

MARYLAND *Historical Magazine*

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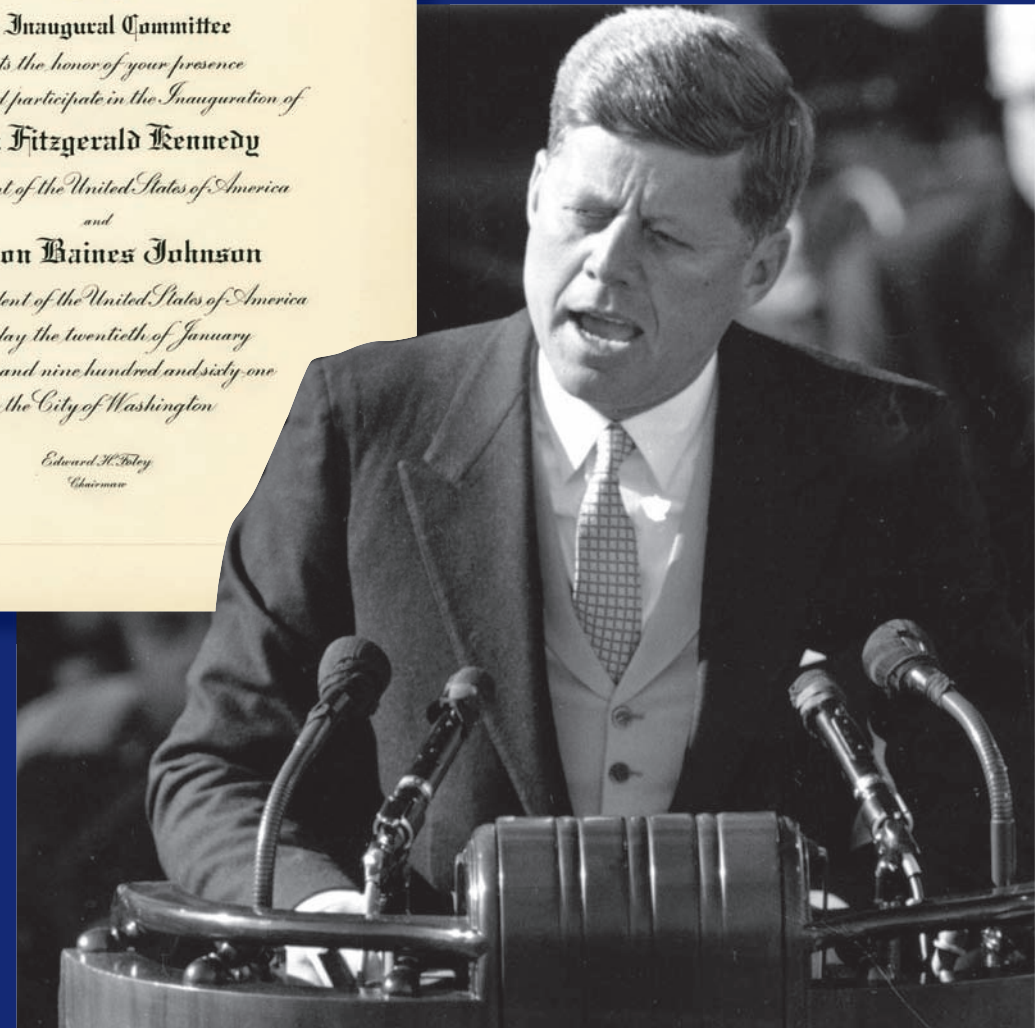
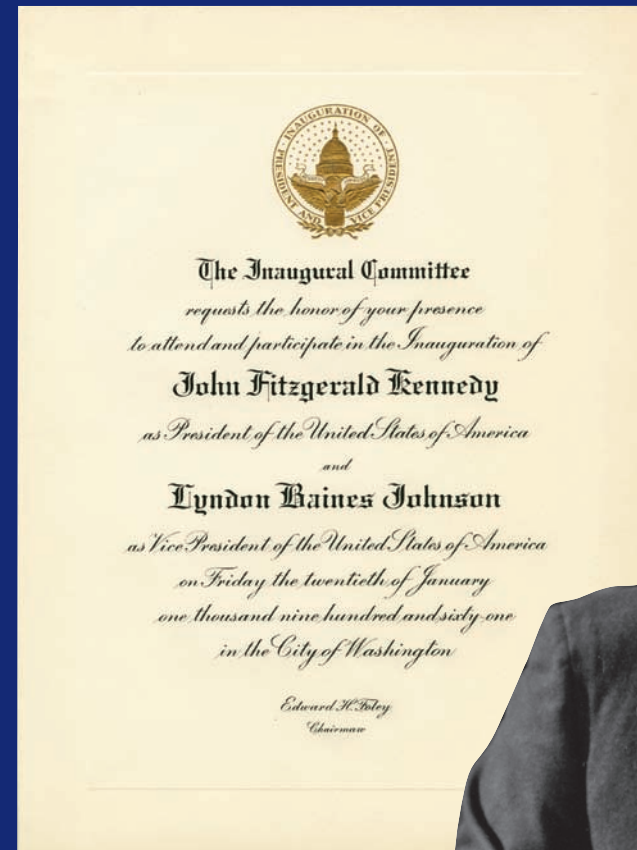
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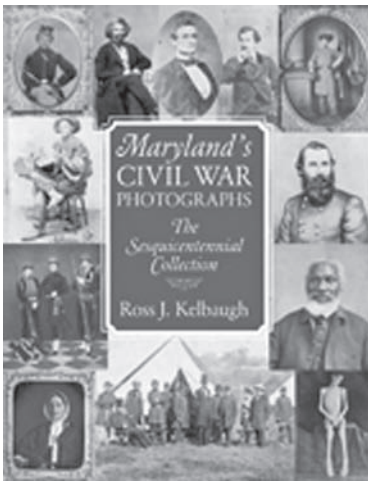
Maryland Historical Magazine

Vol. 108, No. 4, Winter 2013



Friends of the Press of the Maryland Historical Society

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



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

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

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



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Historical Magazine

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Cover

President John Fitzgerald Kennedy (1917–1963)

In the fiftieth anniversary year of his death, the *Maryland Historical Magazine* pays tribute to the charismatic leader whose exuberance and optimism rallied a generation of idealistic young Americans with his inaugural address, delivered on a bitterly cold January 20, 1961:

“Let the word go forth from this time and place, to friend and foe alike, that the torch has been passed to a new generation of Americans—born in this century, tempered by war, disciplined by a hard and bitter peace, proud of our ancient heritage—and unwilling to witness or permit the slow undoing of those human rights to which this nation has always been committed, and to which we are committed today at home and around the world.

... we shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe, in order to assure the survival and the success of liberty. . . . And so, my fellow Americans: ask not what your country can do for you – ask what you can do for your country.”

PDA



Eighteenth-century Chesapeake merchants prospered as the tobacco economy shifted to an export market that thrived on a variety of crops. Emanuel Bowen, *A New and Accurate Map of Virginia and Maryland*, 1747 [1752].

Before the Storm: Maryland Shipping, 1750–1775

JOHN F. WING

In the twenty-five years leading up to the Revolutionary War, Patrick Creagh and Samuel Galloway, Maryland businessmen, represented a growing class of local merchants who built, owned, and operated vessels in Maryland's shipping. They sent them to England, the Caribbean Islands, and to sister colonies in North America. The wind-driven wooden vessels were loaded with Maryland's agricultural output and brought back household goods, sugar, rum, salt, wine, and people. Maryland's economy and its ocean trade were increasing in part due to the entrepreneurial spirit of men such as Creagh and Galloway, the diversification of its export cargoes, and the accumulation of capital. The London-based merchants and New England ship owners who had controlled colonial shipping were now facing competition.

The Revolutionary War, though, ended the long growth of Maryland trade and shipping, the cornerstones of the colony's economy. This essay focuses on the period of profound shift from dependence on tobacco exports to Britain to development of a broader agricultural base, which overtook tobacco's share of the provincial economy. Manufactured products, which had been imported exclusively from Britain, were now increasingly made locally as well as in other American colonies. Vessels were being built and crewed in Maryland. All of these developments describe a more self-reliant economy than the highly dependent tobacco economy that characterized Maryland fifty years earlier.

The principal economic change was the decline in tobacco exports and the increase in a wider set of exports: wheat, flour, corn, timber, ships, and iron. At the same time the vessels in Maryland's overseas trades evolved from three-masted, square-rigged vessels—ships, hagboats, flyboats, and pinks, and a small number of two-masted vessels (brigantines, ketches, and barks)—to a more even mix of ships, brig types, schooners, and sloops. Rather than being confined to trade with Britain and limited coastal trade as at the beginning of the century, Maryland merchants and vessels became the largest part of the colony's commercial industry, sailing to Britain, Ireland, Portugal, Madeira, New England and Mid-Atlantic colonies, and the Caribbean colonies of Barbados, Jamaica, Antigua.

During the prewar period, the types of vessels that came to Maryland harbors and rivers had already moved from a diverse collection of seventeenth-century craft

John F. Wing is a maritime historian specializing in Maryland's colonial shipping.

Table 1: Exports of Maryland and Virginia to Britain
(Value in thousands of pounds sterling)

	Value	Share of North American Exports (%)
1700	317	80
1710	188	75
1720	331	71
1730	347	61
1740	342	48
1750	509	62
1760	504	66
1770	435	43
1775	758	39

Source: U.S. Bureau of the Census, *Historical Statistics of the United States* (Washington, D.C.: U.S. Government Printing Office, 1960).

to fewer types that were better suited to specific trades: transatlantic, Caribbean, and coastal. Another change that was well underway was the shift from Annapolis to Baltimore as the major center of trade in the colony. Baltimore had better access to grain produced in Maryland's hinterland, waterpower for mills, and a deeper and larger harbor, putting the young city on the path to be the primary port in Maryland.

Because of the war, by 1776 most Maryland ports were closed, shutting up colonial vessels in harbor or diverting them to less familiar trades and privateering. British vessels no longer brought European goods for Maryland's homes and shops. Maryland's economy turned inward as the British blockade crippled merchant shipping to and from the colony.

This essay describes the composition of Maryland's trade before the war and the merchant vessels in the colony's shipping. It also links the two by showing how the changing economy governed the types of vessels that carried Maryland's trade.

A Growing Economy

Commercial policies practiced in the eighteenth century by Britain and other European powers channeled colonial trade of important commodities such as tobacco and sugar to their homelands. London merchants and the royal treasury counted on revenue from Britain's colonies in the New World. Maryland and Virginia were major participants in this commercial empire through their tobacco production. The annual value of Maryland and Virginia exports to Britain grew slowly over the eighteenth century from £300,000 to over £700,000 (Table 1).¹ Maryland's trade is often estimated to be 40 percent of the total.

In the early years of the Maryland colony, the primary export was tobacco shipped to England. By the middle of the eighteenth century exports had expanded to include wheat, flour, corn, wood, ships, iron, and other lesser products.² By the end of the colonial period Maryland's trading partners had diversified beyond England and Ireland to include the other colonies in North America and the West Indies, principally New England, New York, Pennsylvania, Virginia, Bermuda, Barbados, Antigua, and Jamaica. There were scattered voyages to Continental Europe, Madeira, and Isle of May. In addition to these ocean trades, local traffic on Chesapeake Bay, while largely unrecorded, was also important to the economy and daily living in the colony. It also provided the sailors and shipwrights for Maryland's growing fleet of locally owned and built ocean vessels.

In broad terms, economic wealth is determined by the availability of land, natural resources, capital, and labor. It is also shaped by the available technology, energy sources, transportation infrastructure, and economic organization. Maryland had plentiful land and natural resources, but limited capital and slow transatlantic communications. Embryonic methods of credit and transfer of payments were impediments to trade because modern business organization and financing were in their infancy. Labor was never plentiful. Pre-revolution maritime commerce was conducted in wooden sailing ships, which were advanced technology for the time but subject to uncertain winds and currents. Energy sources were limited to animal, human, wind, and water but no steam. In spite of these limitations, the economy of colonial Maryland grew as a result of population growth, the increased amount of land under cultivation, and a strong demand in Europe for tobacco and grain.

Records are not available to determine the overall economic output of colonial Maryland, but there are various methods to gauge trends. One is to examine the growing value of exports. Another measure is population, white and black, since both were producers and consumers in the economy. Maryland's settler population, a scattered, pioneering community, grew at a high rate yet the colony still faced shortages of workers compared to the amount of land available for cultivation. From 1640 to 1770 the rise in the number of settlers was steady and strong, from 600 to 200,000. Likewise, the black population grew from 20 to 65,000 during this same period.³ These increases sustained long-term economic growth that enabled Maryland to prosper as much as it did.

Though Maryland's economy and those of other southern colonies—Virginia, North and South Carolina, and Georgia—were based on agriculture, New England and the middle colonies had more diverse economies based on a range of shipping, shipbuilding, timber, fur, fishing, and grain production. Nevertheless, Maryland, like Virginia, prospered and grew because its fertile soil and milder climate allowed intensive farming of tobacco. It is estimated that three-quarters of Maryland's economy at the end of the 1600s was tied to tobacco exports. This would imply a total economy of Maryland at that earlier time of £130,000.⁴ By the last decade before the Revolu-

Table 2: Annapolis District Export Values

	Total Exports	Tobacco (%)	Wheat (%)	Other Cargo (%)
1750	£64,418	79	4	18
1755	42,871	65	7	28
1760	105,638	67	7	26
1765	80,986	50	13	37
1770	180,170	34	28	38
1774	267,234	20	41	39

Source: Stephen G. Hardy, "Trade and Economic Growth in the Eighteenth-Century Chesapeake" (Ph.D. diss., University of Maryland, 1999), Table 77.

tion, tobacco exports were still large but represented less than half the value of total Maryland exports. Tobacco exports now competed with wheat and corn.

The value of exports shipped from harbors in the Annapolis District, the principal customs district in Maryland, grew fourfold but unevenly between 1750 and 1774, from over £64,000 to nearly £270,000 pounds sterling⁵ (Table 2). At the same time, tobacco gradually declined in value and as a fraction of all exports. This occurred as wheat was steadily increasing its share of exports. It appears that wheat exports not only exceeded those of tobacco but also were the cause of tobacco's decline. Planters switched to raising grain, which was better suited to some of the new land under cultivation, particularly in Frederick County. To the Germans who settled there, growing wheat came naturally. It also grew well on the Eastern Shore where land was shifted from tobacco to wheat and other grains.

With her sister colony Virginia, Maryland produced tobacco more cheaply and, after a period of experimentation, of better quality than most other places. It became so profitable that settlers were slow to diversify to other crops. Although raising tobacco was profitable over time, fluctuating prices led to unsteady economic returns for Maryland merchants and plantation owners.

This cyclical economic pattern continued into the late 1700s. As in other industries, tobacco planters overreacted to annual increases and decreases in demand, which resulted in over- or under-production in the following year. This led to instability in prices and income as well as an irregular flow of labor to work on the plantations. The growing but uneven market for tobacco made paying for British goods difficult at times, which in turn stimulated domestic enterprise. Maryland planters, merchants, and craftsmen increased the manufacture of shoes, clothing, and tools, effectively building industries. Shoes and clothing for slaves were early local products. This development also satisfied the need to keep servants and slaves busy when they were not needed for tobacco production.

Shipping was essential to Maryland's agricultural economy because most of the produce was initially exported across the Atlantic to Britain. Food and wood products also became significant exports to Caribbean plantations. At the same time, most

home furnishings and plantation equipment and supplies were still imported from Britain directly or were transshipped through commercial centers such as Boston, New York, and Philadelphia, even as local manufactures were growing. In this environment, Maryland's economy was linked to both the value of its exports and to the growth of its population.

Maryland's Waterborne Trade

Before the Revolution, Maryland was involved in three principal ocean trades and in local traffic on Chesapeake Bay and its rivers.

Trans-Atlantic: Exporting tobacco, grain, and wood products to Britain and Ireland and returning with European goods for Maryland homes and plantations. Imports also included wine and salt for fisheries,

Caribbean: Carrying grain, fish, and wood to the plantations in the West Indies and bringing sugar and molasses to Maryland,

American Coastal: Leaving with grains and wood products and returning with a variety of food products and transshipped cargoes from Britain,

Chesapeake Bay: Traffic on small bay craft carrying passengers, provisions, and cargo between settlements, plantations, and ports of entry.

Significantly, each of the three principal ocean trades had substantial numbers and tonnage of vessels engaged, but there were differences in the kinds of cargo transported, winds and currents, and the types and size of the vessels. These will be discussed for each trade.

Even though records for ocean and local trade are incomplete, major trends are evident. Total Maryland traffic grew more than four-fold from 1745 to 1775.⁶ Maryland traffic was also shifting away from Britain to the American and Caribbean colonies.⁷ Half of all voyages were regular shuttles between Maryland and one other trading area—Britain or North American and Caribbean colonies. The other half were voyages that called at ports in more than one trade. For example, vessels sailing to Britain with tobacco and wood products often returned to Maryland via Boston, bringing foodstuffs such as cheese, apples, onions, raisins, cranberries, peas, and bread in addition to transshipped European goods. In another common pattern, individual vessels might regularly sail between Maryland and Britain one year, and in the next year shift to other trades such as between Britain and the Caribbean.

Thus there was no fleet dedicated solely to Maryland shipping needs. Rather, in this colonial period vessels, whether owned by British, New England, or Maryland merchants or mariners, were part of a large fleet of British and colonial vessels which altered their routes to wherever a demand for shipping arose. The vessels in the

Table 3: Voyages of Vessels in Maryland Trades

	1745	1755	1765	1775
Total Voyages Recorded	39	72	100	187
Percent to Britain, Europe	59	36	27	44
Percent to Caribbean	25	26	20	30
Percent American Coastal	36	38	53	26

Tonnage of Vessels in Maryland Trades

	1742–1759	1760–1775
Total tonnage recorded	83,000	164,000
Britain %	63	47
Caribbean %	14	19
American Coastal %	17	24
Continental Europe %	4	9

Source: Naval Officer Shipping Lists

Table 4: Trade with Great Britain

Colonial Exports to Britain (Thousands of Pounds Sterling)

	Total	New England	New York, Pennsylvania	Maryland, Virginia	Carolina, Georgia
1775	1,921	117	363	758	683
1770	1,015	148	98	435	683
1765	1,152	146	80	506	420
1760	761	38	44	504	175
1755	940	60	60	490	330
1750	815	48	64	509	194

Colonial Imports from Britain (Thousands of pounds Sterling)

	Total	New England	New York, Pennsylvania	Maryland, Virginia	Carolina, Georgia
1775	196	72	3	2	120
1770	1,926	394	611	718	202
1765	1,944	451	746	383	364
1760	2,612	600	1,188	606	218
1755	1,113	342	296	285	191
1750	1,313	344	485	349	135

Source: *Historical Statistics of the United States*.

North American and Caribbean trades were smaller than those sailing from Britain on longer voyages to the Far East under the East India Company flag. In some cases, merchants and vessels were closely tied to one or several trades through established commercial or family connections. Yet often they were opportunistic tramp traders,

Table 5: Maryland Exports and Imports

	Exports			
	1760	1765	1770	1775
Wheat, corn (bushels)	74,000	190,000	280,000	424,000
Flour, bread (barrels)	15,000	24,000	56,000	88,000
Wood units	392,000	770,000	303,000	794,000
Tobacco (hogsheads)	10,800	5,900	5,900	1,800
Iron (tons)	880	1200	1300	800
	Imports (in percentages)			
	1760	1765	1770	1775
European goods	58	50	25	16
Rum, sugar, molasses	44	31	29	25
Grain, meat, fish	19	26	12	23
People	10	8	17	18

Source: Naval Officer Shipping Lists

following the demand for carriage wherever they found it. Repeat voyages to and from Maryland ports were remarkably few, even by vessels registered in Maryland by local owners.

Cargo Exported and Imported

Tobacco, grain, and wood products dominated the commodities exported from Maryland, followed by smaller quantities of iron, fish, and flax seed. Imported were European goods, Irish linen, salt, wine, tar, sugar, rum, and molasses⁸ (Table 5). “European goods” was the term used to describe the many manufactured items needed or wanted in a frontier society. These included household goods, cooking ware, tools, boat equipment, clothing and material, furniture, and many other things. Among the more unusual items listed in the customs reports were a fire engine, wheel chairs, and wheelbarrows.⁹

Trade goods were not the only imports to Maryland. New settlers, merchants, and government officials paid for the crossing. Unfortunately, records of passengers are scarce, other than an occasional anecdote. Naval officers were not interested in paying passengers. However, according to the surviving NOSL records, other categories of people arrived as cargo in increasing numbers.¹⁰

Jean Russo, historian of colonial Maryland, reports that over a twenty-year period, 15,625 servants and 1,908 slaves were brought to Maryland. That is higher than the numbers from the customs records. Research by Teresa Foster, a graduate student at UMBC, indicates that many convicts transported to Maryland were mislabeled as servants.

Maryland ship owners were not participants in the slave trade. Between 1760

Table 6: Types of Passengers

	1760	1765	1770	1775
Passengers	Unknown	Unknown	Unknown	Unknown
Servants	8	56	570	1,330
Convicts	192	368	478	503
Blacks	375	21	14	0

and 1775, ten vessels arrived from Africa, none of them owned by Marylanders. From 1742 to 1759 the customs records showed one slave had arrived from Africa. Samuel Galloway imported slaves but apparently not from Africa. There may have been others not recorded in the customs records.

Rising Ship Owners

Most ship owners owned one or two vessels at a time; only a few had larger fleets. All were entrepreneurs, continually looking for new business, and vessels changed owners and masters frequently. Though at first they had limited capital to finance vessel construction, operating expenses, and cargo transactions and lacked a supportive business infrastructure, that gradually improved as partnerships and joint stock companies to spread risk became more common. Moreover, Maryland-based ship owners may not have had the long commercial history of British, New England, and New York merchants, but they did have the nautical traditions of Chesapeake Bay—fishing, local transport, and boat building—to draw upon. These industries produced a maritime capability and a pool of sailors to recruit for ocean going voyages. As Maryland ship owners grew in number, they developed networks of agents and correspondents. Results were impressive. From 1750 to 1775 the share of Maryland traffic shipped in Maryland-owned vessels had risen to 40 percent, four times what it was at the end of the previous century, and it included more of Maryland's grain exports.¹¹ As the Maryland shipping industry matured, it began accumulating capital for its own expansion.

In the twenty-five years before the Revolution, Maryland's pattern of vessel ownership and registration differed among the three main trades. In the transatlantic trade, only a quarter of the voyages were made by Maryland-owned vessels because London merchants still controlled that commerce. Trade between Maryland and the rest of the North American colonies was dominated by New England, New York, and Philadelphia, whose ship owners had more experience in those routes. Maryland controlled only one-third of those voyages, and London merchants were less interested in inter-colonial trade. But Maryland's growing shipping industry soon controlled more than half the voyages to the Caribbean, with the remainder largely operated by men in other colonies.¹²

Most Maryland ship owners had fewer vessels than the larger merchants in London. Yet two prominent Annapolis businessmen, Samuel Galloway and Patrick

Creagh, owned ten ocean-going vessels each during the 1740s and 1750s, according to a registration book recently acquired by the Maryland State Archives and the Governor and Council Commission Record.¹³ The Naval Officer Shipping Lists show twenty-two vessels owned by Galloway and fourteen by Creagh through the 1760s.

Patrick Creagh, a businessman who became a well-established Annapolis merchant with diverse interests, owned stores, constructed public buildings, and built small craft for local travel and larger vessels for ocean trade. The last was unusual—few merchants understood shipbuilding and few shipbuilders had enough capital to engage in ocean commerce—but in 1735 Creagh, who had learned the trade from his father and grandfather on the Eastern Shore, bought city land in Annapolis and established a shipyard. Over his career, Creagh's fourteen vessels included two large square-rigged ships of one hundred and two hundred tons to carry tobacco to Britain, and three smaller vessels in the fifty- to one-hundred-ton range rigged as brigs or snows. The rest were small schooners and sloops used in the coastal and Caribbean trades.¹⁴ Creagh's activities included growing crops, transporting them to market, and retailing.

Samuel Galloway, a member of Maryland's Quaker community, lived on his plantation at West River south of Annapolis. Like Patrick Creagh he had broad commercial investments. His plantation produced tobacco for the British market, and he engaged in trade with the West Indies, exporting wood and grain and importing sugar. Galloway also imported wine from Madeira and carried Eastern Shore grain to Philadelphia. He had an interest in Stephen Stewart's local shipyard, although he was not a shipwright as Creagh was. Between 1749 and 1764 he owned seven ships, five brigs, two snows, six schooners and two sloops, not all at the same time. They sailed mostly to London, the Caribbean, and other American colonies, and to Madeira.¹⁵ As a prominent Annapolis figure he raced horses with fine pedigrees in the 1750s and 1760s. Galloway also imported and sold indentured servants and slaves from the brig *Grove*, the snow *Alexander*, and his ship *Jenny*.

Transatlantic Trade

Shipping tobacco from Maryland to England was the essential link for Maryland's agricultural economy up until the end of the colonial period. Nevertheless, from 1760 to 1775 the number of hogsheads of tobacco exported declined from 11,000 to 2,000 per year. At the same time the flow of wheat and corn increased from 75,000 to 425,000 bushels per year. Lumber and wood products more than doubled from 350,000 to 800,000 units. Iron shipments also increased.¹⁷ At the same time, building ships for sale abroad was a growing business. For example, *The Rumney and Long*, built in Annapolis in 1747, was quickly sold abroad, probably in Britain.

The principal foreign destination for Maryland ships was London. English west coast ports of Bristol and Liverpool also participated, and the Irish ports of Londonderry, Cork, and Dublin were on the rise. The Isle of May was a source of salt for New England and Chesapeake fishermen.¹⁸ Lisbon and Madeira supplied wine and

Table 7: Costs Per Voyage (in pounds sterling)

Crew wages:	266
Repairs and supplies	122
Victuals	99
Interest and profit	70
Port costs	52
Vessel amortization	46
Insurance	28
Total Cost	683

port for those Marylanders who preferred and could afford something more refined than rum. On the return voyage from Britain, either directly or via New England, New York, or Philadelphia, Maryland-bound ships carried necessities for settlers, who had access to few manufactured goods until late in the colonial period, when the British North American colonies built their own manufactories.

It is possible to reconstruct the costs of a voyage made by a ship sailing between Maryland and Britain in the 1750s using the data from the Naval Officer Shipping Lists and methods developed by Ralph Davis, who used colonial records in the British Public Records Office.¹⁹ These show the costs for a 122-ton ship on a 353-day transatlantic round-trip voyage.

Crew expenses were significantly higher than other categories. This put pressure on ship owners to simplify vessel rigs and reduce the number of men carried on board. Ralph Davis estimates the manning for such a 122-ton British ship in the mid-eighteenth century would have been:

Table 8: Manning of a Typical Ship

Rating	Manning	Wages, Shillings/Month
Master	1	120
First mate	1	80
Second mate	1	60
Carpenter	1	60
Boatswain	1	40
Cook	1	30
Able seamen	6	25
Boy	1	10

Men in the crew were signed on for one round trip. In some cases they acted as stevedores, handling cargo when in port. The master was employed by the vessel owner until he quit or was replaced, which was frequently. On many vessels master and owner were one in the same.

The second highest expense was for repairs and maintenance. Wooden ships

with canvas sails and hemp cordage all deteriorated with time and weather. At the end of each voyage, repairs and replacement were needed. After ten or fifteen years, the average lifespan of a vessel, the hull would have been partially rebuilt and her rigging and sails would have been replaced several times.

These costs can be viewed from the standpoint of efficiency and productivity. By comparing the annual cost per ton of cargo capacity in 1750 with the comparable figure sixty years earlier, one can see an improvement in efficiency, through the reduction in cost, of 0.5 percent per year. Over a sixty-year period this amounts to 40 percent.²⁰ That is small compared to the massive improvements in shipping over the next two centuries, which resulted from changes from wind to steam propulsion, from wooden to steel ships, and eventually to super-sized ships and containerization. The more modest improvements during the colonial period resulted from gradual reductions in crew size and longer-lived vessels, not from any increases in vessel speed or size.

