

No. 23-4354

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

MARCO ANTONIO CARRALERO, ET AL.,
Plaintiffs-Appellees,

v.

ROB BONTA, IN HIS OFFICIAL CAPACITY
AS ATTORNEY GENERAL OF CALIFORNIA,
Defendant-Appellant.

**On Appeal from the United States District Court
for the Central District of California**
No. 8:23-cv-01798-CJC-ADSx
The Honorable Cormac J. Carney, Judge

**CIRCUIT RULE 28-2.7 STATUTORY
ADDENDUM TO APPELLEES'
RESPONSE BRIEF**

VOLUME II

Bradley A. Benbrook
Stephen M. Duvernay
BENBROOK LAW GROUP, PC
701 University Avenue, Suite 106
Sacramento, CA 95825
(916) 447-4900
brad@benbrooklawgroup.com

David H. Thompson
Peter A. Patterson
Kate Hardiman
COOPER & KIRK, PLLC
1523 New Hampshire Ave NW
Washington, DC 20036
dthompson@cooperkirk.com

February 16, 2024

TABLE OF CONTENTS – HISTORICAL LAWS

VOLUME I

Exhibit #	Citation	Page # in Brief
1.	<i>California Concealed Carry Reciprocity Overview</i> , Concealed Coal., https://bit.ly/4bvS5DN	6
2.	THE PUBLIC LAWS OF RHODE ISLAND 220, 222 (Providence, Carter & Wilkinson 1798)	21, 23
3.	2 LAWS OF DELAWARE 984, 1088, 1091, 1100, 1118 (Samuel and John Adams eds. 1797)	21, 22, 23
4.	10 PENNSYLVANIA STATUTES AT LARGE 57, 378 (William Stanley Ray ed., 1904)	21, 22
5.	PUBLIC LAWS OF SOUTH CAROLINA 271, 386–88, 426, 427 (Philadelphia, R. Aitken & Son 1790)	21, 22, 23
6.	1 LAWS OF NEW YORK 532 (Charles R. & George Webster 1802)	21
7.	A COMPILATION OF THE LAWS OF GEORGIA 373 (Augustine Smith Clayton ed. Augusta, Adams & Duyckinck 1812)	21
8.	JOURNAL OF THE VOTES AND PROCEEDINGS OF THE PROVINCIAL CONGRESS OF NEW JERSEY 239, 240 (1835)	21
9.	JOURNAL OF THE HOUSE OF DELEGATES OF THE COMMONWEALTH OF VIRGINIA 77 (Richmond, Thomas W. White 1828)	21
10.	LAWS OF VERMONT 382, 387 (Randolph, Sereno Wright 1808)	21, 23
11.	A COLLECTION OF ALL SUCH ACTS OF THE GENERAL ASSEMBLY OF VIRGINIA 69–71 (1803)	22
12.	LAWS OF NEW JERSEY 36, 49, 50, 58 (Joseph Bloomfield ed., Trenton, James J. Wilson 1811)	22, 23
13.	1 LAWS OF NEW YORK 176 (Websters & Skinner 2d ed. 1807)	22
14.	ACTS AND LAWS OF THE STATE OF CONNECTICUT 63–65 (New London, Timothy Green 1784)	22

15.	A DIGEST OF THE LAWS OF GEORGIA, 471, 473–74, 478, 611 (Robert & George Watkins ed., 1800)	22, 23, 40, 41
16.	THE LAWS OF MARYLAND, ch. 25 (1799) (1799 law)	22
17.	ACTS AND RESOLVES OF MASSACHUSETTS 235 (Boston, Adams & Nourse 1893) (1786 law)	22
18.	LAWS OF NEW HAMPSHIRE 112–16 (1797)	22
19.	A MANUAL OF THE LAWS OF NORTH CAROLINA 190–91, 196 (John Haywood ed., 1814)	22, 23
20.	ABRIDGEMENT OF THE PUBLIC PERMANENT LAWS OF VIRGINIA 325 (Augustine Davis ed., 1796)	23
21.	MD. CONST. art. 1 §§ 3, 14 (1776)	23
22.	John Adams, Argument for the Defense: 3-4 December 1770, NAT'L ARCHIVES FOUNDERS ONLINE, https://bit.ly/35FCuRh	28
23.	ARCHIVES OF MARYLAND 103 (William Hand Browne ed., Baltimore, Md. Hist. Soc'y 1885)	28
24.	1 THE STATUTES AT LARGE OF VIRGINIA 174, 263, 534 (William Walker Hening ed., 1809)	28
25.	PUBLIC RECORDS OF THE COLONY OF CONNECTICUT 95 (Hartford, Brown & Parsons 1850)	29
26.	1 RECORDS OF THE COLONY OF RHODE ISLAND 94 (John Russell Bartlett ed. 1856)	29
27.	THOMAS JEFFERSON, LEGAL COMMONPLACE BOOK 521 (2019)	29, 58
28.	1 WILLIAM BLACKSTONE, COMMENTARIES ON THE LAWS OF ENGLAND 60 (1765)	34
29.	<i>Gun</i> , WEBSTER'S AMERICAN DICTIONARY OF THE ENGLISH LANGUAGE (1828)	35

30.	Act of May 28, 1746, in 3 ACTS & LAWS OF MASSACHUSETTS BAY 306 (Boston, 1878)	35, 36
31.	Catie Carberry, <i>What's in a name? The Evolution of the Term 'Gun'</i> , DUKE CTR. FOR FIREARMS L. (July 24, 2019), https://bit.ly/3MNPV7y	36
32.	<i>Thursday Paper</i> at 3, ALBANY WEEKLY HERALD (Sept. 28, 1893), https://bit.ly/3MJc075 (discussing the law as a trespass law related to “sportsmen”)	37
33.	<i>Monday Paper</i> at 2, THE EUGENE GUARD (May 15, 1893), https://bit.ly/3sCQt9A (calling enactment a “very stringent hunting law”)	37
34.	IAN E. PHILP, THE HISTORY OF THE THAMES WATERMEN 46–53 (Apr. 29, 1957)	38
35.	HENRY CHARLES MOORE, OMNIBUSES AND CABS: THEIR ORIGIN AND HISTORY 182 (London, Chapman & Hall, LD. 1902)	28, 29
36.	Ron Vineyard, <i>Stage Waggons and Coaches</i> at 4, COLONIAL WILLIAMSBURG FOUND. (2002), https://bit.ly/3RH6l4D	39

VOLUME II

37.	GEORGE A. THRUPP, THE HISTORY OF COACHES 124 (London, Kerby & Endean 1877), https://bit.ly/41k1Wrg	39
38.	Oliver W. Holmes, <i>The Stage-Coach Business in the Hudson Valley</i> , 12 Q. J. OF N.Y. STATE HIST. ASS'N 231, 231–33 (1931)	39
39.	<i>Thursday Paper</i> at 4, THE PA. GAZETTE (Apr. 30, 1761)	39

40.	<i>Tuesday Paper</i> at 3, SOUTH-CAROLINA GAZETTE; AND COUNTRY J. (Nov. 22, 1768)	39
41.	<i>Saturday Paper</i> at 4, INDEP. GAZETTEER (Aug. 31, 1782)	39
42.	<i>Wednesday Paper</i> at 4, POUGHKEEPSIE J. (Apr. 18, 1787)	39
43.	<i>Tuesday Paper</i> at 4, AM. DAILY ADVERTISER (Sept. 16, 1794)	39, 41
44.	1 STATUTES AT LARGE OF VIRGINIA 152 (Samuel Shepherd ed., 1835)	40
45.	9 STATUTES AT LARGE OF SOUTH CAROLINA 61 (David J. McCord ed., 1841)	40, 41
46.	Act for Regulating Ferries of 1797, ch. 42, <i>in</i> ACTS AND LAWS OF THE COMMONWEALTH OF MASSACHUSETTS 74–76 (1896)	40
47.	Act for Regulating Ferries of 1791, <i>in</i> ACTS AND LAWS OF CONNECTICUT 405–06 (1791)	40
48.	Charles Christopher Crittenden, <i>Ships and Shipping in North Carolina, 1763–1789</i> at 10–13, <i>in</i> 8 THE NORTH CAROLINA HISTORICAL REVIEW (Jan. 1931)	41
49.	GEORGE WEBB, THE OFF. AND AUTHORITY OF A JUSTICE OF PEACE 153 (Williamsburg, William Parks 1736)	41
50.	<i>Monday Paper</i> at 3, AURORA GEN. ADVERTISER (Dec. 2, 1793)	42
51.	1812 KENTUCKY ACTS 100–01, ch. 89, § 1	42
52.	1819 INDIANA ACTS 39, ch. 23, § 1	42, 43
53.	1821 TENNESSEE. ACTS 15, ch. 13	43

54.	Christine Sismondo, <i>AMERICA WALKS INTO A BAR: A SPIRITED HISTORY OF TAVERNS, SALOONS, SPEAKEASIES AND GROG SHOPS 10–20</i> (2011)	45
55.	Samuel Adams, <i>American Independence</i> (Aug. 1, 1776), https://bit.ly/3HHsU3c	46
56.	Shira Lurie, <i>Creation: The New York City Liberty Poles, in Monuments of Colonial New York: George III and Liberty Poles</i> , GOTHAM CTR. (Oct. 15, 2020), https://bit.ly/3UsU31o	46, 47
57.	DONALD L. GRANT, <i>THE WAY IT WAS IN THE SOUTH: THE BLACK EXPERIENCE IN GEORGIA 122</i> (2001)	48, 49
58.	Ed Crews, <i>Gambling: Apple-Pie American and Older than the Mayflower</i> , Colonial Williamsburg (Autumn 2008), https://bit.ly/3vTucW7	50
59.	Jay Precht, <i>Legalized Gambling, 64 PARISHES</i> (last updated Apr. 23, 2019), https://bit.ly/3ua2WIX	50
60.	JANE CARSON, <i>COLONIAL VIRGINIANS AT PLAY 108</i> (1965)	50
61.	BARBARA PEPE, <i>FREEHOLD: A HOMETOWN HISTORY 81</i> (2003)	50, 51
62.	T.H. Breen, <i>Horses and Gentlemen: The Cultural Significance of Gambling Among the Gentry of Virginia</i> , 34 WM. & MARY Q. 239, 251 (1977)	51
63.	<i>Bellevue History</i> , NYC HEALTH + HOSPITALS, https://bit.ly/4240MiB	52
64.	Trust for Public Land, <i>The 150 Largest City Parks</i> , https://bit.ly/47VJw1Q	53, 54
65.	Margaret Walls, <i>Parks & Recreation in the U.S.: Local Park Systems</i> , RESOURCES FOR THE FUTURE (June 2009), https://bit.ly/42gjo0D	53

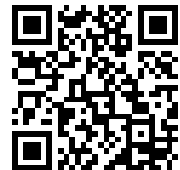
66.	Anne Beamish, <i>Before Parks: Public Landscapes in Seventeenth- and Eighteenth-Century Boston, New York, and Philadelphia</i> , 40 LANDSCAPE J. 1, 3–6 (2021)	53
67.	<i>Boston Common</i> , NAT’L PARK SERV., https://bit.ly/3SGumtc	53
68.	<i>The Earliest New York City Parks</i> , N.Y. CITY DEP’T OF PARKS & RECREATION, https://on.nyc.gov/3hBZXfe	53
69.	<i>Duane Park Origins</i> , THE HIST. MARKER DATABASE, https://bit.ly/3S92dt4	54
70.	<i>About Us</i> , CHARLESTON MUSEUM, https://bit.ly/3MPYhMB	55
71.	<i>A Museum of Art and Culture</i> , PEABODY ESSEX MUSEUM, https://bit.ly/439jDtl	55
72.	<i>Our History</i> , THE PEALE, https://bit.ly/41KAZvC	55
73.	<i>About Us</i> , N.Y. HISTORICAL SOC’Y MUSEUM & LIBRARY, https://bit.ly/3WkCcZF	55
74.	“AT THE INSTANCE OF BENJAMIN FRANKLIN”: A BRIEF HISTORY OF THE LIBRARY COMPANY OF PHILADELPHIA 5 (2015), available at https://bit.ly/3vdBGQk .	55, 56
75.	VERNON N. KISLING JR., ZOO AND AQUARIUM HISTORY 141–44 (2d ed. 2022)	55
76.	NICHOLAS J. JOHNSON ET AL., SECOND AMENDMENT: REGULATION, RIGHTS, AND POLICY 2195 (3d ed. 2021).	40

EXHIBIT 37

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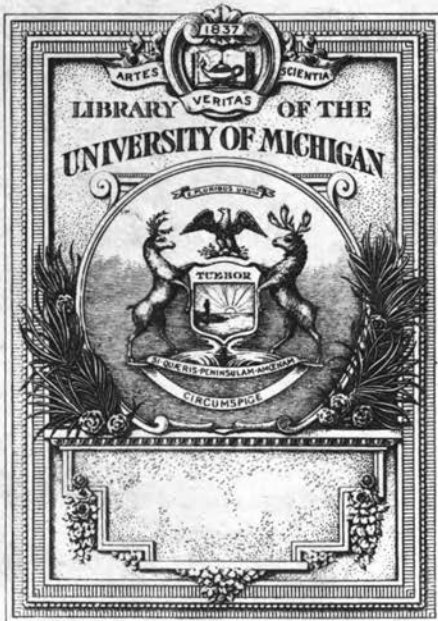


COACH OF THE TIME OF CHARLES II.

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THE
HISTORY OF COACHES

George
the
Author BY
G. A. THRUPP.

"O, then, I see Queen Mab has been with you,
Drawn with a team of little atomies,
Her Waggon spokes made of long spinners' legs :
Her Chariot is an empty hazel-nut,
Made by the joiner squirrel, or old grub,
Time out o' mind the Fairies' Coachmakers."

Romeo and Juliet, Act 1. Scene 4

WITH NUMEROUS ILLUSTRATIONS.

LONDON:
KERBY & ENDEAN, 190 OXFORD STREET.
NEW YORK: THE "HUB" PUBLISHING COMPANY.

1877.

2024-1-16-27 A

LONDON :
KERBY & ENDEAN, 190 OXFORD STREET,
Printers and Publishers.

The company builds for its own use about thirty 'busses each year ; the average weight of an omnibus is 24 cwt. Most of the vehicles are now provided with brake retarders, which are set in action by the foot of the driver, and check the speed down hill, or help to stop the omnibus to take up a passenger without so much strain upon the horses as formerly.

In Vienna the public omnibuses are longer, and are divided into two compartments, entered by separate doors; they carry twelve inside and six outside. The speed is rather slow and the appearance of most very shabby. In summer other omnibuses are also used, which are constructed without sides or windows, and in hot weather are agreeable from the free admission of air without draught.

American stage coaches began in 1786. As early as 1697 an innkeeper, named John Clapp, at the Bowery, New York, kept a hackney coach for the accommodation of the public; and in 1699 a law was made forbidding fast driving of "slees" through the streets of New York. The first private coach owned there appears to have been in 1745 by a Lady Murray. In 1786 there were but three Coachmakers' factories in New York: Mr Steel, in Pine Street, Mr Jones, and James and Charles Warner, in Broadway.

