

MADISON

Notes

№ 30 | WINTER 2022

Bicameralism

The genesis of the unique
American legislature
TERRENCE K. WRIGHT

Treason

John Quincy Adams and
Francis Scott Key debate
GUY F. BURNETT

30th Anniversary

A look back at 30 years of the
James Madison Foundation
ELIZABETH G. RAY



The James Madison Memorial Fellowship Foundation was established by Congress in 1986 for the purpose of improving teaching about the United States Constitution in secondary schools. The James Madison Fellowship program strengthens the teaching of the history and principles of the Constitution by supporting master-of-arts level graduate study for secondary school teachers of history, government, and civics.

Madison Notes

Editor: Guy F. Burnett, Ph.D.

Design and Layout: Matthew LaPointe

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From the President

What an incredible 30 years it has been. As I reflect on the 30th Anniversary of the James Madison Memorial Fellowship Foundation, I can't help but think of how far we've come. What began as a way to increase teaching of the U.S. Constitution as part of the Bicentennial Commission has become so much more. Our Fellows are known throughout the nation for their excellent teaching and involvement in civics and history education. From the smallest rural schools to the largest urban schools, our Fellows continue to make an impact. We could not have done it without you, our Fellows and friends, and we're grateful for all you've done for the students of this country. The Constitution is our most important document and thanks to the hard work of our Fellows and the Foundation, more and more young citizens are understanding it and applying it in their daily lives. That is the mission we were tasked with by Congress all those years ago, and thanks to you, we are achieving it. The nation cannot thank you enough for the work you do.

A disturbing trend continues in secondary education. Since the outbreak of Covid-19, more and more teachers are leaving the classroom. With what Covid-19 did to the nation's schools, it's a miracle we still have as many good teachers as we do. We continue to see applications for James Madison Fellows to rise and we know there are still many teachers throughout the nation who want to teach about the Constitution. We know how much you, as James Madison Fellows and friends of the Foundation, value teaching students about their country. Teaching is one of the most rewarding and fulfilling careers anyone could choose. As a Foundation focused on teachers, we are proud that we have helped so many continue their own education, but we also realize it's the work you do every day that makes the biggest difference to our democracy.

We are so grateful to call you our friends and we are proud of the support our Foundation has given to the work you are doing. I would be remiss if I didn't also personally thank all our Foundation's staff and faculty both current and from past years. We have had some incredible people work for us along the way. This year was especially difficult to see our first president, Admiral Paul A. Yost, Jr., and one of our founding Trustees, Senator Orrin Hatch, pass away. Their selfless devotion to our Foundation helped us become what we are today.

Once again, thank you for all you do. You occupy one of the most vital roles in our republic and we take what you do very seriously. The nation is better for having you educate young minds about the Constitution. We hope you reflect on that from time to time.

Here's to another 30 years!



Lewis F. Larsen
President



Lewis Larsen, president of the James Madison Memorial Fellowship Foundation.

FOUNDATION NEWS



The James Madison Foundation Welcomes Its Newest Trustee Terrence K. Wright

At the Summer Institute, the Madison Foundation welcomed its newest Trustee, Terrence K. Wright. He graduated from The American University in Washington, D.C. and afterwards (1982-2009), he served in various positions on the staff of former United States Senator, and current President of the United States, Joseph R. Biden, Jr. Upon his retirement from the Senate in 2009, Mr. Wright was appointed by Delaware Governor Jack Markell to the Delaware Heritage Commission. He has since been reappointed by the current Governor, John C. Carney, Jr., and served as Chairman of the Commission's Observance of the Sesquicentennial of The Civil War. He also served as the Executive Producer of the Commission's educational film entitled: *Delaware and Gettysburg: The Story of Delaware, Delawareans, and The Battle that Determined America's Future*. Mr. Wright is currently the Chairman of the Eastern Brandywine Hundred Coordinating Council, a community organization dedicated to local history and community planning in the communities along the Delaware River in northern Delaware. Mr. Wright was sworn in by U.S. Circuit Court Judge Diane S. Sykes in a ceremony at the 2022 Summer Institute.



Summer Institute Faculty Member Dr. Abbylin Sellers Teaches the U.S. Constitution to University Students in Japan on a Fulbright Scholarship Grant

Dr. Sellers is a Fulbright Scholar for the Fall 2022 semester in Japan. Her grant is specifically geared toward teaching and the study of the United States. She is teaching courses on American government and the American presidency at Yokohama National University and Hosei University (Ichigaya, Tokyo). She has a mixture of Japanese and international students who have never studied American history or constitutionalism. History and political science are not academic disciplines Japanese students can major in, nor is the western philosophical tradition. Dr. Sellers said, "To have the opportunity to teach about the principles of popular sovereignty, natural rights, self-government, and liberty as new concepts, has been a great reward. Much to their delight, I gave each student their own pocket Constitution, also containing the Declaration of Independence." She is taking her teaching of the American regime very seriously: "My hope is these students will understand the principles that undergird the American regime and how democracy depends on the capacity of the citizens to govern themselves." Dr. Sellers will be in Japan until January 2023 and said she "considers it a great privilege and honor to be an ambassador of the United States to Japan for these five months."



The James Madison Foundation visits the John Dickinson Plantation in Delaware

On October 26th, President Lewis F. Larsen, and the staff of the Foundation, took a special tour of the John Dickinson Plantation in Delaware. Thanks to the generous invitation of its newest Trustee, Terrence K. Wright, the Foundation was able to spend an enjoyable morning learning about the "Penman of the Revolution," John Dickinson, whose *Letters from a Farmer in Pennsylvania* in the late 1760s gave many colonists the reasons they needed to consider establishing their independence from Great Britain.



Elizabeth G. Ray Retires from The James Madison Foundation

After decades of outstanding service, we are pleased to announce that Elizabeth G. “Liz” Ray retired December 2021. Liz started at the Foundation in September of 1992 as an administrative assistant for the Director of Finance. Before coming to the Foundation, she had several years of prior government service both with the Commission on the Bicentennial of the U.S. Constitution and the National Capital Planning Commission. In 2010, Liz became the Foundation’s Management and Program Analysis Officer and handled all financial aspects of the Foundation including fellowship payments, invoicing, establishing annual contracts and working each year on the Summer Institute and Board of Trustee meetings. She has been missed over the past year, but our dear friend Liz still stops by the office. She is enjoying her time with her husband, Charlie (they just celebrated their 34th wedding anniversary), her three daughters, Sarah, Lauren and Catherine, and her puppy, Layla.



Dr. Sheila Osbourne Retires from The James Madison Foundation

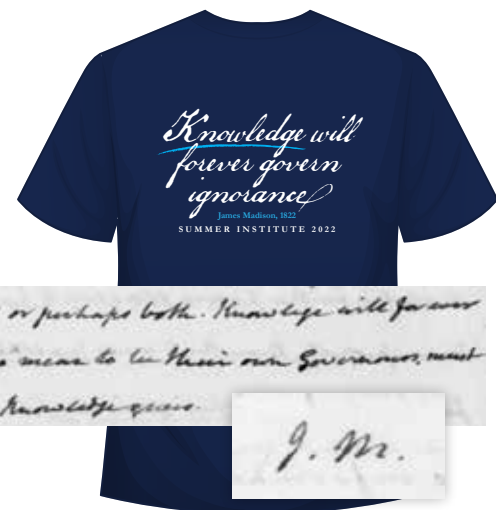
After approximately 25 years at the Foundation, we are pleased to announce that Dr. Sheila Osbourne will retire at the end of the year. Dr. Osbourne served as Assistant Director of Academics. Before coming to the Foundation, she served in the U.S. Coast Guard. Dr. Osbourne also received her Ph.D. in Advanced Studies in Human Behavior from Capella University and is a licensed therapist. She has worked with many of the James Madison Fellows over the years, helping them with their plans of study and completing their fellowship requirements. Moving to the next phase of her life, Dr. Osbourne will work full-time as a mental health therapist. She owns a private practice that provides mental health services. She will also work with interns from the University of Maryland as they pursue their own degrees. We wish her all the best with her future endeavors.

The James Madison Foundation Contracts with Kaleidoscope for New Applications

Beginning in 2022, the Foundation hired Kaleidoscope to be the platform for their Fellowship applications. Kaleidoscope is a recognized leader in scholarship applications throughout the nation and works with such groups as the U.S. Olympic Committee, the Bezos Family Foundation, Intuit, and the Taco Bell Foundation, helping applicants apply for and secure hundreds of thousands of dollars for their education.

2022 Summer Institute Held Again at Marymount University

Still observing Covid-19 precautions, Marymount University was once more selected as the site of the 2022 Summer Institute. James Madison Fellows took up residence in the Rixey building and held all classes in Marymount’s Arlington Campus building.



James Madison Foundation Debuts New Summer Institute T-Shirts

The James Madison Foundation created t-shirts for each Fellow attending the 2022 Summer Institute in Washington, D.C. The shirts, designed by Matthew LaPointe at Unified Media LLC, included a picture of James Madison on the front and a quote from Madison on the back. The quote, “knowledge will forever govern ignorance” comes from a letter Madison wrote to Kentucky’s Lt. Governor W.T. Barry on August 4, 1822, discussing the importance of education in Kentucky, but more generally, in a republic. Madison wrote, “A popular Government, without popular information, or the means of acquiring it, is but a Prologue to a Farce or a Tragedy; or, perhaps both. Knowledge will forever govern ignorance: And a people who mean to be their own Governors, must arm themselves with the power which knowledge gives” (“James Madison to W.T. Barry, August 4, 1822,” Library of Congress, accessed online at www.loc.gov).

FOUNDATION NEWS

Admiral Paul A. Yost, Jr., First President of the James Madison Foundation Passes Away

It is with great sadness and heavy hearts that the James Madison Memorial Fellowship Foundation staff announced the passing of Admiral Paul Alexander Yost, Jr. on February 9, 2022. Admiral Yost became the first President of the James Madison Memorial Fellowship Foundation on June 1, 1990, the day after serving as the 18th Commandant of the United States Coast Guard. He graduated from the United States Coast Guard Academy in 1951, was a graduate of the United States Naval War College, earned a master's degree in International Affairs from George Washington University and a master's degree in Mechanical Engineering from the University of Connecticut. He was a Combat Veteran of Vietnam (1968-69), earning awards that include the Distinguished Service Medal, Silver Star and Legion of Merit with combat "V."

As President of the James Madison Memorial Fellowship Foundation, he worked for two decades implementing, supporting, and growing a graduate fellowship program for secondary teachers to study the United States Constitution and United States history. His commitment to the James Madison Memorial Fellowship Foundation helped shape America's most prestigious fellowship for secondary history, government, and civics teachers to become outstanding scholars of the United States Constitution.

Admiral Yost's dedication to his country, his military career, and the James Madison Foundation were on a par with his dedication and devotion to his family, most especially, the love of his life, his wife Jan, whom he lost last December, and their five children, their grandchildren, and great-grandchildren. For those of us honored enough to have worked with Admiral Yost, our James Madison Foundation family; and for all the James Madison Fellows fortunate enough to have met and interacted with him, we have fond memories of a gentleman, a mentor, a leader in all things. His smile, his laugh and his guidance will be deeply missed.



The Admiral Paul A. Yost, Jr.-James Madison Fellowship is Created

The Admiral Paul A. Yost, Jr.-James Madison Fellowship is a privately funded James Madison Fellowship offered nationwide to an individual who has honorably served in the U.S. military, who is a United States citizen, and who is a secondary level teacher or prospective teacher of American history, American government, or civics. It aims to encourage former members of the U.S. military to become outstanding teachers and to honor Admiral Paul A. Yost, Jr., who was the first president of the James Madison Memorial Fellowship Foundation and 18th Commandant of the United States Coast Guard. The awardee of this fellowship will be required to follow each of the rules and regulations of a traditional James Madison Fellowship as outlined on the Foundation's website.

Admiral Paul A. Yost, Jr. in uniform.
Image courtesy U.S. Coast Guard.

JAMES MADISON
MEMORIAL FELLOWSHIP
FOUNDATION



The James Madison Memorial Fellowship Foundation is pleased to announce a new specially funded fellowship:

*Admiral Paul A. Yost, Jr. -
James Madison Fellowship*

Eligibility for this new fellowship will follow the same format as other James Madison Fellowships, but limited to those who have honorably served in the U.S. military.

Learn more at www.jamesmadison.gov/yost

The Fraternal — Not Identical — Twins of Capitol Hill

By Terrence K. Wright

Just below the west pediment of the Dirksen Senate Office Building are carved the words “The Senate is the Living Symbol of Our Union of States.”

Declaring independence was one thing. Creating a nation out of thirteen individual – and very disparate – colonies along the Atlantic seaboard was quite another. The snows of a Massachusetts winter bear no resemblance to a sultry Georgia summer. The rocky ground of New England is conducive to very different crops than the rich Pamunkey soil of the Piedmont and coastal plains of Virginia. The Scots-Irish who settled in the Appalachian Mountains (because they looked and felt much like Scotland) from Pennsylvania to North Carolina came from cultural backgrounds wholly unlike those of the Quakers who founded Philadelphia or the Virginia Cavaliers who settled in Williamsburg. The Dutch traders who traveled to New York to seek their fortunes came with very different goals than the Puritans who landed at Plymouth Rock or the Catholics who sought religious freedom in Calvert’s colony of Maryland.

The Continental Congress which passed Richard Henry Lee’s resolution for independence in 1776 was not officially a body of individual delegates, but a collection of 13 colonies, each with one vote. That same year, the phrase “E pluribus unum” (out of many, one) first appeared, signifying that out of these disparate colonies, one united nation had arisen.

Although united in independence, under the Articles of Confederation, the thirteen colonies sometimes went off in thirteen different direc-

tions - at the expense of the national unity which the new nation needed to thrive. Congress had no power to tax or to regulate interstate or foreign commerce; states could impose tariffs on one another; there was no national court to resolve disputes among states; and what’s more, there was no executive branch to enforce the laws that Congress did pass.

When the Constitutional Convention met in 1787 to fix all of this, the makeup of the nation’s legislature was a major point of contention. James Madison and Edmund Randolph of Virginia, aristocrats who believed in, but at same time were cautious of, popular democracy, proposed the “Virginia Plan” which would create a bicameral legislature with both houses allocated seats based on each state’s population.¹

The smaller states cried foul, arguing that this would allow a few of the more populous states to run roughshod over the smaller ones. Madison countered that this was unrealistic, given that the large states themselves were so divergent.²

William Paterson of New Jersey and others proposed the “New Jersey Plan,” which essentially retained the status quo in terms of legislative representation: a single legislative body in which each state would have one vote. Madison objected to the plan on a whole host of counts, not just that of Congressional representation.³ Other opponents of one vote per state, like Elbridge Gerry of Massachusetts, argued that the individual states themselves were artificial entities, had never been independent, and were not now.⁴

OPPOSITE: U.S. Capitol at dusk as seen from the eastern side, photographer Martin Falbisoner, Wikimedia Commons.

¹ Edmund Randolph, “Resolutions Prepared by Mr. Randolph in Convention, May 29, 1787” in James Madison’s *Notes of Debates in the Federal Convention of 1787*. (Athens: Ohio University Press, 1966), 30-31.

² Madison, 204-208.

³ *Ibid.*, 140-148.

⁴ *Ibid.*, 217.

The New Jersey plan was defeated. But the rhetoric decrying the sovereignty of individual states infuriated the delegates from the smaller states. Delaware's delegation threatened to leave the Convention if the states were not treated equally, with Gunning Bedford, Jr. angrily addressing the larger states: "I do not, gentlemen, trust you. If you possess the power, the abuse of it could not be checked, and what then would prevent you from exercising it to our destruction?"⁵ He went on to hint, ominously, that if the small states were not treated as equals, they would find a foreign ally, "who will take them by the hand and do them justice."⁶

A week after Bedford's outburst, Oliver Ellsworth and Roger Sherman of Connecticut (working off an idea that Bedford's Delaware colleague John Dickinson had suggested six weeks before⁷) proposed a bicameral legislature, giving each state two Senators but just a single vote, and establishing a House of Representatives based upon proportional representation.⁸

Madison and others initially opposed the "Connecticut Compromise", arguing that a Senate in which each state had an equal vote was too similar to the failed Articles of Confederation. But two of Madison's allies, Gouverneur K. Morris of Pennsylvania and Rufus King of New York, proposed a further compromise. Instead of the Senators from each state voting as a bloc, each Senator would vote individually. Ellsworth supported the proposal, and the logjam began to break.⁹

The difference in the terms of office of the two bodies also created a dynamic which has given each House a unique role.

Since every Representative is up for election every two years, its members are attuned to the shifting sands of popular opinion. In theory at least, the entire House of Representatives could be replaced in a single election. As a result, members have a strong incentive to pay special attention to the urgencies of the moment and to respond quickly.

Seeking to encourage stability and place a check on any hurried and heated actions by the House, Madison and Randolph initially pro-

posed a seven-year term for Senators. Some wanted even longer terms. Others, like Sherman, thought seven years was too long and ran the risk of Senators losing touch with their states.¹⁰ Eventually, the Convention voted for six-year terms, staggered so that only a third of the body would be up for election every two years.¹¹ This encourages the Senate to take a longer view of public policy, less reactive to the passions of the moment.

The fundamental differences between the two Houses are also reflected in some of their duties. For example, in a nation founded upon the principal of "no taxation without representation," any revenue bills (taxation) must originate in the more democratic House of Representatives. On the other hand, foreign treaties and Supreme Court nominations, which will have consequences well beyond the next general election, must be ratified by the Senate.

Over 235 years, as the nation formed by those disparate states along the eastern seaboard has been joined by midwestern farmlands; northern forests; the Rocky Mountains; southwestern prairies; the coastline of the vast Pacific; and even the Alaskan Wilderness and tropical Hawaiian Islands, the bilateral nature of the United States Congress as set forth in the Constitution has sought – successfully – to balance popular democracy with the interests of an increasingly diverse collection of individual states.

Looking at the United States Capitol building, the two wings appear identical. Inside, it is a very different story, rooted in debates which took place all those years ago.



Terrence K. Wright is a Trustee of the James Madison Memorial Fellowship Foundation, and he currently serves as Chair of the Sesquicentennial Observance of The Civil War on the Delaware Heritage Commission. He is also the current Chair of the Eastern Brandywine Hundred Coordinating Council.



⁵ Ibid., 140-148.

⁶ James Madison. *The Records of the Federal Convention of 1787*, Vol. I, ed. Max Farrand. (New Haven: Yale University Press, 1911), 500-501.

⁷ John Sweeney. *Delaware's John Dickinson: The Constant Watchman of Liberty*. (Dover: Delaware Heritage Press, 2018), 110.

⁸ Farrand, Vol. II, 94-95.

⁹ Ibid., 489-490, 551.

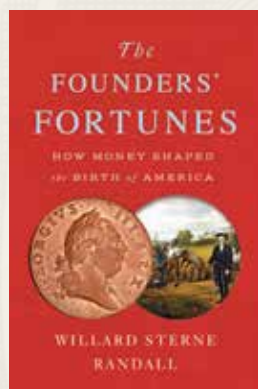
¹⁰ Madison, 110.

¹¹ Ibid., 387.

BOOK REVIEW

It's All About the Benjamins

By Alex E. Hindman, Ph.D.



The Founders' Fortunes: How Money Shaped the Birth of America

By Willard Sterne Randall

Penguin Random House
324 pgs. | \$29.00

George Washington wrote, “A people..who are possessed of the spirit of commerce, who see and who will pursue their advantages may achieve almost anything.” In his new book, *The Founders' Fortunes: How Money Shaped the Birth of America*, Willard Sterne Randall shows that Washington’s statement is more than a platitude. In his informative and engaging read, he concisely indicates the intersection of commerce and public service in the private lives of many leading Framers that profoundly influenced the early history of the American Republic. Their ambitions motivated them to make hard choices in favor of the public interest. Randall’s narrative draws in readers by conveying an inherent relatability of their lives to our own. Like us, the Framers were often anxious about money and saw commercial success as a ticket to social respectability. The desire to “be someone” informed their lives and resonates deeply today. With historically rich detail and newly accessed archival materials on the personal finances of leading figures, Randall shows the Founding generation possessed the same American commercial character of self-interest rightly understood that has come to define the United States.

Randall’s thesis is an extension of an argument first articulated in Charles Beard’s landmark work, *An Economic Interpretation of the Constitution of the United States* (1913). As Randall recounts it, Beard pushes the idea that the Constitution was not “the product of ‘the whole people’ but of economic interests who expected to benefit from it.” Randall seeks to “update Professor Beard’s famous hypothesis by providing a deeper understanding of the financial lives of the Founders, of their interests, and of what acted as the drivers of their decisions.” Of course, finances provide windows into their private ambitions as prominent and economically successful indi-

viduals. But to suggest that money provides the definitive explanation of their lives undercuts the voluminous witness of their writings and many public-spirited actions. While Charles Beard’s economic essentialist argument reduces all of the Framers’ public-spirited accomplishments to private financial motivations, Randall stops short of drawing this conclusion explicitly. Rather than suggest that the Framers were solely motivated by their wallets in framing a government that served the interests of the propertied, he lets his narrative history stand without comment.

One can expect careful precision of thought and a factually rich narrative from Randall, an award-winning feature journalist. He has authored six political biographies of the Framers and is a former distinguished professor at Champlain College. Among his book’s many strengths is that he writes with great insight and lets his readers draw conclusions. Almost like a novel, his prose flows through the lives of the Framers to draw out the narrative histories of their motivations and actions that bring to light similarities between the character of 21st-century Americans and those of the founding generation. Randall makes the Framers relatable and exciting.

Randall follows leading Framers like Benjamin Franklin, George Washington, John Adams, Thomas Jefferson, Robert Morris, and Alexander Hamilton as featured players throughout his book. This work’s compression is another of its strengths. From Franklin’s birth through Washington’s death, readers are taken quickly but comprehensively through a narrative that can introduce younger readers to history many assume they know, all in roughly 300 pages. The interconnectedness of each player— their cooperation, conflicts, rivalries, ambitions, and failed dreams comes to the forefront. The network of the Framers’ crosscutting lives with all their successes and

failures comes through remarkably well in Randall's account.

To the book's benefit, the author permits readers to recognize the depth of the Framers' financial risks, rewards, and cunning business sense. Based on archival materials, Randall went to great lengths to convert the monetary values in the Framers' accounting records to their modern equivalents. In parenthetical references throughout his book, the author never leaves the total monetary amount unconverted to today's inflationary adjusted dollars. The book is rich with detailed research and insightful vignettes. For instance, Randall carefully outlines how all of the leading Framers were land speculators who struggled to encourage their state governments to build the infrastructure which could enhance their investments. Similarly, Randall provides windows into the Framers' humanity, foibles, and quirks.

Throughout the book, a clear description of the Framers' finances and their ambitious plans to better themselves emerges. In the earlier colonial period, British trade policy disadvantaged the colonials and not only harmed their financial stakes but also reminded them of their second-class status as colonials—a key moral indignity that spurred the cause of revolution beyond their economic interests alone. More than merely for their money, the Framers sought independence to reaffirm their natural human equality. In short, British colonial trade policy was a symptom of the larger moral contempt and one that demanded a moral response that extended beyond economics.

