

MARYLAND HISTORICAL MAGAZINE

Winter 2009



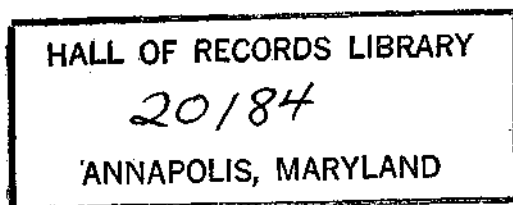
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The Friends of the Press published two new titles in 2009, Clara Ann Simmons, *Chesapeake Ferries: A Waterborne Tradition, 1632-2000* and Joseph R.L. Sterne, *Combat Correspondents: The Baltimore Sun in World War II*, already in its second printing. Both books have received outstanding reviews and Mr. Sterne has been a featured speaker at several local events. Forthcoming books include Helen Jean Burn, *Betsy Bonaparte*, which will be available late summer 2010. This is the definitive biography of Elizabeth "Betsy" Patterson Bonaparte. Born to a wealthy Baltimore family, Betsy Patterson shook local and Parisian society when she wed Jerome Bonaparte, brother of the Emperor Napoleon. Insisting on a better future for his brother, the emperor annulled the marriage, but not before it produced a son, Jerome Napoleon Bonaparte. Betsy's quest to win royal status for her son and grandsons consumed the remainder of her seventy-four years, decades that transformed her from the glamorous "belle of Baltimore" to a shrewd and successful business woman determined to protect her family.

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Cover: *Oella, Baltimore County, c. 1940*

The boys in this photograph are children of millworkers who earned their living in the woolen mill, visible at the bend in the lane. Employees and families of W. J. Dickey & Sons lived in company housing. The porches of two of the dwellings on the "long brick row" are on the left. Patented in 1811, Oella, site of the nineteenth-century Union Manufacturing Company, is located on the Baltimore County side of the Patapsco River.

Photograph by Louis S. LeRendu, courtesy Charles Wagandt.

The *Maryland Historical Magazine* welcomes submissions from authors and letters to the editor. Letters may be edited for space and clarity. All articles will be acknowledged, but only those accompanied by a stamped, self-addressed envelope will be returned. Submissions should be printed or typed manuscript. Address Editor, *Maryland Historical Magazine*, 201 West Monument Street, Baltimore, Maryland, 21201. Include name, address, and daytime telephone number. Once accepted, articles should be on CDS (MS Word or PC convertible format), or may be emailed to panderson@mdhs.org. The guidelines for contributors are available on our website at www.mdhs.org.



Charles Willson Peale (1741–1847) courted Mary “Molly” Tilghman (b.1753) after the death of his wife. Her family objected to the match when they learned of scandalous episodes in the artist’s past. Charles Willson Peale, 1790. (Maryland Historical Society.)

New Light on Charles Willson Peale's Courtship of "Molly" Tilghman

ROBERT W. TORCHIA and JENNIFER A. BRYAN

Charles Willson Peale (1741–1827) rose from humble beginnings in Queen Anne's County in Maryland to become one of the most famous American artists of his generation. He is also remembered for being a Revolutionary soldier and patriot, a naturalist, and a museum keeper. One of the distinguishing characteristics of his portraiture and personality is his lifelong preoccupation with the peace and tranquility brought about by a harmonious domestic life. This emphasis on what we now call "family values" is best manifested in the famous *Peale Family Group* (ca. 1770–1773) in which the artist, surrounded by his family, gives a drawing lesson to his eldest brother St. George. The aura of family warmth is so pervasive that Peale later realized that the original inscription *Concordia Animae* was unnecessary and removed it. The multi-figure conversation piece portraits that he began to produce in the early 1770s are equally redolent of family affection, most notably *The Edward Lloyd Family* (1771) and *The John Cadwalader Family* (1772). Peale's portraits of married couples such as *Benjamin and Eleanor Ridgely Laming* (1788) are noteworthy for the complex ways that he emphasized the strong bonds of affection that united husbands with their wives, and parents with their children. Later in his career Peale wrote a pamphlet titled *An Essay to Promote Domestic Happiness*, a primer on how to have a successful marriage.¹ Three letters have surfaced that shed light on a significant incident in the artist's life that occurred shortly after the death of his first wife Rachel Brewer (1744–1790) on April 12, 1790. Her demise was a severe emotional blow to Peale as the couple had been married since 1762, and the forty-nine-year-old artist abruptly found himself alone to care for seven children. On August 7, Peale left Philadelphia with his son Raphaelle (1774–1825) and went to Maryland's Eastern Shore "to paint portraits to collect for the Museum and seek a Companion." Preoccupied with the task of finding a new wife, Peale resolved to "be circumspect in the business, as the happiness of my whole life depended on my making a good choice."²

The newly discovered letters provide detailed information about what ensued

Robert W. Torchia, historian of Early American portraiture, is Director of Research, Sales, and Acquisitions at the Schwartz Gallery, Philadelphia. Jennifer A. Bryan is Head of Special Collections & Archives at the Nimitz Library, U.S. Naval Academy, Annapolis.

when Peale tried to marry an eligible woman from the Tilghman clan, one of the most powerful, influential, and affluent families in Maryland. William Tilghman (1711–1782) and his brother Richard (1705–1766) had been on friendly terms with Peale's father Charles Peale (1709–1750), formerly deputy secretary at the General Post Office in London, who had been convicted of forgery and embezzlement in 1735, his death sentence commuted to transportation to the American Colonies. William had agreed to be Charles Willson Peale's godfather. After Peale had finished his apprenticeship as a saddler in 1761, he borrowed £20 from his godfather's brother, the lawyer James Tilghman (1716–1793), to purchase materials for starting a saddle-making business. When Peale failed to repay his debts in a timely manner and had to flee Annapolis in order to avoid debtor's prison, James issued a writ for the young man's arrest. These incidents, which would play a major role frustrating Peale's courtship, were well known to his past biographers. The letters, however, reveal the previously unknown information that the Tilghmans had good reason to believe that the artist had been guilty of adultery, possibly bigamy, and that he had an illegitimate child during the time he had studied with Benjamin West (1738–1820) in London in 1768. Their efforts to prevent the marriage made this episode an extremely painful ordeal for Peale, who later wrote that, "My suffering in this occasion was greater than ever I felt in all the transactions of my life."³

To evaluate the implications of these newly discovered documents it is first necessary to provide a summary of the matter from what have until now been our sole accounts of it, Peale's diary and an autobiographical fragment that he wrote in 1790.⁴ Second, we will take up where his account leaves off and focus on the Tilghmans' side of the story by analyzing the facts that emerge from the three letters. Third, we will interpret the information yielded by these primary sources in the light of modern socio-historical studies of family traditions in the Chesapeake area during the eighteenth century. What emerges is a fascinating, intimate view of what occurred when an artist from a lower social stratum who had certain personal problems tried to marry into an elite family.

Peale arrived in Maryland in early August 1790, and proceeded to work on a number of portrait commissions. At the end of the month, while staying with his friend and patron the planter John Beale Bordley on Wye Island, Queen Anne's County, he traveled to the neighboring estate of Gross Coate, overlooking Wye River in Talbot County, to conclude some unfinished business with its owner, his godfather's eldest son Major Richard Tilghman Jr. (1740–1809). An entry in his account book from the previous year documents that he had paid Peale for a triple portrait of his wife Mary Gibson Tilghman (1766–1790) with her two sons, William Gibson Tilghman (1785–1844) and John Lloyd Tilghman (1788–1832), and separate portraits of himself, his unmarried sister Mary "Molly" Tilghman (b. 1753), and a small portrait of his infant son Richard Tilghman. Included in the transaction were "3 small prints, Washington, Franklin & Fayette."⁵ Peale, who had already completed



Mary Gibson Tilghman (1766–1790) with her sons, William Gibson Tilghman (1785–1844) and John Lloyd Tilghman (1788–1832). Charles Willson Peale, 1790. (Maryland Historical Society.)

the triple portrait in late October 1789, was now obliged to commence work immediately on the portrait of the six-month-old child because he was “in an almost dying state.” He commented that he had “little expectation of making it tolerable, the child being so much reduced.”⁶

Peale returned to the major’s estate on September 15 to paint a miniature of

Mary Elizabeth Tilghman (1779–ca. 1804) for her aunt Mary “Molly” Tilghman. In the diary that day he wrote “I also begin address to . . . which I pray God may be fortunate.” While staying at Grosse Coate for the next two weeks, the artist completed the half-length portraits of the major and his sister, in whom he had taken a more than professional interest. Peale was optimistic about the prospect of marrying Mary as her only objection to him was “my having so many Children and her being unqualified to manage them.”⁷ When Peale approached the major about the matter he was rudely rebuffed. The unhappy suitor suspected that Tilghman wanted to prevent Mary from marrying so that he would stand to inherit a portion of her substantial estate. The tension between the two men is manifested in Peale’s portrait of the major—the frowning Tilghman, sitting sideways in a fashionable petal-back side chair of the type made by the Annapolis cabinetmaker John Shaw, glowers at his portrayer with ill-concealed anger, giving credence to Mary’s later statement that he “was very violent in his disposition.”⁸

Mary’s cousin, former brother-in-law, and advisor Richard Tilghman 4th (1746–1805) gave Peale a more civil response by promising to consider the proposal and provide a formal reply in writing, but ultimately he too objected to the marriage.⁹ Bordley advised Peale that Mary had no experience managing a family, was “weakly,” and that if the artist married her he would be obliged to hire a housekeeper. More telling, perhaps, was Bordley’s observation that the Tilghman family “was proud and always opposed to any marriages from out of their family.” At this juncture Mary decided against marrying Peale, returned his gifts, and urged him to forget the matter. He discussed the subject again with a calm and even apologetic major, but felt it prudent to withdraw for the time being.

When Peale returned to Grosse Coate a week later, Mary reproached him with information she had received from Richard Tilghman 4th, who had consulted family friends in Philadelphia who implied that Peale’s recent advances to another woman there had not been favored. The artist suspected that he had been slandered and volunteered to provide an explanation directly to Richard Tilghman 4th who was expected to arrive at Grosse Coate imminently. The couple agreed that “if we could get over these matters and I would allow her time she would yet consider and if she could find that inclination which she ought to possess, to engage in a marriage we might yet come together, as she had a Friendship for me.” Tilghman failed to arrive on time and Peale was obliged to go away on business. He wrote to Mary and gave her instructions about what she “ought to do if she had any love for me, and made other representations to shew my disinterestedness with respect to her Estate.” Mary was concerned that marrying Peale would alienate her friends and family, and told the artist that “she had a friendship for me but not that love which she ought to have.” He concluded his business with the major and resolved never to visit Grosse Coate again. The next day Peale wrote, “I felt myself much relieved, that I felt a perfect calm but suffered a sort of weariness, as if I had been in a storm and labored hard.”

Peale made a remarkably swift recovery from his emotional turmoil. On November 12 he was working in Cambridge, wooing another wealthy widow. He "did not think the lady handsome yet the Idea of her being a good manager of a family, having a good temper & possessing a large fortune, I thought might compensate for other defects." He withdrew after she did not respond to his attentions. Later he discovered that she was neither good tempered nor wealthy, and was "extremely happy that I shall have no further connection with her."

The artist was still preoccupied with Mary and on the evening of November 19 dreamed that Major Tilghman "was not averse to my having his Sister and that I was like to conclude a match there." The next day he sent his son Raphaele Peale (1774–1825) to the major with a request for payment of the balance due for the portraits. Inclement weather prevented Raphaele from returning until the twenty-seventh, when he told his father that Mary had been sick for four days after Peale's last visit and was "very much affected" by his absence. Peale spent an almost sleepless night on the twenty-ninth (despite taking twenty drops of laudanum to ease his anxiety), and sent his son to deliver a letter to Mary and the major's mother-in-law Elizabeth Gibson (d. 1797), probably requesting permission to visit. Raphaele informed his father that the Tilghmans suspected him of bigamy. An allegation had surfaced that Peale had married a woman in London back in 1768, even though he was already married to Rachel Brewer. An additional accusation surfaced that Peale had fathered an illegitimate child by this woman.

Peale rushed to Grosse Coate. This was certainly an inopportune time for him to be visiting the Tilghmans as the major's wife was very ill and died on December 1, 1790, a development that the artist never mentioned in his diary. The text of Peale's diary at this point was erased and is now almost illegible, but the decipherable parts provide a fragmentary account of an ostensibly innocent encounter with a mysterious woman named Elizabeth Perkins who "could not look at a man without her getting . . . with Child." Peale repeated this denial to an understanding Elizabeth Gibson, whereupon a trembling and "much affected" Mary was brought forth. She made no promises but told Peale that if he absolved himself of the bigamy charge they might yet be married. She insisted that he go back to Philadelphia and return to Grosse Coate the following March when things had calmed down. Mary asked Peale to leave immediately because her brother was on his way home and she did not want him to find them together. She forbade Peale from writing to her lest the major find out they were still in contact and "treat her ill."

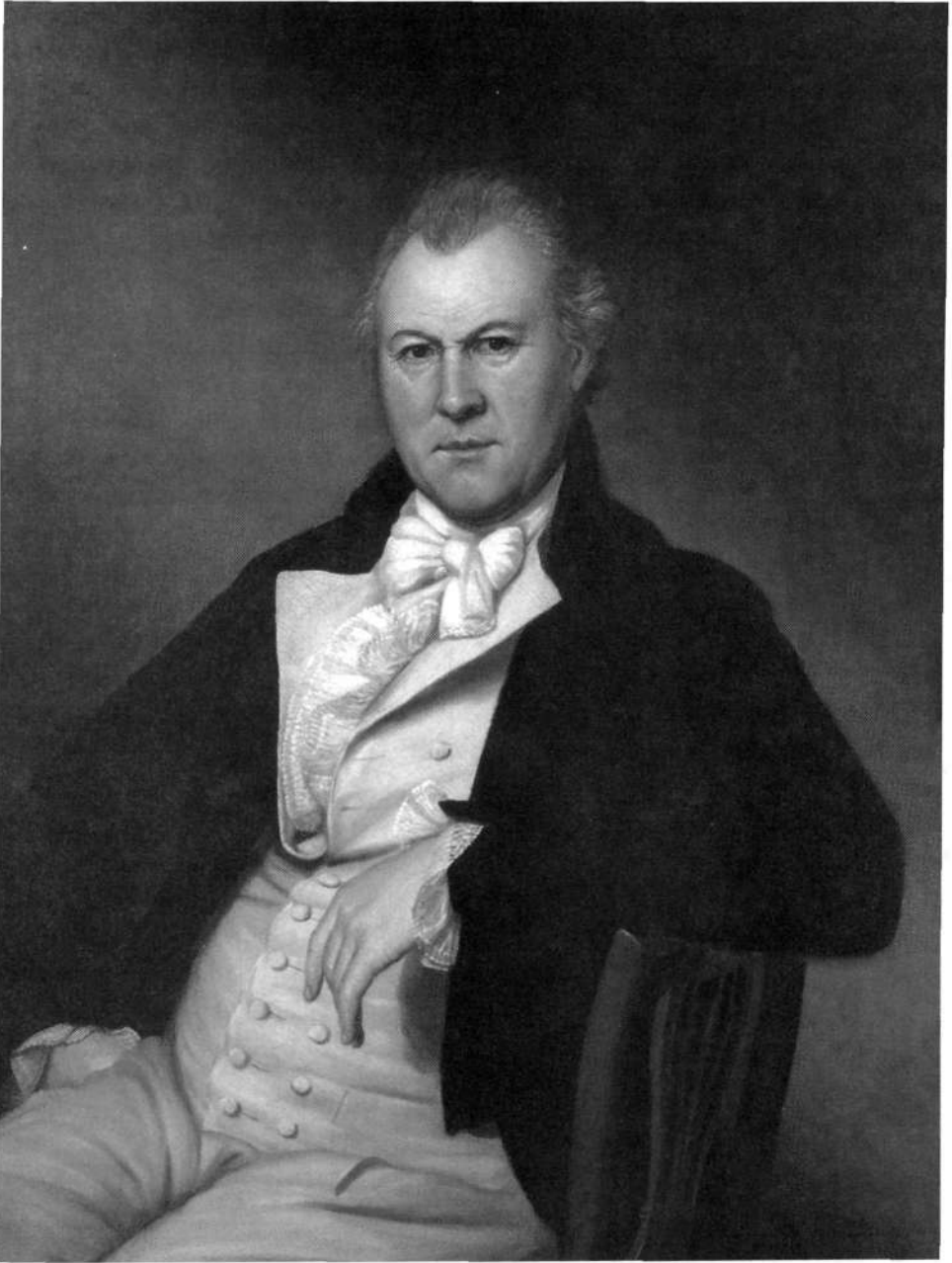
Peale now resolved to exonerate himself before his former creditor and godfather's brother James Tilghman, who was now the family patriarch, and appeared at his house in Chestertown on December 12. Apparently the men were on better terms than in 1761, when Tilghman sought to have Peale arrested and placed in debtor's prison. During the Revolution, when Tilghman, secretary of the Pennsylvania land office, was arrested with other officers of Pennsylvania's proprietary government,

Peale claimed he had been instrumental in convincing him to accept the terms of parole rather than face imprisonment. When Peale tried to defend himself against the charge of bigamy an unsympathetic Tilghman responded that, "such was a currant [sic] talk at Annapolis many years ago." For some reason the artist insisted that Tilghman read his autobiographical account of their previous dealings (probably the autobiographical notebook fragment now owned by the American Philosophical Society), which he refused to do. Peale realized that his business was "not agreeable" to Tilghman and left. That evening he wrote the old lawyer a letter in an equally fruitless attempt to exonerate himself.¹⁰

The artist then proceeded to Mary's cousin Richard Tilghman 4th who at least gave him a civil reception. Tilghman told the artist that the woman he was alleged to have married in London "had come into this Country and that her friends advised her to return which she did." Peale again presented his autobiography and asked Tilghman to relay to James Tilghman what he had written. Peale obtained Tilghman's permission to take the miniature of his daughter Mary Elizabeth Tilghman to Philadelphia to be framed, and made arrangements to be paid there by the attorney Edward Tilghman Jr. (1751–1815), another cousin, whose sister Mary had married Richard in 1783. The artist embarked on his journey back to Philadelphia on December 14. Although Peale returned to Maryland in late February 1791 and remained there until April, he made no further mention of the affair with Mary Tilghman in his diary. Nor did he leave any account of the matter in the autobiography he wrote in 1826, where he tersely recorded having painted a group of portraits for the Tilghmans.¹¹ The three letters from James Tilghman to other members of his family provide further details of what transpired after Peale returned to Maryland.

On March 7, 1791, James Tilghman wrote to Major Tilghman and Mary Tilghman. The major had been keeping him informed about Peale's renewed pursuit of Mary and seeking his advice. James Tilghman noted that Mary had deceived her friends the previous autumn by leading them to believe that her dalliance with Peale had ended. Tilghman also gave his opinion of an affidavit that the artist had produced to clear himself of the charge of bigamy: "I pay little regard to the Oath of a bad man who swears himself into an Interest." He was concerned with the possibility that Peale would inherit Mary's estate even though the artist had offered to "secure her Property to her" through some legal means. Apparently, Peale had now confessed that he had indeed lived with a woman in London, an indiscretion that Major Tilghman was inclined to dismiss as a "youthful folly." James Tilghman was convinced that the accounts he had heard of Peale's bigamous marriage were true, but thought that the artist was equally contemptible for being a self-professed adulterer. He also suspected Peale's motives for alleging that the woman had seduced him because "The case of seduction no doubt would have born harder upon him than a compliance with a woman's desires and therefore he brings himself off by saying he was seduced."

Tilghman was particularly enraged at the prospect of having a relative marry



Richard Tilghman Jr. (1740–1809). Charles Willson Peale, 1790 (Maryland Historical Society.)

the son of a convicted felon. He invoked the spirit of the major's dead father, saying that he would reject the idea "in a rage and exclaim Am I brought down so low as to marry my Daughter to the Son of a Transport" and noted that the major's father and his own brother Richard had been "very much friends" with Peale's father in

Annapolis, but they had been aware of his background and were cautious in their dealings with him. James Tilghman expressed regret for mentioning the dead and these long past matters, "But in cases of Importance like the present it is proper that the credit of families should be look[e]d to and taken into consideration."

Tilghman provided specific recommendations for taking legal measures to prevent Peale from sharing or inheriting Mary's estate. He resigned himself to the possibility that the marriage would take place, and recommended that the ceremony be performed at Grosse Coate in preference to its assuming the "Countenance of a runaway affair." Tilghman ended his letter with the ominous statement that "I would not give him any reason to think I would ever be upon a footing of intimacy with him or any of his family."

That same day Tilghman also wrote to Mary and offered his "Sentiments upon this very important subject." The contents of the letter are similar to the one to the major, but Tilghman emphasized details likely to alarm his niece. He urged her to disregard Peale's oath that he had not married in England, and pointed out that "He owns he lived with the Woman in a criminal intercourse in short in a State of Adultery and had children or a child by her." Repeatedly characterizing Peale as a "bad man," Tilghman cautioned that, "Should he marry again he may think his new vows are at an end when he goes out upon a painting expedition or on another occasion." Tilghman opined that Peale had made "a very miserable defense by pleading that he was only an Adulterer and not a married [man]." Implying that Peale's interest in Mary was pecuniary and not romantic, Tilghman noted that "he cannot have much besides his profession in which he is by no means Eminent and which is personal and dies with him." He concluded the letter with this forceful statement: "If you marry him you do it against that regard that you ought to have for the Credit and reputation of your family and against the judgment of every friend and relation you have in the World whom you will leave to make connexions with a new sett of acquaintance utter strangers to you and to take charge [of a] large family of children to whose tempers and manners you can only know from the person who is interested to misrepresent them."

In a letter to his nephew Edward Tilghman Jr., dated March 31, 1791, James Tilghman announced that Peale had been "totally defeated at Gross's," and that he had written Mary "such a letter as procured him his discharge." He reported that Peale had proceeded to make advances to another wealthy widow named "Mrs Carrol" who refused to see him, and commented that "the fellow's impudence and vanity or [sic] without Example." The woman was probably Margaret Tilghman Carroll, daughter of Matthew Tilghman and widow of Charles Carroll, Barrister of Mount Clare in Baltimore, who was staying at Edward Tilghman's home Wye. Tilghman accused Peale of misrepresenting his financial position by offering a document in which he claimed to have sufficient funds "to maintain the Lady handsomely besides the profits of his profession. What a lying varlet!"

Thus ended Peale's troubled courtship of Mary Tilghman. Peale found a wealthy second wife within two months. Shortly after returning to Philadelphia in April 1791 he met Elizabeth DePeyster (1765–1804), the daughter of a prosperous New York merchant from a respected family, and the couple was married on May 30—it is noteworthy that Peale's new father-in-law approved of the marriage and considered him a "Gentleman in Every Respect."¹² Evidence suggests that the marriage was a happy and successful one. Mary Tilghman married an Edward Roberts (ca. 1757–1810) of Talbot County on September 14, 1802.

When Peale returned to the Eastern Shore with his new bride in late July 1791, his former patron Colonel Edward Lloyd and his wife pointedly failed to extend their usual hospitality to the artist. The Lloyd and Tilghman families were related by a series of intermarriages, and the Colonel was Major Richard Tilghman's second cousin. Peale felt that the Lloyds had snubbed him and commented that he would "not undertake to say, that they might have reasons for their conduct, and if just they had acted right if otherwise, that act foolish and wrong themselves."¹³

There is much truth to Bordley's statement that the Tilghmans were "proud and always opposed to any marriages from out of their family." Even if Peale had not been the son of a transport and had not experienced the personal problems outlined above, it is unlikely they ever would have accepted him. The Tilghmans, who traced their origins back to gentry in Kent, England, were connected to most of the landed families east of Chesapeake Bay, including the Goldsboroughs, Earles, Chamberlaines, Ringgolds, and Hollydays. They were major landholders in Kent, Queen Anne's, and Talbot counties. Their kinship network also extended to Philadelphia, including such prominent families as the Chews, Francisces, Willings, Shippens, and Mifflins.¹⁴

Although the Revolution had unleashed ideals that challenged the old colonial structure of society based on the distinction between gentlemen and commoners, pure egalitarianism had yet to flourish. Families such as the Tilghmans continued to follow the old patterns while adapting to the new political order. Family reputation continued to be a key factor in separating patricians from plebeians and gentlemen were keen to protect their family's honor, especially in the area of matrimonial relations.¹⁵ As James Tilghman's opposition to Peale's marriage suit makes clear, concern about marriages extended far beyond the immediate household; aunts, uncles, nephews, nieces, and cousins were all part of the clan. In the Chesapeake, the search for suitable mates who possessed the appropriate degrees of rank, honor, and wealth had led to a tangled skein of relations that provided important matrimonial, financial, and political opportunities. Relatives introduced young men and women to the proper set of prospective spouses; uncles trained nephews in a business or profession; and kinsmen helped each other attain posts in local and provincial government. A contemporary commented that kinsmen should "see each other often and . . . cultivate friendship and harmony, for . . . the Credit, the Power, and the Interest of families chiefly depend on this," a mindset that continued to operate through the

years of the early Republic. Peale, the son of a transport and a lowly artist, would have had no place in this elite social milieu, thus provoking James Tilghman's statement "I would not give him any reason to think that I would ever be upon a footing of intimacy with him or any of his family."¹⁶

In order to maintain rank, reputation, and family identity, the successfully negotiated marriage was a means to facilitate the consolidation of property and ascertain that the right people inherited assets. In the Chesapeake, land and slaves served as the props on which the great families built their reputations. The accumulation of wealth and property also enabled an individual to bequeath honor and status to the next generation. Colonel Richard Tilghman, James's father, was able to leave his eight children "in good circumstances some of them rich."¹⁷ Peale, as a man of little means, had much to gain from marrying into an elite family and nothing to offer them. James Tilghman alluded to these disadvantages when he told Mary that Peale "cannot have much besides his profession in which he is by no means Eminent and which is personal and dies with him." Thus the Tilghmans distrusted Peale's motives, repeatedly voiced their suspicions that he was primarily interested in Mary's estate, and were unimpressed with his willingness to legally relinquish any claim to her property.