Caribbean Trade

Between 1760 and 1775, trade between Maryland and the West Indies nearly tripled, from twenty-one to fifty-six voyages a year. At the end of the previous century there were only six voyages per year. Vessels averaged fifty-four tons, but they ranged in size from twenty all the way to two hundred tons for a ship that also sailed across the Atlantic to Britain. The principal island destinations were Barbados and Antigua but ships also made for Jamaica, St. Christopher, Grenada, Hispaniola, St. Eustace, and St. Croix. Outbound cargoes to the Caribbean from Maryland consisted largely of grain, fish, meat, wood building materials, and wood barrel staves and headings for the sugar plantations. On the return, sugar, molasses, and rum were the primary commodities imported to North America.²¹

Coastal Trade

Coastal commerce between Maryland and the other North American colonies evolved into a competitive enterprise as Maryland owners challenged New England domination. Annapolis was the principal Maryland port, with Baltimore on the rise. The other coastal ports were Boston, Salem, Newport, New York, and Philadelphia. Charleston, South Carolina, was a growing port but did not have significant trade with Maryland. The cargos exchanged were predominately agricultural products. Maryland exported wheat, flour, bread, corn, wood staves and headers, and imported food products such as cheese, meat, fruit, and vegetables, together with household goods and manufactured products. Some of these were transshipped from Britain, and rum, molasses, and sugar were transshipped from the Caribbean. The coastal routes were often part of triangular voyages that included stops in Britain and the Caribbean. Most vessels were between thirty and forty tons, but a few large ships that had begun their voyages in Britain stopped in New England before continuing

on a coastal voyage that included a stop in Maryland.²² Often, after finishing their fishing season in November, New England's large fleet would load local foodstuffs and goods from Britain and the Caribbean and cruise southward, selling off their cargo at ports along the way and continuing to the West Indies.

Vessels in Maryland's Shipping

In determining a particular vessel's suitability for the wind patterns and cargo requirements on intended trade routes, rig and size were important. Size and rig also determined the number of crewmen, a substantial cost of vessel ownership. Thus, economic factors, both financial and operational, determined the rig and size of vessels employed. These were of five types.

- Ships — large, three masts, square-rig
- Brig types — mid-sized, brigs, brigantines, and snows, two masts, square-rig
- Schooners — small, two masts, fore-and-aft-rig
- Sloops — small, one mast, fore-and-aft-rig
- Shallops — quite small for local traffic

First, some definitions. Vessel size has traditionally been stated in tons. Originally, "tons" referred to the barrels, or "tuns," of wine that could be carried in a vessel. That was difficult to determine, so a substitute, tons burden, a measurement ton, was used. Length of keel, breadth, and depth of hold were measured at construction. Using a formula and these three dimensions, tons were calculated and documented in the vessels' registration papers. Because tonnage was used to determine charter rates and port dues, there was pressure to adjust a vessel's registered tons after the fact, and this was frequently done. Consequently, tonnage of vessels, the usual measurement of vessel size, was flexible, and it is important to recognize its uncertainty.

Second, vessel types, such as ship, brig, schooner, sloop, and shallop, are descriptors of various sailing vessels. Each has characteristics suited to the wind conditions it would encounter, the distance it had to cover, and the cargoes it would carry. Square-rigged vessels dominated the transatlantic trade with Britain because their sails, square to the vessel, could be trimmed to take advantage of westerly winds when sailing to Britain on northerly routes, and of easterly trade winds to the south on the way back to the colonies. Square-rigs are efficient for vessels sailing with winds at their back and they can be built large to carry more cargoes.

Fore-and-aft-rigged vessels, on the other hand, can sail well in cross- and variable winds found on the Atlantic coastal and Caribbean trades. Fore-and-aft-sails are in line with the vessel's centerline. On schooners and sloops, the mainsails and foresails are large and heavy to handle thus limiting the size of those vessels. Square- and fore-and-aft-rigged vessels were hybrids and carried both types of sails. Table 9 provides the number of voyages and the average size of each type of vessel for the various trade routes using NOSL records.

Table 9: Voyages Made between 1742 and 1775

	Britain, Europe	Caribbean	North America	Total	Tons/Vessel
Ship	276	5	15	306	152
Brig types	165	72	108	920	85
Schooner	13	68	179	776	35
Sloop	11	111	221	761	32
Total Voyages	465	256	523	2,763	

Source: Naval Officer Shipping Lists

Table 10: Crew Sizes

Type of Vessel	Average Crew	Range of Sizes
Ship	15	4–35
Brig types	8	5–18
Schooner	5	3–12
Sloop	5	3–10

Manning

The number of men needed to sail a vessel depended on its size and rig. No regulations governed crew size as they do today; owner and master used their judgment on the minimum number and ratings to be signed on to minimize wages and the cost of food. Many merchant vessels at first carried guns to defend against hostile craft, but by the middle of the 1700s few did so as the Royal Navy and convoys offered protection. Square-rigged ships and brigs required the greatest number of men because of their larger size and number of sails. Fore-and-aft-rigged schooners and sloops were smaller and had simpler sail plans to reduce crew requirements.²³

Place of Build

In the early years of the colony, vessels engaged in Maryland's trade were built in England, but that pattern slowly gave way to shipbuilding in New England and eventually in Virginia and Maryland by the middle of the eighteenth century.²⁴ In the 1690s two-thirds of the fleet were built in Europe, almost all in England.²⁵ By 1760–1775, only 10 percent were built in Britain, 40 percent in New England and other colonies, and 35 percent in Maryland.²⁶ The balance were constructed elsewhere. For example, vessels taken from the French were common during periods of hostility.

Shipbuilding in Maryland started slowly with the construction of small craft for local transportation on Chesapeake Bay and its tributaries. Eventually abundant timber, immigrant shipwrights, and experience with building small craft gradually led to building ocean-going vessels for Maryland and British owners. By the 1750s, Maryland shipyards were producing nearly thirty ocean-going vessels a year. Ninety percent of these locally built vessels were for Maryland merchants and mariners, increasing Maryland's control of its shipping.²⁷

Records in the Maryland State Archives list 343 vessels built and registered in Maryland between 1730 and 1757. Of these, 79 were built in Anne Arundel County, seventy-two in Somerset County, 38 in Cecil County, 23 in Dorchester County, 20 in Worcester County, 17 in Talbot County, 14 in Kent County, and 94 in nine other counties or unspecified. The author believes there is considerable uncertainty in these building numbers, but they clearly show the wide dispersion of shipbuilding in colonial Maryland. Baltimore was still to attain the shipbuilding prominence it held during the American Revolution and later.²⁸

Vessels in the coastal trades and with the Caribbean sugar islands were primarily fore-and-aft-rigged schooners and sloops and square-rigged brigs, brigantines, and snows. These were overwhelmingly built in the colonies and were smaller than the large transatlantic ships sailing to Britain.

Ships

One ship in the transatlantic trade was the *Betsey*, John Hendrick master, 140 tons, built and registered in Maryland in 1773, and owned by John Buchanan. On June 14, 1775 she sailed to London with 347 hogsheads of tobacco, 25 tons of iron, and 10,000 wooden staves and headings for making barrels and casks—a typical cargo bound for Britain. On the return she carried 141 indentured servants. After her arrival, record-keeping ended, so it is not known where she went on her next voyage.²⁹

Ships were the most common vessel type on the transatlantic run. Their hulls were not built to standard designs but they had similar rigs: three square sails on the main and foremasts (the course, topsail and topgallant). On the aftermost mizzen mast, there would typically be a square topsail and a topgallant sail plus a fore-and-aft sail, a spanker attached to the mast by hoops and held by a gaff above and a boom below. In addition to these square (actually rectangular) sails, there were triangular jibs and staysails attached to stays between and before each mast. All of these fore-and-aft sails gave more power and assisted in maneuvering.

Ships were built with square sterns in the British fashion. The main deck was flush, that is, without the raised forecastles and poops of the previous century.

Seventy-five years earlier, large three-mast types included hagboats, flyboats, and pinks in addition to ships. Round-stern flyboats and pinks were earlier types based on Dutch construction traditions. During the eighteenth century, the Dutch lost their leading maritime position as British ships came to dominate on the transatlantic trades while American schooners and sloops were more popular on the American coastal and Caribbean routes, where colonial merchants specified the type and size of vessels they wanted built.

Average vessel size did not grow during the eighteenth century, even though larger size, within limits, leads to economies of scale in construction and operation and thus is the natural direction for vessel design to evolve.³⁰ But the limits of harbor depth and availability of tobacco for shipment controlled any growth in size. Although



Eighteenth-century ship. This and following renderings by Barbara Leonard Gibson.



An eighteenth-century brig.

the term “ship” referred to the specific type of vessel that has been described, it has become the common term today for all large vessels even of other types.

Brigs

On April 5, 1753, the *Maryland Gazette* reported that the brig *Endeavour*, Richard Boon, master, had arrived from the Caribbean.³¹ She was one of Samuel Galloway’s vessels. At sixty tons with a crew of eight men she was typical of vessels built the

year before in Maryland, most likely in one of the shipyards in the Annapolis area. She would have carried lumber and food to the sugar islands and brought back rum, sugar, and molasses.

The brig was the most ubiquitous of the vessel types in Maryland's trades. Of intermediate size, averaging eighty-five tons but otherwise similar to a ship, it had two masts with square sails, but also carried the usual triangular jibs and staysails and a gaff-rigged spanker aft. Brigantines and snows, variations of brigs, also had two masts and both square and fore-and-aft sails. Forty percent of all brigs coming to Maryland were built in Maryland, 25 percent were built in New England, and only 14 percent were built in Britain.³²

Like ships, brigs had flush decks no raised fore-castle and after-castle. Also like ships, they typically carried three, but sometimes two, square sails on their masts. Brigantines were similar and often their name was shortened to brig so we can lump them together, although brigantines were often smaller and had fewer sails than brigs. Snows also had two masts. Their innovation was an extra, smaller mast immediately aft of the mainmast, which allowed easier setting of the spanker. The snow design originated in Sweden but soon was picked up in Britain.

Sloops

On April 16, 1762, the forty-ton sloop *Anne*, Theophilis Tophan, master, sailed into Annapolis from Boston. Quite old at fifteen years, she was one of many New England vessels in Maryland's coastal trade. Owned by a New Englander, Christopher Prince, she was built and registered in Boston. The *Anne* carried 4,328 gallons of rum, her only cargo, to Maryland on that voyage.³³ Frequently vessels from New England carried specialty foods such as cheese, raisins, nuts, and transshipped European goods. *Anne* left a month later, carrying flour and iron bar back to Boston.

The term "sloop" has a long history. There are records of sloops in the Netherlands, France, and England in the 1600s.³⁴ In the eighteenth century the usual square mainsail was abandoned for the fore-and-aft mainsail attached by hoops or lacing to a mast and extended by a boom and a gaff. Inexpensive to build and operate, these small vessels, averaged only thirty-two tons and were limited in carrying capacity, but they could enter many harbors too small or shallow to admit larger vessels. Sloops were the favored type of small trading vessel in colonial shipping, and carpenters with limited experience and capital could build them. By 1750 schooners had joined sloops as small vessels of choice for coastal and Caribbean voyages.

Sloops often had a loose-footed mainsail. The headsails included a staysail and a jib, and in light weather some carried a flying jib. A light square topsail would be flown from her topmast. Some sloops were open to the weather, but increasingly they were decked over so they could make longer voyages.

Trade with Bermuda and Jamaica brought sloop designs from those islands to the Chesapeake. Maryland and Virginia shipbuilders sometimes copied their raked

Eighteenth-Century sloop.



masts and fast hulls. These vessels required large crews, which led Chesapeake builders to turn to two-mast schooner rigs that reduced the size of sails and the manpower needed to handle them.

A list of equipment on board a fifty-five-ton sloop in 1762 gives a sense of the sparseness of these vessels:

- Two anchors and two cables
- Two buoys with their ropes
- A binnacle and two compasses
- Two half hour glasses
- Two pumps, three spears, six pump boxes and two pump hooks
- Two iron pots and a saddle
- Four iron bound water casks of sixty gallons each
- Two wooden bound water casks of one hundred gallons each
- Two axes, two hammers, a chisel and a drawing knife
- Two gimlets, two calking irons and one handsaw
- A hand-line and lead
- An ensign and a parcel of old iron

This appears to be a limited supply of equipment, but it included the essentials for coastal voyages. The crew also would have carried on board food supplies, spare lines, and canvas.



An eighteenth-century schooner.



Shallop.

Schooners

Typical of the merchant schooner type was the *Tryall*, fifty tons with a crew of four, on a voyage from Maryland to Antigua and Barbados in 1765.³⁵ Having just been built, she was on her first voyage, commanded by owner and master Isaac Vanbeb-

ber. She carried corn, flour, bread, fish, shingles, barrel staves, and headings to the islands. On the return she brought rum to thirsty Marylanders.

By the mid-eighteenth century, schooners were widely used on the Chesapeake Bay and coming into use for coastal and Caribbean voyages. The term “schooner” first appeared in the 1600s in Holland and Britain and referred to a two-masted vessel with the mainmast equal to or taller than the foremast. Each mast carried a sail attached to the mast and a gaff on the upper edge and a boom on the lower. Normally there would be two or more triangular headsails and possibly a square topsail on one or both masts. This was a handy rig. Compared to a sloop of the same size, the individual sails were smaller, making the schooner easier to handle and potentially requiring fewer men in the crew. In Maryland’s shipping, schooners averaged thirty-five tons, similar to sloops.³⁶

A typical merchant schooner of the period before the Revolutionary War was the *Sultana*.³⁷ Built in Boston and sold to the British Navy to patrol the coast including the Chesapeake Bay for vessels avoiding duties and taxes, she was fifty tons and designed to carry cargo. A replica was built in Chestertown, Maryland, in 2001 and frequently makes educational trips on Chesapeake Bay.

The well-known Baltimore clipper schooners were of a different tradition—their pedigree was found in fast Bermuda and Jamaica craft. While best known for their speed rather than ability to carry cargo, during and after the Revolutionary War they served as smugglers and privateers.

Shallops

Shallops were common from the start on the Chesapeake. Early merchant ships from Britain often carried a shallop in pieces to be assembled after arrival. Round-bottomed, with one or two masts carrying square sails, they evolved into larger sizes and sometimes traveled coastwise.³⁸ For example, in the 1750s four shallops, of ten to fifteen tons and built in Maryland and Virginia, traveled between Maryland and York, Virginia, as well as to Philadelphia and Barbados.³⁹

Chesapeake Bay shallops evolved from a variety of European types: Basque chalupa, French chaloupe, Spanish chalupa, Dutch sloep, and English shallop. Evolving to meet the needs of local transportation, they could be rowed or sailed, and some were decked over to protect cargo. Shallops ranged from thirty to fifty feet in length.

Even though there was no systematic record of the thousands of small craft that plied the Chesapeake, it seems clear that they played a critical role in the colonial economy. With a meager road system Maryland needed small vessels to transport people, crops, small cargos, and even commodities destined for export on the larger vessels that came to the bay. Not only did small craft support the economy as a whole—including the important element of fishing—they provided training for sailors and shipbuilders that eventually led to an indigenous maritime industry in Maryland.

Of the other small craft on the bay, pinnaces were generally long, narrow, pulling boats with one to three masts. In some cases they were lengthened shallops. A colonial skiff was often a dinghy type that served as a tender to a larger vessel. Canoes were derived from the Indian log dugout but grew over time into the multi-log craft built by settlers. They were invariably narrow and often used for fishing. Punts and flats were flat-bottomed boats used as ferries or lighters to carry cargo to or from larger anchored vessels.

Economic Impacts on Vessel Characteristics

The eighteenth-century maritime world was steeped in tradition. Change came slowly with precious little innovation in the years before the Revolution. Yet vessel types did evolve, and owners and builders did respond to opportunities in trade and design. Comparing the vessels constructed just prior the Revolution with those of the 1690s shows the slow evolution of design, particularly in rigs and sails.

Four principal factors, introduced earlier, determined the evolution, albeit slow, of Maryland vessels: capital and ownership, crew expense, wind patterns, and cargo.

Capital and Ownership

In the transatlantic trade that carried Maryland's tobacco, grain, and wood exports to Britain, London merchants had controlled the commerce and shipping from the inception of Lord Baltimore's colony. They had the financial resources and shipbuilding experience needed to construct vessels capable of crossing the Atlantic. By the middle of the eighteenth century, New England and Maryland entrepreneurs and builders had accumulated sufficient capital and experience to embark upon ship building. But British merchants still controlled the North Atlantic trade, and it was they who dictated the characteristics of the vessels that would carry it on, even though they increasingly had their ships built in the colonies where timber was plentiful. Not surprisingly, they clung to large ships with familiar rigs.

The situation was different in the growing inter-colonial Caribbean and coastal trades, in which British merchants were less interested because they were smaller in volume and value and did not include ports of call in Britain. New England ship owners early on began using their ocean-capable fishing boats to trade with other colonies between fishing seasons. Without major agricultural products to export, they became the general cargo carriers on the North American coast, with a preference for small and medium-sized vessels. In the eighteenth century Maryland and Virginia joined New England in building sloops and schooners capable of taking food and lumber to Caribbean plantations, and by mid-century Maryland merchants could order from Maryland shipyards vessels suitable for the inter-colonial trades.

Crew Costs

Since the wages of officers and crew constituted the largest expense in owning vessels, there was a constant incentive to reduce manning levels on all vessels in all trades.⁴⁰ That was done primarily by simplifying rigs and sails. Between the 1690s and 1750s, wages hardly changed, but the number of crewmen on an average 125-ton ship on the transatlantic trade declined from 15.6 to 12.8, thereby reducing expenses.

Owners also could select rigs to reduce manning requirements. Sloops, the ubiquitous small vessel in Maryland's trades, carried large mainsails. On bigger sloops, larger mainsails required more men, leading to the use of a two-mast schooner rig to reduce the size of sails and in many cases reduce the number of seamen needed. Many vessels changed their rigs, and new vessels were designed with the rig the owners thought would be most efficient to reduce crew costs.

Another economic improvement was extending a vessel's useful life with sturdier construction and better navigation. Average vessel life increased from 11 to 16.8 years, which reduced the amortization of capital costs.⁴¹

Wind Patterns

The primary trade route between Maryland and Britain had following winds on both legs of the voyage, outbound and inbound. Following winds favored square-rigged ships, and winter gales on the North Atlantic dictated that they be larger, to better handle strong winds and rough seas. Square-rigged ships and brigs accounted for 96 percent of Atlantic crossings while less suitable, smaller fore-and-aft-rigged sloops and schooners were the remaining 4 percent.⁴²

The coastal and Caribbean routes were subject to variable and cross winds. This did not preclude square-rigged ships and brigs but prevailing wind conditions favored fore-and-aft-rigged sloops and schooners that could sail across and against the wind more easily. On these trades 72 percent and 64 percent of the vessels were fore-and-aft rigged.⁴³

Cargo

British and European markets for tobacco, and later grain and lumber, were large, so larger vessels were necessary from the start. The size of tobacco ships did not change over the colonial period, averaging about 125 tons with the largest ships up to 300 tons.⁴⁴

Cargo volumes on the North American coastal and Caribbean trades were smaller in the absence of London merchants consolidating shipments. The trade therefore called for sloops and schooners that could easily be built in the many small shipyards in New England and Maryland.

ALTHOUGH GREAT BRITAIN continued to be Maryland's principal trading partner up until war broke out in 1775, Maryland had by then diversified its trade and increased

local manufactures. No longer were the ships that sailed to and from Maryland dedicated to Chesapeake trade—they tramped the Atlantic, plied the Caribbean, and sailed up and down the North American coast. War temporarily halted Maryland's economic growth and curtailed the commercial opportunities for men like Patrick Creagh and Samuel Galloway. But Maryland's maritime tradition of shipbuilding and sending men to sea would prove invaluable to the new nation during the hostilities and in the economic expansion that followed once peace was declared.

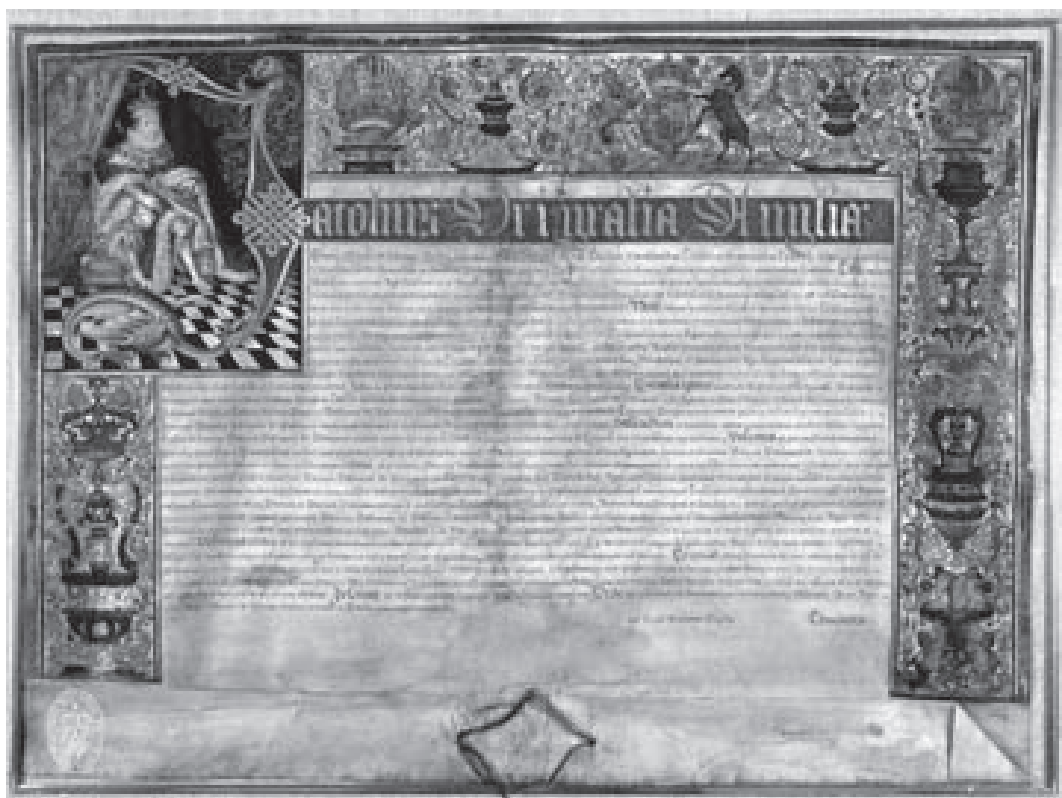
NOTES

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The Naval Officer Shipping Lists (NOSL) are the remaining customs and ports of entry records from the colonial period. Many historians have analyzed these records including Arthur Pierce Middleton, Stephen Hardy, Ralph Davis, James F. Shepherd & Gary M. Walton, Gary Max Walton, John McCusker, Russel Menard, Vaughan Brown.⁴⁵ The records are extensive yet they have gaps in periods covered and port districts. Therefore, no interpretation of total cargo traffic and vessel movements can be accepted as the last word. The author has used his best judgment in incorporating the records in this essay. So while the absolute values of the trade and vessels included here must remain suspect, the trends and comparisons described are probably valid. This article is a revision of a previous essay on the Four Rivers Heritage Area website.

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40. For calculations of crew size and costs see Wing, “Shipping Productivity.”
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King James I to George Calvert, 1624 patent of nobility by which the former secretary became Baron of Baltimore, first in Ireland and in 1632 proprietor of the Maryland colony. (Calvert Papers, Maryland Historical Society.)

The Rhetoric and Reality of English Law in Colonial Maryland, Part I—1632–1689

JEFFREY K. SAWYER

The rule of English law in the English-speaking colonial world is at once obvious and puzzling. Along with language, the law anchored the Englishness of life in colonial America. At the same time, warring states and rival investors used law and diplomacy as weapons in their arsenals of global competition, and so the law of nations provided an unstable and frequently contested framework for exploration and settlement. The governance of struggling Atlantic settlements (especially before 1660) rose, fell, and was reconstructed with the various fortunes of each. In these early settlements there was much law-making, but law was perhaps negotiated as often as it was applied; local officials frequently adjusted English rules to local circumstances. The more historians investigate this world, the harder it is to be sure, exactly, how colonial law worked.¹

Early Marylanders nevertheless frequently proclaimed great allegiance to English law. A right to it was explicitly written into the colony's 1632 charter and reasserted and affirmed during the first recorded political assemblies. The history of English law in Maryland produced such powerful elements in local political culture, that even as the British colonial regime collapsed (1774–1776), the right of the inhabitants to English common law and selected British statutes was enshrined and preserved in the state's first constitution. This legal continuity, I have argued elsewhere, was an important feature of the American Revolution because it mediated between the potential instability of direct democracy and the inherent conservatism of English-style rule of law.²

This article examines why a perennial contest over the precise authority of English law was so central to the rule of law in early Maryland. Two new perspectives will help further this inquiry, which has long interested colonial historians generally and historians of Maryland in particular. The first is a heightened appreciation of the fact that early American legal history unfolded in distinct phases. The second is a recognition that the contest over English law in the colonies developed along different but overlapping dimensions, a political or *rhetorical* dimension and an

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John Speed, A Map of Virginia and Maryland, 1676. (*Maryland Historical Society*.)

operational dimension. This latter world of law was the *reality* of lawsuits, debt collection, inheritance, criminal prosecutions, judgments, and so on.³

The initial phase of Maryland law occurred during the establishment of a functioning government (1635–1666) in a sparsely populated colony in which few persons had expert legal knowledge. With the consolidation of a stable legal and political system framed by *local* legislation (1666–1676), precisely defining the reach of the law of the “Mother Country” posed a new kind of challenge. Then came the volatile run-up to the Glorious Revolution and its aftermath in North America (1676–1715), a time when traditional authority was questioned to its very foundations throughout the English-speaking world. A pledge of fidelity to English law in this environment was a pledge of allegiance. With the reestablishment of a stable monarchy in England and the proprietorship in Maryland came increasing pressure from London for a real implementation of English standards for the rule of law, in other words, for the regularization and anglicization of colonial law. At the same time, the lower house, the elected branch of the local legislature, increasingly reasserted its independence after 1715. So, too, did an increasingly learned and expert legal profession armed with expanding libraries of English law books—a world in which men such as William Bladen, Thomas Bordley, and Daniel Dulany flourished.⁴

George Calvert (1580–1632), first Lord Baltimore.
(Maryland Historical Society.)



Perhaps no single historical artifact from the pre-revolutionary period better illustrates how the debate over the extension of English law joined rhetoric and reality than the inflammatory pamphlet by Daniel Dulany Sr. “The *RIGHT* of the Inhabitants of *MARYLAND* to the Benefit of the *ENGLISH* Laws.” Dulany used a combination of political theory, real legal argument, and Whig political rhetoric to exhort Marylanders to be mindful of the history of tyranny, and particularly the great confrontation between Parliament and the crown in the previous century. Marylanders, he cautioned, should accept no less than the entirety of English law as their guarantee against arbitrary government.⁵

Dulany did not invent this strategy and in fact had already discovered earlier versions of many of his arguments in the proceedings of the Maryland legislature. The freemen of Maryland had long mixed together legal-sounding political discourse (assertions about the “rights of Englishmen” for example) and technical legal language (precise rules applied by judges and other officials to resolve claims in court or other venues). Some of the fiercest advocacy for “English law” in early Maryland was less about any grand legal heritage, generally speaking, than about checking local executive authority emanating from the proprietary government. Colonists wanted the guarantees of liberty embedded in the laws of England, but they jettisoned a great deal of English law in order to create a legal system in Maryland that was simpler, cheaper, and better suited to local circumstances. What the freemen of Maryland really wanted was to make their own law, with all the authority of the law of England behind it, but with as little actual interference from outsiders as possible.⁶

The Founding of Maryland Amidst the Plurality of English Laws

The legal entity *Maryland* was born of a complex union of languages and constructs. King Charles I authorized the settlement project in 1632 with sealed letters patent (a written, signed sovereign command) in the form of a charter. This act created a body politic within a carefully defined territory north of Virginia to be governed as a foreign dominion of the crown by Lord Baltimore and his heirs under very

explicit terms. More than twenty headings or sections in the charter detailed for the King, the inhabitants, and the colony's governors various privileges, obligations, immunities, franchises, and jurisdictions using state-of-the-art legal terminology. These legal formulas had been under development for more than a generation and were used to give the European and English colonial enterprises the color of law. In English charters, they projected English sovereignty across the Atlantic (in opposition to that of Spain or the Dutch Republic) with a blend of terminology borrowed from Roman imperial law and England's more familiar language describing feudal ties between the king and his subjects.⁷

An unintended consequence of this Renaissance-style legal creativity was the transplantation to the colonies of a system of law with multiple historical layers and tangled jurisdictions. To muddy the legal waters further, English law had been pluralistic to begin with. Sir Edward Coke, in the influential treatise written after he had served as both attorney general and chief justice of England, provided a list of more than a dozen distinct sources for the laws of England: crown law, laws and customs of Parliament, the law of nature, the common law of England, statutes, reasonable customs, laws of war, ecclesiastical (canon) law, civil law [as practiced in the ecclesiastical courts, courts martial, and admiralty], forest law, laws of marque and reprisal, merchant law, and laws peculiar to several particular jurisdictions. Despite zones of lawlessness and times of troubles in early Maryland, law was everywhere. The real question was *what law really* ruled? Crown law? The Charter? Common law? English statutes? Local statutes? English cases? Local practice and precedents? Or were all applicable to some degree?⁸

An assembly of the freemen of Maryland convened on the morning of January 25, 1637/8 to establish laws for the colony under the parameters of the charter. On behalf of Cecilius Calvert, the "lord proprietor," Leonard Calvert, his brother, acted as governor under the special title of "lieutenant general" and also served as "president" of the assembly. Leonard had in his possession a written commission from his brother detailing his authority and powers as the colony's first officer, and drafts of over two dozen laws that he evidently intended be reviewed and agreed to by the assembly. But after a tally of "voices," fourteen affirmative and thirty-seven negative, a solid majority rejected those laws. The proprietor's proposals would have created an elaborate English-style hierarchy of jurisdictions and offices; he had asked for too much law, too soon, too autocratically.⁹

When it became clear that the Calverts' legislative program would not gain the assent of the freemen, some very tense moments followed. The question was asked, "what Lawes the Province should be governed by?" Then "it was said by some that they might doe well to agree upon some lawes till we could heare from England againe." When Leonard Calvert denied that the assembly had any such power, Captain Cornwallis "propounded the lawes of England."¹⁰

Clearly there was a variety of opinion in the winter of 1638/39 as to what it was



Leonard Calvert underscored the legal framework of Maryland's charter with a ceremony of possession and an exchange with the Wicomico Indians of tools and cloth for a tract of land.

going to mean, exactly, to live under the rule of English law in Maryland. A majority emphatically rejected the idea that they would simply assent to laws offered by the proprietary government, laws fleshing out the legal system authorized by the charter. When someone suggested the Assembly draft their own laws, Leonard Calvert claimed, at first, they had no power to originate legislation locally. Cornwallis's proposed solution, to simply follow English law, was both unworkable in practice and an implicit repudiation of the legal framework painstakingly defined in Maryland's charter.

