banner frames the history of Native American dispossession in terms of a "spectrum bounded by poles of conquest and contract."[22] For Banner, the exchange of land was never simply the result of conquest, nor strictly the outcome of voluntary exchange. Rather, it existed along a continuum between compulsion and cooperation. All land transfers, he contends, included elements of law and elements of power. In his examination of the means and methods by which land was transferred from Native to European hands on the frontier of British North America and the early United States, he finds that land exchanges became more coercive over time as British legalities were increasingly imposed on Native lands and peoples, making the power relationships ever more lopsided. The relationship between law and power, Banner suggests, is definitive. Power defined the social relations of cultural exchange on American frontiers and helps to explain the outcomes of cultural contact as well as the continued purchase of Discovery ideology. Williams recognized this connection as well, writing that "the English war for America was launched by an invasion of power and law."[23] Banner, though, sees a more complicated and less malevolent story, one in which fluctuating elements of law and power structured contractual relationships and informed the intentions of buyers and sellers. "The road to Indian land loss," he writes, "has always been paved with both good and bad intentions."[24] "How the Indians lost their land" was more a story of the diminishing ability of Natives to maintain authority over their lands as those lands were increasingly incorporated into an expanding legal system instead of an on-going, premeditated discourse of superiority, conquest, and domination.

For Banner, we must begin to look at European contact and Native dispossession as a changing historical process in which power relations structured legal relations. As power relations became lopsided, legal ideology grew in importance, which increased power, leading to more legal control and more power and so on. Banner challenges the historiographical convention suggesting that the English justified

their claim to North America by right of conquest. Instead, he argues that, although early English settlers equated land ownership with culturally defined notions of appropriate land use, namely intensive agriculture and permanent habitations, they nevertheless recognized Native American horticulture, settlement, and government as legitimate indicators of ownership. Banner is at pains to demonstrate that attempts to "claim property rights by conquest virtually died out among the English after the seventeenth century."[25] Citing numerous colonial officials, he successfully discredits the notion that in the minds of English colonists "discovery" abolished Native land title. In a "superb demystification of conquest," Banner highlights how changing political circumstances influenced interpretations of the meaning of discovery, and he is right to emphasize that claims affirming the validity of Indian land title more accurately reflect the avenues for obtaining Indian land rather than any real belief in the legitimacy of Native title.[26] In other words, by recognizing the Indians as owners of their land, "the English were helping *themselves*, not the Indians."[27]

During the seventeenth and early eighteenth centuries, private individuals could purchase land directly from Natives much more easily than they could by the mid-eighteenth century and beyond, when centralized government began to enforce its claim to the sole right of purchasing Native lands. Individuals who privately purchased land from Natives had a vested interest in the Native title being valid and legitimate and thus transferrable, whereas by the nineteenth century, those eyeing Indian lands sought a legitimate basis for removal so that legal title could then be purchased *from*, rather than in spite of, the government. This subtle shift again exemplifies how the significance of discovery waxes and wanes with regard to the avenues for obtaining legal title and the goals of the imperial enterprise. While Britain wanted to prevent settlement on Native lands, at least west of the Appalachians, and to promote the Indian trade in order to channel profits to the metropole, the new United States sought to expand settlement, finance its debts, and pursue a new, Indian-free vision of the future landscape.

Banner goes to great lengths to show that the exchanges that led to dispossession are most accurately understood within the context of a continuum containing both deliberate conquest and willing transactions. Though his approach is a promising historiographical development for scholars attempting to negotiate the divergent characterizations presented by activists and conservatives, without a fuller engagement with the ethnohistorical and Indigenous scholarship he is open to considerable criticism. His strict interpretation of what constitutes conquest puts Banner at odds with much recent scholarship on Indian removal. Although he is right to emphasize the complexity of Indian policy, which, for him, was the product of "well-meaning whites with the shared goal of protecting Indians," as well as racism and cultural chauvinism, Banner fails to address the genocidal implications of those policies as well as the racially laden ideology from which they developed. Any discussion of law and power must engage the assumptions—racist, imperialist, or otherwise—in

which power relations and legal ideologies are grounded. By failing to do so, he elides the fact that if Indians were seen as a problem, whether by assimilationists, segregationists, or eliminationists, then that "problem" was part and parcel of the racialized hierarchy that had come to characterize the political and socio-economic structures of U.S. society.

Nevertheless, Banner's work ultimately sheds a discerning light on the role of power in determining the force of Native land title and the legal salience of the Discovery Doctrine. Even if seventeenth-century English colonists had insisted on the Discovery Doctrine as the basis for European land title, the power and leverage maintained by the Indians at that time would have made any such insistence irrelevant. The only other means to acquire Native land was to acknowledge Native title and purchase it, but as Native power diminished, particularly after the Revolution, Discovery became an increasingly attractive means of validating past and future land grabs. Although Marshall's ruling in *Johnson*, mirroring the Doctrine's original intent, was intended to indicate the legitimate purchaser—only the federal government can purchase Native lands, not private individuals—for states, settlers, and speculators it provided the legal mechanism to pursue a relatively new, race-based vision of America's future.

In his epilogue, Banner explains that by the latter half of the twentieth century, the transfer of Native lands to non-Natives was considerably curtailed and Natives have had some success in regaining land or compensation. This shift, he argues, reflects a "change in the relative political power of Indians and whites."[28] By conforming to the American legal system and using its avenues to pursue Native agendas, Native groups in some instances have been able to gain compensation or extract legislative settlement more effectively, particularly through federal agencies such as the Indian Claims Commission. Nevertheless, many suits of eastern Natives are for violations of statutes enacted prior to the 1823 *Johnson* ruling and because this ruling is still the foundational case in this area of law, Natives have only a "right of occupancy" and do not have ownership in or sovereignty over their lands. Banner is right to point out that Native gains in the twentieth century reflect a change in relative power, *not* jurisprudence. This change also informs the current face (or faces) of the Discovery Doctrine. As something associated with historical claims of racial and cultural superiority, the Doctrine is disparaged as a "colonial-era legal doctrine of conquest and colonization" that "legalized presumption of Indian racial inferiority."[29] It nevertheless, as described by Miller et al., continues to be cited in legal proceedings as the basis not only of U.S. land title, but also that of Australia, Canada, and New Zealand. In 2005, for example, the Supreme Court cited *Johnson* and the Discovery Doctrine in *City of Sherrill, New York v. Oneida Indian Nation of New York* (2005), ruling that "Under the 'doctrine of discovery,' fee title to the lands occupied by Indians when the colonists arrived became vested in the sovereign—first the discovering European nation and later the original States and the United States."[30]

Though divergent in many of their claims, Banner and Williams make clear two major turning points in the history of Native American dispossession—the establishment of American sovereignty following the American Revolution and the convenient legal distinction between rights of ownership and rights of occupancy. The legal creation of an inferior type of ownership right allowed the "limited possessor" idea of Native property rights to be projected into the past, validating British ownership and buttressing American claims following the Revolution. While Banner suggests that "much more land was obtained by purchase than by conquest," the formation of the United States and the creation of a graduated scale for defining ownership rights laid the groundwork for the federal policy of Native American dispossession.[31]

Some fundamental differences among scholars of Native American dispossession are largely a function of the strong activist component inherent in the historiography of Native American–Euro-American relations. Like Williams and Miller, et al., Indigenous scholars such as David E. Wilkins, K. Tsianina Lomawaima, Vine Deloria, and others see removal and allotment as a continuous, intentional, and premeditated process. Banner, who does not seem to share this activist impulse, sees a great deal of contingency as well as continuity in the history of Native American dispossession but contends that the process for the most part was neither as simplistic nor as vindictive as these scholars suggest. While Banner's muted analysis of the role of ideologies of conquest in the dispossession of the Indigenous population of North America is doubtless troubling to some, his theoretical framework for analyzing the process of dispossession is an important new direction in the historiography of Native American–Euro-American relations. His use of a continuum for conceptualizing the process of dispossession seems especially promising. Other scholars have taken Banner's analysis to heart in emphasizing contingency and the unintended consequences of litigation.

In *Conquest by Law: How the Discovery of America Dispossessed Indigenous Peoples of their Lands* (2005), Lindsay Robertson skillfully situates the resurgence and redeployment of the Discovery Doctrine following the American Revolution in legal history. Through a meticulous contextualization of the details of the *Johnson* case, *Conquest by Law* maps the emergence of the Discovery Doctrine as the legal basis for Euro-American *property* (not simply sovereignty) rights over the land and U.S. claims of legitimate title to Indian lands. Although Robertson believes the *Johnson* ruling was made with other, more benign ends in mind, he argues that the survival of the Discovery Doctrine and its existence in the present is a direct result of its utility in facilitating Indian removal. In doing so, he reveals a layered past shot through with contingencies, ironies, and externalities. For him, the conquest of America was a discursive process wherein legal precedent and historical circumstances converged to create the impulse and opportunity to appeal to a centuries-old sovereignty claim in order to establish the legitimacy of U.S., and U.S. citizens', property rights. This subtle shift ultimately allowed for the Indian removals of the 1830s and provided a

legal precedent for other British colonial off-shoots to follow. Like Banner, Robertson sees a story marked more by contingency, unintended consequences, and immediate circumstances than a vindictive pursuit of dispossession and genocide. They agree, for example, that with the *Johnson* ruling Marshall was attempting to help the claims of Virginia militiamen to western lands, and Robertson sees Marshall's ruling as an attempt to secure western lands for Virginia war veterans, a point on which Banner agrees, rather than as an unabashed example of "America's Indian control jurisprudence."[32]

Robertson's book is the first history of *Johnson v. M'Intosh* to draw on the complete corporate records of the United Illinois and Wabash Land Companies, documents he located in a trunk in the basement of Jasper Brinton (the great-great-great grandson of John Hill Brinton, the company's last secretary) while conducting dissertation research in 1992. The re-discovery of these documents is important not only because they contain information from the judges, attorneys, and company officers involved with the case, but also because they reveal the susceptibility of legal precedents to unintended consequences. The records contain letters exchanged between corporate officers and investors as well as the company's altered copy of the Camden-Yorke Opinion, the 1757 decision relating the right of private companies to purchase land directly from "the Mogul or any Indian princes or governments," one of the most significant pieces of evidence in the *Johnson* case.[33] The story these documents tell "is unsettling."[34] *Johnson,* Robertson explains, was a collusive case in which a group of speculators attempted to take advantage of loopholes in the early judicial system in order to gain recognition of William Murray's 1773 and 1775 land purchases from the Piankashaw Indians. The pursuit of validation spanned more than half a century and ultimately included some of the leading figures of the early republic, including Robert Goodloe Harper and Daniel Webster. Their attempts may well have succeeded, Robertson explains, had Marshall's personal interests intersected with their own.