Shortly before the Peale episode the Tilghmans had experienced two other crises involving marriages. Early in 1782, Edward Tilghman (1713–1785) learned that his nineteen-year-old daughter Mary (called "Polly") was becoming romantically involved with his neighbor, the politician and attorney William Paca, one of the wealthiest and most powerful men in Maryland. Paca, who was then forty-one, had lost two wives, had two illegitimate daughters by two different women, was rumored to be a womanizer, and various aspersions had been cast on his character. Tilghman, systematically sent letters to kinsmen, friends, and acquaintances investigating his neighbor's character and determining whether he was a fit match for Mary. His son Edward Tilghman Jr. (1750–1815), in reply to his father's inquiry, allowed that "he is an exceedingly good tempered man and made a most unexceptionable husband to both his wives," but determined him to be a "liar and a scoundrel." Tilghman thought that if the marriage ever took place it would be "to the stain & dishonor of the family wh[ic]h for my part I dread more than death." Noting that Paca was paying court to another sister, he commented that "I had rather see her dead at my feet." Nothing ever came of either relationship, and Polly soon married her first cousin Richard Tilghman.¹⁸

In March 1786 James Tilghman, Edward's brother, learned that his son Philemon, a lieutenant in the British navy, had eloped with his commanding officer Admiral Mark Milbanke's daughter Harriet. Milbanke, a son of Sir Ralph Milbanke, fourth baronet, of Halnaby, Yorkshire, apparently considered Philemon from too low a rung in the social hierarchy for his daughter and refused to acknowledge the marriage. Horrified, Tilghman reproached his son, "With respect to him [Milbanke] the

measure was most ungratefully injurious and with respect to yourself and the young Lady rash and imprudent.”¹⁹ The newlyweds returned to London, where Milbanke’s family and friends visited them and tried to promote reconciliation.

A family friend in London tried to use his contacts to persuade the admiral that the Tilghmans were from a respectable social class, but to no avail. James sternly warned his son that “If you should make a bad husband or even an indifferent one, you will be (I can tell you) the first of your name in that odious predicament and in that Event I will absolutely renounce you. So look to it.”²⁰ In desperation he composed a letter to Milbanke informing him that his daughter, although “undoubtedly intitled to a much more Advantageous match,” had not “made a mean or disreputable connexion.” He assured the admiral that, contrary to “prevailing opinion in England that the families of this Country are derived from low originals,” the Tilghmans sprang from “a reputable family in Kent.” He further noted that “My father married into the Lloyd family, one of the most wealthy and respectable in this country.”²¹ Tilghman never sent the letter, and Milbanke never recognized the marriage. Philemon and Harriet moved to Maryland where he took up the life of a planter. After Philemon’s death in 1797, his wife returned to England with their five children.

Given all of this sociological background, it is certain that the Tilghmans would have objected to Peale’s marrying into their family solely because he was from a lower social stratum and an artist who lacked the means to support a woman from a patrician family. The portraitist John Singleton Copley (1738–1815), whom Peale had met in Boston in 1765, complained that his patrons viewed his profession as “no more than any other useful trade, as they sometimes term it, like that of a Carpenter tailor or shoemaker.” But Copley had married the daughter of one of the most prosperous merchants in Boston in 1769, and his social status rose accordingly. Peale would also have been aware that his early teacher, the portraitist John Hesselius (1728–1778), had married the wealthy young widow Mary Woodward in Annapolis in 1763, and settled into a comfortable existence at “Bellefield” plantation on the Severn River. Thus, at least from Peale’s perspective, it was reasonable to court Mary or any other woman of means from a prominent family.²²

It has been suggested that the Tilghmans’ objection to Peale’s marriage suit may have been politically motivated, related to the artist’s support of radicals such as Samuel Chase in the 1760s, and his later support of the Patriot cause. Such is clearly not the case. In 1762, James Tilghman represented Talbot County in Maryland’s Lower House of Assembly and led the anti-proprietary party. He was opposed to declaring independence from Great Britain, but he never openly supported the King. He had been opposed to the Stamp Act and most of British ministerial policy in the 1760s and 1770s, although secretary of Pennsylvania’s land office.²³ His brother Matthew Tilghman was a delegate to the Continental Congress and in Maryland was known as the “Father of the Revolution” for his role in organizing the new state government. James’s son Tench served as one of General George Washington’s aides-de-camp and

had been selected to deliver the news of the British surrender at Yorktown to Congress. Major Richard Tilghman Jr. was a delegate for Talbot County to Maryland's fifth Provincial Convention.

The three letters written by James Tilghman are especially significant because they provide an account of Peale's courtship of Mary Tilghman from the Tilghman family's perspective. All of what we have known about it until now was derived from Peale's diary and autobiography, documents that he deliberately orchestrated to present himself in the most favorable light possible for posterity. What James Tilghman's letters make abundantly clear is that, bound by traditional concerns about family reputation and honor, he was primarily concerned about Peale's moral character, which there was ample evidence to suspect. The facts that Peale was the son of a convicted criminal and had failed to repay a debt to a family member were already causes for concern. Although there is no evidence to confirm the rumors that Peale had entered into a bigamous marriage and fathered an illegitimate child in London, we now know that he had confessed to having an extramarital affair with a woman there and offered some very specific details about the relationship, claiming that he had been seduced. The Tilghmans, who further suspected Peale of being after Molly's inheritance, were reluctant to dismiss the affair as a "youthful folly" and did everything possible to prevent her marriage to a "bad man."

NOTES

1. *Peale Family Group* (ca. 1770–1773; reworked 1808, The New-York Historical Society), *The Edward Lloyd Family* (1771, The Henry Francis du Pont Winterthur Museum, Delaware), and *The John Cadwalader Family* (1772, Philadelphia Museum of Art), *Benjamin and Eleanor Ridgely Laming* (1788, National Gallery of Art, Washington, D.C.). For a brief discussion of Peale's preoccupation with domestic tranquility see Edgar P. Richardson, Brooke Hindle, and Lillian B. Miller, *Charles Willson Peale and His World* (New York: Harry N. Abrams, Inc., 1983), pp. 196–204. For the *Laming* portrait see Ellen G. Miles and Leslie Reinhardt, "Art concealed: Peale's Double Portrait of Benjamin and Eleanor Ridgely Laming," *Art Bulletin*, 77 (March, 1996), 57–74. See also Sidney Hart, "Charles Willson Peale and the Theory and Practice of the Eighteenth-Century American Family," in Lillian B. Miller, editor, *The Peale Family: Creation of a Legacy, 1770–1870* (New York: Abbeville Press, 1996), 101–17, and Margaretta M. Lovell, "Reading Eighteenth-Century American Family Portraits: Social Images and Self-Images," *Winterthur Portfolio* 22 (1987), 243–64; Charles Willson Peale, *An Essay to Promote Domestic Happiness* (Philadelphia, 1812).
2. James Tilghman to Richard Tilghman Jr., March 7, 1791; James Tilghman to Mary Tilghman, March 7, 1791; James Tilghman to Edward Tilghman Jr., March 31, 1791, all in the Tilghman Family Papers, MS. 2821, Special Collections, Maryland Historical Society Library, Baltimore (hereafter MdHS); Lillian B. Miller, Sidney Hart, and Toby A. Appel, eds., *The Selected Papers of Charles Willson Peale and His Family. Vol. 1. Charles Willson Peale: Artist in Revolutionary America, 1735–1791* (New Haven, Conn.: Yale University Press, 1983), 594.
3. William and Richard Tilghman were the sons of Colonel Richard Tilghman (1673–1739), member of the Upper House of Assembly and Governor's Council, as well as a visitor of Queen Anne's County Free School, where Peale's father Charles Peale worked as a schoolmaster. Miller, Hart, and Appel, *The Selected Papers of Charles Willson Peale*, vol. I: 603 suggested that Peale's creditors called in their debts because Peale supported Samuel Chase in an election against the proprietary party's George Steuart in Annapolis. Although that may have been the case with some of the creditors, it was not so with James. His brother Matthew led what was known as the Country Party on the Eastern Shore. Charles Carroll, Barrister, married to James' niece Margaret, backed Chase as did James's good friend Daniel Dulany.
4. The autobiographical fragment from 1790 (owned by the American Philosophical Society, Philadelphia) contains much the same information as the diary. We will rely on the diary account where the drama unfolds on a daily basis. Unless otherwise noted, all following quotations from Peale's diary are taken from Miller, Hart, and Appel, *The Selected Papers of Charles Willson Peale. Vol. 1*, 590–612. Accounts of this episode are given by Charles Coleman Sellers, *Charles Willson Peale* (New York: Charles Scribner's Sons, 1969), 243–45, and, most recently, David C. Ward, *Charles Willson Peale: Art and Selfhood in the Early Republic* (Berkeley: University of California Press, 2004), 116–20.
5. MS. 2600, Tilghman Family Papers, MdHS. The Tilghman portraits remained at Grosse Coate until Agnes Riddell Owen Tilghman presented them to the Maryland Historical Society in 1973. They are listed in Charles Coleman Sellers, *Portraits and Miniatures by Charles Willson Peale, Transactions of the American Philosophical Society*, n.s., vol. 59, pt. 3 (Philadelphia, 1952), 210–211, and discussed in *Four Generations of Commissions. The Peale Collection of the Maryland Historical Society* (Baltimore, Maryland Historical Society, 1975), 21–23, 137–38.
6. In a diary entry of 27 October 1789 Peale noted that he had "finish[ed] the portrait of

Mrs. Tilghman and her 2 Children." Miller, Hart, and Appel, *The Selected Papers of Charles Willson Peale*. Vol. 1, 578.

7. Peale recorded all of the portraits he was painting for Major Tilghman in his "Portrait list, 1789-1790"; see Miller, Hart, and Appel, *The Selected Papers of Charles Willson Peale*. Vol. 1, 637-38.

8. Similar chairs are discussed and illustrated in William Voss Elder III and Lu Bartlett, *John Shaw, Cabinetmaker of Annapolis* (Baltimore: Baltimore Museum of Art, 1983), 98-99. Sellers, *Peale*, 210, was first to draw this parallel between the major's unpleasant expression and Peale's unwelcome courtship of his sister.

9. Richard Tilghman 4th, son of Matthew Tilghman, had married Mary's sister Margaret (1744-1779); after her death he married Mary Tilghman (1762-1793), daughter of Colonel Edward Tilghman of Wye.

10. Miller, Hart, and Appel, *The Selected Papers of Charles Willson Peale*, 1:37 suggested that Peale's creditors called in their debts because Peale supported Samuel Chase in an election against the proprietary party's George Stuart in Annapolis. Although that may have been the case with some of the creditors, it was not so with James. His brother Matthew led what was known as the Country Party on the Eastern Shore. Charles Carroll, Barrister, married to James' sniece Margaret, backed Chase as did James's good friend Daniel Dulany. Peale related these incidents in his autobiographical fragment of 1790. Some of James Tilghman's correspondence to the Supreme Executive Council of Pennsylvania concerning the terms of his parole were published in Samuel Hazard, *Pennsylvania Archives* (Philadelphia: Joseph Severns & Co., 1853), 502-503, 641.

11. Lillian B. Miller, Sidney Hart, and David C. Ward, eds., *The Selected Papers of Charles Willson Peale and His Family*. Vol. 5. *The Autobiography of Charles Willson Peale* (New Haven, Conn.: Yale University Press, 2000), 149.

12. Lillian B. Miller, Sidney Hart, and David C. Ward, eds., *The Selected Papers of Charles Willson Peale and His Family*. Vol. 1, Part 1, *Charles Willson Peale: The Artist in His Museum, 1791-1810* (New Haven, Conn.: Yale University Press, 1988), 617.

13. William Tilghman, the major's father, married Margaret Lloyd (ca. 1714-ca. 1785), daughter of James Lloyd and Anne Grundy. James Lloyd's sister was Anna Maria, who in 1700 married Richard Tilghman, father of William and James Tilghman; William and Margaret were thus first cousins. Colonel Edward Lloyd (1744-1796) was the son of Edward Lloyd (1711-1770), son of yet another Edward Lloyd (1670-1718/19). The first Edward was the brother of James Lloyd and Anna Maria Lloyd, in Miller, Hart, and Ward, eds., *The Selected Papers of Charles Willson Peale and His Family*. Vol. 5. *The Autobiography of Charles Willson Peale*, 181.

14. Jennifer A. Bryan, "'The Horrors of Civil War': The Tilghman Family in the American Revolution," *Maryland Historical Magazine*, 103 (2008): 33-61.

15. Gordon S. Wood, *The Radicalism of the American Revolution* (New York: Alfred A. Knopf, 1992), 38-41; Joyce Appleby, *Inheriting the Revolution: The First Generation of Americans* (Cambridge: Belknap Press of Harvard University Press, 2000), 129, 133-35.

16. William Alexander as quoted in Kierner, *Traders and Gentlemen*, pp. 123-24; Trevor Burnard, "A Tangled Cousinry? Associational Networks of the Maryland Elite, 1691-1776," *Journal of Southern History*, 61 (1995), 19, 21; Kathleen M. Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs: Gender, Race, and Power in Colonial Virginia* (Chapel Hill: University of North Carolina Press for the Institute of Early American History and Culture, 1996), 249, 253; Helena M. Wall, *Fierce Communion: Family and Community in Early America* (Cambridge: Harvard University Press, 1990), 15, 48; Mary Beth Norton, *Founding Mothers & Fathers: Gendered Power and the Forming of American Society* (New York: Alfred A. Knopf, 1996), 212, 232.

17. James Tilghman to Mark Milbanke, May 23, 1786, Tilghman Papers, MS. 2821, MdHS.
18. Anne F. Morris and Jean B. Russo, "Polly Tilghman's Plight: A True Tale of Romance and Reputation in the Eighteenth Century," *Maryland Historical Magazine*, 92 (1997), 465-79.
19. James Tilghman to Philemon Tilghman, [March] 1786, Tilghman Papers, MS. 2821, MdHS. Years earlier Tilghman had advised Philemon, then a midshipman, to "keep an especial Guard upon all your Actions and do nothing unworthy [of] a man of virtue and honor; nor be the first to bring reproach on yr name and family." James Tilghman to Philemon Tilghman, November 23, 1779, *ibid.*
20. *Ibid.*
21. James Tilghman to Mark Milbanke, May 23, 1786, Tilghman Papers, MS. 2821, MdHS. The endorsement in James's handwriting indicates that he never sent this letter.
22. Quoted in Wood, *Radicalism of the American Revolution*, 38. See also Richard H. Saunders and Ellen G. Miles, *American Colonial Portraits: 1700-1776* (Washington: Smithsonian Institution Press for the National Portrait Gallery, 1987), 39-43; For a recent discussion of Copley's marriage and "internalization of his elite patrons' values" see Paul Staiti, "Accounting for Copley," in Carrie Reborá, Paul Staiti, Erica E. Hirshler, Theodore E. Stebbins Jr., and Carol Troyen, *John Singleton Copley in America* (New York: The Metropolitan Museum of Art, 1995), 35-38.
23. James had moved to Philadelphia in late 1762 or early 1763. His wife was Anne Francis (1726-1771), daughter of Tench Francis (1701-1758), attorney general of Pennsylvania. James became secretary of the land office in 1766.

“To Bring out the Intellect of the Race”: An African American Freedmen’s Bureau Agent in Maryland

JOSEPH BROWNE

In December 1867, Joseph Hall, a white Republican in pro-Confederate, southern Maryland, wrote a letter urging officials of the Freedmen’s Bureau in Washington, D.C., not to fire John H. Butler, an African American bureau agent. Hall reported that Butler “has done more to aid the cause of education than any other man, white or black.” Although he had initially expected that Butler would face white defiance and black disarray in his mission to build Freedmen’s Bureau schools, he now wrote that “Butler is the favorite of all of the colored people and the white people have nothing to say against him.”

The forty-six-year-old Butler, a product of Baltimore’s antebellum economic expansion and free black community, had emerged as one of the most successful retailers and real estate investors and most prominent leaders in the city’s African American community. A confirmed believer in the power of education to win the battle for equality, in 1867 Butler redirected his skills as a politician, entrepreneur, orator, community organizer, and fund-raiser to establish the first generation of African American schools in the rural counties of Maryland. Although the state legislature had refused to support public schools for African Americans, Butler understood from his own experience that in order for freedpeople to have any chance for achieving equality, they had to read newspapers, political flyers, contracts, and manuals, as well as to calculate bills. Though a determined, independent agent in his two years with the Freedmen’s Bureau, Butler confronted serious obstacles. Not only did Maryland’s white conservative establishment oppose the Freedmen’s Bureau mission to establish African American schools, but the impoverished condition of the freedpeople and the limited objectives and funding of the Freedmen’s Bureau itself also undermined Butler’s efforts. That Butler was an African American, one of the few blacks among the 2,441 agents that the bureau appointed during its seven-year history, proved to be both an asset and a liability.¹

Joseph Browne, author of a history of Crofton, is the director of the Adolf Cluss Project in Washington, D.C.



Detail from Johnson and Ward, *Maryland*, 1864, showing the area where Freedmen's Bureau agent John Butler worked to build schools. (Maryland Historical Society.)

Congress had authorized the Bureau of Refugees, Freedmen, and Abandoned Lands in 1865. General Oliver O. Howard headed the new federal agency. The bureau dispatched agents to all of the former Confederate states and to the border slave states, like Maryland, that had remained in the Union during the Civil War. Agents helped former slaves with immediate relief and medical care, finding jobs, searching for relatives, assisting with legal problems, and in its most far-reaching endeavor, building schools.³

General Charles H. Howard, younger brother of the bureau's commissioner, headed the agency's District of Columbia region. He hired Butler in August 1867 to organize schools in the southern Maryland part of his district, even though bureau officials had expressed little hope for promoting schools in the area. Many southern Marylanders had supported the Confederacy and resented Maryland's abolition of slavery in 1864. After a visit to Calvert County in 1866, Major William Vanderlip, a white Union army officer from New York and a Freedmen's Bureau agent, reported a bleak outlook for schools in that part of southern Maryland. "The whites would not allow them to exist," Vanderlip warned. Perhaps recalling his own visit to the county, he wrote, "There are a large number of young men who served in the rebel army and threaten any who come there with a helping hand to the blacks."⁴ Charles Howard himself had described the problem throughout Maryland: "Opposition to

Prince Frederick Calvert Co ^{Md}
 October 12th 1868
 Bvt. Maj. W. L. Vanderlip
 Sir
 The school House at
 Parkers Creek are being framed
 and will be set up next week
 The deed for one acre of
 Land have been signed
 by Mr. J. W. Wilson and the
 sum of fifty dollars
 paid for the land I expect
 to have five men working
 on the House next week
 and get it covered in as
 soon as possible

John Butler negotiated land sales and organized construction work for schools such as this one in Prince Frederick, Calvert County. (Bureau of Refugees, Freedmen, and Abandoned Lands, Maryland-Delaware District, RG 105, National Archives, Washington D.C.)

education of the colored people in Maryland is widespread and bitter. Teachers have been stoned. . . . School houses have been burned. Colored churches too have been destroyed to prevent schools being held in them.”⁴

Regardless of his low expectations and the probability that Butler's race would further provoke whites, Howard assigned him to work in Calvert and southern Anne Arundel counties, a tobacco-growing region located on a peninsula formed by the Patuxent River and the Chesapeake Bay—an area where black children outnumbered white children and freedpeople had already demonstrated their interest in schools. About one thousand African Americans attended a meeting on a Sunday afternoon in the summer of 1867 at Prince Frederick, Calvert County, where Freedmen's Bureau officials delivered speeches on the importance of education. Blacks in three Calvert County villages had already chosen boards of trustees to plan schoolhouses. Howard expected Butler to organize additional school societies and then, acting as the agent for each group, to buy land for the new schools. Butler began by visiting large assemblies of blacks in their churches, and he “urged them to do their duty.” He conceded, however, on September 9, “[I] have been trying to get land for schoolhouses, but have not succeeded yet. . . . Landowners are hard in this part of the world.” Though two hundred whites had attended the meeting in Prince Frederick earlier in the summer and, according to a bureau report, had “expressed themselves pleased with the speeches,” they had not pledged cooperation. On October 31, Butler again complained, “The owners of land are so much opposed to schools down in these counties that it keeps me all the time going to different farms and see this one and see that one that my traveling in these counties averages from five to ten miles a day.”⁵

But much to the surprise of General Charles Howard, within two months of his arrival in Calvert County Butler had arranged the purchase of four school sites from white landowners. Despite his unexpected achievement, the superintendent of education in Howard's district, Reverend John Kimball, had recommended that Howard dismiss Butler by the end of November, “as the houses which are now under way should be finished by that time.” Kimball did not seem to appreciate Butler's accomplishment or the adversity and the danger that he faced every day that he walked the sandy roads of southern Maryland. Butler waited five months before he acknowledged to Kimball: “I am yet permitted to go on without violence. You must know,” he continued, “I am often threatened with imprisonment or being shot or [attacked by] some other violent means.” He added a promise, “I shall continue to do all I can and let them do what they feel disposed [to do].”⁶

The Value of Education

John Henry Butler's commitment to public education grew out of his experiences in pre-war Baltimore and a family history of freedom that spanned at least two generations. He was probably the son of Henry Butler, born in Prince George's County c. 1800. He may have belonged to the family of an older Henry Butler, enumerated

on the 1800 census as the head of a household of seven "other free persons." John's father or uncle was probably Henry Butler, born in Prince George's County about the same year, who migrated to Baltimore with his family by 1835. Baltimore's rapid economic growth and scarce labor supply as well as an "ambivalence about racial boundaries" afforded opportunities for Maryland's rural free blacks. A northern visitor to Baltimore in 1835, for example, exaggerated only a little in noting that free African Americans "are not excluded from any trade or employment," whereas in New York, a black man "cannot drive his own hack or cart." By 1830 the port city's free blacks and slaves had constructed a strong social network. Churches, schools, fraternal organizations, benevolent associations, and self-help clubs enabled migrants to find support in embarking on a new life. Christopher Phillips argues that Baltimore's African American community "achieved an astonishing level of social progress and coherence" compared with the "stratified, class- and color-conscious black populations" of Charleston, New Orleans, and even Philadelphia. In 1860, Baltimore's 25,680 free African American inhabitants, the largest number of any city in the United States, resided in all parts of the city in close proximity to whites of various ethnic backgrounds. In 1850 blacks comprised about one-fourth of the population in Butler's ethnically mixed, Seventeenth Ward neighborhood.⁷

By 1830, Baltimore's African Americans sustained several private schools that laid foundations for the achievements of people such as John Butler. By 1850, 36.6 percent of the city's free blacks reported in the federal census that they could read and write and by 1860, three-fourths of Baltimore's African Americans recorded their literacy. In his youth, Butler attended the African Academy, where William Watkins began his career as the teacher at the age of nineteen in 1835. Watkins taught demanding courses in English grammar, reading, writing, natural philosophy, and mathematics. One observer declared, "A year in his school was all the recommendation a boy or girl of that day needed." Watkins's faith in education mirrored that of most black Baltimoreans. "Give the rising generation a good education," Watkins said, "and you instruct them in and qualify them for all the duties of life."⁸

The African Methodist Episcopal Zion Church (AME Zion) also shaped Butler's life. Early AME Zion churches began as offshoots of the African Methodist Episcopal (AME) Church, forming their own national organization in 1821, free of white bishops or white-dominated regional conferences. In 1841 members of Baltimore's Sharp Street AME Church, including the Butler family, organized an AME Zion church. They built a frame building at the southeast corner of South Howard and Little Montgomery streets. Butler bought a house in 1849, just across Howard Street from the church. In the 1860s and 1870s, Henry Butler, John Butler's father or uncle, served as the minister. The Howard Street Zion AME Church remained a neighborhood force until 1881, when the church closed. The regional conference of the AME Zion organization met at least once at the Howard Street Church. In 1868, General Oliver O. Howard, Commissioner of the Freedmen's Bureau, addressed its delegates.

H. J. CHURCHMAN & C. LEEKE'S
SCHOOL FOR GIRLS,
 AT THE CORNER OF SHARP & BALTIMORE STREETS,
Is now ready for the admission of pupils.—In this School will be taught
READING, WRITING, ARITHMETIC, ENGLISH GRAMMAR,
GEOGRAPHY, WITH THE USE OF MAPS AND GLOBES, HISTORY,
ELEMENTS OF ASTRONOMY AND NATURAL PHILOSOPHY,
 PLAIN SEWING AND SAMPLER WORK.
TERMS FROM THREE TO EIGHT DOLLARS per quarter.
 At an additional expense, the **FRENCH LANGUAGE** and **DRAWING** will also
 be taught if desired.
 Baltimore, 2d Mo. 20, 1826.

REFERENCE TO

ISAAC TYSON, MATTHEW SMITH, HUGH BALDERSTON, P. E. THOMAS,		G. T. HOPKINS, WM. DALLAM, JOSEPH TURNER, JR.
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John Butler spent his formative years in a free black community that supported education. Genius of Universal Emancipation, March, 1826.

SABBATH SCHOOL.
WILLIAM M. LIVELY,
 Has the honor to announce to the public generally, that the **UNION SEMINARY,** corner of Apple Alley and Wilk Street, is opened for the reception of female adults every sabbath from 8 till ten in the morning, and from 1 till 3 in the after noon; taught gratuitously.
 Feb. 11.