Leonard Calvert wisely adjourned the proceedings. Eventually, he agreed to the election of committees to draft some new laws. A political crisis interrupted the work, but when the assembly reconvened in March, the debate continued and again ended with an impasse. Calvert orchestrated the passage of a single general law authorizing the continuation of Maryland government. This abbreviated, foundational statute included one much discussed general provision—that the inhabitants of Maryland would “have all their rights and liberties according to the great Charter of England”—and another that required judges in Maryland to “cause right and Justice to be done in all causes civill (wherein right or damage is demanded) according to the laws or laudable usages of this province or otherwise according to the laws or laudable usages of England in the same or the like cases as neer as he or they shall be able to Judge.”¹¹

The men struggling to reach this legislative compromise were not professionally

trained lawyers, though a few were reasonably well educated, so their attention to legal details is remarkable. When they invoked the great symbol of English liberty, the Magna Carta, they knew more than a little about the legal substance of their demand. At one point, some actual phrases of the Magna Carta were inserted into a proposed "Act for the liberties of the people": no free Marylander was to be "imprisoned nor disseised or dispossessed of their freehold goods or Chattels or be outlawed, Exiled or otherwise destroyed, fore-judged or punished than according to the Laws of this province."¹²

That *liberty*, short-hand for their legal status as fully *free* men, was on their minds is underscored by other features of this 1630's debate. The same bill that referenced Magna Carta provided that all "Christians" living in Maryland, slaves excepted, would "have and enjoy all such rights, liberties, immunities, priviledges and free customs within this Province as any naturall born subject of England hath, or ought to have or enjoy, in the Realm of England, by force or vertue of the common law or Statute Law of England" except in cases where "the same are or may be altered or changed by the Laws and ordinances of this Province." The explicit exclusion of slaves, and perhaps the implicit exclusion of non-Christian Native Americans, emphasized the presence of gradations of personal legal status and the sensitivity of Maryland's free men to the legal parameters of that status. The freemen intended to guard very closely the developing body of local law that guaranteed their privileged place in society.

Within three decades or so of this foundational assembly, the institutional framework for Maryland government was essentially settled. The legislature, collectively called the "Assembly," would have two branches, an elected Lower House and an appointed Upper House. The proprietor, if he were not present in the colony, would appoint a governor, and he or his governor would appoint an executive council and judges for the court of general jurisdiction, the county courts, the probate court, and so on. Operational details were specified in a rapidly developing body of statutes.

Unlike other colonies, Maryland's first and only charter provided an enduring legal framework, and details of the charter helped to deepen the complexity of the English law question over the course of the seventeenth century. Charles I had given, in perpetuity, to Cecilius Calvert, Baron of Baltimore, and his heirs "free, full, and absolute" governing authority over Maryland. The charter underscored the plentitude of this authority by referencing the authority and privileges exercised by the Bishop of Durham in his Palatinate, a special, semi-autonomous legal jurisdiction in northern England. But proprietary authority over the province was also very explicitly limited by four important reservations in the charter: 1) a guarantee to the freemen of Maryland of the right to participate in law-making for the colony, 2) a guarantee to the freemen of Maryland of their rights under English law as English subjects, 3) a limitation on the executive authority in the colony to punish anyone as a criminal (beyond what was customary for minor infractions) without the authorization of a statute, and 4) a general requirement that Maryland law be "agreeable" and "not

repugnant” to the laws of England. This last provision elaborated further, that not only the “laws” and “statutes” but also the “rights” and “customs” of England would be preserved in the colony: “the said Lawes [of Maryland to] be consonant to reason, and be not repugnant or contrary, but, as neere as conveniently may be, agreeable to the Lawes, Statutes, Customes, and Rights of this our Kingdome of *England*.” The charter, in other words, created a complex balance of governing and legal authority, partly imperial and partly local. It preserved representative structures of government as well as the proprietary prerogatives of judicial appointments and a right to “disassent” to any law, even after it was passed by the legislature and signed by a local governor.¹³

In this environment, authority to appoint judges and review their application of the law remained especially important to the proprietary government’s preservation of its power and independence. Leonard Calvert had tried to settle permanently in 1646 a rule of decision establishing an official hierarchy of law and authority for judges that would preserve proprietary influence over the development of the colony’s law. His formula was that, where Maryland laws were silent, the colony’s highest court had full power to settle cases according to “the sound discretion of the said Governor or other Chiefe Judge and such of the Councell as shall bee present in Court [or the majority of them].” But controversy over this rule would erupt again in the 1660s and repeatedly thereafter, with the Lower House generally contesting for a statute that would undermine judicial discretion and require judges, where Maryland law was silent, to apply English law and judicial precedents.¹⁴

Debates over the rule of decision remained central to Maryland politics because they invoked fundamental political sensibilities and in effect served as a surrogate for a constitutional debate over who had the last word on Maryland law. Appeals to the crown were occasionally pursued in the seventeenth century, but until the royal period only in rare and unusual cases. The Upper House, often consisting of men with judicial experience, sometimes advocated for more judicial discretion, to preserve judicial power and, they sometimes said, to protect Marylanders from English laws that were not suited to local circumstances. In 1662 a statute reflecting the views of the Upper House and the proprietary government on the rule of decision attempted to settle the matter once and for all. It did not, but its subsequent history suggests that it had consistent support among the colony’s leading men. “An Acte concerning Proceedings att Lawe” provided, in carefully negotiated terms, for a rule of decision whereby English law could be invoked where Maryland law was silent.¹⁵

Whereas severall differences doe arise within this Province wherein there is noe Rule or Lawe provided . . . whereby to determine such differences, And to leave [too] much to discrecion is to open a Gapp to Corrupcion, for the avoyding such Inconveniencys, Be it Enacted by the Lord Proprietary by and with the Consent of the Upper and Lower howse of this present Generall Assembly That

in all cases where the Lawe of this Province is silent, Justice shall be administred according to the lawes and Statutes of England, if pleaded and produced. And all Courts [are] to Judge of the Right pleadeing [or] inconsistency of the said Lawes with the good of this Province according to the best of their Judgements, Skill and Cunning.¹⁶

The act was written so as to endure for three years or to the end of the next General Assembly and was subsequently revived or continued in 1664, 1666, 1669, 1671, and 1676. However, the language referring to “judgment,” “skill,” and “cunning” was seen by a faction in the Lower House as a sure invitation to the very “corruption” the law was supposed to eliminate. To permit judges such “discretion” was, they believed, a concession to “arbitrary” government. The Lower House, or at least a significant faction within it, continued to try to enact statutes that would require Maryland judges to follow English rules. In 1663 they proposed a statute that would have eliminated the words “Judgements, Skill and Cunning” in the above law, and replaced them with this formula: “that in [any] case where the Lawe of this Province is Silent Justice shall be administred according to the Lawes of England.” This revision was ultimately disallowed by Lord Baltimore in 1669.¹⁷

Though it is easy to imagine the proprietor as simply defending his self interest, it is worth emphasizing again that the pluralistic nature of seventeenth-century law created a lot of possibilities for ill-informed mischief. Obscure in many details and subject to increasingly frequent alterations by Parliament, the laws of England as they operated in the high courts were not understood by most colonists in North America in any comprehensive way. They were gathered into memory through oral tradition, experience in local courts, and popular handbooks and abridgments. Thus, to invoke “English law” generically, absolutely, and unconditionally, without a specific context, verged on recklessness. The proprietor had reason to be cautious. When Marylanders demanded “English law” as if they desired to tighten the links between English and Maryland law, they were not actually aiming for closer supervision from across the Atlantic or actual fidelity to English practice as a whole; they were objecting to the idea that the proprietor should, as a matter of executive function, have the last word in a matter of law. If free Marylanders were subject to such authority, were they really free? This troubling underlying concern spurred much of the continuing discussion of English law and English liberties.¹⁸

English Law and Maryland Law in Global Context

In the seventeenth century, local politics along the Atlantic coast always connected ultimately to a wider, conflict-ridden world. At the conclusion of the Third Dutch War in 1674, the Dutch ceded their possessions in North America to England, resulting in repercussions that destabilized the Chesapeake colonies. Meanwhile, back in England, the very nature of the English monarchy was put in play, with the Exclusion

Crisis (1679–1681), the Glorious Revolution (1688–1689), a series of major European dynastic wars, and the restructuring of the succession after the death of all Queen Anne's children in favor of the Hanoverians.¹⁹

Historians have rightly emphasized the interplay of political conflict in London and the evolution of colonial administration. Recent scholarship emphasizes that the transformations underway in England were even more divisive, more fundamental, and of more lasting significance than previously believed. The Glorious Revolution did not resolve decades of turmoil with a broad political consensus around the pillars of constitutional monarchy; it led to “a grim reality of Whig-Tory ideological and political animosity” and continuing conflict. Charles II used his royal prerogative aggressively to suppress political opposition to James's accession and, once crowned, James proved even more cavalier in his use of royal power without Parliamentary consultation. The leaders of the Exclusionist movement and of the Revolution of 1688 in Parliament believed James II intended to build a more autocratic, militarized, French-style, Catholic-oriented monarchy, and there some were very good reasons for these suspicions.²⁰

In the Chesapeake the balance of Native American alliances with the English colonies had been destabilized by the great alliance with the Iroquois Confederacy worked out by Edmund Andros to cement English supremacy in New England. Anti-Catholic sentiment among English Protestants continued to shape the political landscape, as well. The Catholic elite of Maryland enjoyed most of the offices of influence and profit in the colony, even though most inhabitants were dissenting Protestants. The proprietors of Maryland had consistently promoted a policy of religious tolerance, but in the run-up to the Glorious Revolution, this earned them little credit, just as the antagonism toward the Catholic James was unmitigated by his policy of religious pluralism for England.²¹

The fear that gripped the mid-Atlantic colonies is evident in the proceedings of the Maryland governor's council, which from 1676 through 1679 were dominated by preparations for war and negotiations with local tribal leaders, and by a clumsy piece of propaganda from the period published most likely in London, *Complaint from Heaven with a Huy and crye and a petition out of Virginia and Maryland*. The *Complaint* describes Maryland as a zone of lawlessness. Lord Baltimore and his “Cabinet of Popish [friends]” allegedly ruined men's estates, were disloyal to the crown, and even committed murder. With fear came a series of mini-insurrections. In August 1676 a band of armed men defied Maryland's government. Thomas Notley restored order by hunting down a couple of the leaders, putting them on trial, and hanging two of them. Notley congratulated himself in a letter to the absent proprietor in frightening terms. “God be thanked wee now enjoy peace among ourselves, and though never Body was more repleat with Malignancy and Frenzy then our people were about August last, and they wanted but a monstrous head to their monstrous body.”²²

As Whigs worked in Parliament to bar the future James II from the throne, the

disaffected placeman, John Coode, caused what trouble he could in Maryland after a falling out with the Calverts. A bill of indictment for mutinous and seditious words charged Coode with telling men not to worry about acquiring land because every Catholic would be ejected from his land within four months' time and that he had ten thousand followers ready to back his plan to overturn the province. Dozens of men drank this rhetorical punch, took up arms, and marched about in the guise of a militia, illustrating that fear of a world-wide Catholic conspiracy was as easily aroused in the colony as it was back in England in the era of Titus Oates and the "Popish Plot." Such events placed severe strains on the rule of law.²³

During this general state of alarm, the Maryland Assembly met in October 1678 without Charles Calvert presiding for the first time in two decades because Calvert had departed Maryland for England in June 1676 to confirm his title and estate as the third Lord Baltimore. As Governor Notley focused on organizing the colony's defenses in anticipation of Native American attacks, the Lower House went on the constitutional offensive. They took steps to distribute copies of the charter and the laws in force and plotted how to gain greater recognition for English law. Again, the plan was to require an oath by which judges would swear upon taking office to apply English law in any case where Maryland law was silent. This had become the most concrete expression of the entire debate.²⁴

The proprietary government continued to fight for the principle, articulated by Leonard Calvert in 1646, that in cases where Maryland law was silent, judges should make rulings based on their "best discretion" rather than be narrowly bound by English doctrine or precedents. Though increasingly well trained and professional, the Maryland judiciary was deeply entangled with Maryland's ruling family. The highest court of general jurisdiction for the colony, the Provincial Court, and the highest body hearing cases on appeal (essentially the governor's Council reviewing cases on writs of error) both consisted of the same handful of men—members of the Calvert family and their hand-picked and mostly Catholic allies. For the Lower House, representing a predominantly Protestant population, this was a significant underlying grievance.

Charles Calvert soon returned. Having defended Maryland's fidelity to English law to royal officials in London, he now had to defend his view of the limits of English law to the Lower House in Maryland. Tensions were high in 1681, the first Assembly over which Calvert presided in person as the Proprietor. Unfortunately for Calvert, his uncle, the chancellor and chief legal officer in the colony and a highly learned and generally diplomatic man, complicated the situation with a major tactical blunder. When the Lower House petitioned for the privilege of issuing a writ from their Speaker for a special election, Philip Calvert scolded them, noting that no such privilege had ever been recognized in Maryland and was not practiced in Virginia, Barbados, or "any other of his Majesties Plantations." The Lower House had suggested, on the contrary, that such a privilege was evident from a careful

examination of “the best Records and Authorities of the Customs and usages of the Commons house of England (the only Rule to walk by).” Philip rebutted their claim with this overbearing statement: “His Majesty hath the Sole Power to Dispose of his Conquests upon terms he Pleases, [and] is not [even] Tyed to take the Parliaments Consent in his Disposall of them, [and] he Hath granted [the Proprietor] a Patent with several Powers and Priviledges amongst which Enacting Laws is one.” That was like putting a match to gunpowder.²⁵

Philip not only used the rhetoric of absolute monarchy, he also used the term “conquest,” signaling that the Calverts had aligned their conception of Maryland government with *conquest theory*, a legal framework newly popular among the highest legal circles in London. The gist of conquest theory was that military conquest conferred upon conquering “princes” complete, legal domination over conquered territories and their inhabitants, and that such princes could either impose law as they saw fit or permit the inhabitants to keep the old law. Coke’s famous report of *Calvin’s Case* helped to establish this line of thinking among crown lawyers because it reinforced the old jurisdictional principle that English law within England’s borders was not identical to the law of England applicable in all the other dominions of the crown. The prevailing interpretation of conquest theory in London by this time was that, in his foreign dominions, the English monarch might *at his pleasure* allow a previous legal system to persist, modify it, or impose new law.²⁶

Leaders of Maryland’s Lower House understood in 1681, rather more clearly than Philip Calvert apparently realized, that conquest theory was potentially unsettling to the legal status quo. First, it might serve as a pretext for lumping the unique Province of Maryland together with all the other foreign “plantations,” notwithstanding the careful framework spelled out in the colonial charter. Second, it underscored the idea that the king might choose to exercise a much expanded executive authority in any “foreign plantation” without the legal restraints protecting Englishmen living in England and without oversight from Parliament. So, the Lower House insisted that the chancellor put his alarming remarks into writing. Boldly, he obliged.

With written text in hand, the opposition drafted a detailed rebuttal, perhaps with visions of Maryland’s government, already under the control of “Papists,” now falling prey to absolutists. “Extreamly Grieved” at the challenge to their “Rights and Priviledges”—their “Inherent Right,” indeed, their “Birth right”—they invoked English precedents and the guarantee of “the words of his Lordship’s Charter.” Offensive language likening Marylanders “to a Conquered People” implied that the inhabitants were “Subject to Arbitrary Laws and Impositions,” and if that was in fact the official proprietary view of things, then the Lower House would have to conclude that the government of Maryland had come under the influence of “Strange if not evill Council.” When angry men spoke of “evil counsel” in public debate in the seventeenth century, they edged right up to the crime of seditious libel. At this point, the Upper House weighed in against the chancellor’s remarks. Thus, the question of whether

a particular English custom should operate in Maryland served as a starting point, on both sides, for an escalating political confrontation over fundamental legal and political principles, that is, whether Marylanders were living under a rule of law in no way inferior to that of England, or subject to a subordinate legal status, short of that enjoyed by native-born Englishmen residing in England.²⁷

The View of the Crown

The crown's imperial agenda, of course, was dominated by concerns for trade and larger Euro-Atlantic political aspirations. Legal stability and predictability were important to the imperial project and London merchants. Yet the sporadic references in surviving minutes from the Privy Council and its advisers portray a lack of precision and resolution in legal matters, particularly when claims to the benefits of English law arose, as they did periodically. From the point of view of many in London's political circles, guaranteeing to colonists *all* the benefits of English law seemed impractical, unnecessary, and an unwarranted limitation on crown authority.²⁸

Charles Calvert had the opportunity to present his view directly to the Lords of Trade in 1678, when he responded to a list of questions drawn up for purposes of a general survey of colonial governments. At the top of the list were questions concerned with the structures of government and authority generally, and one focused specifically on the rule of law. Calvert answered carefully in an effort to show all due deference to royal authority. He explained that necessity and exigency required particular local laws, though always duly enacted by a proper legislative process and often of temporary duration. He then went out of his way to emphasize that where no such particular local law had been enacted, his province used "no other Lawe than the Lawe of England." Fidelity to English law in general was what the Lords of the Committee on Trade apparently wanted to hear. Calvert's answers underscored the general theme that Maryland government was based on English law and institutions (including the special jurisdictions of equity, admiralty, and probate), and he apparently succeeded in convincing the Lords of Trade that his government was in compliance with crown policies and the terms of the charter. Catholic though he was, nothing appeared to be happening in Calvert's Maryland so repugnant to the law of England as to warrant any corrective action.²⁹

With the accession of James II the crown signaled a new aggressiveness. On May 28, 1687, after considering a report from the Lords of Trade, the king in council ordered "Mr Attorney and Mr Solicitor Generall [to] forthwith proceed upon and prosecute the *Quo warrantos* which have been issued or ordered to be issued out against the severall proprietors and Corporations in America." This was part of a longer-term effort to bring colonial administrations under more direct crown control. The authority of "proprietors" and "corporations," that was to say, those transatlantic dominions of the crown not already administered directly by royal governors, would be subject to legal inquiry. This immediate project ended abruptly, though, when

William of Orange landed in England and James II fled to France for his safety. These events and those to follow over the next two decades reset the political machine.³⁰

English Law in Maryland Near the Turn of the Century

The status of English law as practiced in colonial Maryland up to 1689 was controlled by three factors. First, the legislative body, the Assembly of Freemen, had systematically enacted, revised, and occasionally made perpetual, a body of local law that addressed most of their needs. By the 1670s it had become a duty of each session of the assembly to review the body of laws. The Assembly of May–June 1676 took the task particularly seriously, enacting two great statutes that struck all previous, unwanted laws, and reaffirmed those it wished to keep in force. The list of statutes reenacted permanently was in effect a codification. It included twenty-eight pre-1660 statutes, twenty-two statutes from the 1660s, and twenty-one from the 1670s. These local statutes generally reenacted, with significant modifications, English common law, the procedural rules of English Quarter sessions, and English statutes. Maryland law was English law with a twist.³¹ A second factor was the veto power over any Maryland statute retained by the Proprietor in person, which he occasionally exercised on the English law question. The third was the “Act of Judicature” of 1646 and its subsequent variations, which established the right of Maryland judges to apply English law in Maryland cases where Maryland law was silent, but did not absolutely require it. The highest court, consisting of the Proprietor’s appointees, had the last word with respect to judicial incorporation of English rules wherever Maryland law was silent. Where precedents incorporating English rules were established, they were followed.

In political discourse, however, this practical state of affairs had come to represent the potentially threatening possibility that the proprietary government of Maryland would abuse its prerogatives. The fear was that the Calverts might, with the backing of the crown, create a legal regime in Maryland in which free men did not enjoy all of the “liberties” of free men nor all the protections of the “rights of Englishmen.” This rhetoric echoed, without exactly rehearsing, the great debates earlier in the century between the crown and its advisers on one side, and the common lawyers and Parliament on the other. There was no easy solution to the fundamental issue, that is, properly defining the boundaries between the legal world and the political world. So one side pushed its rhetoric toward the logic of sovereignty, reasons of state (or policy), and imperatives of (hierarchical) social order. The other mobilized a rhetoric of fidelity to English law, implying that English law was part of the natural order of things, that it had been validated by grave and deep historical deliberations over the course of many generations, and that it restrained arbitrary political authority. Both this rhetoric and this reality would develop in surprising directions in the eighteenth century.

NOTES

1. Mary Sarah Bilder has observed, "The question, what is law in the colonies, remains difficult as a theoretical and practical matter." See, "English Settlement and Local Governance," in *The Cambridge History of Law in America*, vol. I, Early America, Michael Grossberg and Christopher Tomlins, eds. (Cambridge: Cambridge University Press, 2008), 63–103 (at 103). On law for the New World, see Ken MacMillan, *Sovereignty and Possession in the English New World: The Legal Foundations of Empire, 1576–1640* (Cambridge: Cambridge University Press, 2006), 1–31, 79–120, 133–147. Maryland government collapsed altogether, briefly, in 1645. See Timothy B. Riordan, *The Plundering Time: Maryland the English Civil War, 1645–1646* (Baltimore: Maryland Historical Society, 2004), 3–6. For an exploration of law and lawlessness, see Eliga H. Gould, "Zones of Law, Zones of Violence: The Legal Geography of the British Atlantic World, circa 1772," *William and Mary Quarterly*, 3rd ser., 60 (2003): 471–510.
2. Jeffrey K. Sawyer, "English Law and American Democracy in the Revolutionary Republic: Maryland, 1776–1822," *Maryland Historical Magazine*, 108 (2013): 258–88.
3. Modern scholarly research on the subject in Maryland began over a hundred years ago with Bernard C. Steiner's article, "The Adoption of English Law in Maryland" in the *Yale Law Review* (1899): 355–61, a framework refined in later studies such as St.-George Leakin Sioussat, *The English Statutes in Maryland*, in Johns Hopkins Studies in Historical and Political Science, ser. 21, nos. 11–12 (Baltimore: Johns Hopkins University Press, 1903). Subsequent monographs include Joseph H. Smith, *Appeals to the Privy Council from the American Plantations* (1950; repr., New York: Octagon Books, 1965); Lois Green Carr, *County Government in Maryland, 1689–1709*, 2 vols. (New York: Garland Publishing, 1987); and Ashley C. Ellefson, *The County Courts and the Provincial Court in Maryland, 1733–1763* (New York: Garland Publishing, 1990). This article is especially indebted to Lois Carr for her steady encouragement and for sharing her essay "Extension of Empire: English Law in Colonial Maryland" (undated, unpublished manuscript in the possession of the author and cited with permission), which sharpens her views as found in *County Government in Maryland, 1689–1709*, 1:86–98, and in Lois Green Carr and David William Jordan, *Maryland's Revolution of Government: 1689–1692* (Ithaca: Cornell University Press, 1974), 5, 6–7, 21–23, 25–26, 27–29. For two groundbreaking monographs on other colonies, exploring the constitutional dimensions of the English law question in a pre-constitutional age, see Mary Sarah Bilder, *The Transatlantic Constitution: Colonial Legal Culture and the Empire* (Cambridge: Harvard University Press, 2004), and Daniel J. Hulsebosch, *Constituting Empire: New York and the Transformation of Constitutionalism in the Atlantic World, 1664–1830* (Chapel Hill: University of North Carolina Press, 2005).
4. For an overview of colonial American legal development in three major phases, see James A. Henretta, "Magistrates, Common Law Lawyers, Legislators: The Three Legal Systems of British America," in *The Cambridge History of Law in America*, 1:555–92. Hoffer's periodization is similar in Peter Charles Hoffer, *Law and People in Colonial America* (Baltimore: Johns Hopkins University Press, 1998), 1–49, 92–126. On the rise and maturation of the legal profession in Maryland, see Alan F. Day, *A Social Study of Lawyers in Maryland, 1660–1775* (New York: Garland Publishing, 1989).
5. Dulany's pamphlet was printed in Annapolis by William Parks in 1728; the use of different fonts in the present text mimics creative eighteenth-century typesetting for effect; all references to the pamphlet herein are to the text in the possession of the Maryland Historical Society reproduced as an appendix in Sioussat, *The English Statutes in Maryland*, 80–104.

6. John Phillip Reid, *Rule of Law: The Jurisprudence of Liberty in the Seventeenth and Eighteenth Centuries* (DeKalb: Northern Illinois University Press, 2004), 6; Mary Sarah Bilder, “Colonial Constitutionalism and Constitutional Law,” in *Transformations in American Legal History: Essays in Honor of Professor Morton J. Horwitz*, ed. by Daniel W. Hamilton and Alfred L. Brophy (Cambridge: Harvard Law School, 2009), 28–57.
7. Lois Green Carr and Edward C. Papenfuss, “The Charter of Maryland” *Archives of Maryland Online*, 549:7–26, <http://msa.maryland.gov/megafile/msa/speccol/sc2900/sc2908/000001./00549/html/am549--1.html>. As to the vestiges of feudal law, Maryland was envisioned partly as a “franchise” granted to Lord Baltimore modeled after that held by the Bishops of Durham in their “Palatinate” in Northern England and partly as a fiefdom held “in free and common soccage, by fealty only for all services, and not in Capite, nor by Knight’s Service” with specific incidents of tenure, including the delivery of “two Indian arrows” to the king at Windsor Castle every Tuesday in Easter week and 20 percent of any gold or silver discovered. The authorship of the charter is obscure, but the context for it is nicely explained in John D. Krugler, *English and Catholic: The Lords Baltimore in the Seventeenth Century* (Baltimore: The Johns Hopkins University Press), 104–28.
8. Joseph H. Smith identified nine different sources of law referenced in early Maryland legal proceedings. “The Foundations of Law in Maryland: 1634–1715,” in *Selected Essays: Law and Authority in Colonial America*, George Athan Billias, ed. (Barre, Mass.: Barre Publishers, 1965), 92–115. On Coke’s view, see also William B. Stoebuck, “Reception of English Common Law in the American Colonies,” *William and Mary Law Review*, 10 (1968): 397. The passage in Coke is in *The First Part of the Institutes of the Laws of England* (1628 ed.), 2 vols. (New York: Garland Publishing, 1979), Part I, Ch. I, Sec. 3.
9. Assembly Proceedings (1638/39) in William Hand Browne, et al., eds., *Archives of Maryland: Proceedings and Acts of the General Assembly of Maryland* (Baltimore: Maryland Historical Society, 1887–1972), 1:2–84 (the vote recorded at 1:9), now available permanently online at <<http://aomol.net/html/index.html>> through the Maryland State Archives and hereinafter cited as *Arch. Md.* Thirty-nine foundational laws are mentioned during the proceedings and complete drafts of some, but not all, were copied into the surviving records, *Arch. Md.* 1:40–84. The majority of the preserved bills had to have been proprietary proposals, and among these were attempts to establish multiple courts, including a chancery, admiralty, and an ominously named “pretorial” court for high crimes analogous to England’s notorious Star Chamber.
10. Assembly Proceedings, *Arch. Md.* 1:9. Thomas Cornwallis (also spelled Cornwaleys) was a principal investor and important ally of the Calverts in establishing the colony, though not a very helpful one at this moment.
11. *Ibid.*, 1:83.
12. *Ibid.*, 1:41 (slightly edited for clarity). For a somewhat different conceptualization of this passage, see Charles A. Rees, “The First American Bill of Rights: Was It Maryland’s 1639 Act for the Liberties of the People?” *The University of Baltimore Law Review* 31 (2001): 41–66.
13. *The Charter of Maryland* (1635), sec. 7 [p. 11], (spelling, punctuation, and type face as in the earliest known printed version, and all citations hereinafter are to this text, available at <<http://www.msa.md.gov/msa/educ/exhibits/founding/html/charter.html>>).
14. Assembly Proceedings (1646/47), *Arch. Md.* 1:210. As emphasized by Carr, the fact that the 1646 act did not contain the usual language limiting its validity for one year, three years, or until the end of the next Assembly, a practice frequently employed by the Assembly to help insure that Assemblies would be convened frequently, is significant. The law thus remained in effect until 1678. Carr, “Extension of Empire,” 11–13.
15. On appeals to England, see Smith, *Appeals to the Privy Council*, 67–68, 73–87; and

Carroll T. Bond, ed. *Proceedings of the Maryland Court of Appeals 1695–1729*, with the collaboration of Richard B. Morris (Washington, D.C.: American Historical Assoc., 1933), xxvii, xxix–xxxv.

