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**OF**  
**THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF MARYLAND**  
**1790 - 1990**

**By**

**H. H. WALKER LEWIS, ESQ.**  
**of the Baltimore Bar**

**and**

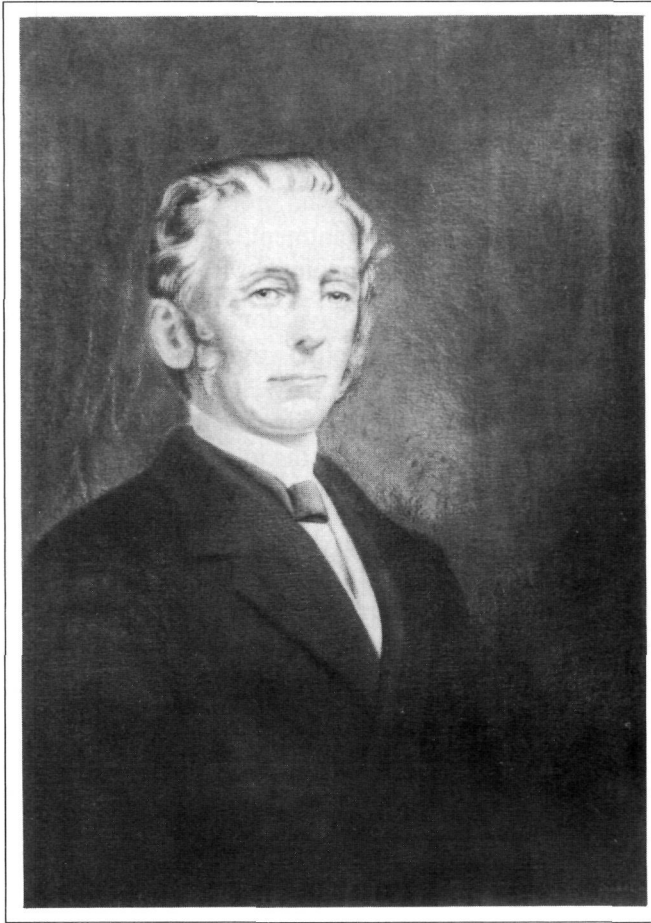
**THE HON. JAMES F. SCHNEIDER**  
**U.S. Bankruptcy Judge for the**  
**District of Maryland**

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**8. WILLIAM FELL GILES**  
(1807 - 1879)



*Portrait by Donald Cole (1937) (Federal Art Project)*

Born: *April 8, 1807*

Birthplace: *Harford County, Maryland*

Father: *Jacob Washington Giles (June 26, 1776-Nov. 7, 1851)*

Father's Occupation: *Ship Owner*

Mother: *Martha Phillips (d. March 24, 1815 aet 33 years)*

Wife: *(1) Sarah Wilson; (2) Catherine Donaldson*

Married: *(1) Oct. 14, 1831; (2) Dec. 17, 1847)*

Children: *William Fell Giles, Jr., Donaldson Giles, Isabella Giles, Stewart Giles, Catherine W. Giles, Alfred Baker Giles*

Religion: *Presbyterian*

Political Party: *Democratic*

Term on U.S. District Court: *July 19, 1853-Mar. 21, 1879*

Length of Term: *25 years, 245 days*

Age at Accession to the Bench: *46 years, 103 days*

Died In Office: *March 21, 1879*

Age at Death: *71 years, 347 days*

Place of Death: *Baltimore, Maryland*

Burial Place: *Greenmount Cemetery, Baltimore, Maryland*

## WILLIAM FELL GILES (1807 - 1879)

The following story appeared in the press as to the appointment of Giles (1807-1879) as John Glenn's successor:

A large delegation from Baltimore went to Washington to ask that Mr. Giles should receive the appointment, consisting of Hon. Joshua Vansant, Col. Isaac M. Denison, Dr. John Morris, and many other prominent citizens. They waited in a body on President Pierce, who promptly told them they were too late. They were dumb with disappointment; but after a few moments he informed them that he had already appointed Mr. Giles to the office.<sup>37</sup>

It is not impossible that Giles may have done some stirring about on his own. Delegations like the one described are not often virgin-born. The likelihood is, however, that Chief Justice Taney played an important part. He and President Pierce were on terms of intimacy, and he probably would have heard in advance of the deputation of his fellow townsmen. Both of them would have enjoyed the joke.

Giles, a native of Harford County, was a descendant of the Paca family who had supplied the first U.S. District Judge for Maryland. He had studied law under Judge John Purviance of Baltimore and had been admitted to the Bar in 1829. Thereafter he had served in the Maryland Legislature and in Congress. He was a universal favorite and was in special demand as a ceremonial orator. He was also considered an able lawyer and his appointment was well received. He had not served long when the *Baltimore American* reported:

Those of our citizens who occasionally visit the U.S. District Court, Judge Giles presiding, cannot but be favorably impressed with the admirable manner in which business is transacted. A large portion of the cases are of a criminal character, and whilst the rights of the prisoner are carefully guarded, the law is enforced with rigid care . . . Justice is administered promptly and intelligently, without unnecessary delay.