Randall's book describes a commercial republic that has always been infused with a profoundly commercial character. The Framers were no different. Calvin Coolidge noted in 1925,

[T]he chief business of the American people is business....Wealth is the product of industry, ambition, character, and untiring effort. In all experience, the accumulation of wealth means the multiplication of schools, the increase of knowledge, the dissemination of intelligence, the encouraging of science, the broadening of outlook, the expansion of liberties, the widening of culture.

Coolidge reminded Americans that wealth and capital are means to beneficial social and cultural ends. While problems of poverty, wealth concentration, inequality, and deprivation can result, and without wealth, none of the benefits of American society would be possible. Financial

motivations enable many good things in American public life.

In this context, one cannot expect that, as Americans, the Framers' character cannot stand entirely separate from their financial motivations. They stood to gain personally from the creation of the American republic. Still, any careful review of their writings and study of the courage of their lives provides evidence of higher, more public-spirited motivations. The danger of focusing too narrowly on financial history is that it can obscure more noble objectives.

Randall does not take his argument as far as he may have intended to align with Beard's earlier work. He stops short of calling money the dynamic element of their motivations. To his credit, he speaks favorably of Forrest McDonald's conclusion that the Framers only gained *modestly* from the formation of the new Constitution. In the end, one cannot escape the fact that 55 individuals pledged their "lives, fortunes, and sacred honor" at the signing of the Declaration and that, at the time, the British punishment for treason was "hanging, drawing, and quartering." To brand themselves traitors under threat of horrific punishment and pledge their fortunes to face down the British Crown is not indicative of good business instincts nor healthy financial risks. Regardless of these dangers, they signed. Their signatures imply motives that run deeper than money, and Randall's account would have benefited from a more formal description of these additional, more virtuous reasons.

During his defense of British soldiers on trial for the Boston Massacre, John Adams noted, "Facts are stubborn things; and whatever may be our wishes, our inclinations, or the dictates of our passions, they cannot alter the state of facts and evidence." Only by understanding the facts and evidence of our nation's history can we make effective judgments about our past and what we must do for our future. Randall has unearthed a wealth of evidence on the Framers' financial lives and has provided a narrative that makes those facts digestible. With clarity, compression, and richness of detail, this is a book worth paying attention to and an eminently enjoyable read.



Alex E. Hindman is Assistant Professor of Political Science at the College of the Holy Cross, where he teaches courses on American constitutional institutions and ideas.

Like us, the Framers were often anxious about money and saw commercial success as a ticket to social respectability.

BOOK REVIEW

Remember the Ladies

By Dr. Jim Pingel, '92 (WI)



Women in George Washington's World

Edited by Charlene M. Boyer Lewis and George W. Boudreau

University of Virginia Press
264 pgs. | \$35

An old-fashioned sentiment still frequently expressed is that behind every great man is a great woman. In George Washington's case, the statement must be amended to end in the plural—*women*.

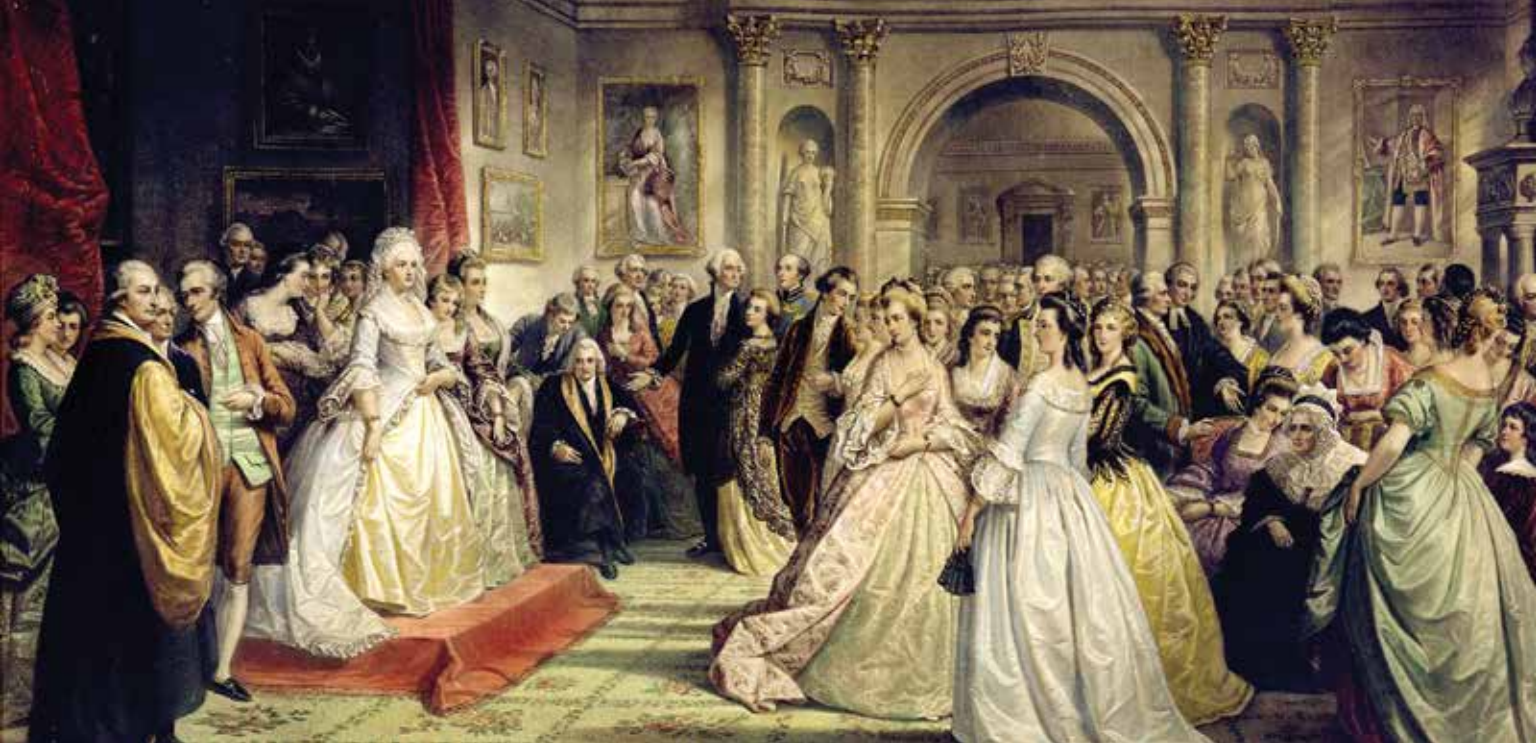
In a delightful and enlightening round of well-researched essays, America's most significant Founding Father is portrayed from multiple perspectives through his interactions with the women in his life. *Women in George Washington's World*, edited by Charlene M. Boyer Lewis and George W. Boudreau, reveals the lives of the fascinating and sophisticated women who not only shaped and influenced Washington in meaningful ways, but are worthy of study and reflection all on their own.

In an introductory essay, George Mason University professor of history Cynthia A. Kierner notes that historians have traditionally analyzed and expounded on the particulars of men while broadly and tediously painting women with a brush of generality. This collection of biographies (or, mini biographies) counters that generic and static depiction of women in early American history. Perhaps more than any other man of his time, Kierner writes, Washington saw women "as distinct beings whose experiences, responsibilities, and talents extended beyond the standard roles of wife, mother, and servant/slave." Whether he was with his own family, on the plantation, in taverns, at dance halls, serving as General of the Continental Army, or in his correspondence with admirers and critics alike, Washington enjoyed the company of women and the many conversations he had with them. He learned from, and *listened to*, women. By studying the lives of the women in the book, and how they intersected and influenced his life, the man and the leader can be better appreciated—for his good works and despite his sins.

Mount Vernon Research historian, Mary V. Thompson, focuses on the relationships between enslaved and free women at Mount Vernon. In addition to the many insightful anecdotes re-

garding Martha Washington's relationships with house slaves and servants, the accounts of the elderly, enslaved people at Mount Vernon sharing Washington's family history through storytelling—long after George and Martha were gone—are delightful and illuminating. For example, a woman known only as "Mammy" praised Martha Washington for her "beauty & good management," but could not understand all the fuss about George: "The general, he was only a man!" she insisted. She agreed that he was "a very good master," but she did not think Washington "was so much better than anyone else." No matter how well-liked Martha appeared to have been at Mount Vernon, however, the enslaved people clearly understood that Martha remained their master and they were her property. After her husband passed away in December of 1799, and fearing for her safety, Martha emancipated her slaves on January 1, 1801—well before they were to be freed according to her will.

Many essays provide fascinating perspectives on various aspects of Washington's military and political vocations. Charlene M. Boyer Lewis's work on Peggy Shippen Arnold, wife of patriot and turncoat Benedict Arnold, reveals how General Washington, as well as Alexander Hamilton and the Marquis de Lafayette, could be manipulated and fooled by the wiles and emotions of a compelling and traitorous woman. When Washington discovered Arnold's treason and entered Peggy's bedchamber at the Robinson House to confront her about the situation (her husband had already fled the scene), she pretended to be in the middle of complete nervous breakdown. Her brother-in-law reported that Washington had "every Reason to believe she is innocent, & Requests all persons to treat her with that Humanity & Tenderness due to her Sex & Virtues." Seeking regular opportunities when he could demonstrate himself as a gentleman and an officer, particularly to women of elite status, Peggy's pitiful situation and exemplar performance persuaded the General of her innocence.



James Basker, the Richard Gilder Professor in Literary History at Columbia University, examines the captivating and mutually respectful relationship between Washington and Phillis Wheatley—an emancipated slave who became known as the “Poet Laureate of the American Revolution.” After Washington became the Commander-in-Chief of the Continental Army, Wheatley wrote to him and extolled his virtues. She sent him a brilliant and patriotic poem which included the lines, “A crown, a mansion, and a throne that shine, With gold unfading, WASHINGTON! be thine.” Washington told a friend that he had hesitated to publish the poem “not knowing whether it might not be considered as a mark of my own vanity, than a compliment to her.” He eventually told her the same thing and invited her to visit him. He would be “happy to see a person...to whom Nature has been so liberal and beneficent in her dispensations.”

Of all the excellent essays in the book, the best is Anne Bay Goodin’s “Invalid Juggernaut: Ann Pamela Cunningham and Her Quest to Save George Washington’s Mount Vernon.” In 1853, Louisa Cunningham, floated past a dilapidated Mount Vernon on bank of the Potomac River. Seeing the sorry state of the grounds and mansion, she lamented her sorrow in a letter to her daughter Anna. It was then that Anna suddenly found her life’s purpose and mission. She began recruiting “Ladies of the South” to help restore the Washington estate. Mostly working from her sick bed with a “tortured, worn-out frame and badly enfeebled mind,” and relying heavily on benevolence of friends and family. Cunning-

ham raised the necessary funds to see that Mount Vernon was restored to its rightful place of reverence. After convincing owner John Augustine Washington III to sell the estate, they signed a contract for Mount Vernon to be given over to the Mount Vernon Ladies Association of the Union on April 6, 1858. Having suffered a series of convulsions on the day of the contract signing, Cunningham remained so weak that she could barely sign the document with her “lifeless fingers.” However, she persevered, and “all was got through.” Not only had she saved Washington’s home and grave, but she had launched the historic preservation movement in the United States.

Women in Washington’s World should be required reading for anyone studying or interested in the life of George Washington and early American history. The essays are absorbing, provocative, and challenge traditional ways of studying women in the early republic. By reflecting on the life and leadership of Washington, the essays do not diminish him, but instead they add much-needed color and background to his life. Like the lives and legacies of these women, there is much to learn and celebrate in this book.

The Republican Court (Lady Washington’s Reception Day), Daniel Huntington, 1861, Brooklyn Museum.



Dr. Jim Pingel is the 1992 Senior Fellow from Wisconsin and currently serves as Adjunct Professor of American History and Dean in the School of Education at Concordia University Wisconsin and Concordia University Ann Arbor (MI).

Foulness, Falsehood, and Infamy

John Quincy Adams and Francis Scott Key Debate Treason

By Guy F. Burnett, Ph.D.

On the afternoon of April 8, 1808, the honorable Senator from the State of Massachusetts, John Quincy Adams, rose and spoke for four hours on the floor of the U.S. Senate, pleading with his fellow Senators to expel a treasonous colleague, John Smith of Ohio. In his speech, Adams reminded his colleagues that no matter how difficult it was to personally expel a fellow Senator and friend, there “is also a duty to the character and reputation of this body; a duty to the State whose representation on this floor has been in part entrusted to him; and a duty to the whole nation whose public servants we are.”¹ Adams was speaking in direct opposition to the accused Senator’s counsel, a young Georgetown lawyer and the future author of the *Star-Spangled Banner*, Francis Scott Key. Three days earlier, Key urged the Senate to reject Adams’s resolution to expel Smith because the accusation had its origins in “foulness, falsehood, and infamy.”² The two formidable opponents gave blistering speeches filled with Constitutional interpretation, reason, precedent, history, and sarcasm, in their desperate attempts to sway the final vote on the resolution.

Senator John Smith of Ohio was accused of having conspired with former Vice Presi-

dent Aaron Burr, a notorious scoundrel, rogue, brigand, and – as Alexander Hamilton learned – a crack shot. Instigated by President Thomas Jefferson, the treason trial of Aaron Burr in the summer of 1807 was presided over by U.S. Supreme Court Justice John Marshall, and was intensely followed by the entire nation. When Burr was acquitted in September 1807, he left the country for a long, ignominious exile in Europe. Left behind were Burr’s many friends and associates who had been a part of *something* in what was then the western frontier of the United States along the Ohio and Mississippi Rivers. The goal of the conspiracy (if that is what it was) was never discovered, but rumors and accusations abounded. One of Burr’s closest associates wrote directly to Jefferson and informed him that Smith, who had always been a loyal supporter of the President, had been involved in the conspiracy. Nonetheless, Jefferson still had a duty to the nation, as well as his own public image to uphold, and he relayed the accusation of Smith’s treason to the Senate in November 1807.

The expulsion trial in the Senate lasted from November 1807 through April 1808, and was covered in newspapers across the country because of its connection to the sensational Burr conspiracy.

The author would like to thank Dr. Kevin Hardwick, Dr. Terri D. Halperin, and Dr. Jeffrey Morrison for their help and advice in writing this article.

¹ “April 8, 1808,” *The Debates and Proceedings in the Congress of the United States*, (Senate, 10th Congress, 1st Session) (Washington: Gales and Seaton, 1852), 265.

² “April 5, 1808,” *Debates*, 187.

Over the course of those seven months, careers were made and destroyed, party allegiances were changed, and questions about the Constitution were hotly debated. The two opponents squared off in the Senate, debating not only Smith's guilt or innocence, but also how to interpret the Constitution's treason and expulsion clauses.

Introduction

Ohio had only recently become a state in 1803, but it was already embroiled in the Aaron Burr conspiracy which began in 1806. Burr was widely believed to have masterminded and led a treasonous conspiracy to either start a war with Spain to gain more land, help Spain regain its land lost in the Louisiana Purchase, or separate the western states and territories from the Union and begin a new nation. All of these charges may be true, or they may be utterly false. Only speculation exists about the conspiracy's purpose – or even if it was a conspiracy. Regardless, there was something going on in the western states. Popular opinion reached a fever pitch in the spring and summer of 1807 when Burr was arrested and brought to Richmond for a sensational federal tri-

al.³ Jefferson met with his former vice president, Burr, in November 1805 at a private dinner. Burr threatened him, saying “he could do me [Jefferson] much harm: he wished however to be on [different] ground,” and then asked the president for an appointment as an ambassador.⁴ Jefferson heard rumors over the next several months about a Burr conspiracy, and then received a ciphered letter (complete with translation) from an ex-conspirator.⁵ News of these strange schemes and plots worried Jefferson, since only a few years earlier in 1803, he had urged Congress to purchase the vast western territory of Louisiana from Napoleon Bonaparte. The President had replaced Burr as vice president during the 1804 presidential election after the Twelfth Amendment to the Constitution was ratified. With evidence mounting, Jefferson set the nation aflame by writing to Congress and proclaiming that Burr was guilty of treason in January 1807.⁶

The President ordered the arrest of the two alleged conspirators who had delivered the cipher letter to his informant. Dr. Erich Bollman and Samuel Swartwout were taken to Washington, D.C. to stand trial for treason.⁷ He personally questioned the witnesses along with his note-taker, Secretary of State James Madison, and began

³ R. Kent Newmyer. *The Treason Trial of Aaron Burr: Law, Politics, and the Character Wars of the New Nation* (New York: Cambridge University Press, 2013), 69. John Marshall was not acting in his capacity as Chief Justice of the Supreme Court, since this wasn't a Supreme Court case. Instead, as Justices often did when the Supreme Court wasn't in session, he was “riding circuit” which meant he would sit and preside as a federal judge in U.S. Circuit Courts of Appeals trials.

⁴ Dumas Malone. *Jefferson and His Time, Volume Five: Jefferson the President: Second Term, 1805-1809* (Boston: Little, Brown and Company, 1974), 234-236; Newmyer, 26.

⁵ James E. Lewis, Jr. *The Burr Conspiracy: Uncovering the Story of an Early American Crisis* (Princeton: Princeton University Press, 2017), 3. The ex-conspirator, General James Wilkinson, showed himself to be an unreliable source of information as the trial progressed.

⁶ Newmyer, 28.

⁷ Both men had fascinating and irregular stories. Samuel Swartwout was an old friend of Burr's who had been present when Burr shot Hamilton and helped him escape that day. The two were together most of the time thereafter. Dr. Erich Bollman was originally a medical student from Hanover (Germany) studying in Paris during the Revolution. On a trip to London, he was introduced to Charles Cotesworth Pinckney and the sister of Alexander Hamilton who implored him to help them find and free the imprisoned Marquis de Lafayette, who had been captured by the Austrian Empire while fighting for France. Bollman, as a German, was able to search for Lafayette behind German lines. He found that Lafayette was being held in the Olmutz prison in Austrian Moravia (modern day Czech Republic). Bollman made friends with the prison doctor and passed Lafayette secret messages using invisible ink. He and a friend tried to free Lafayette by bringing him a horse during an outside walk and putting the reins in his hand and telling him to ride. Lafayette didn't quite hear him and was confused, and shortly thereafter was taken back to prison as Bollman rode off and fled to London where he made his escape to America. With a letter of gratitude from his sister, Alexander Hamilton presented Bollman to President Washington and he was acclaimed a hero. At some point thereafter, he made the acquaintance of Vice-President Aaron Burr, and followed him out West. (Cf. Victor Weybright, *Spangled Banner: The Story of Francis Scott Key* (New York: Farrar & Rinehart, 1935), 50-53.) After being freed by Napoleon and upon hearing about “the man whose life has been nobly risked to rescue me from captivity” being imprisoned in Washington for treason, he personally wrote President Jefferson to ask for his release. He was unaware that Bollman had been acquitted months earlier (“To Thomas Jefferson from Marie-Joseph Paul-Yves-Roch-Gilbert du Motier, Marquis de Lafayette, 29 April 1807,” *Founders Online*, National Archives, accessed at <https://founders.archives.gov/documents/Jefferson/99-01-02-5526>).



John Quincy Adams, John Singleton Copley,
1796, Museum of Fine Arts (Boston).

to build a case against Burr.⁸ However, one Washington attorney objected that the prisoners were being held without knowing the charges against them - a direct violation of the Constitution's *habeas corpus* protection.⁹ Bollman and Swartwout hired attorneys Charles Lee, Robert Goodloe Harper, Luther Martin, and the one young lawyer who "appeared immediately in their behalf," Francis Scott Key.

Born to a prominent Maryland family, Francis "Frank" Scott Key was recently married and had three children who he was personally educating, in addition to his legal practice.¹⁰ Having recently moved to Georgetown, he had followed his former loyalist uncle, Phillip Barton Key, into law in Washington, D.C. After his uncle left the practice to pursue a career in politics, Key inherited his practice and steadily began to build up his own clientele. He was a natural trial attorney and his "firm, sonorous, mellow" voice, blue eyes, and "striking, erect, six-foot figure" helped him hold the attention of judges and juries.¹¹ One observer said, "In his more impassioned moments it was like lightning charging his sentences with electrical power."¹²

In their defense before the U.S. Supreme Court, Key, Harper, Lee, and Martin focused on the strict definition of treason, while the government's attorneys pursued a more broad reading. Key argued that the definition of treason in the Constitution limited what charges the government could prosecute. He pointed out that Article III, section 3 of the Constitution states, "Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort." The important word in the clause was the limiting word *only*. He argued that the Framers knew that the King and Parliament had used the crime of treason to silence dissent in their own realm. During the reign of King Edward III, England enacted the Treason Act of 1351 which made it a crime to "*imagine* the Death of our Lord the King, or of our lady his Queen or of their eldest Son and Heir."¹³ This created a legal doctrine known as *constructive treason*. He argued that by using the word *only* in the Constitution, the Framers emphasized that only non-constructive treason, or *direct treason*, could be considered. Constructive treason was unnecessary in the United States, he argued, because the basis of the government was "the affection of the people" as opposed to monarchy or despotic government "whose foundation is fear."¹⁴ *Conspiracy* to levy war was not actu-

⁸ Newmyer, 48.

⁹ Article I, sec. 9, cl. 2: "The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it."

¹⁰ *Ibid.*, 48.

¹¹ *Ibid.*, 45; F.S. Key Smith, Francis Scott Key, Author of the Star Spangled Banner: What Else He Was and Who (Washington: National Press, Inc., 1911), 92.

¹² *Ibid.*, 45. Once he was hired on the case, Key immediately wrote to Secretary of State Madison asking for "admittance to consult with [Swartwout] as his Counsel." Cf. "To James Madison from Francis Scott Key, 1807," Founders Online, National Archives, accessed at <https://founders.archives.gov/documents/Madison/99-01-02-1233>.

¹³ Treason Act 1351, 1351 Chapter 2 25 Edw 3 Stat 5, found at legislation.gov.uk, accessed October 11, 2022 (italics added).

¹⁴ *Ex Parte Bollman and Ex Parte Swartwout*, 8 U.S. 75 (1807), found in

ally levying war or adhering to enemies, and in the *Bollman* case, it was unclear that the accused even knew they were involved in a treasonous plot. Key argued that freedom of speech in a republican form of government will always breed conspiracy and treasonous thoughts. As Publius put it in *Federalist No. 10*, “The latent causes of faction are thus sown in the nature of man; and we see them everywhere brought into different degrees of activity, according to the different circumstances of civil society.”¹⁵ To arrest and try so-called conspirators before treason had been committed violated the letter and spirit of the Constitution.

The Supreme Court ruled in favor of Key’s clients, and Chief Justice Marshall, writing for the Court, cited Key’s reasoning in his opinion. He wrote that in order to bring a charge of treason, “war must be *actually* levied against the United States” and that no matter how serious the conspiracy seemed, if it remained only a conspiracy, it did not rise to the level of treason. He wrote, “To *conspire* to levy war, and *actually* to levy war, are distinct offenses.”¹⁶ Bollman and Swartwout were released, but both Marshall and Key would soon return to the Burr conspiracy.