In 1789 six more factories had been opened in the coach trade, and five livery yards had begun to keep hackney coaches. In 1790 a coach was built in Philadelphia for eight hundred dollars, and there were eight Coachbuilders in that city. But the usual vehicle was a sort of wheel chair upon wooden springs, and

EXHIBIT 38

FENIMORE

ART MUSEUM

THE STAGE-COACH BUSINESS IN THE HUDSON VALLEY

Author(s): Oliver W. Holmes

Source: *The Quarterly Journal of the New York State Historical Association*, JULY, 1931, Vol. 12, No. 3 (JULY, 1931), pp. 231-256

Published by: Fenimore Art Museum

Stable URL: <https://www.jstor.org/stable/43565350>

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THE STAGE-COACH BUSINESS IN THE HUDSON VALLEY*

Transportation is a major theme in the history of New York State, influencing and interpreting all other phases of its life and growth. Indeed the position which the Empire State today holds is due very largely to its fortunate situation in respect to natural routes of trade and travel. It is therefore but right that in chronicling its history we should have much to say of steamboats, canals, railroads, terminals, harbors, ocean shipping, lake tonnage, highways and airports. Not only should their factual history be detailed, but attention should be directed to the subtle and far-reaching changes, the social and economic shiftings which accompany changes in transportation. For all great inventions and innovations to a degree create a characteristic civilization of their own, since they force readjustments in all departments of life. Few innovations produce more far-reaching reverberations than those which improve man's means of getting about and of sending his word to others. Before words were hitched to electricity it will be remembered that communication was dependent upon transportation, so that the latter served a dual role. Even yet, travel and transport facilities, necessary as they are for the exchange of first hand contacts and experiences as well as more material things, remain a major index of the character of a civilization.

In all America, and therefore in New York State, there has been first an era of travel by foot, next a period of horse and rider, and afterwards in succession a stage-coach age, railroad age, and motor age, with an age of air travel apparently full upon us. We who have witnessed the introduction of the automobile and the airplane have first hand knowledge of the widespread transformation in economic, social, and even cultural life which these agencies have brought about. The future historian will consider them among the profoundly significant causative factors of the age. The railroads at the time of their introduction produced changes no less revolutionary, changes which no historian has yet adequately analyzed. The stage-coach and the horse and rider symbolize earlier stages of development so well because they in great measure helped to produce the conditions of life which existed. Each type

*Paper read before the New York State Historical Association at Newburgh, September 25, 1930.

of communication directly determined the tempo of American life for the period of years in which it was dominant. Consider the stage-coach then, not as an antiquarian curiosity, but as a living, creative agent, shuttling back and forth across the face of our state, carrying news, mails, packages and people into nearly every community and binding all communities together into a patterned civilization partly of its own determining.

The first important stage line to be established in New York was set up in June 1785 along the east side of the Hudson River between New York City and Albany. The proprietors were Isaac Van Wyck, John Kinney and Talmadge Hall, tavern-keepers respectively of Fishkill, Kinderhook and New York.¹ Staging had

¹Their first advertisement, dated Apr. 17, 1785, appeared in the *New York Packet* for Apr. 25, 1785. According to this advertisement the stage was "to commence running the 2d day of June next."

Isaac Van Wyck (1755-1811), the leading proprietor, was a worthy representative of a well-known Fishkill family. He was an ardent patriot, signing the Articles of Association in 1775, and serving several terms in the Revolutionary army, the second time with rank of captain. A part of the army, while encamped at Fishkill, was quartered on his farm. After the war, in addition to being a tavern-keeper and stage-coach proprietor, he served as postmaster at Fishkill until the Postmaster General in 1793 decided that it was improper for one person to be both a mail contractor and postmaster. He was a leading incorporator of the Highland Turnpike Company (*post*), and between 1794 and 1811 served four terms in the State Assembly. He is described as a "medium size man, very social, pleasing and popular in his manners, and held in much respect in the community." [T. V. Brinckerhoff], *Historical Sketch and Directory of the Town of Fishkill* (1866), p. 95. See also A. Van Wyck, *Descendants of Cornelius Barentse Van Wyck* (1912), pp. 51, 77, 87, 122, and the *Postmaster General's Letter Books* (in Federal Post Office Building, Washington, D. C.), letters to Col. Bauman, Mar. 4, 1793, and to Egbert Benson, Mar. 8, 1793.

Talmadge Hall, a native of New Fairfield, Conn., had a long and adventurous career in the Revolutionary army, winning the rank of lieutenant, and being twice wounded in the storming of Stony Point under Wayne. In October 1784 Hall became proprietor of the New York end of the newly established New York and Boston stage line. The next May he announced that he had taken "the elegant House on Haerlem Heights of Isaac Ledyard, Esq., for the accomodation of his eastern and northern stages" and "provided himself with ready and obedient servants, and the best fare the country affords." This house, then known as the Roger Morris Mansion, had been alternately the headquarters of both Washington and the British General Clinton during the Revolutionary fighting on Manhattan, and was destined to become further famous as the home of the merchant Jumel, and later of his widow. When advertised for sale in 1788 the mansion and outbuildings were described as "probably not exceeded in this State, for elegance and spaciousness, and the prospect from the house is the most commanding on the island." See adv. in the *New York Packet*, Mar. 18, 1788; see also W. H. Shelton, *The Jumel Mansion* (1916). Financial difficulties seemingly forced Hall to give up the Morris Mansion early in 1787, for in June he was located at "no. 49 Cortlandt St., leading from Oswego Market, to Powles-Hook ferry, being the first brick house on the left hand from Broadway." (Adv. in the *New York Journal*,

developed somewhat in the colonies before the Revolution, especially around Boston and Philadelphia, but not in New York, although mention should be made of lines running across New Jersey between New York City and Philadelphia.² The reason is, probably, that in all other directions there existed excellent facilities for water transport connecting New York City with nearly every town of importance in the colony. No better highway for serving the state could have been made to order than the broad, deep Hudson, extending far inland through the heart of the settled area of that period.

Yet the Hudson was frozen in winter when mails and passengers must journey by land. Even when the river was open the sloops of the day must not be thought as swift and comfortable as the steamboats of a later generation. With luck a passage to Albany could be made in two days but four days was the average, while a journey might at times extend to a week.³ Nor was the trip in the small vessels, often heavily laden with freight, without its dangers in case of sudden squalls on the river. To the timid it

June 21, 1787). By September 1787, he had given up his stage lines and in December he was forced to sell his tavern and make an assignment to his creditors, after which he disappears from sight. His tavern was taken by Christopher Beekman, and in 1789 Beekman was succeeded by Mrs. Fraunces, who ran this house while her husband was steward in the President's household. The tavern remained the starting point of both the Boston and Albany stages, and Cortlandt Street remained the staging center of New York City until the 1850's. For Hall's connections with the Boston line see O. W. Holmes, "Levi Pease, the Father of New England Stage-coaching" in *Journal of Economic and Business History* (Feb. 1931), 3:241-63.

Of John Kenney nothing further is known.

²For movements across New Jersey to Philadelphia in colonial times see W. H. Benedict, "Travel Across New Jersey in the Eighteenth Century," in *New Jersey Historical Society Proceedings*, new series (1922), 7:97-119. There were two colonial stage lines on Long Island, one to Jamaica, advertised in the *New York Mercury*, June 8, 1767, and the other to Sag Harbor, advertised in the *New York Journal*, May 28 and July 9, 1772. It is not known whether these lines existed in other years, but these were the only notices found in going through files of the *Mercury, Journal*, and other newspapers for the decade previous to the Revolution. There was also an attempt in 1772 to set up a stage line between New York and Boston, which failed after making several journeys. See advertisements in the *New York Journal*, Mar. 5 and June 25, 1772; *Boston Gazette*, June 1, 1772; *Boston Evening Post*, July 6, 1772; and S. A. Drake, *Old Boston Taverns*, p. 68.

³John Maude, who made the journey by sloop in 1800 wrote in his *Visit to the Falls of Niagara* (1826), p. 19: "Our passage of four days may be considered a long one, at this season of the year. . . The shortest passage ever made on this River was by this same Sloop and Captain; he made it in sixteen hours and six minutes. . . The passage often takes a fortnight to perform it. . . ." Fare for the trip was usually \$2. Passengers paid extra for bed and board, the charge in Maude's case being \$4.50.

EXHIBIT 39

EXHIBIT 40

MARRIED] Mr. Richard Weir, to Miss Mary Beale, of Charleston, a very agreeable Lett...

- Nov. CUSTOM-HOUSE, BETSIEE EDWARDS. Shop Hours of Oak, Henry Odoms...

I HAVE this Day declined accepting the Honour which your Goodwill and Confidence would have called me to...

With universal Respect and Gratitude, Gentlemen, Your most obliged humble Servant, RAWLINS LOWMEDE.

JUST IMPORTED. A Few hogsheads of both London Light and Heavy TUGA...

THE STAGE-COACH, For as far as NEWCASTLE or NEW VINE HALL, or WINTER, from Six to Five o'Clock in the Morning...

THE BREW-HOUSE, with all its Appurtenances. EGAN of CALVERT, The Landman will be made known at the Time of Sale.

WANTED ON HIRE, A MAN capable of tending the Mowls, and managing a small Team, about a Mile from Charleston, Town at 12 o'Clock thereon.

DANIEL CANNON, N. B. If he has two or three Negroes, good wages will be allowed for them.

WILLIAM BAKER, Has just imported in the Queen Charlotte, Captain John...

An Assortment of GOODS, Consisting of the following articles: CROWLEY'S best broad hair, super-fine fashionable...

TO BE SOLD on Wednesday the 24th day of December next, at the plantation commonly called the RAT-TRAP, about three miles from Charleston.

At Stott's Mansefifer Ware-house, in BRADON'S ALLEY, JUST ARRIVED in the FAIR-AMERICAN, Captain...

WILLIAM LEE, Has just imported in the Beaufort, Captain Daniel Curlew, from LONDON. A SMALL ASSORTMENT OF CLOCKS AND WATCHES...

WILLIAM B. SELL, On Tuesday the 24th Instant, November, at Mr. PRICE'S Shop, at a Clock in the Afternoon...

HONDURAS MAHOGANY, DATED OF BUREL, TO BE SOLD, By SIMONTUFTS, CHIEF BREWERY, and a few Quinches of Coal-Fish...

TO BE SOLD, A Good COASTING SCHOONER, burthen 120 Burrels, drove for and on half Feet Water when loaded...

THIS is to forewarn all persons whatever from haunting, loitering or sitting on the Publick Road, as I have great reason to believe that I have sustained considerable damage...

TO BE SOLD at private Sale, A Young, healthy, sober Wench, about 28 Years old, that is to a good a housewife in any in the Province...

JOHN KELLY, V. intending to leave this Province in 20 Twenty and Days after the Date hereof, gives this public Notice to all Persons to whom he is in any way indebted...

THE Subscriber will undertake to load any Vessel with LUMBER of any Dimension, on the Shortest Notice...

AS I intend certainly to remove my family in Boston, the beginning of January, THIS I OUGHT TO GIVE NOTICE in advance...

CHARLES-TOWN, November 15, 1768. N. B. A SMALL TURKEY CARPET, and a quantity of SHEEP'S WOOL, to be sold separately.

TO BE SOLD by public Auction, at Mr. Thomas Nightingale's, near Charles-Town, on Tuesday the 15th day of December next...

UPWARDS of Forty valuable SLAVES, Among whom are, a Carpenter and Blacksmith, Cooper, Hairer, and Squarer, Hairdressing, and a good number of hands...

ATKINS & WESTON, Have just imported by the Ship Carolina Packet, Captain William Wills, from LONDON. 27 Two very LARGE and COMPLETE Assortments of GOODS...

TO BE SOLD under the STRICTEST CARE and SUPERVISION, FINEST French Cloth, two Bales, and three CANTON Cottons...

ANDREW LORD, Has imported in the last Packet from LONDON and BOSTON, A Choice Assortment of GOODS, suitable for the approaching SEASON...

A GREAT variety of low priced purple and dark ground creases and calicoes, most beautiful patterns of different colours...

A Quantity of CAMELETS, fit for negro vessels (French, at 65) a pair.

A L. L. person who has demanded upon the estate of JOSEPH ELLIOTT, deceased, and desired to give them in property settled on ROBERT BRITRANK...

JOHN CHAMFNEY, FOLLOWS the FACTORAGE BUSINESS by himself, and hopes for the Continuance of the Favour of his Friends...

TO BE SOLD at Auction, On Tuesday the 5th Day of December next, at the usual place in Charles Town...

A TRACT of LAND containing about twenty-five Acres, at Barns's Ridge, between a good Dwelling House, Store, Out-House, &c. lately occupied by the late Mr. WILLIAM JONES...

WANTED, A WAITER for a TAVERN, while the business is really for that purpose's sake it may only be with great Encouragement, by applying to the Printer.

For more News Advertisements, see the full Column of the next Page.

EXHIBIT 41

POETS CORNER.

To the PRINTER.
The Liberty that was granted in the month of June...

General Gates's March.
Gates, lead the march, lead it,
Let hills and dale rebound it...



The Ship SOUTH-CAROLINA.

FORNENT...
MONEY...
WILLIAM POWWELL...

Eight Hard Dollars Reward.
BROKE...
WILLIAM Mc GARRIN...

PHILADELPHIA: PRINTED by E. OSWALD, at his PRINTING-OFFICE, next Door to the Coffee-House, in Market-Street...

BALTIMORE

STAGE COACH and WAGGON.

THE Providence Stage Coach will leave the Falls...

NATHANIEL TWINGING.

JOHN S. PHILLIPS,
At his Store in Market-Street...

A Quantity of Goods, Drugs, and Pipes...
PHILADELPHIA, 2d March, 1782.

To be Sold, in Public Sale.

PHILIP THOMPSON, Taylor.

Family of New-York.

MAKES in the latest and newest Fashion...

JOHN DONALDSON and Company.

Quantity of French Brandy...

NONES and COHEN, BROKERS.

Eight Hard Dollars Reward.

WILLIAM Mc GARRIN.

HAYM SALOMONS.

Books for the Office of Revenue...

BROKER'S OFFICE by ISAAC FRANKS.

ISAAC FRANKS,
In Great Street, between Market and Coffee-Street...

WILLIAM Mc GARRIN.

FOREIGN BILLS of Exchange...

OFFICER, NOTES and CERTIFICATES...

MERCHANTS.

HOUSES and LANDS.

ISAAC FRANKS, Broker.

JOHN Mc PEARSON.

FINE and choice White Cloth...

FOR SALE.

JOHN and CHARLES HART.

DRY GOODS.

WANTS a Pair of a Watch...

THOMAS SANDALL and Company.

WILLIAM Mc GARRIN.

WANTS a Pair of a Watch.

THOMAS SANDALL and Company.