According to Robertson, Marshall saw *Johnson* as a means to settling the dispute over the western Kentucky bounty lands promised to Virginia (Marshall's home state) Revolutionary War veterans. In order to dissolve any on-going disputes concerning title to the lands, Marshall incorporated the Doctrine of Discovery into his opinion in the *Johnson* ruling. The United Illinois and Wabash Land Companies wanted a ruling that endorsed Native land rights, thus validating their 1773 and 1775 purchases from the Piankeshaws, but in order to settle the Virginia military lands dispute, Marshall leaned on the Discovery Doctrine, writing a thirty-three-page opinion that "might have been a one-paragraph decision."[35] His desire to aid Virginia war veterans, Robertson argues, ended up "dispossessing Native Americans of their title claim to a continent."[36]

Conquest by Law is less the story of how "the discovery of America dispossessed Indigenous peoples of the lands" as the subtitle suggests, than a detailed history of a

land company's decades-long legal struggle to gain land title and the unintended role that that struggle and the ruling it produced played in Indian removal. For Robertson, the history of *Johnson v. M'Intosh* is "a story of unintended consequences."[37] By looking at Chief Justice John Marshall and analyzing his ruling, Robertson highlights not only the legal dispossession of eastern Natives but also the ability for people to manipulate the young American legal and political systems "for private aims."[38] This is a story of the legal origins of Removal legislation that also provides a window into the scheming, uncertainty, and manipulation of a legal system attempting to find its role in the republican experiment.

The *Johnson v. M'Intosh* ruling ultimately became the foundation on which the American legal and political systems constructed the three definitive myths of nineteenth-century U.S. expansionism: the European "discovery" of America, the inability of Native peoples to "own" their lands (despite conformity by groups like the Cherokee, Creek, Choctaw, and others to European agricultural practices and slave labor), and the prerogative of the Euro-American legal system to make these distinctions. *Johnson* represents the crystallization of an ideology that projects into both the past and future. As Robertson argues, "by illuminating in detail the history of the case's prosecution and placing its resolution in legal and political contexts" and "establishing just what was on the minds of the participants in the case," we can begin to gain a sense of how such legal interpretations were conceived and understood at the time and the changing role of those interpretations in the present day. For Robertson, the conquest of America was a discursive process, and one in which land rights were legally constructed in order to validate certain ownership claims and invalidate others. With its legal system still struggling to define its powers and processes, and power relationships within its changing, the U.S. dispossession of Native peoples highlights the disconnect between theory and practice at the heart of the republican experiment and the unintended consequences those contradictions fostered.

With a flourish of his pen, Marshall codified an invidious understanding of land rights and property ownership, and the impact of the case was swift. *Johnson* and the Discovery Doctrine were increasingly cited as legal justification for removal of Native peoples. Marshall, recognizing the implications of the case, attempted to correct the distortions of his ruling with his opinions in *Cherokee Nation v. Georgia* (1831) and *Worcester v. Georgia* (1832), but the damage had been done. Andrew Jackson's unwillingness to enforce such federal rulings over state laws and his creation of a pro-Removal Supreme Court by 1835 meant that by the end of the Seminole Wars in 1842 Indian removal to the west of the Mississippi River was complete.

Marshall did not intend *Johnson* to become the foundation of U.S. property law or to serve as the intellectual basis for the legal dispossession of Native Americans, but these outcomes highlight the transformation of the Doctrine itself from one distinguishing land claims among European powers to one defining land title in terms of a

racial hierarchy—from one claiming sovereignty over land to one claiming property in land. Rather than delineating which European power has the right to exclude the territorial governing ambitions of other European powers, the Doctrine became an instrument for validating what David Nichols succinctly labels the "ethnic cleansing of the eastern United States."[39] This shift reflected, among other things, the changed balance of power between the colonizing European entity—at this point the young United States—and the Native Americans beyond the Appalachian Mountains.

In *Buying America from the Indians*, Blake Watson traces the rich and convoluted history that led up to the *Johnson* decision and skillfully weaves together the historical context, legal proceedings, and rich biographies of those involved in the case. In doing so, he highlights not only the political and legal history of the Illinois and Wabash purchases, but also the profound effect of the *Johnson* ruling and the power that it continues to exert in American property law. Watson suggests that the later decisions in *Cherokee Nation v. Georgia* (1831) and *Worcester v. Georgia* (1832), when Marshall attempted to temper the *Johnson* ruling, were "stillborn" in state and federal courts. Although *Worcester* remains the starting point for any discussion of tribal sovereignty, it has had a much weaker influence on the historical trajectory of Native land rights. Indeed, Marshall's statements about the limited effect of the colonial charters "have *never* been quoted in subsequent Supreme Court decisions." Thus, it is *Johnson*, Watson argues, that remains "the leading decision on Native property rights in the United States."[40]

Yet this book is much more than a history of *Johnson v. M'Intosh*. Indeed, the history of the case itself consists of only four chapters. The scope and in many ways the heart of the book is really "the divergent views of Native land rights" and the changing political, legal, and military contexts that contributed to the culminating decision in *Johnson*. Watson weaves together Native American and frontier history and the history of early American law and politics into a compelling and highly readable account of the mechanisms by which "the root of title for most real property in the United States" was established. Using biography as an engaging narrative device, Watson employs the history of the Illinois and Wabash Land Company and the lands it purchased as a window into the legal construction of Native land rights and the simultaneous manipulation of that construction for private gain. In this, the most comprehensive historical and legal overview of the history of *Johnson v. M'Intosh* to date, Watson tells a wider story of the origins of the *Johnson* ruling and its impact on federal Indian law and Native land rights.[41]

The history of Native land rights is, for Watson, the story of how racism and nation-building converged to create an invidious redefinition of property. In a classical Lockean perspective, the court presented Native conceptions of land use and property in terms of an inherent inferiority and illegitimacy, while presenting their own culturally contingent conceptions of property as though they were objective representations of "natural" law—indeed, not conceptions at all but simply

manifestations of Truth. Thus, *Johnson* served (continues to serve) as a short-hand rationale for declaring that Native title to land was inferior to that of European title. As Watson points out, one of the glaring ironies of this story is that no Natives were present when this ruling was made and the land in question had not been inhabited by Natives for nearly two decades.

Watson does an exemplary job of presenting the many people, motives, and unintended consequences of the case and provides a thorough account of the Illinois and Wabash Land Companies, the purchases they made, and the dispute over Indian land rights that culminated in the *Johnson* decision. Utilizing the social, political, and legal history of these land purchases as strands linking the history of Native land rights with that of Euro-American expansion in the United States, he demonstrates the central role played by land speculation and the debate over the nature of Native title in not only the construction of Indian land title as a lesser form of property rights, but also the causes and consequences of many of the foundational events of early American history, such as the French and Indian War, the American Revolution, the ratification of the Articles of Confederation, and the Treaty of Greenville. Like Banner, Watson demonstrates that the idea that land can be legitimately purchased as property from Natives has been as persistent as the idea that discovery immediately conferred sovereignty rights to European kings and queens. Watson departs from Banner's rendering, though, by more effectively including Native Americans in the story of how the Indians lost their land and their continuing struggle with the legacy of the *Johnson* ruling. He makes clear by looking into the history of the Euro-American construction of Native land rights, it is possible to glimpse the construction of the expansionist ethos in American history. Watson's detailed historical context and meticulous analysis expands our understanding of the construction of federal Indian law and American property law while providing a compelling narrative of the intertwining of American expansion, racism, and nation-building.

These works reveal a considerable expansion in historiographical emphasis to include not only the changing nuances of the Doctrine of Discovery and the unintended consequences of its invocation, but also the continuing implications of legal conquest. Yet this historiographical development nevertheless begs the question: How can the Discovery Doctrine be at once almost universally disparaged *and* remain the primary basis by which the United States and other English colonies maintain sovereignty and property claims? The answer seems to lie in the historical and legal continuity of racial and cultural hierarchy, in other words, historical memory and ethnocentrism. "Temporo-normativity," the idea that the social relations and institutions of the present are, on some level, normal and appropriate, informs this incongruence between past and present beliefs, behaviors, ideas, etc. While past precedents and relationships are criticized, current manifestations of such relations are often invisible, obscured at least partially by continuity and the assumption of

established permanence—the idea that the present is independent of the past. The Discovery Doctrine is an example of this phenomenon. As Daisy Ocampo writes, the internalization of superiority in society and law has not only "laid the foundation for the hegemonic societies as we know them today," but has also allowed for the imagined separation of the racial, legal, and imperial discourses proposed by Williams.

The persistence of Native Americans has put the lie to the assumption of their racial inferiority as well as the "savage as wolf" theory that Indians, like wolves, will retreat before the advance of civilization. In 1825, when Henry Clay expressed the general consensus among Americans that Indians were "impossible to civilize" and "destined to extinction," a ruling based on the Discovery Doctrine like that in *Johnson* might have seemed appropriate. But since Natives have not vanished in the nearly two hundred years since, it becomes increasingly difficult to ignore the assumptions on which the Discovery Doctrine maintains its continued purchase; hence the bifurcation of the Doctrine into the repudiated assumptions of racial hierarchy and the traditionally grounded (and backed with the threat of violence) validation of American land claims. So the current face of the Discovery Doctrine is one validated by the assumption that continuity establishes legitimacy—"we're sorry we took the land, but we can't give it back now." Unfortunately, this newest variation rests on racist principles just as the older renditions had, for if the Discovery Doctrine is used simply as a means of upholding the sanctity of private property, and the denial of Native property rights violates that principle now just as it had in 1823 or 1500, then the use of the Discovery Doctrine in the present remains at its foundation a racist doctrine of cultural chauvinism and contradicts the very ideology of the sanctity of private property on which it was at least partially rationalized.

The *Johnson* ruling has come to stand in a euphemistic way for the ideology of discovery and the Discovery Doctrine and has allowed for the decoupling of the property claims inherent in the ruling from the racism and ethnocentrism for which the Discovery Doctrine has historically stood. Courts can appeal to the Doctrine without having to overtly indicate the ethnocentric assumptions underlying its rationale of Indian racial inferiority. This latest evolution in Discovery ideology allows the *Johnson* ruling to stand for the property rights established by the Doctrine while divorcing or simply ignoring the racist reasoning out of which the Doctrine originated. This sleight of hand permits American law and the legal systems of other British settler-colonies to maintain a patina of legality emphasizing the legitimacy of their land claims while downplaying the politically inexpedient aspects of the Doctrine's implications and legacy.

Part of the Discovery Doctrine's inconsistency is also a result of its historical evolution, how it has changed as an overall discourse, not only in terms of law, but also culturally, intellectually, and as social commentary. Initially grounded in the assumption of a Christian/non-Christian and civilized/savage hierarchy, its rational-

ization transformed during the twentieth century into a relic of historical memory—a product of the past that greatly influenced the present but cannot be undone. Therein lies the paradox. The Doctrine itself has not changed and continues to be utilized to mediate disputes over land claims independent, at least ostensibly, of the racial assumptions from which it originated. The elimination of overt racism as a valid means for claiming the land demanded a greater emphasis on legalities of title in the present—the emphasis being on the validity and virtue of the socio-economic system rather than the underlying assumptions of, if not fixed racial hierarchy, then at minimum learned cultural superiority—but the idea of hierarchy continues to hover in the background. How could it not? Thus, the continuity of legal precedent that the Doctrine entails elides the racist worldview out of which it was derived and perpetuated, thus allowing it to remain an influential legal precedent without having to address its racist and ethnocentric underpinnings.