Burr was arrested in March 1807 and brought before a grand jury in the U.S. Circuit Court in Richmond, Virginia. In a sensational trial that included testimonies from top Army officers in the western states (including a young Lieutenant Andrew Jackson), conspirators, and other colorful characters, Burr was indicted by a grand jury on the charges of treason and a high misdemeanor “for organizing military action against Spain in violation of the Neutrality Act of 1794.”¹⁷ Jefferson oversaw the government’s prosecution, and he instructed the prosecutors on how to proceed. Burr’s lawyers included some of the best legal minds in the country, including Constitutional Convention delegate and Maryland Attorney General, Luther Martin.¹⁸ Burr was acquitted of both charges and left for Europe after an intense and vitriolic trial that lasted several weeks. Marshall once more wrote the opinion, clarifying his own opinion in *Bollman*. As soon as the opinion was read, Marshall “galloped to the [Blue Ridge] mountains”, knowing popular sentiment in pro-Jefferson Richmond would not permit him to stay.¹⁹

The President was warned in early 1807 that U.S. Senator and Army contractor John Smith of Ohio was heavily involved in the conspiracy.²⁰ Jefferson’s annual message to Congress on October

Reports of Cases Argued and Adjudged in the Supreme Court of the United States, In the Years 1807 and 1808 (Vol. IV) (Flatbush: I. Riley, 1809), 112.

15 Publius, “Federalist No. 10” in *The Federalist Papers*, ed. Charles R. Kesler and Clinton Rossiter (New York: Mentor, 1999), 47.

16 *Bollman and Swartwout*, 126 (italics added).

17 *Ibid.*, 69.

18 Martin and Burr remained friends for the rest of their lives. Soon after Burr returned to America in 1812 after spending years traveling around Europe and even asking Napoleon Bonaparte for help (which was denied), he helped his alcoholic and by-then penniless friend Martin by letting him stay with him at his New York City home. Martin died in Burr’s home on July 10, 1826. See also: Nancy Isenberg’s *Fallen Founder: The Life of Aaron Burr* (New York: Viking Penguin, 2007), 271-404.

19 Albert J. Beveridge. *The Life of John Marshall, Volume III: Conflict and Construction 1800-1815*, (Boston: Houghton Mifflin Company, 1919), 529.

20 “To Thomas Jefferson from Matthew Nimmo, 23 January 1807,” *Founders Online*, National Archives, accessed at <https://founders.archives.gov/>



Francis Scott Key, Joseph Wood, 1825, Walters Art Museum.

City of Washington from Beyond the Navy Yard, George Cooke, 1833, White House Historical Association.



17, 1807 described the trial in Richmond and contained a promise to send over all of the documents and evidence from the case. On November 23, the President sent the documents, several of which included references to Smith. Five days later, the Senate created a committee to “inquire and report...their opinion whether John Smith, a Senator from the State of Ohio, ought not to be expelled from the Senate” for having taken part in the conspiracy.²¹ Seven senators, including John Quincy Adams, were appointed to the select committee.²²

The son of former President John Adams, 41-year-old John Quincy Adams already had a long and distinguished career in public service. He had served as the U.S. ambassador to the

Netherlands and then Prussia. He was appointed a U.S. Senator in 1803 and as a prominent Federalist in the Senate, he was finding himself increasingly in the crosshairs of the growing numbers of Democratic-Republican Senators.

Serving as chair of a committee considering both the treason and expulsion of a fellow Senator was a difficult role for Adams, who knew and liked Smith. In his diary, he wrote,

The situation in which I have now been placed, as chairman of this Committee on the case of John Smith is so full of difficulty and embarrassment that I would shrink from it, if consistently with my sense of duty I could – It absorbs all my faculties and calls

documents/Jefferson/99-01-02-4933.

²¹ “Friday, November 27, 1807,” *Debates*, 39.

²² *Ibid.*, 42.



for so many more, that I can rely only on Providence to conduct me through the real path of right – Justice – of Virtue.²³

Despite the difficulty and embarrassment, the following day he began to pore over the court documents. He read volumes of court proceedings, including oral arguments, witness testi-

monies, letters and manuscripts, attorney arguments, and judicial decisions over the course of the month. The committee called witnesses and read affidavits for both sides.²⁴ He continued to work tirelessly throughout December, reading, summarizing, and debating the evidence with members of the committee.

On December 31, Adams reported the committee findings to the Senate in a that he authored. The committee report declared that Smith was guilty of treason and conspiracy. The report ended with a motion:

Resolved, That John Smith, a Senator from the State of Ohio, by his participation in the conspiracy of Aaron Burr against the *peace, union, and liberties*, of the people of the United States, has been guilty of conduct incompatible with his duty and station as a Senator of the United States. And that he be therefor, and hereby is, expelled from the Senate of the United States.²⁵

The Senate debated the report and the proper form of a Senate trial over the next several months. Smith was given the chance to procure counsel for his defense, which had never been allowed before.

Months of arguments took a toll on Adams. Although he remained collected in the Senate, his diaries show that the debates were eating at him. He was surprised at how much “unusual virulence” senators were using to attack his report. He soberly wrote in his diary, “It is indeed a fiery ordeal that I have to go through – God speed me through it.”²⁶ Adams was on the defensive throughout the expulsion trial, because although Smith was the one on trial, it was the conclusion of his report that was being debated in the Senate, and he took it personally.

Meanwhile, Smith sought out the lawyers in Georgetown who had successfully defended the other suspected Burr conspirators in the Supreme Court. Key had become a popular

“It is indeed a fiery ordeal that I have to go through – God speed me through it.”

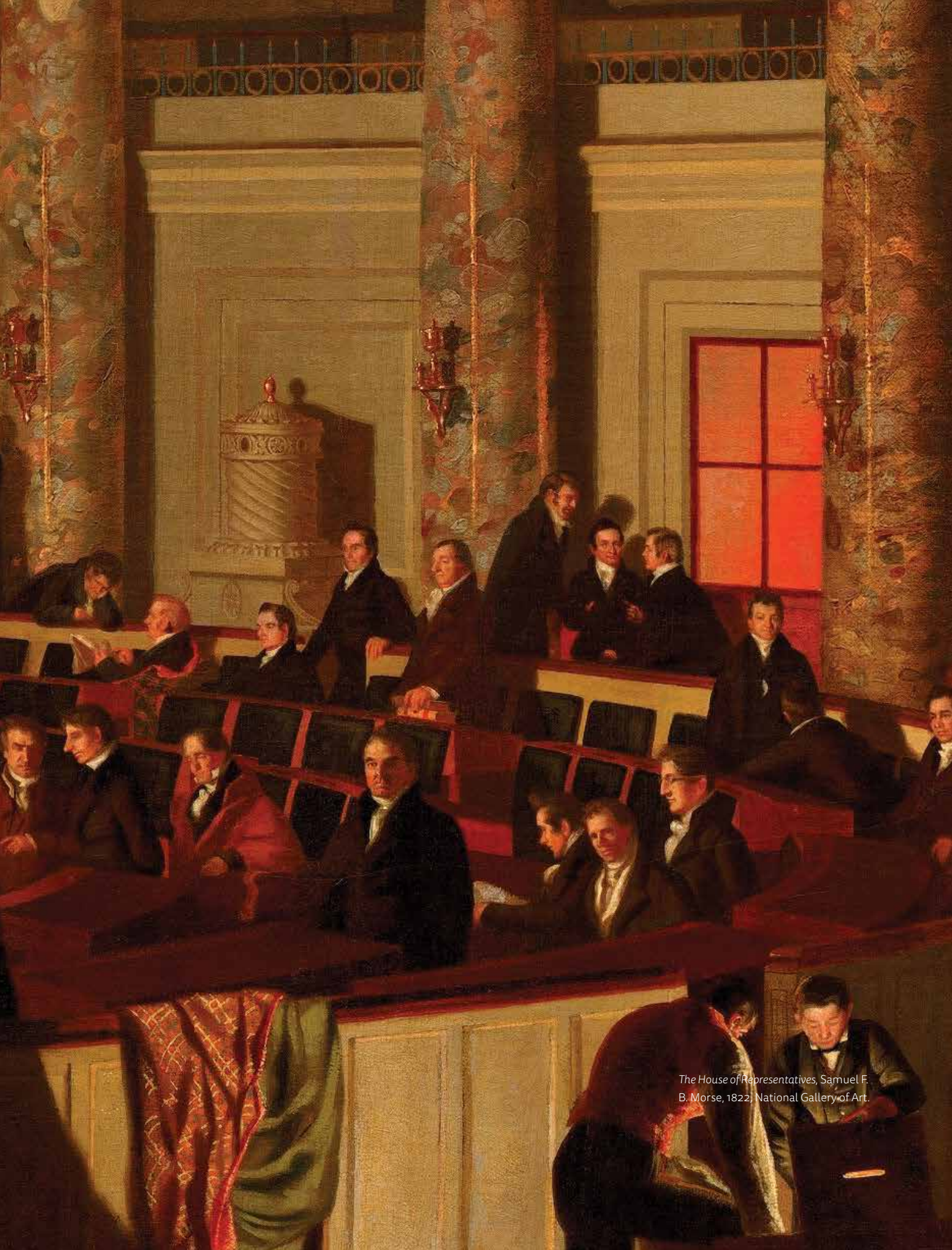
²³ Adams, *Diary*, “29 November 1807.” Even though he believed his duty and the “real path of right” called him to take his role seriously, he did not relish it. He wrote to his father several days after being elected Chair: “A Committee of seven was raised of which I have the misfortune to be Chairman” (John Quincy Adams, “To John Adams from John Quincy Adams, 30 November 1807,” *Founders Online*).

²⁴ Adams, *Diary*, “5 December 1807.”

²⁵ “December 31, 1807,” *Debates*, 56-62. Although the report does not mention it, Adams noted an allegation that Smith had, since he had been Senator, taken an oath of allegiance to the King of Spain. Strangely enough, in a letter to the President dated July 6, 1807, Smith had written to Jefferson, warning him that General Wilkinson was “in Spanish pay” and had been for years. Jefferson kept the letter to himself, however, which would no doubt have dealt a crushing blow to the Burr trial which was still going on at that time. cf. Dumas Malone’s *Jefferson and His Time, Volume Five: Jefferson the President: Second Term, 1805-1809* (Boston: Little, Brown and Company, 1974), 361-362.

²⁶ Adams, *Diary*, “7 January 1808.”





The House of Representatives, Samuel F. B. Morse, 1822; National Gallery of Art.

figure on the Washington social scene, and his law practice had grown and thrived since *Bollman* several months earlier.²⁷ Smith enlisted Key and his former co-counsel, Luther Martin. However, on January 13, when Key was confirmed by the Senate, Martin was not. No explanation was given for Martin's rejection. Smith then enlisted Federalist attorney Robert Goodloe Harper, who was another of Key's co-counselors in *Bollman*.²⁸ The Senate gave Smith until March 1 to gather evidence in his defense and he rode back to Ohio to begin the slow process of producing affidavits discrediting his accusers.

Treason and its Critics

The Senate took up the question of treason while awaiting Smith's return. Since they had access to the evidence and case files in the Burr Trial, and they had Marshall's opinion in *Bollman*, they took a serious look at the definition in the Constitution. A committee was formed to write a bill "for the punishment of treason and other crimes," but in reality, it was a subterfuge to rewrite the treason clause. Senator William Branch Giles of Virginia proposed legislation on February 11 that would have added and altered the Constitution's language.²⁹ The bill was constructed to correct what the Senate thought was the reason Burr escaped punishment. Marshall had declared in his circuit court opinion that two overt witnesses had not been found to corrob-

rate the act of treason and therefore the Constitutional threshold had not been met.³⁰ By ensuring that the traitor (1) did not need to be physically present, and (2) resisted "any public law," the bill ensured conspirators like Burr could still be found guilty. Marshall had broached the subject of physical presence in both *Bollman* and the circuit court case, but had only offered possibilities, never anything concrete.

As soon as the bill was read, the Senate hotly debated the meaning of treason in the Constitution and how much power they had to broaden it. Several Senators argued that it was up to Congress to further define and interpret treason – not the Judiciary Branch – because the Constitution had tasked Congress with punishing treason.³¹ In order to punish the crime, they reasoned, they must first define what the crime is.³² Other Senators argued that the Constitution should be strictly followed to the letter and only the requirements found in Article III, section 2, clause 1, should be the standard. The Constitution was a *limiting* document and no embellishment by Congress could be legal. If Congress redefined treason, it would be "afloat on a boundless ocean, without anything to guide or restrain us but our own will, whim, and caprice."³³ Adams records that the bill was read a second time, but there is no record of the speech in the Congressional debates.³⁴ The specifics of it after initial debates are lost, although we do know that it was changed from treason to "a Bill for the punishment of certain crimes," and that it had passed 18 to 12.³⁵

27 Weybright, 44. Georgetown and Washington were not large areas, and both men were Federalists. It is likely that Key and Adams attended the same dinner or met at some point, but there is no evidence.

28 "January 13, 1808," *Debates*, 81.

29 "February 11, 1808," *Debates*, 108-109. The bill read as follows: "Be it enacted, &c., That if any persons owing allegiance to the United States of America, shall levy war against them, by assembling themselves together with intent forcibly to overturn or change the Government of the United States, or any one of the Territories thereof, or forcibly to dismember the said United States, or any one of them, or any one of the Territories thereof, or forcibly resist the general execution of any public law thereof, or forcibly to take possession of, or hold any public law thereof, or forcibly take possession of, or hold any fort, magazine, dock, navy yard, or any public vessel of the United States, or to forcibly invade or hold any part of the United States, or of the Territories thereof, against the authority of the United States, or if any person or persons shall traitorously aid or assist in doing any one of the acts aforesaid, although not personally present when any such act is done or committed, and being convicted of any or more of the aforesaid acts, on confession in open court, or on the testimony of two witnesses to the same overt act of treason, whereof he or they may stand indicted, such person or persons shall be judged guilty of treason against the United States, and shall suffer death."

30 "Appendix," *Debates*, 621-636.

31 Art. I, sec. 8, cl. 18; Article III, sec. 3, cl. 2: "The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted."

32 "February 11, 1808," *Debates*, 111-127.

33 "February 24, 1808," *Debates*, 135-149.

34 Adams, *Diary*, "1 March 1808."

35 Adams, *Diary*, "6 April 1808." The bill did not have a hearing in the House of Representatives and died in limbo between the Senate and House. Dumas Malone writes, "Redefinition of treason was proved impracticable if not

On March 16, weeks after he was originally supposed to begin his defense, Smith was nowhere to be found. He was still riding throughout the countryside gathering witness testimony that he would send in sworn affidavits to Key and Harper. The two lawyers submitted a request to hold off on beginning the trial in order to give their client time to gather witness testimony. Before making his request, Key had privately approached Adams and asked for more time for his client, and he came away believing “there was no doubt of an indulgence until the 1st of April.” When Adams heard of Key’s expected indulgence in the open Senate, he quickly jumped up to set the record straight. He argued he had not promised a postponement, only that he would bring it up in the Senate. Key, he said, “*must* have misunderstood him.” Key was caught off-guard, apologized, and quickly said that he “*might* have misunderstood the gentleman.” Arguments raged for the rest of the day but in the end, Smith was granted a postponement until April 1.³⁶ Key’s first foray into the Senate had been successful, but Adams had served notice on the young lawyer that he would have to fight every inch of the way.

When April 1 approached, much to Key’s embarrassment, Smith was still nowhere to be found. Key and Harper knew that further stalling would be useless and were prepared to begin reading affidavits discrediting Smith’s accusers. Before Key was able to get any words out, Adams immediately interrupted and asked the Senate if it would not be better to have the attorneys prove why the Senate *should not accept* the findings of the committee report instead of discrediting the accusers. Since the debate in the expulsion trial was ultimately over the expulsion resolution attached to the report, it was necessary to prove why the report was wrong. Adams knew that he would have the advantage if he forced Key and Harper to disprove his research. He had spent months carefully looking at each trial document and had discussed and debated every possible angle with his Senate colleagues on the committee. He knew the facts of the case as well as anyone and wanted to force

Key into arguing against his conclusions.³⁷

Clearly, Adams had a shrewd mind, and after five years in the Senate, he knew the game better than anyone, but he was not on a personal vendetta against the Smith, who he described as “a friend and a brother.”³⁸ Both men had served together in the Senate for five years. Adams knew that the Federalists neither liked nor trusted him by that point, and the trial was enraging them even further. They further distrusted him for his continuing agreement with the Democratic-Republicans and the Jefferson administration on many issues, including the Embargo Act of 1807. By the time of the trial, he had “entered a no man’s land between the parties.”³⁹ Attacks in the press and in public had grown vicious against him, he told his brother, and they were “very assiduous in the common routine of slander and invective.” Not all was bad, however, he had made friends with some of the Democratic-Republican Senators and enjoyed “a standing of Consideration in the Senate, certainly more distinguished than [he] ever before possessed.”⁴⁰

Key Protests

On April 5, the Senate resumed the trial, this time with Smith in attendance. Key made sure Adams knew he would not back down by rising immediately to show why the report of the Committee should not be adopted.⁴¹ But before launching into the evidence, he began with a protest over even having the trial in the Senate. He reasoned that because the crime was indictable in a court of law, the Senate had no right to a trial using anything but legal due process. His client would lose his Constitutional rights if the Senate continued to ignore all the safeguards of the centuries-old rules and procedure of the courts. Key argued that the entire trial that Adams was leading was itself unconstitutional. Such a personal shot at Adams got his attention. Although his diary does not include anything more than compliments for “Mr. Key,” his speech several days later

A “jury” of Senators is anything but impartial, as the Constitution – and reason – requires.

impossible. Even to many who regarded the Marshall interpretation as too restrictive this seemed better than one that was too broad” (369).

36 “March 16, 1808,” *Debates*, 167-170 (italics added).

37 “April 1, 1808,” *Debates*, 178-180.

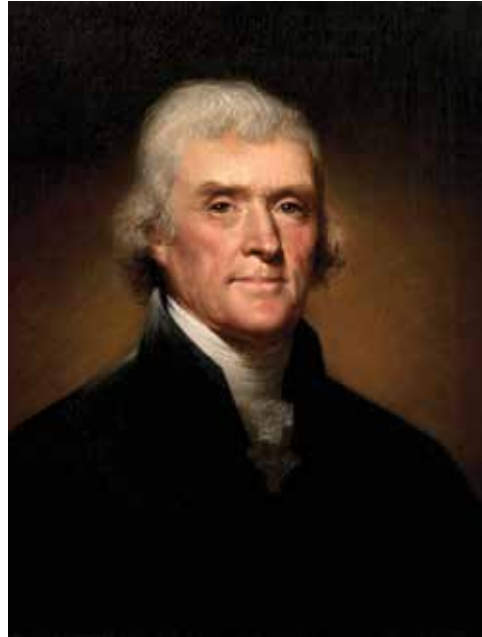
38 “April 8, 1808,” *Debates*, 265.

39 Robert R. Thompson, “John Quincy Adams, Apostate: From ‘Outrageous Federalist’ to ‘Republican Exile,’ 1801-1809,” *Journal of the Early Republic*, Vol. 11, No. 2 (1991): 177-183.

40 “From John Quincy Adams to Thomas Boylston Adams, 6 February 1808,” *Founders Online*.

41 “April 5, 1808,” *Debates*, 187.

Thomas Jefferson, Rembrandt Peale, 1801, White House Historical Association.



contained direct references to what Key said, including a sarcastic rebuttal to his entire protest.⁴²

Key argued that there were three reasons why the Senate did not have the power to try an indictable case as part of its expulsion power. The first was that it ran rough-shod over the Constitution in two places. He pointed to the Fifth Amendment which promised “No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury.”⁴³ He also pointed to the Sixth Amendment, which states, “In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed.” Both amendments pointed out that in a trial, certain rights had to be afforded the accused. If the expulsion trial was a criminal trial, Smith was afforded due process according to the Constitution. Since the case was over an indictable offense (by a grand jury), and it was searching for guilt or innocence, it became “a judicial tribunal.” Key then asked what exactly a judicial

tribunal was, if not that “which investigates a criminal accusation, and forms and pronounces a judgment upon its truth?” There had been no grand jury, nor had there been a “speedy trial” since it had already dragged on for six months. Smith was owed his due process because the expulsion case was indeed a criminal trial.

For his second reason, Key claimed that reason itself was against such a trial. Holding any kind of trial before the facts were established by a court was bound to be tainted by bias. Senators were both (a) members of a political party, and (b) appointed by state legislatures, making them biased in favor of both. If the senator on trial was from another party, he would naturally be in the cross-hairs of his opposition, who would be glad to get rid of him. He argued that a “jury” of Senators is anything but impartial, as the Constitution – and reason – requires. For those who argued that being expelled was nothing like a punishment that courts hand down, the expulsion, Key pointed out, would still taint juries across the nation and would ruin the man’s life as he became deeply unpopular everywhere. “There was little difference,” he said, “between punishing a man without a trial and destroying the purity of that trial.” Besides that, he asked the Senate, what kind of attention could they give the trial when they had other, more pressing legislative activities to look after? Instead, it can reasonably be seen that courts were the natural place for such trials “for they have nothing else to do.”

Lastly, he made an argument that precedent had shown that the Senate had not taken up similar expulsion cases when they included indictable offenses. He cited the cases of Senators Marshall and Blount as two instances. In the case of Senator Marshall, he was charged with perjury, which was an indictable offense, and because it was indictable, it was dropped. In the case of Senator Blount, he was investigated for having written a letter, which, “although highly improper and reprehensible,” was not indictable and was therefore acceptable.⁴⁴

He reminded the Senate that the people of Ohio had appointed Smith to the Senate and Key

⁴² Ibid.

⁴³ In the floor speech, Key calls the Fifth Amendment the “seventh amendatory article” and the Sixth Amendment “the following article” (i.e. Eighth). When Congress sent the first amendments to the Constitution to the states for ratification in September 1789, amendments were known as the “amendatory articles” and originally numbered twelve. The first two amendatory articles were not ratified by the required number of states, but the third through twelfth were. The numbering was therefore changed to match the ratified amendments, the seventh became the Fifth Amendment, and the eight became the Sixth Amendment. Cf. David E. Kyvig, *Explicit and Authentic Acts: Amending the U.S. Constitution, 1776-1995*, (Lawrence: University Press of Kansas, 1996), 463-465.

⁴⁴ Senator Humphrey Marshall (KY), 1796; Senator William Blount (TN), 1797. The Senate did not expel Marshall, but they did expel Blount.

recommended that the senators think carefully about smearing him with “the most odious punishment.” He told the chamber that he still intended to make his arguments for Smith’s defense which would focus exclusively on testimony. He used the rest of his allotted time to discredit Smith’s accusers. Two specific witnesses to the Burr conspiracy, his former clients Bollman and Swartwout, had never said a thing to him about Smith – and having a U.S. Senator in league with them should have been something to disclose, if only to shift the blame. Key used the collected affidavits to convincingly paint a portrait of accusers who could not be trusted.

In his closing remarks, he laid a trap for Adams by admitting Burr could be guilty of all the charges leveled against him because of the “correctness of the information collected by the honorable committee on this subject, and so eloquently detailed in their report.” Burr could also be guilty, he reasoned, and the committee report could be correct on their conclusions about the conspiracy’s plans, but Smith, he argued, was either completely ignorant of the plans or an unwitting participant. He knew Adams would now need to show why, in the face of the Constitution, reason, and precedent, the Senate could try Smith for an indictable crime, and how he *knew* Smith was a willing participant in the plans of Burr based on witness testimony of completely discredited men. He reminded the Senate how good a Senator and friend Smith had been, and he hoped they would “not inflict a punishment like this...without the most confirmed conviction of its justice.”⁴⁵ He closed by saying, “I can fancy no tortures more dreadful, no execution more ignominious, than that to which he must submit, whose infamy is proclaimed to the nation...[and] to the inconsolable agony of a disgraced and distracted family.”⁴⁶ Exhausted after such a long and passionate speech, Key took his seat. The Senate sat silently and then adjourned for the day.