The pre-war emergence of black churches completely free of white control, such as the Howard Street AME Zion Church, had ignited a growing racial consciousness and pride and a sense of common purpose among Baltimore free blacks, among them John H. Butler.⁹

Butler's business success in his South Baltimore neighborhood enabled him to play an influential role in the African American community. He lived and worked in the section of South Baltimore bounded by the inner harbor to the east and the Camden railroad yards to the west. Throughout the 1850s and early 1860s, Butler described himself as a porter, a position for which the railroad yards and the harbor area offered many opportunities. During the prosperous Civil War years, he also established a commissary business. In the same period, Butler raised two children following the apparent death of his wife in 1850. He remarried in the 1870s. Butler increased his wealth by investing in real estate during the 1850s and 1860s. Property values in Butler's neighborhood appreciated following the building of the Baltimore and Ohio Railroad's Camden Station at Howard and Camden Streets in 1851. He had already purchased three lots on South Howard Street by 1849, a few blocks from the new station. In 1853 he subdivided the largest lots and sold three of the smaller parcels. By 1866 the city assessed all of Butler's properties at \$8,212. In the Seventeenth Ward where Butler lived, only four African Americans owned property assessed at higher values, three barbers and the widow of an undertaker. Free blacks in southern cities with sufficient income often saw real estate as a more secure investment than entrepreneurial enterprises. In mid-century Baltimore, however, only about 1 percent of the city's free blacks owned any property and the rental income freed them from long hours of labor, allowing them to play leadership roles in the African American community.¹⁰

Like many free blacks, Butler joined civic and social organizations that encouraged a strong sense of racial community and equality. For most of his adult life, he belonged to Enterprise Lodge Number 3, an African American Masonic group formed sometime before 1845. He served as one of the lodge's first grand masters and he suggested the lodge's name, meant to characterize the members' hard work, determination, and business success. Butler joined with other African Americans to found the Galbreth Lyceum in 1852, one of several black educational and debating clubs in Baltimore. Named for the Reverend George Galbreth, a former minister in the AME Zion Church, the lyceum sponsored lectures and debates, and members presented lessons on grammar, rhetoric, logic, and composition. The members collected "one of the finest libraries of any black organization in the city," including a set of the *Encyclopedia Britannica* presented "by some of the ladies." Beginning in 1863, they also published *The Lyceum Observer*, one of the first African American newspapers below the Mason-Dixon line. For many years the group selected Butler as its president.¹¹

In November 1864, after Maryland abolished slavery in its new state constitu-

tion, Baltimore's African American leaders planned a new institution to meet the needs of the freedpeople. A board of trustees, headed by Butler, sold stock valued at \$16,000 in order to purchase and renovate a building at 11 East Lexington Street (now 210). The stockholders also invested in twelve houses on West and Warner streets, planning to use the rental income to help defray the institute's expenses. The new community center supplied space for Masonic lodges, high school classes, exhibitions, a library, and an auditorium. It also sponsored and housed a music department, newspaper, and the Henry Winter Davis Guards, one of several black militias in the city. Butler volunteered to live in one room of the building and supervise its facilities and programs. The trustees named the building for Frederick Douglass, who spoke at the dedication on September 29, 1865. Douglass praised the founders for their "open avowal of the great principles of progress, liberty, justice, and equality." Anticipating its key role, Douglass added, "I think it quite difficult to over-estimate the importance and significance of the first effort of this kind." During the next twenty years the Douglass Institute served as Baltimore's most important black organization.¹²

Though the Douglass Institute symbolized freedom's progress, the battle for educational equality for the state's African Americans would be much more difficult. Despite having abolished slavery, Maryland's legislature refused to fund school buildings and teacher salaries for the education of black children. Dominated by the conservative traditions of the state's planter class, many Marylanders opposed any further change in the status of African Americans. Although a Maryland law allowed the counties to distribute money for black schools collected from taxes paid by African American property owners, few blacks owned land and paid property taxes. In 1869 only six counties disbursed any black taxpayer money, which averaged only \$158.54 per county.¹³

By the time Butler became an agent of the Freedmen's Bureau, he had already immersed himself in promoting schools for Baltimore's African American children. In 1865 he had helped to organize three primary schools in churches in his south Baltimore neighborhood and a high school of 127 students at the Douglass Institute. The Baltimore Association for the Educational and Moral Development of the Colored People, organized in 1864, recruited and paid the teachers and rented or built schools. Soliciting funds in Baltimore and the northern states, as well as England and Ireland, by 1867 the association supported sixty Maryland schools. The leaders of the Baltimore Association also launched the Baltimore Normal School for the education of African American teachers. Appointed to its board of trustees in 1867, Butler served for thirty-seven years in one of the three designated African American positions on the eleven-member board. According to one historian, the Baltimore Normal School's board represented "the first time that blacks and whites had served together as policy-makers in a corporate enterprise [in Maryland]." A private school for forty years, in the early twentieth century it moved out of the city and evolved into

a state college now known as Bowie State University. Until the late 1890s, Baltimore Normal School was the only Maryland institution where African Americans could seek a high school education as well as training for a teaching career.¹⁴

Butler's role in organizing African American schools and his contacts with white, radical Republicans in Baltimore helped him obtain his appointment with the Freedmen's Bureau. Judge Hugh Lennox Bond, an organizer of the Baltimore Association, recognized Butler's ability and depended on him for advice on African American school issues. Appointed judge of Baltimore's Criminal Court in 1860, Bond became the leading radical in Maryland's post-war Republican Party. He led the fight for "educated free labor" and for suffrage for African American men. When he ran for governor in 1867, the *New York Independent* endorsed him as "every inch a Radical—holding the noblest ideas of democratic equality." Butler also met General Edgar M. Gregory, Assistant Commissioner of the Freedman's Bureau in charge of the Maryland-Delaware District. They both supported the establishment of the Gregory Aged Women's Home for African American women, named to acknowledge the general's assistance. In July 1867, Gregory had selected William Howard Day, a black abolitionist and Oberlin College graduate as superintendent of education in the Maryland-Delaware district. Day's appointment established a precedent for Gregory's counterpart in the District of Columbia district, General Charles Howard, who hired Butler one month later.¹⁵

For building schools in Maryland, the Freedmen's Bureau had welcomed the assistance of the Baltimore Association and northern freedmen's aid societies sponsored by religious denominations and related groups such as the American Missionary Association. These organizations had taken the lead in establishing African American schools in Maryland's northern tier counties and in Delaware, all located in the Bureau's Maryland-Delaware district, headquartered in Baltimore. Agents of freedmen's aid groups had not ventured into the more distant southern Maryland counties, part of General Charles Howard's regional office in Washington, D.C. Knowing that support from private agencies had begun to decline, in March 1867 Howard ordered his superintendent of education, Reverend John Kimball, to assume direct responsibility for building schools in six southern Maryland counties. In August, the bureau hired Butler as a "temporary agent" with a pay of \$75 a month (other civilian agents earned as much as \$125 per month) to go to southern Maryland to help African Americans plan and raise money for their schools. Charles Howard wrote to Major William L. Vanderlip, bureau agent in Annapolis, "I propose to send Butler (col.) (reporting to you) to Calvert County to attend somewhat to school matters and anything of that kind also that needs investigation and report." His vagueness about Butler's assignment suggests that the decision to hire Butler did not originate with Charles Howard. The pressure to hire the new agent may have come from Bond and Gregory, or even from Butler himself, though bureau records give no hint.¹⁶

Major Vanderlip broadened Butler's assignment to include southern Anne Arun-

del as well as Calvert County. He first sent Butler to Davidsonville in Anne Arundel County where African Americans had already begun work on a school. Butler soon realized how little the Freedmen's Bureau had committed to the total cost of building and supporting schools and reported to Vanderlip, "The people have had many disadvantages to labor under." They had already paid \$150 for the school lot and \$39.85 for shipping lumber from Baltimore. They still owed \$275 on the land and needed plaster and desks. The Freedmen's Bureau contributed only Butler's limited assistance and the lumber for the building. Bureau officials insisted that local African American communities pay for everything else, including the full cost of room and board for a teacher. Charles Howard and John Kimball expected Butler to convince local communities to raise money to cover the remaining expenses. As Butler soon learned, southern Maryland's African American families often lacked cash for even basic needs. When he traveled on to Calvert County, landowners not only refused to sell property but also threatened him with imprisonment and physical harm, and Butler understood that he could not force white owners to sell. Neither the state nor the counties had mandated African American schools, nor did the Freedmen's Bureau have authority to compel landowners. White farmers in Calvert County opposed African American schools because they feared that education would encourage their former slaves to think of themselves as equals and therefore deprive landowners of a docile labor supply.

Butler faced threats every day. Most whites would have quickly learned of his presence and purpose in the county and he represented the radical changes that many of them dreaded. African Americans would buy land, build schools, and learn to read and write, and northerners would send teachers and pay their salaries. An agency of the Union government many of them fought against in the war had sent a well educated, urban, African American man to establish schools that they opposed.¹⁷ Butler soon learned that he would have more success in buying land from either absentee or Unionist landowners. He identified absentees with the help of local freedmen and a few sympathetic whites, men such as Joseph Hall, the Calvert County merchant who pleaded with the bureau to retain Butler.

The agent sent the addresses of absentee landowners to bureau agents in Washington and asked them to negotiate the transactions. As Butler anticipated, absentee landowners felt less constrained about selling land for African American schools than those who remained in the county and feared any change in the status of blacks. Butler also purchased land from southern Maryland Unionists, though they were not all as understanding as he had hoped. James Cheston, in the West River area of Anne Arundel County, sold three acres of land at \$50 per acre, a reasonable but certainly not a generous offer. A few miles away, Butler purchased two acres at \$25 per acre from Jacob Dennis. The Davidsonville School was another story. When Butler first met Thomas Davidson in December 1867, he shared Vanderlip's high opinion of him. "I met with Mr. Davidson, whose presence I like very much and think him

much of a gentleman." Five months later Butler changed his opinion. "I understood you to say that Mr. Davidson gave the lot for the school House. . . . The way that is managed," he complained to Vanderlip, "it is a very dear gift. . . . Get some of the trustees to show you the lot and explain the ways they have the lot and you will be as surprised as I am," he reported.¹⁸

Buying land was only the first of Butler's challenges. He also had to surmount attitudes and social barriers that nearly two hundred and forty years of slavery in southern Maryland had nurtured. "These people both white and colored wants continued looking after," Butler admitted. The process of buying the land demanded his constant attention. Each village had to select a governing board of trustees, raise the money for the land, pay the landowner, secure a deed, and send it to bureau headquarters. Butler and the trustees then worked together to estimate the quantity and cost of needed materials. He then sent the information to Washington, D.C., for approval, and Kimball ordered the shipment from the Army, which had salvaged lumber from wartime barracks and hospitals. At each stage problems and misunderstandings often emerged, causing delays, return trips for Butler, and more letters exchanged with Kimball and Vanderlip. In the end though, the school trustees in each African American community owned the building and the land, a defining accomplishment and source of community pride in the first years of freedom.

Despite Butler's early success in purchasing land, Kimball had made clear that he did not want to keep Butler on the job. In November, when the agent requested a horse for traveling in the winter months, Kimball refused. Railroads then connected Baltimore, Annapolis, and Washington, and steamboats stopped at river and bay landings, but Butler reported, "Travel is very poor in these counties, and most of my travel is on foot." Vanderlip, who understood Butler's achievement—and courage—better than anyone, asked the bureau's permission to loan Butler his government-issue horse. Vanderlip tried to delay Butler's dismissal. He urged Howard to postpone the decision until at least the beginning of 1868. Butler "is now engaged in negotiations for land in [Anne Arundel County] for schools," and "is also doing good service in arousing the freed people." He explained that Butler "is pushing the schools as fast as possible and hopes to have all ready by Christmas."¹⁹

Butler's direct style of communication and willingness to question orders may have offended whites such as Kimball. He wrote, for example, "I find also in Circular No. 23 that other allowances are due me and as I have no Bureau Officers Manual, you will please see after and attend to these matters." He sent blunt messages to Vanderlip as well. "I have written to you seven or eight times and have not heard from you for thirteen days. I do not know what is the matter. My stationery is out." Kimball may have objected to Butler's assertiveness in arranging for shipping construction materials and in planning the buildings. The agent knew that ship captains had often delivered lumber to the wrong locations, miles from the designated wharf. He requested that Kimball ship a load of supplies with a captain in Baltimore he knew

Mount Hope Calvert County Md,
 November 19th 1862
 Port. Maj. W. T. Vanderlip
 Sir
 The school House at this place
 are in a fair way to be shut in
 soon it have been set up and
 they are putting the rafters on to
 day the people have been busy
 getting in their corn and that gives
 me much trouble to keep hands
 at work on the school Houses but
 I shall continue to do the best I
 can in forwarding the work on all
 I am on my way to Nottingham and
 will do the best I can there and
 let you know what luck or
 what I can do with the people of
 that place very respectfully
 your humble servant
 John H. Butler

Butler wrote to Major W. T. Vanderlip on the progress of the school at Mount Hope, Calvert County. (Bureau of Refugees, Freedmen, and Abandoned Lands, Maryland-Delaware District, RG 105, National Archives, Washington D.C.)

and trusted and asked permission to alter the reverend's standard floor plan for the schools. Two longer rows instead of three rows of desks and three aisles instead of four aisles "would suit down here much better," Butler argued. Despite Kimball's opposition, Charles Howard kept Butler in his position in southern Maryland. But Vanderlip reminded Butler of Kimball's complaints about the slow progress of school construction and urged him to open the schools as soon as the buildings were enclosed, if necessary, without furniture and books, or walls plastered to keep

out the winter winds. As directed, Butler gave them what they wanted. By Christmas he asked Kimball to send teachers for all the Calvert County schools. Kimball fired back a quick response: "I cannot get four teachers by next Wednesday. . . . You must give more notice." A week later Butler warned Vanderlip and Kimball that he had purchased four lots in Anne Arundel County and would soon meet with school trustees to plan those buildings and order lumber from the bureau.²⁰

Though Butler had learned more about ferreting out lots for schools and approaching reluctant landowners, he realized that the most difficult task still lay ahead, helping African American communities pay for the land and finish the buildings. Vanderlip explained to Kimball, "Mr. Butler is pushing the schools as fast as possible. . . . Several are all done but plastering. He has now to go to work and raise money to finish them. He says the people are very poor, but will try to raise the money." Butler explained the problem a little differently: "It is very hard to raise money here for anything," he wrote to Vanderlip, "The colored people are cheated so badly that they have not the money." Undaunted, he tried a different approach. "I have gathered the females together and we are about to hold fairs at different places," he reported, "and by so doing we expect to raise money enough to plaster the houses." Proceeds from the fairs exceeded Butler's hopes. "After working two days and nights in the rain," he declared, "we succeeded in raising one hundred and fifty dollars." Encouraged, he planned to hold fairs in other communities, "as this is the only way that I can get money to finish these buildings." Vanderlip approved. He admired Butler's skills in "stirring up the poor people to raise money to buy land and build schools."

Butler organized more fund-raising fairs as well as community meetings at churches. Reporting on the progress of an Anne Arundel County school, for example, he wrote in July 1868, "We want to have a big time there on July 16. . . . We intend to lay the cornerstone and hold a fair that day." Butler also planned major public meetings where he spoke to freedpeople about important issues they confronted and encouraged them to donate money for schools. The theme of his talks never varied. "The people have been lectured from time to time on the importance of education," he told Kimball. But Butler also read the labor contracts that the freedmen signed and talked to them about how to negotiate with landowners. By 1869, he reported, "The people have made better contracts than they did last year." He also advised them to buy land and reported that one family had recently bought 500 acres, another 143 acres, another 106. Others bought smaller parcels. "They will soon be intelligent and well to do," he said. In one community, the agent reported to Kimball that his lectures "have done something." On his first visit, when he held a meeting, he recalled, "they would come drunk." But in 1869 he held seven lectures and "the people was sober and acted more like men." He also invited bureau officials, including Howard, Kimball, and Vanderlip to give rousing speeches to encourage African Americans to donate to their schools. The dignitaries did not always show up. He complained to Vanderlip in December 1867, for example, "[I] was at Davidsonville

on Sunday . . . but was disappointed none of the gentlemen who was expected was present. . . . I spoke to the people in the morning and after no other person came I also spoke in the afternoon." Davidsonville African Americans donated \$54.18 for their school that Sunday.²¹

In early 1868, as local trustees prepared to open the new schools, Vanderlip and Kimball asked Butler to recommend "what kind to send to teach school, whether men or women or black or white." Butler insisted on black teachers, not only because he believed that African Americans deserved the positions but also because he knew that whites in southern Maryland would not tolerate white teachers in black schools. When the new teachers arrived by boat from Annapolis or Baltimore, the school trustees, often joined by Butler, met them at the nearest wharf. The Baltimore Association recruited the teachers from northern freedmen's aid and missionary societies that also solicited the money for salaries from their members. Many religious congregations also donated money. Of the Baltimore Association's \$62,000 budget in 1867, however, Maryland's African Americans contributed the equivalent of \$23,371 for finishing buildings and for teachers' room and board—more than a third of the association's total budget. Maryland whites contributed only \$3,300, mainly from Jewish, Quaker, and Unitarian congregations.²²

An African American teacher at one of the new Calvert County schools captured the pride that Calvert County blacks felt for their children's education and their history. Describing an end-of-the-year-program in her school, Martha Hoy, of Brooklyn, New York, wrote:

The rear and sides of the building were festooned with Cedar. The windows decked with Holly, and between each window hung paintings of "Grant Building his Log House," "Colored Volunteers," "Battle of 54th Mass. Regt." and the "African Prince." In the center of the house hung a large "Union Flag" with a portrait of our "Martyred President" hung on it. The word PROGRESS was formed and covered with Cedar on the wall above the Flag. On each side were the words PERSEVERE AND ADVANCE.

A stage was erected for the occasion and the number of pupils present was 75. Our exercises commenced with prayer by the Pastor, then followed Chants, Addresses, Recitations, Dialogues, Spelling and Definitions by 1st Class &c. We had 59 selections and the performances continued two and one half hours. The children did remarkably well.²³

Not all southern Maryland communities were so fortunate to have a school, a teacher, and a room full of students. For several years after Maryland's abolition of slavery in 1864, white farmers had resorted to forced "apprenticeships" of black children. Local sheriffs obtained court orders that designated African American children under the age of eighteen as wards of the state on the grounds that their parents could not support them and then bound the children to white landowners as

so-called apprentices. Where he found poorly attended Freedmen's Bureau schools or lack of community interest in schools, Butler also learned that county officials had taken away many of the children.

Bureau agents in Maryland allocated much of their time trying to free black children whom county officials had, in effect, re-enslaved. One historian estimates that between 1864 and 1868, Maryland courts consigned 3,000 to 4,000 young African Americans (other estimates range as high as 10,000) to work against their will and without pay in the tobacco fields and the houses of whites. Butler often investigated the grievances of parents whose children local officials had bound out as apprentices. He acknowledged that "these cases are many" and that his inquiries had "enraged" whites." He sent all his information to Vanderlip, a lawyer in New York before the Civil War, who prepared cases for presentation in Judge Bond's court. In October 1867, Supreme Court Chief Justice Salmon P. Chase, in his capacity as a circuit court judge, ruled that the Maryland apprenticeships violated the Civil Rights Act of 1866. Over the course of the following year, Vanderlip, Butler, and Judge Bond used that decision to end the illegal apprenticeships in southern Maryland.²⁴

By early spring 1868, Butler's many treks in the two counties, cajoling white landowners and rousing freedmen "to do their duty," resulted in the opening of seven schools in Calvert County and the construction of four schools in southern Anne Arundel County. Kimball reconsidered his earlier opinion of John Butler. "We cannot afford to keep you all the time in Calvert County," he wrote to Butler in March 1868. Kimball ordered the agent to work in three additional southern Maryland counties, Prince George's, Charles, and St. Mary's, urging him to "write me often and tell me where to write you." Kimball's appreciation for Butler's work increased when he toured Calvert County in October. He reported that his meeting with the freedpeople "was one of the most interesting and satisfactory of the season." Though he did not mention Butler's name, he concluded, "Calvert County has made rapid progress in the work of education during the year."²⁵

In these additional counties, Butler found that some African Americans had already commenced building schools or had requested assistance. Permanent agents, dismissed in 1867 when Congress forced the Freedmen's Bureau to focus its efforts on education, had begun the work. In Nottingham, Prince George's County, for instance, he discovered that people had built a building, but the bureau had not yet sent flooring and windows. In Horse Heads, also in Prince George's County, "the people have many difficulties," Butler reported. They did not own a team of horses to haul building materials that the bureau sent, or 175 bushels of corn that a white man would charge for hauling. Butler described two schools in Leonardtown, St. Mary's County, as "flourishing" but a third one as "not very well attended." The old people, he said, "were not willing to take hold," but Butler held a meeting that "seemed to cheer the mind of the people." In Charles County, he visited three communities where no schools existed. Encouraging the people to build schools, he reported one

positive response, "Send them the lumber and they will put up the building without delay." The agent predicted that one hundred children would attend. In Newport, Charles County, Butler learned that a boat from Baltimore had delivered lumber for a school to a wharf fifteen miles south of the town, but again the people had no horses for hauling. Elsewhere in Charles County, Butler reported one school in "flourishing condition," another "progressing," and that he was trying to purchase land for a third, advising the bureau to approve a school in the village of Benedict—where none existed within ten miles.²⁶

In June 1868, Kimball sent Butler to central Maryland for the first time. "I shall want you to come right away up to Montgomery County where we want to build five or six houses." Butler visited six villages, where he discovered that some communities already planned or had begun constructing buildings. In every village, he chronicled an enthusiastic response to the Freedmen's Bureau offer of lumber for school construction. In Rockville, he reported that the people were "anxious to begin work, but the farmers were too busy now to hold meetings." In Damascus, he helped the community raise \$85 for school furnishings. In Poolesville, the people contributed \$32 towards the cost of land for a school. "They will get the deed this week," he promised. In Rockville, he talked to "a colored lady who owns eight acres who will donate one half acre for a school." Traveling farther north Butler passed through Frederick County where he spoke to a "large meeting" in the town of Frederick. The people there responded enthusiastically and appointed a committee to buy a lot. Then he held a meeting at New Market, also in Frederick County. A witness to that gathering wrote to bureau headquarters, "I especially commend the speech of Mr. Butler, a colored man." By late August, however, Butler complained to Kimball that in all of the towns where people had raised money to build a school that summer, they still waited for the bureau to ship the lumber.²⁷

In the fall, Kimball sent Butler on a mission to help school societies that had organized on the lower Eastern Shore, a remote corner of Maryland where the Freedmen's Bureau had never sent permanent agents. In October 1868, Butler crossed the Chesapeake Bay from Calvert County and journeyed through four counties to the Atlantic coast. He learned that some African American communities had already built schools but faced problems they could not solve without bureau assistance. Butler asked Kimball to request that the Baltimore Association send a teacher to Deal Island, Somerset County, where the community had built a school but had no teacher. At St. Peter's Church, Somerset County, Butler discovered that African Americans had constructed a school but had failed to secure "a proper deed." A new landowner wanted them off the land and they needed money to move the building. The people at Snow Hill in Worcester County had also built a school, but their white teacher was afraid to leave his hotel to travel to the school each day. Butler held a meeting and raised \$42.00 to pay the teacher's room and board with an African American family near the school. In Berlin, Worcester County, he learned that the

community had employed a teacher but had no property for a school building. Butler acknowledged that "land would be hard to obtain" from whites in that area. Despite Butler's visit, the bureau could extend only limited support on the Eastern Shore. But Butler had aroused interest in some villages that the bureau would be unable to satisfy. In at least one area his visit produced suspicion. A white letter writer the following month asked the bureau to confirm Butler's position. "The colored people fear Butler is an imposter," he reported.²⁸

By 1868 the pace and activity had taken its toll on his health. By mid-November, he lay sick in bed at his home in Baltimore. His doctor reported that Butler was "recovering slowly." But, knowing that the bureau would soon eliminate his position, in December 1868 and January 1869 he again visited all of his schools where he discovered that many communities still needed building materials and teachers. In Charles County he visited the new school in Benedict, where his nineteen-year-old son, John H. Butler Jr., had helped to construct the building and then served as teacher. Of the Benedict school, Butler, a proud agent and father, wrote to Kimball, "the people built one of the best school houses of the Western Shore."²⁹

By February 1869, the Freedmen's Bureau had dismissed most of its agents, a reflection of declining congressional funding and support for the bureau's activities. Butler returned to his home in Baltimore and wrote lengthy reports to Kimball on the status of all the schools on which he had worked. He then turned much of his attention to Republican Party activities. Arguments about the slow pace of Reconstruction in Maryland fueled party conflict. In May 1869, Butler emerged as the compromise candidate to lead the Baltimore city and state African American Republican conventions. Butler also found a Baltimore school crisis waiting for him. Though the city had taken over privately operated black schools in 1867, six years before the state assumed responsibility in the counties, the city school board fired all black teachers and hired whites in their place for the segregated African American schools. Butler spoke at a mass protest meeting in February 1869:

The colored people did not desire to have black teachers for their schools because they were black, nor white teachers because they were white, but they desired a chance to bring out the intellect of the race. It mattered little . . . whether the teacher of his children was black as a boot polished with blacking, or as white as snow; but when one of his race showed capacity, he desired to see him have a fair chance with the white man.³⁰

By the end of the decade, many African Americans realized that deepening racial barriers in politics and education would hinder the quest for equality, perhaps for many years. Butler went so far as to caution that the Fifteenth Amendment, giving black men the right to vote, would not bring instant change. But he and others did believe that in the economic sphere, blacks might exert great pressure. In December,

Butler joined twenty-one other men and women representing Maryland at the first Colored National Labor Convention meeting in Washington, D.C. Denied membership in the National Labor Union, formed in 1866, 214 black delegates wrote a constitution, created a national organization for a loose confederation of unions, and named Butler one of the five members of the executive committee. The convention, the first attempt to organize black unions nationally, included three other African Americans who had served as Freedmen's Bureau agents.³¹

Most importantly for Butler, by 1869 he wanted to resume his crusade to build schools in the rural counties. He applied for a Freedmen's Bureau position as assistant superintendent of education for Maryland. Kimball wrote, "I would gladly appoint you, but am not able to do so now." In July, Butler wrote back to ask if his son could have the position that had been promised to him, probably referring to a job in the bureau headquarters in Washington. He added that his son "desires to commence his studies in the university," perhaps a reference to Washington's newly established Howard University, named in honor of General O. O. Howard, commissioner of the Freedmen's Bureau. Knowing that northern aid societies, the Baltimore Association and the Freedmen's Bureau had curtailed their funding for African American schools, the senior Butler feared that many of the schools freedpeople had paid for and constructed might not have teachers in the fall. In July 1869 he advised Kimball that he would soon "go out into the country to hold meetings with my people" and admitted in an interview with the *Baltimore American* that he paid for that trip and others out of his own pocket. With northerners losing interest and contributing much less money for teachers, Butler could only offer more inspiring speeches to the freedpeople—who could contribute little more than they already had, and could not begin to pay for teachers' salaries.³²

In the fall, John Kimball resigned and Major William Vanderlip replaced him as superintendent of education for a combined district embracing the former Maryland-Delaware and District of Columbia jurisdictions. Within days of his appointment in December 1869, Vanderlip hired John Butler as the bureau's superintendent of education for Maryland. The *Baltimore American* praised the appointment, saying Butler "is an intelligent and earnest instructor" among the freedpeople, and at the same time, he worked "to overcome the prejudices of habit and education that have existed against them in the slave-holding counties." In rehiring Butler, Vanderlip acknowledged the power of Butler's personal example, his ability to inspire and offer practical advice, and his success in building community support for schools among members of the African American communities. For his part, the new superintendent valued his partnership with Vanderlip, who he knew worked tirelessly for equality despite his crippling wartime injuries.³³

When he assumed his new position at the end of 1869, Vanderlip discovered that many northern aid societies had not sent teachers to their schools. They "had allowed the work to flag," he reported. If the aid societies did not at least send teach-

ers, Vanderlip feared, “great demoralization will ensue.” He opened most of the schools again by paying teachers “with aid furnished by the Bureau,” money that he knew Congress would not provide much longer. Vanderlip hoped that Butler could somehow stem the closing of Maryland’s African American schools by convincing the freedpeople to contribute more money to replace the declining donations from freedmen’s aid societies. In the spring of 1870, however, Butler reported that only three schools out of the eight in Calvert County that he had organized and nurtured in the previous two years were open. In May the number rose to six, but fell to three in June. Vanderlip feared that the failure of the federal government to financially support the schools would be “a blow which will be almost irreparable.” Regardless of the dismal prospects, he ordered Butler to contact more communities in order to buy land and build schools, for which he still had funds to disburse. “I will send them \$250 if the building is put up now,” he wrote to Butler in May 1870 regarding a new Calvert County school. Although both men recognized that there was no money for a teacher, they hoped that the state would soon take over funding for the African American schools.³⁴

Throughout the rest of the South in the summer of 1870, the Freedmen’s Bureau transferred the schools that it had sponsored to the emerging state-supported school systems established during Reconstruction, Republican-led legislatures. But border states such as Maryland (and Delaware and Kentucky as well) had no Reconstruction governments imposed on them, and had no Republican-led legislatures or public systems for African American education. Both Butler and Vanderlip placed their hopes on the Fifteenth Amendment to the United States Constitution approved in March 1870, giving African American men the right to vote.