These authors illustrate that the Discovery Doctrine is a moving target, constantly re-conceptualized in light of social, political, and legal developments. During the sixteenth century, it was born largely out of the twin imperatives of parceling out the New World to European interlopers and spreading Christianity to "heathen" populations. By the end of the seventeenth century, the understanding was that Indians possessed their lands outright and legal title must be purchased from them. Thus, the Discovery Doctrine still by and large consisted in differentiating rights among *European* entities. In this case, indicating what nation has sovereignty over a specific place and whose subjects have the right to purchase lands from the Indians living there. While diminishing the price that Natives might have received for their land on the open market, the intention of restricting Native sales to a single European entity was initially more about limiting the access of other European empires to Native land sales not, although it ultimately had this effect, the creation of a new, lesser form of land title. Ironically, the problem for Great Britain and later the American government with regard to land rights was not other European nations but the private pursuit of Native land purchases by their own subjects.

Following the American Revolution, land speculators fought to have their pre-Revolution land purchases validated. But as Eric Kades has pointed out, by granting an exclusive right to the federal government to buy Indian lands, *Johnson* created a system of monopsony, which averted a bidding war between settlers and enabled the acquisition of Native American lands at the lowest possible cost.[42] Moreover, with sovereignty now reflected in the *rights* conferred by the fee-simple ownership of land by individual citizens, the establishment of the United States triggered another shift in the meaning of Discovery, one that meant denying to Native Americans the standard rights of commercial ownership—Natives could not sell their land as real estate on the open market, but American settlers who obtained land from the U.S. government could. So rather than simply signifying the exclusive right to purchase Native lands, it also came to mean the denial of access to legitimate commercial av-

enues of exchange in land. This transition marks the completion of the Doctrine's shift from a declaration governing inter-European relations to one concerning Western-Indigenous relations. It was this shift that John Marshall ultimately codified through the legal notion of "occupancy title," inadvertently providing the legal justification to remove Native populations and setting the trajectory for Native property rights and land title up to the present day.

The codification of the Discovery Doctrine in *Johnson* became part of the intellectual foundation of Manifest Destiny—the idea that American citizens had a God-given right (and obligation) to possess and populate all the land between the Atlantic and Pacific oceans—and the *Johnson* decision continues to be cited with approval by the U.S. Supreme Court. Scholars, however, have out-paced the legal establishment in calling for a new relationship between law and land that not only takes responsibility for the wrongs of the past but seeks a better understanding of how a trans-national or a fully "globalized" future might look. Some have pursued international organizations as sources of legal protection for Indigenous rights, as exemplified in 2007 by the U.N.'s Declaration on the Rights of Indigenous Peoples, which asserts that Indigenous peoples "have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired."[43] Others are pursuing the outright repudiation of *Johnson v. M'Intosh* and the Discovery Doctrine. Some, like Deloria, argued that the ongoing struggle over power, sovereignty, and jurisdiction is essentially one about identity and self-determination, asserting ultimately that Native American groups have full and uncontestable sovereignty.[44] Though Australia did endorse the U.N. declaration in 2009 and Canada, New Zealand, and the United States followed suit in 2010, the future of Indigenous land rights remains uncertain. Nevertheless, the increasing ferment over this issue suggests that a realignment of these ideas may be underway just as it was among Spanish intellectuals of the sixteenth century, British investors in the seventeenth century, and American legal theorists of the late eighteenth and nineteenth centuries.[45]

The more than five-hundred-year legacy of European influence in America has made clear the extent to which law is political and ideological and subject to forces beyond legal theory and the judicial system. It has also revealed the power of law to establish the definitions, demarcations, and justifications of Western cultural imperatives. The Doctrine of Discovery is indicative of a broader ideological perspective concerning the nature of civilization and progress on the one hand and normative patterns of human ecology on the other. It is the intellectual paradigm by which Europeans came to define and understand their relationship to the "New World" and its inhabitants, and it ultimately evolved into an intellectual basis for the commodification of the landscape. Built on an invidious understanding of "races" and societies as well as assumptions (or rationalizations) concerning the sanctity of private property, the Discovery Doctrine allows these beliefs to be imposed on and

reflected in the organization of space and the relationship between laws and land. The works reviewed here as well as the historiographical trend of which they are a part force us to question the assumptions that have long validated Western titles to Native lands and help us to better understand not only how Natives lost their lands but the effects that that process continues to have on Native peoples today. By fully understanding the historical events, motives, and unintended consequences that shaped the Discovery Doctrine and codified it in American and international law, these works make clear how the Doctrine of Discovery instituted rules for the occupation and acquisition of "discovered" land and established an intellectual paradigm that informed how Indigenous peoples and cultures were to be viewed and treated. By examining how legal decisions, such as *Johnson,* shaped the history of Native land rights, these authors have forcefully highlighted the "jurisprudential legacy" of a conquest by law.[46]

In an era of de-colonization the legal claims to Indigenous lands must be validated in a way that satisfies our current understanding of what we might consider "natural law." The works examined here explore not only the history of Native land rights and Discovery law, but also the unsustainability of a legal property regime built on the assumptions inherent in the Discovery Doctrine. They ask us to consider what role the Discovery precedent plays in land title today, and what its next evolution might be. While recent scholars almost uniformly call for the repudiation of the Doctrine, its history provides valuable insight into the legal processes by which land became private property and Natives became aliens to their homelands. Moreover, understanding how the Doctrine has been repackaged and redeployed in response to different historical and legal circumstances allows us some perspective on the present state of the Discovery ideology, Indian law, and Indigenous legal claims in other Western settler-colonies and enables us to recognize subtle changes in this legal precedent that has so successfully linked law and conquest and imagine, amid the increasing din of Indigenous voices and theoretical repudiation, what the next evolution might be.

Whether land was to be bought from Native American groups as was the case in the English colonies during the seventeenth and much of the eighteenth centuries or taken by force through legislatively mandated "removals" like that of the Cherokee, Chickasaw, and a number of other groups during the 1830s, law was the underlying continuity. It established the rules and mediums of exchange and provided the bedrock for political scaffolding. As Christopher Tomlins explains, "law inventories the human activities that constitute the cultural fields in which action occurs and archives their meanings for authoritative reference."[47] In other words, law creates and imparts validity by defining the rituals of exchange, which engender assumptions concerning expectation, fairness, and harm. In short, law defines the reasonable, and the history of Native American dispossession is to a considerable degree the history of legally defining Native American land ownership as unreason-

able. This process hinges on the Doctrine of Discovery, which is the core intellectual link between the fifteenth- and sixteenth-century papal bulls regarding the "New World" and the *Johnson* ruling some three hundred years later. The central question is not, "Is the Discovery Doctrine a racist ideology of conquest?" The authors to one degree or another agree on that point. The elephant in the room is how do we move forward, beyond the Doctrine of Discovery. The house of cards built atop it is so layered and complex that any drastic responses may lack desirability as much as feasibility. So, how do we bring an embarrassingly outdated legal discourse in line with an intellectual discourse that not only rejects fundamental racial difference but also increasingly recognizes law as more of a hegemonic institution than a baseline for morality and justice? Perhaps our best options lie with understanding what this historical precedent tells us about ourselves and the dynamic relationship between our cultural and legal systems.

February 8, 2012, marks the 125th anniversary of the 1887 General Allotment Act in which the U.S. government attempted to assimilate Indian peoples into mainstream white culture by converting Native land trusts into individually owned allotments the excess of which were sold as "surplus" to non-Indians. This legislation, grounded in Discovery ideology and born of the same superiority complex, resulted in the loss of nearly two-thirds of all Indian land, a total of 90 million acres. In 2009, The Supreme Court decision in *Carcieri v. Salazar* limited the authority of the Secretary of the Interior to take Indian lands into trust under the Indian Reorganization Act (IRA), ruling that the term "now" in the phrase "now under federal jurisdiction" limits the authority of the secretary to take land in trust for tribes to those that were under federal jurisdiction in June of 1934, the date the IRA was enacted. Such a ruling hints at the shifting power dynamic within the American legal system regarding Indigenous rights and lands discussed by Banner. Ultimately the politics of assimilation initiated by the IRA failed to make Indians disappear in the twentieth century just as the politics of removal failed to do so in the nineteenth century. By failing to take seriously the commitment to difference, the antiquated premises of Discovery ideology run counter to the ideals on which liberal democracies are purportedly based. Thus, the issue is moral and political at least as much as it is legal and constitutional. Ultimately, such a policy would involve returning a good deal of land, resources, and local government to Native communities. In 2012, the U.S. Court of Appeals for the District of Columbia upheld a 2010 congressional settlement for $3.4 billion between the U.S. government and hundreds of thousands of Native American plaintiffs whose land trust royalties were mismanaged by the Department of the Interior. Whether such developments represent a changing discourse or the latest extension in Discovery ideology is difficult to tell, but the future must be one in which jurisprudence attempts to come to terms with both the historical legacy of Discovery ideology and the value of difference in American culture.

NOTES

1. Robert Miller, Jacinta Ruru, Larissa Behrendt, and Tracey Lindberg, *Discovering Indigenous Lands: The Doctrine of Discovery in the English Colonies* (New York: Oxford University Press, 2010), 3.
2. For the early history of Discovery ideology, see Anthony Pagden, *Lords of All the World: Ideologies Empire in Spain, Britain and France c. 1500–1800* (New Haven: Yale University Press, 1995); Robert Williams Jr., *The American Indian in Western Legal Thought: The Discourses of Conquest* (New Haven: Yale University Press, 1990); James Muldoon, ed., *The Expansion of Europe* (Philadelphia: University of Pennsylvania Press, 1977); Carl Erdmann, *The Origin of the Idea of Crusade* (Princeton: Princeton University Press, 1977).
3. The papal bull was *Inter caetera* (1493). For an analysis of this bull, see James Muldoon, "Papal Responsibility for the Infidel: Another Look at Alexander VI's *Inter Caetera*," *Catholic Historical Review*, 64 (1978): 168–84.
4. Robert Miller, et al., *Discovering Indigenous Lands: The Doctrine of Discovery in the English Colonies* (Cambridge: Oxford University Press, 2010), 18.
5. James Brown Scott called the opinion "masterly" in *United States of America: A Study in Intentional Organization* (New York: Oxford University Press, 1920), 91; Jennings Wise referred to the decision as a "great and fearless opinion" in, *Red Man in the New World Drama* (Washington D.C.: W. F. Roberts Company, 1931), 347; even as late as 1968 Robert Faulkner labeled the decision a "stern but humane judicial statesmanship, *The Jurisprudence of John Marshall* (Princeton: Princeton University Press, 1968), 52.
6. Vine Deloria Jr., *Behind the Trail of Broken Treaties: An Indian Declaration of Independence* (New York: Delacorte Press, 1974); James Youngblood Henderson, "Unraveling the Riddle of Aboriginal Title," *American Indian Law Review*, 5 (1977): 75.
7. Henderson, "Unraveling the Riddle," 75–78.
8. Howard Berman, "Concept of Aboriginal Rights in the Early Legal History of the United States," *Buffalo Law Review*, 27 (1978): 637; Robert Clinton and Margaret Hotopp, "Judicial Enforcement of the Federal Restraints on Alienation of Indian Land: The Origins of the Eastern Land Claims," *Maine Law Review*, 17, no. 31 (1979): 17; Russel Barsh and James Youngblood Henderson, *The Road: Indian Tribes and Political Liberty* (Berkeley: University of California Press, 1980); Nell Newton, "'At the Whim of the Sovereign': Aboriginal Title Reconsidered," *Hastings Law Journal*, 31 (1980): 1215; Steven Bloxham, "Aboriginal Title, Alaskan Native Property Rights, and the Case of the Tee-Hit-Ton Indians," *American Indian Law Review*, 8 (1980): 299; Robert Williams Jr., "Medieval and Renaissance Origins of the Status of the American Indian in Western Legal Thought," *Southern California Law Review*, 57 (1983): 1; Nell Newton, "Federal Power over Indians: Its Sources, Scope, and Limitations," *University of Pennsylvania Law Review*, 132 (1984): 195; James Springer, "American Indians and the Law of Real Property in Colonial New England," *American Journal of Legal History*, 39 (1986): 25; Robert Williams Jr., "Algebra of Federal Indian Law: The Hard Trial of Decolonizing and Americanizing the White Man's Indian Jurisprudence," *Wisconsin Law Review*, (1986): 219; Robert Williams Jr., "Jefferson, the Norman Yoke, and American Indian Lands," *Arizona Law Review*, 29 (1987): 165; Milner Ball, "Constitution, Court, Indian Tribes," *American Bar Foundation Research Journal*, 1987 (1987): 1; Jill Norgren, "Protection of What Rights They Have: Original Principles of Federal Indian Law," *North Dakota Law Review*, 64 (1988): 73; Robert Williams Jr., "Documents of Barbarism: The Contemporary Legacy of European Racism and Colonialism in the Narrative Traditions of Federal Indian Law," *Arizona Law*

Review, 31 (1989): 237; L. C. Green and Olive Dickason, eds., *Law of Nations and the New World* (Edmonton: University of Alberta Press, 1989); Kent McNeil, *Common Law Aboriginal Title* (New York: Oxford University Press, 1989).