Later that night, Adams recorded in his diary, “Mr. Key...in an *ingenious* argument of four hours commenced his defence [sic].”⁴⁷ The speech showed Adams that Key was not the frightened young lawyer in over his head in the Senate, but

was instead an “ingenious” orator who understood the material and could discourse on the Constitution with convincing and insightful arguments. After Key’s co-counsel Harper gave a long and powerful speech the following day on many of the same principles, Adams wrote in his diary that “Mr. Harper” and “Mr. Key, attacked the principles of the Report of the Committee *with great force*— He also commented with much ability upon the Testimony, and examined all the points of Evidence.”⁴⁸ Adams must have given his own rebuttal a second thought because he wrote in his diary that he “Spent the Evening at home; writing.”⁴⁹ He continued to collect his thoughts and write notes over the next few days.

Adams Replies

The Senate postponed discussion until Friday, April 8, when John Quincy Adams rose to offer a thorough rebuttal to Key and Harper. He began his speech by calling Key and Harper “ingenious” and “learned,” but also “two such powerful *ad-*



Aaron Burr post-failure, John Vanderlyn, probably 1803, Wikimedia Commons.

⁴⁵ “April 5, 1808,” *Debates*, 187-207.

⁴⁶ *Ibid.*, 206-207. Weybright describes Key as having much more of a sentimental appeal to his audiences in the courtroom than logic: “His oratory and personal charm exceeded his logic. He neglected to pierce fallacies with reason. His countenance, calm and expressionless in repose, now betrayed his sentimentality. Like a tragic actor, when he threw his whole soul into a speech, his face reflected how deeply he was moved” (44-45).

⁴⁷ *Ibid.* (italics added).

⁴⁸ Adams, *Diary*, “6 April, 1808,” (italics added).

⁴⁹ Adams, *Diary*, “5 April, 1808.”

OPPOSITE: *View of the Capitol*, Charles W. Burton, 1824, The Metropolitan Museum of Art.

“But there is also a duty to the character and reputation of this body; a duty to the State whose representation on this floor has been in part entrusted to him; and a duty to the whole nation whose public servants we are.”

versaries.”⁵⁰ He said he was glad that the entire report had been examined and argued so thoroughly because in rebutting their arguments, he could give a full-throated defense of the Constitutional principles contained in it. Adams structured his own remarks on the exact same framework as the “ingenious” Key: the Constitution, reason, and precedent.

Adams took a strict textualist view by saying that the expulsion clause contains nothing about *how* the Senate can go about its expulsions: “there is no such limitation in the letter of the Constitution; there is none such in its spirit.” He reminded the Senate that in the impeachment trial of Justice Samuel Chase, the Senate held that nothing could be impeachable if it was not indictable and a trial court was not the only place to conduct a criminal investigation. He then took direct aim at Key’s reasoning on the Sixth Amendment. All criminal cases were certainly not tried by impartial juries or given speedy trials. For example, Adams explained, members of the military were not given impartial jury trials, but were instead given courts-martial. Citing Montesquieu, he noted that there are different rights in government: *civil rights*, or those of each citizen, and *political rights*, which are those “which we enjoy as partakers of the public power; as members of the sovereignty.” The Sixth Amendment did not apply in this case because as a public officer, Smith was held to a different set of rights. Instead, “trial by jury is secured for the decision of questions arising from what the elementary writers on government call *civil rights*.”⁵¹

Reason dictated that the Senate could not proceed any differently than it had. If a trial had to be held in criminal court for one of its members, there was no provision in the Constitution for the member’s disposition during the lengthy court proceedings. In other words, there was no provision on how to *sequester* a member of the Senate. Federal trials can take months or even years. In the meantime, Adams argued, the senator would be sequestered in court or gathering evidence, which unduly deprives a state of its full voice in the federal government. At that point, he argued, “if the object were to deprive Mr. Smith of his seat for the remainder of his term, the process would answer as effectually as the adoption of the [committee’s] resolution.” Sending a Senator to trial in a federal court would be the same as ex-

pellling him until the trial was concluded – only after which the Senate would then have to have another trial for his expulsion if he was found guilty. Surely, it was more in harmony with the Constitution to allow the Senate to quickly expel the offender so that a state could fill the vacancy and retain its full voice.⁵²

Adams then remarked, “There was one other observation of the same gentleman (Mr. Key) contesting a position in the report of the committee.” Adams then said that Key had misunderstood yet again. The Blount case, contrary to what Key believed, showed that the Senate accepted inadmissible evidence because the witness testifying on its veracity had not been sworn beforehand as must happen in a court of law. The evidence could not have been used in a court of law only because he had not been properly sworn. The Senate had never subscribed to the interpretation Key had asserted about improper jurisdiction.

Finishing his withering rebuttal of Key’s speech, Adams agreed that although Smith’s main accuser was discredited, the rest of the evidence was still too overwhelming and coincidental not to damn Smith. Key had ended his speech three days earlier with an appeal to the humanity of Smith and the gravity of the Senate’s decision on his life. Adams had never been seen as a warm, emotional man, but he was certainly not cruel. He ended his speech with the same appeal:

I have discharged a painful obligation. No discussion has ever devolved upon me, as a member of this body, in which I have taken a part with more reluctance than in this. Until these transactions occurred, there was perhaps not another member of the Senate in whose integrity I more confided: and but for this, there is none whom I should more readily take by the hand as a friend and a brother. I trust, sir, that I feel as I ought for his personal situation on this occasion, as well as for the interests and the feelings of his family. I am sensible and have never lost sight of what is due from me to him as members of this Assembly. But there is also a duty to the character and reputation of this body; a duty to the State whose representation on this floor has been in part entrusted to him; and a duty to the whole nation whose public servants we are.⁵³

⁵⁰ “April 8, 1808,” *Debates*, 237 (italics added).

⁵¹ *Ibid.*, 239–240 (italics added).

⁵² *Ibid.*, 240–242.

⁵³ *Ibid.*, 265.



“...The duty which I have discharged was imposed upon me much against my will...”

With his final statement a look into his conscience, an exhausted and “very hoarse” Adams took his seat.⁵⁴ He did not feel like he had been up to the challenge. He privately wrote in his diary, “I made a speech of nearly four hours on the [Smith] question— I could not do justice to the subject.” He continued, “There is no occasion upon which I feel with so much humiliation the insufficiency of my own powers, as in these elaborate but extemporaneous speeches.” It is hard to imagine that a man so gifted, practiced, and eloquent in his speeches would feel himself humiliated at his own abilities. All was not lost, however, he knew that he had spoke better than he could have expected and “with considerable impression, even where it was unwelcome.”

The Final Vote

Debate dragged on for another grueling day. Various Senators weighed in on both Key’s and Adams’s reasoning. Adams rose once more and reiterated his belief in the evidence produced by the committee, but his opposition continually pushed back by saying that nothing *concrete* had been found, and instead the accusation was based on a conversation. It is unclear whether Key and Harper were in attendance for the remaining debate, they were not mentioned any more in the record, but it would be difficult to imagine they were absent. On April 10, after another long day of debate, a vote was taken on the committee’s original resolution to expel Smith. Article I, section 5, clause 2 of the Constitution requires a two-thirds majority to expel a sitting member, and in the Senate quorum of 29 members present that day, 11 votes were needed to expel Smith. When the final votes were cast, the Senate failed to expel Smith by a single vote.⁵⁵

It is not known what Key thought of the outcome. He was no doubt elated that his client had retained his seat. However, the principles of the Constitution he had argued for - that the Senate did not have the power to try an indictable case before it had been in a court of law - was rejected. It must have also rankled that the majority of the Senators had still not been swayed by his

evidence and arguments. Nevertheless, Key had proven himself a powerful orator, a first-rate legal mind, and someone who could again handle the pressure of a national trial. He had twice defended alleged Burr conspirators on the national stage and had won both times - before the age of 30. He would continue to argue cases before the Supreme Court and would serve as a United States Attorney. His most famous contribution to American life would be, of course, *The Star Spangled Banner*, written six years later. He would also serve as District Attorney of the District of Columbia, appointed by President Andrew Jackson, with whom he became close friends. Key would also become part of the original “kitchen cabinet” started by Jackson that consisted of informal advisors to the President. The young Georgetown lawyer had a bright future ahead of him.⁵⁶

Immediately after the vote, Adams and another senator dined with President Jefferson where they discussed the vote. It seemed the senator that had made all the difference had been Giles, who was originally on the select committee and while he agreed with the report, he was against the expulsion. Adams was told that Giles had been working on members of the Senate after hours, and he managed to bring two crucial votes to his side. He would have brought one more senator over but when the senator had heard Adams’s speech, he changed his mind. Reflecting on the outcome, Adams wrote candidly,

I feel so much personally for the man [Smith], and his family, that perhaps no issue of this transaction, could have been more agreeable to me. He retains his seat, but his conduct is sufficiently reprobated by the state of the votes— The duty which I have discharged was imposed upon me much against my will, and I have discharged it to the best of my power.⁵⁷

His report was still believed by a majority of Senators, and he successfully defended his interpretation of the Constitution that allowed for a Senate trial outside the court of law.

Adams had already become disillusioned with the Federalist Party for several reasons including

⁵⁴ Adams, *Diary*, “April 8, 1808.”

⁵⁵ “April 9, 1808,” *Debates*, 324. At least two Senators, Mitchell and Bradley, had not been present, with Mitchell telling another Senator he didn’t the vote would have been on April 9, but if he had voted, it would have been for the resolution. Smith was not allowed to vote. Cf. Adams, *Diary*, “April 9, 1808.”

⁵⁶ For further reading on Key, see Marc Leepson’s *What So Proudly We Hailed* (New York: Palgrave MacMillan, 2014).

⁵⁷ Adams, *Diary*, “April 9, 1808.”

the Embargo Act, the Smith trial, and “Federalist disunionist schemes,” among others.⁵⁸ It was not long after that he resigned his Senate seat and left the Federalist Party. His public service record is far too long to list here, but his highest accomplishment was his election as President of the United States (like his father) in 1825. He was welcomed by the Jefferson administration for his work on the Smith case, and he became a Democratic-Republican shortly thereafter. He belonged to four different parties over the course of his life. After the trial, he was appointed by President James Madison to be the first U.S. Ambassador to Russia, where he was present when Napoleon Bonaparte fought his way into Moscow and occupied it for five weeks in 1812. Ever an abolitionist, he continued to fight slavery and served as counsel in the famous *Amistad* case in the U.S. Supreme Court in 1841. Most of Adams’s prolific career in public service was still ahead of him.

One man who did not have a fulfilling career ahead of him was Smith. He resumed his duties in the Senate immediately after the vote, but resigned his seat on April 25, 1808. He wrote a long letter addressed to the acting Governor of Ohio, Thomas Kirker, where he expressed his anger at those who were his friends and had turned on him, such as President Jefferson and other Senators from his own party. When he returned home, the notoriety of the trial was everywhere, and after losing all of his business, he was forced into bankruptcy. He moved with his family to the Louisiana Territory and spent the rest of his life in poverty. He died there in 1824.⁵⁹

Conclusion

The trial became a small footnote in the Burr conspiracy. Adams and Key both presented serious arguments on interpreting treason, and both helped define the expulsion power of the Senate. Key’s arguments for a strict interpretation of the treason clause in *Bollman* helped the Supreme Court write its opinion. His argument in the Senate over jurisdiction in an expulsion case led his adversary, Adams, to argue for implied Constitutional powers. As a result of their debates, the Senate solidified jurisdiction over their own members to extend to indictable offenses, something that is still allowed today.

As for the Burr conspiracy itself, the Senate did not – nor could it have – settle the questions surrounding it. It is still shrouded in mystery to this day. Recent scholarship, such as James E. Lewis, Jr.’s *The Burr Conspiracy: Uncovering the Story of an Early American Crisis* (2017), and R. Kent Newmyer’s *The Treason Trial of Aaron Burr: Law, Politics, and the Character Wars of the New Nation* (2012), among others, have shed much more light on the conspiracy and trials. However, the questions about Burr’s real intentions and those of his followers and friends (like Smith) remain unanswered. Most likely, the whole truth will never be known, nor will Burr’s or Smith’s guilt or innocence ever be established. Perhaps Key had it right when he said that instead of one grand treasonous plan, Burr most likely “had a variety of schemes suited to every taste, to every possible occasion.”⁶⁰



Guy F. Burnett, Ph.D. is the Director of Education and Research at the James Madison Memorial Fellowship Foundation, where he also serves as a faculty member of the Summer Institute on the Constitution. He served as the Senior Advisor of the Bureau of Justice Statistics in the U.S. Department of Justice and was formerly Department Chair and Associate Professor of Government and Foreign Affairs at Hampden-Sydney College in Virginia.

⁵⁸ Thompson, 179-183 (quote on 179).

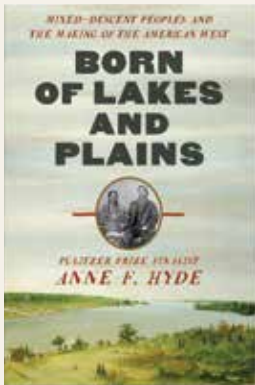
⁵⁹ United States Senate, “The Expulsion Case of John Smith of Ohio (1808),” *United States Senate Website*, accessed at www.senate.gov.

⁶⁰ “April 5, 1808,” *Debates*, 206.

BOOK REVIEW

Diplomacy, Choice, and Mixed-Descent Peoples

By Sharolyn Stauffer, '08 (WY)



Born of Lakes and Plains: Mixed-descent Peoples and the Making of the American West

By Anne Farrar Hyde

WW. Norton & Company
464 pgs. | \$20

Imagining a time when Europeans and Americans purposefully created thriving unions with Native Americans for various purposes may seem contrary to the long narrative of colliding cultures and continuous violence. Anne Hyde's sweeping history of five mixed-descent families aims to show the resourcefulness and choice that First Peoples made in creating secure livelihoods and security for their posterity along with the growing United States. *Born of Lakes and Plains: Mixed-descent Peoples and the Making of the American West* highlights important figures in the history of alliances and relationships, which forged both negative and positive outcomes in the West. It is a valuable narrative for the present dialogue on history and race.

Hyde, A professor at University of Oklahoma, and editor of the *Western Historical Quarterly*, is also a winner of the Bancroft Prize and finalist for the Pulitzer Prize. Acknowledging that this book took at least a decade in the making, Hyde writes that the book is "a long advertisement for how important families are—made ones, born ones, chosen ones." These five families experienced the gamut of situations revolving around trade, commerce, land-grabs, war, and disease. Hyde shares both the heartaches and joys in her detailed research, which draws from the fact that these families were also unique, as they and their associates left many letters, diaries, account books, drawings, and other documents. Reconstructing their relationships and lives, Hyde creates a fresh picture of the significance of mixed-descent peoples in the greater western United States.

The five families include the McKays and their marriages to the Crees, Chinooks and Cayuses in

what is now Canada. Further, the Johnston families and in-law Schoolcrafts married Ojibwes in Michigan, New York and Ontario. Third and fourth are Lucien Fontanelle and Andrew Drips who fur traded and built unions with natives along the Platte and Missouri Rivers. Finally, the marriages of William Bent to three Cheyenne women, along with the forged alliances of his brother Charles, helped a thriving trading post in the Southwest that would stand for decades. Telling the stories of these families and their posterity over several decades, Hyde weaves them into the greater narratives of the fur trade, manifest destiny, corporate battles, corruption, and U.S. government relations. She argues ultimately that mixed families began as skilled and successful diplomats, yet evolved into the status of them as racial problems the government steered away.

Hyde's research emphasizes hard facts about American history that many want to shy away from, but these stories are precisely what are needed in understanding the relationships and profound impacts between indigenous groups and those they encountered. Hyde lays out how measurements of "blood quantum" originated. Blood quantum laws were established by the U.S. government in order to determine the fraction of indigenous ancestry for Native American status. The adoption of blood quantum measurements, which today are also used by some tribes or bands themselves, created lasting and damaging effects, empowering racism into federal law. Also prevalent are the policies of the U.S. and state governments that ignored treaty after treaty with these families' greater populations.

It is critical to emphasize that much deserves



positive attention about the deliberate and purposeful actions of these mixed-descent people and the forging of their lives. Hyde's research depicts stories of duty, obligation, and looking to the future. Intentional choices of women in learning new cultures and creating thriving alliances benefited their families' financial and social capabilities. The marital relationship for these women meant less than their ultimate ties to the clan, and the power of women in those organizations influenced decisions about which strangers to trust and which to not in protecting homelands. Mixing blood empowered women in these families, but even with mixed blood, these women failed to gain the same rights that their white husbands had in both the U.S. and Canada.

Hyde collectively shows how the rights and status of mixed-descent people were chipped away in subsequent generations by the United States government and how the benefits of these alliances became liabilities in the face of race and war. In describing this shift, Hyde makes it clear what occurred with Native Americans was not inevitable. Proper relationships and partnerships could and did exist in these family making enterprises, and the bond they forged caused for intuitive and understanding figures who warned of

the U.S. government failures and how war, hunger and alcohol would be the results.

Born of Lakes and Plains is a serious volume, and it paints a more realistic image of relationships in the vast American West - an image of empowered people who made keen choices and fostered diplomacy and entrepreneurship. Mixed-descent peoples created thriving families whose influence on the region was more significant than what exists in popular imagination. Hyde's contribution is the result of years of research and honing to skillfully present something heretofore not delved into with this breadth. It is fresh, engaging, and one antidote to the idea that indigenous people and white colonizers were destined to clash and succumb to the situations that unfolded.

ABOVE LEFT: *Ru-ton-ye-wee-ma, Strutting Pigeon, Wife of White Cloud*, 1844, Smithsonian American Art Museum.

ABOVE RIGHT: *Sha-kó-ka, Mint, a Pretty Girl*, George Caitlin, 1832, Smithsonian American Art Museum.



Sharolyn Stauffer is the 2008 Senior Fellow for Wyoming. She teaches concurrent college credit U.S. History, U.S. Government, and regular World History courses at Star Valley High School in Afton, Wyoming.

BOOK REVIEW

Critical or Inevitable? New Perspectives on the Critical Period

By Abbylin H. Sellers, Ph.D.



From Independence to the U.S. Constitution: Considering the Critical Period of American History

Edited by Douglas Bradburn and Christopher R. Pearl

University of Virginia Press
286 pgs. | \$28

OPPOSITE: Daniel Shays and Job Shattuck, Unidentified Artist, 1787, National Portrait Gallery.

When studying colonial American history, the tendency is to focus solely on two of the most defining events of our founding: declaring independence from Great Britain and the creation of the United States Constitution at the Constitutional Convention. We quickly gloss over what happened between the years 1778 and 1787, characterizing the period solely by the failures of the Articles of Confederation. There are nonetheless notable events and significant ideas that deserve our attention. The edited work compiled by Douglas Bradburn and Christopher R. Pearl, *From Independence to the U.S. Constitution: Considering the Critical Period of American History*, fills this gap in our understanding, distinguishing the nine years between independence and the formation of the US Constitution.

The time frame between declaring independence from Great Britain and the Constitutional Convention is known as “the Critical Period.” This designation was coined by historian and philosopher John Fiske’s monumental work, *The Critical Period of American History, 1783-1789*, written nearly 150 years ago. Scholars who focus on this period of history have weighed Fiske’s classification and have sought to define what “critical” really means. The essays found within *From Independence to the U.S. Constitution*, all point to what the editors call “a debate over what kind of republican society and governments the revolution created.” The seven essays focus on a number of distinct ideas and people who helped shape the young nation in ways that are under appreciated. Topics include: commerce and trade; the role of abolitionists before and after ratification; the challenges of maintaining loyalty

with the inevitable westward expansion; currency and financial challenges; fear of the rise of the aristocracy; innovation within the states; and the role of Mount Vernon during the interim period. Due to the brevity of the review, highlighting only a few of these essays is possible.

Considering the role of commerce, Dael Norwood’s contribution is one of the most important in this compilation. He rightly points out how commercial enterprise is granted little focus in the historiography of the revolutionary era, but was central to America’s independence and existence as a new nation. Commerce was linked closely to sovereignty. John Adams wrote a letter to Congress in 1780 regarding America’s foreign relations and the importance of American diplomacy. Adams contended that “entangling” with European powers was to be avoided and American should instead pursue only “Commerce, not Politicks [sic], much less War.” Commerce could bring stability and peace. By breaking away from Britain, there were fewer protections for American traders on the high seas and piracy was a real threat. There was disagreement among the members of the Continental Congress on how to confront the nation’s commercial issues, and we get a glimpse inside the political thought of individuals such as Thomas Jefferson, John Jay, and John Adams. Norwood convincingly underscores how commerce played a substantial role in both the theory and practice of political economy.

Douglas Bradburn brings to life the role of George Washington’s home, Mount Vernon, and establishes its significance during a period where America was lacking in a number of areas that are necessary for a country to function. With all

of the uncertainties, Mount Vernon, known as “the seat of General Washington,” was the first national symbolic place in America. With Washington’s fame, the estate was a popular destination for visitors, and is said to have had more visitors in the 1780s than any other home in North America. Bradburn highlights not just the symbolic nature of Washington’s estate, but provides a glimpse into its practical nature. Washington was able to convince both the Virginia and Maryland state legislatures to improve access on the Potomac River. A public company was incorporated, the Potomac Navigation Company, and engineers, inventors, and mechanics converged at Mount Vernon. Agricultural advancements were made by Washington himself on his estate and some of the greatest artists in the world spent time at Mount Vernon, both to work on their craft and to visit with the former famed general. Bradburn also makes mention of Washington engaging in a number of conversations at his home relating to slavery, where he openly expressed his opinions. As it became more evident that the country was teetering on the precipice, Bradburn illustrates how Mount Vernon served as a stable force, helping shape the American identity.

In an enlightening essay, “An Excess of Aristocracy,” Kevin Butterfield highlights another area of concern during this time period. He writes, “Democracy was not the only monster facing the young American nation in the 1780s. There was also the demon of aristocracy.” The fear of the excesses of democracy were coupled with concerns of the vices of aristocracy. Butterfield provides an in-depth examination of the Society of Cincinnati. The Society of Cincinnati was formed by officers of the Continental Army in 1783 by General Henry Knox. The intended purpose was to have a way to voice opinions to Congress about promised but unpaid pensions and retirement pay, but with over 2,000 officer joining as original members and having a hereditary membership requirement, the so-

ciety appeared to resemble a “self-created government.” In seeking to allay criticism, Washington sought to appease the detractors by making changes to the society. Members adamantly opposed the changes and seized the opportunity to defend the society against aristocratic charges. Butterfield acknowledges that with hindsight, it is apparent the fears of the society were overblown, but how the fear of the rise of aristocracy needs to be understood within the context of the uncertainties of the 1780s.