EXHIBIT 42

POET'S CORNER.

From the Chronicle of Freedom.
To Mr. BRAKENRIDGE on his Missisippi Speech.

O'HIO! for thou wilt defend the trade,
 Of genial fever for thy western flood,
 For in the party vapour of thine day,
 Thy noble object is the public good.
 Let western citizens bid their sisters know,
 And let the Missisippi's parent ride,
 How much to thy exalted mind they owe,
 And like a deluge head redoubled source,
 What! shall the Missisippi wash the shore,
 And haply Spain her free-herbs force arch,
 And bid the band of commerce press no more.

Upon the yielding forests of her breast?
 Thy sons, thy foes, to the moil distant coast?
 Of every streamlet, shall retreat the flame;
 And like a deluge head redoubled source,
 Add turn the infant of the world to foam.
 Then Spain be wile,—deceive a noble cause.
 And a new line of policy begin;
 Recede at once from this contended claim,
 And yield with temper what you cannot win.

Those Gentlemen who receive the Poughkeepsie Advertiser by the Post, and are in arrears for them, are again earnestly requested to make some kind of payment, either in money or produce.—Wheat, Rye, Corn, Oats, Buckwheat, &c. left at the Printing-Office, the highest prices will be allowed for; unless some of our Customers make more punctual payments, we unavoidably must discontinue their papers.

J. Chamberlain,
 M. Power.

ALBANY STAGES.

The proprietors of the Albany Line of Stages will commence performing the tour in two days on Monday the 16th of April instant.—A Carriage will move from Hill's tavern, near the Otsego Market, New-York, and Lewis's in Albany, every Monday and Thursday mornings, precisely at 4 o'clock, and return on Tuesdays and Fridays following: at the same time the price of a passenger will be reduced from four-pence to three-pence per mile—150 weight of baggage the same as a passenger.

The public will please to take notice, that the proprietors will not be answerable for the loss of any baggage whatever.

April 25, 1787. 88

TOBACCO.

The Public are hereby informed, that the Subscriber has for sale, bulkets of Tobacco in this place, opposite the north end of the Court-House, where the Merchants, Traders, and all others, may be supplied on the fourth notice with any quantity of Plug, Cut, or Pigtail Tobacco, at as low a price as it can be had in N. York.

He returns himself, that the punctuality of his Tobacco, and the punctual fulfiling of all contracts and orders, on his part, will be sufficient recommendations for the encouragement he wishes to receive.

JOHN M. BRIDE.

N. B. The subscriber will save in Country Tobacco from Merchant and others, to manufacturers, on as low terms as he reasonably can.

LANDS FOR SALE.

The Longfall, 5750 Acres.
 At Shobacco, 1300 Acres.

Those lands are situated on the Delaware waters, which abound with Fish, and afford water-carriage to Philadelphia.—They are distant from Elopas about 60, 70 and 80 miles.—There is a wagon-road from Elopas to Paccanac, and water-carriage from thence, down stream to the lands.

The first tract contains the several old Indian fields, orchard and other lands under good improvement.—The last has also old orchards and Indian fields under improvement, and is an extraordinary fine situation for trade.

They will be sold together or in farms to suit the purchaser.—One third of the money will be paid down and warrants deeded gratis.

Also, family other tracts in that part of the country for walkways or in farms, to be sold or leased on easy terms.—

Enquire of WILLIAM COCKBURN, Surveyor, Ulster County. 82

To be Sold at Private Sale.

A Very convenient House at Fish-Kill Landing, with three fine places, and a cellar under the whole house, a fine Garden-plot and a Stable.—The utility of this land for trade together with its delightful situation, is so well known that it needs no recommendation through the channel of an advertisement. Any person inclining to purchase, may apply to Elizabeth Bogardus, near the premises.

If not sold by the first of May next, to be let together with a Store-house on the dock, or separate, as may best suit the tenant. 76

ELIZABETH BOGARDUS.
 Fish-Kill-Landing, March 17, 1787.

To ISAAC KIP, late of the city of New-York, Merchant.

WHEREAS the subscriber about the year one Thousand seven hundred & twenty-six, was indebted to you the said Isaac Kip in about eighty five pounds upon a book account, which said account remains full due and unpaid.

There are therefore in pursuance of two certain acts of the Legislature of the State of New-York, the one entitled, "An act relative to debts due to Persons within the enemy's lines," passed the 12th July, 1783, the other entitled, "An act to explain and amend the act entitled an act relative to debts due to persons within the enemy's lines," passed the 24th November, 1784, to testify and require you the said Isaac Kip, to appear before the Judges and Justices of the Inferior Court of Common Pleas, of the People of the State of New-York, to be held at Kingston, in and for the county of Ulster, on the first Tuesday in January next, in order to have a settlement of the said account, and that payment may be made agreeable to the mode prescribed by the said Act above mentioned. Dated the 17th March, 1787.

88—Sm. JOHN DUFFIELD.

The new Militia Act,
 To be sold at the Printing-Office.

Refs and Bonnet Paper,
 to be sold at this Office.

TO be Sold at private Sale,
 A large and well situated
F A R M,
 Living in Beckman's Precinct,
 CONTAINING 337
 Acres, including 500
 Acres of good timber land,
 all in good fence and well
 watered; sufficient of good
 meadow to cut 100 tons
 of hay yearly; a large orchard containing
 100 hundred apple trees of the best
 kinds.—There is on said farm a large
 commodious dwelling house, barn, and
 all other convenient out-buildings around
 the same, with a large pond near the
 house; also a Stone-works well situated at
 the centre of four roads, adjoining a
 grist and saw-mill.—The farm may be
 divided into two convenient farms with
 buildings on each, situated in a good
 part of the country and an agreeable
 neighbourhood.—The terms of payment
 will be made easy.—For further particu-
 lars enquire of the subscriber living
 on the premises, who will give an indis-
 putable title for the same.

JOSHUA CARMAN.
 Beckman's Precinct,
 24th Decr. 1786. 71 4

To be Sold on very reasonable terms,
 a Farm, containing about
 Three Hundred Acres, truate in Co-
 lumbia County, between Clermont and
 Kinderhook, one Mile well of the Post-
 Road, and about five miles from Had-
 son, this is on said farm a good Stone
 Dwelling-House, a Large Barn, a good
 breeding Orchard of about fifty trees;
 is well watered by a fine brook issuing
 through it, on which there is two very
 convenient falls for mills, which require
 but very little dam.—One of the falls
 now above three hundred yards from the
 house. The Farm is very good for
 flax and hay, and is a new delivery
 lands yearly, and a much more may be
 cut if the meadows be cleared up.

Any person inclining to purchase,
 may apply to the subscriber on the pre-
 mises.

Glovdie Van Valkenburgh.
 Feb. 19, 1787.

TO BE SOLD,
A F A R M
 LYING in Clinton Precinct, six
 miles from Staatsburgh landing,
 consisting of one hundred and fifty acres,
 well enclosed and watered, of which
 one hundred is under good improve-
 ment, well cultivated, and fenced, belong-
 ing to Daniel Slaughter, with a young
 orchard of several bearing trees, a
 house, barn, and barnack.

Like a farm lying in Poughkeepsie
 precinct, one mile north of the
 Court-house, on the post road leading
 to Albany, formerly in the possession
 of George Sacks; containing about
 two hundred acres, well divided into
 plough, meadow, and wood land, a
 good stone house, barn, orchard, and
 cider mill, the whole is well watered.

If not sold by the twentieth day of
 April next, the above premises will be
 let at a moderate rent by the year; any
 person inclining to purchase, or rent the
 above, if not sold, may apply to the
 subscriber. Payments will be made easy
 to the purchaser.

AHASERUS ELLSWORTH.
 Ninepartners, 2d Feb. 1787.

To Cover the ensuing season,
 The well known Horse YOUNG
IRISH GRAY,
 At the Stable of Jonathan Hoag, Junr,
 well bred and well watered, who is formerly
 lived, in the Nine-Partners, at the
 moderate rate of Twelve Shillings
 the Leap, Three Dollars the Season,
 and Six Dollars to capture a Foal.

RISH GRAY will be kept the
 first week in April at Jonathan Hoag's,
 and the next week at Van's, and
 so change his situation weekly, during the
 Season of Covering.

Any person that has a mare entered
 from said horse, and puts her away
 before the foal, must pay the above sum
 of six dollars.

Good attendance will be given at the
 above said place.
 March 21, 1787. 86

LANDS FOR SALE.
 All that Tract of Land between the
 Delaware and Sulphurhans,
 containing
Forty Thousand Acres,
 GRANTED to the heirs of the late
 General John Bradstreet; foreveard and
 run into lots by William Coakburn,
 and John Cox, in 1786.

For particulars apply to CHARLES
 JOHN EVANS, No. 22, King Street,
 or LUDLOW and GOULD, No. 47,
 Wall Street, New-York; where the
 Maps may be seen. 85—

To be Sold at private Sale,
 On reasonable Terms,
An Excellent Farm;
 SITUATE in Washington Precinct,
 about a mile distance from the feet
 of David Johnson's, King, now in the
 tenure of John Carpenter; containing
 410 acres, including about 100 acres of
 good timber land, remarkably well wa-
 tered and in good fence, on which has
 been cut 20 tons of hay per annum.
 There is on the premises, a plenty of
 mair, being an excellent measure, lying
 near the farm; a good bearing or-
 chard containing 500 apple trees, a good
 dwelling-house and very good barn;
 said farm is capable of the highest im-
 provement, as every acre of it is till-
 able.

Also a Farm situate in Ame-
 nia precinct, now in the tenure of John
 Farr, containing 283 acres of remark-
 ably good land, including a very large
 proportion of the best and most beauti-
 ful meadow, with 60 or 70 acres of
 good timber land, in which is a plenty
 of good lime stone; the whole is in
 good fence and well watered, the situa-
 tion is beautiful, and it is an excellent
 land for public benefits; there is on
 the premises, a good orchard with a large
 dwelling house and barn. The above
 farm being very new, are well known
 to equal if not excel, the best farms of
 this size, in the several precincts where
 they are.

Also a small Farm situate in
 Washington precinct, within half a mile
 of Nehemiah Bierin's mill, now in the
 tenure of John Mills; the situation is
 beautiful and is a very good land for
 public benefits; on the premises there is
 a very good orchard, and about a acre
 of good meadow, with a small dwelling-
 house. For further particulars enquire
 of the subscriber living near the pre-
 mises, who will give indisputable titles
 for the same.

JOSEPH S. MARETT.
 Dutchess county, Nine-
 Partners, 24th Feb. 1787. 83—

FOR SALE
An Excellent Farm,
 LYING in Washington Precinct,
 Great Nine Partners, late the prop-
 erty of Capt. Samuel Smith, deceased;
 distant from Poughkeepsie, about eight-
 teen miles,—neatly improved land and in
 good repair; containing nearly two
 hundred acres, on which is a good dwell-
 ing-house, large Dutch barn, and several
 out-buildings, there is on the premises
 a good bearing orchard, and two young
 orchards which begin to bear, the meadow
 is very excellent, and will not
 yearly, near forty tons of excellent it-
 mothy and clover hay; sufficiently tim-
 bered, and watered by living streams
 running through the middle.—It lies in
 a public part of the country, and is an
 excellent stand for a Rose and tavern,
 it having been occupied as such, his
 many years.

Also to be Sold at Public Vendue on
 the premises, on Thursday, the 19th
 day of April; horses, a good portable
 pump well ironed, one large pot-
 cooler, sundry farming utensils, four
 household-furniture, and other goods.—
 Articles of vendue to be made known
 day of sale.

Hannah Smith,—Executrix,
 Samuel Smith; } Executors,
 Isaac Smith, }
 87

Blank Leaves & Relievers,
 to be sold at this office.

POUGHKEEPSIE: Printed by NICHOLAS POWER, next Door to the Tavern of Mr. Thomas Poole, and nearly opposite the
 Tavern of Captain Stephen Hendrickson, a few rods South of the Court-House; where Subscriptions at Twelve Shillings per
 Annum, Essays, Articles of Intelligence, Advertisements, &c. are thankfully received, and every Kind of Printing performed
 with Neatness and Dispatch.

EXHIBIT 43

EXHIBIT 44



STATUTES AT LARGE

OF

VIRGINIA,

FROM OCTOBER SESSION 1792, TO DECEMBER SESSION 1806, INCLUSIVE,

IN THREE VOLUMES,

(NEW SERIES,)

BEING A CONTINUATION OF HENING.

49355

VOL. I.

BY SAMUEL SHEPHERD.

RICHMOND:

PRINTED BY SAMUEL SHEPHERD.

1807

UNIV. OF MICH. LAW LIBRARY

brought for her lands.

render the wife's lands in any suit instituted against the husband and wife for lands which are her inheritance during the coverture, then the wife may come at any time before judgment, and defend her right.

When the reversioner may defend a suit brought against the tenant for life.

3. If tenant in dower, tenant by the curtesy, or otherwise for term of life, or by gift, where the reversion is reserved, do make default, or will give up, the heirs or they unto whom the reversion belongeth, shall be admitted to their answer if they come before judgment; and if upon such default or surrender, judgment happen to be given, then the heir, or they unto whom the reversion belongeth, after the death of such tenants, shall in no wise be injured by such default or surrender.

When the dying seized of a disseisor shall not take away the right of entry.

4. The dying seized hereafter of any disseisor having no right or title, shall not be such descent in law as to take away the right of entry from such as, at the time of the death of the disseisor, had lawful title of entry, except such disseisor hath had peaceable possession five years next after the disseisin committed without entry, or continual claim of such as have lawful title.

Husband's conveyance of his wife's lands not to prejudice her or her heirs.

5. No feoffment, or other conveyance, or other act or acts hereafter to be made, suffered or done by the husband only, of any lands, tenements or hereditaments, being the inheritance or freehold of his wife, during the coverture between them, shall in any wise be, or make any discontinuance thereof, or be prejudicial or hurtful to the said wife or her heirs, or to such as shall have right, title, or interest to the same, by the death of such wife; but the said wife or her heirs, and such other to whom such right shall appertain after her decease, shall and may then lawfully enter into all such lands, tenements and hereditaments, according to their rights and titles therein; any such feoffment, or other conveyance or act to the contrary notwithstanding.

Repealing clause.

6. All and every statute and act, or clause and clauses of any statute or act, coming within the purview of this act, shall be, and the same are hereby repealed: *Provided nevertheless*, That nothing herein contained shall be construed to affect any right which may have accrued, or been vested before the commencement of this act.

Proviso.

Commencement.

7. This act shall commence in force from and after the passing thereof.

CHAP. 52.—An ACT reducing into one the several acts for the settlement and regulation of ferries.

(Passed December 26, 1792.)

Public ferries established.

1. *Be it enacted by the general assembly*, That ferries be constantly kept at the places hereafter mentioned, and at the rates annexed to each ferry, that is to say:

Over the bay of Chesapeake.

Over the bay of Chesapeake.