9. McNeil, *Common Law*, 306, 245, 264, 301.

10. Williams, *American Indian in Western Legal Thought,* 312.

11. Williams, *The American Indian in Western Legal Thought*, 13, 40.

12. Increase Mather, "The Original Rights of Mankind Freely to Subdue and Improve the Earth" (Boston, 1722), 7–8. Though this essay is probably not by Mather (see Thomas James Holmes, *Increase Mather, His Works: Being a short-title catalogue of the published writings that can be ascribed to him* (Cleveland: Horace Carr, 1930), 2:645–46), it demonstrates the subtle shift in emphasis from divine mandate to legal right, particularly in its use of the Lockean linkage between "improved" land and private property. The idea that possession requires improvement is ultimately a legal distinction. While it may be argued that it is a notion inherent in the Scripture, it is the legalities that the distinction creates that gives it its force, and by the early modern period land claims were justified by appeal to law not God, even if God still hovered in the background. Nevertheless, in *Pagans in the Promised Land: Decoding the Doctrine of Christian Discovery* (2008), Steven Newcomb, argues that "the so-called right of discovery in the *Johnson* ruling is grounded in the background cultural and religious belief that the chosen people will one day fulfill God's will by taking over all the non-Christian parts of the earth as a promised and everlasting possession." A Shawnee/Lenape and co-founder of the Indigenous Law Institute, Newcomb contends that Marshall's opinion must be viewed with an eye for "decod[ing] the hidden biblical, or, more specifically, Old Testament, background of the *Johnson* ruling (xv, 45–46).

13. Williams, *The American Indian in Western Legal Thought*, 325.

14. Ibid., 317.

15. Ibid., 6, 325, 326.

16. Ibid., 325–26; Pierre Bourdieu, *Outline of a Theory of Social Practice* (1977).

17. The final vote was 143–4. Robert T. Coulter, "The U.N. Declaration on the Rights of Indigenous Peoples: A Historic Change in International Law," (2009) 45 *Idaho Law Review* 6.

18. Miller et al., *Discovering Indigenous Lands: The Doctrine of Discovery in the English Colonies* (Oxford: Oxford University Press, 2010), 1; the authors are Eastern Shawnee, Maori (Ngai Raukawa, Ngai Te Rangi and Pakeha), Indigenous Australian, and Cree (Neheyiwak), respectively.

19. Miller et al., *Discovering Indigenous Lands,* 1, v, vii.

20. Indeed, George Washington captured this mentality in the late eighteenth century with the "savage as wolf" theory, in which Natives, like wolves, continually slink back into the wilderness before the advance of "civilization."

21. Two Native Americans apparently shipwrecked in Holland near this date and became major curiosities in Europe. See Jack D. Forbes, *Black Africans and Native Americans: Color, Race, and Caste in the Evolution of Red-black Peoples* (Oxford, UK: Blackwell, 1988), 7–14; Ivan Van Sertima, *They Came Before Columbus* (New York: Random House, 1976), chap. 12; Alice Kehoe, "Small Boats Upon the North Atlantic," in Carroll L. Riley, ed., *Man Across the Sea: Problems of Pre-Columbian Contacts* (Austin: University of Texas Press, 1971), 276.

22. Stuart Banner, *How the Indians Lost their Land: Law and Power on the Frontier* (Cambridge: Belknap Press of Harvard University Press, 2005), 4.

23. Williams, *The American Indian in Western Legal Thought*, 219.

24. Banner, *How the Indians Lost their Land,* 6.

25. Ibid., 18.

26. Review by Amy E. Den Ouden, *The American Journal of Legal History*, 48 (2006): 343–45, 344.
27. Banner, *How the Indians Lost Their Land*, 12.
28. Ibid., 292.
29. Robert A. Williams Jr., *Like a Loaded Weapon: The Rehnquist Court, Indian Rights, and the Legal History of Racism in America* (Minneapolis: University of Minnesota Press, 2005), 57–58.
30. *City of Sherrill, New York v. Oneida Indian Nation of New York*, 544 U.S. 197, 125 S.Ct. 1478, 1483 n. 1 (2005).
31. Banner, *How the Indians Lost Their Land*, 26.
32. Robert Porter, "Two Kinds of Indians, Two Kinds of Indian Nation Sovereignty: A Surreply to Professor Lavelle," *Kansas Journal of Law and Public Policy*, 11 (2002): 646. For other examples of this perspective see Jedediah Purdy, who describes *Johnson* as "an exercise in imperial jurisprudence" in "Property and Empire: The Law of Imperialism in *Johnson v. M'intosh*," *George Washington Law Review*, 75 (2007): 341; and Eric Kades, who characterizes *Johnson* as "a tool of efficient expropriation" in "The Dark Side of Efficiency: *Johnson v M'Intosh* and the Expropriation of American Indian Lands" *University of Pennsylvania Law Review*, 148 (2000): 1080.
33. Lindsay Gordon Robertson, *Conquest by Law: How the Discovery of America Dispossessed Indigenous Peoples of their Lands* (2005), 7.
34. Ibid., xi.
35. Ibid., xi.
36. Ibid., 83.
37. Ibid., 4.
38. Ibid., 59.
39. David Nichols, *Red Gentlemen & White Savages: Indians, Federalists, and the Search for Order on the American Frontier* (Charlottesville: University of Virginia Press, 2008), 202.
40. Blake A. Watson, Buying America from the Indians : Johnson v. McIntosh and the History of Native Land Rights (Norman: University of Oklahoma Press, 2012), 330, 342.
41. Watson, xiv, xvi.
42. Kades, "The Dark Side of Efficiency," 1189.
43. Article 26, United Nations Declaration on the Rights of Indigenous Peoples, G.A. Res. 61/295 (Sept. 13, 2007), available at http://www.unhcr.org/refworld/docid/471355a82.html.
44. Deloria's work is extensive. Most significant in this regard are, *Behind the Trail of Broken Treaties* (1974); *American Indians, American Justice* (1983); *The Nations Within: The Past and Future of Native American Sovereignty;* for some more recent examples of this perspective see, David E. Wilkins, *American Indian Sovereignty and the U.S. Supreme Court: The Masking of Justice* (Austin: University of Texas Press, 1997); David E. Wilkins and K. Tsianina Lomawaima *Uneven Ground: American Indian Sovereignty and Federal Law* (Norman: University of Oklahoma Press, 2001); Walter Echo-Hawk, *In the Courts of the Conqueror: The 10 Worst Indian Law Cases Ever Decided* (Golden: Fulcrum, 2010).
45. Indeed, in the past two decades more than 750 articles and several books, from scholars as varied as political scientists, legal theorists, and colonial historians, have critically evaluated the *Johnson* ruling. For some of the most recent literature see, Patrick Wolfe, "Against the Intentional Fallacy: Legocentrism and Continuity in the Rhetoric of Indian Dispossession," *American Indian Culture & Research Journal*, 36 (2012): 3–45; "The Doctrine of Discovery and Canadian Law," *Canadian Journal of Native Studies*, 30 (2010): 335–59; Benjamin Richardson et al., eds., *Indigenous Peoples and the Law* (Portland: Hart, 2009); Steven Newcomb, *Pagans*

in the Promised Land: Decoding the Doctrine of Christian Discovery (Golden: Fulcrum, 2008); Jedediah Purdy, "Property and Empire: The Law of Imperialism in *Johnson v. M'intosh*," *George Washington Law Review*, 75 (2007): 329; *American Indian Law Review*, 31, No. 2, Symposium: Lands, Liberties, and Legacies: Indigenous Peoples and International Law (2006/2007); Deborah Rosen, "Colonization through Law: The Judicial Defense of State Indian Legislation, 1790–1880," *American Journal of Legal History*, 46 (2004): 26–54; David Bloch, "Colonizing the Last Frontier," *American Indian Law Review*, 29, No. 1 (2004/2005): 1–42; Eric Kades, "History and Interpretation of the Great Case of *Johnson v. M'Intosh*," *Law & History Review*, 19 (2001); Eric Cheyfitz, "Doctrines of Discovery: The Foundation of Colonialism in Federal Indian Law," *Common-Place: The Interactive Journal of Early American Life*, 2 (2001): 1.

46. Robertson, *Conquest by Law*, xiii.

47. Christopher Tomlins and Bruce H. Mann, eds., *The Many Legalities of Early America* (Chapel Hill: University of North Carolina Press for the Omohundro Institute of Early American History and Culture, 2001), 326.

Book Reviews

Lotions, Potions, Pills and Magic. By Elaine G. Breslaw. (New York: New York University Press, 2012. pp. xiv, 236. Cloth $35.00.)

In *Lotions, Potions, Pills and Magic*, Elaine Breslaw meticulously details medical behavior and health conditions in America from the arrival of the Pilgrims in 1620 until the third quarter of the nineteenth century. Rather than portraying the development of modern American medicine as having constantly progressed and advanced, her monograph provides a more complicated and nuanced history that was profoundly affected by deep professional struggle, fluctuating levels of public faith in orthodox medicine, competing medical philosophies and perspectives and the existence of complex power relations between physicians, the American public and native populations. As well as making use of a remarkably extensive timeframe, Breslau offers a study that is thematically comprehensive. Commencing with the catastrophic outbreaks of smallpox among native populations in the 1600s (a disease from which they had no biological immunity), Breslau proceeds by exploring themes including nutritional well-being, medical behavior during the American Civil War, the development of institutionalized psychiatric health provision, shifting childbirth practices and public health.