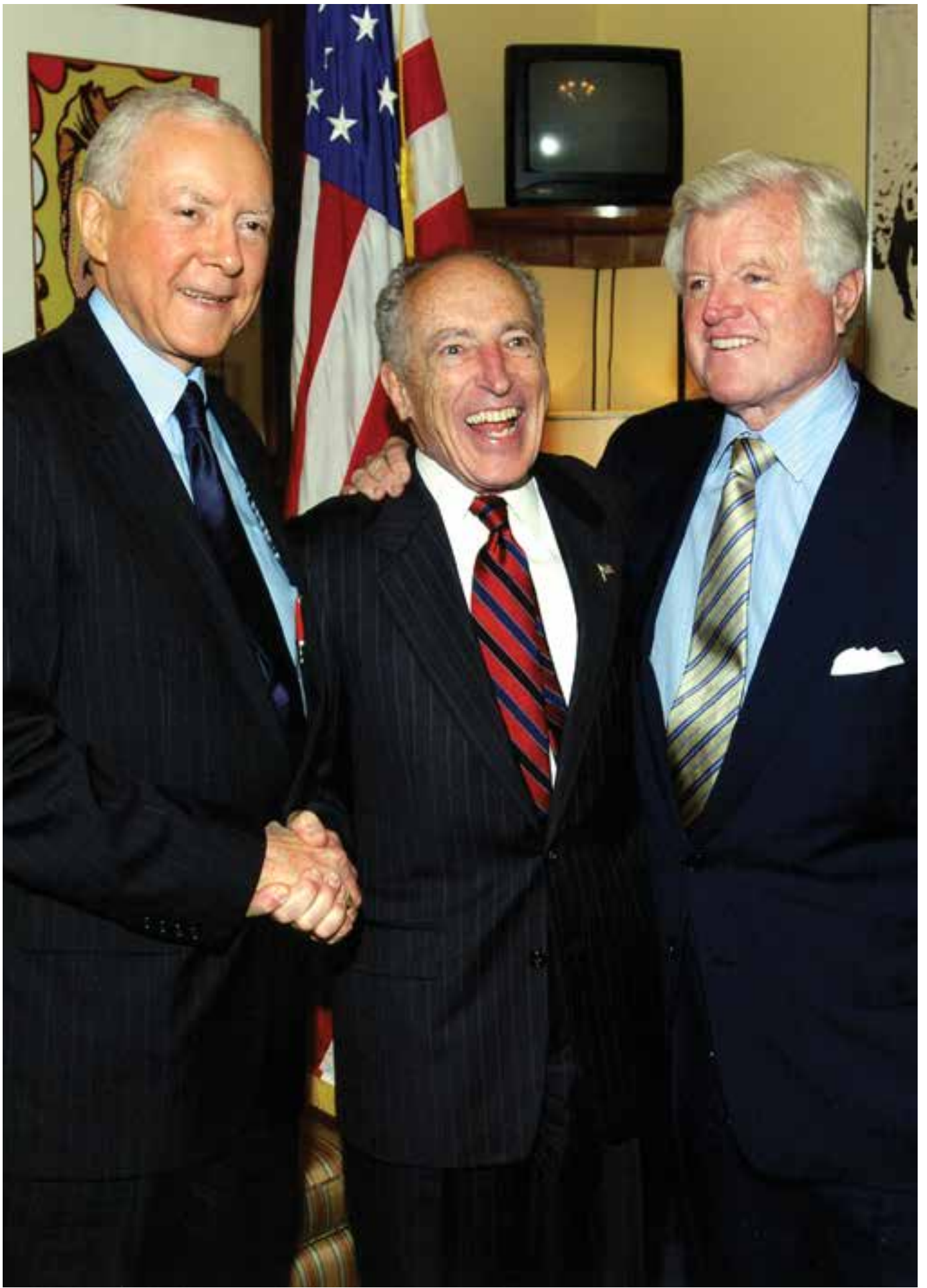
The editors make a thoughtful remark that it “requires a collective effort to unearth the histories of the period with an eye toward their moment rather than just the power of hindsight.” They fairly seek to have the scholars who authored the essays evaluate the Critical Period within the context of its time. For the most part, this is adhered to; yet, at the same time, the best intentions are not completely fulfilled. Pointing out what was not achieved based on a modern perspective is *not* focusing with an “eye toward their moment.”

The goal of this compilation is to bring more clarity to addressing who exactly considered the time period to be “critical” and why it was thought to be. The contributing scholars are successful in this endeavor and provide us a window into these crucial years of America’s history.



Dr. Abbylin H. Sellers is Associate Professor of American Politics at Azusa Pacific University and Faculty at the Summer Institute on the Constitution at the James Madison Memorial Fellowship Foundation. She is currently a Fulbright Scholar and teaching at Yokohama National University and Hosei University in Japan.





30 Years of the James Madison Foundation

By Elizabeth G. Ray

The James Madison Memorial Fellowship Foundation was established by Congress in 1986 to improve teaching about the Constitution in secondary schools and can be considered a “continuation” of the Commission on the Bicentennial of the United States Constitution as it was winding down its own mission to provide “a history and civics lesson for all of us.” As part of the bicentennial celebration of the U.S. Constitution, the Education Committee of the Commission on the Bicentennial of the United States Constitution, chaired by Senator Edward M. Kennedy, proposed the creation of a fellowship program for the purpose of improving teaching about the Constitution in secondary schools. Senator Kennedy and several other Senate colleagues successfully passed the law which created the Foundation. Public Law 99-591 establishing the James Madison Memorial Fellowship Foundation was signed by President Ronald Reagan on October 30, 1986. The James Madison Foundation’s Board

of Trustees – composed of thirteen members – two members of the Senate, two members of the House of Representatives, two members of the Federal judiciary, and six other members (a chief executive officer of a State, two members of the general public, and three members of the academic community) – was led by Senator Kennedy as the first Chairman and Senator Orrin Hatch as the first Treasurer.

Once created, the Foundation started with a staff of two – current Foundation President, Lewis F. Larsen and Joan Bybee – and was housed in a spare room being leased by the *Commission on the Bicentennial of the United States Constitution* on 17th Street in Washington, DC. Retired Admiral and former Commandant of the U.S. Coast Guard, Paul A. Yost, Jr., was selected as the Foundation’s first president and the operation moved to a bigger office on K Street in Washington. President Yost knew the Foundation needed to grow and between 1990 and 1992, the Foundation

OPPOSITE: Senator Orrin G. Hatch, Admiral Paul A. Yost, Jr., and Senator Edward M. Kennedy.

BELOW LEFT: President Lewis F. Larsen.

BELOW RIGHT: Dr. Whitman Ridgeway, Dr. Herman Belz, Dr. Rosemarie Zagarri





TOP LEFT: Katie Robison, '00 (VA).

TOP RIGHT: Jennifer Nicholas, '00 (UT) and Admiral Paul A. Yost, Jr.

ABOVE: James Madison Foundation Board of Trustees meet in the office of Senator Edward M. Kennedy. Also pictured: Splash and Sunny.

hired four more employees, including Norma J. Claytor, Gary Foy, Dr. James Banner, and Elizabeth G. Ray.

The inaugural class of James Madison Fellows was selected in 1992 and each Fellow had to apply using handwritten applications with all correspondence handled via “snail mail” (not even a term back then!). Staff and Fellows mutually learned from one another as the fellowship program got underway. The Foundation created

a Summer Institute on the Constitution, and in 1993, the first was held on the campus of American University. Handling logistics, schedules, James Madison Fellows, accommodations, and transportation all proved overwhelming in those first years. In order to help, the idea of a Summer Institute Coordinator was born and when the Summer Institute switched to Georgetown University in 1997, Stacy Moses ('92, NM), agreed to be the first Coordinator. Stacy led the way for the future coordinators, including Jean Tremonti Salvado ('96, FL), Katie LaPointe Robison ('00, VA), Jen Jolley ('10 FL), and Dr. Jenny Nicholas ('00, UT), to help produce a smooth, efficient Summer Institute experience. The coordinators often form a special bond with the Fellows each year because they know firsthand the demands and rigor of the Summer Institute. Each year, the Fellows always speak glowingly of their Coordinator who becomes a friend and a mentor.

In addition to the Foundation staff and Summer Institute Coordinators, the Foundation's Board of Trustees has had years of successful oversight and guidance. The Board meetings are always held in the summer, aligning with the annual Summer Institute. Board meetings were initially held in Senator Kennedy's office with Trustees gathered around the table and the Foundation staff sitting in chairs or standing along the walls of the room.



I'll never forget that room and Kennedy's main office covered in photos and mementos of dignitaries and the entire Kennedy family. Senator Kennedy would share stories from his life and experiences on the Hill and we all were enamored and charmed by his two Portuguese water dogs who roamed the office – Splash and Sunny.

The Madison Foundation's Board would also meet with Fellows at the conclusion of their yearly meeting. When the meetings were moved to the Senate office buildings and then the Capitol Visitor Center, the Fellows at the Summer Institute would ride the Metro from Georgetown University campus to Capitol Hill. Once settled in a large meeting room, the Fellows had to wait patiently for the Board to finish their meeting and then join the Fellows. It was always so inspiring to witness the interaction between the Board members and the Fellows. The Board highly valued and respected the teachers the Fellows were or would become. The Board introduced themselves and reviewed what had just transpired in the meeting. Following the review, there would be a question and answer session where the Board learned about, and from, the individual Fellows (especially those from their own states) as well as about the fellowship program itself. They sincerely wanted to know if it was meeting the expectations of the Fellows, what

the highlights were, and where things needed to be improved. The Fellows always appreciated that the Board took time to meet with them and to really listen and engage with them on an individual level. The Trustees also loved hearing about the impact Fellows were having on their students. As it was then, the Fellows still have an enormous impact on their students each year. To date, James Madison Fellows have taught history and civics to over two million students at over 1,100 secondary schools throughout the nation.

Starting with the Summer Institute in 1994, each class was able to have a private audience with a sitting U.S. Supreme Court Justice. This unique and special opportunity provided – and still provides - Fellows with the chance to hear directly from the leading members of the judicial system. For our Fellows (who describe themselves as “history nerds”), the chance to hear from a Supreme Court Justice – including their lives and personal experiences leading up to their appointments, their daily working schedules, and their interactions with the other Justices – is a dream come true.

Dreams becoming reality has also been part of the field trips at the Summer Institute each year. For the past thirty years, Fellows have been given the chance to visit and explore the homes of our nation's Founding Fathers. Trips are taken

ABOVE: Supreme Court Justice Ruth Bader Ginsburg and James Madison Fellows.







James Madison Fellows at James Madison's Montpelier (2021).

to George Washington's Mount Vernon, George Mason's Gunston Hall, Thomas Jefferson's Monticello, and James Madison's Montpelier. For the first time this year, Fellows were taken to Independence Hall in Philadelphia to see the room where the Constitution was drafted and signed. Fellows also toured the Liberty Bell Center, Congress Hall, the National Constitution Center, and the Museum of the American Revolution.

As the years flew by, thanks to the leadership of Admiral Paul A. Yost, Jr. and Lewis F. Larsen, the Foundation continued to grow and thrive. In order to increase the number of fellowships awarded each year, the Foundation needed to find a way to increase funds. The idea of a run of James Madison-Bill of Rights Commemorative Coins issued by the United States Mint as a fundraiser began to take shape in 1991. Congressional approval was needed and both Admiral Yost and Lewis F. Larsen worked to make sure it would become a reality. Representatives Norman Sisisky (D-VA) and Wayne Allard (R-CO) introduced the coin legislation in the House of Rep-

resentatives for the James Madison Foundation. *The James Madison-Bill of Rights Commemorative Coin Act* became law on May 13, 1992 (Public Law 102-281). Coin sales began on January 22, 1993 and ran until the end of the calendar year. No coins were allowed to be struck after December 31, 1993. The coins commemorated the first ten amendments to the U. S. Constitution, known as the Bill of Rights, and acknowledging the role that James Madison played in their adoption. The coins included a \$5.00 gold half eagle, a silver dollar and a silver half dollar.

After the immensely successful James Madison-Bill of Rights Commemorative Coins campaign, it struck both Admiral Yost and Lewis F. Larsen of the necessity of having a 501(c)(3) sister organization. From this idea, the James Madison Education Fund, Inc. (JMEF) was born. The JMEF allows for growth and investment in full support of the Foundation. Thanks to the JMEF, the Foundation staff grew as well, including the addition of Dr. Herman Belz, Steve Weiss, Dr. Sheila Osbourne, Dr. Jeffrey Morrison and Claire



Griffin ('92, HI). In 2012, the Foundation moved to Old Town in Alexandria, Virginia. (Of course, visits are encouraged if you are ever in the area!)

Along with new staff members and a new office, came even more new programs and ideas for keeping the James Madison Foundation's goals and mission relevant. For example, the idea of having a Congressional Intern was proposed and implemented. It has been highly valued by the staff, the Board of Trustees, and all Fellows fortunate enough to have the opportunity to work directly on Capitol Hill. Congressional Interns also have a "second" Summer Institute experience by virtue of living in the dorm with the Summer Institute Fellows and participating in some of the Summer Institute activities. One activity – always a highlight of the early Summer Institutes – was the opportunity to join Dr. Edward Smith of American University on his special tours of Arlington Cemetery, the African American Presence in Washington, D.C., and Capitol Hill. The Foundation has strived to focus on diversity and inclusion from the beginning, and in keeping



James Madison-Bill of Rights Commemorative Coins.



TOP: Kimberly Alldredge and Dr. Sheila Osbourne.

ABOVE: Two James Madison Fellows help at the National Council for the Social Studies' conference booth.

OPPOSITE TOP TO BOTTOM: Dr. Jeffrey Morrison and Dr. William B. Allen; Deborah S. Lorence, '14 (AK) and Cheryl Adams, '14 (ID); Dr. Terri Halperin, Dr. Daniel Dreisbach, Dr. Guy F. Burnett, Dr. Jeffrey Morrison, and Dr. Kevin Hardwick.

with that focus, in 2021 it established the Frederick Douglass-James Madison Fellowship with the goal of encouraging people of color to become outstanding teachers of the Constitution and to honor Frederick Douglass, himself a constitutional scholar.

As the Foundation grew, so did the print and online media offerings. Publications such as the *Madison Memo* and *Madison Notes* were written and developed by the staff and Fellows. These have grown from black and white, hand-stapled, minimal documents to the colorful, professional, and sleek digital and hard-copy periodicals currently produced. The goal of the publications is to keep our current and alumni Fellows, our Board of Trustees, and our donors up to date on all things related to the Foundation. The video series offered by the James Madison Foundation – *Constitutional Conversations*, *James Madison Lectures*, and *Presidents on the Constitution* – grew from a staff conversation regarding how to incorporate the historic 1991 Hugh Sidey interviews of living presidents including Richard Nixon, Gerald Ford, Jimmy Carter, and Ronald Reagan discussing the United States Constitution and produced for the Commission on the Bicentennial of the Constitution, as a resource for Madison Fellows and the general public. Another great resource for our Madison Fellows and the public in general, are the annual Madison Lectures that take place during each Summer Institute. Many of these lectures have been recorded and broadcast by CSPAN and American History T.V., and are available via the James Madison Foundation's website, www.jamesmadison.gov, as well as CSPAN's website.

As the years progressed, and our inaugural class of Fellows and those that came after them, started to complete all the requirements of the fellowship – earning their master's degrees, attending the Summer Institute, and teaching in secondary schools to fulfill their teaching obligation - the idea of maintaining an alumni base became an important new element of the Foundation. Perhaps one of the most important discoveries over the past 30 years has been that Fellows talking to and recommending teachers they know is the best strategy for getting the best of the best in the application pool. In the beginning, applicant numbers were not high, but eventually began to grow each year as more Fellows spoke to other history and civics teachers about their experience. Although the required focus on civics and government teachers, or undergrads who want to become these kinds of teachers, is narrow, the Foundation found that most of its applicants are the "cream of the crop." Initially, the staff was not sure it was reaching its goal because it was seeing a slow growth of fellowship applications. However, staff came to the realization that those applicants who were awarded the James Madison Fellowship were the best and brightest the nation had to offer. By seeing the high caliber of Fellows and applicants each year, the staff was – and is - hopeful for the future of the James Madison Fellowship Foundation program and for secondary school students throughout the nation.

James Madison Fellows themselves have been a great resource as they work in conjunction with the James Madison Foundation and with each other. Outside of recommending new applicants, they create and share lesson plans, information on other educational programs and opportunities, encourage membership in history and civics associations, attend annual conferences, and set up reunions with other Fellows. The camaraderie and feeling of being a

part of a special family have certainly seen us all through the more difficult times our nation has faced during the past 30 years. The terrorist attacks of 9/11, the devastation of COVID-19, and the recent tensions within our democracy have highlighted the need for competent, highly educated, and resourceful educators who lead by example and take on the challenge of imparting the lessons of our nation's founding and history to future generations.

Fellows from the first inaugural class in 1992 through this year's fellowship award winners are driven, dedicated, have a deep love of history, and a joyful presence in sharing their knowledge with their students. They allow their students a safe space to question, explore, and grow as they learn about civics, government, the Founding Fathers, our nation, and the United States Constitution. The James Madison Memorial Fellowship Foundation and the Foundation staff are excited about the future of our program and our growth potential over the next 30 years. Our James Madison Fellows provide inspiration and innovation via their history lessons, their enthusiasm, and their thirst for continued higher education both for themselves and for their students. Working together – James Madison Foundation and the James Madison Fellows – the future is bright for civic education.



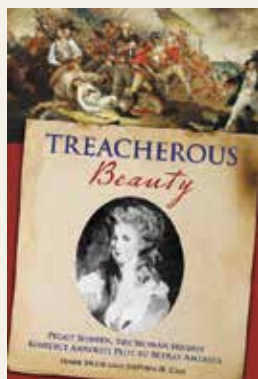
Elizabeth is the former Management and Program Analysis Officer for the James Madison Memorial Fellowship Foundation. She retired in December 2021 and is enjoying time with her husband Charlie, her three daughters – Sarah, Lauren, and Catherine – and her puppy, Layla.



BOOK REVIEW

Femme Fatale

By Rob Schulte, '19 (NJ)



Treacherous Beauty: Peggy Shippen, the Woman behind Benedict Arnold's Plot to Betray America

By Mark Jacob and
Stephen H. Case

Lyons Press
288 pgs. | \$25

OPPOSITE: *The Courtship, Success Magazine Cover*, J.C. Leyendecker, 1905, WikiArt.

Although George Washington had dined with a young Peggy Shippen in Philadelphia years before they would again meet, what he saw in fall of 1780 was unlike anything he could have previously expected. As he met with a frantic Shippen in her bedroom just outside of West Point, she cried that her husband and hero of the Battle of Saratoga, General Benedict Arnold, had just floated through the ceiling with hot irons driven into his head. She shouted that Washington was really an imposter, there to murder her infant child. Shippen's frantic deception had fooled the General, but she was hiding a terrible secret. Washington had no idea that just hours earlier her husband had just betrayed the nation and defected to the British.

Written by Mark Jacob, the deputy editor of the *Chicago Tribune*, and Stephen Case, a law professor at Georgetown University, *Treacherous Beauty: Peggy Shippen, the Woman behind Benedict Arnold's Plot to Betray America* claims to be the first non-fiction book to put Shippen at the center of the story. Previous works such as John Smith's *Peggy Shippen: Arnold's Husband* (1992) and John Jones's *Peggy Shippen Betrays Her Nation* (1998) portrayed her as a secondary figure in the histories of Arnold. While Washington may have been fooled about her involvement in Arnold's defection to the British, historians today

still debate the length of Shippen's influence in his defection. Jacob and Case argue that she was an *active and willing* participant, who the authors believe may have even instigated General Arnold's turn. In the authors' words, she should be viewed as "guilty."

Born into wealth and privilege in Philadelphia, Peggy Shippen grew into an intelligent, socially adept, and beautiful young woman at the crucible of the nation's founding. Both Washington and Franklin would dine in her family's home at different times. As the nation was plunged into Revolution, she would find herself in the company of those on both sides of the struggle. Most histories label her and her family as loyalists, but her story shows just how volatile allegiances were, as her family tried to protect their privilege and remain neutral in a conflict that was in many ways a civil war. Loyalties shifted quickly in a city that both housed the Continental Congress and fell to British occupation a little over a year after Congress had declared independence.

That occupation would bring the dashing British officer Major John André into the city during a period of shocking frivolity where the British celebrated like conquerors: hosting plays, dances, and massive parties – including one where British soldiers dressed and fought as medieval knights. It was at one of these dances that



Shippen met André, who would become a frequent visitor to her home (and to those of many other eligible women in Philadelphia). At the same time, the bold American General Arnold found himself injured while playing a decisive role in the American victory at Saratoga. The British loss at Saratoga caused the British to evacuate the city of Philadelphia. As a sign of his affection, André gifted Peggy with a lock of his hair as he left. The triumphant Arnold was sent to Philadelphia as the military governor, and within a matter of weeks the 37-year-old Arnold had become a frequent visitor to the home of the 18-year-old Shippen.

Arnold's time in Philadelphia was marred by attacks from the local government that accused him of using his authority to fatten his pockets. Even though he had not been paid by the Continental Congress in three years, he still found a way to purchase a mansion on the outskirts of the city. While Arnold had pledged his loyalty to the Revolutionary cause, Shippen promised her loyalty to him, and they were married in April of 1779. Arnold had been given command of West Point and within a month, Arnold was in contact with Shippen's former suitor, André. Their plan was to turn it over to the British.

The last third of the book is the most compelling, with two climactic set pieces. The first recounts the story of André's capture and his hanging for his role in the plot to betray West Point. André's death is particularly moving after his and Arnold's plot is uncovered. In a defiant and brave moment with his captors, he tightened the noose around his own neck. The second tells the story of Arnold's harrowing escape to the British lines. Shippen gets her own climactic scene as well, with her frantic wailing before Washington, Colonel Alexander Hamilton, and even the Marquis de Lafayette

about how Washington was there to murder her young child and the specter of her husband with hot irons in his head. Her actions, while strange, likely bought her husband the time needed to safely escape. Jacob and Case's writing gallops briskly along at the end, mirroring Arnold's rapid escape to the British lines. While the plot could come out of a popular spy novel, the authors prove that historical reality is far more interesting.

Luckily, the final set piece of Shippen's deception and ultimate escape serves to return her to the center of the story. The book can, at times, present Shippen only in the context of the significant men around her and this is likely due to the limits of the historical source material. However, her escape in the final chapters of the book keeps her struggle to survive in exile and her life after Arnold's death at the forefront of the story. The book forces readers to ask a fundamental question of how to study and remember history. Where should a woman like Peggy Shippen be in the story of the betrayal of General Arnold? While she may have failed in her scheme alongside her husband, she dared greatly, and after failing, she pushed forward to endure and survive against the odds.

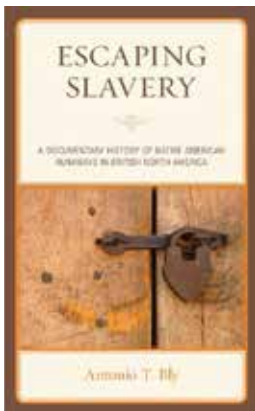


Rob Schulte is the 2019 Senior Fellow from New Jersey and teaches American history and civics at Reynolds Middle School. He also works seasonally for the National Park Service at the Independence Hall National Historical Park.

BOOK REVIEW

Setting the Record Straight

By Ray Tyler, '14 (SC)



Escaping Slavery: A Documentary History of Native American Runaways in British North America

By Antonio Bly

Lexington Books
244 pgs | \$78

On September 17, 1711, a slaveowner published an advertisement in the Boston News-Letter, and sought the public's assistance in capturing and returning a "Carolina Indian Man." Toby, as he was known, was described as being of "middle stature," approximately 20 years old, and was wearing "a dark homespun suite." Other subscribers also sought the return of their own runaway slaves, which included two "Carolina Indian" women named Jenny and Phillis and two "Spanish Indian" men named Manaway and Lad. When most Americans think about slavery in the United States, the images that come to mind are those of enslaved Africans. Yet, African slavery is not the entire story of slavery in British North America. The dark history shows that colonists also enslaved indigenous people.