From York, Hampton and Norfolk towns, to the land of the heirs of John Bowdoin, deceased, on Hungar's river, for a man or horse passing singly, three dollars and thirty-three cents; for a man and horse, or if there be more, for each, two dollars and fifty cents.

Over Patowmac river and its branches.

Over Patowmac river and its branches.

	For a MAN.	For a HORSE.
	Cents.	Cents.
From Henry Ashton's to Cedar Point Maryland,	42	42
From Thomas Rowe's to Cedar Point,	42	42
From Hooe's to Cedar Point,	33	33

EXHIBIT 45

THE
STATUTES AT LARGE

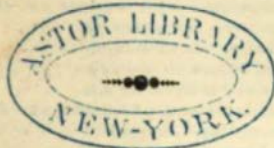
OF

SOUTH CAROLINA;

EDITED, UNDER AUTHORITY OF THE LEGISLATURE

BY

DAVID J. McCORD.



VOLUME THE NINTH,

CONTAINING THE ACTS RELATING TO ROADS, BRIDGES AND FERRIES,
WITH AN APPENDIX,
CONTAINING THE MISCELLANEOUS ACTS PRIOR TO 1794.

—•••—
COLUMBIA, S. C.
PRINTED BY A. S. JOHNSTON.
1841.

Acts relating to Roads, Bridges and Ferries.

A. D. 1725.

I. *And be it enacted*, by his Excellency Francis Nicholson, Esq., Governor, by and with the advice and consent of his Majesty's Honorable Council and the Assembly of this Province, and by the authority of the same, That a public ferry be, and is hereby, established at the plantation of the said James Wrixam, deceased, in Colleton county, across Pon Pon river, which shall be, and is hereby, vested in Mr. Henry Jackson, Mr. John Bull, and Mr. Christopher Smith, commissioners, for the space of ten years next ensuing the ratification of this Act, who are hereby empowered to agree with any person or persons who shall undertake the looking after the said ferry; and there shall be found and provided a good and sufficient ferry boat, for which there shall be paid fifty pounds by the public, and no more, which ferry boat shall be able to carry over four horses at the least; and the person or persons so to be appointed by the said commissioners, shall find and provide two able servants or slaves, who shall constantly attend the said ferry, at all hours, as well by night as by day, to carry over passengers, their horses, servants and slaves.

Ferry over
Pon Pon, at
Wrixam's.

II. *And be it further enacted* by the authority aforesaid, That the person so to be appointed by the said commissioners, shall be allowed for Rates of Ferri-
ferriage the several rates and prices following, that is to say: for a white age.
man, fifteen pence; for a slave, fifteen pence; for a horse, fifteen pence; for cattle, six pence per head, that shall be swam over, and fifteen pence per head if carried in the ferry boat; for sheep and hogs, per head, seven pence half penny.

III. *And be it further enacted* by the authority aforesaid, That the person who shall have the charge of the said ferry, shall keep the said ferry Penalty for
boat in good and sufficient repair, from time to time and at all times, during neglect.
the said term of ten years, and shall cause constant attendance to be given at the said ferry at all times of the day and night as aforesaid, under the several penalties and forfeitures following, that is to say:—for non-attendance the first half hour, ten shillings; for an hour, twenty shillings; for every hour after, forty shillings. And every justice of the peace in the said county, upon information made to him upon oath, in writing, of such neglect, by any person who shall be delayed thereby, shall be, and is hereby, empowered to levy such forfeitures by warrant of distress under his hand and seal, directed to any adjacent constable, and sale of the defaulter's goods; and in case of no goods to be found, against the body of the defaulter; the monies arising by such defaults to be to the use of the poor of the parish.

IV. *And be it further enacted* by the authority aforesaid, That Mr. Henry Jackson, Mr. John Bull, and Mr. Christopher Smith, be, and are hereby Commissioners
appointed, commissioners for inspecting into the said ferry, and to appoint persons, from time to time, to look after the same; and to remove such person or persons upon notorious neglects, and others in his and their stead again to constitute, as they shall see necessary.

V. *And be it further enacted* by the authority aforesaid, That all persons under arms in times of alarms and expresses, shall have their ferriage free, themselves, servants, and horses.

VI. *And be it further enacted* by the authority aforesaid, That there shall be, and is hereby established, a scout consisting of seven men and an offi- Scout esta-
cer, to scout on the out settlements of Ponpon, for the better security of the blished.
inhabitants, and to prevent their being surprised by Indians, who shall be under the command of a field officer, to be nominated by his Excellency the Governor, or commander-in-chief for the time being, for that purpose; and

EXHIBIT 46

ACTS AND RESOLVES

OF

MASSACHUSETTS.

1796-97.

[PUBLISHED BY THE SECRETARY OF THE COMMONWEALTH, UNDER
AUTHORITY OF CHAPTER 104, RESOLVES OF 1889.]

ACTS
AND
LAWS
OF THE
COMMONWEALTH
OF
MASSACHUSETTS.

BOSTON:

PRINTED BY YOUNG & MINNS,

PRINTERS TO THE HONORABLE THE GENERAL COURT OF THE COMMONWEALTH,
AT THEIR PRINTING OFFICE, STATE STREET.

M,DCC,XCVI.

Reprinted by WRIGHT & POTTER PRINTING COMPANY, State Printers.

1896.

Incorporated.

the Islands contained within the lines described on the plan of number Six, drawn by Osgood Carleton and deposited in the Secretary's Office; together with the Inhabitants within said lines & on said Islands, be & hereby are incorporated into a Town by the name of Addison; with all the privileges & immunities which other Towns in this Commonwealth do or may possess or enjoy.

D. Merrit,
Esq. to issue
warrant.

And be it further Enacted by the authority aforesaid, that Daniel Merrit Esqr. be and he hereby is authorized and directed to issue his Warrant to some principal Inhabitant of the said Town of Addison, requiring him to warn the Inhabitants thereof to assemble at some proper time & place to be expressed in said Warrant, for the purpose of choosing such Town Officers, as Towns are by law empowered to choose in March or April annually.

Approved February 14, 1797.

1796. — Chapter 42.

[January Session, ch. 9.]

AN ACT FOR REGULATING FERRIES.

Ferry-men to
be licensed.

SECT. 1. *Be it Enacted by the Senate & House of Representatives in General Court assembled and by the authority of the same,* that no person or persons whatever shall keep a Ferry within this Commonwealth, so as to demand or receive pay, without a special licence first had and obtained from the Court of General Sessions of the Peace of the County wherein such Ferry may be; and the said Court is hereby empowered to grant such licences to such person or persons as shall be judged suitable for such service by the same Court; and to state the Fare or Ferriage at each Ferry, for Passengers, Horses & other Creatures, Carriages, Waggons, Carts, Teams and other things there transported, always having regard to the breadth and situation of, and the more or less passing at, any Ferry; in all cases taking bond, with sufficient sureties, of each Ferryman, for the faithful performance of the duties and services of his place, excepting however all such Ferries as are already stated and settled by the Court or Town to whom they appertain.

Fare regulated.

Bond to be
required.

Exception.

Ferry-men to
keep boats.

SECT. 2. *Be it further Enacted,* that all ferrymen at the several ferries in this Commonwealth, as well those stated and settled as aforesaid, as others, shall keep a good Boat or Boats in good repair, suitable to the water they

are to ferry over, and give ready and due attendance on Passengers on all occasions, for the times and according to the regulations established at any Ferry; and the keeper or keepers of each Ferry, for every neglect of such attendance shall forfeit and pay one Dollar; and for every neglect in keeping such a Boat, Twenty Dollars; one moiety thereof in each case, to the use of the Commonwealth, and the other moiety to him or them who shall inform and sue for the same; and be further liable, to pay in an Action on the case, all such special damages as any person shall sustain by such neglect.

Penalties for neglect.

SECT. 3. *Be it further Enacted*, that if any person or persons shall keep a Ferry or transport Passengers over or across any stated Ferry, so as to demand or receive pay, having no right or authority so to do, he shall forfeit and pay for every such offence, Four Dollars; one moiety thereof to the Commonwealth, and the other to him or them who shall inform and sue for the same; and be further liable in a special action on the case, to pay such damages as may or shall accrue to the person or persons assigned and authorized to keep any such stated Ferry or Ferries.

Unauthorized persons not to officiate as Ferrymen.

SECT. 4. *Be it further Enacted*, that whenever the Court of General Sessions of the Peace of any County in this Commonwealth shall judge it necessary, to set up a ferry for the convenience of passing any river or waters, and no person shall appear to keep the same for the stated profits thereof, the Town or District wherein such Ferry may be, shall take effectual care to provide suitable person or persons to keep and attend the same at such place and in such times of the year as the said Court shall judge necessary; which person or persons shall be licensed by such Court as aforesaid. And the said Court shall take bonds with sureties of such persons for the faithful performance of the duties and services of their places; and state the fare or ferriage to be demanded and received at such Ferry; having regard to the breadth & situation of, and the more or less passing at the same. And the person or persons so appointed Ferrymen at any Ferry so set up, shall keep a good boat or boats in good repair, suitable to the waters they are to ferry over; and on failure, at any time, so to do, shall forfeit & pay Twenty Dollars for each neglect; and shall also give ready and due attendance on all passengers; and for each

Towns to provide Ferrymen under certain circumstances.

Penalties for neglect of Ferrymen.

neglect so to do, shall forfeit & pay one Dollar — one moiety thereof in each case to the Town or District wherein such Ferry may be, and the other moiety to him or them who shall inform and sue for the same.

Towns each side a river alternately to provide Ferrymen.

SECT. 5. *Be it further Enacted*, that if any such Ferry so judged necessary shall be over any river or water, when one Town or District joins thereto on one side, & another Town or District on the other side; in such case the said Towns and Districts shall, either jointly or alternately, provide such person or persons to keep such Ferry as the said Court shall order.

Penalty for neglect to provide Ferrymen.

SECT. 6. *Be it further Enacted* that any Town or District neglecting to provide suitable persons to keep ferries as aforesaid, shall forfeit & pay Forty Dollars for each month's neglect; one moiety thereof to the use of the Commonwealth, and the other moiety to him or them who shall inform and sue for the same. And all the forfeitures aforesaid which may be incurred, shall be recoverable in an action of Debt, with costs of suit, before a Justice of the Peace or Court of Common Pleas of the County wherein the Ferry may be, according to the amount of the Forfeitures to be recovered.

Former laws repealed.

SECT. 7. *Be it further Enacted* that this Act shall take effect, and be in force on and after the first day of July next; and that three Acts relating to the subject matter of this Act; one passed A.D. Sixteen hundred & ninety four for regulating Ferries; another in addition thereto, A.D. Seventeen hundred & twenty-six, and a third A.D. Seventeen hundred & sixty relating to Ferries & continued in force to the first day of November next, shall on & after the said first day of July next be repealed, and cease to operate — excepting, however, they shall remain in force for the purpose of recovering any forfeitures that may accrue by virtue of them.

Approved February 14, 1797.

1796. — Chapter 43.

[January Session, ch. 10.]

AN ACT TO INCORPORATE JOSHUA THOMAS ESQR. AND OTHERS FOR THE PURPOSE OF CONVEYING FRESH WATER BY PIPES IN THE TOWN OF PLIMOUTH.

Be it enacted by the Senate and House of Representatives in General Court assembled, & by the authority of the same, that Joshua Thomas, William Davis, James

Persons incorporated.

EXHIBIT 47

ACTS AND LAWS.

Exclusion Act. Rights of Conscience, in Religion, &c. 403



ACTS and LAWS,

Made and passed by the General Court or Assembly of the State of Connecticut, in America, holden at Hartford, in said State, on the second Thursday of May, Anno Domini, 1791.

An Act to exclude certain persons, holding Offices under the authority of the United States, from being Members of the Legislature of this State.

BE it enacted by the Governor, Council and Representatives in General Court assembled, and by the authority of the same, That from and after the second Thursday of May next, no person holding an Office under the authority of the United States, which would render him incapable of being a Member of the Congress of the United States, shall, while holding said Office, be a Member of the Legislature of this State.

Persons holding offices under the United States, not eligible, &c.

An Act, in addition to, and explanation of an Act, entitled, "An Act for securing the Rights of Conscience, in matters of religion, to Christians of every denomination in this State."

BE it enacted by the Governor, Council and Representatives in General Court assembled, That to give legal effect to any Certificate which shall hereafter be given to any person who claims to be a Dissenter from the ecclesiastical Societies established by Law within this State, it shall be necessary that such Certificate be signed by two of the Civil Authority living in the town where such Dissenter dwells, or by one only, in case but one such officer lives in such town; which authority shall duly examine the claims of such Dissenters; and if he or they shall judge the same well founded, he or they shall give to such person a Certificate of the following import, viz.

Certificates to be given to dissenters from, &c. by whom.

"We, having examined the claims of ———, who says he is a Dissenter from the ecclesiastical Society of ———, and hath joined himself to a Church or Congregation of the name of ———; and that he ordinarily attends upon the public worship of such Church or Congregation; and that he contributes his share or proportion towards supporting the public worship and ministry thereof, do upon examination find that the above facts are true. Dated

The form.

Justices of Peace."

R r r

Which

ACTS AND LAWS.

Oath.

Cities.

Ferries.

405

An Act, for repealing a Law of this State, entitled, "An Act enjoining an Oath of Fidelity to this State."

BE it enacted by the Governor, Council and House of Representatives in General Court assembled, That the said Act be, and the same is hereby repealed. Act repealed.

An Act, in addition to the Powers of the several Incorporated Cities within this State.

BE it enacted by the Governor and Council, and Representatives in General Court assembled, That the Mayor, Aldermen and Common Council of each Incorporated City within this State, shall have power, and the same is hereby given to them, to make Bye-Laws relative to restraining Horses, Cattle and Sheep from going at large in the streets and highways within the limits of their respective Cities; and that said Bye-Laws when approved of and published as is provided by Law in respect to the Bye-Laws of said Cities shall have the full force and effect of the Bye-Laws of their said Cities respectively. Cities power to make laws for restraining horses, &c from going at large.

An Act, in addition to an Act, entitled, "An Act for regulating Ferries.

BE it enacted by the Governor, Council and Representatives in General Court assembled, That the town of Milford, in the County of New-Haven, have licence and authority, and licence and authority are hereby granted to said town to have, use and keep the Ferry on Ousatonuck or Stratford river, between said town, and the town of Stratford, in the County of Fairfield, commonly called Stratford Ferry, on the east side of said river, and to take and receive all the emoluments, profits and fare which may arise from the transportation of passengers, and of any and ever thing necessary to be transported across said Ferry, from the east side of said river, to the west side thereof; to the sole use and benefit of said town of Milford, for, and during the space of fifteen years, from the rising of this Assembly; and after the expiration of said fifteen years, during the pleasure of the General Assembly. And that said town of Stratford have licence and authority, and licence and authority are hereby granted to said town, to have, use and keep said Ferry, on the west side of said river, and to take and receive all the emoluments, profits and fare which may arise from the transportation of passengers, and of any and every thing necessary to be transported across said Ferry, from the west side of said river, to the east side thereof; to the sole use and benefit of said town, for, and during the space of fifteen years, from the rising of this Assembly, and after the expiration of said fifteen years, during the pleasure of the General Assembly. Stratford ferry regulated.