16. Assembly Proceedings (1662), *Arch. Md.* 1:448.

17. Carr and Jordan, *Maryland's Revolution of Government*, 21–23; Assembly Proceedings (1663), *Arch. Md.* 1:487.

18. Coke's notoriously convoluted opinions in his *Reports* illustrate the complexity of English law in this era. See J. H. Baker, *An Introduction to English Legal History* (London: Butterworths, 2002), 183. Mindful of the lack of education among lower court judges, the Maryland Assembly ordered county courts to procure guidance, "the statute books of England to these times named Keeble's *Abridgements of the Statutes* [and] Dalton's *Justice of the Peace*," *Arch. Md.* 7:70 [modernized].

19. Bernard Bailyn, *Atlantic History: Concepts and Contours* (Cambridge: Harvard University Press, 2005), 59–85 (on the complexity of the Atlantic world). On the upheavals of the 1670s, see James D. Rice, *Tales from a Revolution: Bacon's Rebellion and the Transformation of Early America* (New York: Oxford University Press, 2012), 137ff, and Stephen Saunders Webb, *1676: The End of American Independence*, 2nd ed. (Syracuse, N.Y.: Syracuse University Press, 1995), xv–xxiv, 69ff., 290ff.

20. The quotation is from Steve Pincus, *1688: The First Modern Revolution* (New Haven: Yale University Press, 2009), 301. On political developments in England, see Pincus, *1688*, 49–217, and Jonathan Scott, *England's Troubles: Seventeenth-Century English Political Instability in European Context* (New York: Cambridge University Press, 2000), 182–204, 365ff. On the depth of the divisiveness see also Robert Beddard, "The Unexpected Whig Revolution of 1688," in *The Revolutions of 1688: The Andrew Browning Lectures, 1988*, Robert Beddard, ed. (Oxford: Clarendon Press, 1991), 11–101. The more established views can be found in J. M. Sosin, *English America and Imperial Inconstancy: The Rise of Provincial Autonomy, 1696–1715* (Lincoln: University of Nebraska Press, 1985), 13–22 (general), 76–91 (Maryland); and Robert M. Bliss, *Revolution and Empire: English Politics and the American Colonies in the Seventeenth Century* (Manchester and New York: Manchester University Press, 1990), 219–47.

21. For Andros, the Iroquois, and trouble in Maryland, see Webb, *1676*, 295–98; and Rice, *Tales from a Revolution*, 137ff. Proprietary staffing of high offices with Catholics and relatives is carefully detailed in David W. Jordan, "Maryland's Privy Council, 1637–1715," in *Law, Society and Politics in Early Maryland*, Aubrey C. Land, et al., eds. (Baltimore: Johns Hopkins University Press, 1977), 65–87. Charles Calvert, the proprietor, told the Lords of Trade that the majority of Marylanders were "Presbyterians, Independents, Anabaptists and Quakers," see Council Proceedings (1676), *Arch. Md.* 5:133. For anti-Catholic animosity in England, see Pincus, *1688*, 118–217, and for a clear-eyed view of religious toleration in the English-speaking world, see Andrew R. Murphy, *Conscience and Community: Revising Toleration and Religious Dissent in Early Modern England and America* (University Park: Pennsylvania State University Press, 2001), 128–57. Maryland's regime of toleration collapsed after the Glorious Revolution. See Beatriz Betancourt Hardy, "Papists in a Protestant Age: The Catholic Gentry and Community in Colonial Maryland, 1689–1776" (Ph.D. diss., University of Maryland, College Park, 1993), 1–77.

22. Rice, *Tales from a Revolution*, 137ff. Notley to Charles Calvert, January 22, 1677 (Council Proceedings), *Arch. Md.* 5:153; for Notley's effectiveness in quelling the rebellion, see Jordan, *Representative Government*, 118–19. A version of *The Complaint from Heaven* is reproduced at *Arch. Md.* 5:134–149, but Rice warns that it is error-ridden, *Tales from a Revolution*, 139n1.

23. Coode's indictment, Council Proceedings (1681), *Arch. Md.* 5:330–33; the trial jury did

not convict, *ibid.*, 332. The “Popish Plot” refers to an alleged conspiracy by Catholics to have Charles II assassinated in order to bring James II to the throne sooner rather than later. Near hysteria plagued English officials, pamphleteers, and the public following fabrications about it offered up by Titus Oates in September 1678 (Scott, *England’s Troubles*, 172–73).

24. Buried in a list of laws to be revived and confirmed, the 1678 Assembly revived the 1664 statute concerning “Proceedings at Law,” but with these qualifying words stricken: “soe farr as the Court shall Judge [the laws of England] not inconsistant with the Condiscon of this Province,” *Arch. Md.* 7:82.

25. *Arch. Md.* 7:123–24.

26. Smith, *Appeals to the Privy Council*, cited above, n. 3, at 464–80; *Calvin v. Smith*, 77 *Eng. Rep.* 377, 392 (K.B. 1608); Carr, “Extension of Empire,” 3–6, 9–10, 19; Daniel J. Hulsebosch, “The Ancient Constitution and the Expanding Empire: Sir Edward Coke’s British Jurisprudence,” *Law and History Review*, 21 (2003): 439–82; and Polly J. Price, “Natural Law and Birthright Citizenship in Calvin’s Case (1608),” *Yale Journal of Law and Humanities*, 9 (1997): 73–146. Though it obviously did not influence any discussion nearly a century before, William Blackstone gave classic statement to this theory as it stood in the 1760s and as he thought it applied to the American colonies in *Commentaries on the Laws of England*, facsimile of the first edition, 1765–1769, intro. Stanley N. Katz, 4 vols. (Chicago: University of Chicago Press: 1979), 4:104–5.

27. Assembly Proceedings (Upper House Journal, 1681), *Arch. Md.* 7:125, 127. Loyalty to the government was not optional in the seventeenth century, and words which brought government officials into disrepute were deemed criminal. In the Council Proceedings of 1676, Charles Calvert referenced an old Maryland law, “That all mutinous or seditious speeches, praktises or attempts [even] without force, tending to divert the obedience of the people from the Lord proprietary etc: proved by 2 sworn witnesses, shall bee punished with imprisonment duering pleasure, fine, banishment, boaringe of the tongue, slitting of nose, cutting off one or both ears, whipping, branding in the hands or forehead, etc.” *Arch. Md.* 5:151.

28. Jack P. Greene nicely characterizes the ambiguous dynamics between London and the colonies before mid-century as “empire negotiated,” in *The Constitutional Origins of the American Revolution* (Cambridge: Cambridge University Press, 2011), 19–55. Note: The “privy council” was the working body of the king’s council where policy decisions were made; the sub-committee responsible for colonial affairs was reorganized under Charles II as the “Lords of the Committee on Trade and Plantations.” This body reorganized again in 1696 under William III as a body of commissioners technically separate from the Privy Council, but closely linked to it, called the “Board of Trade.”

29. The questionnaire as administered to Calvert for Maryland contained at least twenty-seven questions and was also designed for gathering information not just about the extension of English law in England’s colonies, but about trade, fortifications, religion, natural resources, and so forth. *Arch. Md.* 5:264–69 (quoted words at 264–65).

30. Proceedings of the Council (1684–89), *Arch. Md.* 5:545 (italics added) [copied from an entry in the English Colonial Records]. A *quo warranto* was a proceeding set in motion by a royal writ summoning an entity claiming a legal right that might impinge upon the king’s jurisdiction before his justices; it demanded an “answer” to the justices, that is, the production of evidence of the legal grounds for the right claimed. John Rastell, *Les Terms de La Ley* [London, 1636], s.v. *quo warranto*, <http://openlibrary.org>.

31. Assembly Proceedings (1676), *Arch. Md.* 5:42–51.

THE NEGRO STILL AT LARGE

Mrs. Reid's Assailant Makes Good His
Escape From Justice.

NO TRACE OF THE BRUTE HAS AS YET
BEEN FOUND.

A Dastardly Assault On a White Woman In
Broad Daylight--Victim Is Said To
Be In a Very Serious
Condition.

Although the search for the unidentified negro who yesterday afternoon attempted a criminal assault on Mrs. John Reid, of this county at a point about three miles from Annapolis, was resumed this morning by Sheriff Hinthicum and his deputies, as well as the residents of the neighborhood, no definite trace of him has been found.

The descriptions of the assailant are vague and rather unsatisfactory, as the only persons who saw him were Mrs. Reid, and Mr. and Mrs. Brice Worthington, whose approach frightened the brute off. The latter only saw his back as he made across the fields, and Mr. Worthington, who is in a weakened condition from a long illness, was incapable of taking up the search and following the man at once. On this account considerable valuable time was lost in starting the pursuit.

Mrs. Reid was reported this morning to be recovering from the effects of her fearful experience, although she was sadly battered during the rough handling he received. Talk of lynching is prevalent in Annapolis today, and even conservative citizens express the hope that the negro may be disposed of before he gets under the protection of the law, provided that he may be identified beyond any doubt.

The country surrounding the locality of the crime is not thickly settled and means of communication are but few. For this reason the news of the crime spread slowly. Many of the countians coming to Annapolis from directly around the section were in ignorance of the occurrence. For this reason the capture of the man is fraught with difficulty. The general supposition now is that he is hiding in the dense woods which extend for several miles from the scene of the crime towards Chesterfield.

Front page, Annapolis
Evening Capital,
December 14, 1906.

White Community Involvement in the 1906 Annapolis Lynching of Henry Davis

C. CHRISTOPHER BROWN

On the Friday afternoon of December 14, 1906, Mrs. John Reid, an older, white housewife of Inglehart's Station, just outside Annapolis, Maryland, on the Washington, Baltimore and Annapolis Railroad, reported that she was assaulted by Henry Davis, a younger African American laborer who also resided in the Annapolis area. Within seven days a mob of white men stole Davis from the local jail and lynched him on a nearby tree. Although they alone carried out the lawless deed, white citizens of the broader community were indirect co-conspirators in the venture.¹

Contemporary newspaper accounts paint a crude picture of white, mob justice. Between 1 and 2 a.m. on the morning of December 21, 1906, over fifty masked men gathered on the campus of St. John's College in Annapolis and finalized plans for avenging the attack on Mrs. Reid. Most were young, armed men with their faces either blackened or covered by home-made masks. The leaders appear to have come from the rural area about five miles from Annapolis where the alleged crime had taken place.

Some reports suggested that the assailants purposely chose a meeting place that was reached by a circuitous route in order to permit a surprise attack.² Others suggested that the college's students' involvement dictated the campus meeting spot, but after a few days' debate, most agreed that several college students just followed the crowd out of curiosity and did not directly participate.³

At about 2 a.m. members of the mob appeared at the jail on Calvert Street in a predominantly black neighborhood in Annapolis, just two blocks from the Governor's Mansion, and demanded that the warden turn over Davis. When he refused, they broke into a nearby store and helped themselves to a sledge hammer and pickax. The leaders then marched back to the jail to attack its entry door. The papers reported that the two "stalwart men" who chopped down part of the front door with the sledge and pickax "were evidently no strangers to their use." "The wielder of the pick was particularly skillful with the tool, used in a rather unusual manner. He made the chips fly from the great door."⁴

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After forcing a hole in the door sufficiently large to permit their entry, several crawled into the jail and obtained from the warden at gunpoint the keys to Davis's third-floor cell. After handcuffing Davis, his captors carried him out of the jail without resistance. The mob then put him on his feet and took him down Washington Street, then along the tracks of the Washington, Annapolis, and Baltimore Railroad and, finally, to a spot by College Creek known as "Brick Yard Hill" where a suitable tree was found.

One reporter described the mob that steered Davis to the lynching site as behaving "like hungry wolves." "They could not keep their hands off the negro. Blows were rained upon Davis from front, back and sides." Indeed, someone pulled Davis's trousers off as he stumbled along, unable to keep up the pace because he had once lost most of his toes due to frostbite.⁵

When the death site was reached, Davis fully understood his fate. He desperately shouted, "Don't kill me" and "Forgive me. Forgive me."⁶ The leaders of the mob showed no hesitation. They put a rope twice around Davis's neck and pushed him over the high bank. After he swung in the air, a leader signaled those in the mob to begin firing. They responded by emptying their guns into the dead man's body. When the shooting stopped, Davis was lowered to the ground, and the rope was cut up into souvenir pieces and passed out to members of the crowd.⁷ Davis's body was then left lying, "its life blood soaking into the ground." Only after "the mob had cleared all its ammunition" did the police come to protect what was left of Davis. The *Sun* estimated that the affair took but thirty-five minutes.

Word of the event spread quickly. After day break, "a stream of persons, white and black, large and small, began to flow towards the point where the body lay." The *Sun* reported that hundreds of people came, one of whom was an enterprising, yet tasteless photographer, who visited the death scene later in the day and photographed Davis's body, which he then turned into postcards that sold two for twenty-five cents. Hundreds of the cards sold to customers who spread them throughout the country. One purchaser alone bought fifty of these morbid souvenirs.⁸

That morning a jury of inquest was summoned. The state's attorney questioned the jailers and others. "All swore that they were unable to give any clue as to the identity of any of the lynchers." Their verdict was "that Davis . . . came to his death by hanging and shooting at the hands of persons unknown to the members of the jury."⁹

The Davis lynching must also be defined by what it was not, by the boundaries beyond which it did not go. It failed, for example, to take on the county-fair-like spectacle that characterized some of the more dramatic lynchings of the times.¹⁰ Its mob, which was relatively small and quiet, abstained from some of the era's more barbaric activities. There was no burning of the victim at the stake. His genitals were not mutilated. His dead body was not dragged around town. Also, the leaders were somewhat disorganized. By all accounts their hanging rope was quite thin and

barely did the job. Furthermore, the jailhouse entry was not carefully prearranged, requiring a last-minute effort to locate tools for the break in.

The press painted a distinctly negative picture of Davis, seemingly to dehumanize him. None of the journalistic reports presented Davis from the viewpoint of his family and friends. Instead, headlines referred to him as a “brute,” while the text described him as “an extremely low type of colored man,” who had “no regular work and as a rule no regular home. He has served a jail sentence for vagrancy, it being discovered that he was sleeping in a stable in this city, without the owner’s permission. He has a very low mentality.”¹¹

We do know that Davis was married and had a prior criminal conviction for assaults six years earlier upon three local black women.¹² For these he had received a two-year sentence to the Maryland Penitentiary, which he entered in May 1900. Also known as Henry Chambers, he was then 17 years old, five feet tall, and weighed 110 pounds. His residence was in Waterbury, Anne Arundel County. Prison officials described Davis as having light-brown skin, woolly hair, hazel eyes, a scar on the right side of forehead, and a birth mark on left cheek. His head was small, his face full with a broad nose, large lips, and a short, broad chin.¹³

Davis’s lynching appears to have been one of about forty recorded in Maryland since the mid-nineteenth century.¹⁴ The last lynching in Anne Arundel County had been that of Wright Smith, a black man also accused of attempted rape of a white woman, just eight years earlier, in October 1898.¹⁵ Davis’s lynching came in a decade in which Maryland’s white citizens lynched four other black men, two of which followed Davis’s lynching by less than ten months.¹⁶

Although the Davis lynching was carried out by fifty masked men, it was aided and abetted by the white community at large. The racial climate of the times, which had in recent years taken a significant turn for the worse, openly invited white domination of black males by mob violence. As the twentieth century began, the controlling white power structure was turning its attention to new methods of legally segregating the races, reducing the political power of black voters, and directing stricter criminal sanctions at the minority race.

By 1902, the wave of newly enacted segregation laws that during the prior decade had swept the South finally reached Maryland; legislators scrambled to enact “Jim Crow” laws that would segregate the races on railroads and steamboats.¹⁷ From the white man’s perspective, public transportation had fallen to a deplorable low: “By far the greater part of the travel over steamboat and railroad lines is done by a class of the colored race who delight in making themselves objectionable features of any and every trip.” This newspaper reporter viewed white women as the primary victims of this behavior: “Ladies’ private waiting rooms, lavatories and other places” were becoming “unendurable to people of refinement and cleanly habits, by language and conduct at once disgusting and filthy.”¹⁸ In 1904 the General Assembly enacted and Governor Edwin Warfield signed a Jim Crow law that required trains to have cars

separately marked "white" and "colored," and steamboats to similarly provide for segregation of the races.¹⁹

By 1900 the Democratic Party in Maryland understood that any literacy restrictions on voting would have a greater adverse effect on black men, who were nearly all Republican, and thereby greatly enhance the Democratic Party's fortunes. In 1900 almost half of all black registrants were illiterate, compared with only 8 percent of white registered voters. In 1901 the Democratic controlled General Assembly enacted a strict new form of the "Australian" ballot that eliminated party emblems such as the Republican picture of Abraham Lincoln on the ballot. Now voters would have to read the name of their candidates of choice. The law further prohibited clerks from aiding illiterate voters.²⁰

In 1903, Democratic candidate for governor Edwin Warfield, proclaiming himself "the candidate of the white people," predicted an overwhelming victory in November "for white supremacy in Maryland." Proud that his father had been a slaveholder in Howard County, Warfield explained how this experience of "having been raised among Negroes" had given him a special insight into "their weaknesses and their failings."²¹ In 1904 the Democrats steered through a further impediment to black voters that applied to specific counties (including Anne Arundel) and which was signed by Governor Warfield. By eliminating each candidate's political affiliation, illiterate black voters could no longer search for the party name beginning with "R."²²

In 1905, the Maryland Democratic platform declared that "the only issue" in the fall campaign was "whether Negro suffrage, put upon us against our will by force, shall be restricted and its power for evil destroyed." Maryland Democrats announced their "resolute purpose to maintain the supremacy of our race and its control." The platform praised the 1904 Democratic-controlled legislature for proposing an amendment designed to "rescue us in Maryland from the blight of ignorant and debased Negro suffrage." It sought to keep off the registration books "the names of thousands of ignorant and venal Negroes totally unfit to vote."²³

This increased antipathy toward black men was also reflected in white attitudes toward crime and punishment. In 1906, a Pocomoke City newspaper viewed the black man as "wrecking continually the lives of the women and children of the South and compelling the laws to be set at defiance by lynchers." It claimed that white men were abandoning careers in farming "for fear of Negro molestation of their wives and daughters." In small towns, it continued, women were afraid to even go into their back yards. The mere sight of a black man, apparently, now sent women into shock.²⁴

This perception of crisis brought pleas for institution of the whipping post, as had recently been enacted in neighboring Delaware, and renewed efforts to return the black man to Africa. This would be a way "to rid the country of its incubus of negro criminals."²⁵ One paper applauded the recent shocking event in Delaware, where a lawless mob had burned at the stake a criminally accused black man. The rule of law, it explained, was never "intended to protect nor to punish such beasts

as [the burned man] any more than it is to protect and to punish the rabid hound that invades our household to bite and poison us with his fangs." To the *Chestertown Transcript*, "when the wives and daughters of a land blessed with their existence are not safe from Negro lust," the "Negro's favorite crime" must be met by "the majesty of the law of Judge Lynch."²⁶

Thus, the mob was not alone in its efforts. Participating more indirectly in the lynching were politicians (including Governor Warfield), who beat the drums for racial intolerance; the newspapers, which fanned the flames of yellow journalism; the jailors and town officials, who did little to thwart the mob; and the town leaders, who openly supported the lawless effort.

While the Governor had set the general tone with his proud claims to be the leader of the "White Man's Party," the newspapers were busy stirring the flames of fear and anger. The Annapolis *Evening Capital*, the major news source for the local population, rushed the Reid incident into publication in what appears to have been but hours after it occurred, in the afternoon of December 14. Quickly claiming to read the mind of the unknown assailant, the reporter observed that it was "not thought that the negro accomplished his purpose." The paper caught up with events the next day with a large-print headline "THE NEGRO STILL AT LARGE" and subheadings noting "NO TRACE OF THE BRUTE HAS AS YET BEEN FOUND" and "A Dastardly Assault On a White Woman in Broad Daylight."²⁷

Apathy toward the preservation of law and order also fueled lynching's fire. Within twenty-four hours of Mrs. Reid's attack, it was becoming ever clearer that a lynching was in the offing. On the fifteenth, one local reporter noted that "talk of lynching is prevalent in Annapolis today." An out-of-town reporter observed an "intense feeling and manifest unrest in the community." A couple of days after the incident about fifty men gathered at the Reid home and talked of lynching Davis. Every night after Davis's capture rumors of a mob lynching circulated in the Annapolis area.²⁸

Despite this clear and present danger, local officials did little to safeguard their prisoner. With the threats growing, Davis was not moved out of town to a more secure facility. Reinforcements were not called in. State intervention—to prevent mob rule in the capital city—was not sought. Matters were left unattended until it was too late. When time ran out, the deputies at the town jail explained their dilemma: they were "not willing either to shoot white men who they knew to be actuated by a desire to protect their own women, or lose their own lives for the sake of a brute who had confessed to the most outrageous crime in the history of the county."²⁹

The officials of other seemingly less sophisticated Maryland towns had recently demonstrated that they could successfully mobilize precautionary forces to prevent mob lynchings. One of the most spectacular efforts occurred in the small Somerset County seat of Princess Anne. Faced with the threat of the lynching of William Lee, a black seventeen-year-old accused of raping two white women, Princess Anne au-

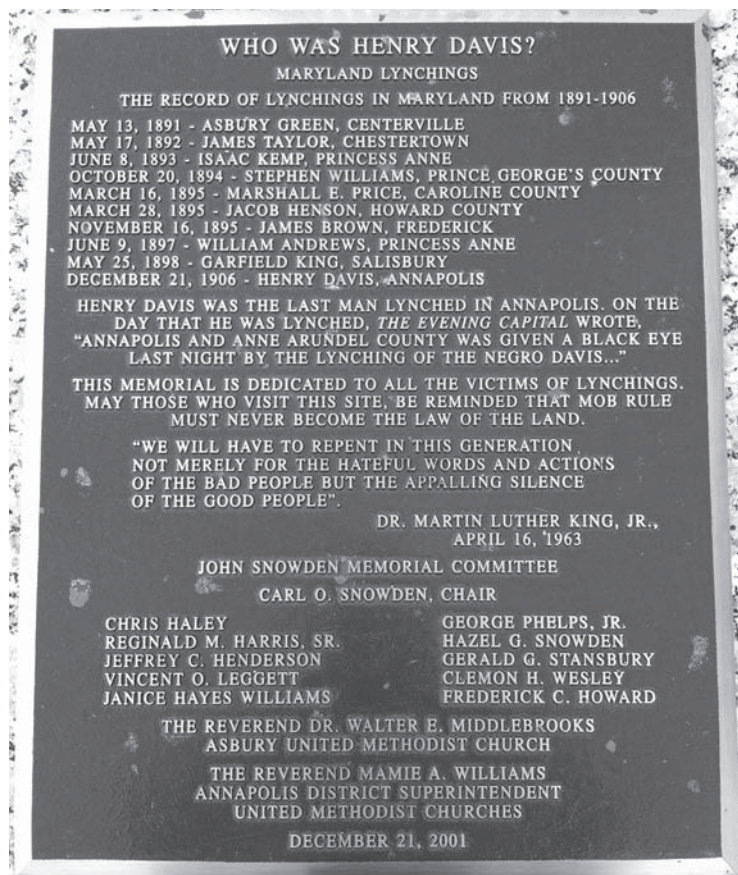
thorities in 1906 secretly sent Lee off to Baltimore for safekeeping. An angry mob of two thousand whites then learned that a Somerset County grand jury had indicted Lee *in absentia*. Town officials later arranged for Lee to be tried in Baltimore, where he was found guilty and sentenced to death. State and local officials then placed Lee on a steamer and secretly shipped him to a makeshift gallows on Smith Island in the Chesapeake Bay, a part of Somerset County, where law required his execution to take place.³⁰ Lynchings were also forestalled by armed local officers in Berlin in 1905 and by the transfer of an accused out of the Pocomoke City jail and into the Princess Anne jail in 1906.³¹

Prominent Annapolis white citizens stood solidly behind the mob. The Baltimore *American* quoted “one of the most prominent physicians in Annapolis” as concluding that it was for the better that “the community had speedily gotten rid of [Davis].” He proclaimed, “Besides, such brutes feel glorified when they are brought to trial and become an attraction. They are impressed with a sense of greatness. Too dull and brutish to realize their degradation, they never think of the consequences. Better, then, that such scenes be avoided when guilt has been established, and hence I have no inclination to condemn those who usurped the functions of legalized officials.” The reporter concluded that this “view about represents that of the average Annapolitan.”³²

State’s Attorney Nicholas Green promised to prosecute anyone found to be linked to the lynching. He acknowledged that “substantial justice was undoubtedly rendered in [Davis’s] case.” However, “Such a defiance of law must be prosecuted. The danger of lynch law is that one case encourages its employment in others and it may be used where the guilt was not as clear as in the present case.”³³

He found two faults that encouraged the lynching: the absence of a prompt prosecution and harsher criminal penalties. Due to uncertainties as to whether Mrs. Reid was sufficiently recovered to testify, Green was afraid to go promptly to trial. This strategy—which was publicly opposed by the sheriff—brought inevitable delay. By modern standards, due process protections allowing the defendant time to prepare his case would have required far greater delay. Regarding the supposed laxity of the available punishment, the maximum sentence for attempted rape was then ten years in the penitentiary. In Green’s view the lynching could have been avoided if the court-supervised death penalty had attached to attempted rape as well as rape.³⁴

It is possible, of course, that Davis never committed any crime against Mrs. Reid, let alone rape, which she throughout denied. The truth-finding process of a criminal proceeding was never permitted to resolve the issue of guilt or innocence. Davis’s initial confession came after he had been arrested and taken to Mrs. Reid’s home, where she identified him as her assailant (without the safeguards of a lineup).³⁵ Because this was just eight years after the area’s last lynching, any rational black man in this situation might well have thought a quick confession, however inaccurate, would be the best route toward minimizing danger.



Brewers Hill Cemetery memorial plaque, 2001, dedicated to Maryland's lynching victims, 1891-1906. (Courtesy Nancy Bramucci Sheads.)

Initial descriptions of the culprit had been "vague and rather unsatisfactory." One reported "a stout colored man about 25 years of age" as having been seen in the vicinity. Davis, who was twenty-three, was just five feet tall and six years earlier had weighed just 110 pounds. He was, however, identified by a black woman as having been seen in the general vicinity of the crime.³⁶ Davis was never able to confront and cross-examine any of these witnesses.

Few in Annapolis appear to have seriously disapproved of the mob's action. Only the college officials of St. John's fully disassociated with the lynching and were quick to deny any of their students' involvement. Governor Warfield did issue a statement urging a grand jury investigation and punishment for the lynchers: "I greatly regret the occurrence, and do not hesitate to deprecate and denounce such lawless acts." For their part, Sheriff Linthicum and State's Attorney Green asserted that "they will do all in their power to bring to justice the members of the mob."³⁷ Despite their promises, nowhere does it appear that any serious investigation was mounted.