The precept that orthodox medicine was often dangerous, ineffective and lethal, at least until around 1890, is pivotal to *Lotions, Potions, Pills and Magic*. In response, Breslau maintains, the public routinely looked for alternative forms of cure and prevention ranging from traditional folk healers to botanical and water cure methods and native varieties of medicine. Regardless of this development, and despite an easily discernible incapacity to provide cure, members of the orthodox medical profession stubbornly strove to maintain their monopoly over health and healing, as well as the forms of knowledge that structured medical thought and practice. In analyzing these themes, Breslau seeks to construct a multifaceted portrait of medicine and health in early America that incorporates a wide range of encounters across the social spectrum.

A critical problem with the ambitious scope of *Lotions, Potions, Pills and Magic* is that Breslau's various themes are not explored with the degree of depth normally expected in an academic monograph focusing on medical history. Breslau has undeniably produced a strong introductory overview to America's medical past, but one that is not consistently rigorous enough to most medical historians. The reader learns that native populations were devastated by diseases carried across the Atlantic Ocean by European settlers; that early modern physicians clung steadfastly to classical theories about the human body and its ailments; that the eighteenth-century transformation of midwifery into a male domain had few practical benefits

for women; that the nineteenth century saw the widespread institutionalization of insanity; that public health emerged in its modern form from around the 1840s, and so on. These are hardly new themes. Furthermore, Breslau, for the most part, fails to situate these already well-analyzed developments in the specific context of early America in a way that invites the reader to consider what was truly unique about medicine in the specific geographical context under analysis.

Breslau's key thesis is that medicine was in a constant state of decline, not advancement, until at least the 1890s primarily due to the lack of empirical knowledge shared by orthodox medical men coupled with a persistent desire to make a profit despite having little to genuinely offer in the form of curative mechanisms. To a certain extent this precept holds true. However, by focusing upon such an overly simplistic dichotomy, little room is left for discussion, for instance, of the nineteenth-century rise of medical professionals who were themselves opposed to older methods based on theory and who actively sought to re-establish medicine as a predominantly middle-class profession anchored in empiricism, observation, and therapeutic care. Indeed, this middling group sought to improve medicine's public reputation. One would expect Breslau to have used the important concept of medical reform to add complexity to her thesis to enable a fuller exploration of the inherent intricacy of past medical behavior.

In addition, recurring discussion of what physicians did not know in past contexts about disease aetiology and transmission (prior to the discovery of germs) and how they nonetheless publicly presented their services as effective, persistently distracts from what could have been a more fruitful discussion of what physicians once *thought* that they knew or of the ideas that informed pre-germ theory medical behavior. These ideas, after all, structured the day-to-day work of physicians and cannot be too easily condensed under the simplistic rubric of "ignorance." In summary, *Lotions, Potions, Pills and Magic* presents a portrait of ignorance in the medical world of early America that, although not entirely unjustified, inadequately reduces the intricacies of medicine and health care across an extensive timeframe. A tighter focus would have allowed for a more persuasive study.

Ian Miller
University College, Dublin

From Slave Ship to Harvard: Yarrow Mamout and the History of an African American Family. By James M. Johnston. (New York: Fordham University Press, 2012. 310 pages. Illustrations, bibliography, notes, index. Cloth, $29.95.)

Since the 1970s historians have emphasized the stories of those long overlooked: women, Native Americans, the working class and African Americans. A recent trend in the crafting of social histories has been an increased number of biographies and micro-histories. Biographies and micro-histories provide the depth and detail of

lived experience often lacking in other historical works and can shed new interpretive light on broader forces of social and cultural transformation. Works such as Randy Sparks's *Two Princes of Calabar* and the Gilder Lehrman Center's "Priscilla's Homecoming" project (http://www.yale.edu/glc/priscilla/doc.htm) have offered vivid depictions of the lives of enslaved peoples in the Americas. A recent addition to this burgeoning social history of enslaved peoples in the Atlantic is James Johnston's *From Slave Ship to Harvard,* the story of an African enslaved in Maryland and that of his ancestors.

On the morning of June 4, 1752 more than one hundred Gold Coast Africans who survived the Middle Passage anxiously awaited being transported ashore at Annapolis. As a group the Africans on the *Elijah* were unremarkable; their voyage to America was not a story of valiant resistance such as that of the Africans on the *Amistad,* nor was their passage across the Atlantic more deadly than the typical slaving voyage of the era. And as was true for most of the more than two hundred thousand Africans coercively transported to North America during the eighteenth century, details of their individual lives remain largely uncovered.

Among the Africans on the *Elijah* and sold in Maryland that fateful day in 1752 was Yarrow Mamout. Although much of *From Slave Ship to Harvard* is concerned with slavery and its legacy, Mamout's life is known not from any event during his enslavement. Instead, Mamout became part of the historical record due to the fact that his portrait was painted while a free man in the early nineteenth century by the preeminent artist Charles Willson Peale and the little known James Alexander Simpson. In *From Slave Ship to Harvard,* Johnston has painstakingly excavated every possible detail on Mamout's life and that of subsequent generations of his family. By doing so, he has provided a rare depiction of a black family from the Middle Passage to the present.

In constructing the story of Mamout and his ancestors Johnston faced significant challenges. Most slaves of the eighteenth century were illiterate and there are few contemporaneous writings by enslaved peoples of the period. Thus, as is true for most enslaved peoples in the colonial era, the factual record of Mamout's life is incomplete. Johnston employs the experiences of other individuals to provide likely scenarios for the unknown portions of Mamout's life. He contextualizes Mamout's life prior to enslavement by comparing it to that of Ayuba Suleiman Diallo, another Fuliani Muslim enslaved in Maryland. The 1734 published account of Diallo's life provides an effective framework for Johnston's analysis of Mamout's transition from freedom in Africa to enslavement in Maryland. Yarrow's sale and subsequent life in Maryland are also well considered through a comparison to known facts of other slave and free blacks similarly situated. Johnston supplements the archival record through more than one hundred interviews, thereby providing a richer story than the written record alone would have revealed.

Johnston stresses that Mamout was "more than a statistic" and that his life often

did not conform to modern stereotypical images of enslavement. Slavery in Maryland was more diverse then modern images of gangs working on tobacco, rice, or cotton plantations. He also emphasizes the intertwining of black and white lives. Yarrow and his kin are depicted as deeply enmeshed in networks of kinship and business with whites. These networks, whether they assisted Yarrow in becoming the owner of bank stock and land, or the manumission of relatives, were critical to the progress of Mamout and his family.

The book is constructed in three sections. The first focuses on Yarrow Mamout's life, the second considers the lives of his sister, niece and son; and the third delves into the family of Mamout's daughter-in-law Polly Turner and her offspring, one of whom graduated from Harvard. Johnston employs Peale's portrait in the first section of the book to discuss abolitionism and racism in nineteenth-century Maryland. The movement from slavery to freedom is portrayed as one based on a strong emphasis on family, education, and economic independence, elements that would characterize Mamout's ancestors. In the middle portion of the book Johnston uses a contest over a loan Mamout made to a family member to illustrate how free blacks employed the law in antebellum Maryland to establish economic independence. The third section with its focus on the Turners extends the story of the family from the Antebellum era up to the early twentieth century, stressing the important role education played for African Americans.

By providing a multi-generational history of Yarrow's ancestors Johnston provides a valuable service, that of providing readers a framework to consider the long history of African Americans and connect their experience in slavery to the larger American narrative in the post–Civil War era. In doing so, this book fits within the burgeoning interest in the roots of the African American experience.

Charles R. Foy
Eastern Illinois University

John Randolph of Roanoke. By David Johnson. (Baton Rouge: Louisiana State University Press, 2012. 343 pages. Illustrations, bibliography, notes, index. Cloth, $45.00. E-publication, $38.00.)

David Johnson offers a riveting portrait of an equally acerbic and eloquent founding father, whose volatile emotions and political ambition damaged relationships and kept him trapped within his eccentricities. Johnson's portrait of a complex John Randolph allows us to experience Randolph's life as he knew it. From childhood to adulthood we see that Randolph was an agile thinker, gifted statesman, and dedicated legislator who grappled with the challenging issues of his day. Johnson argues that Randolph, an object of both veneration and fear, could attract as easily as he could repel, capable of wavering from loyal ally to contentious opponent, enemy, critic, and antagonist.

Emerging from a lineage of power and privilege, Randolph began his lifelong career of government service at the young age of twenty-six. He was a proponent of national debt reduction and small government: a true Jeffersonian. According to Johnson, when Randolph was in Congress his views were clear, and unusually controversial: he continually conveyed a general distrust of government. The election of 1800 clarified the problem at hand: Should the republic be left to Jefferson, who was potentially a simple pie-in-the-sky French Enlightenment thinker, or to Adams, with his lack of restraint and possible monarchist leanings? Despite Jefferson's statement that "we are all republicans, we are all federalists" (53), serious concerns raised during the raucous election of 1800 would impact American politics—and John Randolph—for decades to come.

Following the republican triumph, Randolph's star continued to rise. At the age of twenty-nine Congressman Randolph chaired the House Ways and Means Committee. Later, he was House Majority Leader. As Johnson points out, Randolph's strategic—and volatile—views and friendships were important in his rise to power. Fearing northern mercantilist attempts to subjugate the South just as much as he did the untenable system of human subjugation that defined southern agriculture and economic activity, Randolph was torn in nearly every direction. For example, he feared federal encroachment into sovereign state affairs and yet was repelled by the corruption that sometimes shaped and fueled relations among the power elite in his day.

Understanding that he was a patrician outcast, Randolph stood for all things controversial and yet clung to deep moral principles that only became clear later in his life. Unafraid of enemies, he continually challenged those around him to question the power and politics that shape government, which inadvertently led individuals to continually challenge Randolph himself. In many ways, Randolph was a modern man struggling with exceptional questions but unable, in frustrated contrast to James Madison, to execute an architectural framework appropriate for the new nation.

Unfortunately, Randolph also suffered from melancholy and health ailments, which virtually confined him to his residence at times. Moreover, his temperament was nearly his undoing. Even after fourteen years in the House, Randolph was *shocked* at the behavior of his fellow legislators, who unfortunately began to tire of his constant tirades against them and the government generally. The sour note of southern discord that Randolph so clearly sounded in the early years of the republic was not quelled but simply ignored as he roundly and regularly condemned those around him.

Although he was an unwilling delegate to Virginia's constitutional convention and continued to serve in various political roles, what had once been eloquent oratory and organized action turned into frenetic and frenzied activity in later years: a hastily written will that granted freedom to all of his slaves, an ill-organized attempt to flee to England, and peripatetic wandering in the early morning hours on his

horse. A brilliant man with a tragic character defect, Randolph spent his later years in self-imposed exile, battling health demons likely neurological and psychiatric in nature and perhaps connected to an inability to sire offspring.

Nonetheless, whether fueled by an internal drive for righteousness, an "eager [desire] for anything strange and peculiar" (190), or a fundamental distrust of all others, Randolph made a distinct impression on American government. In so many ways, Randolph, who was distrustful of the government he felt compelled to serve, is a man of *our* times. Thus, in order to understand America today, it imperative that we understand John Randolph of Roanoke. This must-read book not only adds to our understanding of American politics but provides needed and critical insight into southern politics.

Elizabeth Bissell Miller
University of Missouri

The Civil War and American Art. By Eleanor Jones Harvey. (Washington, D.C: Smithsonian American Art Museum in association with Yale University Press, New Haven, Connecticut, 2012. 316 pages. 103 color and black-and-white illustrations, notes, bibliography, index. Cloth, $65.00.)