And that the fare for the aforesaid transportation from the east side of said river, to the west side thereof, shall be the same as is now established by law, for such transportation: And that the Fare for the aforesaid transportation from the west side of said river, to the east side thereof, shall be as follows, viz. For man, horse and load, *six-pence*, for a man, *three-pence*, for a led horse, *four-pence*, for an ox or other neat kine, *eight-pence*, and for sheep, swine or goats, *one-penny-half-penny*. And that the Fare for every two wheel carriage, with one man and draft horse, shall be double, and for every four wheel carriage, one man and draft horse, treble the Fare, for a man, horse, and load, as stated as aforesaid, and that for every additional person or horse, or other beast, the Fare shall be the same as stated as aforesaid, for such single person, horse or other beast.

Fare stated.

Always

ACTS AND LAWS.

406

Ferries.

Proviso.

Flats or scows to be built, & furnished with oars &c.

Dwelling - house for entertainment of travellers, to be kept E. side the river, wharves to be repaired, & steps or stairs to be made, &c.

West side, wharf and highway to be raised, and kept in repair.

Licence, &c. to cease, if the above regulations are not complied with.

Fare of Derby Ferry at the narrows, regulated.

Always provided, And it is to be understood that the aforesaid licence or authority to said towns respectively, is to be on the following conditions, viz. That in addition to the boats already required by law, said towns do jointly, and at equal expence, in a reasonable and convenient time, build a good flat or scow, fit and proper for the transportation of wheel carriages, and all sorts of neat kine, as well as every other thing best adapted to be transported in each flat or scow, across said Ferries. And that they furnish said flat or scow, with oars, and other necessary implements for the aforesaid transportation. And that said town of Milford do keep and maintain a dwelling-house near said ferry place, on the east side of said river, in good repair: and that said town do also accommodate said house to the good entertainment and reception of travellers. And that in reasonable and convenient time, said town do repair the two wharves on the east side of said river, and make steps or stairs to the same, so as to make it convenient to go on board of any boat, flat or scow, from said wharf or wharves, and to land from any boat, flat or scow on the same.

And that said town of Stratford, do in a reasonable and convenient time repair the wharf, on the west side of said river, and the path way or highway leading to the same: And that said town do raise said wharf and way, to such a height in every part of the same, as not to be overflowed by the tides: And that when the same shall have been raised as aforesaid, that said town do keep the same in good repair: And that said town do build and provide steps or stairs to said wharf, so as to make it convenient to go on board of any boat, flat or scow from the same, and to land from any such boat, flat or scow on the same. And that if said towns respectively shall not in such reasonable and convenient time as the General Assembly shall determine, perform each and every part of said condition as belongs to said towns respectively to perform; said licence, authority or grant, and every and all former licences, authorities or grants to them, to keep said Ferry, shall cease and be void, so far as respects said town, which shall fail to perform that part of said condition which belongs to said town to perform as aforesaid.

An Act, in alteration of an Act, entitled, "An Act for regulating Ferries."

BE it enacted by the Governor, Council and Representatives in General Court assembled, and by the authority of the same, That the Fare of Derby Ferry, at the Narrows, formerly called Stratford Ferry, at the Narrows, for the future shall be as follows, viz. For a man, horse and load, *three-pence*, footman, *one penny*, led horse *one-penny-half-penny*, an ox, or any other neat kine, *four-pence*, sheep, swine or goats, *one half-penny*, for every two wheeled carriage, with one man and draft horse, *six-pence*, for every four wheeled carriage, one man and draft horse, *nine-pence*, and for every additional person, horse or other beast, the same as is above stated in like cases, for ever ox-team and load, *one shilling* and *six-pence*, and for a waggon, horses and load, *one shilling*.

EXHIBIT 48

SHIPS AND SHIPPING IN NORTH CAROLINA, 1763-1789

Author(s): Charles Christopher Crittenden

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SHIPS AND SHIPPING IN NORTH CAROLINA, 1763-1789

BY CHARLES CHRISTOPHER CRITTENDEN

Although North Carolina was handicapped by a dangerous sea-coast and by a lack of safe, deep harbors, the great majority of the vessels of the eighteenth century found it possible to put into her waters. As early as 1689 there were on the high seas merchant vessels of as many as 1,300 tons, and one hundred years later there was launched a merchantman whose tonnage was no less than 1,612; but most of the ships of the period were much smaller. A study of *Lloyd's Register of Shipping* for the years 1764-1800 makes it clear that by far the greater portion of British trading vessels were of not more than 300 registered tons.¹ Since ships as large as this could put into the Cape Fear River, and since those of 250 registered tons or more could sail through Oracoke Inlet and even through the Swash, North Carolina was not as isolated from the main routes of ocean commerce as might be thought.

The types of vessels which entered North Carolina ports were the schooner, the sloop, the brig or brigantine, the snow, and the ship. Of them all, by far the most common were the first two. The schooner of that date, noted for being a fast sailer, was a vessel with only two masts, whose main and fore-sails were suspended by gaffs, reaching from the mast toward the stern. The sloop, although similarly fore-and-aft rigged, differed mainly in that she had only one mast.² The size of most of these craft, judged even by contemporary standards, was small. The average tonnage of schooners clearing from Port

¹ E. K. Chatterton, *The Ship Under Sail*, pp. 121-122.

² Unless otherwise noted, descriptive matter about these and other vessels is taken from William Falconer, *A New Universal Dictionary of the Marine*, or from J. A. H. Murray (editor), *A New English Dictionary*.

Roanoke (Edenton) during the three months ending September 9, 1788, was only twenty-three, the largest registering sixty-one tons, the smallest only six tons; while of the sloops the average tonnage was forty-two, the largest registering one hundred twenty-four tons, the smallest ten tons.³ Clearing from Port Brunswick (the district of the Cape Fear) during the three months ending September 9, 1767, the schooners averaged thirty tons, the sloops, twenty-seven tons.

Such little vessels almost never attempted to cross the Atlantic, but rather carried their cargoes up and down the coast or, more rarely, to the West Indies. Of the seventy-one schooners and sloops clearing from Port Roanoke during the period mentioned above, sixty-three made coasting voyages, and eight went to the West Indies. All but nine of the twenty-six schooners and sloops clearing from Port Brunswick, July 4-October 3,⁴ 1789, sailed up or down the coast, the others all going to the West Indies. Particularly tiny were the craft which in 1788 were plying between Albemarle Sound and regions to the north. During the three months ending September 9, 1788, there sailed from Port Roanoke for Virginia, five schooners of an average size of nineteen tons, and five sloops of an average size of forty-four tons; for Maryland, fifteen schooners averaging twelve tons each, and three sloops averaging nineteen tons each; and for Philadelphia, three schooners averaging fourteen tons each, and one sloop of sixty tons. Sailing for New York or regions beyond, vessels of these types tended to be heavier.

Only a very limited crew was required to man such small craft. Of the schooners clearing from Port Brunswick during the three months ending September 9, 1767, the average number of the crew was four; and of the sloops, four. Dangerous must have been the work of the sailors on such vessels as the fifteen-ton schooner *Betsey*, which with a crew of four set sail from the Cape Fear for Boston; or the ten-ton sloop *Two Brothers*, which, manned by only three men, set out for Currituck; or of the fifteen-ton schooner *Betsey*, which with a crew of only two started for Bath, North Carolina. One little

³ Unless otherwise noted, all items about vessels entering and clearing North Carolina ports are taken from the customs records in the archives of the North Carolina Historical Commission. The figures for tonnage given in these records and used in this article are those which were registered, and are smaller than those for true tonnage. In order to determine the latter it is necessary to add from one-third to one-half more. See *Colonial Records of North Carolina*, VI, 969 (hereafter cited as *C. R.*); John Lord Sheffield, *Observations on the Commerce of the American States* (sixth edition, 1784), p. 96.

⁴ These dates, and all others of the kind given in this article, are inclusive.

sloop of twenty tons, appropriately named the *Patience*, cleared on July 13, 1767, for Philadelphia, with only one man to operate her.

But even the smallest of these vessels could carry a cargo of fair size. There sailed, for example, from the town of Beaufort during the year ending June 12, 1787, such vessels as the twenty-ton schooner *Dandy*, which went to New York with seventy barrels of rosin, twenty-five barrels of spirits of turpentine, twenty-three barrels of turpentine, and twenty thousand shingles; the fifteen-ton schooner *Jack*, which set out for Hispaniola (Haiti) with two barrels of tobacco, four barrels of apples, and "a quantity" of live stock; and the sloop *Charlotte* of eighteen tons which cleared for New York with 180 barrels of naval stores and 150 bushels of potatoes. It is difficult for a landsman to understand how it was possible for these craft to stow away such cargoes and still keep afloat.

Usually larger than the schooner or the sloop was the brig, or brigantine.⁵ She was a two-masted vessel, her fore-mast carrying square sails like those of a ship, but her main mast being partly square- and partly fore-and-aft rigged. The average size of the brigs which cleared from Port Roanoke, June 10-September 9, 1788, was 92 tons, the largest registering 145 tons, and the smallest, 64 tons. The average tonnage of those clearing from the town of New Bern during the three months ending October 3, 1787, was 103, that of the largest being 178, while that of the smallest was 70. But from Port Brunswick, June 10-September 9, 1767, the brigs clearing averaged only 45 tons, the largest registering 50 tons, the smallest, 38 tons.

Brigs were rarely used for the coasting trade, but were rather employed for voyages to the West Indies or to the British Isles. Of the five which sailed from New Bern during the period mentioned above, four went to the West Indies, one to Glasgow, and none up or down the coast. Of the eight which cleared from Port Brunswick, July 4-October 3, 1789, two sailed for the West Indies, four for England, and two for Scotland, while not one went on a coasting voyage.

⁵Originally "brig" was merely an abbreviation for "brigantine." Later each word came to signify a distinct type of vessel. Both terms were used in the terminology of eighteenth-century North Carolina, but both apparently referred to the same kind of vessel. If there was any difference in meaning, it probably was that "brig" was the more comprehensive of the two, and that "brigantine" meant merely a particular type of brig.

Particularly well adapted were brigs for use in time of war. During the Revolution the rebels equipped many of them to serve as state-owned war vessels or as privateers, or to carry on trade with France, Spain, and the West Indies. There were, for instance, the armed brig *Washington*, owned by the state of North Carolina;⁶ the *Joseph*, which was sent to Spain;⁷ and the *Buckskin*, whose owners planned to dispatch her on a voyage to France.⁸

For its size the brig carried crew and cargo about in proportion to those carried by other small vessels. The crews of the four brigs which cleared from Port Brunswick during the three months referred to above averaged seven men. From the customs records of Port Brunswick, July 4-October 3, 1789, may be illustrated the size of the cargoes. The *Hannah*, of eighty tons, set sail for Penzance, England, with 606 barrels of tar, 163 casks of turpentine, and 10,164 barrel staves. The seventy-eight-ton *Mary Ann* set out for Hull, England, with 51 hogsheads of tobacco, 281 barrels of turpentine, and 6,000 white oak barrel staves; the *Sally*, of one hundred ninety-two tons, started for Kingston, Jamaica, with 70,000 feet of boards, plank, and scantling, 298,000 cypress shingles, 38 barrels of tar, and 6 tierces of rice.

Largest of all the commercial vessels which put into North Carolina waters were the ship and the snow. The ship,⁹ so well known as hardly to require description, was a square-rigged vessel of three masts, each of these being composed of a lower mast, a topmast, a topgallant mast, and sometimes a royal mast.¹⁰ The snow was equipped with two masts resembling the main and fore-masts of a ship, and had in addition, just abaft the main mast and fixed in a wooden block or in a kind of step upon the deck, a third small mast which carried a try-sail, similar to a ship's mizzen, extending toward the stern of the vessel.¹¹ Clearing from Port Brunswick during the three months ending September 9, 1767, the ships averaged 140 tons, the largest registering 200 tons, the smallest, 80 tons; while the average tonnage of the snows was 125, that of the largest being 160, and of

⁶ *North-Carolina Gazette* (New Bern), Dec. 26, 1777.

⁷ *C. R.*, X, 996-997.

⁸ *State Records of North Carolina*, XI, 358-359 (Hereafter cited as *S. R.*).

⁹ The word "ship" may be used loosely to mean any kind of ocean-going vessel, or it may be used more narrowly to mean only one particular kind of vessel. In different places in this study the word is employed in both senses, but in all cases the context makes clear which meaning is intended.

¹⁰ John Robinson and George F. Dow, *Sailing Ships of New England*, p. 32.

¹¹ The snow, never common even before the Revolution, had by 1789 almost entirely disappeared from North Carolina waters.

the smallest, 100. Ships or snows of lesser tonnage than 100, or of greater tonnage than 200, only rarely appeared in North Carolina ports.

As might be expected, ships and snows carried crews and cargoes larger than those of schooners, sloops, and brigs. On the ships clearing from Port Brunswick during the period mentioned above the average number of the crew was eleven; on the snows, the average number was ten. The cargoes of some of the vessels clearing from Port Brunswick were these: the snow *Charley*, of 120 tons, set out for Portsmouth with 104 barrels of pitch, 1,018 barrels of tar, 28 barrels of turpentine, and 800 staves; the 120-ton ship *Caser* sailed for the same port with 42 barrels of pitch, 1,064 barrels of tar, 742 barrels of turpentine, 3,200 feet of lumber, 8,000 staves, 6 hogsheads and 8 bundles of deerskins, 30 cedar posts, and 4 hogsheads of tobacco. From Port Roanoke, on August 21, 1788, was cleared for Liverpool the ship *Polly and Nancy* of 250 tons, an unusually large vessel for North Carolina, with a cargo of 594 barrels of naval stores, 2,700 pipe staves, 8,575 hogshead staves, 90 hogsheads of tobacco, and 59 logs of black walnut.

Nearly always ships and snows were employed for voyages across the Atlantic, rather than up and down the coast, or even to the West Indies. Every one of the ten vessels of these types which cleared from Port Brunswick, June 10-September 9, 1767, went to some port in the British Isles. Extremely rare was a coasting voyage of a ship such as the 200-ton *Grace*, which, with a cargo of naval stores and tobacco, in 1786 set sail from the town of Beaufort for Philadelphia.

As a rule, the more shallow and dangerous the inlet, the smaller were the vessels which dared to put in. Since Ocracoke Inlet, through which passed most of the vessels bound to Edenton, Washington, Bath, and New Bern, was treacherous, and since the channels leading thence through the sounds were shallow, the vessels which went in there tended to be small. The average tonnage of all vessels clearing Port Roanoke during the three months ending September 9, 1788, was only thirty-nine; while that of all vessels clearing from the town of New Bern during the period July 4-October 3, 1787, was only fifty-four. The mouth of the Cape Fear River was deeper and safer, and thus the vessels that put in there tended to be larger.