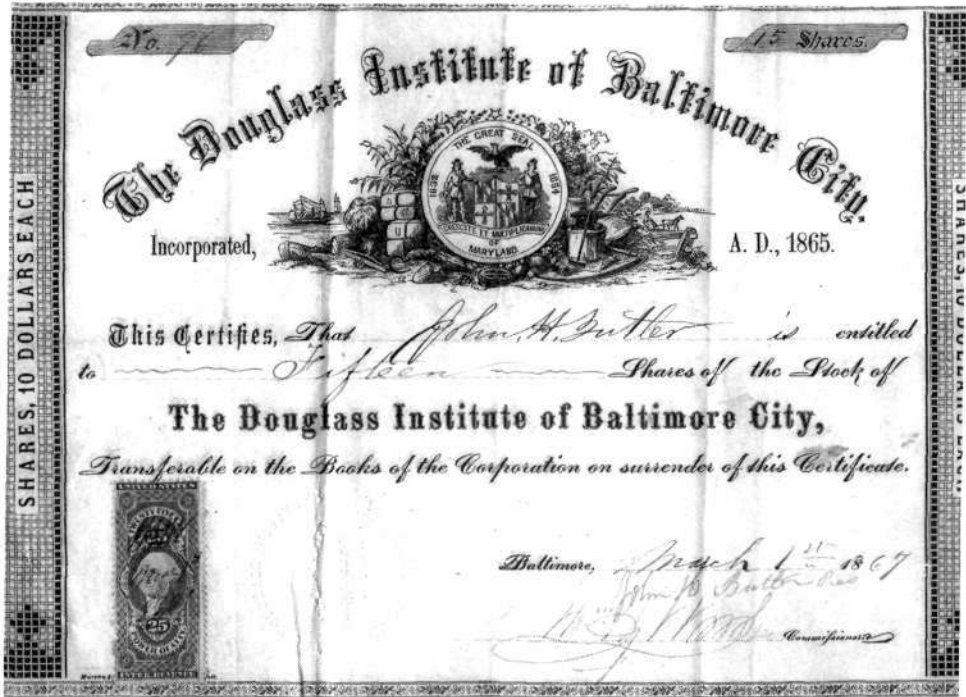
They hoped that a large turnout of Maryland’s black voters would influence the legislature and county boards of school trustees. In the 1870 congressional elections, Maryland’s African Americans registered and voted in large numbers, giving the Republican Party majorities in four of the state’s counties—all southern Maryland counties where Butler had devoted most of his time promoting schools and raising expectations. In Calvert County, every eligible person registered and voted—a rare result for any democratic election. Butler’s influence as a leader in the state Republican Party had encouraged southern Maryland’s blacks to believe that their political activity could be effective. His intensive efforts to build community support and leadership for schools had also facilitated organized political activity. The threat of a reinvigorated Republican party supported by African American voters threatened the Democratic majority in the Maryland legislature. In 1873 the legislature passed a public school law that required the counties to establish African American schools in every election district and appropriated \$50,000 for salaries for the state’s teachers. The thirty-six schools in six Maryland counties that Butler had organized then joined the new public system of each county. Some counties, however, had few Freedmen’s Bureau or freedmen’s aid society schools. Dorchester County, for example, estab-

lished nineteen African American schools when the county took over, the minimum required, but not one was located in a building planned as a school. Butler's schools not only had the advantage of appropriate classroom design, but also existing furnishings, instructional materials, and experienced boards of trustees.³⁵

A school building and a system of public education for African Americans, though, was not enough. Without broad white support for equality in the length of the school year, school facilities, class sizes, textbooks, and teacher salaries and qualifications, African American public schools would remain unequal. Vanderlip predicted little help in 1870. "I know of no section of the state where there is a cordial cooperation on the part of the whites." As late as 1892, eleven of Maryland's twenty-three counties had not spent any county funds for African American schools, employing only the state appropriation that was limited to teacher salaries. For twenty years, Anne Arundel County trustees refused to build new schools for African Americans and therefore built up surpluses from state payments for black teacher salaries that they routinely diverted for paying white teachers. The counties that refused to spend local funds on buildings insured that existing schools would be overcrowded or too distant for many children to attend regularly. Though black school trustees and community leaders like those in Anne Arundel County would fight local battles with county schools boards for decades, only the 1954 United States Supreme Court's *Brown vs. Board of Education* decision finally forced Marylanders to address the demand for equal education that Butler had first advanced in rural counties of Maryland.³⁶

John Butler's contribution, however, must be judged in the context of the Freedmen's Bureau's objectives and leadership, which many historians have criticized. Richard Paul Fuke argued that the bureau's attitudes and policy in Maryland were "responsible for the creation of a new second-class citizenship for black people." Despite the good intentions of overworked bureau agents, they lacked "leverage to translate self-reliance and hard work into genuine economic freedom." Randall Miller agreed that the bureau's conflicting policies and its heavy demands on agents weakened the agency throughout the South. Miller acknowledged though, that the bureau's impact grew in many localities. "The commitment, courage, and ingenuity of individual bureau agents made the difference." Butler's story certainly reveals that bureau attitudes and policies undermined some of his best intentions. At the same time, his efforts and accomplishments suggest how much one independent, African American agent could accomplish regardless of the bureau's conflicting policies, inadequate resources, and lack of understanding of the freedpeople's circumstances.

Butler's personal example of business success, political leadership, and his strong sense of black identity also helped to shape the freedpeople's contributions to their schools and their political roles. He was most effective, however, when the bureau assigned him to one and a half counties, though covering that region on foot proved a daunting task. When his superiors added five more counties to his workload, along



Butler continued his work in the black community until his death in 1904, serving as president of the Douglass Institute, vice president of the Gregory Aged Women's Home, and board member of the Maryland Industrial and Agricultural Institute. (Maryland State Archives.)

with a trip to four counties on the Eastern Shore of Maryland, the bureau diminished his ability to organize communities and promote school construction through the kind of regular personal contact and example that had made his efforts so successful in Calvert and Anne Arundel counties. The Freedmen's Bureau further undermined his successes when the headquarters staff failed to keep up with the increased demand for building materials that Butler's new contacts and school plans required.³⁷

Some historians, among them Ronald E. Butchart, also believed that the bureau's official policy "became increasingly solicitous of conciliation and compromise with the southern white power structure," and that it "moved from a promise of independence and power to an offer of a schoolhouse." Richard Paul Fuke's history of Reconstruction in Maryland also supports that view. Yet Butler's endeavor to build strong community organization, advise African Americans about contracts and buying land, and attack the apprenticeship system as well as build schools suggests an ambitious agenda, probably more so than some bureau officials intended. Martha Hoy's report of an end-of-the year program illustrated the pride that African Americans often felt. They viewed their uphill efforts to build schools, hire and support African American teachers, and send their children to school as major steps towards equality.³⁸

Historians have also criticized the Freedmen's Bureau for passing on the costs of their schooling to the freedpeople, already mired in poverty and economic dependence that bordered on slavery. Butler's many letters illustrating the bureau's unreasonable demands indirectly posed the question of whether it made sense to push blacks to invest their limited resources in schools as opposed to investing in even small parcels of land. Butler believed that his own experience, fueled by his faith in education, had justified all of his sacrifices. He encouraged African Americans in the rural counties to make sacrifices too—to seek both education and land. But he also took every opportunity to inform bureau officials of the disadvantages that Maryland's rural African Americans faced and to seek concession for additional bureau payments. As with many African Americans of his generation, Butler never doubted his faith in education to advance the cause of equality either in his Freedmen's Bureau years or during the rest of his life.³

Butler returned to Baltimore in 1870, resuming his work as a porter, his commissary business, and his devotion to civic causes. He added to his real estate holdings and by 1904 owned nineteen brick houses, some of which he rented to relatives. He also continued to play an important role in Baltimore's African American community as a delegate to the National Civil Rights Convention of December 1873, as vice president of the board of trustees for the Gregory Aged Women's Home, as a member of Baltimore's first civil rights organization, the Brotherhood of Liberty, and as an organizer and as a board member of the Maryland Industrial and Agricultural Institute, organized in Laurel in 1900. He continued his long service as a board member of the Baltimore Normal School and as president of the board of directors of the Douglass Institute. When Butler died in 1904, the *Afro-American* noted his estate of \$15,000 but said nothing of his role in building schools. The editor remembered him as "well-known by almost every one throughout the city, having been interested in many things, which had for its object the uplift of the race." For some, the story of Butler's mission to establish schools in rural Maryland had slipped away by 1904. But his schools would survive well into the twentieth century, providing classrooms for three or more generations of children and serving as tangible symbols of one man's faith in the power of education and "the intellect of the race."⁴⁰

NOTES

1. Joseph Hall to Charles. H. Howard, December 7, 1867, Letters Received-Annapolis Volume 47, 1866–1868, Bureau of Refugees, Freedmen, and Abandoned Lands, Maryland-Delaware District (hereafter referred to as BRFAL-MD), RG 105 (all subsequent BRFAL citations are from RG 105), National Archives Building, Washington, DC (hereafter cited as NAB). Sources that have commented on Butler's role in larger contexts are Leroy Graham, *Baltimore: The Nineteenth Century Black Capital* (Washington D.C.: University Press of America, 1982); Richard Paul Fuke, *Imperfect Equality: African-Americans and the Confines of White Racial Attitudes in Post-Emancipation Maryland* (New York: Fordham University Press, 1999); and Joseph L. Browne, "'The Expenses are Borne by the Parents': Freedmen's Bureau Schools in Southern Maryland, 1865–70," *Maryland Historical Magazine*, 86 (1991): 407–22.
2. For other African Americans hired by the Freedmen's Bureau, see Breanne N. Cook, "Day, William Howard," Pennsylvania Center for the Book, http://pabook.libraries.psu.edu/palitmap/bios/Day__William_Howard.html; Lawrence O. Christensen, "Schools for Blacks: J. Milton Turner in Reconstruction Missouri," *Missouri Historical Review*, 76 (1982): 121–35; Bobby J. Donaldson, "Standing on a Volcano: The Leadership of William J. White," in *Paternalism in a Southern City: Race, Religion and Gender in Augusta, Georgia*, eds. Edward Cashin and Glenn T. Eskew (Athens, Ga.: University of Georgia Press, 2001), 135–76; and Russell Duncan, *Freedom's Shore: Tunis Campbell and the Georgia Freedmen* (Athens, Ga.: University of Georgia Press, 1994), 47. The number of Freedmen's Bureau agents was determined by John A. Carpenter, quoted in Paul A. Cimbala, *The Freedmen's Bureau: Reconstructing the American South After the Civil War* (Malabar, Fl.: Krieger Publishers, 2005), 22.
3. On the history of the Freedmen's Bureau, see Cimbala, *Freedmen's Bureau*; and Eric Foner, *Reconstruction: America's Unfinished Revolution* (New York: Harper and Row, 1988), and on the Freedmen's Bureau in Maryland, see Fuke, *Imperfect Equality*. The shifting mandates and objectives of the bureau are described in Randall M. Miller, "The Freedmen's Bureau and Reconstruction: An Overview," in *The Freedmen's Bureau and Reconstruction: Reconsiderations*, eds. Paul A. Cimbala and Randall M. Miller (New York: Fordham University Press, 1999), xvii–xxvi.
4. "Register of Appointments at Bureau Headquarters and in the States, 1866–72," No. 152, BRFAL-Headquarters (hereinafter BRFAL-HQ), NAB; Vanderlip to W. Rogers, July 11, 1866, Letters Received-Annapolis, Box 11, BRFAL-MD, NAB; and C.H. Howard, "Miscellaneous Reports and Lists, 1865–69," Microfilm 1055, roll 21, BRFAL-DC, NAB.
5. *The First Annual Report of the State Superintendent of Public Instruction* (Annapolis: Henry A. Lucas, 1866), 27, reported the number of children ages 5–20: 2,645 African Americans and 1,461 whites in Calvert County, and 4,902 African Americans and 4,496 whites in Anne Arundel County. *Baltimore American*, August 3, 1867; Richlyn F. Goddard, *Persistence, Perseverance and Progress: History of African-American Schools in Calvert County, Maryland, 1865–1965* (Baltimore: Maryland Humanities Council, 1995), 6; Joseph Hall to Vanderlip, September 4, 1866, Letters Received-Annapolis, Box 11, BRFAL-MD, NAB; and Richard Paul Fuke, "Land, Lumber, and Learning," in *Freedmen's Bureau*, eds. Cimbala and Miller, 304. On Butler's efforts to buy land, see Butler to Vanderlip, September 9, 1867, October 31, November 6 and 11, 1867; Letters Received-Annapolis, Volume 47, 1866–68, and Butler to Vanderlip, October 23, 1867, Vol. III, Register of Letters Received, BRFAL-MD, NAB. John Kimball to C. H. Howard, Report to Assist. Comm., September 1, 1867, M803, Roll 16, BRFAL-DC, NAB.
6. Kimball to Vanderlip, November 9, 1867, Letters Received-Annapolis, Vol. 47, BRFAL-

MD, NAB; and Butler to Kimball, Letters Received-DC Supt., January 21, 1868, M1056, Roll 5, BRFal-DC, NAB.

7. "John Henry Butler," *The Afro-American*, August 13, 1904, 4; and Paul Heinegg, *Free African-Americans of Maryland and Delaware From the Colonial Period to 1810* (Baltimore: Clearfield, 2000), 7, 53, 62. Henry Butler can be traced in the 1830s and 1840s in R.J. Matchett's *Baltimore Directory* and for the 1850s-1880s, in *Wood's Baltimore Directory; Census of 1860*, 16th Ward, 9; and *Census of 1870*, 16th Ward, 383. From the 1860s until his death, in about 1882, Henry Butler, born in about 1800, lived in the household or at an address owned by John H Butler. Christopher Phillips, *Freedom's Port: The African-American Community of Baltimore, 1790-1860* (Urbana: University of Illinois Press, 1997) details Baltimore's "ambivalence about racial boundaries," 32-33, economic opportunities available to African Americans, 73-81, and social progress, 239; Ethan Allen Andrews, *Slavery and the Domestic Slave-Trade in the United States*, Reprint, (Freeport, NY: Books for Libraries, 1971), 51; Barbara Jeanne Fields, *Slavery and Freedom on the Middle Ground; Maryland During the Nineteenth Century* (New Haven: Yale University Press, 1985), 37, 62; and Joseph Garonzik, "Racial and Ethnic Make-up of Baltimore Neighborhoods," *Maryland Historical Magazine*, 71 (Fall 1976): 396-97.

8. Phillips, *Freedom's Port*, 167-68; Bettye J. Gardner, "Antebellum Black Education in Baltimore," *Maryland Historical Magazine*, 71 (Fall 1976): 360-63, 365-66; W. Ashbie Hawkins, "Teachers of Their Race," *Baltimore American*, September 16, 1894, 20; and Phillips, *Freedom's Port*, 161, 169. According to Hawkins, Watkins's students included the Reverend James H. Johnson, William E. Matthews, Adele Jackson, Francis E. W. Harper, and George W. Lester. His students remembered Watkins for his opposition to the African colonization movement that attracted many white supporters and some black volunteers in Maryland, his promotion of the anti-slavery movement, his support of the Underground Railroad, and his demands that city officials establish public schools for black children. Watkins's civic, racial, and educational values inspired his students, many of whom, like Butler, later became Baltimore's civil rights and Republican Party leaders.

9. "John Henry Butler," *The Afro-American*, August 6, 1904, 4; Nina Honmond Clarke, *History of the Nineteenth Century Churches in Maryland and Washington, D.C.* (New York: Vantage Press, 1983), 34-35; "Sharp Street Sunday School: A Glance Back," *The Appeal* (June 1898), 113; William Jacob Walls, *The African Methodist Episcopal Zion Church: Reality of the Black Experience* (Charlotte, NC, 1974), 130; and "Howard Street, (801-805 South)," Baltimore Church Card File, Maryland Historical Society, Baltimore (hereafter cited as MdHS). Both the church and Butler's properties appear on a plat, dated January 1849, Baltimore City Archives (hereafter cited as BCA), RG3, SI #243; William H. Day to Captain E. C. Knower, June 6, 1868, Report to Assist. Comm-Md, M803, Roll 18, BRFal-Md., NAB. See Phillips, *Freedom's Port*, 144 for an assessment of the role of independent back churches.

10. For Butler's occupation and properties in the 1850s and 1860s see *Wood's Directory and Assessor Tax Records*, Vol. 368, 144 and 214; and plats, RG 3, SI 243 and R63, SI, 220, BCA. *Census of 1850*, 17th Ward, 191, shows Butler's eleven month-old son living in the household of Butler's friend and neighbor, Benjamin Smith; *Census of 1880*, 16th Ward, 481, records Butler's marriage to Martha Derry sometime between 1868 and 1880. Inventory, John Henry Butler, Baltimore City Administrations, 1903-05, Book 35, 22, reveals that Butler's estate in 1904 was valued at nearly \$15,000 "History of Galbreath Lyceum," *The Lyceum Observer*, June 9, 1862, and E. Saschse & Co.'s *Bird's Eye View of Baltimore* (Baltimore, 1869), provide a descriptive and visual image respectively of Butler's row house and the A.M.E. Zion Church. The Maryland Historical Society holds a microfilm copy of the June 9, 1862 issue of *The Lyceum Observer*; the American Antiquarian Society owns the original. Joseph Garonzik, "Urbanization and

the Black Population of Baltimore, 1850–1870” (Ph.D. Diss.: State University of New York at Stony Brook, 1974) 247.

11. “John Henry Butler,” *The Afro-American*, August 13, 1904, 5; “The Evolution of Prince Hall Masonry in Maryland,” <http://www.mwphgmd.org/mdmasonry.htm>; William H. Grimshaw, *Official History of Freemasonry Among the Colored People in North America* (New York: Broadway Publishing Co., 1903), 165; “The History of the Galbreth Lyceum,” 1, 3; Hawkins, “Teachers of their Race,” 20; and Graham, *Baltimore*, 133–34, 256. The Lyceum’s members included Reverend Hiram R. Revels, the first African American that served in the United States Senate, elected by Mississippi in 1870. Other long-time members included William E. Matthews, a lawyer, and later investment banker and federal official; H. A. Johnson, newspaper editor; and the Reverend Harrison H. Webb, Episcopal priest and later cashier of the Baltimore branch of the Freedmen’s Bank.

12. Graham, *Baltimore*, 136–8, 167–8; “210 East Lexington: The Douglass Institute,” *Black Baltimore, 1870–1920*; Maryland State Archives (MSA), <http://mdsa.net/msa/stagser/s1259/121/6050/html/douginst2.html>; *Wales et al v. Douglass Institute of Baltimore City and John H. Butler*, AR46, 285 and Equity Papers A, Misc., No 277, Transfer Series 53, (Bal. Cir. Ct. 1887), MSA, Annapolis; and “Lecture on the Inauguration of the Douglass Institute” *The Liberator*, October 13, 1865.

13. Foner, *Reconstruction*, 422; Fuke, *Imperfect Equality*, and 218–9; *Laws of Maryland*, 1865, Chapter 160, 296–7; and State Board of Education, *Annual Report* (Annapolis, 1870), 17.

14. Vernon S. Vavrina, “The History of Public Education in the City of Baltimore, 1829–1956” (Ph.D. Diss., Catholic University of America, 1958), 227; Fuke, “Land, Lumber, and Learning,” 291; *First Annual Report of the Baltimore Association for the Moral and Educational Improvement of the Colored People* (Baltimore: J.B. Rose & Co. 1865), 9; and State Board of Education, *Annual Report* (Annapolis: Advertiser Press, 1867), 26; Clarence K. Gregory, “The Education of Blacks in Maryland: An Historical Survey” (Ed.D. Diss., Columbia University Teachers College, 1976), 181, 184–5. Maryland established Morgan State Normal School in 1896 and Coppin State and Normal School in 1900. The City of Baltimore also established Frederick Douglass High School in 1883.

15. Graham, *Baltimore*, 166, 207; for an alternative view of Bond’s radicalism, see Richard Paul Fuke, “Hugh Lennox Bond and Radical Republican Ideology,” *The Journal of Southern History*, 45 (November, 1979): 569–86. Graham, *Baltimore*, 166, 207; “Judge Hugh L. Bond,” *New York Times*, October 25, 1893, 3; *Baltimore Sun*, September 22, 1867, 4; and “Maryland,” *New York Independent*, quoted in the *Baltimore American*, October 17, 1867, 1. “Civilian Employees, Maryland-Delaware District,” M906, Roll 6; and Day to Colonel William H. Wiegel, Report to Assist. Comm., October 8, 1867, M803, Roll 18, BRFAL-MD, NAB.

16. John Kimball, Annual Report-DC Supt., July 1, 1869, M803, Roll 18, BRFAL-DC, NAB; Baltimore Association for the Moral and Educational Improvement of the Colored People, *Third Annual Report* (Baltimore: John W. Woods, 1868), 5–7; Register of Appointments,” No. 152, BRFAL-HQ, NAB; William H. Rogers to William L. Vanderlip, September 12, 1867, Letters Received-Annapolis, Box 11, BRFAL-MD, NAB; William S. McFeeley, *Yankee Stepfather: General Oliver O. Howard and the Freedmen* (New Haven: Yale University Press, 1968), 206; and C. H. Howard to Vanderlip, August 11, 1867, Letters Received-Annapolis, Box 11, 1866–68, BRFAL-MD, NAB.

17. Butler to Vanderlip, August 22, 1867, Register of Letters Received-Annapolis, BRFAL-MD, NAB; on white resistance to public schools for blacks, see Foner, *Reconstruction*, 40–41

18. For Butler’s travels, activities, and reports, see Butler to Kimball, September 3, 23; October 29, 1867; December 2, 1867, Register of Letters Received-Annapolis, Vol. III; and October 23,

November 23, December 12, 1867, Letters Received-Annapolis, Box 11, BRFAL-MD, NAB. On Davidson, see Butler to Vanderlip, December 12, 1867, Register of Letters Received-Annapolis, Vol. 47, BRFAL-MD, and May 18, 1868, Box 11, Letters Received-Annapolis, 1866-68, BRFAL-MD, NAB.

19. Butler to Vanderlip, October 31, November 6, 1867, Letters Received-Annapolis, Vol. 47; Vanderlip to Headquarters, November 6, 1867, Register of Letters Received-Annapolis, Vol. III; Vanderlip to Major S. A. Clark, November 12, 1867, Letters Received-Annapolis, Vol. 47, and Vanderlip to Kimball, November 25, 1867, Letter's Received-Annapolis, Vol. 48, BRFAL-MD, NAB. On Butler's independence, see Butler to Vanderlip, October 26, November 6 and 9, 1867, Letters-Received-Annapolis, Box 11, BRFAL-MD, NAB.

20. Vanderlip to Butler, December 4, 1867, Letters Sent-Annapolis, Vol. 48, BRFAL-MD, NAB; Kimball to Butler, December 30, 1867, Letters Sent-DC Supt., M1056, Roll 2; and Kimball to Butler, January 13, 1868, Letters Sent-DC Supt., Vol. 41-42, BRFAL-DC, NAB.

21. Vanderlip to Kimball, November 25, 1867, Letters Sent-Annapolis, Vol. 48, BRFAL-MD, NAB; Butler to Vanderlip, November 18, 29, and December 2, 1867, Box 11, 1866-68, Letters Received-Annapolis; Butler to Vanderlip, June 22, 1867, Register of Letters Received-Annapolis, Vol. 47, BRFAL-MD, NAB; and Butler to Kimball, February 13, 1869, Letters Received-DC, M1056, Roll 4, BRFAL-DC, NAB.

22. Vanderlip to Butler, December 4, 1867, Vol. 48, 1866-68, Letters Sent-Annapolis, BRFAL-MD, NAB; Kimball to R.R. Carson, January 13, 1868, Letters Received-DC, Vols. 41 and 42, BRFAL-DC, NAB; and John Kimball, "Annual Report," in John W. Alvord, *Sixth Semi-Annual Report on Schools for Bureau of Refugees, Freedmen, and Abandoned Lands* (Washington, D.C.: Government Printing Office, July 1868), 11. For sources and amounts of contributions to the Baltimore Association, see *Baltimore Normal School Catalog, 1904*, and Ronald E. Butchart, *Northern Schools, Southern Blacks and Reconstruction: Freedmen's Education, 1862-1875* (Westport, Ct.: Greenwood Press, 1980), 171.

23. Hoy to the American Missionary Association, Papers of the American Missionary Association, Amistad Research Center, Tulane University, New Orleans, quoted in Goddard, *Persistence*, 9. Hoy taught in Calvert County between 1868 and 1870. For teachers' experiences in Freedmen's Bureau schools, see Heather Andrea Wilson, *African-American Education in Slavery and Freedom*, (Chapel Hill: University of North Carolina Press, 2005).

24. The apprentice system had a long history in Europe and America, but the post-war practice in Maryland bore little resemblance to the idea of offering children the opportunity to learn a skilled trade. Maryland courts refused to consider evidence from parents, offered no guarantee of education, and often apprenticed blacks over the age of sixteen. Fuke, *Imperfect Equality*, 69, 80-3; Foner, *Reconstruction*, 201; W. A. Low, "The Freedmen's Bureau and Education in Maryland," *Maryland Historical Magazine*, 47 (1952): 30-31; and Butler to Kimball, January 21 and July 28, 1868, Letters Received-DC Supt., M1056, Roll 5, BRFAL-MD, NAB.

25. Vanderlip to S. W. Clark, June 7, 1868, Letters Sent-Annapolis, Vol 47, BRFAL-MD, NAB; Kimball to Butler, March 13, 1868, Letters Sent-DC, Vol. 41 and 42, BRFAL-DC, NAB; and Kimball to D. G. Swain, Report to Assist. Comm. October 1868, M803, Roll 17, BRFAL-DC, NAB.