Judge Giles has already attained a position and character in the judiciary that few men could have reached in so short a time. He gives his whole mind to the case on trial, and decides all legal points that may be raised with promptness which evinces legal knowledge of the highest order. His decisions are delivered orally, and whilst brief and conclusive, are sustained by such an array of eminent authority and precedent that they are seldom, if ever, appealed from . . .<sup>38</sup>

Giles sat with Chief Justice Taney in the Circuit Court of Maryland's most famous Federal case, *Ex Parte Merryman*, 17 Fed. Cases, No. 94 (1861). It was in this that Taney held unconstitutional President Lincoln's suspension of the writ of habeas corpus. The petition for the writ had been presented to him, as Chief Justice, in Washington, but he came to Baltimore to rule on it. His use of the Maryland Circuit Court as a forum may have been influenced by a desire to throw his weight behind Giles, who already had ruled on a similar petition and had been ignored by the military. Taney took the full onus of the Merryman case on himself, however, fearing that he might be arrested and wishing to protect Giles.

The earlier case is described in Scharf's *History of Maryland, III, 429-30*:

Major Morris of the U.S. Army was on the 4th of May served with a writ of habeas corpus by Judge William F. Giles of the U.S. District Court for the purpose of subjecting to judicial determination the validity of the enlistment of a soldier named John George Mullen who had petitioned for release on the ground of minority. Major Morris, in a letter to Judge Giles dated May 7, refused to obey the writ and the case attracted very great attention . . . The writ was extended to May 13, but Major Morris still refused to obey. Dr. N.S. Jervis, the medical examiner of Fort McHenry, however, then determined that the soldier was under age and he was discharged.

The Merryman case involved an arrest by the military, rather than an enlistment, but on the authority of the President, the officers again refused to honor the Court's writ. This led to Taney's famous opinion charging President Lincoln with usurpation of power. After the publicity had abated, the Secretary of War quietly arranged for Merryman's release, but this did not end his troubles. The U.S. Attorney then had him indicted for treason, as he did some sixty other Marylanders. In most instances, the grounds were at the very least tenuous and controversial.

By this time, Baltimore and other parts of Maryland had been placed under strict military control. Taney did not believe that the Circuit Court could any longer assure a fair trial of individuals charged by the military, as had been Merryman and the others indicted for treason. Accordingly, and contrary to precedent, he instituted a rule that the District Judge could not try a capital case while sitting alone in the Circuit Court. As Taney was then in his eighties and in precarious health, the possibility of his participation was remote and the effect was to defer all the Maryland treason trials until after the Civil War. Ultimately they were dropped.

Meanwhile Giles was subjected to strong pressure to try such cases, and he showed signs of wavering. This was reported to Taney by his son-in-law, James Mason Campbell, a Baltimore lawyer. Taney thereupon wrote a sharp letter, nominally addressed to Campbell, but designed for Giles' eyes, in which he said.

I do not exactly understand what my brother Giles means by saying the treason cases would probably be forced to trial by the District Attorney. I am yet to learn that the District Attorney can force the Court to do anything that they think illegal or unjust, whatever he may think of it. The treason cases cannot be tried simply because it is not at present in the power of the Court to give the parties the rights or the trial which the Constitution requires. Maryland is under martial law, and the process of the Court is obeyed or not at the pleasure of the military authority. The treason cases cannot therefore be tried under present circumstances and I shall so write to my brother Giles.<sup>39</sup>

Taney's asperity on this point did nothing to mar the cordiality of his relations with Giles. When the Chief Justice died less than six months later, Giles' tribute from the bench was one of the most moving of all the many things that were spoken in his honor.

During Giles' tenure, Congress enacted legislation permitting Federal Judges with sufficient service to retire at age 70 with full pay. When Giles was close to this age, the

*Cumberland-Allegany Times* reported that he was about to retire and that Judge Pearre of the Allegany County Court probably would be his successor. Whether Giles, like many another Judge, was deterred by the prospect of who would succeed him, or had some other reason, he did not in fact retire until he was incapacitated by illness shortly before his death on March 21, 1879, at age 72.

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<sup>37</sup> *Sun*, March 22, 1853.

<sup>38</sup> Quoted by Judge Chesnut, 41 *Md State Bar Procs.* (1936), 81-82.

<sup>39</sup> Letter of May 14, 1864, to James Mason Campbell: Md. Hist Soc MS; quoted in Walker Lewis, *Without Fear or Favor* (Boston 1964), 454.