Still insufficiently recovered to speak directly to the public, after the lynching Mrs. Reid sent word through her daughter that she thanked “the kind people of Annapolis” for “what they have done.” She also wished she could “shake every one by the hand.” Finally, she expressed her relief that she would now not have to appear in court.³⁸

The final chapter in Davis’s lynching played out in April 1907 with the convening of the next session of the Circuit Court for Anne Arundel County. Presiding Judge James Revell told the newly selected jurors that although lynching was “contrary to the ‘law,’ . . . those taking part in such affairs were not generally punished by the courts.” He added that because the law permits one to shoot a robber, “it was not remarkable that persons should take the law in their hands when a woman was robbed of that which was far dearer than any mere property.”³⁹ The mob lynching had now been ratified by the judiciary.

NOTES

1. Most of what we know of Davis’s lynching must be gleaned through the lenses of the local newspapers of the day. Occasionally one must attempt to factor out their racist attitudes and choose between conflicting accounts. Basic discrepancies stand out. For example, the *Baltimore American*, December 22, 1906, reported Reid’s age as sixty, while the *Baltimore Sun* listed it as forty-eight. Similarly, although state records placed Davis’s age at twenty-three, one reporter described him as nearly forty. *Evening Capital*, December 17, 1906.

One lynching scholar noted in the 1930s that “the local representative of the news-gathering agencies sends in the story and usually says about what the community wants said.” Gunnar Myrdal, *An American Dilemma* (New York: Harper & Bros., 1944), 561, note “a.” Some of the data relied upon in this essay can be found at the Maryland State Archives website: <http://www.mdarchives.state.md.us/msa/speccol/sc3500,sc3520>.

2. *Baltimore Sun*, December 22, 1906. The college grounds had also been the rallying spot for the lynching of Wright Smith in 1898. The campus, which was dark and without many pedestrians, was functionally suited for this purpose. *Baltimore Sun*, December 23, 1906.

3. *Baltimore American*, December 23 and 24, 1906. The *Evening Capital* reported that “a large number of those present during the affair were young men, probably students of St. John’s College or candidates for the Naval Academy.” Furthermore, some were “organizers of the affair,” December 22, 1906.

4. *Ibid.*, December 22, 1906.

5. *Baltimore Sun*, December 22, 1906.

6. *Ibid.*

7. *Ibid.* Cutting the hanging rope into souvenir pieces seems to have been the custom. For example, see hanging of Garfield King, *Baltimore American*, May 26, 1898 and *Baltimore Sun*, May 27, 1898.

8. *Baltimore American*, December 22, 1906; *Baltimore Sun*, December 22–23, 1906; *Evening Capital*, December 22, 1906.

9. *Baltimore American*, December 22, 1906.

10. Many of the nation’s more spectacular lynchings are vividly described in Phillip Dray, *At the Hands of Persons Unknown* (New York: Random House, 2002).

11. *Evening Capital*, January 17, 1906.
12. Anne Arundel County Circuit Court (Docket) April 1900, p. 268. MSA C65, 1-2-10-13.
13. Maryland Penitentiary, Reception Record, Vol. 1900-1907, p. 47. MSA S279, 1-30-5-20.
14. See listing on file with the author.
15. *Afro-American Ledger*, October 15, 1898.
16. Lewis Harris, lynched in March 1900 in Harford County, *Baltimore News*, March 27, 1900, p. 12; James Reed, lynched in Somerset County in July 1907, *Baltimore American*, July 29–30, 1907; William Burns, lynched in Allegheny County in October 1907, *Cambridge Daily Banner*, October 9, 1907; William Ramsey, lynched in Baltimore County in March 1909. MSA SC 3520-13956.
17. For an explanation of the derivation of the term “Jim Crow,” see E. Franklin Frazier, *The Negro in the United States*, revised ed. (New York: The MacMillan Co., 1957), 157 n31.
18. *Chestertown Transcript*, January 18, 1902.
19. *Laws of Maryland*, 1904, chap. 109, pp. 186–88 & chap. 110, pp. 188–89.
20. *Baltimore Sun Almanac*, 1901, 86; Maryland Laws of 1901, ch. 2. A swift counter response from the black community followed. In Queen Anne’s County, the *Baltimore Sun* reported, “every colored church . . . that can be utilized is being converted into a schoolroom where sessions are to be held every night from now until next November.” *Chestertown Transcript*, February 23, 1901 (quoting *Baltimore Sun*).
21. *Democratic Messenger*, September 19, 1903.
22. Margaret Law Callcott, *The Negro in Maryland Politics* (Baltimore: Johns Hopkins Press, 1969), 109–11.
23. *Baltimore Sun Almanac*, 1906.
24. *Worcester Democrat*, August 25, 1906.
25. *Chestertown Transcript*, February 21, 1903; *Worcester Democrat*, August 25, 1906. For the story of the Maryland colonization movement, see Penelope Campbell, *Maryland in Africa: The Maryland Colonization Society, 1831–1857* (Urbana: University of Illinois Press, 1971) and Richard C. Hall, *On Africa’s Shore: A History of Maryland in Liberia, 1834–1857* (Baltimore: Maryland Historical Society, 2003).
26. *Chestertown Transcript*, June 27, 1903.
27. *Annapolis Evening Capital*, December 14, 1906.
28. *Ibid.*, *Baltimore American*, December 21–22, 1906.
29. *Baltimore American*, December 22, 1906.
30. *Afro-American Ledger*, June 23, 1906; *Baltimore Sun*, 16 & 20 June 16, 20, and July 6, 1906.
31. *Democrat Messenger*, November 25, 1905, June 2, 1906; *Worcester Democrat*, June 16, 1906; *Democrat Messenger*, June 16, 1906; *Afro-American Ledger*, October 20, 1906.
32. *Baltimore American*, December 22, 1906.
33. *Ibid.*
34. *Evening Capital*, December 17, 19, 20, 1906.
35. The press reported that Mrs. Reid was “emphatic in her denials” that her assailant had not “accomplished his purpose.” *Baltimore Sun*, December 23, 1906; *Baltimore American & Evening Capital*; December 19, 1906.
36. *Evening Capital*, December 15, 17, 1906.
37. *Baltimore Sun*, December 22 and 23, 1906.
38. *Ibid.*, December 23, 1906; *Evening Capital*, December 22, 1906.
39. *Evening Capital*, April 15, 1907.

Research Notes & Maryland Miscellany

Captain Henry Thompson's First Baltimore Horse Artillery in the Defense of Baltimore in the War of 1812

NELSON MOTT BOLTON AND CHRISTOPHER T. GEORGE

The First Baltimore Horse Artillery of Maryland militia commanded by Capt. Henry Thompson (1774–1837) played an important role in the defense of Baltimore against British attack during the War of 1812. Thompson and his men formed an elite guard to protect Gen. Samuel Smith (1752–1839), commander-in-chief of the federalized militia and other forces in Baltimore. They also performed vital scouting and courier duties, as recalled by a fellow officer.¹

Forty years later, in an effort to collect reminiscences of the War of 1812 before the participants passed away, the newly founded Maryland Historical Society issued a call for memoirs of the 1814 emergency from veterans of the crisis. At this time, the role that Thompson and his men played was recalled by Capt. James Piper, commander of the United Maryland Artillery during the battle for Baltimore. Piper wrote his recollections in a letter to Brantz Mayer. Piper remembered the courier service that Thompson and his men had carried out between Smith and the commander of Fort McHenry, Maj. George Armistead:

During the heaviest of [the British] Bombardment it became necessary occasionally for Gen. Smith to communicate with Col. Armistead the Commander of the Fort, and generally when it is not done by the Generals Aids whether on these occasions by command, or as a Volunteer service I know not, but the duty was perilous in the highest degree amidst a shower of Bombs & rockets. These messengers I saw dashing in full speed to & fro, from the Fort and I regret, that I am unable to do justice to but one of them, and I do this with the highest pleasure as due of a brave & Patriotic Citizen, the late Captain Henry Thompson acknowledged to be one among the best Cavalry officers.²

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"The Defense of Baltimore / Assembling the Troops before the Battle of Baltimore, September 12-14, 1814." Thomas Ruckle. (Maryland Historical Society.)

The importance of Thompson's unit is demonstrated in dramatic fashion in a contemporary oil painting done by a participant in the Battle of Baltimore, Thomas Ruckle's "The Defense of Baltimore." The panoramic view of the troops on this eminence, which was at the time also known as Chinquapin or Loudenslager's Hill and is today the location of Patterson Park in East Baltimore, shows General Smith reviewing the troops as the British fleet masses ominously in the distance off Fort McHenry on Whetstone Point.³

Immediately before Smith, at the center of Ruckle's painting, Captain Thompson is seen on a spirited black horse, possibly bringing an important message to the general, who is mounted on a dappled gray. Moreover, directly behind the commander and his staff are the parading ranks of Thompson's cavalry, making it clear that they were the general's personal honor guard. The uniforms and accoutrements of the dragoons in the painting agree with the descriptions given in regulations agreed upon in 1807 in the record book for the Baltimore Light Dragoons. Specifically, the regulations called for a cap with "leopard skin band, encircled with a chain and a small blue rose behind," along with leopard skin "moreens" or blankets rather than blue saddle cloths, and black leather saddles and halters for each mount. Thompson's journal shows that he bought a black horse in May 1813.⁴



The history of Thompson's unit has not been easy for previous historians to discern for a number of reasons. As a result of military and political wrangling over the status and honor of Thompson's corps, the unit, which had been known as the First Baltimore Troop of Light Dragoons in the years leading up to the war and from the June 1812 declaration of war until December 1813, was renamed the First Baltimore Horse Artillery. Confusing the matter further is the fact that in the emergency of August–September 1814, Thompson and his men continued to act as light dragoons, providing the personal guard for Smith and, following orders issued by Smith and his subordinate, Gen. John Stricker (1758–1825), serving as scouts and couriers rather than transporting and serving artillery.⁵

Light dragoons were cavalymen part of the time but also at times “mounted rifles.” In a battle or skirmish, they were expected to ride into the engagement, dismount, and fight on foot. During the War of 1812, though, few American cavalymen—either U.S. Army or militia—ever fought in major battles but instead acted as scouts and carried dispatches. They were often described as acting as “videttes” or sometimes “estaphets”—mounted troops or sentries “positioned beyond an army's outposts to observe the movements of the enemy.” A famous example of a volunteer militia dragoon carrying out such a duty in the Chesapeake during the War of 1812 was James Monroe, then secretary of state in the Madison administration, who scouted British movements in southern Maryland in 1813 and 1814.⁶

In contrast to the untested Maryland militia, the British army troops sent to the Chesapeake Bay to punish the Americans for their privateering raids on British ships and for perceived American outrages in Canada were veterans of the battles in Europe against Napoleonic France. Their invasion into the bay region threatened the well-being and survival of the nation less than forty years after the Declaration of Independence of 1776. Although the often repeated name for the War of 1812, “The Second War of American Independence,” might in some respects be a misnomer, Americans knew that their homes and livelihoods were at stake, if not the very future of the United States.

To face this dire threat, Henry Thompson, an English-born immigrant, Baltimore County planter, and Baltimore commission merchant, organized his troop of volunteer cavalry made up of fellow merchants and other professional men. Thompson's men moved in the same social and economic strata in which he himself moved. As with their company commander and the city's militia commander, leading grain merchant Gen. Samuel Smith, they had much to lose if the British sacked the city.

As was Smith, Thompson was owner or part owner of at least fourteen sailing vessels during his lifetime, but unlike Smith and other leading city merchants who owned ships, the English-born commission merchant identified with the politics of the opposition Federalist Party, which believed that the Madison administration's declaration of war against Britain was a mistake. Rather than war, Federalists urged negotiation with the former mother country, despite what the administration and

Republican "War Hawks" cited as a long series of British maritime abuses that were an outcome of Britain's ongoing war with France. The cataloged abuses included the Royal Navy's impressment of American citizens and stopping neutral ships to search for deserters as well as forcing neutral vessels to go into port in Britain and pay a tax under what the British called "Orders in Council."

Possibly because of his Federalist sympathies, Thompson appears never to have owned any privateers, i.e., armed vessels issued with "letters of marque" enabling them to raid enemy shipping. On the other hand, he was not averse to purchasing prize vessels captured by privateers. Author Jerome R. Geritee noted: "The Federalist merchant Henry Thompson bought several prize vessels for use in the Iberian flour trade." Before the blockade was fully implemented in the spring of 1813, Baltimore privateersmen such as Thomas Boyle, captain of the *Comet*, and Joshua Barney, of the *Rossie*, had taken an impressive toll of British merchant shipping, totaling millions of dollars. British anger toward Baltimore as a "nest of pirates" made the city a prime target.⁷

Thompson and other city merchants suffered damage to their trade from the effects of the Orders in Council, as well as an embargo on trade with Britain instituted under former president Thomas Jefferson (an ill-judged attempt to counter the British actions), and most recently a British blockade of the Chesapeake and Delaware Bays beginning in early 1813. The Royal Navy blockade of the Chesapeake stopped American vessels, merchant ships and U.S. Navy ships alike from getting out onto the high seas except during the winter months and in foul weather.

Henry Thompson was born in Whitely Wood, Sheffield, England, on June 23, 1774, the son of Anthony Thompson and Elizabeth Sabra Clark. He settled in Baltimore in 1794 and became a commission merchant with a counting house on Smith's wharf on Pratt Street, at the foot of Gay Street. The wharf, then the longest in the port of Baltimore, had been purchased in 1759 by General Smith's father, John Smith, and his partner William Buchanan. These two Scots-Irish immigrants had built the firm of Smith and Buchanan into one of the leading commercial enterprises in the young United States, a gold mine inherited by their sons, Samuel Smith and James A. Buchanan.⁸

On March 29, 1798, Henry Thompson married Ann Lux Bowly, daughter of merchant Daniel Bowly and Ann Stewart Bowly at the Bowly mansion Furley Hall, near Herring Run in Baltimore County. Also in 1798, Henry had joined the First Baltimore Troop of Light Dragoons of the Fifth Regiment of Cavalry of Maryland Militia, and was elected captain of the troop in 1809. Over the years, Henry and Ann would have nine sons and two daughters. For his growing family, Thompson purchased land in the county north of the city, a mile or so from General Smith's country mansion, Montebello. Thompson built on his property a late Georgian-style mansion that he named Clifton in 1801-3. It was a two-story, five-bay stone structure, one room deep with a central passageway.⁹

In early 1812, Lt. Col. James Biays, commander of the 5th Maryland Regimental Cavalry District, promoted Capt. William B. Barney, son of Commodore Joshua Barney, to the rank of major over Thompson, who was the senior captain in the regiment. Upset and angry about the decision, Thompson sent a letter to his company to tell them that he was compelled to resign his command because of this perceived insult to his honor. When the unit met at Gadsby's Hotel on February 20 to discuss his resignation, the men came to the conclusion that the whole troop was also dishonored and must dissolve. Thompson then sent a letter to Governor Robert Bowie offering his resignation and informing him of the troop's decision to disband. The legislature and governor refused to accept Thompson's resignation. Moreover, because of President Madison's declaration of war on June 18, they asked that the troop be reorganized to prepare for a possible British invasion.¹⁰

The First Baltimore Troop agreed to be reorganized under Thompson on July 3. That presented a new source of contention among the military men of the city and what Thompson took to be an additional insult to his personal honor when Biays did not return the troop to its rightful position at the far right of the regimental line. To the layman this might seem inconsequential, but in a regiment, the position of highest honor is traditionally on the right, going back to ancient times.¹¹

The problems between the two militia commanders might partly be attributable to the fact that Biays was a Republican and Thompson a Federalist. Thus, political differences combined with probable intense personal distaste for each other appear to have fed into these rows. A series of letters between Thompson, Biays, and Governor Bowie and his successor, Levin Winder, from July 1812 through the summer of 1813 did not provide satisfaction for Thompson and his men and only fueled the troop's resentment over Biays's decision. Meanwhile, Thompson obtained an opinion from the War Department in Washington, that confirmed his claim that his troop should be positioned on the far right of the regiment given that he was the senior captain and the troop's correct position was on the right. He appealed to the governor to resolve the issue and indicated that if the troop failed to get Winder's decision in their favor, it would once again have to dissolve. The governor then wrote to Biays to try to reach a compromise between the two men, but affirmed that the troop should be positioned on the right of the regiment. Biays refused to give way.

On August 30, 1813, Thompson published a pamphlet entitled "A Plain Statement of the CLAIM of The First Baltimore Troop of Light Dragoons, to THE RIGHT of the Fifth Regiment of Cavalry . . ." documenting the various controversies that had embroiled his company and setting out their side of the controversy. Publication of this pamphlet did not, however, help to resolve the perceived stain on their honor. Biays obstinately refused to change his decision. Therefore, the First Baltimore Troop met for the last time at Henry Thompson's counting house on December 16, 1813 and agreed to dissolve finally.¹²

Fortunately a great many records are preserved that not only document the dis-

Henry Thompson. (Maryland Historical Society.)



solution of the First Baltimore Troop of Light Dragoons, but also provide accounts of and accolades received by its successor unit, the First Baltimore Horse Artillery. This material includes letters, orders and order books, newspaper accounts, Thompson's pamphlet, a subscription list to raise funds for the defense of Baltimore, rosters, memoirs, and Henry Thompson's journal. These items combine to paint a picture of the pride that Thompson felt in being the unit commander and the gratitude the members had for each other. One also gets a sense of the close relationship of the merchant class of Baltimore and the respect of the community toward Thompson and his abilities. He was socially connected to the military elite of Baltimore and often dined with them at Clifton or at their homes.

Although Thompson does not mention it in his journal, he would have been familiar with the first attempt by the U.S. Army to form a company of light horse artillery at Fort McHenry in 1808. The concept of light horse artillery was a very new one in the United States. We believe this type of unit suited Thompson because it did not fit under either the militia artillery or the cavalry command structure. In short, the arrangement permitted him to finally separate his new troop from the past wrangling with Colonel Biays and the state government.¹³

On April 16, 1813, a British squadron commanded by Adm. George Cockburn threatened Baltimore. The militia was called out but Cockburn chose not to attack for lack of sufficient forces. Instead, he sailed his squadron north to the head of the bay and attacked and burned Frenchtown on April 29, Havre de Grace on May 3, and the twin towns of Fredericktown and Georgetown on May 5–6. The citizens of Baltimore were clearly put on notice that they could be next. General Smith and the

city's Committee of Vigilance and Safety took measures to strengthen the defenses. Indeed, the work they undertook in 1813 proved invaluable in 1814. Historian Frank A. Cassell has written, "The battle of Baltimore was won as much in 1813 as in 1814, and from first to last it was singularly Smith's victory."¹⁴

Although no attack occurred in 1813, during the winter of 1813–1814 the city girded for one in the coming spring or summer. Henry Thompson went about his life as merchant and plantation owner while at the same time preparing his unit for the battles to come. On January 11, he wrote in his journal, "A meeting of the Horse Artillery at counting house to elect their officers this evening." This is the first record that we have found to the First Baltimore Horse Artillery.¹⁵ The next record found is not until July 4 when he wrote in his journal, "The 3rd Brigade paraded in honor of this day, and I joined with the Horse Artillery, being the first time we have been out, and had a very good Muster—looked very well."

The journal shows that Thompson exercised the new troop in artillery drill at the Riding School in Fells Point weekly from July to August 4 and that he also went to watch the exercises of Capt. George Stiles (1760–1819) and his First Marine Artillery of the Union.¹⁶ This ramping up of the training of Thompson's troop indicates that Smith probably encouraged him to ready his unit in the event of an expected British attack on Baltimore.

On August 19, news reached Baltimore that a British invasion force had arrived in the Chesapeake. Thompson wrote in his journal: "Accts were recd., today, of a large British force having arrived in the Bay, and the 3rd Brigade are all ordered out in service of the U.S. and declared under Martial Law." The next day, he received the following orders: "Capt Henry Thompson will furnish a non commissioned officer & four privates ready to accompany the detachment which will march with all possible dispatch under command of Col. [Joseph] Sterett to whom they will report themselves."¹⁷ Accordingly, Henry wrote in his journal, "Went to Town at day light and escorted my Men Col. Sterett's Regt. on his way to Washington."¹⁸

From the memoirs of John Pendleton Kennedy (1795–1870), we know the names of some of Henry's troop that were detached to join Sterett's militiamen and that included Kennedy's father:

We marched on Sunday, the twenty-first—our regiment, the Fifth. . . . We had also with us a company of artillery, commanded by Richard Magruder, another member of the bar, and a small corps of cavalry from the Baltimore Light Dragoons—Harry Thompson's company—The detachment being under command of Lieutenant Jacob Hollingsworth. . . . My father was a member of Hollingsworth's command, and with John Brown, an old schoolmate of mine, and three or four privates of the corps, served as videttes to our brigade.¹⁹

Thompson returned home to Clifton and on the following day, August 22, he

noted in his journal, "Exercised my Men in the evening," meaning that the remaining members of the troop were unassigned. On August 23, General Stricker wrote from Baltimore to Brig. Gen. William Winder, U.S. Army, the commander of the 10th Military District that included Baltimore and Washington, D.C.:

Sir, Deeming it important that I should be advised of the movements of the enemy and the citizens generally feeling a great anxiety for the same information, I have been induced to establish a line of Estaphets between this place and your head quarters. Capt Thompson of the Light Artillery whos Corps is not yet prepared for this contemplated species of service is charged with this duty and will wate on you in person to explain his arrangements for the execution of this service. I flatter myself you will see the propriety of this arrangement and that it will receive your approbation.²⁰

As the likelihood of a battle with the British increased hourly, brigade orders given on August 23 stated:

In obedience to general orders & orders from the inspector General a muster & inspection of the several regiments & Independent corps of the 3rd Brigade M M will take place on Wednesday the 31st inst at the following hours and places — The 6th & 27th Regiments Infy. the cavalry & Artillery Regiments including the main Artillery and Captain Thompson's Corps will be mustered and inspected on Hampstead Hill at 8 o'clock in the morning. . . .²¹

That night, Henry Thompson wrote in his journal, "Being ordered to Washington on Duty intend setting off early tomorrow."

On the day before an American force of mainly militia commanded by Gen. William H. Winder met the British army under Gen. Robert Ross in battle, Pvt. John Pendleton Kennedy described the scene as Winder withdrew his forces toward Bladensburg, just outside Washington, D.C.

Reports were coming to us every moment of the movements of the enemy. . . . General Winder, who commanded the army immediately in front of the enemy, and was retiring slowly before him, was advised of our march, and was sending frequent instructions to our commander. . . . One of Winder's videttes had come to us. He had a great story to tell. He was carrying orders to [Maryland Militia Brig. Gen. Elijah] Stansbury, who was ahead of us, and fell in with a party of British dragoons, from whom he fled at speed for his life. . . . One vidette, a Mr Floyd, known to us in Baltimore, told us he had been pursued several miles by four of these dragoons.²²

The "Mr. Floyd" whom Kennedy referred to as being pursued by "British dragoons"

was Pvt. Joseph P. Floyd of the First Baltimore Horse Artillery, but the idea that the British had “dragoons” is faulty. One of the great disadvantages that the British had while operating in the Chesapeake is that they had no cavalry to scout what was happening up ahead. They had horses for their senior staff officers, and some horses they obtained from American farms while foraging that they jokingly referred to as their mounted “Cossacks,” but no fully trained cavalry on experienced mounts. The lack of cavalry would prove disastrous three weeks later during the attack on Baltimore, when not knowing what lay ahead of General Ross’s advance up the Patapsco Neck Peninsula would lead to the skirmish in which the British commander was mortally wounded preceding the Battle of North Point.²³

In a series of letters, Thompson and his men sent reports on the Battle of Bladensburg to General Stricker in Baltimore. The Baltimore light dragoons watched helplessly as some 4,000 Redcoat invaders entered Bladensburg then, under the cover of Congreve rocket fire and artillery, forced their way over the bridge over the Eastern Branch of the Potomac (the present-day Anacostia River) and routed the numerically superior American army, made up mostly of 6,000 untrained militia, in an affair referred to later as “the Bladensburg Races”:

Ross Tavern [Bladensburg], 24th August, 1/2 past 2 P.M.

Sir, Agreeably to your orders of yesterday I proceeded this day to Genl. Winder’s Head Quarters, after posting Videttes upon the Road, and upon descending the Hill to Bladensburg distinctly saw the British advancing up the Valley, the Americans being posted on the right of Bladensburg about half a Mile distant, where I found Genl Winder and deliver’d your letter at One O’Clock, after perusing it, he observed, “You see our situation & place[,] two or three communicative men near my person, by whom I can communicate *verbally* to Genl Stricker the result of our engagement, which is momentarily expected, & you may return to your command in Baltimore.”

I left an officer and three men and immediately retired, but had scarcely crossed the bridge before the British were descending Lowndes Hill, and I was within 300 yards of their advanced party, who never halted, but continued over the Bridge, & up the Washington Road, our artillery commenced firing at 1/2 past one o’clock, while the British were entering Bladensburg, & in five minutes was returned by *Rockets only*, the effect of which I could plainly distinguish, and did not see one to strike the American lines, and as the British advanced up the road from Bladensburg, our lines began to retire & when out of my view, I hasten’d here to give you this information—

You will probably receive another dispatch in the night, & I shall wait upon you very early in the morning to communicate such further information as my observations enable me to make—I saw very few mounted men & only saw one piece of artillery crossed the bridge during my stay.

The urgency of this intelligence will justify my requesting to be excused for such a hasty letter.

I have the Honor to be Sir, Very respectfully, Your Ob. Servant.

Henry Thompson²⁴

Two of Thompson's men, Pvts. Benedict W. Hall and Richard C. Stockton, serving as "Videttes near Bladensburgh," further reported to Stricker:

Aug. 24th 1814 1/2 past 3 O'Clock

Capt Thompson left us on the hill above Bladensburgh at two o'clock within five minutes after the British ceased crossing the bridge—within two minutes after the British, who reserved their fire 'till after they mounted the hill, as well as the Americans were out of sight. The firing ceased except for a single gun at great intervals at half after two o'clock—at 23 mins past two a very small detachment of the British repassed the bridge—a considerable detachment was stationed at the Mill, which has not left there a quarter past three o'clock, at which time we left there— A man out of Bladensburgh reports that the Enemys privates were dressed in *blue* [possibly Royal Artillery]. Bladensburgh has not been as yet injured in the least.²⁵

From Henry Thompson's journal entry for August 27 we learn that he came back to Baltimore on the evening of August 24 and was ordered back to Bladensburg the next day. On August 26, Thompson wrote to Stricker to inform the general that "We are just return'd from a view of Bladensburg, where all appears quiet & not a [British] soldier this side of the Bridge." He said he and his men had seen a large fire at daylight from "the direction of the [Washington] Navy Yard" and that Colonel John Ragan of the Anne Arundel County militia would report to the general on killed and wounded in the battle, deeming that the colonel could "give much better information, and more correct, than any I can collect."²⁶

As fear of a British attack on Baltimore grew even more intense, Thompson recorded in his journal that from Sunday, August 28, when he "Was on duty at 1/2 past 4 o'clock this morning" until August 30 he was with his troop. The next day, August 31, he stated, "My Corps was inspected this morning with the 3rd Brigade & afterwards drilled."

On August 31, Thompson submitted to the Committee of Vigilance and Safety the subscription list of funds given by the troopers of the First Baltimore Horse Artillery for the defense of Baltimore.²⁷ The list records the individual donations and the signatures of fifty members of the troop, who altogether contributed \$1,895—a sizeable sum at that time but relatively small compared to the needs of the committee. On September 10, the Committee of Vigilance and Safety stated "that although the subscriptions have been liberal, yet that from estimates it is apprehended they will

be inadequate to our wants, and that the [overall] subscription list comprises only about five hundred names.”²⁸ This means that the men of the First Baltimore Horse Artillery provided *one-tenth* of all the subscriptions given to the committee by the people of Baltimore—a clear demonstration both of the patriotism of the members of the company as well as of their comparative wealth.

Thompson noted in his journal that he exercised his troop from September 1 onward. On September 4, he wrote, “Sunday—Exercised my Men at sunrise near the Hospital.” On September 5, he received a request to detach one of his men for other services in the city’s military command structure. The request, written by Augustine C. Smith, Assistant Inspector General, to General Stricker reads: “In discharging the many and arduous duties of the Inspector’s department I shall be much benefited by the assistance of Mr Robert Patterson. If therefore, you can dispense with his services in the line, you will oblige.” Stricker wrote to request that, “Mr. Patterson having received an appointment in the Inspector’s department, will be exempt from Military service, in the 3rd Brigd.” Thompson obligingly signed off, “Robt. Patterson Discharged Sept 1814.” As a result, Patterson became Assistant Division Inspector under Maj. Gen. Samuel Smith. Jeremiah Sullivan was similarly transferred to become quartermaster in the Third Division. Patterson and Sullivan thus went on to hold key positions elsewhere in the military command in Baltimore.²⁹

In early September, Smith ordered Thompson to send a detachment of his men to North Point to reconnoiter the enemy:

Captain Thompson will detach a Lieutenant and ten men forthwith to north Point for the purpose of procuring and communicating correct information as to the enemy. The officer will provide himself with a good spy-glass he will station his men at such points between north point and head qtrs as to give information with the greatest dispatch. Forage can be obtained at the meeting house—and it is believed that Capt Thompson’s men will prefer taking their rations with them, which they will provide for several days.