In the last 30 years, scholars have been striving to set the record straight and the effort appears to be gaining momentum. Since 2002, no less than four award-winning studies have been published, including works by historians Andrés Reséndez, James Brooks, and Alan Galway. Reséndez's book, *The Other Slavery: The Uncovered Story of Indian Enslavement in America* (2016), captures the duality of African and Indian slavery and argues that "both Africans and Indians were caught up in a vicious system of Atlantic slavery, and for this very fact, both deserved to be taken seriously."

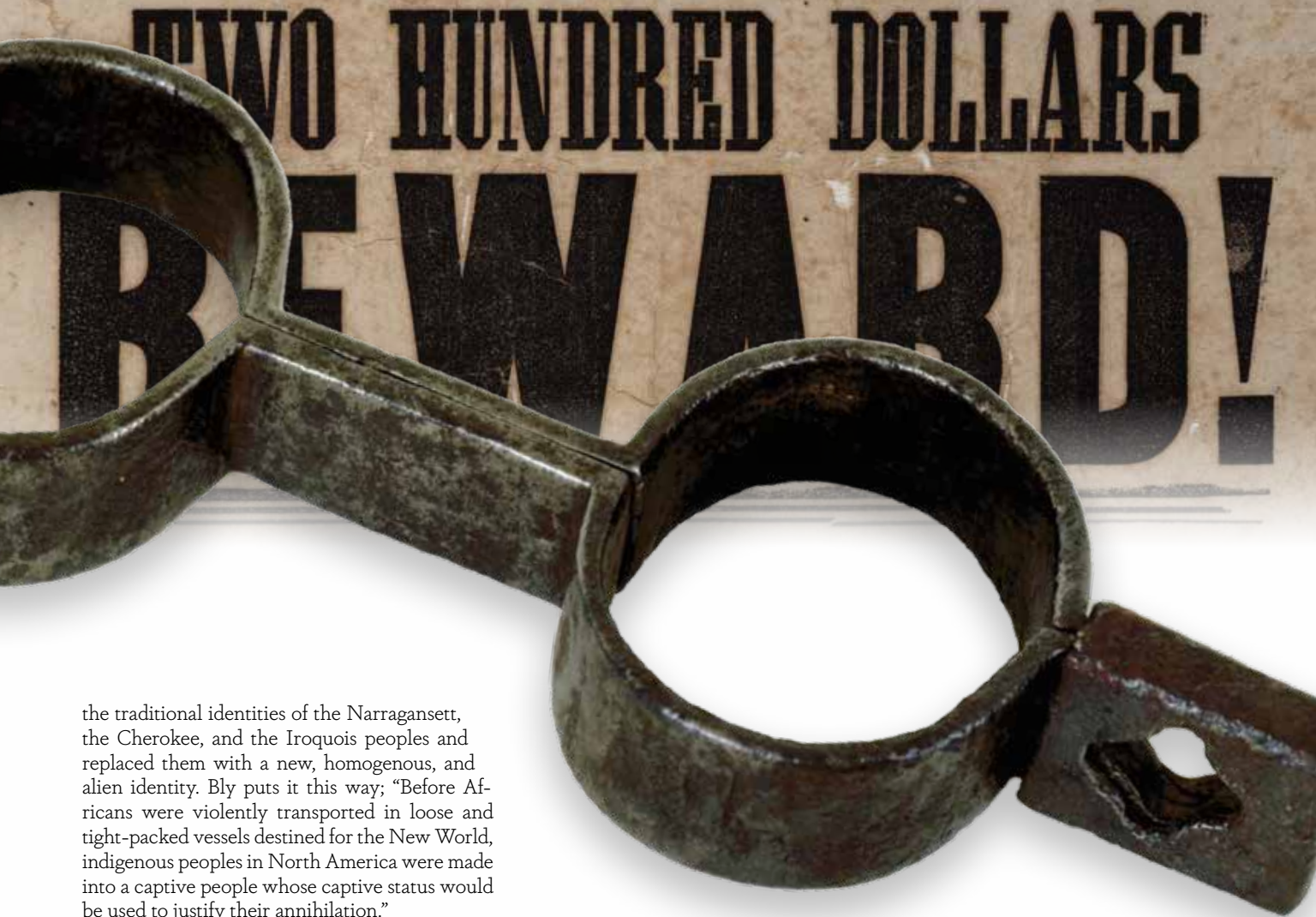
Antonio Bly's slender volume, *Escaping Slavery: A Documentary History of Native American Runaways in British North America*, in which the advertisement for Toby, Jenny, Phillis, Manaway, and Lad appears, adds a wealth of primary sources to the growing scholarship. The bulk of Bly's book contains advertisements offering rewards for the recapture and return of Native American escapees from enslavement. These advertisements, arranged chronologically and by region, are drawn from newspapers of

the era. These five enslaved people noted above, raised in either the Carolinas or in Spanish colonies, somehow became part of the Atlantic trade system and found themselves living in New England. All five runaways wore "white people" clothing, and only their anglicized first names appeared in the advertisement.

Bly references the work of Harvard sociologist Orlando Patterson in his book's short introduction by using the term *social death*. In his 1982 book on slavery, Patterson coined the term *social death* to describe "the condition of people not accepted as fully human by the wider society." In telling the story of our enslaved Native American man "belonging to one Mr. Howard of Bridgewater" named Julian, Bly applies the concept in a convincing way. Julian escaped, was recaptured, and accused of murdering Bridgewater's bounty hunter. The story is a compelling tale of a man determined to get his freedom, resisting re-enslavement, and seeking ultimate redemption when convicted and sentenced to die for killing the bounty hunter. As Bly shows, it is also the story of one man's *social death*. Before the age of 20, Julian had abandoned his native religion, became a Christian "Praying Indian," and replaced his native clothes with the clothing of his white enslavers. Stripped of his native identity, Julian became a generic Indian whose human rights were subject to the whims of his kidnapers.

Julian's tale is not atypical. Enslaved indigenous people were often forced to change their names, cut their hair, wear European-style clothing, and abandon Native American cultural traditions, including hunting and agriculture. Natives were told their religion was a lie – that Christianity was the true faith, and they must become Christian to be set free in this world and saved in the next. The process helped destroy





the traditional identities of the Narragansett, the Cherokee, and the Iroquois peoples and replaced them with a new, homogenous, and alien identity. Bly puts it this way; “Before Africans were violently transported in loose and tight-packed vessels destined for the New World, indigenous peoples in North America were made into a captive people whose captive status would be used to justify their annihilation.”

Initially, I wanted more from Bly than a simple presentation of ads for recapturing runaways. I knew nothing of Orlando Patterson’s work on *social death* and wanted Bly to use Patterson’s provocative term to illuminate the raw advertisements. I thought a little context and some interpretation or clarification of some documents would enhance the book. However, the more time I spent absorbing the advertisements, the more I appreciated his decision to let the voices of the abusers tell the tales of the abused. I found examples of Native American enslaved people who hailed from Suriname, Madagascar, Carolina, and Florida and many of them spoke multiple languages, including French, Dutch, Spanish, and Portuguese. Almost all are described as wearing European clothing.

Escaping Slavery is most likely geared towards graduate students researching enslavement in British North America, there are opportunities for its use in the high school classroom. History teachers can use the advertisements to deepen their student’s understanding of slavery in British North America. The advertisements illustrate

the transition of the labor system in the colonial era – from Native American enslavement and white indentured servitude to the brutal race-based system of chattel slavery. English teachers might use them to prompt students to write short stories imagining what happened to the runaway before, during, or after their escape. Both can use the concept of social death and ask students if slavery is the only example of the idea. Are there other people we refuse to see as “fully human?” I would encourage all teachers to seek a copy of Bly’s book and imagine how they might use it in their classrooms with their students.

Runaway Slave Advertisement, Unidentified Newspaper overlaid by Iron Shackles, 17th-18th Century, Virginia Historical Society



Ray Tyler is a retired US history teacher and was the 2014 James Madison Fellow for South Carolina. He taught at York Preparatory Academy in Rock Hill, SC.



The 2022 James Madison Foundation Summer Institute

The 2022 Summer Institute was an exciting year for the James Madison Memorial Fellowship Foundation. Due to ongoing Covid-19 safety precautions, the Summer Institute was held again at Marymount University's Ballston Campus in Arlington, Virginia. Continuing to make up for the canceled 2020 Summer Institute, this year saw a record number of 71 James Madison Fellows on campus.

The Summer Institute boasted another incredible group of faculty and guest speakers. The summer faculty, including Dr. Jeffrey Morrison, Dr. Daniel Dreisbach, Dr. Terri Halperin, Dr. Kevin Hardwick, and Dr. Guy F. Burnett, added one more member to the faculty this year, Dr. Abbylin Sellers. The James Madison Fellows

were given the distinct honor of visiting the U.S. Supreme Court. The Fellows were able to meet Justice Amy Coney Barrett and ask questions and listen to her for an hour in the judges' chambers. James Madison Foundation Trustees Hon. Terrence Berg (*United States District Court* for the Eastern District of Michigan) and Hon. Diane S. Sykes (Seventh Circuit, *U.S. Court of Appeals*) also attended the Summer Institute and spoke to the Fellows on law and the Constitution.

Other guest speakers included Dr. William Allen (*Emeritus Dean, James Madison College; Emeritus Professor of Political Science, Michigan State University*); Dr. Danielle S. Allen (*Harvard University, Educating for American Democracy*); Dr. Rosemarie Zagari (*George Mason*

OPPOSITE TOP: James Madison Fellows, faculty, and staff with Justice Amy Coney Barrett at the U.S. Supreme Court



University); Dr. Jack Warren (former President of the *Society of the Cincinnati*); former Secretary of Education and former James Madison Fellow ('95, NJ), Dr. John B. King, Jr. ('95 (NJ), *President, The Education Trust*); Lee Ann Potter (*Director, Professional Learning and Outreach Initiatives, Library of Congress*); Kerry Sautner (*Chief Learning Officer, National Constitution Center*); Phil Bigler (formerly at *James Madison University*); and Dr. Paul O. Carrese (*Founding Director of the School of Civic and Economic Thought and Leadership, Arizona State University, Educating for American Democracy*). The 25th Annual James Madison Lecture was delivered by Dr. Akhil Reed Amar (*Sterling Professor of Law and Political Science, Yale University*).

Unlike the previous year, every summer field trip was able to be attended in person by the group. This year marks the first year the Summer Institute included a trip to Philadelphia, Pennsylvania. Thanks to the help of two former James Madison Fellows, Rob

Schulte ('19, NJ) and Linda Dean ('15, NJ), the group was able to visit Independence Hall, seeing the very room where 235 years previously, the U.S. Constitution was proposed, debated, and written. The James Madison Fellows were also given special tours of the Museum of the American Revolution and the National Constitution Center. The Summer Institute also had field trips to George Washington's Mt. Vernon, George Mason's Gunston Hall, the National Museum of African American History and Culture, the Library of Congress, and Arlington National Cemetery. At Arlington National Cemetery, four James Madison Fellows were able to lay a wreath at the Tomb of the Unknown Soldier which was a first for the Summer Institute.





IN YOUR WORDS



"The Summer Institute is a once in a lifetime opportunity. It's hard to remember while you're in the thick of it what an amazing experience it is, but once it is over and you've had a chance to reflect, you realize just how lucky you were to be a part of this program."

Amy Elsass, '20 (OH)



"The Summer Institute has been a fantastic experience. I learned so much from the lectures, travel, and interaction with other fellows. While still at the institute, I was already planning ways to implement the new knowledge that I gained in my classroom once my students returned to school. I have attended other summer institutes, but this time this one allowed me to consider the topic in a much different way."

Johannah Miesner, '21 (IN)



"This institute has completely changed my life, both as a teacher and a citizen. I feel that I have truly begun to understand the foundations of our American Constitutional system, and am eternally grateful to have had the dedicated time to learn with other passionate educators and grapple with the hard work of learning the intricacies of our Constitution and the Founding Era...My summer at the institute was so intellectually, emotionally, and personally rewarding that I attempted to be present in every single moment, knowing that I would never have an experience like this again in my life."

Beth Doughty, '22 (WA)



"The James Madison Summer Institute was a life-changing experience. Being totally engrossed in study, surrounded by other teachers with the same passion for American History, and learning from the top scholars on the Constitution and the Founding Era was intense and amazing. I truly believe I am a better student, teacher, and writer because of the Summer Institute."

Tabatha Craddock, '20 (WV)



"The best learning experience I have participated in, bar none. The level of instruction was incredible and the opportunity to engage with peers from across the nation was invaluable – I picked up a tremendous amount of teaching tools and tips from our discussions on the roof and during mealtimes, all of which will help my students."

Earl Watts, '21 (ME)

"The Summer Institute was like drinking from a fire hose in the best way possible. Through engaging lectures, discussions in and outside the classroom, guest speakers, trips to historic sites, and plenty of time to explore D.C.'s wealth of cultural offerings, I grew in my appreciation for our nation's democratic heritage and left fired up and ready to pour my enthusiasm back into the classroom!"

Sonja Czarnecki, '21 (KS)



"The Summer Institute is one of those rare moments when you can focus completely on scholarly work. The total immersion factor makes it unique and allows for a deeper level of connection and understanding."

Robbie Tubbs, '20 (PA)



"This was a once-in-a-lifetime opportunity to learn about the American Founding, in the rooms where it happened, alongside countless other passionate educators. It was a profound experience to read the words of our Founding Fathers, visit their homes, and explore the seats of government they helped establish. Combined with engaging lectures and poignant guest speakers, it is a month I will never forget."

Allie Burkhardt, '22 (MI)



"The Summer Institute was the hardest, best, and most enjoyable academic program I have ever experienced. The reading and lectures broadened and deepened my knowledge of America's Constitutional principles and the discussions illustrated the power of democracy as conversation, common ground, courtesy, and compromise. The program has shaped how I see myself as both a citizen and a teacher."

Anna Lehrman, '21 (CA)



"I loved every minute of my time at the Summer Institute! The things I learned this summer will allow me to introduce my students to a wealth of documents and resources to better enhance their understanding of America's founding. The Institute's professors and guest lecturers strongly deepened my knowledge of the foundations of the Constitution, and I look forward to putting what I've learned into use in my classroom."

C.J. Tanner, '21 (AR)





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The 25th Annual James Madison Lecture

By Kimberly A. Alldredge

The 25th Annual James Madison Lecture was delivered on July 1, 2022, by Dr. Akhil Reed Amar who addressed the theme “Is James Madison Truly Father of the Constitution?” In his lecture, Dr. Amar called into question five widespread and interrelated “misunderstandings” or “myths.”

Myth One: James Madison was the Father of the Constitution. In his lecture, Dr. Amar posits that the Father of the Constitution is actually George Washington.

Myth Two: The key essay in the Federalist Papers is James Madison’s essay Federalist No. 10. Challenging that belief, Dr. Amar argues that the key Federalist essays during the ratification era were John Jay’s Federalist Nos. 2-5, and Alexander Hamilton’s essays Federalist No. 1, and Federalist Nos. 6-8.

Myth Three: The Framers believed in republics but disdained democracy. Dr. Amar posits that despite certain language that appears in Madison’s essay Federalist No. 10, republic and democracy were more synonymous than oppositional in 1780’s discourse.

Myth Four: The Constitution was indeterminate on, and perhaps supportive of, secession. Dr. Amar argues that George Washington’s “geostrategic Constitution” categorically reputed unilateral state secession.

Myth Five: The Constitution was designed by the rich for the rich. Dr. Amar’s answer? “Not really. The document was just what it said it was. A text ordained by the people.”

Akhil Reed Amar is Sterling Professor of Law and Political Science at Yale University where he teaches constitutional law in both Yale College and Yale Law School. After graduating from Yale



Akhil Amar delivers the 25th Annual James Madison Lecture at the 2022 Summer Institute (C-SPAN2).

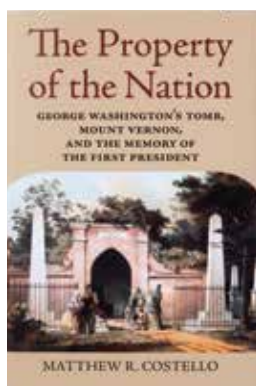
College summa cum laude and from Yale Law School, he clerked with then judge, now Supreme Court Justice, Stephen Breyer. Dr. Amar joined the Yale faculty in 1995 at the age of 26. His work has won awards from both the American Bar Association and the Federalist Society, and he has been cited by Supreme Court justices across the spectrum in more than 45 cases. He is Yale’s only currently active professor to have won the University’s unofficial triple crown—the Sterling Chair for scholarship, the DeVane Medal for teaching, and the Lamar Award for alumni. He has a weekly podcast entitled “America’s Constitution.” Dr. Amar is the author of ten books, including *America’s Constitution: A Biography* (2005), *America’s Unwritten Constitution: The Precedents and Principles We Live By* (2012), and his most recent book, *The Words That Made Us: America’s Constitutional Conversation 1760-1840* (2021).

The 25th Annual James Madison Lecture was held at Marymount University and broadcast on C-SPAN2 American History T.V. To view the full lecture, visit the following link: www.jamesmadison.gov/go/amar

BOOK REVIEW

Ladies to the Rescue

By Shawn P. Healy, Ph.D., '01 (WI)



**The Property of the Nation:
George Washington's Tomb,
Mount Vernon, and the Memory
of the First President**

By Matthew R. Costello

University Press of Kansas
216 pgs. | \$33

George Washington's Tomb at Mt.
Vernon, VA, Postcard, Library of
Congress.

Mount Vernon is a familiar stop for James Madison Fellows, a staple of the Summer Institute that includes walking tours of the Capitol and Arlington National Cemetery, and formerly parallel trips to Monticello and Montpelier. But the history preceding our trespasses through George Washington's estate is turbulent and the subject of Matthew Costello's adapted dissertation titled *The Property of the Nation* (University Press of Kansas, 2019).

Washington was widely known as "Father of the Country" upon his death in December 1799. His wife Martha passed a few years later, leaving Mount Vernon to a succession of relatives who struggled to keep the foundering plantation in the black while simultaneously entertaining a steady stream of visitors, many of them uninvited, interested in seeing Washington's final resting place for themselves. Since travel was difficult and expensive, early visitors had a decidedly upper-class bias, but improved roads, stagecoach runs, and steamboat cruises made Mount Vernon accessible to the masses. This further democratized the first president, which can be seen as ironic given his aristocratic bearing, republican values, and expressed fears of unfettered democracy.

While gift shops at presidential estates and museums are ubiquitous nowadays, Mount Vernon pilgrims often foraged keepsakes from the land itself, taking with them branches, stones, and shingles from buildings. Some who had the privilege of entering Washington's tomb tore away pieces of the cloth covering his coffin and even elements of its outer casing. This petty thievery contributed to the estate's shabby condition and calls for federal intervention. Entrepreneurial family members and slaves still working the plantation eventually sold flowers, refreshments, infamous walking sticks, and eventually stereoscopic images of the tomb and larger estate. Contemporary tours of Mount Vernon acknowledge and

carefully detail slave life and labor at the estate. Interestingly enough, several slaves took it upon themselves during the first half of the 19th century to play an interpretive role for visitors, claiming to have witnessed Washington himself in the flesh and further cultivating the flawless image of the General as "first in war, first in peace, and first in the hearts of his countrymen." While some of these personal accounts were indeed true, most were embellished and passed down through generations and a succession of owners of the estate. But they gave the tellers substantial legitimacy and even a modest income from tips while still in bondage.

The backdrop to an antebellum Mount Vernon visit was a national-versus-states debate over the role of the federal government in preserving Washington's remains and his estate. Congress repeatedly considered reinterring Washington beneath the Capitol and purchasing Mount Vernon for posterity's sake. This was complicated by Washington's will specifying his burial on Mount Vernon's grounds, Virginia's federalist claims to the estate, and its private provenance. Moreover, the asking price for the estate from Washington's kin proved too daunting for congressional majorities to swallow, not to mention the precedent they feared it would set for future presidents. By laying the cornerstone for the Washington Monument in 1848, federal recognition for Washington in his namesake city was forever cemented.

John Augustine Washington III, a distant relative of the estate's original inheritor (Washington's nephew and Supreme Court Justice Bushrod Washington), succumbed to selling the estate to the Mount Vernon Ladies Association of the Union (MVLVA), who maintain the property to present day. "Union" was added to the group's description in an effort to navigate regional tensions as the group expanded from its southern roots to add chapters in northern states and grow



its fundraising prowess in order to meet the financial terms of sale. The sale transpired in the build up to the Civil War and was finalized in February 1860. Both North and South claimed Washington as their own, the South seeing him as a native Virginian and fighter for independence, and the North a bulwark for constitutional preservation. The Civil War stifled travel to Mount Vernon, but the MVLA adopted a position of official neutrality and pleaded with the Confederacy, Union Generals and President Lincoln himself to protect the estate from the internecine battle surrounding it. Both governments granted it, and thankfully, both Washington’s estate and the Union endured.

Costello’s documentation of the debates that preceded MVLA’s purchase of the estate are meticulous, if a bit tedious. The book would have been better served if the author would have focused more attention on the fate of Mount Vernon after Reconstruction, with at least passing mention to its progression towards the national shrine we collectively worship at today. Costello only scratches the surface of the argument that women were keepers of the founding flame, supplanting men “...seen as corrupted by politics and special interests.” “Women,” he continues, “...were expected to maintain household morality and educate future citizens of the republic.” The author concludes that MVLA’s steady leadership during the nation’s darkest hours sparked a national preservation movement led by women, “[...]the] moral guardians of the past.”

The nation owes MVLA an enormous debt of gratitude. The once dilapidated Mount Vernon reemerged as a national treasure, truly the “property of the nation,” and this model was replicated across the estates of many of the founding generation, most recently James Madison’s Montpelier. Moreover, modern-day presidents plan their own libraries and museums with appropriate partnership with, and honoring of the contributions of, their wives, powered by a mix of federal and private funding. As with the Civil War Era, present day political polarization tears at the seams of national unity, and the divided nation should turn again to sacred places like Mount Vernon that reminds the republic of a “shared heritage and national founding.” Costello’s account of its survival during the Antebellum Period, and rebirth through Reconstruction thanks to the steady hands of MVLA, provides promise as the American experiment in constitutional democracy staggers towards its 250th birthday.



Shawn Healy, Ph.D., is the 2001 Senior Fellow from Wisconsin. He currently serves as Senior Director of Policy and Advocacy for iCivics and teaches undergraduate courses in public policy at the University of Illinois at Chicago.



A Great Man

The Foundation Remembers Admiral Paul A. Yost, Jr.

By Guy F. Burnett, Ph.D.,
Lewis F. Larsen,
Sheila Osbourne, Ph.D., and
Elizabeth G. Ray

ABOVE: Admiral Paul A. Yost, Jr. at his desk as President of the James Madison Memorial Foundation.

OPPOSITE TOP TO BOTTOM: Lewis F. Larsen, Admiral Paul A. Yost, Jr., and Senator John Cornyn; Admiral Paul A. Yost, Senator Ted Kennedy, Representative Esteban Torres, and Senator Orrin Hatch; Admiral Paul A. Yost, Jr., and two James Madison Fellows.