The average size of those clearing Port Brunswick, July 4-October 3, 1789, was sixty-nine tons, this being greater than for any other port in North Carolina.¹²

Likewise, the more shallow and dangerous the inlet, the larger was the percentage of schooners and sloops, and the smaller the proportion of brigs, ships, and snows. Of the vessels which cleared during the year 1786 from Port Currituck (the region of Currituck Sound), nearly all of which passed either through New Currituck Inlet or else through Ocracoke Inlet, both of which were shoal and treacherous, 194 were schooners and 43 were sloops, while there were only five brigs and one ship, no snows being listed. Clearing from Port Roanoke, June 10-September 9, 1788, and for the most part passing through Ocracoke Inlet, were thirty-eight schooners and thirty-three sloops, but only six brigs, one ship, and no snows. But from Port Brunswick, on the other hand, the proportion of brigs, snows, and ships was larger. During the three months ending September 9, 1767, fourteen of the twenty-six vessels clearing belonged to these types.¹³

Again, the better an inlet's facilities for navigation, the longer as a rule were the voyages of the vessels which cleared. Of the seventy-eight vessels leaving Port Roanoke during the three months ending September 9, 1788, the great majority of which passed through dangerous Ocracoke, only four went across the ocean and only eight to the West Indies, while all the others sailed up or down the coast. Of the twenty-seven vessels which cleared from the town of New Bern, July 4-October 3, 1787, all of which probably put out through Ocracoke, only one sailed across the Atlantic and only eleven to the West Indies, all the others going on coasting voyages. But from the comparatively safe Cape Fear, on the other hand, not less than twelve of the vessels which cleared during the three months ending September 9, 1767, crossed the Atlantic, and not less than five sailed to the West Indies, while only nine went up or down the coast. At this time, if not later, the lower Cape Fear was in closer touch with Great Britain than was any other section of the province. Clearances

¹² Judging by the depth and comparative safety of Old Topsail Inlet, one would think that the average size of vessels entering there would be large. But, while it is true that sizable vessels found it possible to put in, they found little advantage in doing so because the town of Beaufort lacked suitable communications with the interior. The average size of the few vessels which cleared during the year ending June 12, 1787, was only thirty-eight tons.

¹³ By 1789 the situation, it is true, had changed in some degree, the proportion of little vessels clearing Port Brunswick being greater than before; but even then the proportion was not as large as in any other North Carolina port.

from Port Brunswick after the Revolution, it is true, showed a larger percentage of vessels engaged in the coastal trade, but even then the proportion was not as large as that of any other North Carolina port.

Shipbuilding in North Carolina was on a much smaller scale than in most of the British continental colonies. Within her borders in the year 1769 were constructed only twelve vessels of an aggregate tonnage of 607; in 1770, five vessels whose total tonnage was 125; and in 1771, eight, with a tonnage of 241. The tonnage for North Carolina in 1769 was only one-fourth that for New Hampshire, one-thirteenth that for Massachusetts, and one-half that for Virginia; while of all the colonies from New Hampshire to Georgia, inclusive, only two built less shipping than North Carolina.¹⁴

Nevertheless, shipbuilding was an industry of fair importance in North Carolina, even before the Revolution. Among the vessels clearing Port Roanoke during the year ending April 5, 1772, no less than twenty-one, with an aggregate tonnage of 1,070, had been constructed in the colony.¹⁵ Shipyards were to be found, especially in the Albemarle. Sir Nathaniel Duckenfield, a wealthy planter of that region, possessed one on his estate in Bertie County;¹⁶ while Thomas Macknight, a merchant, declared that on the North River, between Currituck and Pasquotank counties, he had "the most commodious, and . . . best shipyard in the province."¹⁷

The Revolution gave an added impetus to shipbuilding. In the *North-Carolina Gazette* (New Bern), especially during the year 1778, appeared a number of advertisements of newly constructed vessels for sale. For example, a certain number of that paper carried a notice that there was "for sale at the town of *Beaufort*, Carteret county, a new vessel on the stocks, well calculated for a fast sailer, and will be completely finished by the 15th of *May* next.¹⁸ Her dimensions are 55 feet keel strait rabber, 11 feet rake forward, 18 and a half feet beak, and 7 feet and a half hold."¹⁹

¹⁴ Sheffield, p. 96.

¹⁵ Library of University of North Carolina, registers of shipping of Port Roanoke, 1771-1776. A vessel clearing twice or more has been counted only once. It should be said, however, that during the whole year ending April 5, 1768, only six of the vessels clearing Port Brunswick had been built in North Carolina. The aggregate tonnage of five of these vessels was only 142, while that of the sixth cannot be ascertained due to the mutilation of the record.

¹⁶ This is shown on a map, Audit Office 13: bundle 118. All of the material from the Public Record Office which has been used for this article is to be found, in the form of either transcripts or photostats, in the archives of the North Carolina Historical Commission.

¹⁷ Audit Office 13: bundle 121.

¹⁸ That is, May 15, 1778.

¹⁹ *North-Carolina Gazette* (New Bern), May 15, 1778. See also *ibid.*, June 13, 20, 1778.

This increased interest in the construction of ships continued after 1783. Many advertisements of new vessels for sale still were printed in the newspapers.²⁰ Into the county records were written various items about shipbuilding,²¹ most valuable of which were the apprenticeship papers. Only a few of these papers have been preserved, the best set for the period under consideration being that of Craven County, in which is located the town of New Bern. The Craven apprenticeship papers show that during the years 1778-1789 no less than seventeen boys were apprenticed to twelve different masters to learn the art of a "ship carpenter,"²² or a "ship builder," or a "ship wright," or a "sail maker."²³ Similarly, to a greater or lesser extent the inhabitants of all the counties near the coast probably were occupied in shipbuilding. The exact number and tonnage of the vessels built in the whole state during the years immediately following the Revolution cannot be ascertained, but it is evident that the industry by that time was of considerably more importance than during the colonial period. Of the seventy-eight ships clearing Port Roanoke during the three months ending September 9, 1788, no less than forty-four had been constructed in North Carolina.²⁴

Ships built in North Carolina, most of which were made of the live oak that grew near the coast, were among the best constructed in America. It was said, however, that before the Revolution in the southern provinces the cost of building was £5 10s. sterling per ton, and the expense of equipping from £4 10s. to £5 more—costs higher than in the other colonies.²⁵ John Ross, a shipbuilder in Wilmington, claimed that as a loyalist in the Revolution he lost, along with other property, a vessel of about 100 tons, apparently not completed, which he had on the stocks and which he valued at £400 sterling; and also live oak and red cedar plank and timber worth £100 sterling, sufficient to build another vessel about the same size.²⁶ The anchors, cables, canvas, rigging, cabin furniture, and other articles imported

²⁰ See, for example, *Edenton Intelligencer* [sic], Apr. 9, 1788.

²¹ See, for instance, note of Thomas Benbury to Capt. Richard Mitchell, North Carolina Historical Commission, Chowan County Papers, April, 1782-Sept., 1805.

²² This phrase referred to a person who built ships, rather than to one who was a member of a ship's crew.

²³ North Carolina Historical Commission, Craven Apprenticeship Papers, 1748-1779, 1781-1799. It is possible that some of these papers have been lost, and thus that the number of boys apprenticed to learn the art of seamanship was larger than has been indicated.

²⁴ Of the vessels clearing Port Roanoke during this period, the average size of those which had been built in North Carolina was smaller than the average size of those constructed elsewhere.

²⁵ Sheffield, p. 138 n.

²⁶ Audit Office 12: 36.

in 1774 for a vessel on the stocks on the Cape Fear River were worth more than £561 sterling.²⁷

But whatever the exact cost of a small ocean-going vessel, it was certainly not beyond the means of a man in moderate circumstances. Henry Eustace McCulloh, a London merchant, wrote in 1769 to James Iredell, collector of the customs in Edenton: "If my schooner can be sold for a bill of £100 sterling (good) payable here, I would have you do it."²⁸ A little "Sloop called the Dolphin with all her Riggins Sails Anchors and Cables and all other the Appurtenances thereunto" was sold in Pasquotank County in 1765 for "54 pounds current money of the Province of New York, or proclamation money in lieu thereof."²⁹

Although North Carolina never became a maritime region of first importance, nevertheless seafaring played some part in the life of her inhabitants. During the proprietary period, indeed, probably only a very small proportion of her people engaged in this pursuit;³⁰ but as the years passed the number increased. Thomas Campbell, who was the son of James Campbell of Wilmington and who grew up about the middle of the eighteenth century, was bred to the sea and came to command different vessels sailing out of Port Brunswick.³¹ Apprenticeship papers for the latter part of the century indicate that numerous boys undertook to learn the art of "a navigator," or of "a seaman," or of "a mariner."³² Especially was it true during the Revolution that many men and boys became sailors. Advertisements in the *North-Carolina Gazette* during the years 1777 and 1778 offered both bounties and high wages for those who would volunteer to serve on blockade runners and privateers.³³ In 1780 a petition of the "few remaining Inhabitants" of Carteret County stated that "nearly all the young and able-bodied men belonging to the said County have gone to Sea."³⁴

On a coast as dangerous as that of North Carolina it is not surprising that many vessels came to grief. Of the numerous accounts

²⁷ *C. R.*, IX, 1103.

²⁸ G. J. McRee, *Life and Correspondence of James Iredell*, I, 43.

²⁹ North Carolina Historical Commission, *Pasquotank Inventories, &c.*, 1762-1825. See also *C. R.*, IX, 957-958.

³⁰ See Robert Dinwiddie's "Account of the present State of the British Islands, & Colonies in America," August, 1743, *C. O.* 5: 5; *C. R.*, VI, 968-969; *Annual Register*, 1769, p. 215. None of these references gives the exact information which is wanted here.

³¹ N. M. Tiffany (editor), *Letters of James Murray, Loyalist*, p. 105.

³² North Carolina Historical Commission, *Craven Apprenticeship Papers, 1748-1779, 1781-1799; Chowan County Papers, various volumes, 1767-1805.*

³³ See, for example, the issue of this paper for Aug. 8, 1777. See also advertisement in *Virginia Gazette*, Aug. 9, 1776, reprinted in "Historical Notes," *North Carolina Historical Review*, IV, 113.

³⁴ *S. R.*, XV, 146.

of such disasters a few examples may be given. A newspaper of 1765 contained this narrative: "Newbern, January 18. The Snow Dorothy, Capt. Graham, who loaded here lately for Europe, and had been sailed about 19 Days, is ashore at Core-Sound; chief of the Cargo will be saved. There are also cast away on Cape Hatteras, two Briggs, one from Boston, and the other from New-York, both bound in here: A Vessel has been sent to their Assistance, and 'tis imagined chief of their Cargoes will be saved."³⁵ Peleg Greene, the master of a vessel plying between North Carolina and the West Indies, wrote of a storm at Ocracoke in April, 1774, so terrific that "there was fourteen sail of vessells drove on shore, and five of which will be entirely lost, and one drove over the South breakers and gone to see [sea] and every soul perished."³⁶ In February, 1784, after a vessel had got aground at the mouth of the Cape Fear, her hands left her, and at flood tide she went off "God knows where."³⁷

As is shown in contemporary newspaper advertisements, many of these vessels had accommodations for passengers.³⁸ But conditions were often anything but pleasant. Illuminating on this subject is the diary of a group of sixteen Moravians who in 1762 went from Bethlehem, Pennsylvania, to Wachovia, the Moravian settlement in piedmont North Carolina, making by water that part of their trip from Philadelphia to the Cape Fear River. On April 25 they went on board the *Elisabeth*, a small sloop of twenty-three tons which was to take them to Wilmington, North Carolina. This vessel, says their diary, "has a tiny cabin in which at a pinch six Sisters can sleep, but the rest, including the Captain and two sailors, must do the best they can in the hold, on top of the barrels and boxes." At four in the afternoon they sailed—only to learn to their chagrin that, before making the voyage, their captain would be forced to visit a little town situated on a small stream flowing into Delaware Bay. While trying to enter this stream the sloop stuck fast on a sandbank, and there remained for two days. After getting afloat again and reaching the little town, they were detained by wind and tide for three days more. Finally, on May 2, a week after leaving Philadelphia, they succeeded in getting under way and putting out to sea.

³⁵ *North-Carolina Magazine; or, Universal Intelligencer*, Jan. 11-18, 1765.

³⁶ *Commerce of Rhode Island, 1726-1800*, I (Massachusetts Historical Society, *Collections*, Seventh Series, IX), 489-490.

³⁷ *S. R.*, XVII, 129-130.

³⁸ See, for example, *North-Carolina Gazette* (Wilmington), Feb. 12, 26, 1766; *Cape Fear Mercury*, Dec. 29, 1773.

But their troubles had only begun. On May 4, when they were not far from Cape Hatteras, a heavy northeast wind sprang up and came near driving them on shore. "It was indeed a trying day, for it rained, it was as cold as February, and the waves beat on us from every side, and our resting place in the hold was wet, for the deck leaked. Nothing worried us as much as the poor children, who had to stay in the dark, wet hold all day, with nothing warm to eat, and those who took care of them could hardly hold up their own heads on account of seasickness and the tossing of the sloop." The next day the weather cleared, but on May 6 another storm arose, "and our sloop was tossed now here now there, and what effect this has on seasickness is well known!" At dawn on May 8 they sighted land, but the captain "soon saw that the wind had brought us to shore too soon, but he decided to run closer and anchor in the hopes that the wind would change. But it only blew harder, and fearing he would lose his anchor he decided to sail back sixty miles to the harbor of Cape Lookout." Here they stayed until May 11, when the weather had so moderated that they could set sail again. On the following day "at two in the afternoon we reached the sandbank called the Frying Pan. . . . There were only five feet of water on the bank and our sloop drew four feet eight inches, but the light wind served us at need, and with help from on high we crossed it safely in an hour,³⁹ and ran into the long desired Cape Fear River."⁴⁰

But passengers were not always uncomfortable. Janet Schaw, a Scots woman sailing early in 1775 from St. Kitts to the Cape Fear in the fifty-ton brig *Rebecca*, found everything "neat, clean and commodious." The captain, she wrote, gave up to her party "the cabin and state room which are both very near, and furnished with every necessary. In the State room we found a number of books. They consisted chiefly of Novels and poetry." No storms were encountered, the weather for the greater part of the trip was pleasant, and an abundance of excellent food was provided.⁴¹

The duration of an ocean voyage between any two ports varied according to weather, type and age of the vessel, weight of the cargo, skill of the captain and crew, and other similar factors. As

³⁹ Instead of going around the shoals, they crossed them through the shallow channel just south of Cape Fear.

⁴⁰ A. L. Fries (editor), *Records of the Moravians in North Carolina*, I, 255-259.