Visitors to the 150th Anniversary Civil War Exhibit at the Maryland Historical Society pass a distinctive introduction that pays homage to the importance of photography between 1861 and 1865. Next, they are confronted with a giant, idyllic 1863 "Autumn, Harpers Ferry" painting by Augustus Weidenbach. While a war-torn Harper's Ferry was gaining distinction as one of the most fought over towns in the Civil War east, Mr. Weidenbach was portraying a mythical landscape with no hint of trouble. That painting, a romantic marquee for the gritty tragedy of divided Maryland documented in the exhibit, cuts to the heart of what curator and author Eleanor Jones Harvey is exploring in the Smithsonian exhibit and book, *The Civil War and American Art.*

This is a striking, sprawling throwback of a tome, worthy of a serious coffee table. I've been a devotee of this crowded genre of Civil War picture books ever since the Civil War Centennial of the early 1960s. Much of the emphasis over the decades has been on the stark photographs that hypnotize viewers then and now. This exhibit catalogue again includes many of those photographs but concentrates instead on the famous American painters of the era.

It's easy to ignore the book's text with a beautiful illustration on every third page. The long, detailed narrative, however, has something new and thoughtful to say about long familiar Civil War–era paintings and photographs. The presence of shocking photographs and relentlessly grim news from the war's unimagined killing grounds threw the country's arts and culture into questioning and confusion.

The advent of photography had been changing the art landscape for decades.

The first victims were itinerant folk portrait painters put out of business by photo studios. In 1861, war brought millions to the colors of both sides and profit-seeking photographers flocked to the armies to record soldiers and scenes of war.

Frederic Edwin Church, Sanford Gifford, and other students of the Hudson Valley School were suddenly faced with an emergency. How should they respond to Americans who no longer flocked to see their giant canvasses of unspoiled wilderness? In 1861, Church had success with a ghostly American flag floating in space after Fort Sumter but then turned to volcanoes in South America.

Other young artists like Winslow Homer and Eastman Johnson went to the armies to document the war for newspapers. Haunting and unforgettable paintings emerged of mundane life in the sprawling army camps. Homer was forever imprinted by the experience. No one can look at a veteran returning home to attack a wheatfield with his scythe and not think that PTSD, or what our ancestors called "soldier's heart," might be at work. Still others, soldiers like Virginian Conrad Wise Chapman, left vivid, colorful impressions of war's landscape. As the fighting ground on, both Eastman Johnson and Winslow Homer took on images related to Emancipation and the end of slavery. One of the only sets of artists not featured here are the newspaper sketch artists embedded with the troops, Edwin Forbes and Alfred Waud among them, who left behind thousands of drawings that bring the camps and battlefields to life.

This is too big a subject to be covered in a short review or even a large book. Most will probably not read the detailed text, but everyone who opens this heavy volume will get the point. America's greatest tragedy, brought on itself, not only snuffed out over 600,000 lives and created a new industry of death—it also permanently altered how Americans looked at their country and the creative arts that described it. This catalogue is stunning and often breathtaking. It is an important legacy of the ground-breaking exhibit that it documents.

Burton K. Kummerow
Maryland Historical Society

Lincoln and the Border States: Preserving the Union. By William C. Harris. (Lawrence: University of Kansas Press, 2011. 424 pages. Illustrations, map, notes, index. Cloth, $34.95.)

In 2012, Gettysburg College and the Gilder Lehrman Institute of American History awarded the Lincoln Prize, for the best scholarly work on Lincoln or the Civil War, to Elizabeth Leonard's *Lincoln's Forgotten Ally: Judge Advocate General Joseph Holt of Kentucky*, and to William C. Harris's *Lincoln and the Border States*, which is under review here. Harris's book is an informative work that comprehensively assesses the political history of Maryland, Kentucky, and Missouri during the Civil War. Harris, Professor Emeritus at North Carolina State, argues, "The history of

Lincoln and the border states offers insights into the president's leadership and the unique and daunting problems he faced in the Civil War" (1).

Maryland specifically provided numerous challenges for Lincoln early in the war. Governor Thomas H. Hicks, and many of his constituents, resisted Lincoln's initial call for troops. The ensuing Baltimore Riot was partly a response to federal mobilization efforts. Military arrests of John Merryman and Baltimore officials challenged Lincoln's suspension of the writ of habeas corpus. Maryland's General Assembly also debated whether to remain with the Union or not. Seemingly in spite of these uncertainties and threats to civil liberties, Marylanders overwhelmingly voted unionist Augustus W. Bradford as governor in late 1861. In Bradford's January 1862 inauguration speech, he denounced secessionism, but cautioned that Lincoln's push for emancipation in Maryland could reverse the Old Line State's unionist sentiments.

Lincoln's push for emancipation in the border states is Harris's overriding theme. Late in 1861, Lincoln concluded that "emancipation could achieve the twin objectives of suppressing the southern insurrection and ending slavery" (162). After Congress failed to adopt legislation for gradual, compensated emancipation in Maryland and Missouri in March 1863, the fight transitioned back to state politics. In Maryland, emancipation divided Unionists. Pro-emancipation Unionists like Henry Winter Davis fought against anti-emancipationists such as Montgomery Blair. The conflict between the factions reached its conclusion when Maryland's constitutional convention in 1864 led to slavery's end. While Lincoln installed political general Lew Wallace to maintain order during the Maryland elections of constitutional delegates and ratification, the success of the legislation appears to have been more to the credit of Marylanders than to Lincoln's leadership. Which raises a question about Harris's overall thesis: was it more about Lincoln's leadership or about a gradual shift of public and private opinion in Maryland and Missouri (but not Kentucky and Delaware where emancipation legislation did not pass) that ultimately led to emancipation?

Harris's book does an excellent job of analyzing and narrating the political exchanges between Lincoln and the elected representatives of the border states, even though most of the facts in his narrative are common in Civil War secondary literature. Harris focuses almost exclusively on Maryland, Kentucky, and Missouri. He dismisses Delaware because of its "small size and its relative unimportance" and he entirely omits West Virginia from his study (9). These are two notable omissions because Lincoln, although unsuccessful, focused on accomplishing gradual, compensated emancipation in Delaware early in the war, and West Virginia was the first border area to successfully transition from slave to free. Although it was not the book Harris chose to write, this reviewer wishes he had attempted to pursue more of a social history and explore the thoughts and actions of lesser-known citizens in the border states as they responded to Lincoln's policies of habeas corpus suspension, military mobilization, military versus civilian governance, emancipation, and recruiting black soldiers.

Although this volume treats an important subject, the author's sources might limit the book's long-term value. Harris's footnotes show a reliance on overused primary sources. His primary sources consist of the *War of the Rebellion*, *Collected Works of Abraham Lincoln*, and a few published compilations of Civil War newspaper editorials. His only use of archival manuscript sources are the Lincoln Papers at the Library of Congress. If he had wanted to add something new to his research, for instance, he could have consulted the *Papers of Lew and Susan Wallace* from the Indiana Historical Society to give a better account of Wallace's actions in Maryland instead of relying on Wallace's sometimes problematic *Autobiography*.

As for his use of secondary sources, only a handful of his citations are to books published since 2001. One important secondary source he omitted was Brian McKnight's *Contested Borderland: The Civil War in Appalachian Kentucky and Virginia* (University of Kentucky, 2006). The secondary literature on the border states has been rapidly changing during the past few years, and Harris's choice not to interact with recent journal articles, books, and dissertations about the subject limit his book's value for students, but especially scholars. Despite these criticisms, general readers might find the well-written, political narrative in *Lincoln and the Border States* an informative supplement to the events depicted in Steven Spielberg's *Lincoln*.

S. Chandler Lighty,
Papers of Abraham Lincoln

Catoctin Furnace, Portrait of an Iron-Making Village. By Elizabeth Yourtee Anderson; Elizabeth Anderson Comer, ed. (The History Press, 2013. 128 pages. Illustrations, bibliography, index. Paper, $19.99.)

Montgomery County Mills: A Field Guide. By Michael Dwyer. (Rockville, Md.: Mid-Potomac Chapter of the Archaeological Society of Maryland, Inc., 2012. 97 pages. Illustrations, notes, index. Paper, $20.00.)

Two new books treat the orphan field of industrial history in Maryland counties, one covers the long, varied story of Catoctin Furnace, the other the small gristmills of Montgomery County, a formerly rich agricultural area. Both are the distillation of years of interest, collecting, and preservation activity. Catoctin Furnace was a large business even in colonial times and it was owned by wealthy and well connected Maryland families. It was just getting started when the American Revolution provided a demand for casting cannon and shot. The end of British mercantile policies almost at the birth of the business gave the owners freedom to add the manufacturing of cast-iron kettles and ten-plate stoves to their output. Making shot for the Revolutionary armies was not as successful, many lots of shells being rejected by inspectors resulting in financial loss. The cast-iron stoves were much more successful and many of them survive in house museums in the Middle Atlantic region. Records abound from the 1770s about the ownership and management of the furnace. Day books are

filled with the names of the slaves and poor white people who worked the furnace, cast the pig iron, cut the timber to burn into charcoal, and cast the kettles and small iron items. There was an entire village of whitewashed dwellings as well as a fine house for the ironmaster and a splendid house for the owner. Oral histories and inventories list the wretched possessions of the workers and the elegant furnishings of the owners: straw-stuffed mattresses for the workers, featherbeds for the owners and managers. Mrs. Anderson covers the technology of iron smelting, ore digging, and charcoal burning but also covers the people, their living conditions and their religious affiliations. Many workers were Germans who settled via Pennsylvania. Some of the earliest church services were out-of-door meetings, even using the cemetery as a gathering place, the service conducted by Moravian clergy from nearby Graceham. These German-speaking ministers also preached to the slaves who once tearfully stated that they had to work seven days a week and could only attend the service between castings of molten metal. Later, Hariett Chapel was established by the Episcopal Church, and it struggled along with only a resident deacon or an itinerant priest, poorly supported, the poorest parish in the Diocese of Maryland. Catoctin Furnace carried on through the nineteenth century with newer and better equipment, a new furnace stack, and railroad spurs that made it easier to ship the output. Iron was needed for railroad car wheels in mid-century. When the furnace could no longer compete with the efficient new plants of Bethlehem Steel and Carnegie, the product was wood for barrel staves cut from the company's vast acreage on the mountain. Catoctin's last phase was as national and state parkland, and the old furnace stack survives and so do many of the houses and the chapel, easy to visit for tourists. Saving the site from highways was a battle fought in the early days of the historic preservation movement. This unique resource could easily have been lost to speed traffic on U.S. 15.

For thirty years Mike Dwyer was park historian for the National Capital Park and Planning Commission which bought him in contact with the stream valleys of Montgomery County where the rural gristmills flourished starting in the late eighteenth century. Montgomery County once had its own port city, Georgetown, absorbed into the District of Columbia in 1791. Some of the larger mills disappeared into the District's history, but the rugged interior of the county hosted numerous gristmills and smaller woolen works, and one cotton factory company town. Dwyer sorts the narrative by stream valleys, many of which supported more than one mill. Many of the mills survived into the age of photography and there are numerous views of mills, large and small that were given their last chance at fame by the WPA historic recording project during the Great Depression. The smaller mills had been going out of business well before the 1929 crash. Other mills had been rather large, for example, Clopper's Mill on Seneca Creek, and the Burnt Mill, which despite its name, was intact and flourished in a large frame building on the Northwest Branch. The woolen mills were small neighborhood services that used water power to pound

on homespun cloth to full up or give body to the fibers; a helpful hint quoted from the *Maryland Gazette* instructed wool weavers to soak the finished cloth in stale urine and trod it out with bare feet. Dwyer also reproduces a number of plats showing the mill seats and the canals that channeled the water to run the machinery. There are also photocopies of advertisements to sell or rent mills, texts that go into a lot of detail about the number of millstones and the business possibilities of the location.