Thus, we know that eleven of Thompson’s First Baltimore Horse Artillery, a lieutenant and ten men, were detailed as videttes at North Point in preparation for the expected British landing there. That landing occurred on the morning of September 12, when the British found no American opposition to putting their troops ashore at Old Road Bay, in the vicinity of present-day Fort Howard. The remainder of the troop stayed near headquarters and “drilled in the Meadow” (near Clifton mansion) per Henry Thompson’s journal until September 10 when he received new orders from Smith that stated: “In obedience to General Orders Captain Thompson will immediately detail an officer & twenty men who must be prepared for a tour of several days. The officer will call at Head Quarters for orders.”³⁰

On September 11, Henry Thompson wrote in his journal,

Sunday—Rec. information that the British have several Ships coming up the Bay, and during the day upwards of 30 arrived at the mouth of our River, went to Town, dined at Mrs. Wests in great haste, for the alarm Guns were fired at one o'clock, and the whole Brigade was immediately under Arms, and marched towards North Point, my troop was ordered to attend Gen Smith.

From this, we learn that not only an officer and twenty men but his entire unassigned troop was ordered to attend to Maj. Gen. Samuel Smith at headquarters.

At the moment the enemy were landing their troops and forming up to begin their advance on Baltimore, Henry Thompson and most of his men were carrying dispatches between the different commanders, including between Smith on Hampstead Hill and Armistead at Fort McHenry across a scow bridge specially built between Fells Point and Federal Hill to aid movement of troops and communications during the crisis.

The light dragoons who carried out scouting duties on the Patapsco Neck peninsula were commanded by Henry's old nemesis, Lt. Col. James Biays. In Stricker's later report to Smith about the Battle of North Point, he mentions that "advanced videttes" had gone to scout the British landing: "At seven o'clock on the morning of the 12th, I received information from the advanced videttes that the enemy were debarking troops." These videttes probably included the lieutenant and ten men of the First Baltimore Horse Artillery that Thompson had been ordered to send to North Point.³¹

It was a September morning but it was no cool, fall-like day. Col. Arthur Brooke was left to supervise the ship to shore transport of the remaining troops while General Ross and Admiral Cockburn rode ahead with the advance elements. Brooke wrote in his diary that the day was so hot that he had to get the men under the shade of the trees because they were falling by the score from the heat.³² A hastily written letter from General Stricker's aide-de-camp, Maj. George P. Stevenson, written on behalf of the general that morning, informed Smith of the rapidly unfolding situation—

Headquarters 3rd Brigade, Cook's Tavern 1/4 past 7 o'clock,
[September 12, 1814]

Sir, Col. Biays has this instant sent me verbal information that the enemy are landing from all their ships on the bluff above North Point. . . . Our whole Brigade are under arms—and I shall occupy the entrenched position with my advance of the two Regiments & some artillery—altho the entrenchments are not complete. . . . Please send a fresh dragoon with any orders you may have—and let the bearer ride brisquely back. . . .

1/2 past seven, the enemy are advancing—quickly—being already near Gorsuch's [Farm].³³

As at Bladensburg, it was a fluid situation with the defenders having to contend with an aggressive, experienced enemy which consciously sought to outwit the inexperienced American militia. The “entrenched position” mentioned in the letter refers to an unfinished trench across the peninsula where it narrows at what was then known as Humphrey’s Creek, an arm of Bear Creek. The location, north of the present-day community of Edgemere, Baltimore County, has now been obliterated by construction of the Baltimore Beltway, Interstate 695, and an interchange with North Point Boulevard. In 1814, the main road on the peninsula was what is now known as Old North Point Road (Maryland Route 20), which was used by the British and American troops alike.

The British advance guard had the impression that the Americans were still working on the trench as they advanced up the peninsula, but that might have been a mistaken notion. Nonetheless, a letter from General Samuel Smith to the city’s Committee of Vigilance and Safety dated September 4 had asked for men to work for a week on the entrenchment which would have taken the men up to the day before the landing. (Smith wrote, “I wish to employ One Hundred men in raising Breastworks on the road to North Point for one week.”). It is not known if Stricker intended to bring his whole force of four combat regiments to the unfinished trench to meet the advancing enemy (likely leaving his 6th Regiment in reserve as he did during the actual Battle of North Point later, soon after mid-day, on September 12), and not just two regiments as stated in Stevenson’s letter. In any case, the opportunity was lost—the enemy was already at Gorsuch’s farm, beyond the entrenchment.³⁴ Stricker recalled later, “My videttes soon brought information that the enemy in small force was enjoying himself at Gorsuch’s farm.”³⁵

It was while at the Gorsuch farm that General Ross and Admiral Cockburn breakfasted, no doubt expecting an easy march to the city, similar to the unchallenged march the British had made from Benedict in Charles County through Prince George’s County to Bladensburg. It was while at the farm that the general interrogated three captured dragoons, one of them being Sgt. William B. Buchanan of the First Baltimore Hussars, son of General Smith’s business partner. On being told that the city was defended mostly by 20,000 militia, Ross supposedly famously declared, “I don’t care if it rains militia!” And, in reply to an enquiry from Mr. Gorsuch about whether he would be back for dinner, “I will sup in Baltimore or in hell.” Within about an hour, the British commander would be mortally wounded in a skirmish preceding the Battle of North Point.³⁶

Against some American and British expectations, Stricker’s force fought the British capably, causing some fifty British dead, including General Ross, and around 150 wounded compared with only thirty or so American dead. Stricker’s 3,200 militia that fought the battle just north of Bear Creek were made up largely of men of the Baltimore City (or Third) Brigade, comprising the 5th, 27th, 39th, and 51st Regiments, supplemented with a company of militia from Hagerstown and two companies of



"The Battle of North Point near Baltimore, September 12, 1814." (Painting by Thomas Ruckle. Maryland Historical Society.)

Pennsylvania militia. When the new British commander, Colonel Brooke, ordered his 4th Regiment of Foot to march toward Back River to try to outflank Stricker's left, the American regiments on the left—the 39th and 51st Regiments—began to retreat in disorder. However, the two better-drilled American regiments, the 5th and 27th, remained in line, exchanging fire with the enemy until ordered to retreat. Stricker's force then joined the other Baltimore troops at the entrenchments on Hampstead Hill, ready for the British army's expected attack on the city itself. To Admiral Cockburn's aide, Lt. James Scott, R.N., the Battle of North Point would be the second edition of the "Bladensburg Races" while to Stricker and commander-in-chief Smith the brigadier general and his militiamen had achieved what they had been ordered to do—to at least delay the British advance, cause significant casualties, and give the enemy a taste of what they could expect if they tried to assault the city.³⁷

Smith reported later to acting Secretary of War James Monroe about the actions on September 13 as the enemy appeared in front of the entrenchments. He stated that he ordered countering movements by Generals Winder and Stricker that "induced the enemy to concentrate his forces in my front, pushing his advance to within a mile of us, driving in our videttes." These videttes probably included the light dragoons of the First Baltimore Horse Artillery along with men of other cavalry units.³⁸

In the end, Fort McHenry withstood the Royal Navy's fierce twenty-five-hour bombardment on September 13–14 during heavy rain. The British were unable to get past the fort and send shallow draft vessels into the city's inner harbor to bombard the American entrenchments to aid the army in its attack. When Colonel Brooke received a note from British commander-in-chief Vice Admiral Sir Alexander Cochrane, he decided to withdraw to the ships. The disappointed Brooke wrote in his diary, "If I took the place, I should have been the greatest man in England. If I lost, My Military Character was gone for ever."³⁹

Thompson wrote a brief summary of the previous three days in his journal entry on September 14:

The last three days I have been on close duty in Camp, on Monday the 3rd Brigade engaged the Enemy in Patapsco Neck & fought well, but being overpowered were obliged to retreat, the enemy advanced yesterday to Murrays, and retreated this morning to their Vessels being afraid of our numbers.

On September 19, General Smith gave recognition to the troops under his command in the day's General Orders. He paid Thompson and his men a fine compliment for their service as his personal guard and their messenger and scouting duties:

To Captain Thompson of the Flying Artillery and his company, the Commanding General tenders his thanks for their unremitting personal attention as his guard, their readiness in carrying orders and the various separate duties assigned them, and to Major [William B.] Barney and Captain Thompson with their corps of observation for the correct information received from them.⁴⁰

After the Battle of Baltimore, there was real concern among the American commanders that, after regrouping, the British would return to try to capture the city. Militiamen remained in the entrenchments of Hampstead Hill and vigilance was maintained, while the defenses were strengthened in case of a renewed attack.⁴¹ Thompson and his troop remained on duty at Smith's headquarters through September 20. A slight easing of the city's tension might be apparent in that Thompson's journal entries from September 21 through October 18 show that Henry and his troop were not on close duty at headquarters but instead commuted to Baltimore each day to perform their duties.

The citizens and militia were requested to shore up the entrenchments that collapsed in the heavy storms on September 13–14 during the Battle of Baltimore and additional heavy rains at the end of September. On October 4, Captain Thompson sent a letter to the Committee of Vigilance and Safety offering the services of the First Baltimore Horse Artillery to work on the fortifications. Two days later, on October 6, as Henry recorded in his journal, "Went with all my company to work at the Entrenchments on Chincopin Hill, did a good days work."⁴²

From October 19 through the end of November, Thompson developed a close relationship with Gen. Winfield Scott (1786–1866), the new commander of the 10th Military District, as the following journal entries attest:

October 19. Gen. [Winfield] Scott arrived to take command of this District, accompanied him to the Fort... Gen. Smith resigned.

October 20. This day being appointed for public Thanksgiving, was observed with great Solemnity. Went to Town & accompanied my company to Church, called on Gen Scott. . . .

October 21. Went to Town, and accompanied Gen. Scott with an escort to Battle Ground. Dined at Col [John Eager] Howards with the General & large party.

October 26. Fine warm day, . . . rode through Camp with Gen. Scott, afterwards dined at his Quarters & accompanied him to the Theatre in the evening.

October 30. Escorted . . . Gen. Scott a few Miles towards Washington, returned home to Dinner.

On October 31, the Committee of Vigilance and Safety per the 3rd Brigade Order Book, "intimated to the Brigadier General, the necessity of resorting to the military for further aid in the construction of the Fortifications now going on, and expressing their hope, that on an appeal to the patriotism of several corps of the 3rd Brigade the same aid heretofore rendered would continue: The Brigadier General respectfully solicits another days labour from each corps."

Thompson wrote in his journal on November 9, "Fine day, went to work with my Troop at the Entrenchments, where they performed very well & cheerfully near the Sugar House." R. G. Hite, Assistant Adjutant General of the 10th Military Division, ordered on November 7, "The three companies of volunteer artillery, commanded by Capts Nicholson, Berry and Pennington heretofore attached to Fort McHenry will remain subject to the orders of Lt Col Armistead. . . . Second, Capt Thompson Company of Volunteer Horse Artillery, will for the present, act as light Dragoons and remain attached to Head Qtrs."⁴³

This order was apparently made in preparation to General Scott's order on November 18 to discharge the Baltimore militia: "The whole of the 3rd Maryland brigade, with the exception of Capt. Thompson's troop, Lieutenant Colonel Harris's regiment artillery and Captain Stiles' corps of marine artillery, will soon as muster today, consider themselves discharged from the service of the United States."⁴⁴

The First Baltimore Horse Artillery, acting "as a light Dragoons" unit would remain in the service of the United States along with the other units mentioned to be on watch for further possible British threats to Baltimore until November 30 when Henry Thompson wrote in his journal "Went to Town & attended Muster & Inspection of my company, which afterwards dismissed the service of the United States. Dined at Mr. Oliver's in company with Gen. Scott." No more entries in the journals were made hereafter about the First Baltimore Horse Artillery, although a note for December 3 noted a darker side to military life. Thompson wrote, "Went to Town at 12 o'clock rode on Chincopin Hill to see a Man who Sentenced by Court Martial to be shot, he was reprieved when on his knees expecting the fatal moment."

Henry's journal for early 1815 provides a further glimpse of Baltimore at the conclusion of the War of 1812. They also chronicle Henry's continued close ties to General Scott as well as the general's help in starting Henry's son, Henry Anthony ("Hal") Thompson (1800–1880), on a military career:

February 12. Heard of British having retreated from New Orleans.

February 13. Joyful news arrived of Peace with England brot by a Sloop of War to N. York.

February 15. The city illuminated this Night in Honor of Gen. Jackson's Victory [at New Orleans on January 8].

May 13. Gen Scott sent out a Warrant for Henry as Cadet.

May 18. Hal returned from Hagers Town, preparatory to going to West Point Academy.⁴⁵

Henry Thompson after the War

In addition to his long and distinguished career as a prominent merchant-planter in Baltimore city and county, Henry Thompson had a major role in the development of the city. He was the builder and president (1816–1830) of the Baltimore and Harford Turnpike Company (now Harford Road), that eventually ended at Conowingo, Harford County, and provided grain transport from Pennsylvania. In 1818 he was appointed as one of the commissioners in the Poppleton Survey for laying out the streets of Baltimore (present-day Edmondson Avenue was once called Thompson Street).⁴⁶

Although a bank crash in 1819 spelled financial ruin for a number of Baltimore merchants, Thompson somehow managed to weather the storm. One merchant, the aging retired Scottish-born merchant Mark Pringle, was lynched on a city street corner by an angry mob.⁴⁷ The long-established and successful firm of Smith and Buchanan went bankrupt. In his memoirs, future President John Quincy Adams noted that with the demise of Smith and Buchanan "one of the greatest commercial establishments in the United States . . . [fell] with a crash which staggered the whole city of Baltimore." Samuel Smith's business partner, James A. Buchanan, was indicted along with two others for financial irregularities and put on trial in Bel Air, Harford County, but was eventually acquitted. Smith himself was not indicted, possibly because of his political connections. Although the firm of Smith and Buchanan was no more, Smith remained a congressman for Maryland. The outcome of the trial seemed to indicate that the court believed that the defunct company was to an extent a victim of the nation's economic woes rather than that there had been punishable wrongdoing. While Buchanan died in obscurity, his former partner Samuel Smith would earn a fresh place in the Baltimore spotlight some years later.⁴⁸

As time went on, Henry Thompson became a director of the Port Deposit Railroad, the Bank of Baltimore, and the Merchant's Exchange. He served as president of

the Board of Trade and the Baltimore Insurance Company, and as recording secretary of the Maryland Agricultural Society. In the Maryland militia, he was marshal at the dedication ceremonies for laying of the cornerstones for the Washington Monument and the Battle Monument in 1815. In 1824, he was a marshal for the celebration in honor of a ceremonial tour of Baltimore by General Marie-Joseph Paul Yves Roch Gilbert du Motier, the Marquis de Lafayette (1757–1834). Thompson was a military aide when the cornerstone for the B&O Railroad was laid in 1828 and also served as the grand marshal of a procession in memory of Lafayette when the Revolutionary War hero died in 1834.⁴⁹

Further economic woes impacted Baltimore into the 1830s. The failure of the Bank of Maryland led in August 1835 to rioting in the city by disgruntled citizens. Henry's old commander, Samuel Smith, came out of retirement to command the militia in putting down the riot. Successful in this endeavor and as a result hailed by the more peaceful citizens of Baltimore, Smith was elected mayor on September 7 and served in this position until his death at age eighty-seven nearly four years later.⁵⁰ Thompson was asked by the city government to form a troop of horse to help police the city in case of further rioting. Despite being now aged sixty-one and stricken with gout, the War of 1812 veteran agreed to do so. As related in Henry's journal, the unit, known as the City Horse Guards, was formed at a meeting at Beltzhoover's Hotel on October 3. In 1835 Henry also became a commissioner of the Commercial Bank of Baltimore, with Quaker merchant Johns Hopkins being a fellow commissioner. Four years later, after Thompson's death, Hopkins would purchase the Clifton estate for a summer home and greatly remodel Henry's mansion in the Italianate style.

Henry Thompson died in Baltimore two years later on August 24, 1837, the twenty-third anniversary of the Battle of Bladensburg. He was initially buried at Christ Church Cemetery and later re-interred along with part of his family at Green Mount Cemetery, section V, lot 37.

THE FAILURE TO DOCUMENT the history of Thompson's troop until now is not surprising.⁵¹ The difficult wrangling that took place between Thompson and regimental cavalry commander Lt. Col. James Biays and rebirth of the same unit under another name was tortuous enough, but further confusing is that records show a large number of names were employed to refer to Thompson's renamed troop: "Capt. Thompson's Horse Artillery," "Capt. Thompson of the Light Artillery," "Capt. Thompson's Corps," "Capt. Thompson of the Flying Artillery," "Capt. Thompson's Company of Volunteer Horse Artillery," "Capt. Thompson's Company of Cavalry, Maryland Militia," "Capt. Thompson's Troop," and "Capt. Thompson's Independent Horse Artillery." Nelson Mott Bolton discovered the subscription list for the unit at the Maryland Historical Society for the members of the troop who contributed money to the Committee of Vigilance and Safety for the defense of Baltimore. At the National Archives in Washington, D.C., he found the rosters for 1814 for the First Baltimore Horse Artil-

lery but under the description, “Capt. Thompson’s Company of Cavalry, Maryland Militia.” It seems typical of the complicated history of the troop that although these rosters are dated 1814, they bear a designation other than the official name of the unit at that time.

Using these service records, Nelson Bolton compiled for the first time a complete list of members of the troop by rank and researched each man’s life (Table 1). We believe this may be the first time a Maryland militia unit has been profiled genealogically. The average age was thirty-two years, and the troopers ranged from age eighteen to fifty. The men were, for the most part, members of the elite merchant class of Baltimore. Most were born in Maryland and Pennsylvania, three were from Massachusetts and one from Connecticut. In addition to Henry Thompson’s English origin, six were natives of Ireland. Hieronymus Daniel Wichelhausen was a native of Bremen, Germany, and apparently never became a citizen of the United States. Technically, this was a breach of regulations for service in the Maryland Militia—militia rolls show numerous instances of men who were discharged because it was shown that they were not citizens. British aliens and other non-citizens were required to report to a U.S. marshal under federal law.⁵²

The unit included a number of notable Baltimore names: three sons of Revolutionary War hero and former governor of Maryland, Colonel John Eager Howard: John Eager Howard Jr., William Howard, and George Howard, who himself became the governor of Maryland in 1831; two sons of powerful city merchant William Patterson and his wife Dorcas (Spear) Patterson—Robert Patterson and Joseph Wilson Patterson, the latter a founding board member of the Baltimore & Ohio Railroad and interim president in 1836; three Hoffman brothers (George, Peter Jr., and Samuel), prominent wholesale merchants; George Brown, son of banker Alexander Brown (1764–1834), who ultimately became financier for the firm and would succeed his father as head of Alexander Brown & Sons; Jacob Hollingsworth—son of Col. Samuel Hollingsworth; John Kennedy—father of John Pendleton Kennedy; Edward Gray, owner of a cotton mill operated by the Gray Manufacturing Company in Ellicott City; William Jenkins, often called the father of the leather industry in Baltimore; Jesse Slingluff, prominent wholesale merchant; six early graduates of the University of Maryland School of Medicine—Drs. George W. Dashiell, Elisha DeButts, William Gibson Jr., of Rose Hill, William Howard, Thomas Johnson Jr., of Rockland, and Maxwell McDowell; and finally two other representatives of local landed families—George Carr Grundy of Bolton and Lloyd Nicholas Rogers of Druid Hill.

**Compiled Roster for the First Baltimore Horse Artillery —
“Capt. Thompson’s Company of Cavalry, Maryland Militia,” 1814***

Capt. Henry Thompson	Pvt. Govert Haskins
1st Lt. Jacob Hollingsworth	Pvt. Jonas Hastings Jr.
2nd Lt. John Diffenderffer†	Pvt. Samuel Hoffman
2nd Lt. John Eager Howard Jr.	Pvt. George Howard§
3rd Lt. Joseph Wilson Patterson	Pvt. William Howard‡
Quarter Master Sgt. Lionel Lyde Goodwin	Pvt. May Humphreys
1st Sgt. George Hoffman	Pvt. Caecilius Coudon Jamison
2nd Sgt. William Jenkins	Pvt. Thomas Johnson Jr.‡
3rd Sgt. Peter Hoffman Jr.	Pvt. Middleton B. Magruder
4th Sgt. John Henderson	Pvt. Maxwell McDowell‡
1st Cpl. John Kennedy	Pvt. Francis Ignatius Mitchell
2nd Cpl. Jesse Slingluff	Pvt. Richard Bennett Mitchell
3rd Cpl. George Carr Grundy	Pvt. Benjamin Hall Mullikin
4th Cpl. Joseph Worley	Pvt. Charles Nichols
Pvt. Robert Cocks Armstrong	Pvt. Benjamin Bradford Norris Jr.
Pvt. William Ballard	Pvt. Richard Norris
Pvt. William Bosley	Pvt. William Norris Jr.
Pvt. Theodore S. Boyce	Pvt. Robert Patterson†
Pvt. George Brown	Pvt. John Mellon Prentiss
Pvt. John Reynolds Campbell	Pvt. Lloyd Nicholas Rogers
Pvt. George Washington Dashiell‡	Pvt. Richard Cumming Stockton
Pvt. Elisha DeButts‡	Pvt. Jacob Stouffer
Pvt. Joseph Donaldson Jr.	Pvt. Jeremiah Sullivan†
Pvt. Nicholas Dorsey	Pvt. Michael Tiernan
Pvt. Peregrine Falconer	Pvt. Charles Torrance Jr.
Pvt. Joseph P. Floyd	Pvt. Hieronymus Daniel Wichelhausen
Pvt. William Gibson Jr.	Pvt. John Wilson
Pvt. Edward Gray	Pvt. Robert Wilson
Pvt. Benjamin H. Gwinn	Pvt. John Yeiser Jr.
Pvt. Andrew Hall	
Pvt. Benedict William Hall	Lewis, Servant to Capt. Thompson
Pvt. Runyon Harris	Hamlet, Servant to Subaltern

* Compiled from rosters for 1814 found under the name Capt. H. Thompson’s Company of Cavalry, Maryland Militia, RG 94, National Archives.

† Sometime in spring, 2nd Lt. John Diffenderffer resigned and became a private in Capt. Joseph H. Nicholson’s volunteer artillery company, the Baltimore Fencibles, at Fort McHenry; in September, Pvt. Robert Patterson left to become assistant inspector in the Third Division of Maryland Militia and Pvt. Jeremiah Sullivan left to become division quartermaster.

‡ Physician. § Future governor of Maryland.

NOTES

The authors thank Robert von Lunz and Priscilla M. Thompson for their assistance with this article. A fourth great-grandson of Capt. Henry Thompson, Nelson Mott Bolton has begun a War of 1812 Bicentennial exhibit at Clifton mansion focused on the First Baltimore Horse Artillery and has published a pamphlet of the biographies of its members along with portraits and their homes. As part of the display, the United Volunteers re-enactors have displayed some of their artifacts. Michael Bosworth has also loaned objects from his collection on Maryland Light Dragoons re-enactment group.

1. As well as being a Revolutionary War veteran, Smith was a powerful Baltimore merchant and U.S. Senator for Maryland in the Republican party. See Frank A. Cassell, *Merchant Congressman in the Young Republic; Samuel Smith of Maryland, 1752–1839* (Madison: University of Wisconsin Press, 1971).

2. James Piper to Brantz Mayer, April 17, 1854, MS 1846, Maryland Historical Society (hereinafter MdHS). This is one of two letters between Piper and Mayer published in Capt. James Piper, “Defense of Baltimore, 1814,” *Maryland Historical Magazine* (hereinafter *MdHM*), 107 (2012): 102–55, republished from *MdHM* 7 (1912): 375–84. Mayer was a prominent Baltimore lawyer, historian, and Unionist in the lead-up to the Civil War. In 1844, at the age of thirty-four, he became one of the leading forces in founding the Maryland Historical Society and later served as its president. See Kevin B. Sheets, “Saving History: The Maryland Historical Society and Its Founders,” *MdHM*, 89 (1994): 133–55.

3. Thomas Ruckle (1776–1853), “The Defense of Baltimore—Assembling of the Troops on Hampstead Hill,” oil on canvas circa 1814, MdHS. Ruckle is known to have been a participant in the Battle of North Point on September 12, 1814, which he portrayed in a similar painting (likewise now owned by MdHS). Both paintings are believed to have been completed by Ruckle within a year or two of the events in Baltimore. It is not known if he was present for a review of the troops on Hampstead Hill on September 13 as the British fleet began to bombard Fort McHenry. The scene might be imaginary, or else have been painted from his memory of a similar review at another time; the British fleet might in other words have been added for dramatic effect. Ruckle’s painting of the battle at North Point might be the only one of the two paintings that the artist did from his own eye witness experience. The name “Chinquapin Hill” is used in Smith’s correspondence and by Thompson in his journal. The common chinquapin (*Castanea pumila*) is also known as the dwarf chestnut. Once common in the southeast United States, the trees were all but wiped out by the chestnut blight of 1904. British commander Colonel Arthur Brooke wrote about the American defenses, “Chinkapin hill, which lay in front of our position, completely commands the town; this was the strongest part of the line.” The description makes it clear that Brooke meant Hampstead Hill—present-day Patterson Park. Col. Arthur Brooke to Lord Bathurst, September 17, 1814. *Gentleman’s Magazine*, December 1814.

4. For descriptions of the uniforms of the unit, see entry for Wednesday, July 29, 1807, in Baltimore Light Dragoons Record Book, MS 91, MdHS. Thompson’s journal entry for May 28, 1813 states that he “exchang’d a Horse and Mare for a Black horse” with a man named Boyce. Thompson Diaries, MS 820, MdHS. The documents comprise a series of 9 notebooks written 1802–1836. Diaries for the years 1808–1811, and 1823 are not included in the series and may have been lost. Hereinafter all quotes designated as having come from Thompson’s journal come from this source. In addition to providing an account of Thompson’s militia activities

and notes on movements of the enemy, the journal describes home life, social events, weather, and people and places visited. In the notebooks, Thompson occasionally but rarely gives his political opinions about current events.

5. See John Stricker Jr., "General John Stricker," *MdHM* 107 (2012): 110–17, republished from *MdHM* 9 (1914): 209–18. Stricker, born of a German father and Swiss mother, grew up in Frederick, Maryland, and later became a leading Baltimore merchant. Similar to General Smith, he was a Revolutionary War veteran who had served under his father in the elder Stricker's German artillery company.

6. It seems probable that Smith had decided that Thompson's men would be better employed as scouts and messengers rather than as artillerymen, the command in the city having at its service a number of highly experienced U.S. Navy and merchant navy gunners and militia artillerymen. For Secretary of War Monroe scouting British naval and land movements in 1813 and 1814, see Christopher T. George, *Terror on the Chesapeake: The War of 1812 on the Bay* (Shippensburg, Pa.: White Mane Publishing Co., 2000), 56 and 87, and Walter Lord, *The Dawn's Early Light* (New York: W. W. Norton, 1972), 66–68.

7. John Philips Cranwell and William Bowers Crane, *Men of Marque* (New York: W. W. Norton, 1940), 371–401. On Baltimore's reputation as a "nest of pirates" see "The Rise of a Privateers' Nest," in Jerome R. Garitee, *The Republic's Private Navy: The American Privateering Business as Practiced by Baltimore During the War of 1812* (Middletown, Conn.: Wesleyan University Press, 1977), 11–31. Quote on prizes purchased by Thompson from Garitee, 180.

8. Priscilla M. Thompson, "Captain Henry Thompson. The life of a cavalry captain and Baltimore merchant (1774–1837) based on his journals." Unpublished ms.

9. After Thompson's death in 1837, the estate passed in 1841 to Quaker merchant Johns Hopkins, who radically remodeled the house as a summer retreat in the Italianate style. Hopkins planted exotic trees and created a lake, an orangery, and a garden with over 100 marble sculptures. When Hopkins died in 1873, his will stipulated that the estate would become the grounds of a university named after him. The university trustees chose a different location to the west, establishing what would become the Homewood campus on what had been the Carroll and Wyman family estates. For more on Clifton, see Lauren Emily Schiszik, "Invisible in the 'Elysian Fields': An Argument for the Inclusion of Archaeological Resources in Clifton's Master Plan." Master's thesis, University of Maryland, College Park. Available at <http://drum.lib.umd.edu/bitstream/1903/11069/1/L.Schiszik%20final%20paper%20for%20DRUM.pdf>. Accessed July 19, 2013.