26. Butler to Kimball, March 30, April 1, 6, 15, 1868, Letters Received-DC Supt., M1056, Roll 4, BRFAL-DC, NAB.

27. Kimball to Butler, June 12, 1868, Letters Sent-DC Supt., vols. 41-42; Butler to Kimball, June 11, July 9, 11, 13, 21, August 26, September 6, 27, 1868, and Unidentified to Kimball, November 1, 1868, Letters Received-DC Supt., M1056, Roll 4, BRFAL-DC, NAB.

28. Fuke, *Imperfect Equality*, 30; Butler to Kimball, October 5, 7, 9, 10, 14, 15, 17, 23, 26, 28,

- 31, 1868; and Unidentified to Kimball, November, 2 1868, Letters Received-DC Supt., M1056, Roll 4, BRFAL-DC, NAB.
29. Dr. A. W. Dodge to Kimball, November 16, 1868; Butler to Kimball, December 27, 1868, January 2, 4, 5, 6, 9, 14, 19, 22, 24, 25, 26, 28, February 6, 27, 1869, and Letters Received-DC Supt., M1056, Roll 4, BRFAL-DC, NAB.
30. McFeeley, 302, 327-28; "Register of Appointments;" Butler to Kimball, February 13, March 1, 1869, Letters Received-DC Supt., M1056, Roll 4, BRFAL-DC, NAB; Graham, *Baltimore*, 181-3; and *Proceedings of the Colored National Labor Convention at Washington, D.C., December 6th, 7th, 8th, 9th, and 10th, 1869* (Washington, D.C., The New Era, 1870), 38-39, 46. Butler continued fighting for the rights of African American teachers in Baltimore for the next twenty years. In 1889 the City Council relented. They authorized hiring black teachers for black schools as vacancies occurred, a delayed and ironic victory. Nearly twenty years passed before black teachers filled all the positions in black schools, a result that also helped to solidify the segregation of Baltimore public schools.
31. Bettye C. Thomas, "Public Education and Black Protest in Baltimore," *Maryland Historical Magazine*, 71 (1976), 385, 389; Azzie Kroger, *Dr. Harvey Johnson* (Baltimore: The Author, 1957), 12-14; Graham, *Baltimore*, 218-20; and "Mass Meeting of Colored Persons," *Baltimore Sun*, February 16, 1869, 1.
32. Butler to Kimball, May 20, July 17, 1869, Letters Received-DC Supt., M1056, Roll 4, BRFAL-DC, NAB; Kimball to Butler, May 21, 1869, Letters Sent-DC Supt., vols. 41 and 42, BRFAL-DC, NAB; Graham, *Baltimore*, 207; Richard B. Drake, "Freedmen's Aid Societies and Sectional Compromise," *The Journal of Southern History*, 24 (1963): 180; and Vanderlip, "Annual Report-DC Supt," in Alvord, *Tenth Semi-Annual Report*, 11-12.
33. Vanderlip, "Annual Report," 9; "Register of Appointments;" "Freedmen's Schools," *Baltimore American*, January 29, 1870, 4. On Vanderlip's war service, see Charles Edwin Booth, *The Vanderlip Family in America* (New York: L. Middleditch Co., 1914), 143. Wounded twice in 1862, Vanderlip "reached home badly crippled."
34. Vanderlip, "Annual Report," December 31, 1869, M803, BRFAL-DC and Butler, April 1870, State Supt. Reports, Box 6, BRFAL-MD; Vanderlip, Report, in Alvord, *Tenth Semi-Annual Report*, 12; and Vanderlip to Butler, May 21, July 2, 1870, M1056, Roll 3, Letters Sent-DC-Supt., BRFAL-DC, NAB.
35. Cimbala, *Freedmen's Bureau*, 90; and W. A. Low, "The Freedmen's Bureau in the Border States," in *Radicalism, Racism, and Party Realignment in the Border States during Reconstruction*, ed. Richard O. Curry (Baltimore: Johns Hopkins University Press, 1969), 245-63. Missouri was the only border state to enact a public school law soon after the Civil War that provided for African American schools. In Missouri, therefore, the Freedmen's Bureau had the easier task of assisting the state superintendent of schools, but despite their alliance, both the state superintendent and the Freedmen's Bureau feared building schools in pro-Confederate western Missouri. In Maryland and Delaware, however, the Freedmen's Bureau or private agencies built schools in every county. The Bureau had little impact in Kentucky where opposition to African American schools was so great that many African Americans moved from the state. The Bureau's efforts were mixed in West Virginia but influential in the District of Columbia, where it help to launch a separate system of black schools under a black superintendent. On the 1870 Congressional election in Maryland, see Vanderlip, "Annual Report-DC Supt., in Alvord, *Tenth Semi-Annual Report*, 12; and Margaret Callcott, *Negro in Maryland Politics, 1870-1912* (Baltimore: Johns Hopkins University Press, 1969), 29-31, explains that all eligible Calvert County whites also voted hoping to cancel the effect of the expected votes of all eligible blacks. On the 1873 state provision for African American schools see Callcott, 64.

and Gregory, "Education of Blacks," 259. The number of Butler schools is based on a listing in Kimball's annual report to Assistant Commissioner Whittlesey, July 1, 1869, M803, Roll 18, BRFal-DC, NAB. As many as ten other school may have owed their completion to some form of assistance from Butler.

36. Vanderlip, Report, Alvord, *Tenth Semi-Annual Report*, 12; Donald Marquand Dozer, *Portrait of a Free State: A History of Maryland* (Cambridge, Md.: Tidewater Publishers, 1976), 543-44; and Joseph L. Browne, "An Earnest Interest in the Schools': The Struggle for Educational Opportunity in Anne Arundel County, 1869-1870," *Anne Arundel County History Notes*, 15 (January 1994), 9-15, and (April 1994), 7, 18-19.

37. Foner, *Reconstruction*, 152-58, 169-70; and Cimbala, *Freedmen's Bureau*, 26-38; Fuke, *Imperfect Equality*, 232-33; and Miller, "Overview," eds. Cimbala and Miller, xxxi

38. Butchart, *Freedmen's Education*, 108-113; Fuke, *Imperfect Equality*, 39-40, 104-6; and Miller, "An Overview," eds. Cimbala and Miller, xxxi.

39. Butchart, *Freedmen's Education*, 111-12.

40. Butler's occupations are documented in city directories in the 1870s to 1904 and *Census of 1900*, 1st Ward, 158. On Butler's civic roles, see Graham, *Baltimore*, 133-34, 167, 225-26; "Colored Convention," *Baltimore Sun*, December 9, 1873, 1; "Civil Rights: The Colored Convention," *The Evening Star* (Washington), December 10, 1873, 4; Thomas, "Public Education and Black Protest," 344; "The Maryland Industrial and Agricultural Institute," *The Afro-American*, October 11, 1902, 8; and "John Henry Butler," *Afro-American*, August 13, 1904, 4.

The Depression in Maryland: The Failure of Voluntaryism

CHARLES M. KIMBERLY

On October 24, 1929, "Black Thursday," a record thirteen million shares were sold on the New York Stock Exchange and prices dropped further than ever before in the history of the exchange. The Great Crash had occurred, signaling the beginning of the Great Depression.¹ During the first few months following the stock market crash Maryland businessmen, like their counterparts elsewhere in the nation, repeatedly expressed their confidence that the fundamental structure of the economy remained sound and that the business slump would soon end. Private charity and balanced state budgets represented, they believed, the appropriate response to the problem. Within two years events would force business and government officials to accept federal aid, but at first they preferred to wait for a "natural" cure. In its monthly journal, *Baltimore*, the Baltimore Association of Commerce tried to maintain an attitude of cheerful optimism despite the continuing collapse of the economy. "Industry as a whole is in good shape," the association reported in its April 1930 summary of economic conditions in Maryland. "Good shape" in this case described a local economy in which production of machinery was running at 80 percent of the normal level, men's clothing at 70 percent, and petroleum products at 60 to 70 percent.² In September the association reported that conditions were "hopeful." But it went on to report that the wholesale market was spotty, that retail trade was generally down, and that many canneries had been forced to close because of the drought that had ruined farm crops that summer.³

In February of 1931 a special census taken by the Metropolitan Life Insurance Company set the unemployment rate in Baltimore at 19.2 percent.⁴ In April the Association of Commerce looked into the future to see what lay "around the corner." It saw a spurt in business lasting at least through the summer. Large government appropriations for construction work and passage of the bill giving bonuses to World War I veterans would provide the stimulus for the spurt. Prices had hit rock bottom, the association maintained, and retail sales were about to pick up because the buying public knew a bargain when it saw one.⁵ That month the index for employment in Maryland factories stood at 93.1. It had been at 129.3 five years earlier. In July it slid to 87.9, in December to 80.5. It continued to drop steadily until it reached 64.2 in March of 1933.⁶

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Maryland's governor during those difficult years was Albert C. Ritchie. By 1930, when he won election to his fourth consecutive term as governor, Ritchie had become something of a political fixture in the state. His political career had begun during the Progressive Era. In 1912 he gained wide public renown as assistant general counsel for the Public Service Commission of Maryland when he successfully prosecuted a case against the Gas and Electric Company of Baltimore. The case resulted in a savings of \$500,000 to the city's consumers and gave Ritchie a reputation as the champion of the "little man," despite his aristocratic family background and manner. Ritchie was first elected governor in 1919, winning the election by only 165 votes. Once in office, however, he gained control of the state Democratic organization and became very popular with the voters of Baltimore City, partly because of his strong stand against Prohibition. He was re-elected in 1923, 1926, and 1930 by sizeable majorities.⁷

Ritchie was a stalwart opponent of federal intervention in local affairs. In his political speeches he lashed out at federal programs that offered funds to the states but attached conditions that gave the federal government control over the way in which the funds were spent. That practice, he asserted, was an insidious device for encroaching upon the constitutional rights of the states.⁸ Ritchie's stand against Prohibition was couched in terms of opposing the spread of governmental power. He objected to a government that tried to regulate the life of its citizens. He claimed that the twentieth-century American was a victim of governmental dictatorship wherever he looked. "Here he is told what he may eat, there what he may smoke, and everywhere what he may drink," Ritchie complained.⁹

The increasingly serious unemployment following the 1929 crash posed a difficult philosophical problem for Ritchie. He abhorred the thought of governmental intervention in the realm of social welfare or in the economy. Yet he recognized the ultimate responsibility of the government for the well-being of its citizens. The unemployment crisis had to be ended—preferably, he thought, by programs originating from the business community itself. Ritchie was attracted to company-sponsored unemployment insurance plans. He tried to impress upon businessmen the urgency of accepting those plans as an alternative to governmental action. Ritchie warned businessmen that the nation was at a crossroads. Along one road lay "the opportunity for initiative and constructive effort on the part of American business to discharge its responsibilities to the labor whose toil and sweat in the shops is as essential as the brains and directing hand at the desk." Along the other road lay "the ultimate certainty of legislation which may prove hurtful to business itself and to the community, a drain on the public treasury, and a departure from American institutions."¹⁰

Ritchie did not envision an active role for the state government in dealing with the problems caused by widespread unemployment. Had he wanted the state to play such a role it would have been necessary for him to create an organization to handle such matters. The Maryland state government in 1930 had no office or department

prepared to deal with unemployment and relief problems. The Board of State Aid and Charities was responsible for matters that would today come under the heading of social welfare. Its duties, however, were largely advisory and inspectional. State assistance to the poor and aged came through legislative appropriations to private charitable organizations. The board's principal function was to receive applications for state assistance from private institutions and recommend to the legislature how much assistance each institution should receive.¹¹

With the onset of the Depression the social welfare organizations receiving state support expanded their services as much as they could. The Veterans' Relief Commission spent its entire annual allotment of \$50,000 for the first time in 1930 and in addition used up part of its unexpended funds from the preceding two years.¹² Its annual allotment was raised to \$60,000 by the 1931 state legislature, which also gave the commission emergency funds of \$15,000 for 1932 and \$10,000 for 1933.¹³ The Maryland Children's Aid Society provided emergency relief in several counties after 1930, in addition to carrying out its regular child-care program.¹⁴ To create more state jobs for construction workers, Governor Ritchie in 1930 directed state officials to begin all planned construction and maintenance projects as soon as possible. By November of 1930 there were 1,750 more men working on state highway and public works projects than in the preceding year.¹⁵

Beyond these limited efforts, the state government did little to deal with the unemployment and relief problems. When the state legislature met in January 1931 for its biennial session, Ritchie presented a program that stressed the need for stringent economy in government. In preparing the budget it was necessary, he told the legislators, to plan upon leaving a larger balance in the state treasury than had been the practice in the past because of the possibility that actual revenues might fall short of the estimated revenues. About all that the state could do to combat the unemployment problem, Ritchie asserted, was to undertake all feasible public works projects. That had been state policy for some time, he said, and all authorized state construction work was either finished or under way.¹⁶ Most of the state legislators shared Ritchie's view that the responsibility for providing relief for the unemployed rested with local charitable organizations—that was still common wisdom in most of the nation in 1931¹⁷—and the legislature did not spend much time considering any program to care for the unemployed.

The state government's limited efforts at dealing with the problems caused by increasing unemployment were matched by similarly limited efforts by local governments. The city of Baltimore, whose 800,000 citizens made up half of Maryland's population in 1930, was more seriously affected by the crisis than most other areas in the state. The city administration's only solution to the problem was to set up an agency to help people look for jobs. In May of 1930 Mayor William F. Broening announced the establishment of the Commission on Employment Stabilization. One of the commission's first actions was to distribute an "emergency code of employ-

ment practice” to local businesses and industries. The code suggested methods by which the companies could help alleviate unemployment. These included giving preference to family heads in hiring, reducing the number of working hours per employee rather than laying off some of them, and creating jobs by doing painting, repair, and renovation work that might ordinarily be postponed. In December of 1930 the commission established the Municipal Free Employment Service. In its first eight months of operation the employment service registered 7,713 job seekers. It managed to find work for about one-fifth of them.¹⁸

These efforts proved to be ineffective in stemming the spread of unemployment. Many of the unemployed soon used up their meager resources and were forced to go to charitable organizations for help. Baltimore’s relief problems had traditionally been handled by four agencies—the Family Welfare Association, the Bureau of Catholic Charities, the Jewish Social Service Bureau, and the Salvation Army. Of these agencies the Family Welfare Association handled about 80 percent of the city’s relief cases.¹⁹ The Family Welfare Association was not prepared for the large influx of relief applications that came during the winter of 1930–1931. That winter the association was asked to aid five times as many families each month as it had helped in an entire year in normal times. For ten days in October it was forced to turn away all new applicants because it did not have enough money to give them assistance. The increasing demand for relief forced the relief agencies to appeal to the municipal government for financial aid. The municipal government allocated \$8,900 to the Family Welfare Association and \$3,900 to the Jewish Social Service Bureau, thus enabling those agencies to meet their expenses, but it did so only after a long delay that expressed the city officials’ reluctance to take such a step.²⁰ To relieve the strain on the welfare agencies the police department unofficially assumed the burden of providing relief to the needy. In December Police Commissioner Charles Gaither announced that the department would accept monetary donations and gifts in kind to help the needy. By mid-February the police had given food and fuel to 7,500 families and had fed 6,600 persons at the station houses.²¹

By January of 1931, 42,000 of the city’s workers—one out of eight—were unemployed. Nineteen bread lines were in operation. There were 2,750 families receiving aid from the relief agencies. Within two months a thousand more families were added to the relief rolls.²² The relief agencies again used up all available funds. In February the Baltimore Association of Commerce organized a Citizens’ Emergency Relief Committee to operate a drive in hopes of collecting enough money to enable the agencies to meet relief demands. Mayor Broening started off the drive by contributing \$50,000 from the city’s contingency fund. He also agreed to supply trucks and warehouses to assist the agencies in handling contributions of food and clothing. The drive culminated with “Self-Denial Day” on Good Friday, March 27. In keeping with the Lenten season citizens were asked to deny themselves a desired item and use the money instead as a contribution to the needy. Ballot boxes were set

out in stores, movies, library branches, and on street corners. At noon church bells rang and firehouse whistles sounded as a signal for people to drop their contributions into the ballot boxes. The ballot boxes yielded \$90,000 and the relief campaign brought in a total of \$669,000; enough, it was hoped, to carry the relief agencies through the year.²³

In May Baltimore's voters elected a new mayor, Howard W. Jackson, "a business-man's businessman." Like Ritchie, Jackson was an economy-minded man whose business-like qualities were those of the accountant rather than the entrepreneur. His main business was politics. He had worked his way up through the Baltimore Democratic Party's system of ward politics and had previously served a term as mayor from 1923 to 1927.²⁴ Jackson promised the citizens of Baltimore that the municipal government would do all it could to provide employment and relieve distress. When the existing agencies become overburdened, he said, the city must be ready to help. But he also informed the citizens that the times demanded that the city conserve its resources and make no expenditures unless absolutely necessary. "I shall advise all department heads that rigid economy must be practiced from today," he vowed, "and I shall insist that the policy be followed."²⁵ It was not long before Jackson's views on relief were seriously tested.

Unemployment continued to rise. In September Baltimore's unions reported that 31 percent of their members were completely unemployed and another 27 percent were able to find only part-time work. The building trades unions reported 62 percent totally unemployed.²⁶ The effects of the prolonged widespread unemployment were seen in the increasing numbers of unemployed workers who were forced to appeal to the city's charitable organizations for help. The Family Welfare Association released a statement on October 1 stating that the funds raised by the Citizens' Emergency Relief Committee would be exhausted by October 20. The statement concluded with a paragraph revealing a feeling of impotence in the face of the growing crisis: "Our own regular income for the year from the Community Fund and all other sources will not begin to carry the load until the end of the year. How the needs are to be met, we do not know. Never in the experience of the organization have we seen so much suffering and such dire conditions of want as exist now."²⁷

That month the municipal government loaned \$150,000 to the Citizens' Emergency Relief Committee with the understanding that the loan would be repaid by January 1 from funds received from the Community Fund's fall charity drive. But it soon became apparent that extraordinary measures would be required to cope with the relief situation. The number of people needing relief was increasing at an alarming rate—3,800 families in September; 5,100 in November; 7,800 in December; 11,100 in January; 14,100 in February.²⁸ The Family Welfare Association had to acquire office space in five additional buildings to handle the crowds that were thronging to it for aid. The association increased its staff from 61 to 152 persons, but still many social workers were responsible for the care of from two to three hundred families.²⁹

As each passing week brought ever-increasing numbers of unemployed persons to the relief agencies, the city's relief workers came to realize that the problem was of such magnitude that the customary method of relying upon private charity to care for the needy was simply inadequate. At the beginning of March, W. Frank Roberts, the Chairman of the Citizens' Emergency Relief Committee, informed Mayor Jackson that the relief agencies were using up funds at the rate of \$50,000 a week. At that rate existing funds would be exhausted by the end of the month, Roberts told the mayor. It was apparent that large scale governmental assistance was imperative; the only question was what form it would take.³⁰

On March 13 Mayor Jackson and Governor Ritchie met to discuss the problem. They were unable to agree upon a plan, but they decided that the mayor would make available to the relief agencies up to \$100,000 from his contingency fund while a plan was being worked out.³¹ On March 18 Ritchie called a conference to which he invited several state and municipal officials and the leaders of the Baltimore relief effort. Ritchie decided that the first thing to be done was to obtain an accurate estimate of future needs. He suggested that his advisor on budgetary and economic matters, Walter N. Kirkman, should meet with Police Commissioner Gaither, other appropriate city officials, and representatives of the relief agencies to determine how much money would be needed. He then gave his views on the policy to be followed in giving state aid:

I would not be disposed to have the state government appropriate any sum of money which would be distributed for relief purposes in the form of donations, gifts, or doles. I consider that this would be inconsistent with our ideals and institutions; that it would tend to destroy self-initiative and individual enterprise and that it would constitute a charge upon the public treasury which it would be very difficult to terminate and would add unduly to the tax burdens of the people.³²

Ritchie expressed his support at the conference for a plan by which the state would issue bonds to raise the money needed to finance Baltimore's relief expenditures. The state would then loan the money to the city and would be repaid later. Ritchie had some misgivings about the plan, feeling that it conflicted with a provision in the state constitution restricting Baltimore's ability to incur a debt. Moreover, he still hoped that Baltimore could find some way to handle the relief problem by itself. Four days after the conference he discussed the problem with Jackson in a meeting that lasted until three o'clock in the morning. Jackson left the meeting with the impression that some sort of state assistance would eventually be forthcoming once the legal difficulties were worked out.³³

The conference held on March 18 dealt with the relief situation in the counties as well as in Baltimore City. Governor Ritchie had been kept informed of conditions

throughout the state by the state agricultural agents and by members of Drought Loan Committees set up the preceding year to help drought-stricken farmers obtain loans. Surveys had been conducted among the agricultural agents in September and December 1931 to determine how badly the counties were affected by the spreading unemployment. Two days before the conference the agricultural agents had been asked to comment on existing conditions. Their reports indicated that while conditions had gotten worse in sixteen of the twenty-three counties, the relief problem was acute only in Baltimore and Anne Arundel counties. Relief agencies in both counties had used up nearly all of the funds available to them.³⁴

Several social workers attending the conference privately disputed the contention that the relief problem was acute in only two counties. They did not speak out at that time, however, because the Maryland State Conference of Social Work was still working on its own survey of unemployment relief in the state. A report prepared by social worker Mary F. Bogue and based on that survey was made public in May. From the information she and her assistants had gathered during their visits to the counties, Miss Bogue concluded that the relief problem was very serious in at least eight counties. Private resources had already been exhausted in five counties—Baltimore, Anne Arundel, Garrett, Allegany, and Cecil. Three counties—Prince George's, Washington, and Wicomico—had successfully dealt with their relief problems the preceding winter but might not be able to do so again using only private funds.³⁵

The long depression in the coal industry—it had started in the early twenties—made the relief situation in Garrett and Allegany counties the most serious in the state outside of Baltimore City. In February of 1932, 7.0 percent of the families in Garrett County and 6.6 percent in Allegany County were on relief.³⁶ Many of the smaller mines had been closed about half of the preceding year. Consolidated Coal Company, the largest company in the Maryland coal fields, encountered considerable financial difficulty and finally went into receivership in June 1932.³⁷ The state Bureau of Mines reported that its safety inspectors were greatly hindered in their work by the fact that they would sometimes have to visit half a dozen mines before they could find one in operation. The troubles in the coal industry had already crippled the economies of these two counties before the Depression began. Their resources were simply inadequate to meet the relief needs arising from the greatly increased unemployment.³⁸

The problems in Baltimore and Anne Arundel counties were due to high rates of unemployment in the areas contiguous to Baltimore City. In Cecil County many of those on relief were persons whose incomes had been barely above the poverty level in prosperous times and who now were unable to find any work at all. A considerable number of blacks fell into that category. Two-thirds of the blacks in Elkton were unemployed in the spring of 1932. Prince George's County had depended upon a \$12,000 contribution from federal employees to make it through the preceding

winter. If a similar contribution was not forthcoming for 1932–1933 the county would be in serious trouble. Washington County, which contained the state's third largest city, Hagerstown, had a relatively large number of persons on relief. The fact that none of the Washington County schools could supply clothing for school children after April was a sign of impending trouble. Wicomico County was suffering from increasing unemployment which threatened to become too severe for the county's limited relief resources.³⁹

In addition to these eight counties where the social workers found serious relief problems, there were seven other counties where a difference of opinion existed over whether relief needs were being met. These counties were mostly rural counties where local residents felt that giving relief tended to "weaken the character" of the recipient. Social workers in the counties felt, however, that there were people there who needed help but were not getting it. The truant officer in one of the counties told the social workers that she thought there were at least fifty families in the county who would benefit from relief. She had visited several homes, she said, where there was nothing but watercress to be served for a meal.⁴⁰

The winter of 1931–1932 had been a difficult one in many parts of the country, especially in the larger cities. Throughout the 1931–1932 Congressional session the Hoover administration had struggled with the liberals in Congress over the question of using public funds for relief. In February 1932 the LaFollette-Costigan Relief Bill was defeated in the Senate by a 48–35 vote. Support for a relief bill continued to grow during the spring and summer, however, as city after city faced relief crises. In July Congress passed the Emergency Relief and Construction Act which authorized the newly formed Reconstruction Finance Corporation to make loans to the states for use in unemployment relief. The loans were obtainable at 3 percent interest and were to be repaid from highway grants beginning in 1935. The relief act contained a provision requiring the governor of the state applying for a loan to certify that the state's own resources were inadequate to meet its relief needs. The Hoover administration held the governors to a strict interpretation of that provision as a means of restricting the number of loans.⁴¹ Nevertheless, through March of 1933, forty of the forty-eight states had applied for loans.⁴²

Governor Ritchie showed little inclination towards taking advantage of the RFC loans. A month after the act was passed George Henderson, the Mayor of Cumberland, wrote to Ritchie explaining that the relief organizations in Cumberland were spending far more than their budgets allowed and that they would need a loan of \$25,000 to carry them through the winter. Henderson suggested that the state should take advantage of the federal funds made available through the RFC. Ritchie replied that the state could not loan the money to Cumberland without a special act of the legislature and that the state was not eligible for loans from the RFC because not all city, county, and state funds were exhausted. To another enquiry about Maryland's dealings with the RFC, Ritchie stated simply that the state had not applied for a loan

and that moreover, "we are not expecting to do so. We think we will be able to take care of our own situation without applying to the Federal Government."⁴³

Ritchie's readiness to do what was necessary to take care of the situation came under question in November when he became involved in a budget dispute in Baltimore City. During the twenties Baltimore City and several of the counties had been swept away by the optimism of the times and had incurred larger debts than they should have. As a result they were saddled with substantial obligations at a time when the taxable base was shrinking and tax delinquency was increasing due to the depressed economy. A commission appointed by the legislature to investigate taxation in Maryland concluded that homeowners in the cities and farmers in the counties were bearing an undesirably heavy burden of direct property taxation.⁴⁴ Few of Baltimore's homeowners read the commission's report, but by the fall of 1932 many of them had already reached the same conclusion. When Mayor Jackson announced in late October that the 1933 budget would require an increase in the city tax rate, a wave of opposition arose against any tax increase. The leader of the opposition within the municipal government was City Council President E. Lester Muller, who felt that the proposed budget should be reduced so that a tax increase could be avoided.⁴⁵