⁴¹ E. W. and C. M. Andrews (editors), *Journal of a Lady of Quality*, pp. 133-143.

a rule trips up and down the coast could be made more quickly by water than by land. As early as 1735 it was possible to sail from Charlestown to the Cape Fear in only two days,⁴² while after the Revolution the trip took only twelve or fourteen hours. Since after 1783 there were frequent sailings between the two towns, Charleston⁴³ and Wilmington were brought into close touch with each other.⁴⁴ Between North Carolina and New York it was likewise possible to travel in a brief space of time. In 1766 a vessel reached Cape Lookout after a voyage of nine days from that city,⁴⁵ while a few years later Governor Josiah Martin wrote that it was possible to sail all the way from New York to New Bern in four or five days.⁴⁶ After the Revolution Timothy Bloodworth, one of the North Carolina representatives in Congress, sailed from Wilmington to New York in only eight days.⁴⁷ Frequently, however, coastwise voyages required much longer. In the fall of 1787 a little vessel took eleven days to bring William Attmore, a Philadelphia merchant, from his home city to Ocracoke Bar;⁴⁸ while James Murray, an inhabitant of the Cape Fear region, sailing from Boston in 1749, reached home only after a voyage of thirty-two days.⁴⁹

To or from the West Indies a voyage might be made in short order. The *North-Carolina Gazette* (New Bern), November 28, 1777, mentions "a Vessel in thirteen Days from the West Indies to our Bar [Ocracoke]." In 1760 a sloop, having left North Carolina on March 10, found herself thirteen days later off the eastern end of the island of Hispaniola (Haiti).⁵⁰ Although voyages often took longer,⁵¹ the seaports of North Carolina could with comparative speed and ease get into touch with these islands.

The length of time necessary to cross the Atlantic varied considerably. In 1775 a vessel seems to have sailed from the Cape Fear to Cork, Ireland, in no more than twenty-one days.⁵² But such a trip was most unusual, six or eight weeks ordinarily being required. In

⁴² *Letters of James Murray*, p. 24.

⁴³ "Charlestown" was shortened to "Charleston" in 1783.

⁴⁴ *S. R.*, XVI, 936, 943, 971, and *passim*; XVIII, 534 and *passim*.

⁴⁵ *North-Carolina Gazette* (Wilmington), Feb. 28, 1766.

⁴⁶ *C. R.*, IX, 16.

⁴⁷ *S. R.*, XVIII, 601.

⁴⁸ "Journal of a Tour to North Carolina by William Attmore, 1787," *James Sprunt Historical Publications*, XVII, No. 2, pp. 7-12.

⁴⁹ *Letters of James Murray*, pp. 70-75.

⁵⁰ *C. R.*, VI, 239.

⁵¹ See, for examples, various letters from Peleg Greene to Aaron Lopes during the years 1773 and 1774, *Commerce of Rhode Island*, I, *passim*.

⁵² Lord Harcourt, Lord Lieutenant of Ireland, to the Earl of Rocheford, Oct. 4, 1775, *C. O.* 5: 138.

1764 the schooner *Sally and Betsey* took about seven weeks to go from Bristol to New Bern;⁵³ in 1775 the brig *John and William* reached New Bern only after a passage of eight weeks from London;⁵⁴ and the same year another vessel, the *Peggy*, required seven weeks to reach Spithead on a voyage from the Cape Fear.⁵⁵

That North Carolina's development was hindered by her lack of safe harbors there can be no doubt. Travel by water was unusually hazardous, communication with the outside world was difficult, rates of insurance on shipping and the cost of imported products were high, and the prices paid for native products were low. Largely as a result of this situation, the inhabitants of the back country found it advantageous to do much of their business with Virginia and South Carolina, while even the people of the Albemarle frequently preferred to face the difficulties of overland transportation to Chesapeake Bay or its tributaries, rather than to carry on their trade via the tedious water passage which led to Ocracoke Inlet. Obviously North Carolina could not hope to develop an overseas commerce comparable to that of New York, Pennsylvania, South Carolina, or other more favored regions.

But in the past too much stress has been laid upon the difficulties of navigation, while not enough attention has been paid to the accomplishments which were made in spite of those difficulties. Most of the vessels of the period were able to put into North Carolina waters, and the people of North Carolina succeeded, in spite of all obstacles, in developing a commerce of sizable proportions. Not until the nineteenth century, when larger and still larger ships came to sail the oceans, did the lack of adequate harbors fully make itself felt.

⁵³ *North-Carolina Magazine; or, Universal Intelligencer*, Oct. 12-19, 1764.

⁵⁴ *North-Carolina Gazette* (New Bern), July 14, 1775.

⁵⁵ C. O. 5: 148.

EXHIBIT 49

THE
Office and Authority
OF A
Justice of Peace.

AND ALSO

The Duty of Sheriffs, Coroners, Church-wardens, Surveiors of Highways, Constables, and Officers of Militia.

Together with

Precedents of Warrants, Judgments, Executions, and other legal Process, issuable by Magistrates within their respective Jurisdictions, in Cases Civil or Criminal.

AND

The Method of Judicial Proceedings, before Justices of Peace, in Matters within their Cognifance out of Sessions.

Collected from the Common and Statute Laws of *England*, and Acts of Assembly, now in Force; And adapted to the Constitution and Practice of *Virginia*.

By **GEORGE WEBB**, *Gent. One of His Majesty's Justices of Peace of the County of New-Kent.*

WILLIAMSBURG:

Printed by **WILLIAM PARKS**. M,DCC,XXXVI.

(1736)

Ferries.

153

County Courts may appoint Ferries at Landings opposite to those settled by Act of Assembly; May licence Ferry-Keepers, and direct the Boats and Hands to be kept at each Ferry; upon Complaint of Neglect, &c. may discharge any Ferry-keeper, and appoint another: Shall take Bond and Security in 20*l.* Sterling, of every Person appointed to keep Ferry, for due keeping such Ferry, and giving Passage to Public Expresses.

Laws of
Virginia,
sec. 236,
&c.
Regu-
lations &
Privileges
of Fer-
ries.

The Men attending such Ferry-Boats, free from Public and County Levies, Musters, Constable's Office, Clearing Highways or Rivers, Impreſſment, &c. and Ferry Licences shall be granted without Fee.

County Courts may licence Ordinaries to be kept at Ferries, altho' there be other Ordinaries sufficient within the same County: No other shall be kept or allow'd within 5 Miles, except at the County Court-House, or in a Town: Ferry-keeper shall pay only Half the Governor's Fee for his Ordinary Licence, but shall give Bond, and be subject to the Regulations required of other Ordinary-keepers.

If any other Person takes Fee or Reward for Ferriage over any River, whereon a lawful Ferry is kept, he forfeits 5*l.* for every Offence, to be divided between the nearest Ferryman, and the Informer; if the Ferry-keeper informs, he shall have the whole Penalty.

County Courts may appoint a Ferry within the County, where necessary for Transportation of the Militia, on Muster Days, and may raise an Allowance to such Ferry-keeper, in the County-Levy: But this must be within the same County, and not to another.

Expresses sent by the Governor, Secretary, a Councillor, Sheriff, Colonel, Lieutenant-Colonel, or Major of the Militia, or Clerk of the Council, directed to any Person; or sent by Officers of Militia to give Notice of Enemies Approach; or coming from beyond Sea, directed to the Governor, or Commander in Chief; shall be accounted Public Expresses, and Ferry free: But must be directed for His Majesty's Service, and upon the Superſcription sign'd by the Person by whom they are sent.

Public
Expres-
ses.

Public Messengers shall be paid by the Receiver-General, Four Pence *per* Mile, for Man and Horse, carrying such Express, and Five Shillings *per* Day for Attendance, upon producing from the Superſcriber of the Express, a Certificate of the Name of the Messenger, and the Distance of Miles; and from the Governor, or Clerk of the Council, how many Days he hath attended. For Expresses sent by Water, Fifteen Pence *per* Day, for Boat-hire, and Two Shillings *per* Day, for each Man. 4 *Annæ*, cap. 55.

Their
Allow-
ance.

County

EXHIBIT 50

EXHIBIT 51



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Governor to accept of the services of any volunteer company or companies (not exceeding three thousand as aforesaid) who shall tender their services within such time, and for such term, not exceeding six months, as the Governor in his discretion, shall proclaim and appoint. And the Governor shall designate and commission for that purpose, all officers necessary and proper for the command of such volunteers.

of the services of volunteer companies & to commission on officers

Sec. 3. Be it further enacted, That all volunteer officers, non-commissioned officers, musicians and privates, whose service may be tendered and accepted under the provisions of this act, shall, at such place or places of rendezvous as the Governor shall appoint within this state, be entitled to receive in advance, the sum of ten dollars, to be taken and considered as a part of their pay.

Volunteers to receive money in advance

Sec. 4. Be it further enacted, That the forces to be raised and organized, as provided by this act, shall be disposed of according to the discretion of their Governor (that discretion subject only to the requisitions of the general government) and shall be liable to be marched to any place, and engaged in the service of the U. States, as the exigencies of the present war may, in the opinion of the executive, require.

Forces when raised how to be disposed of

Sec. 5. Be it further enacted, That the governor of this commonwealth, for the purpose of carrying into effect the third section of this act, shall be authorized to draw from the Treasury of this state, any sums of money that may be necessary therefor; or in case of deficiency in the public funds, to borrow from any Bank or individuals, upon the best terms he can obtain such additional sums as may be necessary for the purpose aforesaid.

The Governor authorized to draw money from the treasury or borrow from banks

Sec. 6. Be it further enacted, That the powers vested in the Governor by the first and second sections of this act, shall be exercised and carried into effect by him to such extent, and in such a manner and time, as his own discretion and the emergency of public affairs may dictate.

CHAP. LXXXIX.

AN ACT to prevent persons in this Commonwealth from wearing concealed Arms, except in certain cases.

Approved, February 3, 1813.

Sec. 1. BE it enacted by the general assembly of the Commonwealth of Kentucky, That any person in this commonwealth, who shall hereafter wear a pocket pistol, dirk, large knife, or sword in a cane, concealed as a weapon, unless when travelling on a journey, shall be fined in any sum, not less than one hundred dollars; which

may be recovered in any court having jurisdiction of like sums, by action of debt, or on the presentment of a grand jury—and a prosecutor in such presentment shall not be necessary. One half of such fine shall be to the use of the informer, and the other to the use of this commonwealth.

This act shall commence and be in force, from and after the first day of June.

CHAP. XC.

AN ACT to amend the Militia Law.

Approved February 3, 1813.

Sec. 1. **B**E it enacted by the General Assembly of the Commonwealth of Kentucky, That if any non-commissioned officer, musician or private, failing to march, or furnishing an able bodied substitute in his place, when ordered and lawfully called on, or leaving the service without a discharge from the proper officer, shall be considered as a deserter, & treated as followeth, to wit: Any person may apprehend such deserter, and deliver him to the officer commanding such detachment, or any recruiting officer within this commonwealth, and take his receipt for the same; which receipt shall describe the name or such deserter, and the length of time he was to serve, and by whom he was delivered—which receipt shall be assignable; and the reward for taking and so delivering such deserter, as aforesaid, shall be a credit for a tour or tours of duty for the length of time such deserter was bound to serve; and said deserter shall serve out the term of time aforesaid before he shall be discharged, in addition to the time he was to serve, if such term of time is then required; otherwise shall serve said tour or tours, when required so to do. And any person holding such receipt, when he is called on to perform a tour or tours of duty, and producing the same to the captain calling on him, it shall be the duty of said captain to receive the same, and give the owner thereof a credit for as many tours as is therein contained.

Persons failing to perform tour of duty consider ed a deserter

Sec. 2. And where any delinquent militia-man shall belong to any society who hold a community of property, the sheriff shall call on the agent or superintendent of the common stock, or firm of said society, or compact, for the same; and if he fails to pay the same as before described, the sheriff shall make distress, and sell so much of the property belonging to said stock, as will satisfy the fine, cost, &c. as is before directed.

Sec. 3. *And be it further enacted,* That brigade inspectors and brigade quarter masters, when not taken from the line, shall each be entitled to the rank, pay, and emoluments

Brigade inspectors quarter masters, adjutants and pay masters

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CHAPTER XXIII.

AN ACT to prohibit the wearing of concealed weapons.

APPROVED, January 14, 1820.

SEC. 1. *BE it enacted by the General Assembly of the State of Indiana, That any person wearing any dirk, pistol, sword in cane, or any other unlawful weapon, concealed, shall be deemed guilty of a misdemeanor, and on conviction thereof, by presentment or indictment, shall be fined in any sum not exceeding one hundred dollars, for the use of county seminaries: Provided however, that this act shall not be so construed as to affect travellers:*

Persons wearing concealed weapons indictable
 Proviso

CHAPTER XXIV.

AN ACT supplemental to "an act for the appointment of County Surveyors."

APPROVED, January 14, 1820.

SEC. 1. *BE it enacted by the General Assembly of the State of Indiana, That whenever hereafter any dispute may arise about the division of any land within this state, wherein the county surveyor of the county, where the lands lie, may be a party, or in any manner interested, it shall be lawful for the Circuit Court on application of either par-*

County surveyor interested in partition Circuit court to appoint surveyor

ty, to appoint some suitable person in said county, whose duty it shall be to proceed to divide the same, for which service, the person so appointed, shall be entitled to the same fees as county surveyors are entitled to, for similar services.

CHAPTER XXV.

AN ACT authorizing the arrest and securing fugitives from justice.

APPROVED, January 14, 1820.

SEC. 1. *BE it enacted by the General Assembly of the State of Indiana, That if any person shall commit any crime in any of the United States, or the territories thereof, and shall flee into this state, it shall be lawful for any Judge of the Supreme or Circuit Court, or justice of the peace, within this state, on the oath or affirmation of any person charging such fugitive with a crime, to issue his warrant, and cause such fugitive to be arrested, and brought before him, and after hearing the proofs and allegations for and against such fugitive, if in the opinion of such Judge or justice, the proof is evident, or presumption strong, as to the guilt of the person charged, it shall be the duty of such Judge or Justice, to commit such fugitive from justice, to the common jail of the county, where such arrest may be made, for any length of time, not exceeding one month,*

Fugitives from justice to be apprehended

Justice to issue his warrant and proceedings thereon

Fugitive to be committed

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equity in this state, where any person or persons may be surrendered by his or their bail in discharge of themselves, it shall and may be lawful for the person or persons so surrendered to take the benefit of the prison rules of the county, under the same rules, regulations, and restrictions prescribed for the benefit of defendants arrested and in custody under a writ of *capias ad satisfaciendum*. take the benefit of prison rules.

JAMES FENTRESS,
Speaker of the House of Representatives;
W. HALL,
Speaker of the Senate, *pro tem*

October 18, 1821.

CHAPTER XII.

An Act prescribing certain duties of Sheriffs in this state.

Be it enacted by the General Assembly of the State of Tennessee, That hereafter it shall not be lawful for any sheriff within this state to appoint more than two deputies within the county for which he shall have been appointed sheriff, nor shall it be lawful for a Justice of the Peace to act as deputy sheriff during his continuance in office: *Provided* nothing herein shall be so construed as to apply to, or prohibit special deputations on urgent occasions, and deputations for the purpose of holding elections. Sheriff to appoint not more than two deputies. No Justice to be a deputy.