On February 9, 2022, Admiral Paul A. Yost, Jr. passed away after a lifetime of service to our nation. He was known for his generosity, warm smile, and his remarkable leadership. He was a graduate of the U.S. Coast Guard Academy and the U.S. Naval War College, and he finished two master's degrees, one in International Affairs from George Washington University, and the second in Mechanical Engineering from the University of Connecticut. According to Lewis F. Larsen, current President of the James Madison Foundation, the Admiral (as everyone called him) was a life-long learner and always had a book in his hand

when he became the first President of the James Madison Foundation in 1990. He traced his love of learning and education to his parents who taught him that "Education was always important."¹

The James Madison Foundation would like to offer a memorial and a few remembrances of Admiral Yost by those who worked with and knew him as the President of the Foundation.

Dr. Sheila Osbourne had served in the U.S. Coast Guard and heard rumors about Admiral Yost when he was Commandant. Before coming to the work at the Foundation in the 1990s, Dr. Osbourne was told by others that he was an in-

¹ Paul Stillwell (interviewer), "Interview Number 1 with Admiral Paul A. Yost, Jr., U.S. Coast Guard (Retired)," Interview Notes, 2001, 2.

credibly strict man, with little humor or patience for those under him. She was scared of working at the Foundation with him, but Steve Weiss, who also served in the U.S. Coast Guard and was part of the staff at the Foundation, convinced her to join the Foundation as she transitioned from the Coast Guard back to being a civilian. She hesitantly came over but instead of seeing a man she had heard such frightening things about, she found a genuine, kind, humorous man. “He met everyone where they were,” Dr. Osbourne said of him.

When she came to the Foundation, she was not sure where life was going to take her and she did not have a plan in place. Working with the Admiral helped her change her own attitude on life and to trust herself. She began to work on her undergraduate degree, being the first person in her family to do so, but things were not always easy. She initially struggled with an algebra class, but when the Admiral got word that she was struggling, he called her into her office to chat. “He had a kind energy and he knew who he was – he lived it,” she said, but “he would also make you feel comfortable with who you are.” The Admiral, who had an M.S. in Mechanical Engineering from the University of Connecticut, took the time to go over math with Dr. Osbourne until she understood it. She began to trust herself, she said, the more she worked with the Admiral.

After seeing how much time he took with her and the rest of the staff, and how kind and professional he treated everyone, she began to think of career goals and plans she had never thought of before. She decided to become a counselor directly because of her work with the Admiral. Dr. Osbourne finished her undergraduate degree, a master’s degree, and then received her Ph.D. in Advanced Studies in Human Behavior and began to work with clients, which she continues to do to this day.

The Admiral was at the helm of the cleanup effort of the *Exxon Valdez* oil spill in Alaska. It was a difficult task but one he was able to successfully accomplish. One of the few times Dr. Osbourne remembers the Admiral ever getting upset was over the choice of the actor Rip Torn to play him in the HBO film about the Exxon Valdez oil spill, *Dead Ahead* (1992). She remembers, “Oh, he was mad! He told them he was mad, too!” In an interview in 2001, he said he was mad because of how he was portrayed in the movie and how it made him and his fellow officers look. He said that they made him out to be a “heavyset idiot top brass.”² Anyone who knew the Admiral knew he was neither of these things, being an intelligent man with two master’s degrees and an avid lifelong exerciser. Dr. Osbourne still has a chuckle when she thinks back on how they portrayed him and how mad he (rightfully) was.

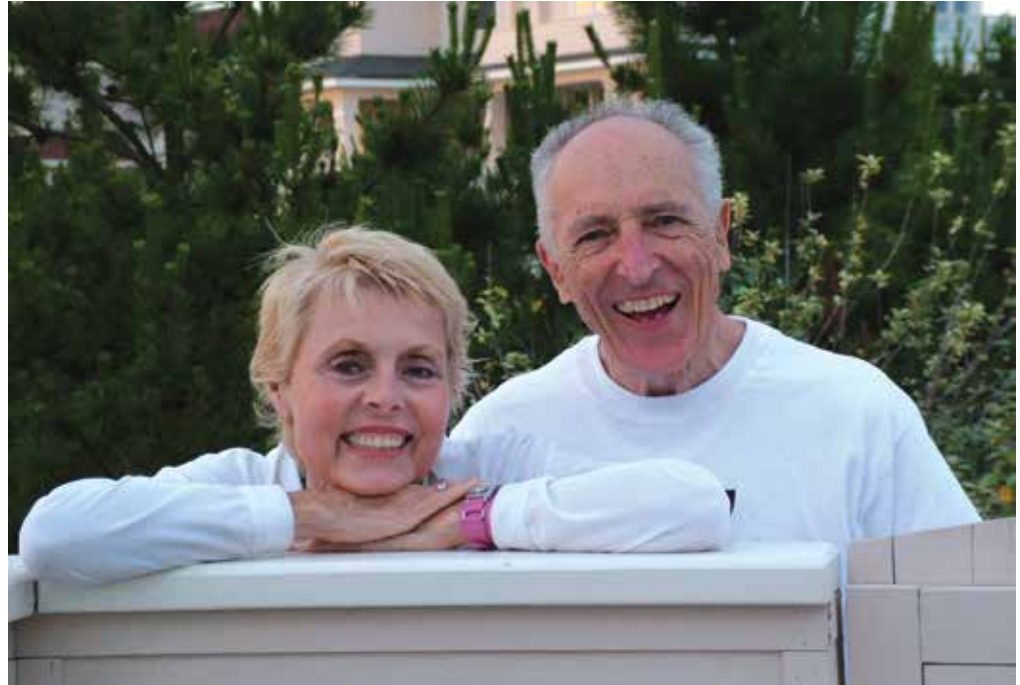
Lewis F. Larsen, who succeeded the Admiral as President of the Foundation and worked with him for years, recalled that the Admiral was a very capable leader who could navigate Congressional politics as well as the small James Madison staff. Larsen remembers that the Admiral had a personal relationship formed with Senators Hatch and Kennedy from his service as the Commandant of the U.S. Coast Guard. The Senators knew they could let him run the Foundation without much oversight because after seeing him as Commandant, they “completely trusted him.” Larsen remembers that the Admiral “had very good people skills” and that he was “able to talk



² Ibid., 532.

Admiral Paul A. Yost, Jr. and his wife, Jan.

OPPOSITE: Funeral ceremony for Admiral Paul A. Yost, Jr. at Arlington Cemetery.



I urge our Fellows to accept the role and responsibility of being a Constitutional Scholar not only in the classroom, but also in the neighborhoods and communities where you live.

to all of the members of Congress” in order to get things done. He had formed personal relationships with many of them during the early years of his career which helped get necessary legislation passed for the success of the Foundation. He worked with both sides of the aisle particularly well, and according to Larsen, “He set the tone for the nonpartisan nature of the Foundation.”

The Admiral was not a particularly large man, but he was tough, having been a wrestler in high school. He learned how to be even tougher as a student at the U.S. Coast Guard Academy and in dealing with Congress on a daily basis as Commandant. Despite his toughness, he retained a “bubbly personality” and “always had a smile on his face,” Larsen remembers. He was also committed to learning throughout his life as his parents had instilled in him. “He always had a book he was reading, usually on James Madison,” Larsen said. The Admiral was good friends with Syracuse University’s Dr. Ralph Ketcham from his Coast Guard days. They shared a mutual admiration of James Madison and the Constitution. It was the Admiral’s idea to bring on staff a professor who would be the Academic Director and help plan the academic activities, review plans of study, and help teach at the Summer Institute. As Senator Kennedy had envisioned it, the James Madison Fellowship was to be the “Rhodes Scholarship for U.S. civics, government, and history teachers,” and the Admiral helped imple-

ment that plan.

Larsen also remembers that the staff really trusted and felt safe with the Admiral. “The staff liked him and he would listen to their personal problems and would help if he could,” Larsen remembers. “He had seen a lot in the world.” Larsen said that the Admiral “brought a real team spirit” to the Foundation, which was vital to the young organization. Everyone respected him and they worked hard for him. Larsen worked with him as the Vice President of the Foundation, and together they helped develop the Foundation to what it is today. Perhaps most important of all, was how much the Admiral believed in the mission of the Foundation. “He was a patriot,” Larsen said, “he believed in the Foundation and in the Founders and their vision of America.”

Elizabeth “Liz” G. Ray who began at the Foundation in the fall of 1992 also heard rumors about Admiral Yost and how tough and scary he could be. One of her life-long friends, who is a filmmaker in the local Washington, DC area, went to the U.S. Coast Guard headquarters when Admiral Yost was the Commandant, to work on a film production. The Admiral’s schedule was very tightly booked and when the film crew arrived, Admiral Yost was strict, curt, and barely had time for the recording. It made Liz a bit intimidated when she went in for her job interview with the Admiral. Much to her surprise, Admiral Yost was kind, considerate, professional, and made her feel



like she would be a great addition to the Madison Foundation.

Throughout her years working for the Madison Foundation, Liz saw Admiral as a mentor, a guide, a man of wisdom and faith, and a resource for so many of the staff and the Madison Fellows whose lives he touched. Admiral Yost's door was always open and he welcomed conversation, questions, and sharing ideas and thoughts. During the weekly staff meetings at the Foundation's offices in Washington, DC, Admiral Yost encouraged everyone to participate, brainstorm, and report on accomplishments as well as frustrations they encountered as employees of the Foundation. The Admiral would consider everyone's ideas but ultimately, he was the leader and voice of the Foundation and never faltered in his commitment once a decision was made.

The Admiral exuded confidence in all his decisions and when meeting different people. He also demonstrated confidence in all types of situations, including Board of Trustees meetings, meeting members of Congress, Judges, and professors. Liz recalled that Admiral Yost was always the consummate gentleman and made everyone around him feel comfortable and at ease. He was the same with close friends, family, and the Foundation staff.

Liz also said she fondly remembers personal conversations with the Admiral that focused on family. When Liz started at the Madison Foundation, she was a new mother to her first baby girl who was only four months old. The Admiral had five children of his own and even had several grandchildren. The flexibility that Admiral provided to the Foundation staff, especially when it came to family, was one of the many benefits of working with such a great boss.

His advice and insight were invaluable, and as Liz's family grew, his words of wisdom were put into practice at the office and at home. An extra bonus of working for the Foundation and Admiral Yost was "Mrs. Y" (as the Foundation staff affectionately called her), who was the Admiral's sweet, fashionable, fabulous wife. Mrs. Y always brought a smile and the most joyful energy to all those lucky enough to know her. She was an inspiration in her love for her husband, her family, her friends, her faith, and the Foundation staff.

Those who personally knew the Admiral have always spoken glowingly about him. He was an invaluable leader of the Foundation in its formative years, and he put it on path to become what it is today. Thousands of teachers have benefited from his hard work at the Foundation, and millions of students across the nation have as well. He knew the Foundation would continue to be vital to civic education. Writing in *Madison Notes*, he said, "In classrooms throughout the country, James Madison Fellows are at the educational forefront of the continuing effort to teach the history and principles of the Constitution."³ Writing in 2002, the Admiral reminded James Madison Fellows of their role as elite teachers of the U.S. Constitution: "I urge our Fellows to accept the role and responsibility of being a Constitutional Scholar not only in the classroom, but also in the neighborhoods and communities where you live. Your knowledge and professional skills have never been more in demand."⁴ His advice has perhaps never been more relevant.

We will miss Admiral Paul A. Yost, Jr. and his wisdom and guidance, but we are grateful for the time we knew him and for his vision for the Foundation.

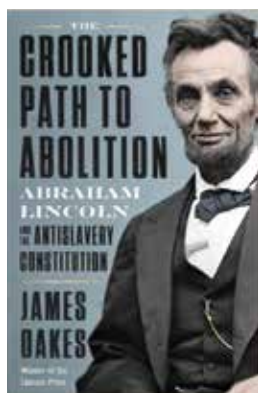
³ Admiral Paul A. Yost, Jr. "President's Letter," *Madison Notes* vol. 1, no. 12 (2002): 1-2.

⁴ *Ibid.*, 2.

BOOK REVIEW

Freedom is the Rule

By Lois MacMillan, '21 (OR)



**The Crooked Path to Abolition:
Abraham Lincoln and the
Antislavery Constitution**

By James Oakes

W.W. Norton & Company

284 pgs. | \$13

Abraham Lincoln, U.S. President. Seated portrait, facing front, photographer Matthew Brady, 1864, National Archives and Records Administration.

At the end of the 2021 Summer Institute, Professor Jeffrey Morrison posed a question to eleven James Madison Fellows in a small-group Socratic seminar: “Is the Constitution a proslavery document or an antislavery document?” While brilliance dominated the discussion, the thoroughly complex and nuanced history presented in James Oakes’ book, *The Crooked Path to Abolition: Abraham Lincoln and the Antislavery Constitution* would have grounded the debate. In his notes from the Constitutional Convention, James Madison thought it was, “wrong to admit in the Constitution the idea that there could be property in men,” American history textbooks have overemphasized proslavery advocates and events that led to the Civil War. However, from the moment of ratification, conflict between antislavery activists and proslavery forces ensued until slavery’s destruction in 1865. In his slim book of 204 pages, James Oakes describes with depth and distinction that over time and “in reaction to each other,” proslavery constitutionalism and antislavery constitutionalism developed “dialectically” alongside each other.

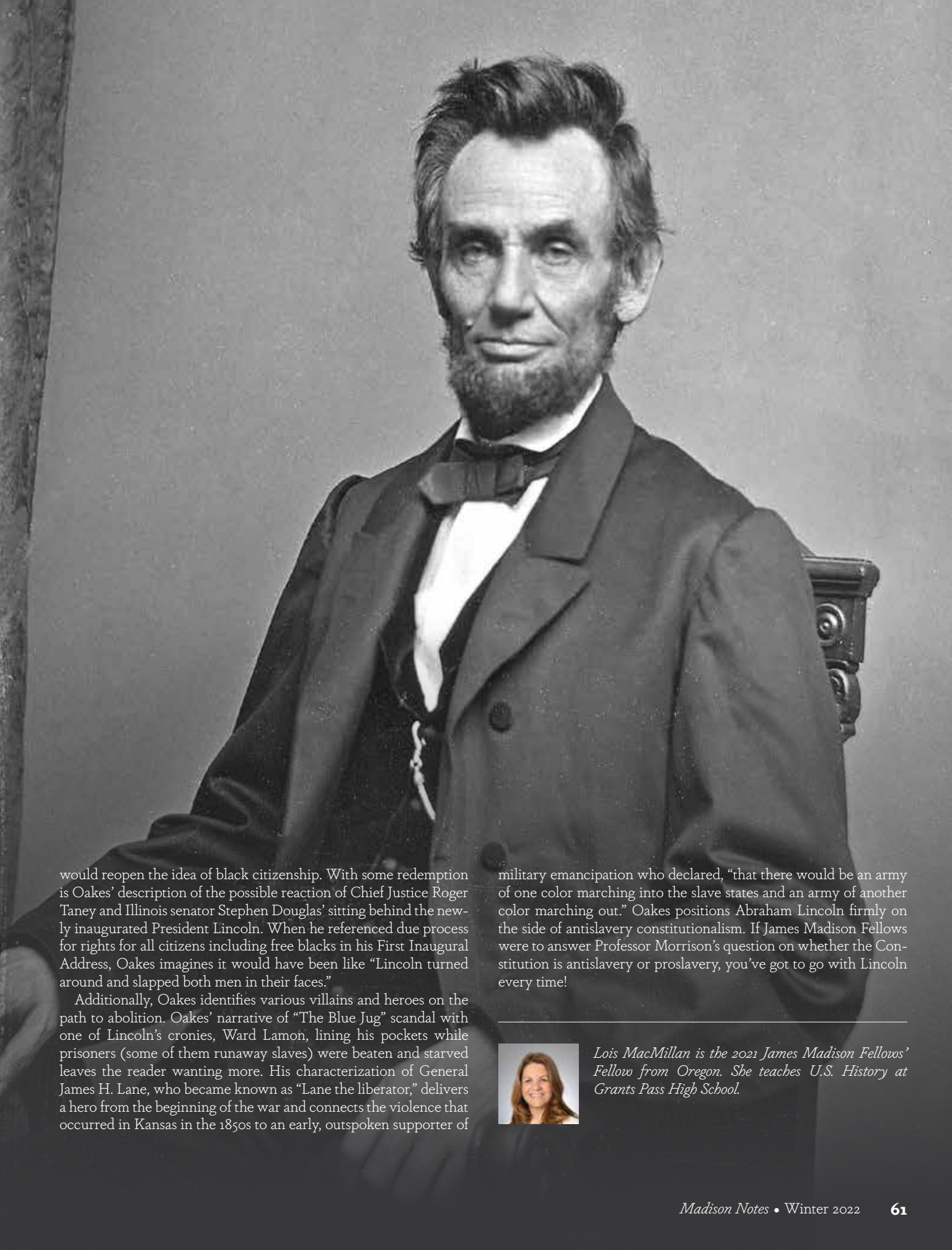
Throughout the book Oakes underscores that antislavery constitutionalism was based on the premise, “freedom is the rule, slavery is the exception” with both antislavery and proslavery advocates unilaterally accepting that only states could abolish slavery. Territories or any new states added to the Union, according to Oakes and those who embraced antislavery constitutionalism, were to be free. There were to be no new slave states. Furthermore, older states would capitulate to increasing economic pressure to eliminate the institution of slavery by being, “urged on by the carrot of federal compensation and the stick of federally induced economic necessity.” Although proslavery advocates like South Carolina Senator John C. Calhoun and Chief Justice Roger Taney claimed that the Founders always intended to maintain an equilibrium between slave states and free states, Oakes writes, “they did no

such thing.”

There are themes repeated from Oakes’ previous works, including *Free National: The Destruction of Slavery in the United States* (2012) and *The Scorpion’s Sting: Antislavery and the Coming of the Civil War* (2014) within this book. In the current book, Oakes brings superb clarity and complexity to understanding the Emancipation Proclamation. The Proclamation, which was a military emancipation, did not work alone, but worked alongside state abolition and “should be seen as “co-operative.” The Republicans and Lincoln had always favored slave states abolishing slavery on their own, but Oakes illustrates that “Lincoln was threatening to use one policy—military emancipation—to force the states to adopt another, gradual abolition.” Understanding this dynamic eventually led to the ratification of the Thirteenth Amendment in 1865 and “more importantly, the Emancipation Proclamation opened up the arming of Black soldiers.”

The word “crooked” in the Oakes’ title “The Crooked Path” does not seem to fit in the first three chapters. His description of America’s path to abolition was not “crooked” but complex and entwined. It is in his fourth chapter, “My Ancient Faith,” that Lincoln’s “path” becomes “crooked,” and Oakes pulls no punches. Lincoln had always been antislavery after witnessing enslaved persons, “chained six and six together...like so many fish upon a trot-line...going into perpetual slavery where the lash of the master is proverbially more ruthless and unrelenting than any other.” Oakes differentiates Lincoln’s antislavery views from his views on race, where he “thought a great deal about slavery as a moral, social and political evil, but he thought very little about race.”

Oakes does not shy away from Lincoln’s most incendiary moment in the fourth debate with Senator Stephen Douglas in Charleston, Illinois when Lincoln “withered beneath the assault” and declared, “I am not in favor of negro citizenship.” It would not be until Lincoln’s presidency that he



would reopen the idea of black citizenship. With some redemption is Oakes' description of the possible reaction of Chief Justice Roger Taney and Illinois senator Stephen Douglas' sitting behind the newly inaugurated President Lincoln. When he referenced due process for rights for all citizens including free blacks in his First Inaugural Address, Oakes imagines it would have been like "Lincoln turned around and slapped both men in their faces."

Additionally, Oakes identifies various villains and heroes on the path to abolition. Oakes' narrative of "The Blue Jug" scandal with one of Lincoln's cronies, Ward Lamon, lining his pockets while prisoners (some of them runaway slaves) were beaten and starved leaves the reader wanting more. His characterization of General James H. Lane, who became known as "Lane the liberator," delivers a hero from the beginning of the war and connects the violence that occurred in Kansas in the 1850s to an early, outspoken supporter of

military emancipation who declared, "that there would be an army of one color marching into the slave states and an army of another color marching out." Oakes positions Abraham Lincoln firmly on the side of antislavery constitutionalism. If James Madison Fellows were to answer Professor Morrison's question on whether the Constitution is antislavery or proslavery, you've got to go with Lincoln every time!

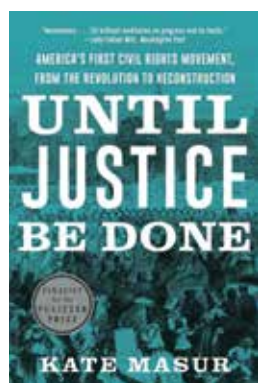


Lois MacMillan is the 2021 James Madison Fellows' Fellow from Oregon. She teaches U.S. History at Grants Pass High School.

BOOK REVIEW

The Promise of the Constitution

By Daniel Warner, '19 (TN)



Until Justice Be Done

By Kate Masur

WW. Norton & Company

456 pages | \$20

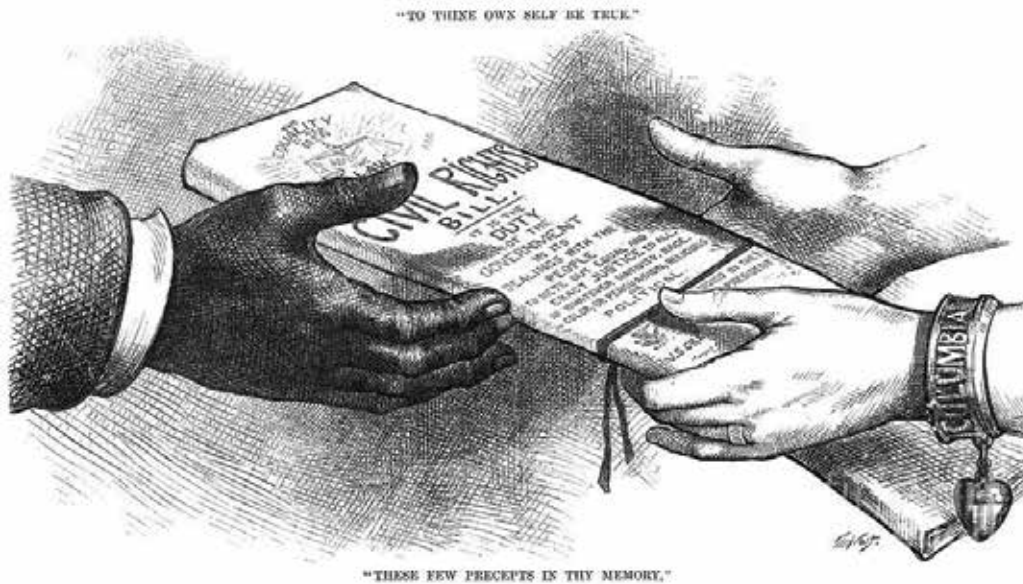
The Fourteenth Amendment was not a hurried result of lawmaking amid the exigencies of emancipation, as historians have tended to portray Reconstruction policy. Instead, it was the culmination of a sustained struggle against racist laws in the period from the Revolution to Reconstruction. So contends Northwestern University history professor Kate Masur in *Until Justice Be Done* as she illuminates the struggle for racial equality that occurred in the first eight decades of the nation, largely at the state level over concepts of citizenship, individual rights, and the extent of state sovereignty. Born of the American Revolution's emphasis on natural rights and human equality, this civil rights movement would call upon the constitutional protection of the "privileges and immunities" clause for free African Americans working as sailors in Southern ports or migrating to free states in the Northwest. The participants of this movement – lawyers, ministers, journalists, students, and other ordinary Americans – forged new understandings of race, citizenship, and federalism.