Jackson and Muller argued publicly about the budget during most of November. By the end of the month the widespread opposition to the tax increase crystallized in the form of the Taxpayers' War Council, a coalition of twenty-four organizations in the city claiming to represent over 62,000 citizens. On December 7 the War Council held a mass meeting of the city's taxpayers. That night over 4,000 irate taxpayers squeezed into Polytechnic Auditorium, where they confronted a rather subdued City Council and several speakers seated on the stage. The crowd was in a boistrous mood, freely cheering and booing speeches from the stage and opinions volunteered from the audience. They booed every mention of Mayor Jackson or his administration. They booed figures explaining the increase in the cost of operating the schools, they booed mention of the \$100,000 appropriation for new conduits, and they booed Muller, their own man on the City Council. Between boos they found time to pass a resolution asking the City Council to strike out every item in the budget that was not absolutely essential.⁴⁶

Governor Ritchie had become involved in the budget controversy on November 3 when he attended a meeting of the Baltimore City Board of Estimates. After the meeting he released a statement urging an "earnest effort" to reduce the budget further and reviewing the state's role in helping to finance Baltimore's relief expenditures. He indicated that he would support legislation to raise the necessary funds, either through a state bond issue or by authorizing the city to borrow the money itself.⁴⁷ A month later, though, Ritchie wrote a letter to Jackson expressing some misgivings about the plan for state financing of Baltimore's relief expenditures. He was bothered by the possibility that such legislation might be unconstitutional. "I think," Ritchie

explained, "that when this funding question is taken up for consideration at the next session of the legislature that the legality of the proposition will necessarily be one of the points to be considered, because, naturally, I would not want to recommend a state bond issue if I felt that its legality was open to any serious question."⁴⁸

Mayor Jackson had been forced into an untenable political position on the budget issue. His position was further undermined when Baltimore's bankers learned of Ritchie's second thoughts about the bond issue. They sent word to Jackson that no more relief loans to the city would be approved until the tax rate for the proposed budget was reduced.⁴⁹ On December 14 Jackson made Ritchie's letter public and announced that because of the uncertainties created by the letter he was slashing the budget and reducing the proposed tax rate. Ritchie quickly arranged a conference with Jackson and released a statement saying that the letter had created a misunderstanding. What he had meant, he explained, was that he was not committed to supporting any particular plan, but would wait until the legislature met before deciding upon a method of assistance, and that he would consider conditions in the entire state when he made his decision. Obviously, he said, the situation in Baltimore had to be taken care of by the state legislature.⁵⁰

In devising a plan to finance Baltimore's relief expenditures, Ritchie had to consider not only the contending pleas for help coming from unemployed workers and overburdened taxpayers in the city, but also the voices from the counties calling for tax relief there. On November 28 county commissioners from seventeen counties met in Annapolis to coordinate plans for reducing county taxes. They agreed upon a program calling for reduction of the minimum state school tax levy from \$.67 to \$.40 per \$100 and diversion of state gasoline tax funds to the counties for maintenance of county roads. In January the county commissioners explained their program to county taxpayers in a series of mass meetings. The meetings were timed to exert pressure upon the county legislators who were in Annapolis for the 1933 legislative session.⁵¹

When the legislature convened on January 4 Governor Ritchie presented a legislative program that he hoped would satisfy both county and city representatives. The most important item of legislation was, of course, the proposal for funding Baltimore's relief expenditures. Ritchie recommended a plan based on a state tax on luxury items such as cigarettes, cigars, soft drinks, and chewing gum. The income from the tax on those items would be apportioned among the counties and Baltimore City on the basis of population. The portion belonging to the counties would be used to reduce their state taxes; the portion due to Baltimore City would be retained by the state and used to retire the state bonds which would be issued to finance Baltimore's relief expenditures for 1932 and 1933.⁵²

Ritchie's program met stiff opposition from the county legislators. The tobacco farmers in southern Maryland were not happy at the prospect of having an additional tax put on their product, especially when half of the proceeds were earmarked for

Baltimore City. Many of the county legislators felt that a large percentage of the funds could be raised simply by putting a 10 per cent tax on pari-mutuel betting. Folks who could afford to waste their money gambling might just as well let their winnings do some good, they thought. A strong county faction led by Senator J. Allan Coad of St. Mary's County felt that much fat remained on the budget, and they were determined to trim it off.⁵³

Midway through the session Ritchie saw that opposition to the luxury tax was too strong. He decided to obtain as much of the money as possible through drastic economic measures within the state government. The money thus saved was to be combined with revenue from a 1 percent pari-mutuel tax and receipts from motor vehicle license fees to form a pool yielding three million dollars for each of the fiscal years 1934 and 1935. Baltimore City would receive \$1.5 million each year and the counties the same amount. All but \$200,000 of Baltimore's share would be applied to payments for the bond issue. The rest would be used to lower the municipal tax rate. The counties' share would enable the state to lower the minimum school levy.⁵⁴

The revised program and the bill authorizing the bond issue to finance unemployment relief expenditures in Baltimore passed the legislature during the busy closing days of the session. When the relief bond issue bill was first proposed in January the amount to be raised was set at \$8 million. By April 3, when the bill passed the House, estimates of the year's relief expenditures had increased so much that the amount of the bond issue had to be increased to \$12 million.⁵⁵

During the winter of 1932-1933 the relief rolls continued to grow. Baltimore had 18,250 families on relief in September; by January 2,500 more had been added. Twenty per cent of Baltimore's workers were unemployed in January of 1933; 11 percent of the city's residents were on relief. Moreover, the families on relief were able to contribute less to their own upkeep than before and were requiring more help per family.⁵⁶

Relief workers in the counties were facing the same problems that Baltimore relief workers had faced the preceding winter. In March, 5.2 percent of the families in the counties were on the relief rolls. Over the winter a much higher percentage had been aided at one time or another. Queen Anne's County had seventy-three families on relief in March, but 106 different families had required aid over a period of three months. Harford County reported 158 families on relief in March, but over 500 families had received some kind of assistance since the beginning of November. The number of families on the relief rolls was much larger than in the previous winter. Somerset County had 89 families on relief in February of 1932; a year later it had 625. In Worcester County the increase was from sixty-one to 642. In Allegany County, where unemployment had long been a serious problem, the number of people on relief increased by 60 percent over the winter.⁵⁷

In August of 1932 Governor Ritchie had appointed a Governor's Advisory Committee on Unemployment to gather information about the relief problem in the counties and recommend a course of action for the state. In January of 1933 the committee

received a letter from Dr. J. H. Janney, the chairman of the Anne Arundel County Central Relief Committee. Dr. Janney had noted that newspaper reports indicated the Ritchie administration thought Maryland was taking care of its relief problems adequately. He wrote to the committee, he said, to inform them that such was not the case in Anne Arundel County. Inadequate relief was being given in a majority of cases, with relief families receiving "starvation" rations. Better rations could not be given, Dr. Janney explained, because the relief organizations did not have enough money to do so. Conditions in the northern part of the county were so bad, Dr. Janney thought, that it looked as if in some instances relief would become "almost permanent in character." In his opinion, Dr. Janney concluded, both additional county aid and state aid were needed.⁵⁸

Anita Faatz, the director of welfare of the Board of State Aid and Charities, had visited the counties gathering information for the Governor's Advisory Committee on Unemployment Relief. She had become very upset over the deteriorating conditions. On March 10 she wrote a letter to Ritchie describing the relief situation in the counties and expressing her concern. She concluded by saying that she thought the counties could make it through the winter, but that "we need and need urgently, State leadership, State planning, and [State] financial resources if people are to be cared for next winter."⁵⁹

Ten days later the Governor's Advisory Committee on Unemployment Relief forwarded its report to Ritchie. The committee pointed out that much of the traditional thinking about relief was no longer applicable in the conditions that now existed. The feeling had been quite general in the counties that the people who required relief were "the low standard white people, the Negroes, and the poor who 'are always with us.'" The aid that had traditionally been given was scaled to the "worthiness" of the chronic poor. It consisted mostly of food and was given as sparingly as possible. The people who now required relief, however, were people who had never needed assistance before, the committee pointed out. They constituted a group of "new poor" and necessitated the development of new attitudes about relief. When the number of families on relief approached 10 percent of the state population, the committee declared, the issue was no longer one of serving the poor in merciful kindness. Unemployment and inadequate income now meant people were unable to pay for necessities such as medical care and families breaking up under strain. The problem facing the state therefore was "one of the conservation of the human values and social elements involved for the protection of the state."⁶⁰

The crux of the problem, the committee thought, was financial resources. State income was tied to deflating property values, but the federal government possessed a much more flexible taxing power. The momentum of the federal government joining hands with the state governments was inescapable, the committee asserted. It warned that the state that did not join hands with the federal government would find itself losing out in two ways: first, through the taxes its citizens would have to

pay to provide federal relief for other states, and second, through its own inability to support an adequate relief program. The committee recommended that machinery be set up through which federal and state funds could be joined with local resources under state leadership.⁶¹

A week later Governor Ritchie released a statement saying that he was prepared to ask the Reconstruction Finance Corporation for a loan to relieve distress in the counties. Ritchie explained that information he had received from Miss Faatz and his advisory committee showed that conditions in the counties had reached the point where outside assistance to the counties became necessary. He added that he had also been impressed by rumors that the states would not be required to pay back the RFC loans. He had decided, he said, that it would be foolish for Maryland to take care of its own relief problems if other states were to benefit from federal funds without penalty.⁶²

The decision to turn to the federal government for assistance in handling the relief problem was one that Governor Ritchie made with great reluctance. At both the state and local levels Maryland's governmental officials waited until the failure of private charity forced them to act before they took any effective steps to deal with the relief problem. Their hesitancy was due in part to a conviction that such matters were best handled by private charity and in part to budgetary problems resulting from a decline in governmental revenues. But it also seems to have been due in part to a tendency to place a higher priority on achieving a balanced budget than on providing assistance to the suffering unemployed. Governor Ritchie, along with many other Maryland officials, at first voiced strong opposition to federal initiatives in dealing with the relief problem, basing his opposition on the familiar states' rights argument. Ironically, within two years after Ritchie decided to ask for federal aid the federal government was threatening to terminate that aid if Maryland did not assume a larger share of its own relief expenditures.⁶³

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Schwab v. Coleman: The Making of Enemy Aliens, Naturalization Law, and Citizens in Baltimore, 1937–1944

MAUREEN C. CONTRENI

In May 1941, new United States citizens gathered on baseball fields and in parks across the country to swear their allegiance. Scarcely five months after the Japanese attacked Pearl Harbor and the United States entered World War II, President Franklin Roosevelt proclaimed the third Sunday in May as “I am an American Day,” on which newly naturalized Americans would receive public recognition of their loyalty to their new country. Accordingly, Maryland Governor Herbert O’Conor designated May 16, 1941, as a state-wide patriotic celebration of citizenship “designed to impress upon all citizens the true significance of citizenship in this nation.” The festivities in Baltimore began several days early, with a pledge of allegiance in Patterson Park, a collective salute to the American flag in Oriole Park, and a “New Citizenship” adult education program in Eastern High School on Broadway.¹

Largely sponsored by the Immigration and Naturalization Service, the American Legion, and the Maryland Department of Education, the “I Am An American Day” in Baltimore honored new citizens with music, flag displays, and commendations from state officials. In 1943, the celebration included a parade starting on Broadway, along Lombard Street to Patterson Park, ending in a naturalization oath ceremony for 300 new citizens.²

Although those new Americans celebrated formal acceptance into the nation, a peculiar policy issued by U.S. District Court Judge William C. Coleman stymied the attempts of many immigrants in Baltimore to become citizens. With their cases postponed indefinitely, these immigrants undoubtedly measured the joyous occasion of “I Am an American Day” against their own disappointment and frustration.

Among the naturalization cases Coleman postponed were those of five Jewish refugees from Germany, Rabbi Simon Schwab, Hedwig Weigert, Carol Feibelman, William Buschke, and Marie Charlotte Buschke.³ Having narrowly escaped the Nazis, these five new Baltimoreans were among the few Jewish refugees allowed to enter the United States in the late 1930s. City Solicitor Simon E. Sobeloff represented the refugees in a mandamus action requesting that the Fourth Circuit Court of Appeals

This essay won the 2008 Joseph L. Arnold Prize for Outstanding Writing on Baltimore History. The author is a graduate of the University of Maryland School of Law.



"I am an American Day" parade, Baltimore, May 16, 1941. (Maryland Historical Society.)

order Coleman to make a final adjudication of their naturalization applications. In an unusual alliance, the Immigration and Naturalization Service (INS) joined Sobeloff in arguing before the Fourth Circuit that Coleman had acted beyond his authority in promulgating a personal naturalization policy.

Schwab v. Coleman raises the specter of anti-Semitism in a deeply prejudiced Baltimore, particularly against the backdrop of an immigration system plagued with racial and ethnic discrimination.⁴ A historical exploration of United States immigration law reveals ways in which admission and naturalization policies have explicitly sought to control and limit membership in the nation to those deemed capable of becoming true Americans. In addition, *Schwab v. Coleman* represents one step along the path of increasing federalization of immigration and nationality law. The case highlights the INS's struggle to eliminate jurisdictional variations in naturalization procedures and impose a constitutionally mandated uniformity across the country.

Historical Background

Early federal statutes governing naturalization and immigration reflect a dichotomous approach to increasing migration to the United States. Although the country welcomed some immigrants, it promulgated unforgiving statutes excluding others.

As the federal government consolidated control over immigration and naturalization after the Civil War, it did so within a context that ascribed racial qualifications to national belonging and American citizenship. Restrictive immigration laws mirrored eugenicists' preoccupation with preserving the Anglo-Saxon character of the United States. Racial limitations on naturalization suggest that citizenship has operated as an exclusionary tool, keeping individuals deemed undesirable from becoming members in the nation while crafting a national identity in the negative, based on what the United States is not.⁵

In colonial America, each colony's government carried out separate immigration and labor recruitment policies. Although the British government mandated labor recruitment to the colonies, each devised its own way of attracting settlers. Until 1740, the colonies issued their own "deeds of denization" to immigrants, granting them civil and property rights as a preliminary step towards acquiring full British citizenship. The ambiguity created by deeds, which were not recognized by the imperial government, inspired Parliament to pass a universal naturalization act in 1740, granting British citizenship to migrants who could demonstrate residence in a British territory for seven years. The promise of citizenship increasingly attracted non-British migrants to the colonies.⁶

With the Declaration of Independence, inhabitants of the former thirteen colonies automatically became citizens of the state in which they resided. The people already present only became United States citizens upon ratification of the Constitution, which also authorized Congress to establish uniform naturalization law. It remained ambiguous, however, whether the new nation would adopt the English common law principle of *jus soli* citizenship or choose the more restrictive *jus sanguinis* doctrine. *Jus soli*, or "right of the land," confers citizenship on every person born within the national territory; *jus sanguinis*, or "right of the blood," grants citizenship through ancestry to the children of existing citizens.⁷

The first federal statute governing the acquisition of United States citizenship by foreign nationals, the Naturalization Act of 1790, announced "that any alien, being a free white person, . . . on application to any common law court of record . . . shall be considered as a citizen of the United States."⁸ The act required a two-year residency in the United States, one of which had to be in the state with jurisdiction over the naturalization application. Many scholars view the establishment of any naturalization provisions at all as generous since naturalization provides citizenship outside the rubric of *jus soli* and *jus sanguinis*.⁹

Nevertheless, the act demonstrates an early manifestation of the United States's racialized approach to immigration and citizenship. At a time when the majority of people voluntarily entering the country were European, the act affirms that European immigrants of the late eighteenth century were deemed capable of assimilating and becoming Americans, while Africans transported in bondage remained ineligible to become members of the nation. In the famous Dred Scott case, the Supreme

Court determined that neither slaves, nor the free descendants of slaves, were U.S. citizens.¹⁰

As the Federalists gained power within the new United States government, they increased the residence requirement for naturalization to fourteen years. With the backdrop of the French Revolution and the fierce power struggles between the Federalists and Republicans over the identity of the new American nation, it is no surprise that the first federal statutes relating to immigration arose out of national security concerns. The Alien and Sedition Acts of 1798 gave the president the authority to deport any alien deemed dangerous. Likewise, the Enemy Alien Act of 1798, created the category of "enemy aliens" as citizens of countries with which the United States is at war. Granting the president the wartime power to detain and deport, or otherwise restrict enemy aliens' freedom, the act established an irrebuttable presumption that these foreigners threatened the nation, regardless of how long they had resided in the United States.¹¹

Shortly after the Federalists lost control of the legislature, Congress repealed the fourteen-year residency requirement for naturalization and replaced it with a three-year provision. Throughout the nineteenth century, Congress also made minor amendments to the nationality code. Some of these changes included the 1813 requirement that residency be continuous, periodic exceptions to the rule that a declaration of intention to become a citizen, or "first papers," precede the application for citizenship, or "second papers," and the 1824 reduction of the time between filing first and second papers from three to two years. Beyond these changes, the federal government had little role in immigration policy for most of the nineteenth century. Even as immigration continued to increase in the latter half of the century, the federal government limited its involvement to data collection.¹²

Throughout the nineteenth century, the states largely retained control over naturalization. Having surrendered jurisdiction over naturalization to "any common law court of record in any one of the States" in the Naturalization Act of 1790, Congress placed naturalization in the hands of the states. Likewise, the states retained their authority over immigration until after the Civil War. For example, many states established local immigration offices to attract European settlers. Other states like Massachusetts, New York, Pennsylvania, and Maryland restricted immigration to diminish social and financial burdens. For example, between 1820 and 1860, New York passed a law requiring shipmasters to inspect inbound passengers and report their names, occupations, birthplace, age, and physical conditions in order to identify and deport poor and ill migrants who might become wards of the state.¹³

The end of the Civil War brought important changes in citizenship law. The Fourteenth Amendment to the United States Constitution clarified the nature of citizenship in the United States by addressing the citizenship status of newly freed men and women. Overturning the Dred Scott decision, the Fourteenth Amendment established *jus soli* citizenship, conferring citizenship on anyone born in the United

States regardless of race. Congress similarly broadened eligibility for naturalization by adding "persons of African nativity or descent" to "free white persons." As the number of African migrants seeking entry to the United States in the post-Civil War era would have been extremely small, the new naturalization statute is most striking for the racial barriers it left in force. Since they were neither "persons of African nativity or descent," nor "free white persons," immigrants from Asia remained ineligible for United States citizenship.¹⁴

In the wake of the Civil War, the federal government began asserting more power over immigration matters. Indeed, increasing opposition to Chinese immigration on the west coast fueled an anti-Chinese movement that pushed for federal immigration restriction. Although Chinese arrivals in the United States between 1870 and 1880 were only a fraction of total immigration, fear and hostility spread rapidly throughout California. Chinese immigrants, once viewed as exotic curiosities, became synonymous with heathenism, moral decline, and economic threats to white labor. Anti-Chinese activists stigmatized Chinese migrants as "unassimilable" menaces to the Anglo-Saxon way of life. Not surprisingly, the country's first federal immigration restriction statute was the Chinese Exclusion Act of 1882, which denied entry to Chinese laborers.¹⁵

The Exclusion Act codified racialized notions of desirable and undesirable types of immigrants and foreshadowed future legislation that further cut off immigration from Asia. Although it did not extend beyond Chinese laborers, the act represented a clear break with previous *laissez-faire* attitudes toward immigration and marks the origin of the United States as a "gatekeeping" country that strictly regulates movement across its borders.¹⁶ The act also highlights a federal immigration system conceived in racism and xenophobia and designed to restrict membership to the nation.

The Chinese were not the only immigrants who faced animosity in the United States. As the country industrialized, the increasing demand for workers, coupled with very few restrictions on European immigration, stimulated mass migration from southern and eastern Europe. By 1890, these were the majority of new immigrants to the United States. Many old stock Americans disparaged the newcomers' unfamiliar culture and argued that Slavs, Jews, and Sicilians, among others, were racially inferior and unassimilable, much like the Chinese. In the midst of unprecedented numbers of newcomers, Congress continued to assert federal control in 1891 by creating a permanent superintendent of immigration within the Treasury Department. Minimum health standards for arriving immigrants were established in conjunction with a formal deportation process requiring steamship companies to return migrants rejected by U.S. health inspectors to their countries of origin.¹⁷

State governments no longer bore the burden of immigration control, but at the beginning of the twentieth century, state influence over naturalization endured. States still had jurisdiction over naturalization applications, and many localities developed their own procedural laws governing naturalization adjudications before

their courts. For instance, courts in Baltimore required notice of naturalization applications to be published in a local paper, and that the notices include the "name, place and date of birth of the applicant, the time of his arrival in this country, the place at which he arrived, and the place or places of residence of the petitioner since his arrival, and the name of his witnesses."¹⁸

During his administration, President Theodore Roosevelt significantly molded the face of immigration to conform with his notion of who was fit to be American. A proponent of the "strenuous life," Roosevelt idealized the American backwoodsman who blazed the trail across the country, fighting American Indians to clear the way. He understood war as a crucible in which European immigrants became true Americans and he feared the loss of backwoods traditions in favor of elitism and effete manners that sapped the nation's vitality. Casting himself in the masculine image of the backwoodsman, the president hunted big game and made daring forays into the wilderness.¹⁹ He sponsored the creation of the national parks system as a form of preserving and encouraging the physical and moral vigor of the nation.

Although many of his contemporaries espoused racialized hatred for Jewish, Chinese, and Italian immigrants, Roosevelt's national community included anyone of European ancestry. But while he celebrated ethnic hybridity, Roosevelt believed the melting pot of America had to be controlled. For example, believing they lacked the moral and mental capacity to become true Americans, Roosevelt signed a 1903 statute barring the insane, the impoverished, former prostitutes, and anarchists from admission.²⁰ With special disdain for anarchists as a threat to national security, this law authorized the deportation of anyone who, within three years of immigrating, became an anarchist, and also barred any anarchist from naturalization.²¹ In the spirit of assuring that none gained U.S. citizenship, the 1903 statute required applicants to take an oath that they were not anarchists prior to being sworn in as citizens. Furthermore, the statute voided any naturalization certificate issued from a court that could not demonstrate the applicant had indeed taken the oath. Courts were required to retain affidavits from character witnesses for each naturalized citizen as part of the record. Since naturalization certificates and record-keeping methods varied widely among courts, many failed to conform to these federal standards, and resulted in the invalidation of thousands of naturalization certificates. Certificates throughout the country varied in length and substance, some containing as few as 200 words while others topped 4,000, not all of them containing the requisite language. Some courts retained affidavits from character witnesses while others did not.²²

With the ascendancy of Roosevelt's vision of the nation as a controlled melting pot, 1906 saw the establishment of the new Bureau of Immigration and Naturalization within the Department of Commerce and Labor, and with it, an ever-increasing consolidation of naturalization powers under the federal government. The new bureau's purpose was to provide "for a uniform rule for the naturalization of aliens throughout the United States."²³ The new statute validated all naturalization certifi-

cates incorrectly issued under the 1903 law, but more significantly, it marked the rise of a national immigration documentary apparatus employed to define and control membership in the nation. The bureau designed and distributed official forms for naturalization applications and prohibited the use of any others. Importantly, for the first time, enemy aliens gained the opportunity to become U.S. citizens under the 1906 statute.²⁴

Roosevelt did not take naturalization lightly. He expected immigrants to assimilate and leave their culture at the door:

[the immigrant] must not bring in his Old-World religious[,] race[,] and national antipathies, but must merge them into love for our common country, and must take pride in things which we can all take pride in. He must revere our flag; not only must it come first, but no other flag should ever come second . . . Above all, the immigrant must learn to talk and think and be United States.²⁵

In a significant victory, Congress incorporated Roosevelt's proposals for tighter naturalization provisions into the 1906 statute. Designed to assure applicants' capacity to become fully American, the new law required five years of continuous residence prior to submitting a petition for naturalization. Applicants had to pass an English test, reassure examining officials that they were not polygamists or anarchists, and provide two U.S. citizen character witnesses who could attest to their good moral character and attachment to the principles of the Constitution.²⁶

Roosevelt promoted comprehensive Americanization programs and found biculturalism, or hyphenated Americanism, noxious. He compared loving another country as much as this one to loving another woman as much as one's wife. Indeed, Roosevelt's ideas to Americanize new immigrants bordered on coercive. He viewed public schools as a medium for eliminating hyphenated Americanism and turning immigrant students into "Americans pure and simple." Roosevelt wanted to hasten assimilation by forcing new immigrants to settle in the South, far from the industrial, multi-ethnic cities.²⁷

Concerned by immigrant groups that seemed slower to Americanize than others, in 1907 Roosevelt authorized Congress to establish a special commission to study immigrant groups, vis-à-vis their capacity to assimilate.²⁸ Named for Vermont Senator William Paul Dillingham, the Dillingham Commission's inquiries relied heavily on eugenics theories of racial classification and hierarchy. Having gained traction by the early twentieth century, the eugenics movement increasingly informed notions of race, fitness for United States citizenship, and immigration restriction. Northwestern Europeans topped the hierarchy as the most capable and intelligent people. Eugenicists considered southern and eastern Europeans racially inferior and unable to assimilate to American culture. By 1907, for each northern European arriving

in the United States, four southern and eastern European disembarked. Although these immigrants fueled booming industry, their presence spurred a restrictionist movement that sought to curtail Jewish and Italian immigration.²⁹

Published in 1911, the Dillingham Commission's forty-two-volume report promoted immigration restriction based on country of origin. Steeped in the notion of Anglo-Saxon superiority, the report promulgated a racial hierarchy of European groups keyed to physical, moral, and intellectual characteristics. Noting a shift away from Anglo-Saxon immigration to a greater number of arrivals from Eastern and Southern Europe, the Dillingham Report presented the increasing numbers of Italians, Jews, and Slavs in the U.S. as an impending demographic apocalypse.³⁰

A Door Mostly Shut

In 1917, as the controversy over immigration admissions brewed, the United States entered World War I and the Enemy Alien Act again rose to prominence. President Woodrow Wilson required all German and Austro-Hungarian immigrants to register with the government. The president prohibited enemy aliens from possessing firearms and excluded them from being physically present in areas near munitions factories and from the coastline. During this period, approximately 6,300 enemy aliens were detained and 2,300 were placed in internment camps.³¹

The Bolshevik revolution fanned the flames of xenophobia as anti-Communism and anti-immigrant sentiment merged into a movement to restrict further Jewish immigration. As labor disputes grew in frequency, many Americans believed southern and eastern Europeans were constitutionally more susceptible to radicalism than American workers. As anti-communists promoted their belief that Russian Jews caused the Bolshevik revolution, they tagged Jewish immigrants as dangerous radicals.³² Congress became increasingly preoccupied with keeping Jews and Italians out of the country, and turned to scientific racism to slam the door shut in what one scholar calls "one of the most spectacular displays of legislative power in American history."³³

The Immigration Act of 1924, like the Chinese Exclusion Act, and the 1790 Nationality Act, limited membership in the nation by restricting admission based on race and ethnicity.³⁴ But with its quota system based on national origin, the statute also codified inequality among white European immigrants. For the first time, Congress placed limits on previously unrestricted migration from Europe. The quotas drastically decreased permissible immigration from southern and eastern Europe, while allowing more immigration from northwestern Europe.³⁵ With this Act, Congress asserted the United States' northwestern European identity and closed its doors to immigration.