10. *American and Commercial Advertiser*, February 27, 1812. Barney was promoted to captain on September 19, 1809, five days after Thompson's promotion to that rank on September 14. See Maryland Adjutant General Papers, Militia Appointments, 2, 1794–1816, DE67-1, Maryland State Archives. Consequently, Barney was the junior captain by five days according to these militia appointments records.

11. Henry Thompson, "A Plain Statement of the CLAIM of The First Baltimore Troop of Light Dragoons, to THE RIGHT of the Fifth Regiment of Cavalry, occasioned by a remonstrance of three troops of cavalry against their claim." This pamphlet was printed in Baltimore in 1813 [dated "30th August 1813"].

12. Ibid.

13. On the U.S. Army's experiments with light artillery at Fort McHenry and elsewhere in 1808–1809, see William Edward Birkhimer, *Historical Sketch of the Organization, Administration, Matériel and Tactics of the Artillery, United States Army* (Washington, D.C., 1884), 34–37.

14. Frank A. Cassell, "Baltimore in 1813: A Study of Urban Defense in the War of 1812,"

Military Affairs, 33 (1969): 349–61. See also Cassell, “Response to Crisis: Baltimore in 1814,” *MdHM*, 107 (2012): 83–101, republished from *MdHM* 66 (1971): 261–87.

15. William M. Marine in *The British Invasion of Maryland 1812–1815* (Baltimore: Society of the War of 1812 in Maryland, 1913) includes an Appendix prepared by genealogist Louis Henry Dielman that lists 49 members as being in Capt. Thompson’s Company of the 1st Baltimore Horse Artillery. This listing shows that John Diffenderffer was given a commission as 2nd lieutenant in Thompson’s Horse Artillery on December 9, 1813. We have not been able to document this commission, but if true it could show that Thompson was thinking about forming the Horse Artillery prior to the dissolution of the Baltimore Light Dragoons.

16. The riding school was in the vicinity of George Street, part of present-day Thames Street, in Baltimore’s Fells Point. See J. Thomas Scharf, *Chronicles of Baltimore* (Baltimore: Turnbull Brothers, 1874), 354, and Warner & Hanna’s “Plan of the City and Environs of Baltimore” (Baltimore: Warner & Hanna, 1801).

17. Lt. Col. Joseph Sterett (1773–1821), 5th Regiment of Maryland Militia.

18. Order Book, 3rd Brigade Maryland Militia, August 20, 1814, MS 1846, MdHS.

19. John Pendleton Kennedy, “The Autobiography of John Pendleton Kennedy.” Manuscript in the Enoch Pratt Free Library, Baltimore.

20. John Stricker to Gen. William H. Winder, August 22, 1814, Stricker Papers, MS 1435, MdHS..

21. Order Book, 3rd Brigade Maryland Militia, August 23, 1814, MS 1846, MdHS.

22. Kennedy, “Autobiography.”

23. Lt. George R. Gleig of the 85th Regiment of Foot noted, “It was now that we experienced the great usefulness of our badly mounted troopers, or as they were called by the private soldiers, our Cossacks.” Rev. G. R. Gleig, M.A., *The Campaigns of the British Army at Washington and New Orleans* (London, 1879,) 62. Also see George, *Terror on the Chesapeake*, 137–38.

24. Thompson to John Stricker, August 24, 1814. MS 1435, MdHS. See also transcripts of this communication and other letters from Thompson and his men in “The Battle of Bladensburg,” *MdHM*, 5 (1910): 341–39.

25. Hall and Stockton to Stricker, August 24, 1814, MS 1435, MdHS. Marine, *The British Invasion of Maryland* shows two commissions for members of Thompson’s unit: Benedict W. Hall—“3d Lieutenant in Capt. Thompson’s Independent Horse Artillery, vice Patterson,” December 20, 1814, and “Joshua [Joseph] W. Patterson—2d Lieutenant, vice [Capt. George] Howard,” also December 20, 1814. We have not to date located the Maryland Militia promotional records that support this record.

26. Thompson to Stricker, August 26, 1814, MS 1435, MdHS.

27. Subscription list of the First Baltimore Horse Artillery listing donations to the Committee of Vigilance and Safety for the defense of Baltimore, August 31, 1814. MS 1846, MdHS. The list was given to the society by Henry Oliver Thompson, Henry Thompson’s great-grandson.

28. Quoted in Marine, *The British Invasion of Maryland*, 146.

29. Muster roll for Capt. H. Thompson’s Company of Cavalry of Maryland Militia, August 19, 1814, RG 94, National Archives.

30. Order Book, 3rd Brigade Maryland Militia, September 10, 1814, MS 1846, MdHS.

31. Marine, *The British Invasion*, 161–66.

32. Christopher T. George, “The Family Papers of Maj. Gen. Robert Ross, the Diary of Col. Arthur Brooke, and the British Attacks on Washington and Baltimore of 1814,” *MdHM*, 88 (1993): 300–16 [hereinafter “Ross Papers and Brooke Diary”], and George, *Terror on the Chesapeake*, 137.

33. Maj. George P. Stevenson on behalf of John Stricker to Samuel Smith, morning, September 12, 1814, Samuel Smith Papers, Library of Congress.
34. Diary of Col. Arthur Brooke quoted in George, "Ross Papers and Brooke Diary." Samuel Smith to Committee of Vigilance and Safety, September 4, 1814, Record Group 22, War of 1812 Records, MSA-SC5458-45-20-0706, Baltimore City Archives. Also, George, *Terror on the Chesapeake*, 137–40.
35. Stricker's report to Smith, September 15, 1814 quoted in Marine, *The British Invasion of Maryland*, 161–66.
36. "Oration of H. Clay Dellam, 1878," quoted in Marine, *The British Invasion of Maryland*, 150n. The other two dragoons interrogated by Ross, Pvts. James Gittings and Richard B. Dorsey, were likewise soldiers of the First Baltimore Hussars. Roster of the First Baltimore Hussars in Nathaniel Hickman, *The Citizen Soldiers at North Point and Fort McHenry*. . . (Baltimore, 1889), 7.
37. George, *Terror on the Chesapeake*, 143.
38. Smith to Monroe, September 19, 1814 in Thomas H. Palmer, ed., *Historical Register of the United States*, vol. 4, part 2 (Philadelphia, 1814), 187–90.
39. George, "Ross Papers and Brooke Diary."
40. "General Orders," William Bates, Assistant Adjutant General, by order of Maj. Gen. Samuel Smith, September 19, 1814 in Palmer, ed., *Historical Register of the United States*, vol. 4, part 2, 203–6.
41. Vincent J. Vaise, "'The Hour of Peril . . . is not past': Fall 1814 Baltimore Defense Plans," *Journal of the War of 1812*, Summer 2000. Available at http://casebook.thewarofi812.info./Articles_files/HourPeril/dissertation.html. Accessed April 5, 2013.
42. Thompson letter to the Baltimore Committee of Vigilance and Safety in regard to work by Thompson and his men on the defenses, October 4, 1814, MSA-SC5458-45-20-0787, Baltimore City Archives.
43. Order Book, 3rd Brigade Maryland Militia, November 7, 1814, MS 1846, MdHS.
44. Quoted in Hickman, *The Citizen Soldiers at North Point and Fort McHenry*, 95.
45. Henry Anthony Thompson graduated from West Point in 1819, was appointed 2nd lieutenant of the Corps of Artillery and was detailed to the board of engineers. In September 1836 he was ordered to Fort McHenry, to superintend the construction and enlargement of the works and was promoted to the rank of captain of the 4th Artillery. He resigned his commission in October of the same year and was appointed Civil Engineer to continue the work with the Engineer Corps. After retiring army service, he was appointed Division Inspector of the Maryland Militia in 1841, colonel in 1846, and brigadier general in 1850, in which position he served until 1861. Hal Thompson died in Baltimore on March 12, 1880 at the age of eighty. Gen. George W. Cullum, *Biographical Register of the Officers and Graduates of the U.S. Military Academy at West Point, N.Y., from Its Establishment, in 1802, to 1890* . . . 3rd edition (Boston, 1891), 210–11; "Henry A. Thompson" in George Washington Howard, *The Monumental City: Its Past History and Present Resources* (Annapolis, Md., 1873), 535–36, and additional biographical information in the Enoch Pratt Free Library, Maryland Room, Baltimore.
46. "Capt. Henry Thompson."
47. Sherry H. Olson, *Baltimore: The Building of an American City* (Baltimore: Johns Hopkins University Press, 1980), 60.
48. Garrett Power, "Waterloo in Baltimore—Baltimore after the War of 1812: Where Robert Mills Met His Waterloo and James A. Buchanan Broke the Bank." Available at <http://>

digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=2207&context=fac_pubs60. Accessed July 19, 2013. Quote from John Quincy Adams's memoirs in Power, 54. Also see David S. Bogen, "The Scandal of Smith and Buchanan: The Skeletons in the McCulloch vs. Maryland Closet," available at http://digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=1251&context=fac_pubs. Accessed July 20, 2013.

49. "Capt. Henry Thompson."

50. Samuel Smith died on April 29, 1839. For more on Smith and the riot following the failure of the Bank of Maryland, see Scharf, *Chronicles of Baltimore*, 474–79, and David Grimsted, "Rioting in Its Jacksonian Setting," *American Historical Review*, 77 (1972): 361–97.

51. For example, the muster roll of the First Baltimore Horse Artillery is missing from the otherwise comprehensive work by F. Edward Wright, *Maryland Militia War of 1812*. Vol. 2, *Baltimore City and County* (Silver Spring, Md.: Family Line Publications, 1979).

52. Ibid. See also Stuart L. Butler, "Genealogical Records of the War of 1812," *Prologue Magazine*, Winter 1991, Vol. 23, No. 4. Available at <http://www.archives.gov/publications/prologue/1991/winter/war-of-1812.html>. Accessed April 6, 2013. From 1818 until his death in 1837, Wichelhausen served as consul and later consul general for the German Hanseatic cities of Bremen and Lubeck to the United States. Wichelhausen returned to Bremen permanently in 1821.

John Work Garrett, Civil War Photography, and the Varieties of Historical Causation

MATTHEW J. HETRICK

In October of 1862 President Abraham Lincoln traveled to Antietam to meet with General George B. McClellan. He traveled on the Baltimore and Ohio Railroad (B&O), and the president of the road, John Work Garrett, accompanied him on the journey. Several group photographs were taken during the visit, one including Garrett. More than ten years later, Garrett had a new photograph created. In the original, Lincoln and McClellan were in the middle, with ten other men arrayed around them. In this first photograph Garrett was on the periphery, only one of a crowd. The new photograph, created by a local Baltimore studio, presented only Lincoln, McClellan, and Garrett against an indistinct camp background. The new composition placed Garrett on an equal footing with the other two men and implicitly drew attention to his contributions to the Union victory.

Although it was evidently never seen outside the Garrett family, this new photograph is not simply an artifact of antiquarian interest. Instead, it is a lens through which to observe several issues: the role of business and railroads in the Civil War, the conflict and tension in the Border States, ongoing efforts toward sectional reconciliation, changing attitudes toward photography, and the varieties and complexities of historical causation. This photographic re-presentation symbolizes Garrett's conscious construction of self and historical memory, but an understanding of this process must begin with Garrett's role during the Civil War.

John Work Garrett was elected president of the Baltimore and Ohio Railroad in 1858, thanks largely to the support of his friend and fellow board member Johns Hopkins. The next fall, on the morning of October 17, 1859, a telegram arrived at the B&O office. Although confusing and unclear, something untoward was happening along the B&O at Harper's Ferry. That summer, radical abolitionist John Brown had rented a farmhouse near Sharpsburg, Maryland. From there, under an assumed name, he planned to assemble a group of men, take possession of the arsenal at nearby Harper's Ferry, and lead a slave uprising. The plan at first worked to perfection. The telegram to the B&O was the first hint to the outside world that trouble was brewing. Garrett alerted Secretary of War John B. Floyd that same day—the day after Brown

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had seized the arsenal. Colonel Robert E. Lee was ordered to Harper's Ferry to subdue Brown and his men. After doing so, Lee returned to Baltimore where he was met and congratulated by Garrett, the beginning of a friendship that lasted many years.¹ Brown's raid, though unsuccessful, created great fear and consternation in Virginia and across the South, but also in Maryland and along the B&O.

In November 1860, Abraham Lincoln's election to the presidency stoked Garrett's concerns. He wrote to J. Pearra in Unionville, Maryland, about the influence of political conditions on the stock market, to which Pearra replied that "the South is acting a [very] great farce, And they will presently be ashamed of it. One thing is [very] certain they will soon show to the world, they are either *great Men* or *big babies*."² Garrett's brother Henry wrote his friend Thomas Campbell in Springfield, Illinois, home of President-elect Lincoln, in mid-November. On the twenty-first Campbell replied, "The Fugitive slave law will be enforced, at least Republican friends here say so. In my opinion Mr. Lincoln wants to do the right thing, if the thing can be done and he remain inside of his party, but that he can do so we Democrats doubt very much."³ Clearly the Garrett brothers, among many others, were concerned about the country, though John seemed more interested in personal questions of finance than broader issues. As 1860 closed, John Garrett maintained his political ties and relationships with the usual spate of free passes for men of influence to travel on the B&O.

The concern continued into 1861. Henry Garrett received a letter from New York bemoaning Lincoln's failure to break the blockade of Fort Sumter in South Carolina and "abolish '*African Slavery*.'"⁴ The author even prophesied a coming "*Holy War!*"⁴ In this strange amalgamation of evangelical enthusiasm, political commentary, religious imagery, and racist opinions, were harbingers of the debates to come about the war's purpose and its causation. Lincoln had not yet acted against the southern blockade of Fort Sumter, and this call to action, as well as the desire for universal emancipation, was still the minority view. On April 13, 1861, John Garrett wrote to "His Excellency Jefferson Davis" in Montgomery, introducing a Russian baron who was curious about the country "and particularly in its internal improvements."⁵ The South Carolina militia had fired on Fort Sumter the day before. Garrett preserved a copy of the letter, no doubt concerned about accusations of southern complicity. Still, the way he chose to address Davis and his apparent familiarity with the Confederate president placed Garrett in an uncomfortable position. Like many Marylanders, the Garretts were torn between two worlds and tried to maintain their neutrality. John Garrett's personal sympathies lay with the South, but his business tied him to the North. Those ties proved strong enough, and he never demonstrated the slightest disloyalty to the Union.⁶ He walked that tightrope throughout the Civil War.

Following the attack on Fort Sumter, Lincoln called for northern troops to defend Washington. On April 16, 1861, H. J. Jewett telegraphed Garrett from Zanesville, Ohio. "It is reported here that your Company will not transport Government troops

through Virginia to Washington City if Any are raising in the West—Am I authorised to Contradict it.” Garrett immediately replied:

You are authorised to contradict the statement.—Our Company is transporting, Government troops to Washington. Our entire line is free from excitement or difficulty & all descriptions of business are being transacted with usual regularity and dispatch. Anticipating the misrepresentation of rival lines I forwarded to you yesterday a correspondence on this subject which I hope you have received.—You are further authorised to give to all shippers the guarantee of this Co. for any damage in transportation upon its Road which may arise from political or military action.⁷

Garrett would obey the federal government, but was also concerned about rival railroads smearing his reputation and the possibility of lost business. He would soon have other, graver concerns.

On April 19, 1861, Massachusetts troops on their way to Washington were marching through Baltimore, traveling the few blocks from one train station to another, when they were attacked by a mob of outraged citizens. Sixteen people were killed and many more wounded in the riot, marking Baltimore as the site of the Civil War’s first fatalities.⁸ For the two previous days Garrett had been furiously communicating by letter and telegraph about troop movements. On the nineteenth, the mayor and governor advised “that the troops now here be sent back to the Borders of Maryland,” and Garrett readily complied.⁹ That day a chilling, anonymous letter arrived for Garrett:

Sir, One Hundred of us, Firm Respectable, Resolute Men—have determined & Sworn to each other, to destroy “*every*” Bridge & tear up your track on both lines of your Road. . . . If you carry Another Soldier over either line of your Road after Saturday April 20th. We trust dear Sir that you will hearken unto the request of your Southern Fellow Citizens & save us this labour which we will very much regret to undertake. . . . Many of our Committee know you personally, some Intimately, but the nature of our Oaths prevent us from seeing you in person. I am requested Sir to thus notify you. We have a large force ready to answer our call. Very Respectfully, The Secretary.¹⁰

Over the next few days the mayor and governor arranged with the Lincoln administration for the soldiers to bypass Baltimore by sailing down the Chesapeake to Annapolis. Although Garrett was involved in these discussions by telegraph, and desirous of avoiding any more violence, sections of the B&O were torn up anyway. It is unclear how many “respectable” and “intimate” friends of Garrett’s were involved.

The support of the railroads and border states was central to the Union effort. Garrett’s position as president of the B&O, headquartered in Baltimore, placed him

in a key position, a fact of which he was proudly aware. Commanding crucial rail lines to and from Washington meant that the president and members of his administration frequently called on Garrett to move men and matériel. Confederates recognized the importance of the B&O as well. Alexander Stephens, vice-president of the Confederacy, in reflecting later upon the Civil War observed that “the real crisis passed in those early months, after the fall of Fort Sumter, when the South was waiting for Maryland to act, and Lincoln prevented that State from seceding—largely because of the fact that the over-whelming influence exerted by the Baltimore & Ohio was exerted in favor of the Washington government.”¹¹ Southern sympathizers frequently tore up the track, and Garrett called on Secretary of War Edwin Stanton to provide more troops for security. Prior to being named secretary of war, Stanton had been general counsel to the Ohio Railroad, which was already being merged into the larger B&O. Garrett and Stanton’s mutual fondness and admiration created a strong professional bond.¹² Throughout the war they would support and rely on each other.

Early in 1862, troops under General Thomas J. “Stonewall” Jackson tore up large sections of the railroad near Harper’s Ferry in western Virginia. On March 18, 1862, Garrett advised Stanton that, “The Harpers Ferry Bridge is completed and an engine has just passed over it from Maryland to Virginia” and “within a week we hope to open the entire line.” This missive concluded by acknowledging the cooperation and support necessary for this task; “I have pleasure in announcing these facts to you to whose comprehensive and vigorous arrangements for the protection of the Road we are so much indebted for the opportunity of accomplishing this work of so great importance to the whole country.”¹³ Six days later Garrett drew upon this flattery when he complained that, “Our Engineer advises that there are no Military guards west of Harpers Ferry and Our men constructing Road are apprehensive of attack in view of the current events in vicinity.” Refugees from these “current events,” a local battle near Winchester, Virginia, “informed our men that Jackson expressed surprise astonishment that the B&O Road could be opened soon, and a vicious determination to destroy it again at once.” Garrett concluded by asking, “in view of the great importance attached by the Enemy to its destruction as much as the great Necessity to the interests of the Country to maintain it, that you investigate whether a safe force has been left.”¹⁴ Garrett noted his success in thwarting Jackson, something he would emphasize in later life, and pointed out the continuing threat. Cooperation, an equal partnership between government and business, was needed to secure the railroad and the nation. Later that same year Garrett would accompany Lincoln, on the B&O Railroad, to Antietam. There, representatives of government and business would meet the military.

The Battle of Antietam, known as Sharpsburg in the South, took place on September 17, 1862. General Robert E. Lee led the Confederate army north into Maryland, seeking a decisive battle after a succession of Union losses. The looming

congressional elections and the possibility of foreign recognition gave the Confederacy hope that one final battle could secure lasting independence. In Washington, Lincoln's Emancipation Proclamation was waiting in a drawer for a Union victory, and concern over Britain's southern sympathies had Union morale at low ebb. When the armies clashed over Antietam Creek, the battle became the bloodiest single day of the war to that time, and one of the worst in American history. Between 6,300 and 6,500 died, with many more maimed and disabled, four times the dead on June 6, 1944 at Normandy, and more casualties than all other nineteenth-century American wars combined.¹⁵ Five days after this horrific bloodletting and tentative Union victory, Lincoln issued the Emancipation Proclamation, effective January 1, 1863. Two weeks later he traveled to Antietam, to review the troops and urge General George McClellan to pursue Lee into Virginia.

Following the issuance of the Emancipation Proclamation and despite repeated orders, McClellan had still not budged from his camp in western Maryland. Lincoln resolved to see McClellan in person, and Garrett arranged for a special train. Garrett himself had traveled to see McClellan earlier that year under the auspices of Secretary of War Stanton.¹⁶ Lincoln and Garrett's relationship was professional but cordial. Lincoln supported Garrett to his detractors, declaring "I know Mr. Garrett, and I like him very much. I don't believe all the things some people say about his secession principles."¹⁷ Indeed, less than two weeks earlier Daniel Bruce, a Baltimore lawyer, had publicly accused Garrett of "communicating such information as he might be possessed of, to Secessionists in preference to Union men."¹⁸ In spite of these accusations, Stanton had reaffirmed his support for Garrett on September 11, requesting General Henry Halleck to pay "attention to some suggestions Mr. Garrett will make to you."¹⁹ Lincoln also recognized the support Garrett had provided to the government, calling him "the right arm of the Federal Government in the aid he rendered the authorities in preventing the Confederates from seizing Washington and securing its retention as the Capital of the loyal States."²⁰ After Garrett had arranged the train, Lincoln no doubt invited him along as a professional courtesy. The train departed Washington in the morning on October 1 and arrived later that day at Harper's Ferry, ten miles south of McClellan's headquarters.

Lincoln's visit to the battlefield, which lasted just over two days, was documented by Alexander Gardner, a photographer for Mathew Brady's studio. Gardner had taken numerous photographs immediately following the battle and likely returned on the train with Lincoln. Although the president spoke with General McClellan and reviewed the troops, he failed in his larger purpose. McClellan still refused to cross the Potomac in pursuit of Lee. Lincoln relieved him of command a few weeks later.

Throughout the summer of 1863, Garrett supported the Union war effort in moving men and supplies on the B&O, but privately he expressed sympathy for the South and concern about the condition of prisoners of war on both sides.²¹ He also received confidential correspondence from the chairman of a national Democratic

organization urging that in the upcoming elections “the ‘Constitution as it is’ should be maintained and the ‘Union as it was’ restored; and that these inestimable blessings can *only* be secured, by the thorough organization and success of the Democratic party.”²² Garrett’s B&O supported the Union, his personal interests lay with his fellow Marylanders, and his politics were in line with the Democratic Party, whose nominee for president was General McClellan.

The Civil War enlarged Garrett’s personal fortune. After the devastation of the early years, passenger and freight revenues had greatly increased by 1865. Garrett may have supported the Union, but he was no altruist. The heaviest troop movement, and revenues, came with the grand reviews of the Union army in Washington after the collapse of the Confederacy. In seven weeks, more than 208,000 troops traveled on the B&O.²³

Following Appomattox and Lincoln’s assassination in April 1865, Stanton requested that Garrett arrange for the “transportation of the remains of the late President, Abraham Lincoln, from Washington to their final resting place” and accompany Lincoln’s remains to Springfield, Illinois. Soon thereafter Garrett sent his friend and associate James Tinker several autographs, including Lincoln’s. Garrett’s association with the recently martyred president was already a source of pride, prestige, and recognition. (The autograph, James Tinker noted, was of “peculiar interest at this time.”)²⁴ Garrett continued to send annual passes each New Year’s, though now Union generals and cabinet members received them as well. He also granted special favors on the B&O to Edwin Stanton and Gen. Ulysses S. Grant, among others. In December 1868, *The New York Democrat* mentioned “a rumor prevalent that John W. Garrett, president of the Baltimore & Ohio Railroad, is strongly urged for Secretary of the Treasury, in Grant’s cabinet. Mr. Garrett represents Southern interests, and is one of the few competent progressive men of the day.” The appointment did not come to pass.

Garrett was clearly proud of his role during the Civil War. He backed the winning side and was on speaking terms with the leading Union men, but he also maintained his Democratic bona fides and used his position to assist unfortunates caught in the snares of war. In the early 1870s, writers frequently requested information for various biographical sketches, a process Garrett facilitated.²⁵ His careful construction of his public self was no accident. When *Leisure Hours, A Monthly Magazine, Devoted to History, Biography, Prose, Poetry, Wit, Romance, Reality and Useful Information* published a sketch of Garrett in May 1871, it included a laudatory account of his actions during the war that emphasized his indirect confrontation with the great Stonewall Jackson. When some “alleged Baltimore Republicans” asked that Lincoln “take the road out of Garrett’s hands,” the president replied, “When any or all of you have done half as much to aid this government as John W. Garrett, I may consider your request.” In spite of Garrett’s inestimable qualities, the article went on, “He takes no part in politics—originally a whig, he now inclines towards the democracy, but he

thinks little of matters political and cares less.”²⁶ Coincidentally, on April 20 a local newspaper averred that Garrett’s name was being mentioned for the Presidency of the United States.²⁷ In spite of the glowing profile in *Leisure Hours*, Garrett’s attorney wrote to the publisher within the week seeking corrections. “His salary, as president of the Baltimore and Ohio Road is but \$4,000—not \$10,000 as stated.” The publisher replied that he was “Much obliged for honor of draft. Will you please tear out the biography in *Leisure Hours*, mark the corrections you wish and add anything you want, or interpolate and send these to me for the paper next week.”²⁸

Garrett’s public persona would match his self-image; indeed he could edit it himself. That year another sketch of Garrett was published that was more to his liking. Authored by local reporters, *Baltimore: Past and Present* was a lavishly produced volume of local history and biographical sketches. Garrett made sure that the factual errors of *Leisure Hours* were avoided through close consultation and supervision. This sketch also included a portrait taken by a local studio, the Bendann Brothers. Readers of Garrett’s biography would have both words and image to reinforce his importance. The conclusion drew an implicit contrast between Garrett’s “economical administration” and the current impecunious administration of President Grant. “After he [Garrett] became President, and gave his time so largely to the duties of his office, the Board of Directors, by a unanimous vote, increased his salary from \$4,000 a year, which was the rate when he took office, to \$10,000 a year. This increase of salary he declined.”²⁹ Thanks to Garrett’s assistance, the authors noted the correct salary.

Garrett’s self-construction emphasized his role during the Civil War and his connections to both North and South, but postwar debates on Reconstruction and citizenship and suffrage for freedpeople are never mentioned in Garrett’s voluminous correspondence. That was not exceptional. Indeed, many white men, North and South, sought to heal the wounds of war by emphasizing shared struggle and ignoring broader, more contentious, issues. Garrett’s potential presidential candidacy relied on a combination of business acumen and broad national appeal, not divisive social issues.

Following the war, the B&O engaged in frequent rate wars with competing lines and suffered declining revenues following the Panic of 1873. The war in fact contributed to the rate wars; martial virtues often colored the language of railroad executives. Even ordinary correspondence was flavored with military metaphors. This “Machiavellian” self-image, the railroad president as commander-in-chief, had some basis in fact. Both operated with remarkable autonomy within legal boundaries and did what was in the collective interest as they saw it.³⁰ Garrett’s participation during the Civil War convinced him of his own importance and his equality with political and military leaders. The widespread labor uprising in 1877 challenged that persona.

The violent national Railroad Strike of 1877 began on the B&O. On Monday, July

16, Garrett proposed a 10 percent wage cut for all employees earning more than a dollar per day. It was the second 10 percent cut in less than a year. Violence erupted along the B&O and quickly spread to other lines. Garrett convinced Maryland's governor to call out the National Guard to regain control of the tracks at Cumberland. As they assembled at two regimental armories, crowds of several thousand gathered outside to stop them. The Guardsmen fired into the citizenry, killing ten and wounding thirty-five. By late summer the strike was broken, thanks to the intervention of federal troops, and operations returned to normal.³¹ Garrett's willingness to use military force was surely informed by his close association with the secretary of war and leading Union generals during the Civil War.

George McClellan and John Garrett maintained contact during the war and following McClellan's failed run for the presidency in 1864. McClellan sought and received favors from Garrett noting: "If you can aid me in this affair you will add another to the many obligations I already owe you." Later he thanked Garrett for his help and planned on the two getting together in Baltimore.³² His friendship with McClellan, a fellow Democrat, no doubt burnished Garrett's self-image and reminded him of his importance during the war. In his later years Garrett continued to correspond with other Union Democrats as well as with Jefferson Davis.³³

In April 1880, Garrett sent an agent to Washington on a confidential mission. He was to inquire into the whereabouts of Edwin Stanton's wartime correspondence, which had gone missing after the his death. The correspondence was in the hands of Stanton's old clerk, Albert Johnson. Johnson's memory was "well stored with incidents of great personal interest and value to yourself," the agent wrote to Garrett. "He also says that a very voluminous correspondence passing between yourself and the Secretary formed part of this data. . . . His recollection of many scenes in which you were a rather prominent actor, is vivid." Johnson recounted the crucial role Garrett played in the movement of troops and supplies westward. "Mr. Stanton recognized and publicly declared the greater efficiency and economy to the service secured by such transfer. My informants believe that in this rests the secret of the influence which you, unquestionably, as they say, exercised over the Secretary." Garrett's interest in this information was revealed in the letter's closing. This material, along with what Garrett could obtain, "would make a publication inferior to none, and if well done, *superior to all*, the War publications I have seen."³⁴ Like Garrett's campaign for political office, his memoirs of the Civil War would never come to fruition either.