Some of the mills were on the plantations of great families and represented another profitable enterprise to exploit; the socially prominent planters usually had a hired miller to operate the complex machinery. Francis Cassatt Clopper was a prosperous Philadelphian whose well-constructed mill survived into the age of postcards. James Brooke in 1760 advertised the services of his mill and offered to provide ship's bread baked on the premises. The King family had both a mill and a distillery on their extensive plantation known as "King's Valley" in the Little Bennetts Creek area. Triadelphia was the cotton town, given a good classic Greek name for the three brothers involved in developing it. Some of the dwellings survived into the 1930s to be recorded by the Historic American Buildings Survey. Later the town was drowned for a reservoir project. Like a good ranger, Mike Dwyer tells the reader how to get there. Many ruins and bits of dams survive in parkland or at least along public roads. Also like a good ranger, Mr. Dwyer urges the reader not to dig up anything at these former beehives of industry.

JOHN MCGRAIN
Retired Baltimore County Historic Sites Planner

Reforming Jim Crow: Southern Politics and State in the Age before Brown. By Kimberley Johnson. (New York: Oxford University Press, 2010. 326 pages. Bibliography, notes, index. Cloth, $35.00.)

Refuting widely held historiographical conceptions of the Jim Crow era, Kimberley Johnson finds that black and white southern Progressives, cognizant of the South's modernization efforts, carefully implemented social, political, and educational reforms within the region's racial caste system, thereby creating the conditions which eventually led to southern segregation's demise in postwar America. She contends that these white and black reformers, working to improve public order and stability within southern governments and the Jim Crow order, established critical precedents that subtly transformed the South's racial and class dimensions in the early twentieth century.

Although most civil rights' scholars rightly credit African American activists for helping to dismantle the South's segregationist features in the 1950s and 1960s, Johnson departs from conventional wisdom about how and why the Jim Crow order fell apart. She has unearthed new evidence that points to early twentieth-century white and black progressive initiatives that not only ushered in vital reforms within

the South's racially divisive socioeconomic, political, and legal frameworks, but also established important civil rights' ideas that would eventually embolden postwar African American activists to challenge and uproot the South's racial folkways and the very meaning of southern citizenship.

Deftly untangling the socioeconomic and legal implications behind class, race, and political relationships in the South, Johnson first examines white reformers' efforts and failures to rehabilitate state authority and power in addressing racial violence. In doing so, she observes how white reformers vigorously attempted to regulate lower-class whites' physical reprisals against blacks by instituting stricter law enforcement measures, which would effectively empower southern state officials to monitor unsavory racial transgressions, especially lynching. As a result, white reformers, seeking to ameliorate blacks' inequitable social and political conditions, believed resuscitating the South's poor national reputation on race matters would require an assertive state presence to curb non-elite whites' local power over class and racial disputes. Beyond addressing matters of racial violence, Jim Crow reformers also worked in conjunction with New Deal administrators to modernize the South's beleaguered economic infrastructure, devising national policy initiatives to reform "southern stateways" (67). Drawing on social scientific research and northern financial assistance, New Deal reformers, along with the Commission on Interracial Cooperation, sought to transform Jim Crow's established economic parameters by eliminating poll tax statutes, which had effectively reduced lower-class whites' and blacks' access to full political citizenship. Although Progressive ideas and New Deal policies faced innumerable hurdles within southern state regimes, Johnson appropriately notes that "the democratic promise of the CIC and the southern New Deal activities could not be contained" (90). Johnson further describes how African Americans, challenging the "equalization" strategies of white reformers, forcefully pursued educational improvements throughout southern states in the 1930s and 1940s, noting their persistent campaigns to equate this aspect of social citizenship with other forms of early black political activism in the Jim Crow order. In drawing these invaluable correlations, she demonstrates the profound political implications of southern educational reform on nascent civil rights' battles, for it granted "blacks . . . formal contact with a political establishment that had largely excised them from the southern polity" (16). She points out, though, that African American educational activists met resistance from white Jim Crow reformers. Although many Jim Crow reformers decried African Americans' deplorable educational environments, they still relied on northern foundation money, especially the Rosenwald Foundation, to broaden the South's segregated education structure in the 1920s. These white reformers, moreover, encouraged southern colleges and universities to adopt their plan for increased vertical segregation, and even convinced some middle-class blacks, eager for racial harmony, in positions of educational prominence to embrace their social scientific solutions for amicable race relations in southern society. In the late 1940s,

many African American teachers and administrators, however, vociferously pushed for racial integration in southern educational facilities and openly questioned the racial logic behind the Jim Crow reformers' ambitious designs, as they yearned for, in Johnson's estimation, "the strengthening of southern black social capital and social citizenship" (170). One infamous court case, Sweatt v. Painter (1950), effectively disestablished the "equalization" efforts of white reformers, who had rushed to create a separate law school for blacks in Texas. The Supreme Court ruled, however, that the all-black facility lacked many of the educational amenities found in the all-white University of Texas Law School, destabilizing white reformers "equalization" platform for southern higher and primary education. For Johnson, the NAACP, which argued the Sweatt case, and its visible legal presence undermined the racial gradualism of white and black Jim Crow reformers and spurred wider campaigns to achieve full-blown racial integration and social citizenship across the South.

In creating a dynamic storyline about the unfolding evolution of southern race relations in the early twentieth century, Johnson draws on a remarkable array of research materials, including various African American periodicals, oral history collections, and numerous government and personal manuscript files, to illustrate the social, economic, and legal components of racial reform initiatives within the Jim Crow order among southern whites and blacks. Her careful balance between white and black voices in her research demonstrates the centrality of both race and class within the broader context of Jim Crow reform. In paying close attention to the racial and class complexities of southern race relations, she unequivocally forces fellow southern scholars to reconsider the broader impulses that led to Jim Crow's demise and the civil rights movement's ascendancy in the postwar South. Johnson's tome powerfully proves how white and black reformers' actions also generated larger debates about the meaning of social and political citizenship for both whites and blacks during Jim Crow's tumultuous reign. In exposing Jim Crow's calamitous dimensions, she unmasks invaluable insights about southern citizenship's changing features and its profound importance in shaping the civil rights movement's greatest political, social and legal accomplishments.

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The Struggle for Equality: Essays on Sectional Conflict, the Civil War, and the Long Reconstruction. Edited by Orville Vernon Burton, Jerald Podair, and Jennifer L. Webber. (Charlottesville: University of Virginia Press, 2011. 314 pages. Bibliography, notes, index. Cloth, $45.00.)

James M. McPherson has left an indelible mark on the historical profession. An esteemed scholar and public intellectual of the Civil War and Reconstruction and a true pioneer in African American history, McPherson is also a highly valued mentor

and friend to those who had the opportunity to work with him. This fine collection of essays—written and edited by eighteen of his former advisees—pays tribute to the man who instilled in them a passion for history in general and the issue of equality in particular. More specifically, *The Struggle for Equality: Essays on Sectional Conflict, the Civil War, and the Long Reconstruction* contains essays that explore the contested meanings of "equality" in the United States between the 1830s and 1960s. Employing the lenses of race, class and gender, this volume considers equality from black, white, male, female, religious, political, military, agricultural and legal perspectives. It is not a priority of the scholarly works representing this collection to resolve these divergent conceptions of equality. Rather, "they illustrate the paradoxes of American equality: its power to define the nation's history while resisting definition itself and to serve simultaneously as a symbol of failure and promise" (1).

Organized in rough chronological order and divided into three sections—sectional conflict, Civil War, and the long Reconstruction—these fresh, insightful essays introduce the reader to a diverse array of case studies embodying the theme of equality. Not surprisingly, numerous contributors—including Ryan P. Jordan, Judith A. Hunter, Ronald C. White Jr., Bruce Dain, James K. Hogue, Tom Carhart, John M. Giggie, Peyton McCrary, Monroe H. Little, and Jerald Podair—examine the intersection of race and equality (or, more likely, the lack of it). For example, Jordan ascertains why the Quakers embraced a more moderate outlook on abolitionism than has been typically portrayed. Carhart reveals the fascinating story of Henry O. Flipper, the first African American graduate of West Point (class of 1877), including his unfair court-martial and McPherson's pivotal role in spearheading Flipper's pardon during the Clinton administration. And Podair explores the failures of working-class interracialism and the inherent dilemma of reconciling the (often) mutually exclusive interests of race and class via the case study of Bayard Rustin, a prominent civil rights leader and devoted socialist during the 1940s, 1950s and 1960s. Other essays address such topics and themes as the intersection, relationships and/or contradictions of party politics and race, African American churches and fraternal organizations, and the American ideal of world democracy during World War II alongside the reality of a Jim Crow South.

Other authors, including Philip M. Katz, Joseph T. Glatthaar, Jennifer L. Weber, Catherine Clinton, Brian Greenberg, Thomas C. Cox and Michele Gillespie, consider how various American individuals, organizations and institutions conceptualized equality outside the sphere of race. Glatthaar, for example, surveys the relationships between officers and enlisted men in Robert E. Lee's army, highlighting the important role that the latter held relative to the election of the former. Cox analyzes the little studied Grasshopper Plague of 1874–78 in the Great Plains, arguing that the devastated settlers' cries for economic equality served, in part, as a precursor to a more activist federal government during the Progressive Era. Additionally, Gillespie complicates our understanding of the post-bellum "respectable" southern white lady

via an investigation of Mary Ann Harris Gay and her embrace of an existence that combined promotion of a conservative, Confederate past and greater gender equality. The volume concludes with a brief interview with McPherson, in which he discusses how events of the 1950s and 1960s shaped his interests in history, reveals his views about the significance of the Civil War to American identity, and sheds light on the role of the historian in American society.

Ultimately, *The Struggle for Equality* not only recognizes McPherson's many contributions to the field and to society but showcases the talent and analytical nuance of his many mentees. Because the topics under consideration are so diverse, this volume—and certainly particular essays within it—will appeal to a wide readership. Additionally, the non-specialist will appreciate the contributors' tendency to relegate nearly all historiographical discussion to the endnotes, a practice no doubt encouraged by McPherson, who as a public intellectual holds strong views about making history accessible to a more general audience. Ideally, this collection would have been more balanced relative to era (for example, only three essays address the antebellum era while nine consider the post-bellum years). In addition, some essays place equality at the forefront of their analyses, while, in others, the theme of equality plays a secondary role. However, these realities are simply a reflection of the unique interests of his advisees and are not necessarily meant to be criticisms of particular individuals and their works. Finally, students of Maryland history may be a little disappointed that no essay directly addresses this state's history. Nonetheless, and perhaps as a consolation, they can take pride that a Maryland institution of higher learning, Johns Hopkins, and a Maryland city, Baltimore, arguably provided the necessary education, training and cultural experiences to prepare McPherson to be one of this generation's greatest historians.