The quota system became operational in 1927 and for the most part the door remained shut throughout the 1930s and beyond the end of World War II, despite the increasing desperation of Jews fleeing Hitler's extermination program in Europe. By

the end of 1937, approximately 130,000 Jews had fled Germany, only 35,000 of whom made their way to the United States. The rest found refuge in Palestine, Argentina, Brazil, and other parts of Europe. Although the quota system allotted up to 25,000 visas for Germans per year, more than half of those slots went unused between 1933 and 1940. Jewish refugees who did obtain visas under the quota system risked being turned away at the gates if the inspecting official deemed them "likely to become a public charge." Overcoming this ground of inadmissibility grew increasingly difficult during the Depression years due to an executive order making it more restrictive. As refugees fleeing with only a fraction of their assets, Jewish refugees were particularly susceptible to this provision.³⁶ Throughout World War II, admission through the quota system remained the only avenue for immigration to the United States, as the U.S. had no provisions governing refugee admissions. Indeed, a rigid loyalty to the quota system left little room for the emergency advancing across Europe. The United States' appalling lack of sympathy for Jewish refugees underscores the extent of anti-Semitism across the country in the early twentieth century. To be sure, Jewish Americans' advocacy on behalf of the refugees met resistance from policymakers who did not wish to appear philo-Semitic in a deeply anti-Semitic environment.³⁷ For example, a 1939 bill to admit 20,000 German Jewish children outside of the quota system faced intense public opposition and never reached the House floor. Notably, the wife of the Immigration and Naturalization Commissioner voiced her hostility to the bill in what can only be described as anti-Semitic terms: "20,000 charming children would all too soon grow up into 20,000 ugly adults."³⁸

Despite the United States' utter failure to respond to the refugee crisis, some Jewish refugees did manage to enter the country under the quota system. By 1940 the U.S. had admitted approximately 127,000 Jewish refugees. Though the number may appear large, the U.S. could have admitted an additional 110,000 German Jews within the stringent rubric of the quota system simply by using all available German slots.³⁹ Rabbi Simon Schwab, Dr. William Buschke, Marie Charlotte Buschke, Carole Feibelman, and Hedwig Regina Weigert were among the few who reached safety in the United States. As the U.S. policymakers dashed plans to resettle refugee children and guarded the country's shores against refugee ships, these five Jewish refugees were beginning new lives in Baltimore, Maryland, and kindling dreams of becoming United States citizens.

Born in Frankfurt Germany in 1908, Simon Schwab studied at the *Hirsch Realschule* and was trained in Eastern European Jewish texts. Prior to immigrating to the United States, Rabbi Schwab visited Baltimore on an invitation to speak to the Shearith Israel Congregation. The congregation had two synagogues, one on McCulloch and Bloom Streets and the other at Glen and Park Heights Avenues. Essentially an opportunity for the congregation to interview him, and for him to meet the congregation, Rabbi Schwab's visit ultimately amounted to his ticket out of Germany. During his stay, Rabbi Schwab lived with Samuel H. Rauneker, Shearith

Israel's president and a merchant living in Baltimore since 1878. The congregation asked Rabbi Schwab to extend his stay so that he might officiate at Shearith Israel for Yom Kippur and Rosh Hoshanna. But despite his eagerness to secure a position in Baltimore, Rabbi Schwab declined the invitation since he promised his congregation in Germany he would return to celebrate the holidays with them.⁴⁰

Rabbi Schwab returned to the United States on an immigrant visa on December 23, 1936, with his wife and their three children. Formally elected rabbi of the synagogue at Park Heights and Glen Avenue, Rabbi Schwab and his family settled into their new home at 9808 Glen Avenue. His other relatives had dispersed. His parents and two of his brothers found refuge in England, another brother went to Palestine, and another served as a rabbi in China. Rabbi Schwab and his wife had two more children after they arrived in Baltimore. Although Rabbi Schwab learned some English as a child, he struggled to deliver his sermons in English, first writing them in German and painstakingly translating them. The Shearith Israel Congregation welcomed several distraught newcomers who found safety in Baltimore. Rabbi Schwab's arrival in particular is remembered as "the happiest reinforcement for the congregation." Indeed, the newcomers during the 1930s increased membership in the congregation for the first time since its establishment.⁴¹ Six months later, on June 24, 1937, Hedwig Weigert arrived and began her new life in Baltimore. Born in March 1904 in Wittlich, Germany, Hedwig began training as a nurse at the Baltimore Home for Incurables at thirty-three years old. After completing her training, Hedwig worked at the Home for two and a half years. Hedwig married another German refugee, Karl M. Weigert, on May 24, 1940. A chemist, Karl Weigert worked at Johns Hopkins Hospital before enlisting in the army and departing for Persia.⁴²

Carole Feibelman disembarked in New York City on December 22, 1937. Carole stayed in New York for almost two years before relocating to Baltimore. Born in Rulzheim, Germany in 1915, Carole made her transatlantic journey at twenty-two years old. Her mother stayed behind in Europe, hoping to join Carole shortly. Upon moving to Baltimore, Carole quickly forged ties with other women in the community. Julia Strauss served as Carole's foster mother and visited her almost daily. Bettie Wolf, an employee at the U.S. Employment Services, took Carole into her home as a governess for three years. In the meantime, Carole's own mother had escaped Germany and contacted her from Marseilles, France. With her U.S. visa and her steamer ticket secured, Carole's mother was undoubtedly counting the days until she could be reunited with her daughter. Julia and Bettie were surely important sources of support on the day that Carole received a crushing letter from the Red Cross informing her that the Nazis had captured her mother and put her in a concentration camp.⁴³

Dr. William Henry Buschke and his wife, Marie Charlotte Buschke, were also among the few German Jews who made their way to the United States. Born in Berlin in 1907, William Buschke studied ophthalmology at Berlin University's medical school and graduated in 1931. With the rise of Hitler only two years later, William

left Germany for Switzerland at the age of twenty-six. He remained in Switzerland for five years, during which he married Marie and worked as a medical assistant in Bern and Basle. Marie, also of Berlin, was born in 1909. She and William had their first child while they lived in Switzerland. The couple and their children arrived in New York City on December 29, 1937, only one week after Carole Feibelman. The family stayed in New York for a little over a year before moving to Baltimore. William continued his ophthalmological work at Johns Hopkins Hospital, where Marie also found a job as a medical technician. The family lived at 2215 Elsinor Avenue.⁴⁴

One of William's brothers had already migrated to the United States in 1935 and lived in Seattle. Another brother arrived in 1938 and lived in New York. Although the brothers managed to escape Germany and squeeze through the United States' closing door, their parents were not so lucky. In 1942, the Swiss government gave assurances that the parents could enter Switzerland, but two years later the brothers still had not heard from them. Perhaps in hopes that his parents might be liberated with Germany's defeat, William supported U.S. war efforts by purchasing war bonds, donating blood to the American Red Cross, and participating in the Baltimore Division on Civilian Defense. Indeed, instead of practicing medicine in the United States, as he was licensed to do, William decided to do medical research at the Wilmer Institute of Johns Hopkins because he understood this work would contribute more to U.S. war efforts.⁴⁵

Enemy Alien Naturalization & the Nationality Act of 1940

Understandably, these five refugees shared disdain for the country from which they fled. William Buschke held absolutely no sympathy for Germany and never intended on returning to his country of birth. Likewise, Marie Buschke, never wanted to return to Germany because "it [had] a moral quality [she did] not share." Carole Feibelman felt that Germany simply no longer existed for her.⁴⁶ Despite their contempt for Nazi Germany, these refugees, like other non-citizens from Germany, Italy, Romania, and Japan, faced deep suspicion in the United States. Rabbi Schwab, Hedwig Weigert, Carole Feibelman, and William and Marie Buschke were all enemy aliens.

Notwithstanding this intimidating classification, the refugees also shared a common desire to rebuild their lives in the United States, and as part of that effort, to become United States citizens. The Nationality Act of 1940 required all applicants to file a declaration of intent to become a U.S. citizen, or "first papers." Their "second papers," or petitions for naturalization, could only be filed once they had resided in the United States continuously for five years. The act also required applicants to demonstrate good moral character, attachment to the principles of the U.S. Constitution, and that they were well-disposed to the good order and happiness of the United States through their own affirmations and through at least two affidavits by U.S. citizens who knew them personally.⁴⁷

Despite the special status of enemy aliens, they were not barred from naturaliza-

tion. Indeed, Congress provided for enemy alien naturalization beginning in 1906 when it overhauled immigration law. The naturalization provision for enemy aliens survived numerous amendments and was incorporated into the Nationality Act of 1940. Under this statute, enemy aliens could become citizens if they had declared their intentions to naturalize at least two years before the war:

An alien who is a native, citizen, subject or denizen of any country, state or sovereignty with which the United States is at war *may be naturalized* as a citizen of the United States if such alien's *declaration of intention was made not less than two years prior to the beginning of the state of war. . . .*⁴⁸

It was under these provisions that Rabbi Schwab, Hedwig Weigert, Carole Feibelman, and Marie and William Buschke sought naturalization. Although the U.S. had already entered World War II by the time they submitted their second papers, each of them had filed their declarations of intent more than two years before the war.⁴⁹

With the attack on Pearl Harbor in 1941, national security concerns converged with endemic racism to produce the most widespread wartime deprivation of civil liberties in U.S. history when President Roosevelt ordered the internment of people of Japanese ancestry. The war also spawned a spectacular promotion of patriotism and displays of Americanism. Given their personal histories and the national context of wartime fear and patriotism, it is not surprising that the five refugees so desired to become U.S. citizens. Perhaps they viewed citizenship as an assertion that they, too, belonged here. Naturalization would allow them to demonstrate their loyalty to their adopted country, when loyalty was of the utmost societal importance. Acquiring U.S. citizenship would allow them to take on greater roles in the war effort, and defeat the Nazis that drove them out.

The notion that the U.S. faced a significant threat from within was not confined to the West Coast. Indeed, in their efforts to gain U.S. citizenship, the refugees experienced one judge's wartime precautions that sought to eclipse federal naturalization law. Not only did the refugees face heightened suspicion and scrutiny as alien enemies, they also confronted deep-seated anti-Semitism in their adopted city.

In the early 1940s, Baltimore, like other cities, experienced considerable anti-Semitism. Jews were excluded from rental housing and employment. The *Baltimore Sun* accepted classified ads that limited services to gentiles until 1942 after a concerted effort by the Baltimore Jewish Council to stop this practice. Within this hostile atmosphere, the Ku Klux Klan reemerged and intimidated the Jewish community by placing Klan leaflets on cars and at businesses owned by Jews.⁵⁰

Having formally declared their intentions to apply for naturalization, the Immigration and Naturalization Service (INS) interviewed Schwab, Weigert, Feibelman, and Buschkes and their U.S. citizen character witnesses before the refugees submitted their petitions for naturalization. With the exception of the Buschkes, they filed their

applications independently of each other to the United States District Court for the District of Maryland between August 1942 and October 1943. The clerk of the court then scheduled individual adjudication hearings before Judge William C. Coleman and notified the INS Commissioner, Earl G. Harrison, of the hearing. Upon notice of the hearings, the service initiated background investigations on each applicant to determine their eligibility. The investigations focused on whether the applicants were loyal to the United States and attached to the principles of the Constitution. Although the general naturalization statute required these characteristics of all naturalization applicants, as enemy aliens Schwab, Weigert, Feibelman, and the Buschkes were subject to particularly searching investigations.⁵¹

First, the service reviewed their immigration files while the Federal Bureau of Investigation checked the applicants' fingerprint records. Second, the Service gathered any existing records on the applicants from the FBI, the Army and Navy Intelligence Divisions, and the local police. Third, INS officers went to the applicants' neighborhoods to gather other residents' observations about each applicant's preparedness for citizenship. Finally, Schwab, Weigert, Feibelman, and Mary and William Buschke made sworn statements before the service regarding their backgrounds, associations, and activities in the United States. Based on its investigation, the service concluded that each applicant had met the statutory requirements for naturalization. Despite the similar circumstances that brought Schwab, Weigert, Feibelman, and the Buschkes to the United States and the likelihood that they knew each other through Baltimore's Jewish community, up to this point their efforts to become U.S. citizens were independent of each other. When during the course of INS investigations Judge Coleman consolidated their cases for a joint hearing on June 13, 1944, these five refugees' goals became inextricably intertwined. In retaining Simon Sobeloff, the group chose a formidable advocate to present their naturalization cases in federal court.⁵²

Simon Sobeloff was born in Baltimore in 1884 to Russian Jewish immigrant parents. He earned his J.D. from the University of Maryland School of Law in 1914. After graduation, he clerked for Judge Morris Ames Soper, who later rose to the Fourth Circuit. Judge Soper recommended Sobeloff as U.S. Attorney for the District of Maryland in 1930, but his appointment was opposed by Coleman, who was inundated with Prohibition cases and worried that as a Jew, Sobeloff possessed the wrong qualifications for the job, "it is inappropriate for a Jew to hold the office of District Attorney. The job calls for a person of some social standing, otherwise he could not attract the right kind of assistants. There are so many Jewish bootleggers in Baltimore it is unwise to appoint a Jew." In 1943, Sobeloff became Baltimore's City Solicitor.⁵³

Regardless of Sobeloff's qualifications, he faced a daunting task when he entered Judge Coleman's courtroom on June 13, 1944, for Judge Coleman had already announced his own terms for naturalizing enemy aliens, and none of Sobeloff's clients met the requirements—but Sobeloff and his clients were not alone. INS

Commissioner Earl Harrison appeared in court to voice the agency's support of the applicants and to recommend naturalization.⁵⁴ Indeed, a brewing battle between Judge Coleman and the INS was finally coming to a head.

Born on October 17, 1884, in Louisville, Kentucky to John and Susan Coleman, William Caldwell Coleman came of age as Theodore Roosevelt was rising to national prominence. As Coleman finished his high school years at the Flexer's School in Louisville, Roosevelt was climbing the ladder in the Republican Party as a civil service commissioner and New York police commissioner. By the time Coleman started college at Harvard University in 1901, Roosevelt had assumed the presidency after McKinley's assassination. After earning his bachelor's in 1905, Coleman took one year off to travel before starting law school at Harvard. He received his J.D. in 1909 and moved to Baltimore to work in the Baltimore & Ohio Railroad's legal department where he represented the railroad before the Interstate Commerce Commission. Content in his new city, Coleman remained in Baltimore and became a junior partner at Smith, Parker, and Coleman. He left the partnership, however, in 1913 to join Semmes, Bowen, and Semmes, where he remained for seven years. As the United States entered World War I, Coleman enlisted as a private and was training for field artillery in Kentucky when the war ended. In 1920, Coleman started his own firm, Coleman, Fell, Morgan, and Brune.⁵⁵

Coleman played an active role in Baltimore's legal community. Early in his career, he taught Negotiable Instruments for four years at the University of Maryland School of Law and served for three years on the grievance committee of Baltimore's bar association. Hoping to make a name for himself in Baltimore's Republican Party, Coleman ran for attorney general 1923 and lost to Thomas H. Robinson. The following year, he was elected secretary of the American Bar Association.⁵⁶

Coleman balanced his professional life with family, various leisure activities, and community leadership. Together with his wife, Elizabeth Brooks Coleman, he raised two sons and two daughters. The family lived in Baltimore County at Eccleston. As a young adult during Theodore Roosevelt's administration, it is no surprise that Coleman developed interests in big game hunting, fly-fishing, and other outdoor activities, all components of the Roosevelt's "strenuous life" and his notion of American masculinity. A member of Green Spring Valley Hunt Club and Elk Ridge Hounds Club, Coleman was an avid horseback rider and fox hunter and travelled to Hooper's Island on the Eastern Shore of Maryland for duck hunting season. Coleman reportedly played a fast game of tennis and was one of the best figure skaters in the city. He organized skating clubs in both Baltimore City and County, joined the Maryland Historical Society, and sat on the boards of several organizations, including the Family and Children's Bureau. Coleman chaired the standing committee of the Protestant Episcopal Diocese of Maryland and the Board of Recreation of Baltimore County. He served as president of the Baltimore Area Council of the Boy Scouts of America and the Harvard Club of Maryland.⁵⁷

Ever the renaissance man, Coleman displayed his own landscape paintings at the Baltimore Museum of Art. He understood his affinity for art as “indigenous to him,” and though his interest in watercolor and oil painting stemmed from his childhood, his first formal training began in Baltimore when he enrolled in a drawing course at the Maryland Institute. No fan of modern art, Coleman was known in art circles as an “adherent of the orthodox, representational form of expression.” Coleman kept abreast of innovations on the art scene and concurred with Roosevelt’s disparaging views of new trends in painting:

I agree with the views of Theodore Roosevelt as he expressed them after viewing an exhibition of modern art in New York in 1913. He said: “Why a deformed pelvis should be called *sincere* or a tibia of giraffe like length *precious* is a question of pathological rather than artistic significance.”

Coleman scoffed at the idea that such art should be displayed in museums supported by taxpayer dollars. Later in life, he condemned surrealism “and other *isms* in art as ‘revolutionary and seemingly a part of the world-wide radical movement.’”⁵⁸

Although he contributed to many aspects of the Baltimore community, William Coleman’s greatest impact was in his role as a federal judge. Appointed to the federal bench by President Calvin Coolidge only four years after his failed bid for Maryland attorney general, Coleman realized his dream of public service. Shortly after being sworn in by Judge Morris A. Soper, Coleman found his docket clogged with 1,400 Prohibition violation cases. In perhaps his most well-known Prohibition case, Coleman found permissible Prohibition officers’ search for pipes and contraband beer stored outside the room described in their warrant. In another case, he restricted Prohibition officers from targeting a house based solely on the gut feeling that it operated as a speakeasy.⁵⁹

Of the thousands of cases over which he presided during his twenty-eight years on the bench, however, the case of Schwab, Weigert, Feibelman, and the Buschkes was perhaps the most controversial. Coleman declared his contentious naturalization policy on December 8, 1941, the day after the attack on Pearl Harbor. He announced to a courtroom full of German and Italian naturalization applicants that he would not grant citizenship to any enemy alien who had not been in the United States continuously since at least 1933, and who had not completed all naturalization requirements prior to the attack on Pearl Harbor. In effect, Coleman imposed additional requirements on enemy aliens beyond those set forth in the Nationality Act of 1940.⁶⁰

Coleman extended this policy to enemy aliens from all countries, yet he worried especially about those from Germany. He felt anyone arriving from Germany since Hitler’s rise to power “should be subjected to the closest scrutiny.” He explained that he held the “greatest sympathy for the *bona fide* refugee . . . [but] this does not

mean that every person who has fled from the Hitler regime is of proper stuff out of which we should try to make American citizens." Judge Coleman disapproved of giving German Jewish refugees privileges to which they were not entitled based on "excess maudlin sentimentality" and he distinguished between toleration and "the privilege of citizenship, which should never be given to anyone unless we are sure that he or she is capable of a proper understanding of the obligations which citizenship carries with it."⁶¹

In response to Coleman's policy, Commissioner Harrison remarked that he was one of only a few judges in the country refusing to naturalize enemy aliens under the federal statute. The Nationality Act of 1940 authorized the INS Commissioner to issue nation-wide regulations for enemy alien naturalization. Drafted to establish a uniform method of ascertaining the loyalty of applicants, the regulations required "a more intense and thorough" investigation into applicants' character. The regulations required an external investigation in the country of origin for most enemy aliens. Among the exceptions to this rule were "aliens who are of groups which are being or have been subjected to religious persecutions in the countries of their origins."⁶²

Despite the refugee exception, Coleman persisted with his policy toward Jewish Germans. When applicants made inquiries to his office on their postponed cases, the judge directed the INS Baltimore field office to inform the applicants of his policy. Carole Feibelman made such an inquiry in early 1944. In a letter to the Chief of the Nationality Status Section of the Baltimore District Office of the INS, Caspar R. Berg, Coleman noted that Feibelman's case "did not warrant any exception to the war-time policy which the Court is following with respect to the postponement or non-postponement of consideration of petitions of those with a German status." Coleman enclosed a copy of his policy for the INS to convey to Feibelman, limiting the application of the policy to German nationals. Understanding Coleman's policy to affect all enemy aliens, Berg call the judge's office and learned that the policy was indeed to cover "all petitioners of enemy nationality."⁶³

By the time Schwab, Weigert, Feibelman and the Buschkies came before Coleman on June 13, 1944, two thousand courts throughout the United States had adopted Commissioner Harrison's regulations and naturalized 188,700 enemy aliens accordingly, without regard to whether they entered before 1933 or after. The commissioner noted that no other court, except that of William Coleman, had segregated naturalization applicants in this manner, but that there was "no doubt that a great percentage of the cases in which naturalization has been granted to alien enemies were of petitioners who arrived in the United States after 1933, particularly in the more recent years as immigration of refugees increased because of the growing persecution." Coleman had granted citizenship to 404 enemy aliens since the beginning of the war, yet all arrived prior to January 1, 1933.⁶⁴

Berg began the proceedings by stating the service's support of the petitioners, and moved that they be admitted to citizenship. Next, the service described its in-

vestigation of each person, asserting that "no unfavorable facts were revealed" on any of them. Commissioner Harrison also addressed the court briefly stating the service's interest in consistency, but Coleman did not allow further testimony from Harrison.⁶⁵

Each of the five applicants testified about their lives in Germany and any relatives that remained there, or whose whereabouts were unknown. The applicants also detailed their support of the U.S. war efforts. Simon Schwab recounted his sermons urging his congregation to purchase war bonds and his steady correspondence with sixty-four soldiers from the congregation serving overseas. The rabbi described his assessment of the Constitution, "It is the best piece that the human mind has ever produced in order to regulate the affairs of man."⁶⁶

Feibelman told Judge Coleman about her thwarted attempts to enlist in the Women's Army Corps since she was not a citizen and presented a letter stating that she could enlist as soon as she was naturalized. She testified that "being free" was the aspect of the founding documents that impressed her most. Weigert testified about her husband, who was serving in the Army and recently naturalized. William Buschke stated he bought war bonds and regularly donated blood to the American Red Cross. He assured Coleman that he firmly believed in the Constitution and fervently wanted to become a citizen of this country where freedom was guaranteed. Marie Buschke, like Feibelman, detailed her attempts to volunteer for the Red Cross, which were denied because she was not yet a citizen.⁶⁷

Not persuaded to diverge from his policy, Judge Coleman announced his intention to postpone his decision until after the war. He told the applicants to bide their time until the war ended. Coleman stated that war justified his rule if "only one person is prevented from becoming an American citizen who is not entitled to such citizenship." The judge chalked the applicants' postponement up to "hard luck that [they] happened to come to this country at this time."⁶⁸

Not content to let his clients remain in limbo, Sobeloff argued that the statute made no distinction between applicants who arrived before 1933 and those who came later. He contended that there was no discretionary element to naturalization. Since his clients had satisfied all statutory requirements, they had a right to be naturalized. Sobeloff asserted Coleman departed from the statute and abused his discretion by creating his own qualifications and postponing the cases indefinitely. Nevertheless, Coleman refused to make a final order.⁶⁹

Sobeloff viewed Coleman's postponement as "tantamount to denials," but could not appeal without a final order. On June 24, 1944, he petitioned the court again to issue a final order on the merits of the cases, to no avail. With no other remedy, and with the support of INS Commissioner Harrison, Sobeloff submitted a petition for a writ of mandamus to the Fourth Circuit Court of Appeals on August 3, 1944.⁷⁰

In his brief to the Fourth Circuit, Sobeloff presented three arguments. First, he contended that since the petitioners satisfied the statutory and regulatory require-

ments for naturalization, they were entitled, as a matter of right, to be naturalized. He delved into the statutory history of the Nationality Act of 1940, citing uniformity in naturalization procedures as one of its most important goals. Sobeloff examined Supreme Court precedent affording naturalization as a right once requirements have been met. Quoting Justice Brandeis, Sobeloff argued that while the Constitution does not provide a right to naturalization, Congress provide that right in the Nationality Act. The Act created a right not only to have the tribunal adjudicate the application, but also to be admitted as a citizen where all requisite facts were established. Sobeloff noted that only Congress and the administrative agency, not the adjudicating courts, had the authority to enact naturalization procedures, therefore, Coleman exercised arbitrary discretion in developing his policy.⁷¹

Sobeloff never directly accused Coleman of ethnic or religious prejudice, but he suggested as much by arguing that Coleman relied on "personal" rather than legal discretion. Legal discretion, Sobeloff wrote, "compel[l]ed the granting of the petitions for the requisite facts have been established in each case." Sobeloff took issue with Coleman's assertion that the petitioners themselves could not determine their own degree of loyalty. From a commonsense view, Sobeloff reasoned, people persecuted in their home country would seem "capable of keener appreciation and perhaps even greater attachment to the benevolent principles of our institutions and than those who have never had to endure such painful experiences."⁷²

Second, Sobeloff argued that Coleman's policy of indefinite postponement was improper and defeated the purpose of uniformity. The statute and regulations invalidated Coleman's policy since they did not differentiate between applicants based on their arrival date. Coleman's personal policy undermined the goal of the statute, Sobeloff argued, and created inequity among naturalization applicants: "the result cannot be other than to make naturalization of enemy aliens in his court subject to different qualifications than that in other courts which adhere closely to the statute and official rules." Finally, Sobeloff asserted that mandamus was the proper remedy in this matter. Since Coleman never issued a final order, an appeal could not lie.⁷³

The INS supported Sobeloff and his clients by submitting its own brief to the Fourth Circuit. The agency saw Coleman's policy as undermining the uniform administration of naturalization law. Since the Nationality Act of 1940 charged the INS with applying these laws, the agency's interest in uniformity stemmed both from the Constitution and the need for clear national guidelines.⁷⁴

Having received briefs from Sobeloff and the INS, senior Fourth Circuit Judge John J. Parker, set the hearing for 9:30 on the morning of October 2, 1944, the first day of the new term. Judges Armistead M. Dobie and Morris A. Soper would also hear the case. In addition, Judge Parker ordered Coleman to submit an answer by September 20, 1944.⁷⁵

Coleman explained the reasoning behind his policy. Although he clarified that he did not question the petitioners' loyalty, he argued that the abnormal conditions

of war created doubt as to whether the refugees were emotionally able to truly become attached to the United States. And while sympathizing with their plight and recognizing that they would have been persecuted had they remained in Germany, Coleman believed none of them had been in the United States long enough "to be sure as to what [they] can or will do with respect to this question of loyalty to their mother country as opposed to unqualified loyalty to this country, and the ability to attach themselves unreservedly to, and to understand our form of government."⁷⁶