Scholars have overlooked "America's first civil rights movement," because the attention in this period has been understandably elsewhere – on the westward expansion of slavery, hardening sectional divisions, and the impending crisis of the Civil War. However, there is much to consider in the arguments advanced by free African Americans and their allies throughout a period in which the federal government's jurisdiction was more limited and states enjoyed a broader authority to define citizenship within their boundaries. As Americans wrestled with the tension of an unsettled distribution of federal and state power, growing numbers of *free* African Americans made their case at the state level, making petitions to legislatures and organizing ecclesial and political groups, seeking the promise of the equal

protection of the Constitution. What would be the lot of the growing free African American population? What would be their status in the American experiment in self-government as they worked in Southern cities, moved between states, or sought residence in free territory?

To explore these questions, Masur first takes up the "black laws" of Ohio. These early 19th century laws, which grew out of English "poor laws" (a common law tradition designed to limit protracted dependency of the needy on their community), equated free African Americans with vagrants, and thus restricted their ability to take up residence in the newly formed state. In response to slaveholding states prohibiting free African Americans from entering (some even required manumitted slaves to leave the state within a year), free states feared an influx of former slaves and increased barriers to residence for free African Americans. Although Ohio had a constitution that forbade slavery and has been oft depicted as a haven for free African Americans, associated with institutions such as Oberlin College (that fostered abolitionism and later women's suffrage), the black laws of the state rejected claims of African American equality and prevented African Americans from testifying in court. Masur finds that "such provisions, and similar ones elsewhere in the region, reflected the possibility that jurisdictions...could reject race-based slavery but use lawmaking power to render African Americans a suspect class, separate from and inferior to the white majority." Slave and free states alike sought to limit African American inclusion and participation.

The fight against early 19th century restrictions like Ohio's "black laws" took place at the state level because, under the Constitution, state legislatures were able to set their own terms for admission to their state as a function of their "po-



Cartoon of The Civil Rights Bill,
Thomas Nast, 1875, Harper's Weekly.

lice powers.” Masur explains that state police power was grounded in a “conviction that government’s most important obligation was to secure the health, safety and general well-being of a community,” and not to chiefly protect individual rights. This power gave states significant authority to make laws ostensibly aimed at controlling the public peace, frustrating the aims of state-based activism for African American equality before the law. Still, some crafted a strategy for federal intervention, seeing in “the Constitution’s privilege and immunities clause—Article IV, Section 2—the possibility of pushing the question of free African Americans’ civil rights onto Congress’s agenda.”

As Madison Fellows recount in their own classrooms, the privileges and immunities clause reads, “The citizens of each state shall be entitled to the privilege and immunities of citizens in the several states.” Masur notes this clause alludes to a concept of “state citizens” but also suggests that “citizens of a state should enjoy some basic prerogatives when they were in other states.” This concept of honoring the privileges of state citizenship in other states came to the fore in the Missouri Crisis of 1820. When Congress chose to admit Missouri as a slave state in 1820, a second phase of the crisis began, centering on the rights of free African Americans and citizenship under the privileges and immunities clause. Upon admission to the union, Missouri’s political leadership had to submit a constitution to Congress for approval, and the constitution they submitted called on their legislature to pass “such laws as may be necessary to prevent free negroes and mulattos from coming to and settling in this State, under any pretext whatsoever.” The state legislature ascribed this lawmaking authority to its police power, but it was challenged in Congress because the “ban involved migration from outside the state (rather than internal state matters only).” As some free states recognized free African Americans as citizens, many wondered if African Americans would be able to relocate as desired.

Citing Hamilton’s argument in *Federalist No. 80* that the privilege and immunities clause was “the basis of the Union,” Northerners contended that “the clause rendered the nation more than just a collection of small sovereignties” and complemented the federal juris-

diction of the Commerce Clause. The second phase of the Missouri Crisis ended in a strange compromise, avoiding a definitive ruling on U.S. citizenship and the privileges and immunities clause, not requiring Missouri to change its constitution, but calling on the state legislature to ignore the provisions regarding African American exclusion. Complying with the Congressional requirement, however, “Missouri’s first post-statehood statute on Black migration stipulated that ‘no free negro or mulatto, *other than a citizen of some one of the United States*’ could enter or settle in the state.” The Illinois legislature followed suit, leading Masur to determine that these measures marked a shift toward a broader understanding of citizenship between the states based on the privileges and immunities clause, a concept that would culminate in the Fourteenth Amendment.

Masur concludes that when the Reconstruction Congress fashioned the language of the Fourteenth Amendment, they were addressing a well-known problem. The Fourteenth Amendment, the product of decades of struggle for a national definition of citizenship and its concomitant protections, thus reads: “*No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.*” Masur’s scholarship in *Until Justice Be Done* – a 2022 finalist for the Pulitzer Prize in History – masterfully traces the conflicts which gave shape to the provisions of the Fourteenth Amendment and demonstrates that it was born not of emergency, but of a century long effort for African American inclusion and protection, realizing more fully the possibilities and promise of the Constitution.



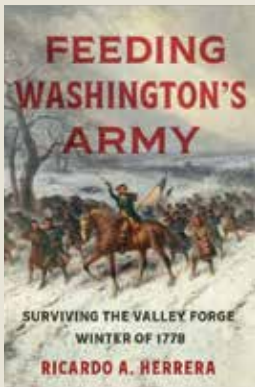
Daniel Warner is the 2019 Senior Fellow from Tennessee and teaches AP U.S. History and AP U.S. Government & Politics at East High School in Memphis.



BOOK REVIEW

You Are What You Eat

By David Chamberlain, '98 (NH)



**Feeding Washington's Army:
Surviving the Valley Forge
Winter of 1778**

By Ricardo Herrera

University of North Carolina Press
256 pgs. | \$28

The March to Valley Forge, December 19, 1777, William Brooke Thomas Trego, 1883, Museum of the American Revolution.

The old trope that an army marches on its stomach does not go quite far enough. The stomach must first be filled with food. The tribulations of the Continental Army at Valley Forge during the winter of 1778 loom large in America's collective memory. Every student learns of the privation endured by American soldiers as they huddled in drafty huts waiting until spring to resume their fight against the British Empire. Popular textbooks suggest that apart from deserters, Washington's troops were inactive and stationary throughout the winter, preoccupied only with routine survival concerns. These prevailing narratives, however, do not square with the evidence in Ricardo Herrera's new book *Feeding Washington's Army: Surviving the Valley Forge Winter of 1778*. His revisionist account of the winter encampment at Valley Forge shows that this was not an army simply hunkered down for the winter but one that was engaged in risky and far flung foraging operations across the Mid-Atlantic region.

As it established winter quarters west of Philadelphia, the Continental Army faced a dire logistical crisis. Everything was in short supply. Washington's army lacked grain and beef to feed the soldiers, a paucity of salt to preserve their meager rations, and precious little wood or clothing to keep warm. Horses and other livestock suffered alongside the soldiers for there was never enough hay to feed the depleted herds of the Continental Army. Replenishing the army's vital needs from

local farmers was beset by difficulties, one of the most significant being competition for scant resources from General Howe's army in Philadelphia which paid for supplies with hard currency rather than the less desirable paper scrip of the Americans.

In some of the book's most insightful passages, Herrera posits that the Continental Army's procurement and distribution systems were hamstrung by the animating ideology of the Revolution itself. Bernard Bailyn's classic argument in *The Ideological Origins of the American Revolution* is echoed by Herrera when he claims that the reluctance of the army to impress supplies from civilians is attributable to widespread concern about the threat to liberty posed by consolidated power. More provocatively, Herrera advances the view that this same fear shaped the army's organizational design. While the imprint of the Revolutionary generation's suspicion of centralized authority on the development of the Constitution's separation of powers doctrine is well known, Herrera suggests that the structure of the wartime army was a forerunner of these later institutional developments. In one example, the office of the commissariat was split into two sections by Congress, each with a coequal head who was prohibited from selecting their own deputy. According to Herrera, the shambolic state of the army's supply situation owes almost as much to Revolutionary ideals as it does the exigencies of the war itself.



Washington developed a multi-pronged plan to alleviate the shortages through what has become known as the “Grand Forage of 1778.” In four well-conceived chapters, Herrera discusses the actions led by Nathaniel Greene in Pennsylvania, Anthony Wayne in New Jersey, Henry Lee in Delaware, and the significance of the Elk Maryland depot to these complex operations. Washington allowed his subordinates discretion to carry out their missions in a flexible manner that took into account changing battlefield conditions. In contrast, the British under General William Howe were sluggish and failed to adapt to the American forays, squandering an opportunity to deal the Continental Army a decisive blow while it was in such a precarious state.

The most striking aspect of Herrera’s description of American foraging operations is how it underscores the brutal internecine nature of the Revolutionary War. Reading the accounts of farmers desperately hiding their food and animals from the two rival armies prowling the countryside or of loyalist fears and resistance in Delaware, one is reminded of Holger Hock’s 2017 book *Scars of Independence*. Herrera’s work builds on Hock’s claim that The Revolution was, in fact, a civil war characterized by shifting loyalties, shocking levels of violence, and pervasive property destruction.

Despite the attention paid to the maneuvering of the Continental Army and its skirmishes with the British, this book cannot simply be categorized as a work of traditional military history. In important respects, it is also a work of environmental history that explores aspects of the Revolutionary War that have been neglected by historians. Herrera’s account of the burning of the hay by American forces in New Jersey lest it fall into enemy hands, makes clear that prevailing against the British Empire required deliberate violence against the ecosystems that sustained it. Historians of the Revolutionary Era would do well to follow Herrera’s lead and expand the ambit of their research to examine other ways that the competing

British and American armies reshaped the natural world to secure a military advantage.

As the title suggests, it is the centrality of food to the narrative that makes *Feeding Washington’s Army* such a notable contribution to the field of environmental history. Nearly forty years ago, historian Donald Worster observed that “environmental history begins in the belly” because the stomach is the nexus between the human world and the natural world. The famished state of the Continental Army (which at times lacked even a barrel of flour) and their desperate attempts to get food demonstrate the wisdom of Worster’s remark.

Herrera makes a compelling case that the “Grand Forage of 1778” should be accorded more significance in the military history of the American Revolution. While the scale of the fighting was small compared to landmark battles such as Saratoga or Yorktown, it was no less consequential. The winter of 1778 marked a critical juncture in the war for independence. Faced with dwindling supplies and low morale, mutiny was a real possibility. Rather than disperse the army into the countryside, Washington opted for a bold foraging operation that succeeded not only in keeping his army intact but propped up Pennsylvania’s state government and kept America’s prospects for victory alive.



*David M. Chamberlain is the 1998 James Madison Junior Fellow from New Hampshire. He currently teaches at The Lawrenceville School in New Jersey. His essays have appeared in *Appalachia*, *Environmental Practice*, and *The History Teacher*. He also contributes to *The History News Network*.*

2022 FELLOWS' FELLOW

An Interview with Gage Sitte



Q What made you want to become a James Madison Fellow?

I am a typical history nerd, and very proud of that fact. I strive to always learn more about our Founding and become a better educator of future generations of citizens. I believed that by being honored with the James Madison Fellowship I was taking a giant step forward in relation to those two aspects I hold dear.

Q How did you hear about the James Madison Fellowship?

I first heard about the James Madison Fellowship when I was a Senior in college from the Director of Education who approached me and encouraged me to apply. That led me on this path where I am today. A life changing suggestion that I am forever grateful for.

Q A bit of background, where did you grow up?

I grew up in rural North Dakota, and even in this remote part of the country, the desire to learn about our history and government reached into the heart of my very being.

Q What got you into the field of education and teaching?

I always found stories of historical figures so incredible, and as a result, when I learned about a specific story or person I wanted to share it with others, especially my family. They always

encouraged me to go into education and teach them about these incredible events and people.

Q What are your primary interests in the field of history?

My primary interests are focused around the U.S. Presidency and the occupants of that office. I always found the hardscrabble stories of our presidents to be most interesting. It always amazes me that someone like Abraham Lincoln or Harry S. Truman, who came from the working class, ended up in the most powerful position in the country.

Q Where did you attend for your undergraduate education?

I attended the University of Mary in Bismarck, North Dakota and received a bachelor's degree in History and History Education.

Q Why do you love teaching about the Constitution?

Teaching the Constitution is by far the most exciting thrill I get as an educator. When students begin to read the Constitution, they initially struggle with it and are often overwhelmed. But it is always amazing that by the end of it, they are applying the principles set by the Founders to events happening in the present day. Students are great at bringing the Constitution alive in our own time, proving that its relevance and importance remains paramount.

Q Are there any awards you've received for teaching or scholarship, including your own secondary school experience and undergraduate experience?

I received the Constitution Award when I graduated high school in 2013. I was nominated for the Student of the Year at the University of Mary in 2017.

Q Who is your favorite Founder and why?

John Adams is my favorite Founding Father. To me, Adams represents so much of what we identify as when we talk about what being an American is. His commitment to his beliefs, his unending dedication to persuade others to his beliefs, and leading the charge for a republican form of government for this nation. For the past five summers, I always read David McCullough's work *John Adams* during the month of July to immerse myself again in this amazing Founding Father's life, ideas, and principles.

Q What is your favorite thing to teach about the U.S. Constitution?

My favorite thing to teach about the U.S. Constitution is Article II, on the Executive Branch. Students come into high school knowing the most about the Presidency, but as we read through Article II, and analyze the sometimes vague aspects of the office and learn how it has grown over time, students leave realizing that they may know less about the Presidency than they had previously thought.

Q What do you find the most challenging thing to teach about the U.S. Constitution?

The most challenging aspect of teaching the Constitution teaching how laws, Supreme Court decisions, executive actions and precedents, etc., have impacted our view of the Constitution. For example, in a post-9/11 world we could never imagine not having a permanent standing army, yet when we read 18th century documents, such as the anti-federalist papers we learn that a standing army was feared by

many, and they had sound reasons for that thinking.

Q What was the last book on U.S. history you read?

The last book I read on U.S. history was *The Last Plane in the Sky: An Oral History of 9/11* (2019, Simon & Schuster) by Garrett Graff. It was moving and powerful, and it gave me a sense of unity that was felt by nearly every American after the deadly terrorist attacks.

Q Who is the most overlooked figure in early American history and why?

One of the most overlooked figures in early American history is Henry Knox. Knox's story is incredible. A book salesman in Boston who, through his passion of reading and learning, became an incredible U.S. General during the Revolution. It is a story I think more of our students should know and study to prove what President Kennedy said, that "Leadership and learning are indispensable to each other."

Q Is there anything you would like to say to the James Madison Fellows for having selected you?

I am beyond grateful for this very distinguished honor of being selected by the Fellows. It is an honor of a lifetime that they have granted to me. I look forward to my journey with all the Fellows over the next few years!

Q Any last thoughts?

I want to thank everyone who has supported me on this journey. My family and friends who always encouraged me to strive to learn more, see more, and do more with my passion for history and government. I also want to extend a thank you to the amazing educators at my school district who always saw the potential in me and always encouraged me along this journey. And especially to Casey, my partner, who, without her unwavering support and confidence in me, none of this would have been possible.

CLASS Notes

1994

Gordon M. Sisk, III, '94 (TN) presented at the Friends of the World War II Memorial in July 2022, and still serves on the Board of Directors for the Tennessee Council for the Social Studies. He also an umpire in the Tennessee Association of Vintage Base Ball.

2002



The James Madison Fellowship Foundation family is deeply saddened to hear of the death of our long-time friend and supporter, **Peggy S. Jackson, '02 (NM)**. Not only was Peggy a great secondary school teacher, but she was also a leader in the social studies world, having been voted the President of the National Council of the Social Studies. Peggy never missed the opportunity to promote the James Madison Fellowship program for which we will be forever grateful. Our deepest condolences go out to Peggy's husband and family members. We will miss you, Peggy.

2008



Kimberly J. Huffman, '08 (OH), is the winner of the 2022 NCSS Teacher of the Year Award.

2014



Traci Schladweiler, '14 (WY) was selected as the Gilder Lehrman 2022 Wyoming National History Teacher of the Year.



Jason Duncan, '14 (HI) coached students who won the "We the People Hawaii State Competition."

2015



Jacob Goodwin, '15 (NH) published an article entitled "Union Power is the Best Solution to the Teacher Shortage" in *The Progressive*.

Caitlin Halperin, '15 (AL) was selected as the Gilder Lehrman 2022 Alabama National History Teacher of the Year.

Rhonda K. Watten, '15 (WI) is serving on the Board of Trustees for the National Council for the Social Studies.

2016

Jenny Traweek, '16 (LA) attended the Fort Ticonderoga's Seminar on the American Revolution.

2017

Wendy M. Bergeron Kloc, '17 (NH) attended the Fort Ticonderoga's Seminar on the American Revolution.

2018



Amy Palo, '18 (PA) was selected as the Gilder Lehrman 2022 Pennsylvania National History Teacher of the Year.

2019

Tyler Nice, '19 (OR) was selected as the Gilder Lehrman 2022 Oregon National History Teacher of the Year.



Lucas George, '19 (OH) was selected as the Gilder Lehrman 2022 Ohio National History Teacher of the Year.

Alise Pape, '19 (NE) was selected as the Gilder Lehrman 2022 Nebraska National History Teacher of the Year.

Colin Donovan, '19 (ID) was selected as the Gilder Lehrman 2022 Idaho National History Teacher of the Year.

Alona Whitebird, '19 (OK) was selected as the 2022 District Teacher of the Year, Moore Public Schools Foundation.

Anne M. Walker, '19 (VA) is serving on the Board of Trustees of the National Council for the Social Studies.

2020

Mallory Langkau, '20 (NH) was selected as the Gilder Lehrman 2022 New Hampshire National History Teacher of the Year.

2021



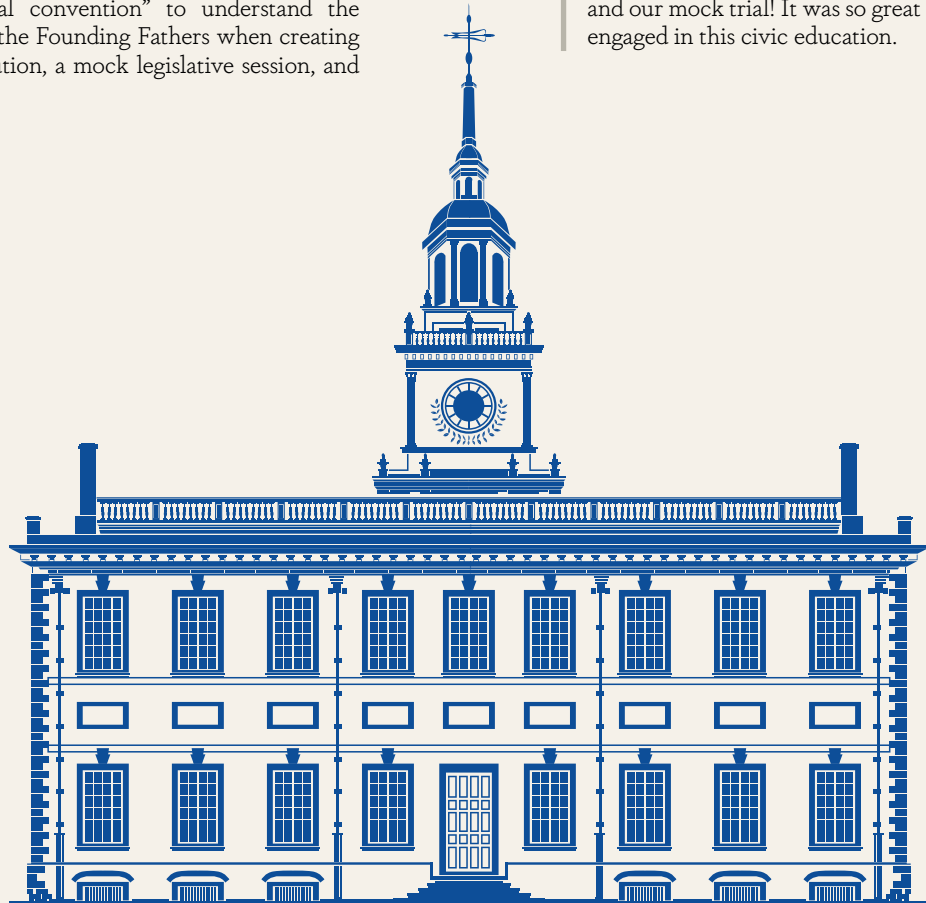
Robert Brown, '21 (FL) hosted various role-play activities for his students when teaching the Constitution, the legislative branch, and the judicial branch. His students engaged in a “student constitutional convention” to understand the struggles of the Founding Fathers when creating the Constitution, a mock legislative session, and a mock trial.



Lois MacMillan, '21 (OR) served a member of Mount Vernon’s George Washington Teacher Institute Advisory Group.

Mary McAuliffe '21 (NH) had students work through a “checklist” of ways to practice being active, civic-minded participants in their communities. They attended a local school board or select board meeting, wrote a letter to the editor, read and reviewed news articles, and tracked legislation and reported on its prognosis.

Nicole Menard '21 (VT) Students participated in interactive simulations to learn more about the three branches of government during our first unit of the year. They absolutely loved our mock presidential election, our mock Congress, and our mock trial! It was so great to see students engaged in this civic education.





From the Editor

Thirty years. How time flies.

It's difficult to believe that 30 years have already passed since the first James Madison Fellowship were awarded. Like many of you, I feel honored to be a part of the James Madison Memorial Fellowship Foundation during this celebratory year. The Foundation means so much to so many of us.

Many of you will notice *Madison Notes* is thicker this year. Some of this is due to the addition of material on our 30th anniversary. However, we have also increased the number of scholarly essays and book reviews. We have been receiving a lot of submissions and positive feedback from the James Madison Fellows, and we will continue to offer the essays and reviews each year. I want to encourage you to consider authoring a short book review or original scholarly essay. This magazine aims to foster and keep the conversation on the Constitution and the Founding going between the James Madison Fellows and friends of the Foundation. If you have an idea or would like to look at

the list of potential books to review, please contact me at gburnett@jamesmadison.gov.

I was once given terrible advice by a professor who told me to abandon studying the Founding and the Constitution because they were already overstudied and nothing new or important could come from them. Perhaps some of you have heard something along these lines. I wisely ignored his advice and I can tell you, after fifteen years of studying these subjects, I still find new and important things every time I study – and they couldn't be more relevant today. I hope you continue to study long after you complete your graduate degree.

You are the nation's master teachers of the Constitution and the Founding, and as a nation, we need every single one of you. I'm sure most of you remember the famous Benjamin Franklin quip about what kind of government was produced by the Constitutional Convention: "A republic. If you can keep it." Thanks to your individual efforts in the classroom, we know that you, through the students you teach, are helping us keep it.

A black and white portrait of Frederick Douglass, an older man with a full white beard and long white hair, wearing a dark suit and a white shirt with a dark tie. The background is a dark, textured grey.

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