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Young Thurgood: The Making of a Supreme Court Justice. By Larry S. Gibson. (Amherst, N.Y.: Prometheus Books, 2012. 413 pages. Illustrations, notes, index. Foreword by Thurgood Marshall Jr. Cloth, $28.00.)

"So, what am I supposed to do, kiss you?" asked Supreme Court Justice Thurgood Marshall while he and attorney Larry S. Gibson waited to have their photograph taken during the dedication of the Clarence M. Mitchell Courthouse in 1985 (13). This amusing anecdote, suggesting a humorous side to the first African American Supreme Court Justice is only one of the more surprising insights into the character and career of Thurgood Marshall found in Gibson's recent biography, *Young Thurgood: The Making of a Supreme Court Justice*. For those familiar only with the dark-robed Justice of Marshall's later years—an earlier biographer refers to the Marshall of this period as a "distant figure whose voice was heard only in the legalistic language of

Supreme Court dissents"—the biography is illuminating. Aside from a brief glimpse of the elder Marshall in the preface, that figure doesn't make an appearance. What the book provides is exactly what is promised by the title, a portrait of the civil rights pioneer, lawyer, and future Supreme Court Justice as a young man. The author's narrative takes the reader from Marshall's birth in Baltimore in 1908 to the end of the 1930s, just prior to his emergence on the national stage as Chief Counsel of the National Association for the Advancement of Colored People (NAACP).

Gibson, a lawyer, professor, and former political advisor, has been a vocal and tireless advocate for drawing attention to Maryland's, and particularly Baltimore's, role in the early years of the civil rights movement. It is no coincidence that he chose to focus exclusively on Marshall's early life in Maryland. The book documents both the young Thurgood Marshall's rise to prominence and Maryland's role in the burgeoning civil rights movement. The state's early contributions to this history are often overshadowed by the later events of the 1950s and 1960s, when the movement exploded into the nation's consciousness. How many are aware that students from Maryland colleges were conducting sit-ins years before the famous Greensboro, North Carolina, sit-in of February 1, 1960? Marshall was at the center of many of these early, pivotal events and Gibson brings both Marshall and the Baltimore of his youth and early adulthood into sharp focus.

The seeds of Marshall's later career as a lawyer and civil rights advocate, as well as his core belief in integration, can be found in his early life in Baltimore. The Old West Baltimore neighborhood of Marshall's youth was a racially diverse area of some sixty blocks where whites and blacks lived in close proximity but where schools, restaurants, and stores remained segregated. His family provided strong early role models: his maternal grandfather was an influential leader in the community, pushing for public education for African Americans. An uncle, Fearless Williams, was a respected businessman and Catholic who played an active role in fighting discrimination within the local churches. The courtroom litigator was born early on with Marshall joining the competitive debate team in high school. At Lincoln University in Pennsylvania, he was a member of the university debate team that in 1926 took on an Oxford University squad in the first interracial college debate. Marshall's education as a lawyer began at Howard University. In his second year, he came under the wing of Charles Houston, the dean of the law school, who became Marshall's friend, mentor, and legal collaborator for the next two decades.

While Gibson gives due attention to Marshall's childhood and college years, the bulk of the narrative focuses on the four-year period between 1933 and 1937. Here we see Marshall's transformation from young law school graduate into civil rights lawyer and advocate beginning soon after he completed his education. Within a week of being admitted to the bar in October 1933, Marshall was among a group of lawyers who met with Maryland governor Albert Ritchie to push for an investigation into the recent lynching of George Armwood. The murder of Armwood in

Princess Anne, the last recorded lynching in Maryland, added fuel to the ultimately unsuccessful national anti-lynching campaign already in progress. A month after the Armwood lynching, Marshall lent his services to the Buy Where You Can Work Campaign, providing legal counsel and acting as the personal attorney for campaign leader Kiowa Costonie. Marshall, who came to believe the road to equality for African Americans was through the legal system rather than peaceful protest, also supervised and participated in the picketing, a detail not mentioned in many prior biographies. The young lawyer could be seen walking the "line from early in the morning to dark" (165).

It is fascinating to read of Marshall's daily struggles to juggle his commitment to the cause of civil rights with the hard reality of providing for himself and his family during the Great Depression. Despite being plagued by financial burdens—he was "flat broke" in 1936, just three years out of law school—Marshall took civil rights cases for little or no pay. His first high profile case, as a member of the team defending fellow attorney Bernard Ades, was pro bono. Ades, the lawyer for the Maryland Chapter of International Labor Defense, the legal arm of the American Communist Party, and known for his legal work on behalf of Maryland's African American community, faced disbarment. Marshall assisted Charles Houston with a successful defense of Ades, examining witnesses and working with the opposing counsel. Marshall's finances became so strained during this period that he was often forced to borrow money from Houston and the NAACP to pay the bills, and in 1934 took a night job as a clinic clerk at the Baltimore City Department of Health. But by 1936, he had made the decision to dedicate himself to helping his fellow man, telling Houston that he would not stop pursuing civil rights cases "for anything in the world" (29).

Marshall also received little financial compensation for his role in *Murray v. Pearson* in 1935, probably his most important case prior to *Brown v. Board of Education* in 1954. The case, which led to the desegregation of the University of Maryland School of Law, was the first major school desegregation victory in the United States, the "first step on the road to *Brown*" (231). Gibson devotes an entire chapter to documenting this landmark case. It would be another fifteen years though, before another African American was accepted into the university. Gibson also addresses Marshall's connection with the school, specifically the persistent myth, advanced in some biographies and media outlets, that Marshall was denied admission to the law school. He in fact never applied, knowing full well that in the segregated Maryland of the period he would be rejected on the basis of race.

At the same time Marshall was developing the reputation that would later garner him the nickname "Mr. Civil Rights," he was also building a fledgling law practice. As an attorney himself, Gibson devotes a large portion of the book to detailing the non-civil rights side of Marshall's legal career. The portrait that emerges is of a man devoted to furthering the cause of civil rights but who was also a hardworking and

dedicated lawyer who easily could have embarked on a long and successful career in private practice. Between 1933 and 1936, Marshall handled over seventy-five civil cases, from personal injury to estate and divorce cases. He also was involved in a number of criminal cases, including his first case working with Charles Houston while still a student at Howard University. Houston enlisted the budding young lawyer as a researcher for his defense of George Crawford, an African American accused of murdering two white women in Virginia in January 1933. This marked the beginning of a long collaboration that helped to bring down many of the legal barriers to integration, culminating four years after Houston's death with the *Brown* decision.

The narrative ends somewhat abruptly with Marshall's successful suit for the equalization of teacher pay in Maryland, which set a precedent for similar cases throughout the South. Gibson then concludes with a summary of the years covered in the book. The reader may have been better served with a brief discussion of the rest of Marshall's career, years that included his appointment as Chief Counsel of the NAACP in 1940, lead counsel in *Brown*, his appointments as judge on the United States Court of Appeals and the first African American Solicitor General in the 1960s, and of course his nearly quarter-century career as U.S. Supreme Court Justice.

Gibson first met Marshall in 1975 when he and a fellow attorney arrived for a late night meeting with the Justice at his home in Virginia seeking his help on behalf of a client. For Gibson, the meeting was an eye opener, destroying "some preconceived notions [he] had acquired over the years" (11). Readers who are only familiar with the Old Thurgood will likely come away with their perceptions similarly altered after reading Gibson's detailed and informative biography. While *Young Thurgood* may not be the first Marshall biography to turn to for those seeking an introduction to the civil rights pioneer's life and career, Gibson's work is the most comprehensive examination of Marshall's formative years in Maryland to date. It not only documents the rise of one of Maryland's most revered figures but is a valuable addition to the growing literature on the state's rich civil rights history.

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A Faithful Account of the Race: African American Historical Writing in Nineteenth-Century America. By Stephen G. Hall. (Chapel Hill: University of North Carolina Press, 2009. Pp. xv, 334. Paper $25.00.)

Baltimore native Stephen G. Hall examines the construction, dissemination, and ultimate meanings of African American historical writing in the nineteenth century. Often overlooked by scholars of historiography in the United States, Hall sought to remedy a field of study that privileged an elite group of amateur historians who chronicled the new nation by setting out to understand "the origins, meanings, methods, evolution, and maturation of African American historical writing" (3). He

identified three key themes: African American historical writing in the nineteenth century was situated within "the ideological and intellectual constructs from larger, mainstream movements"; it "simultaneously reinforced and offered counternarratives to more mainstream historical discourse"; and it was shaped by "the African diaspora, especially as it relates to Haiti and Africa on the development of historical study" (4). Using a variety of sources, Hall proves his theses by examining the complex ways in which these histories were produced, deconstructing the historical process, and scrutinizing the historians' motivations and methods.

Hall begins by examining a variety of African American historical texts created during the first few decades of United States history. Exploring "some of the earliest manifestations of textual historical production among African American intellectuals" (19), he analyzes their efforts through providential, universal, and progressive historical lenses. These early African American thinkers were "troubling the pages of historians" and actively seeking to present "a more holistic portrait of human history" (48). By the middle of the nineteenth century, African Americans were constructing historical narratives "to challenge the consolidation of . . . a racially exclusive historical discourse predicated on white supremacy and dominance in an emerging American providential narrative" (51). Like the "new" social historians that would come to prominence more than a century afterward, these intellectuals saw through the histories that did not include their stories. Increasingly, they began to utilize both the American and Haitian revolutions in their work, examples they used "to contest the idea that American slavery could logically exist alongside American freedom" (85). Hall demonstrates that the use of these two events in African American historiography signaled "the advent of a uniquely American-centered historical discourse framed around self-elevation and destiny" (89). Regardless of circumstances in the United States, these revolutions established concrete evidence that "the possibilities of a world of their own making" were on the horizon (122).

In the second half of *A Faithful Account of the Race*, Hall charts the progression of the African American historical enterprise as intellectual activity in the United States moved toward professionalization in the later part of the nineteenth century. He examines the work of two prominent African American historians of the period, William Wells Brown and William Still, and contends that their work demonstrated the movement toward national networks, modernization of book production, and aggressive marketing of historical literature. Indeed, instead of a limited readership, "the shifting nature of book production made it possible for Still's and Brown's works to appear in more than one edition" (150). By the latter part of the nineteenth century, African American historical writing had begun to shift toward a more critical historical narrative. Instead of merely focusing on "celebratory and contributionist texts" (152), their works began to more fully "embody the aspirations of a people that understood the importance of giving their own faithful account of the race" (186). In his final chapter, Hall scrutinizes the developing black academy in the late nineteenth

and early twentieth century, making "sense of the shift in historical production and the meanings of professionalization among African American scholars and within the black community" (191). He points out that the process of professionalization and the establishment of a formal African American academic culture moved beyond the new trends in mainstream historical thought; "it was by the work of lay intellectuals in the black community who continue to contribute to, undergird, and add their own uniqueness to the nature of the professional project" (226).

Hall concludes by reflecting on the legacy of African American historical writing in the nineteenth century. "For these writers," he argues, "the past was not, as one author has suggested, 'a foreign country.' Instead, it represented a living and breathing part of the present and a hope for the future" (234). *A Faithful Account of the Race* is an excellent addition to historiographical study in the United States and will certainly be a starting point for students of African American historiography in the decades to come.

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