Coleman denied that racial or religious prejudice motivated his stance. Rather, his apprehension stemmed from the inability to conduct an appropriate background check due to the war. Commissioner Harrison's regulation excusing refugees from outside investigations, Coleman believed, allowed all refugees from enemy countries to gain citizenship "willy-nilly" simply because they fulfilled the statutory requirements. Instead, Coleman interpreted the statute to require a determination "beyond all serious doubt" that the applicants' loyalty to the United States was complete and undivided, something that could not be ascertained without investigation in Germany. Finally, Coleman contended that the court retained broad discretion over the naturalization of enemy aliens since the statute provided they "may" be admitted to citizenship. Perhaps exasperated by the INS's opposition to his policy, Coleman commented that until recent personnel changes in the Baltimore field office, the INS acquiesced and approved of his policy.⁷⁷

When October 2, 1944, arrived Simon Sobeloff and Joseph Savoretti appeared in Richmond, Virginia, to argue before the Fourth Circuit on behalf of the five petitioners. Coleman did not appear, nor was he represented by counsel. As a result, Judge Parker announced that the court would make an argument on his behalf throughout the hearing. As the hearing began, Judge Parker had no doubt that his court could issue mandamus. "The only question is" he began, "whether we should do so—and I don't have much doubt about that."⁷⁸

Prepared to present his case to Judges Parker, Dobie, and Soper for one hour, Sobeloff argued for only fifteen minutes before Judge Parker stopped him and announced that no further remarks were necessary. The court took a brief statement from Savoretti, who noted that the extraordinary nature of the case compelled the service to appear for the very first time in a mandamus case on behalf of citizenship applicants.⁷⁹

Conclusion

On November 10, 1944, the Fourth Circuit issued its decision in favor of Schwab, Weigert, Feibelman, and William and Marie Buschke. In their written decision, the three Circuit Court judges found that Coleman's enemy alien naturalization policy "engrafted an exception upon the general language of the statute," which only Congress had the power to do.⁸⁰ In addition, the court found Coleman's reason for delaying the naturalization cases inadequate. The judges essentially agreed with

Sobeloff that as refugees, the petitioners' declarations of attachment to the United States should be viewed not as suspicious, but as good faith statements based on the sound fact of their gratitude to the country that offered them safe haven. Coleman did not have the authority to continue their cases indefinitely. But although the court found mandamus an appropriate remedy and acknowledged its power to issue the writ, it believed that such order would not be necessary. Now that the Fourth Circuit had corrected Coleman's "erroneous view of the law applicable," the court assumed that he would require no further instruction. Just one month later, on December 11, 1944, William Coleman naturalized Schwab, Weigert, Feibelman, and the Buschkes in his courtroom.⁸¹

NOTES

1. *Baltimore News Post*, May 3, 16, 1941.
2. *Baltimore News Post*, May 3, 16, 1941; *The Baltimore Sun*, May 17, 1943.
3. Throughout the paper, I alternately refer to Schwab, Weigert, Feibelman, and the Buschkes as refugees, applicants, and petitioners. The term "refugees" is employed in its common usage. Since the United States had not yet developed a refugee policy, nor had the United Nations formed to develop its definition of refugee, the term is not meant to imply any particular immigration status nor to conform with today's meaning of "refugee" under the Refugee Act of 1980. Indeed, Schwab, Weigert, Feibelman, and the Buschkes were admitted to the United States as permanent residents. *Petition for Writ of Mandamus* at 3, 6, 7, 9, and 11, *Schwab v. Coleman*, No. 5293 (4th Cir., August 3, 1944) [hereinafter cited as *Petition for Writ*], found at National Archives and Records Administration RG 276 (US Court of Appeals 4th Circuit), Case 5293, NRCAP Loc: BS-17-12-08, Box 439, Folder II.
4. *Schwab v. Coleman*, 145 F.2d 672, 676 (4th Cir. 1944).
5. Gary Gerstle, *American Crucible: Race and Nation in the Twentieth Century* (Princeton: Princeton University Press, 2001), 7; Mae Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton: Princeton University Press, 2004), 3-4; Erika Lee, *At America's Gates: Chinese Immigration During the Exclusion Era, 1882-1943*, (Chapel Hill: University of North Carolina Press, 2003), 43; Kunal M. Parker, "State, Citizenship, and Territory: The Legal Construction of Immigrants in Antebellum Massachusetts," *Law and History Review*, 19 (2001): 583-86. Parker promotes a view of citizenship from the outside, assigning negative identities to the individuals that were excluded. He eschews the traditional "inside" view of citizenship as inclusionary.
6. William S. Bernard, "Immigration: History of U.S. Policy," in *The Immigration Reader: America in a Multidisciplinary Perspective*, David Jacobson, ed. (Malden, Mass.: Blackwell Publishers, 1998), 48-51.
7. Stephen H. Legomsky, *Immigration and Refugee Law and Policy* (New York: Foundation Press: 2005), 1267; U.S. Const. art. I, § 8, cl. 4.
8. *An Act to Establish a Uniform Rule of Naturalization (Naturalization Act of 1790)*, March 26, 1790. 1 Stat.103-104.
9. In other words, naturalization allowed individuals neither born in the United States nor

related to existing citizens to acquire citizenship. See Bernard, *The Immigration Reader*, note 6 at 53. See also John J. Newman, *American Naturalization Processes and Procedures 1970–1985* (Indianapolis: Indiana Historical Society: 1985), 6.

10. Erika Lee, “Immigrants and Immigration Law: A State of the Field Assessment,” 18:4 *Journal of American Ethnic History* 18:4 (1999): 86. Lawmakers did not define the limitations of “white,” creating an ambiguity for later courts to clarify. See generally Matthew Frye Jacobson, *Whiteness of a Different Color: European Immigrants and the Alchemy of Race* (Harvard University Press: 1998); *Scott v. Sandford*, 60 U.S. 393 (1856).

11. Newman *supra*, 7 note 9; Aristide R. Zolberg, *A Nation by Design: Immigration Policy in the Fashioning of America* (Cambridge: Harvard University Press: 2006), 88–92. The Jeffersonians viewed the French Revolution of 1789 as an inspiration for a republican-style government. On the other hand, the Federalists viewed the popular participation embodied by the French Revolution as a threat to national and global security. David Cole, *Enemy Aliens: Double Standards and Constitutional Freedoms in the War on Terrorism* (New York: The New Press: 2003), 91. The Alien Act was never enforced. The Alien and Sedition Acts are better known for their curtailment of free speech and penalties imposed for criticizing the government. The Sedition Act was enforced mainly to repress Republican critics of the Federalist administration. The acts sparked deep controversy and were allowed to expire in 1800.

12. Newman *supra*, 6–7, note 9. This change occurred in 1802; See Bernard, *supra*, 56, note 6. In 1855, the U.S. Customs Service started compiling immigration reports, but Congress later entrusted this task to the Treasury Department in 1867.

13. Bernard at 53–55.

14. Ngai, *supra*, 38 note 7. Notably, Chinese remained ineligible until 1943.

15. Kunal Parker, “Migration, Immigration,” in *The Cambridge History of Law in America*, edited by Michael Grossberg and Christopher Tomlins, vol. 2 (New York: Cambridge University Press, 2002); See Bernard, *supra*, 58, note 6; Lee, *At America’s Gates*, 25–29.

16. In 1917, Congress adopted legislation that established an Asiatic Barred Zone ranging from Afghanistan east to the Pacific and prohibited people from this zone from entering the United States. See Lee, *At America’s Gates*, *supra*, 3 note 7. Prior to the 1920s, the United States had a *laissez-faire* approach to migrants from Europe, meaning that the government did not place limits on the number of people from this region who could enter the country. In the nineteenth century, unrestricted migration reflected ideas about humans’ right of movement that emerged during the French Revolution in the Declaration of the Rights of Man and Citizen. See, e.g. William S. Bernard, *American Immigration Policy—a Reappraisal* (New York: Harper & Brothers: 1950), 255; Ngai, *supra*, 17 note 7. See also Erika Lee, “American Gatekeeping: Race and Immigration Law in the Twentieth Century,” *Not Just Black and White: Historical and Contemporary Perspectives on Immigration, Race, and Ethnicity in the United States*, edited by Nancy Foner & George M. Frederickson, (New York: Russell Sage Foundation, 2004), 119–21.

17. Ngai, *supra*, 18–19, note 7; likely to become a public charge was a limitation on immigration at this time, also health restrictions.; Bernard, *supra*, 60 note 6.

18. *Report to the President of the Commission on Naturalization*, 59th Congress, 66 (1905) 1st, as cited in Newman, *supra*, 7 note 9.

19. Gerstle, *supra*, 24 note 5, 47–59. See generally Kathleen Dalton, *Theodore Roosevelt: A Strenuous Life*, (New York: Alfred A. Knopf: 2002).

20. Gerstle, 45–55. His vision did not embrace people of color, notably black Americans and Asians, whom he believed did not possess the mental or moral capacity to be true Americans.

21. *Ibid.* This was the first immigration law creating political affiliation as a ground of deportability. Later amendments included grounds of deportability for members of the Communist Party and totalitarian regimes. See also Newman, *supra*, 7–8, note 9.
22. Newman, 7–8.
23. Act of June 29, 1906, 34 Stat. 596, Preamble, as cited in Newman, *supra*, 10 note 9.
24. Department of Commerce and Labor, Division of Naturalization, Circular 126, Rules and Regulations Relating to the Enforcement of the Naturalization Law, August 25, 1906, as cited in Newman, *supra*, 10 note 9; INA of June 1906, §4, as cited in *Brief in Support of Petition for Writ of Mandamus* at 5, Schwab v. Coleman, No. 5293 (4th Cir. August 3, 1944) found at National Archives and Records Administration RG 276 (US Court of Appeals 4th Circuit), Case 5293, NRCAP Loc: BS-17-12-08, Box 439, Folder II.
25. Theodore Roosevelt, “True Americanism,” *The Forum* (April 1894), in *The Works of Theodore Roosevelt, National Edition, Vol. 13*, ed. Hermann Hagedorn (1926): 20–21, as cited in Gerstle, *supra*, 53 note 5.
26. Gerstle, *supra*, 54, note 5.
27. Gerstle, 54–56. Indeed, Roosevelt endorsed legislation with just these goals.
28. *Ibid.*, 55.
29. Gerstle, *supra*, 55 note 5, 105; see also Jacobson, *supra*, 78 note 10; Norman L. Zucker and Naomi Flink Zucker, *Desperate Crossings: Seeking Refuge in America*, (1996), 14.
30. Gerstle, 55, 78–80, 105. Likewise, Madison Grant’s *Passing of the Great Race* published in 1916 also drew attention to the changing face of European immigration and argued that the old-stock American race would be exterminated if this new European immigration was allowed to continue unchecked.
31. Cole, *supra*, 92 note 11.
32. Gerstle, 100–101, 104. Gerstle points out that southern and eastern Europeans comprised 80 percent of the workers in sugar refining, 70 percent in the garment industry, 60 percent in coal-mining, meat-packing, and oil refining, and 50 percent in steel and iron. He argues that “heavy southern and eastern European involvement in the strikes simply reflected their domination of the work forces in those industries.”
33. Zolberg, *supra*, 243 note 11.
34. This act barred entry to anyone ineligible for citizenship, completely shutting the doors to Asian migrants in the wake of the *Ozawa v. U.S.*, 260 U.S. 178 (1922) and *Thind v. U.S.*, 261 U.S. 204 (1923). The Supreme Court participated in upholding an exclusionary citizenship regime in these two cases. In *Ozawa*, the Court determined that a Japanese man was ineligible for naturalization under the Naturalization Act of 1790 because he was not white. In *Thind*, the Court found that even though Mr. Thind, a South Indian immigrant, was geographically a Caucasian, he could not naturalize under the Act, because he would not be considered white under the common construction of the term. See Jacobson, *supra*, 225 note 10.
35. The quota limits were based on proportion of the U.S. population in 1890, Jacobson, *supra*, 41–90 note 10.
36. Jacobson, 9, 262, 277–78; of those in the United States, some were admitted under the quota system while others had previously entered as visitors and extended their stay. Roger Daniels, *Guarding the Golden Door: American Immigration Policy and Immigrants Since 1882* (New York: Hill and Wang: 2004), 78; See Zolberg, *supra*, 274 note 11. Ironically, the American Jewish Committee (AJC) discouraged attempts to revoke the heightened restrictions in the LPC clause. AJC’s immigration specialist, Max Kohler, believed that in the context of severe unemployment in the United States, American Jews would be charged with undermining “America’s obvious and essential interests on behalf of their German coreligionist.”

37. In addition, the State Department opposed special treatment of Jewish refugees in fear of antagonizing the Nazi regime, Zolbert, 274–75.

38. Daniels, *supra*, 78–79 note 38, citing manuscript diary of State Department official Jay P. Moffat, May 25, 1939. The U.S. government's refusal to stray from the quota system combined with pervasive anti-Semitism proved disastrous for 953 Jewish refugees aboard the *St. Louis*. The ship left Germany in 1939 bound for Havana. Most of the refugees held visas from the Cuban government. Some were eligible to immigrate to the United States and intended to await their processing dates in Cuba. Upon reaching the island, the passengers with Cuban visas were denied entry and the ship was turned away. The captain changed course for the United States, but the refugees were again denied safe haven. The *St. Louis* and its passengers were forced to return to Europe where many of them later died in concentration camps.

39. Zolberg, *supra*, 277–78 note 38. Of those Jewish immigrants in the U.S., some were admitted under the quota system while others had previously entered as visitors and extended their stay.

40. *Petition for Writ*, 3–5; Blumberg, "A History of Congregation Shearith Israel of Baltimore: On the Threshold of a Century," 11, Enoch Pratt Library Vertical File: Synagogues-Baltimore-Shearith Israel. There is a discrepancy in Rabbi Schwab's date of birth. The Petition states his date of birth as December 30, 1908, but the Blumberg pamphlet reports the rabbi was born in 1909, citing a letter written by the rabbi himself in 1969. It remains unclear in which year Rabbi Schwab visited Baltimore the first time. The leader of the congregation, Rabbi Schaffer, suffered from a debilitating illness and entered partial retirement in 1925, passing away in 1933. The Petition for Writ of Mandamus notes that Rabbi Schwab's return to Baltimore on December 23, 1936 was "shortly" after he left to officiate the high holidays to his congregation in Germany, suggesting that the rabbi's initial visit may have been in early or mid 1936. *Petition for Writ*, 5. If correct, then Rabbi Schwab first entered the United States after Hitler had taken power in Germany. The fact that he would risk return to Germany at this time may indicate that the rabbi had indeed secured the position at Shearith Israel by that time and that he was quite certain he could re-enter the United States. Alternatively, his return to Germany may suggest that he, like many, did not yet fully comprehend the horrifying potential of Nazi persecution of Jews. Yet another theory supported by Samuel Rauneker's testimony on behalf of Rabbi Schwab's naturalization application was that the rabbi simply could not break his word to his German congregation and nothing, not even fear of the Nazis, would persuade him to do so. Indeed, Mr. Rauneker noted that "no amount of money or any other inducement would persuade [Rabbi Schwab] not to keep his promise."

41. *The Baltimore Sun*, January 1, 1937. The article notes that Rabbi Schwab "plans to come to Baltimore to live in the latter part of the week," raising the question of where the rabbi and his family stayed in the weeks between their arrival in the United States and their arrival in Baltimore. At the time of the naturalization hearing, June 14, 1944, Rabbi Schwab and his family lived at 5700 Narcissus Avenue in Baltimore. *The Baltimore Sun*, June 14, 1944; See also Blumberg, 11 note 43. Blumberg's pamphlet characterizes Rabbi Schwab's adjustment to a new culture and language as painful. The Petition for Writ of Mandamus, however, paints a sunnier picture: Rabbi Schwab "was thoroughly familiar with our tongue before coming to this country," undoubtedly emphasizing his preparedness to be a U.S. citizen. *Petition for Writ*, 3.

42. *Petition for Writ*, 11.

43. *Ibid.*, 9–11, 12; It is unclear whether Strauss's role as a "foster parent" was a formal or informal arrangement. By the time Feibelman came to Baltimore she was twenty-four, unmarried, and without her parents. However, it appears that Strauss and Feibelman met as

soon as Feibelman arrived in Baltimore in October 1939. Both Julia Strauss and Bettie Wolf testified on Carole Feibelman's behalf during her naturalization hearing. Notably, Julia Strauss also provided testimony on behalf of Hedwig Weigert. Like Feibelman, Weigert was unmarried and unaccompanied by her parents when she arrived in the United States. Perhaps Weigert had a foster relationship with Strauss, as Feibelman had.

44. *Ibid.*, 6–8. Dr. Buschke left Germany on April 1, 1933. It is not clear if the couple were acquainted prior to leaving Germany or whether they met in exile. William was also affiliated with the Maryland Society for the Prevention of Blindness. It is noteworthy that while William maintained affiliations with the Maryland Society for the Prevention of Blindness, the Baltimore Committee on Civilian Defense as well as his job at Johns Hopkins even though he was not a U.S. citizen, Marie's status precluded her from jobs and volunteer activities. For instance, she only worked as a medical technician at Johns Hopkins for a short time before she was discharged for not being a U.S. citizen. She also could not apply for jobs as a nurse's aide for the same reason and was not accepted as a volunteer for the Red Cross, *The Baltimore Sun*, June 14, 1944.

45. *Petition for Writ*, 6, 7.

46. *Ibid.*, 7–10.

47. Newman, 9 note 9, 12. The 1940 Act also transferred the INS to the Department of Justice, where it remained until 2003 when it was reorganized and distributed between the DOJ and the newly-created Department of Homeland Security. Nationality Act of 1940 § 307(a) (54 Stat 1142, 8 U.S.C.A. 707(a)), as cited in Brief of the Immigration and Naturalization Service in Support of Petition for Writ of Mandamus 7–8, Schwab v. Coleman, No. 5293 (4th Cir. August 22, 1944) [hereinafter cited as *INS Brief*], National Archives and Records Administration RG 276 (US Court of Appeals 4th Circuit), Case 5293, NRCAP Loc: BS-17-12-08, Box 439, Folder II.

48. 8 U.S.C.A. § 726, as cited in *INS Brief* at 2 (emphasis added).

49. Schwab filed his declaration of intent on December 14, 1937, and his petition for naturalization on August 7, 1942. *Petition for Writ*, 3. Weigert declared her intent on December 13, 1937, and filed her petition on October 21, 1943. *Ibid.*, 11. Feibelman declared her intent to become a citizen on March 23, 1938, and her petition for naturalization on August 5, 1943. *Ibid.*, 9. The Buschkes declared their intentions on February 11, 1938, and filed their petitions for naturalization on August 11, 1943. *Ibid.*, 6–7.

50. Records of the Baltimore Jewish Council, Jewish Museum of Maryland, MS 107.

51. *INS Brief*, 3–4. By law, this hearing could not be scheduled prior to ninety days after the filing of the applications. 8 U.S.C.A. Sec. 726 (b) [Nationality Act 1940], as cited in Brief in Support of Petition for Mandamus 2–3, Schwab v. Coleman, No. 5293 (4th Cir. August 3, 1944) [hereinafter cited as *Petitioners' Brief*], National Archives and Records Administration RG 276 (US Court of Appeals 4th Circuit), Case 5293, NRCAP Loc: BS-17-12-08, Box 439, Folder II. See also *Petition for Writ* at 3. Indeed, "the investigations were conducted in the same manner as in all cases involving alien enemies."

52. *Ibid.* at 3–4. *INS Brief* at 4; *Petition for Writ* at 2. The hearing was set for June 13, but applications were also presented on June 14, 1944.

53. Michael S. Mayer, "Simon E. Sobeloff," *Thurgood Marshall Law Library Digital Collections*, University of Maryland School of Law. In 1952, Simon Sobeloff was appointed Chief Judge of the Maryland Court of Appeals. In 1955 he was nominated to the Fourth Circuit Court of Appeals.

54. *Petition for Writ*, 13.

55. Matthew Page Andrews, *Tercentenary History of Maryland, Illustrated*, Vol. III (Baltimore:

- The S. J. Clarke Publishing Co.: 1925), 172; See Gerstle, *supra*, 15 note 5, *Baltimore American*, January 24, 1937; *The Baltimore Sun*, January 13, 1968; *The [Baltimore] Evening Sun*, January 16, 1957.
56. *Tercentenary History*, 172; *The Baltimore Sun*, January 13, 1968; *The Baltimore Sun*, January 13, 1968; *The Baltimore Sun* (Evening Edition), April 7, 1927.
57. *The Baltimore Sun* (Evening Edition), April 7, 1927; *Judge Coleman, Senior Federal Judge, Nominated for Election to Board of Overseers at Harvard*, *The Baltimore Sun*, January 10, 1940; *The Baltimore Sun*, January 13, 1968. Elizabeth was originally from Norfolk. Their sons, William Jr. and Robert Henry attended college at Harvard University. One daughter, Susan, remained in Baltimore until Coleman's death, while the other married, became Mrs. Richard E. Mooney and lived in Pelham, New York. Robert became an Episcopal reverend and spent his entire ministry as a missionary in Japan. *The Baltimore Sun*, March 31, 1959. He returned to the United States in 1957 for advanced theological study and died that same year. In 1959, a window and chapel in the Protestant Episcopal Cathedral in Kobe, Japan was dedicated in honor of Robert Coleman's work in that country. *The Baltimore Sun*, July 16, 1950; *Tercentenary History*, 172; on Theodore Roosevelt and American masculinity, Gail Bederman, *Manliness & Civilization: A Cultural History of Gender and Race in the United States 1880–1917* (Chicago: University of Chicago Press: 1995); *Baltimore News Post*, November 3, 1939; *The Baltimore Sun*, March 25, 1955; *The Baltimore Sun*, June 14, 1953; *The Baltimore Sun*, January 10, 1940. *Tercentenary History*, 172; *Baltimore News Post*, November 3, 1939.
58. *Tercentenary History*, 172; *Baltimore News Post*, November 3, 1939; *The Baltimore Sun*, June 14, 1953; *The Baltimore Sun*, July 16, 1950. Coleman also enrolled in summer painting classes while vacationing in Nantucket, Massachusetts.
59. *The Baltimore Sun* (Evening Edition), April 7, 1927; *The Baltimore Sun*, March 25, 1955; *The Baltimore Sun*, January 13, 1968.
60. *The Baltimore Sun*, January 13, 1968. In his obituary, he was remembered for the "unique judicial ruling" that left a roomful of sobbing German and Italian aliens.
61. *Ibid.*, Coleman's policy was, however, limited to *civilian* alien enemies, suggesting that Coleman would have naturalized enemy aliens serving in the U.S. military even if they did not meet his requirements. Coleman stated that non-citizens who had entered after 1933, but had not completed all the requirements for naturalization before the U.S. entered the war, and who now were unable to naturalize under his policy, deserved the postponement of citizenship since having had an ample opportunity before the war to naturalize, it was their "neglect and indifference toward our country which justifies putting them in a postponed class."
62. *Petition for Writ*, 14–15, citing Earl Harrison's tender and citing Instruction #96, September 26, 1942. See also *The Baltimore Sun* (Morning edition, final) November 27, 1943, included as "Exhibit 2" in *Petition for Writ of Mandamus*.
63. Letter from Judge William C. Coleman to Mr. C.R. Berg, Examiner in Charge, February 5, 1944 and Handwritten note documenting the call on February 18, 1944, bottom of Coleman's policy statement, signed by Berg. *Petition for Writ* at "Exhibit 1."
64. *Petition for Writ*, 16, citing Earl Harrison's tender; Letters from Commissioner Harrison to Judge William Coleman, June 17 & 20, 1944, as cited in *Petition for Writ*, 17.
65. *Ibid.*, 2, 13.
66. *Ibid.*, 4.
67. *Ibid.*, 7–11. Each of the applicants' two character witnesses also testified.
68. *The Baltimore Sun*, June 14, 1944. Coleman cited an example of a case in which due to his heightened scrutiny, prevented a soldier later found to be of "reprehensible character" from becoming a citizen.

69. *Petition for Writ*, 18–19.
70. *Ibid.*, 20.
71. *Tutun v. U.S.*, 270 U.S. 568, as cited in *Petitioner's Brief* at 6; *U.S. v. Schwimmer*, 279 U.S. 644; *Petitioners' Brief*, 5–6.
72. *Petitioners' Brief*, 9–10, 14.
73. *Ibid.*, 12, 15.
74. *INS Brief*, 21. Since the hearing before Judge Coleman, Earl Harrison left the INS and Joseph Savoretti assumed the position of Acting Commissioner.
75. Letter from Clerk Claude M. Dean to William Coleman, September 29, 1944; Letter from Clerk Claude M. Dean to Hon. John J. Parker, August 11, 1944, found at National Archives and Records Administration RG 276 (US Court of Appeals 4th Circuit), Case 5293, NRCAP Loc: BS-17-12-08, Box 439, Folder I; *The Baltimore Sun*, August 13, 1944.
76. Answer of William C. Coleman, United States District Judge for the District of Maryland, to the Petition for Writ of Mandamus 4–7, Schwab v. Coleman, No. 5293 (4th Cir. September 20, 1944) [hereinafter cited as *Judge Coleman's Answer*], found at National Archives and Records Administration RG 276 (US Court of Appeals 4th Circuit), Case 5293, NRCAP Loc: BS-17-12-08, Box 439, Folder I.
77. *Ibid.*, 2–5, 13; *The Baltimore Sun*, September 22, 1944.
78. *The Baltimore Sun*, October 3, 1944.
79. *Ibid.*
80. *Schwab v. Coleman*, 145 F.2d 672, 676 (4th Cir. 1944).
81. *Ibid.*, 678. See also, *The Baltimore Sun*, November 13 and December 12, 1944.

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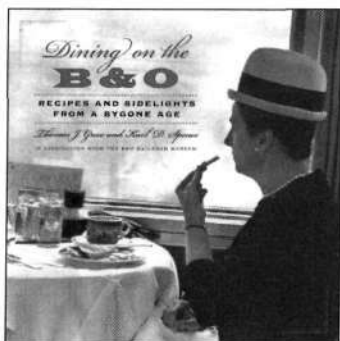
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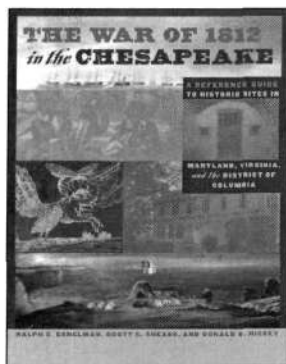
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