Twenty years after their meeting at Antietam, McClellan and Garrett planned a return trip. Unfortunately, McClellan noted, "There seems to be a decision of the fates against our making that Antietam expedition," but he hoped they might "make another attempt next November." Garrett replied the following day. "I have felt so sure that you and all would enjoy the visit to Antietam that I have been quite disappointed that we have thus far been unable to make the trip. I hope that yourself and friends, desiring the pleasant weather of next Autumn fulfill this long cherished

design which I am satisfied will prove most interesting.”³⁵ John Work Garrett died in September 1884, before they could reunite.

Prior to the Civil War, the invention of photography revolutionized the way people viewed and remembered. Instead of an elusive memory or a constructed painting, an event could be definitively captured at the moment it happened. According to Allan Sekula, as people learned to see and read photographs in the nineteenth century, the photograph was seen as “a re-presentation of nature itself, as an unmediated copy of the real world.”³⁶ No man did more to popularize photography than Mathew Brady, especially through his New York gallery and exhibitions. His *Gallery of Illustrious Americans*, published a few years prior to the war, presented representative men, North and South, in traditional pose and republican garb. In addition to the famous, Brady also took and displayed photographs of ordinary people. Photography of the eminent and ordinary would meet at Antietam through the mediation of one of Brady’s photographers, Alexander Gardner.

As Brady’s eyesight deteriorated, he no longer took photographs himself. Instead, he directed his photographers and lent his imprimatur to their work, an arrangement that caused increasing tension between himself and Gardner. As manager of Brady’s Washington studio, it was Gardner who traveled to Antietam and took the photographs of the war dead—the first time in American history that the dead were photographed on the battlefield where they fell.³⁷ It was possible at Sharpsburg because Union victory made the location safe for northern photographers, and the Confederates had retreated before they could bury their dead. Gardner and his assistant, James F. Gibson, took the photographs shortly after the battle’s conclusion, between September 17 and 22.

On October 20, 1862, *The New York Times* ran an article about a shocking new photography exhibition at Brady’s studio. It began as many articles regarding war do, bemoaning the public’s general apathy.

The living that throng Broadway care little perhaps for the Dead at Antietam, but we fancy they would jostle less carelessly down the great thoroughfare, saunter less at their ease, were a few dripping bodies, fresh from the field, laid along the pavement. There would be a gathering up of skirts and a careful picking of way; conversation would be less lively, and the general air of pedestrians more subdued. As it is, the dead of the battle-field come to us very rarely, even in dreams. We see the list in the morning paper at breakfast, but dismiss its recollection with the coffee . . . We recognize the battle-field as a reality, but it stands as a remote one.³⁸

In a time before newspaper photography, drawings and woodcuts did not convey the horror of battle, especially this new industrial warfare. However, these photographs from Mathew Brady have “done something to bring home to us the terrible



Alexander Gardner photograph of Confederate dead along the Hagerstown Pike, Antietam Battlefield. (Courtesy, Ross J. Kelbaugh.)

reality and earnestness of war. If he has not brought the bodies and laid them at our door-yards and along the streets, he has done something very like it." His gallery exhibit "The Dead of Antietam" draws "Crowds of people" who are "bending down to look in the pale faces of the dead, chained by the strange spell that dwells in dead men's eyes." Reunited in death, "Union soldier and Confederate, side by side, here they lie."³⁹ The dead are already reunited as brothers, though in fact the Union soldiers were already buried at the time of the photographs. The black and white images conflate the soldiers' identities. Individuals are distinguishable but not the side they fought on nor the cause for which they died. The emphasis is on shared, white, sacrifice. There is no mention of the pending Emancipation Proclamation or why these soldiers died. Their sacrifice is noteworthy in and of itself. The avoidance of race and the drive toward reconciliation was already beginning.⁴⁰

It is also significant that these were photographs, not paintings. In addition to the perception of unfiltered reality, they were commodities. Photography as mass production is frequently linked to industrialization, but the better and more accurate parallel may be modern warfare. The Civil War created a great demand for the serial industrial production of ammunition and spare parts. Additionally, the ongoing replacement of lost limbs with mechanical ones and dead men with new recruits meant that exact photographic copies of dead soldiers possessed a frightening liminality.⁴¹

One man who was unhappy with the New York exhibition of the “Dead at Antietam” was its author, Alexander Gardner. The men directly responsible for the photographs, Gardner and his assistant James F. Gibson, go unmentioned. Although they copyrighted their work, only fine print at the photos edge, often obscured by framing, acknowledged their presence. Mathew Brady’s promotional efforts made sure that his name was the only one visible. By May of the following year, Gardner had opened his own Washington studio. Gibson accompanied him, along with all of the Antietam negatives.⁴²

The photographs of Lincoln at Antietam were taken between October 2 and 4. John Garrett only appears in one of these, a group portrait taken before Lincoln reviewed the troops on the morning of October 2. Garrett, second from the right, is shunted to the side, away from Lincoln and McClellan, his inclusion apparently incidental. Although Garrett’s railroad and position as a border state Democrat and businessman were important to the Union war effort, he was far from the center of these proceedings. The picture itself is not the spontaneous composition it first appears. The men are all standing in front of camp chairs, which evidently had been in recent use, except Lincoln’s bodyguard. He no doubt remains seated because his dress and height are similar to those of President Lincoln, the central figure in this composition. The men are all in a three-quarter pose common to portraiture. Certainly Gardner was familiar with it. Indeed, many of the photographs of the war dead were likely positioned as well.⁴³

More than ten years after the original event, John Garrett took advantage of new photographic techniques developed in a Baltimore studio to re-present the original Antietam photograph. The local photographers who took Garrett’s photograph for his profile in *Baltimore: Past and Present* had known him for some time. Brothers Daniel and David Bendann were born in Richmond. Daniel had moved to Baltimore in 1858, the year of Garrett’s election to the B&O presidency, and opened his own studio. That year he traveled the length of the B&O’s westward line, taking pictures for *Harper’s*. David joined his older brother in Baltimore prior to the Civil War, and with its coming they began publishing a series of carte de viste portraits of southern military and political leaders from earlier negatives. Other photographers, including Mathew Brady, later pirated many of those images.⁴⁴ Daniel Bendann later reminisced, “Robert E. Lee stopped in Baltimore on his way South just before the war to



President Lincoln with Gen. McClellan and his staff on the battlefield at Antietam. John Work Garrett (in white hat) stands at right. Photograph taken by Alexander Gardner. (Library of Congress.)

have a photograph of himself in the United States uniform for some of his friends.”⁴⁵ Their southern sympathies frequently caused them trouble. Daniel was imprisoned in 1862 after an altercation with a Union naval officer and only released after he had signed an oath of allegiance. David was briefly detained by military authorities in 1865 and accused of “disloyal language and keeping at his daguerreotype establishment the negative of likenesses of Rebel Generals.” He was released on parole when a search of the studio failed to turn up the negatives.⁴⁶ Following the war, as Daniel remembered, “Jefferson Davis, whom I had met in 1856, came to my studio a day or two after his release from Fort Monroe and sat for his picture,” a release John Garrett had helped secure.⁴⁷ On April 9, 1872, the Bendann Brothers patented their “Improvement in Photographic Backgrounds.”⁴⁸ This process, popularly known as “Bendann’s Backgrounds,” allowed them to remove the subjects in a photograph and replace them with a more suitable background.⁴⁹ Photographic manipulation was nothing new for the Bendanns. In 1859 they received a medal for retouched photographs in India ink and watercolors and their studio frequently exhibited oil and pastel portraits as well as photographs.⁵⁰ The partnership split in 1874, with Daniel focusing on photography and David on painting.

John Garrett, whom Daniel called “a steadfast friend,”⁵¹ took advantage of this new technique to re-present the original Antietam photograph. Garrett drew from

the common perception of photography's inherent reality. His new photograph supported his interpretation of his importance and was the most striking example of his self-creation. Instead of a large group photograph that shunted Garrett to the side and ignored his contributions to the Union effort, this new arrangement placed Garrett on an equal footing with the others. The triumvirate of government, military, and business was complete. There are other subtle shifts in this re-presentation. Lincoln's visage, shadowed in the original, appears even darker, and there is no hint of life or motion. His death is reified and his status as a martyr and symbol of all the war dead is assured. This is photography not as some abstract moment of death, but literally so, much like the earlier Antietam photographs of the war dead. General McClellan's hand is outstretched, pointing toward Lincoln, while Garrett is the only one staring directly at the observer, his face lightened and the shadow from his hat removed. Also, the figures in the background, anonymous men in an amorphous camp scene, are wearing suspiciously light-colored uniforms, especially compared to McClellan's dark blue Union coat. Possibly the Baltimore studio's southern sympathies make this an anonymous Confederate camp scene. Regardless, there is no hint of what the war was about. The symbolic reconstruction of North and South has trumped the actual one. During the first exhibit of the Antietam photographs, though no mention was made of the war's cause or the pending slave emancipation, the public was aware of these developments, given the other articles in the newspaper. More than a decade later, any historical context has been removed and the new photograph stands alone as evidence and artifact. Additionally, the wide circulation and knowledge of the photographs of the Antietam dead are echoed in this re-presentation of a now dead Lincoln with McClellan at Antietam.

This photographic re-presentation challenges existing interpretations of photography as fixed reality. While mass-production of photographic images in the late nineteenth century is often tied to growing industrialization, this is something different. Photography and money, of which Garrett had plenty, can be seen as types of social power. Both are forms of capital, real and social, that only represent another reality. According to historian Jonathan Crary they "establish a new set of abstract relations between individuals and things and impose those relations as the real."⁵² The observer, or intended audience, of Garrett's re-presentation is an open question.

Although the new photograph appears artificial to our eyes, Garrett intended the re-presentation to be taken literally. Perhaps because contemporary audiences were aware of photographic manipulation, the Bendann studio took steps to imbue the new photograph with authenticity. First, though their upper bodies stand out in sharp contrast to the background, Lincoln, McClellan, and Garrett's lower legs are carefully shaded to blend in with the ground. Shadows have been added behind the figures. For Garrett, reality was the goal, hence the placement of the figures in a plausible camp scene. Second, by using Lincoln and McClellan, along with the original photograph taken at Antietam, Garrett is drawing upon the public's fascination with



David Bendann's arrangement of the Gardner figures. (Evergreen House, Baltimore, Md.)

and perception of the Antietam photograph's reality. Third, the photographic creation itself attests to Garrett's motivation. If the only purpose was personal memento, surely the original photograph taken at the event served that purpose. If it was meant only as a curiosity or business patronage for "a steadfast friend," surely one photograph would have accomplished this, but Garrett had three new ones made.⁵³

There is no evidence this new photograph was seen outside of the family, but Garrett was clearly aware of his public image and sought to make it congruent with his self-image. Although undated, the photograph was created after 1871 and before Garrett's death in 1884. Garrett never officially entered the presidential campaign, but he was widely and publicly mentioned in 1872. If he had run, the re-presented photograph would surely have made an attractive testament to his importance during the Civil War and his interest in national reconciliation.

Garrett had three photographs produced in various sizes, framed, and hung in his home. They hang there still. As Allan Sekula notes, all photographs have a purpose, an "investment in sending a message." Garrett's new photograph sent a message of importance and remembrance. A photograph is deceptively neutral and factual, but it "presents merely the *possibility* of meaning. Only by its embeddedness in a concrete discourse situation can the photograph yield a clear semantic outcome."⁵⁴

Garrett's re-presentation was embedded in a personal discourse as well as broader ones about the Civil War, the dead, and reconciliation.

These postwar discourses cannot be separated from the photograph's content and its reflection of the war. As historian David Blight points out, the Civil War's true purpose was quickly subsumed in ritual and memory. "Because the meaning of the Civil War remained so unsettled in American culture for so long, memorialization became just such a set of rituals whereby the dead continued to mingle among the living." Here the dead Lincoln was literally mingling with the still-living Garrett and McClellan. "Sometimes people reminisce because they truly wish to relive part of their past. Sometimes objects, or aide-memoire, from the past induce a stream of remembrance where none may have been intended."⁵⁵ This photographic re-presentation surely acted as an aide-memoire, despite its recent creation.

Any photograph is simultaneously a dialogue and a referent to power. Unlike other Civil War photography, whose infinite reproducibility mirrored modern war, Garrett's re-presentation was specific and unique. An original photograph was ruined to produce the new one. This new one spoke to the observer not only about Garrett's relationship to Lincoln and McClellan, but also his power in constructing the new photograph. Both money, to pay for the re-presentation, and knowledge, of new techniques, were required and implicit in its viewing. Indeed, Garrett looks directly at the viewer, emphasizing his own prominence. Garrett's perception of his own power during the war (and after) was affirmed and recreated in the new arrangement. This re-presentation, located in Garrett's home and under his gaze, also buttressed him during the tumultuous later years of his life.

It is tempting to seek straightforward explanations. Perhaps John Work Garrett's photographic re-presentation represents changing attitudes toward photography, or demonstrates the postwar drive toward sectional reconciliation, or the creation of historical memory. Unfortunately, historical causation is too complicated to allow for simple answers. The truth is probably that Garrett created the photograph for all of these reasons. As a possible presidential candidate, it represented past deeds and future qualifications. As a Unionist-Democrat, it represented sectional reunion and reconciliation. As a personal reminiscence, it represented a martyred Lincoln and living McClellan while affirming Garrett's own importance. As a photograph, it represented the Civil War dead and changing attitudes toward the reality of photography itself. Although this variety of causation may be frustrating, too neat explanations are rarely satisfying. Like the Civil War itself, Garrett's re-presentation reminds us that all events, even seemingly simple ones, are kaleidoscopic.

NOTES

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2. J. Pearra to John W. Garrett, November 8, 1860, Robert Garrett Family Papers, Manuscript Division, Library of Congress. Hereafter RGFP.
3. Tho. H. Campbell to Henry S. Garrett, Springfield, Illinois, November 21, 1860, RGFP.
4. Wilbur Price to Robert Garrett and Sons, March 20, 1861, RGFP.
5. Garrett to Jefferson Davis, April 13, 1861, RGFP.
6. Hungerford, *Story of the Baltimore and Ohio*, 350.
7. Telegram from H. J. Jewett to Garrett, April 16, 1861, telegram from Garrett to Jewett, April 16, 1861, RGFP.
8. For an account of the riot and its aftermath see Charles W. Mitchell, “‘The Whirlwind Now Gathering’: Baltimore’s Pratt Street Riot and the End of Maryland Secession,” *Maryland Historical Magazine*, 97 (2002): 203–32, and Barbara Jeanne Fields, *Slavery and Freedom on the Middle Ground: Maryland during the Nineteenth Century* (New Haven: Yale University Press, 1985), 90–130. A useful firsthand account is George William Brown, *Baltimore and the Nineteenth of April, 1861: A Study of the War* (repr., Baltimore: The Johns Hopkins University Press, 2001).
9. Communication from the Mayor’s Office to Garrett, April 18 [crossed out in pencil, 19 over top], 1861, and reply from Garrett, April 19, 1861, in RGFP.
10. Letter to Garrett, April 19 1861, RGFP.
11. Quoted in Edward S. Delaplaine, *Lincoln’s Companions on the Trip to Antietam* (Harrogate, Tenn.: Lincoln Memorial University Press, 1954), 9.
12. Hungerford, *Story of the Baltimore and Ohio*, 351.
13. Garrett to Stanton, March 18, 1862, Baltimore and Ohio Railroad Company, Maryland Historical Society. Hereafter B&O.
14. Garrett to Stanton, March 24, 1862, B&O.
15. For the importance of Antietam, see James M. McPherson, *Crossroads of Freedom: Antietam* (New York: Oxford University Press, 2002), statistics on page 3.
16. Stanton to Captain Dahlgreen, March 28, 1862, RGFP.
17. Quoted in Delaplaine, *Lincoln’s Companions*, 9.
18. Lawrence Sangston to Daniel C. Bruce, Esq., September 19, 1862, RGFP.
19. Stanton to Major General Halleck, September 11, 1862, RGFP.
20. Quoted in Delaplaine, *Lincoln’s Companions*, 10.
21. Telegram from Stanton to Garrett, July 5, 1863; Henry Garrett to Stanton, March 19, 1862; telegram from Henry Garrett to Garrett, July 21 1863, RGFP.
22. J. J. Jones to Garrett, August 24, 1863, RGFP.
23. John F. Stover, *History of the Baltimore and Ohio Railroad* (West Lafayette, Ind.: Purdue University Press, 1987), 115–17.
24. Stanton to Garrett, April 18, 1865. An invitation to accompany the remains of Lincoln on April 20, 1865 was attached. James Tinker to Garrett, May 3, 1865, RGFP.
25. Editor and publisher of the *Northern Monitor* to Garrett, September 5, 1870, B&O.
26. *Leisure Hours, A Monthly Magazine, Devoted to History, Biography, Prose, Poetry, Wit, Romance, Reality and Useful Information*, Vol. 6, No. 2, May 1871, 47–49.
27. “John W. Garrett for President,” *Parkersburg Gazette*, April 20, 1871.
28. Edward Potts to J. Trainor King [publisher of *Leisure Hours*], May 8, 1871, and J. Trainor King to Edward Potts, May 17, 1871, B&O.

29. *Baltimore: Past and Present* (Baltimore: Richardson & Bennett, 1871), 267, 269.
30. James A. Ward, "Image and Reality: The Railway Corporate-State Metaphor," *The Business History Review*, 55 (1981).
31. For an account of the Baltimore Riot, especially focusing on class formation, see Brian P. Luskey, "Riot and Respectability: The Shifting Terrain of Class Language and Status in Baltimore During the Great Strike of 1877," *American Nineteenth-Century History*, vol. 4 (3), 2003, 61–96. For the Baltimore Strike in broader perspective see Philip Foner, *The Great Labor Uprising of 1877* (New York: Monad Press, 1977).
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33. Montgomery Blair to Garrett, February 12, 1877, containing copy of letter from Welles to Blair dated February 10, 1877; Jefferson Davis to Garrett, April 1, 1883, RGFP.
34. W.T. Barnard to Garrett, April 22, 1880, RGFP.
35. McClellan to Garrett, May 8, 1883 and Garrett to McClellan, May 9, 1883, RGFP.
36. Allan Sekula "On the Invention of Photographic Meaning," in *Thinking Photography*, Victor Burgin, ed. (London: The Macmillan Press, 1982), 86.
37. William A. Frassanito, *Antietam: The Photographic Legacy of America's Bloodiest Day* (New York: Charles Scribner's Sons, 1978), 17.
38. "Brady's Photographs: Pictures of the Dead at Antietam," *The New York Times*, October 20, 1962.
39. *Ibid.*
40. For a more thorough development of this interpretation see David W. Blight, *Race and Reunion: The Civil War in American Memory* (Cambridge: The Belknap Press of Harvard University, 1999).
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42. Frassanito, *Antietam*, 53–54
43. Alan Trachtenberg, *Reading American Photographs: Images as History, Mathew Brady to Walker Evans* (New York: Hill & Wang, 1989), 73.
44. Ross J. Kelbaugh, *Directory of Maryland Photographers: 1839–1900* (Baltimore: Historic Graphics, 1988), 80.
45. Daniel Bendann, "The Memories of a Veteran Baltimore Photographer," 3, *Baltimore Sunday Sun*, November 8, 1908, typescript in Maryland Vertical File, Enoch Pratt Free Library, Baltimore.
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47. Bendann, "Memories," 3; Sherralyn F. McCoy, "Robert Garrett Family Papers Register," Library of Congress, 2001, 2.
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50. Kelbaugh, *Directory of Maryland Photographers*, 80; Blum, *Jews of Baltimore*, 161.
51. Bendann, "Memories," 2.
52. Jonathan Crary, *Techniques of the Observer: On Vision and Modernity in the Nineteenth Century* (Cambridge, Mass.: The MIT Press, 1990), 13.
53. Daniel Bendann, "Memories of a Veteran Baltimore Photographer," 2.
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55. Blight, *Race and Reunion*, 97, 172.

Letters to the Editor

Editor:

In his article “‘The Susquehanna Shall Run Red with Blood’: The Secession Movement in Maryland” (*MdHM* Spring 2013), Timothy R. Snyder claims that six public meetings held in Maryland during the winter and spring of 1860–1861 spawned a secession movement in the state, and he couples his description of what transpired at these meetings with an analysis of why they failed to bring about secession. His article, while a well-researched summary of these gatherings, does not support a conclusion that any sort of movement actually formed, much less that anything was accomplished. Many of his citations come from the *Baltimore Sun*, which during that period expressed strong pro-southern views without advocating secession; a review of the city’s other major daily newspaper, the *Baltimore American and Commercial Advertiser*, would have provided countervailing and consistent Unionist sentiment.

One early meeting Snyder cites occurs two days after “the December 20, 1861 secession of South Carolina.” (South Carolina seceded on December 20, 1860, six weeks following the election of Abraham Lincoln.) Snyder describes this meeting, held in Baltimore, as having a moderate tone with no call for a Maryland secession. A February 1, 1861, meeting at the Maryland Institute in Baltimore is his Eureka moment where his “movement” is born, but the sole outcome is a decision to follow Virginia’s course. Additional meetings occur, and Snyder’s review of their proceedings describes a small group of men more interested in process than action; they favor the negotiations of the Crittenden Compromise and wish to follow Virginia’s action. They pass resolutions; secession is proclaimed a last resort.

Voices are loud, to be sure. Former governor Enoch Lowe boisterously advocates secession, but his calls for a revolt and assassination of Gov. Thomas Hicks marginalize him as a lone firebrand with no constituency. A few other conservatives, such as Bradley Johnson and William Norris, pontificate. In March, six travel to Richmond to meet with the Virginians. A meeting on April 17th draws only thirteen attendees: “Still nothing was done,” Baltimore lawyer William Wilkins Glenn records in his diary that day. “There was no concerted action.”

Negotiations fail and Virginia secedes in mid-April, but nothing happens. The Maryland state legislature takes no notice of these men and their meetings and resolutions—the delegates refuse even to hold a vote on secession during its special session, from April 26 to May 13. Characteristics of a viable movement are absent: an organization with standing committees, visible leaders who attract followers, fiery speeches in public spaces, exhortations to action, large public meetings, activity outside Baltimore.

The absence of any meaningful secession constituency in Maryland may be attributed to a number of factors: opposition from Baltimore's business community, pro-Union passion, unwillingness of the planter-dominated state legislature to embrace the concept, and a striking lack of enthusiasm from an unlikely source: Maryland slave-owners, many of whom recognized that, as long as slavery was legal per the state constitution, their livelihoods were better protected in a Union that would surely have imposed on a Confederate Maryland a blockade of Baltimore's port and an interdiction of the B&O Railroad.

The tendency to conflate the views of Maryland's "Southern Rights" men and slave-owners with secession continues to cloud objective assessments of the state's position at the outbreak of the Civil War. Many Marylanders who believed both secession and slave-holding to be legal, and just, did not wish a Confederate Maryland, and few had the incentive or resources to lead a gallant charge south.

Charles W. Mitchell

Author, "Maryland Voices of the Civil War"

Editor:

In "The Susquehanna Shall Run Red with Blood": The Secession Movement in Maryland," I attempted to show that a secession movement led by prominent men did indeed develop in Maryland, but that it was generally conservative in nature. No leader made a public call for Maryland's withdrawal from the Union until the February 1, 1861 meeting; and even then attendees expressed a willingness to support compromise proposals. Ultimately a few radicals called for Maryland to secede, but because Governor Hicks failed to convene the General Assembly or arrange for a vote that might authorize a sovereign convention, and because Virginia remained in the Union until a very late date, the movement's leadership broke down into dissension and factionalism, which undermined its goals.

On two points I think Charles Mitchell's letter is misleading (although I do not think that that was his intention). Firstly, he decried an April 17 meeting of secession supporters because only thirteen people were in attendance; however, *this was not* one of the six public meetings that were the subject of my study; it was a private meeting held in the home of William Norris. Secondly, he criticized my use of the *Baltimore Sun*, arguing that the *Baltimore American* would have provided a more Union-loyal position; however, I used the *Sun* primarily because it published transcriptions of speeches given by the speakers at the meetings I analyzed. It followed these meetings much more closely than did the *American*, which did not provide transcriptions for several of the meetings.

Mitchell writes that I failed to show that a secession movement even existed in Maryland. Using his own "characteristics of a viable movement," however, I think Maryland's secession movement meets his test: it had visible leaders with followings,

including former governors, a judge, politicians, prominent attorneys and physicians; it held its meetings in public buildings and its leaders gave fiery speeches before often boisterous crowds (could McLane's "The Susquehanna shall run red with blood" speech be any more fiery?); delegates were elected from across the entire state, not just Baltimore; at its February 18 meeting it elected officers to a "Conference Convention," thereby establishing a formal structure that would persist until the movement ended with Hicks's call to convene the General Assembly.

He also writes that the secession failed to accomplish anything significant, which was a point that I made in the article. Mitchell, however, pays no heed to the fact that the secession movement had absolutely no power to bring the state toward secession except perhaps armed revolt or political persuasion, the latter of which Hicks deftly parried until the Pratt Street Riot forced his hand. Because it did not accomplish its goals does not mean that the secession movement did not exist, did not have supporters nor have any influence on events.

Mitchell criticizes the fact that most supporters of Maryland's secession wished to follow the path of Virginia rather than take independent action but does not take into consideration their objections: that without Virginia withdrawing from the Union first, Maryland would have no physical border with the Confederacy; in the event of war Maryland would be isolated and vulnerable. In any event, even if the leadership of the secession movement all desired that Maryland secede before Virginia, it had absolutely no power to bring about that result. Only Hicks had the constitutional power to summon the General Assembly that could act on the matter.

Mitchell also writes that the Maryland General Assembly took no notice of the secession movement, which was patently false—it included a number of men who participated in the secession movement meetings. Additionally, the senate debated the Public Safety Bill, which would have wrested control of the Maryland Militia from Hicks and placed it in the hands of men sympathetic to the South. If it had passed, it would have allowed Maryland to begin cooperating with the Confederacy militarily, bypassing the governor and the need for a vote on secession (see *MdHM*, Vol. 101, No. 3, Fall 2006: 304–31).

I do think that Mitchell's statement that Maryland lacked "any meaningful secession constituency" is off base. In the 1860 presidential election the Southern Democratic candidate, John Breckenridge, received the votes of 46 percent of Marylanders in the four-way contest. While no one should assume that all Breckenridge supporters necessarily favored Maryland's secession, his party was the ideological home to those who would. If Marylanders who supported the South consisted primarily of a handful of politicians talking to each other, how does Mitchell explain the Pratt Street Riot? Historian Frank Towers has estimated that 8,000 to 10,000 people were a part of the April 19, 1861 attack on Union volunteers. While some may have been bystanders to the events that transpired, certainly not all who favored secession participated in the riot. How does he account for those Marylanders who left

their homes, families and jobs to serve in the Confederate army, a figure which has been estimated to have been as high as 20,000? Surely they were just the tip of the iceberg of those who supported the South but were unable or unwilling to serve in the Confederate army. I think to summarily declare that only a very small number of Marylanders favored the state's withdrawal from the Union overlooks evidence that suggests otherwise and turns a blind eye toward the sentiments of a sizeable but undetermined proportion of its citizens as well toward the nuances of opinion that existed in a state perched on the boundary between the North and South.

*Timothy R. Snyder
Hagerstown, Md.*

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Entries should be unpublished manuscripts between 15 and 45 double-spaced pages in length (including footnotes/endnotes). Entries should be submitted via email as attachments in MS Word or PC-convertible format. If illustrations are to be included they should be submitted along with the text in either J-peg or TIF format.

There will be a "blind judging" of entries by a panel of historians. Criteria for selection are: significance, originality, quality of research and clarity of presentation. The winner will be announced in Spring 2014. The *BCHS* reserves the right not to award the prize. The winning entry will be posted to the *BCHS* webpage and considered for publication in the *Maryland Historical Magazine*.

Further inquiries may be addressed to: baltimorehistory@law.umaryland.edu.