JAMES FENTRESS,
Speaker of the House of Representatives.
W. HALL,
Speaker of the Senate, *pro tem*.

October 19, 1821.

CHAPTER XIII.

An Act to prevent the wearing of dangerous and unlawful weapons.

Be it enacted by the General Assembly of the State of Tennessee, That from and after the passage of this act, each and every person so degrading himself, by carrying a dirk, sword cane, French knife, Spanish stiletto, belt or pocket pistols, either public or private, shall pay a fine of five dollars for every such offence, which may be recovered by warrant before any Justice of the Peace, in the name of the county and for its use, in which the offence may have been committed; and it shall be the duty of a Justice to issue a warrant on the application on oath of any Fine for carrying weapons.

Exception as to travelers and the atrop of a shot pouch.

person applying ; and that it shall be the duty of every Judge, Justice of the Peace, Sheriff, Coroner and Constable within this state to see that this act shall have its full effect : *Provided nevertheless*, That nothing herein contained shall affect any person that may carry a knife of any size in a conspicuous manner on the strop of a shot pouch, or any person that may be on a journey to any place out of his county or state.

JAMES FENTRESS,
Speaker of the House of Representatives.
W. HALL,
Speaker of the Senate, *pro tempore*

October 19, 1821.

CHAPTER XIV.

An Act directing the proceedings in cases of forcible entry and detainer.

SEC. 1. *Be it enacted by the General Assembly of the State of Tennessee*: That no person or persons shall enter upon or into any lands, tenements or other possessions, and detain or hold the same but where entry is given by law, and then only in a peaceable manner.

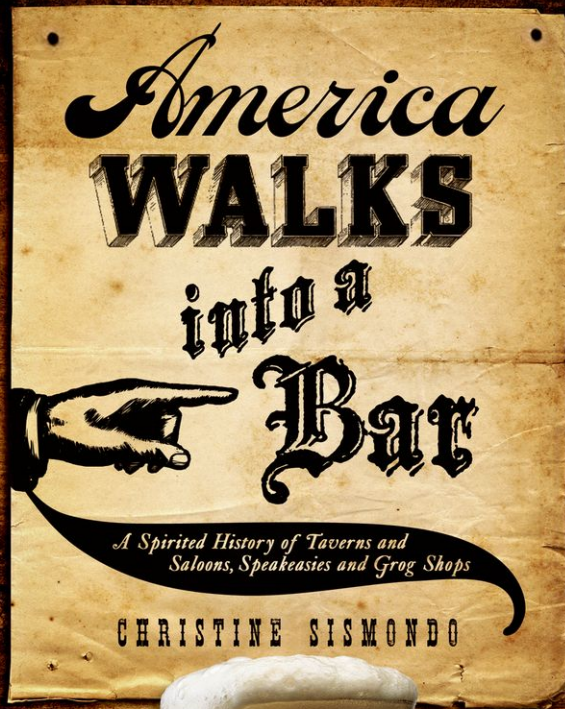
What shall be a forcible entry and detainer.

SEC. 2. *Be it enacted*, That if any person shall enter upon or into any lands, tenements, or other possessions and detain and hold the same with force or strong hand, or with weapons, or by breaking open the doors, windows or other part of a house whether any person be in it or not, or by any kind of violence whatsoever, or by threatening to kill, maim, or beat the party in possession, or by such words, circumstances or actions as have a natural tendency to excite fear or apprehension of danger, or by putting out of doors or carrying away the goods of the party in possession, or by entering peaceably, and then turning by force or frightening by threats or other circumstances of terror, the party out of possession, in such case every person so offending shall be deemed guilty of a forcible entry and detainer, within the meaning of this act.

Whatever makes an entry forcible, makes a detainer forcible.

SEC. 3. *Be it enacted*, That no person who shall lawfully or peaceably enter upon, or into any lands, tenements, or other possessions, shall hold or keep the same unlawfully, and with force or strong hand, or weapons, or violence, or menaces, or terrifying words, circumstances or actions aforesaid, and it is

EXHIBIT 54

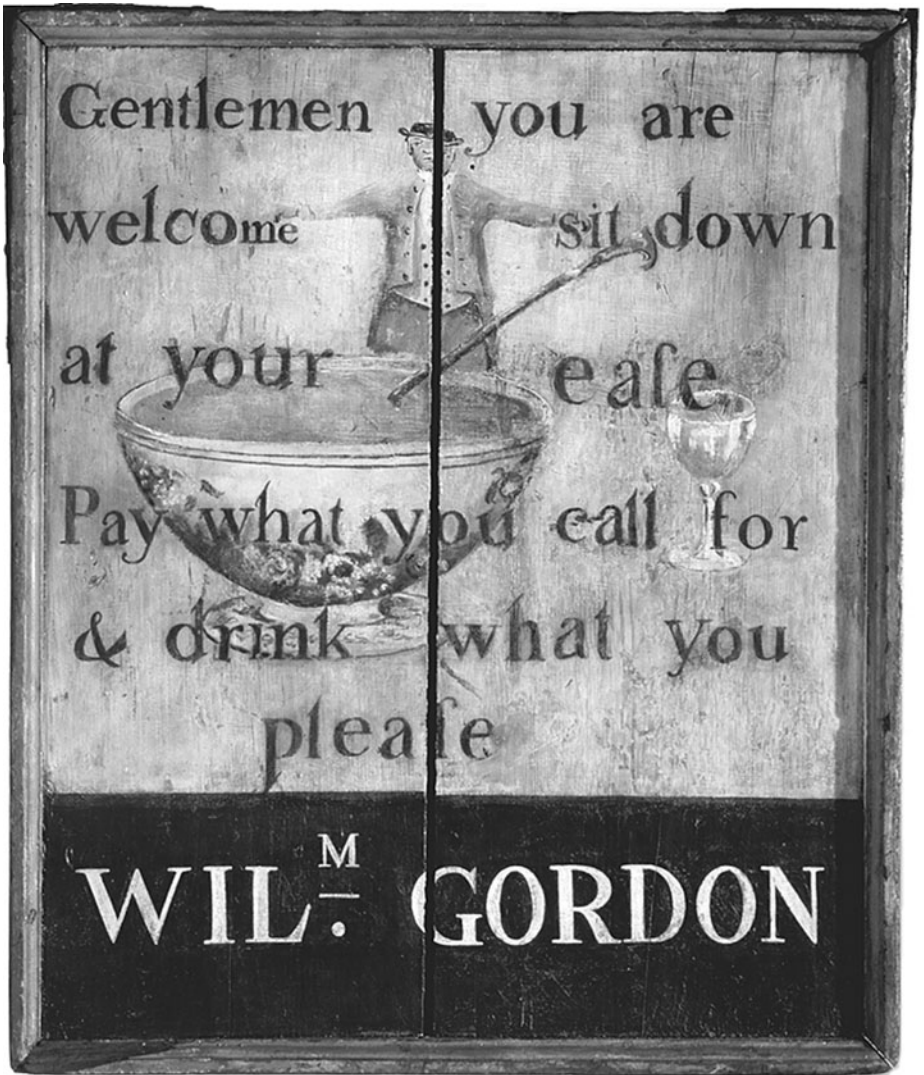


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AMERICA WALKS INTO A BAR

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CHRISTINE SISMONDO

.....

AMERICA
WALKS INTO A BAR

.....

A SPIRITED HISTORY OF

.....

TAVERNS AND SALOONS,

.....

SPEAKEASIES AND

.....

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*This book is for Kilgours'—
and all the lovely people
who have made it what it is.
You know who you are.*

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including one run by a Robert Sedgewick of Charles-Towne.¹⁵ As soon as these breweries were up and running by the 1630s, colonists had their consumption back up to an estimated six gallons of absolute alcohol per year. The average American drinks about half that now.¹⁶

The variety of drinks made from that six gallons was pretty impressive, too, and a testament to the creativity of the settlers. Beer itself was made out of birch bark, sassafras, spruce, and even twigs, which were boiled and added to malt, roots, pumpkin, or apple, and fermented. According to a ballad that dates roughly to 1630, known simply as “Our Forefather’s Song,” colonists complained about “New England’s annoyances” but consoled themselves with this: “We can make liquor to sweeten our lips; of pumpkins, parsnips, of walnut-tree chips.”¹⁷ In some places, *metheglin*—a Welsh name derived from the words “healing” and “liquor”—was very popular. Essentially, this was mead enhanced with spices like lavender, cloves, chamomile, and nutmeg.

While the cocktail as we know it (with ice, liquor, and an alteration in flavor produced by bitters and sugar) wasn’t invented until the early nineteenth century, there were a number of mixed beverages in colonial times—with names such as the Calibogus, Bombo, Whistlebelly and Cherry Bounce—that might be described as proto-cocktails. Being both powerful—by percentage alcohol—and served warm, these concoctions would probably not suit contemporary tastes, but their names make them ripe for rediscovery. Topping the list, surely, would be the Rattle-Skull, another colonial favorite, made from brandy, wine, port, nutmeg, and lime.¹⁸

Modern molecular mixology is foreshadowed by the libation known as the “Bellowstop.” One Canton, Massachusetts, tavern-owner seems to have been the author of this particular version of “flip”—a colonial favorite, typically made with strong beer, dried pumpkin, molasses, and rum. His version involved four “huge spoonfuls” of a rich mixture of cream, eggs, and sugar added to a nearly full quart of bitter beer and rum. He then “thrust the iron poker into it,” and whisked up another freshly beaten egg in order to “get the froth to gush over the top of the mug.”¹⁹ The December issue of the 1704 *New England Almanac* suggests its popularity:

The Days are short, the weather’s cold,
By tavern fires tales are told,
Some ask for dram when first come in,
Others with flip and bounce begin.

IO :: : AMERICA WALKS INTO A BAR

“Dram” is easy enough, deriving from a Scottish measure for a little over an ounce of whiskey, or whisky, as it was spelled there. For its part, “bounce” was made by infusing fresh cherries in rum for a full year until they were completely dissolved. In addition to flip and bounce, colonists might have enjoyed a Meridian (brandy and tea), Sangaree (Madeira, sugar, and nutmeg), or the slightly vile-sounding Sitchell, which combined whiskey, water, molasses, and vinegar.

Cider (originally spelled *cyder* or *syder*) was a common drink in the mid- to late 1600s and, before long, people had worked out how to make the stronger applejack and cider brandy by distilling the fermentation. The earliest incarnation of this was known as hard cider or, occasionally, “winter wine,” which was concocted by freezing cider and removing the top layer of nonalcoholic ice, revealing a pool of potent applejack liquid. Before that innovation, colonists might have enjoyed a “Stonewall,” or a “Stone-Fence,” which was cider fortified with rum and thought to have been named for its kick, as in how drinking one might have the same effect as running headlong into a wall. By contrast, Samuel Sewall (1652–1730), notable traveling justice, Salem Witch trial participant, and diarist who was so kind as to supply social historians with minute details of his day-to-day life, went the other way with his cider. Rather than trying to make it stronger, he mellowed it out with sugar, nutmeg, and cream, transforming it into “sillabub” or syllabub, a traditional English dessert dating back to the late fifteenth century, originally made with wine or ale and raw milk freshly squeezed from the cow’s udder into an ale pot. In that Sewall was noted for his somewhat anomalous sobriety, this was likely less popular.

The improvisational creativity of their keepers meant that taverns began to assume the same role originally filled by the Roman *tabernae*. In addition to accommodating travelers, they were also helping sate locals’ desire for diversion with a night of flip and bounce. Without taverns, the colonies’ trade routes and government regulation would simply have shut down, or never taken root in the first place. And, as in Roman times, distance was again measured in taverns and routes determined accordingly.

Yet for all the functions the tavern provided, it also produced one inevitable and undesirable problem, namely drunkenness. Although this would seem a predictable result for a population that per capita annually consumed an average of six gallons of alcohol, drunkenness was not generally considered an acceptable outcome. Or, as sober and thoughtful

Puritan minister and politician, Increase Mather, once said: “Drink is, in itself, a good creature of God, and to be received with thankfulness, but the abuse of drink is from Satan; the wine is from God, but the drunkard is from the Devil.”

This is not a uniquely Puritan take on the paradox of drinking. There has been a prohibition on extreme drunkenness since the Bible, starting with Noah—not merely the savior of humanity and all those pairs of animals but also the inventor of wine. Pleased with his innovation, as the story goes, Noah proceeded to get a little tight one night, then passed out cold—and naked. When his son, Ham, found Noah in this undignified state, he and his brothers helped cover him up. Japeth and Shem were careful not to look but Ham, it seems, sneaked a peek. For this, Noah doled out a curse on Ham’s son, Canaan, that he (and all Canaanites thereafter) should live a life of servitude.²⁰

This is not the only biblical caution against drunkenness. There are passages warning that drink will lead to sloth, poverty, and violent behavior. “Wine is a mocker, strong drink is raging: and whosoever is deceived thereby is not wise,” says Proverbs 20:1. And Leviticus 10:9 warns that drinking in the “tabernacle of the congregation” might even result in death. Puritan settlers, trying to be faithful to the word of King James, faced the tough task of maintaining the indispensable institution of the tavern while simultaneously limiting the devil’s influence. They tried to walk this fine line with legislation regarding taverns that fell into two main divisions—laws designed to encourage the institution of taverns and the laws designed to control them.

In 1637, the General Court of Massachusetts, the highest authority next to the governor, decreed that each town was to choose a responsible community member to sell “wine and strong water lest the public suffer from lack of public accommodations.” Connecticut followed with a 1644 decree that ordered one “sufficient inhabitant” per town to set up an ordinary, since “strangers were straitened” when they wanted to get a little less straight. One Dutch visitor to Hartford in 1639, noting this “straitening,” remarked that the difference between his culture and that of the English was that the latter were very sober, “drinking but three times at a meal.” It’s hard to know if this was said tongue-in-cheek or not, since this same visitor also said of the punishment: “When a man drinks to drunkenness, they tie him to a post and whip him as they do thieves in Holland.”²¹ It’s likely no sarcasm was intended. Dutch settlers in New Amsterdam didn’t seem to need laws to encourage the

institution of taverns, since one of every four buildings was already devoted to the sale of liquor or tobacco.

Back in Massachusetts, the county courts decided in 1656 that they could not only legislate the *necessity* of a tavern but fine the residents of offending tavern-free towns.²² This was no idle threat, either. Concord was hit with a fine in 1660 and Newbury was twice docked before a valiant local by the name of Hugh March before it? finally opened a public house.

Often a condition was attached to a license, regulating, for instance, where a tavern was to be located or what secondary purpose it should serve. In 1651 Boston, a John Vyall was granted a license, “provided he keep it neare the new meeting house,” from where, none other than Increase Mather preached.²³ In 1636, in Cambridge, Deacon Thomas Chisholm opened his own tavern next door to his parish. Taverns were almost certainly used for the occasional religious service, especially on those winter days when the frigid meeting-house failed to warm up, even with members carrying foot-stoves with live coals. Taverns, always warm with the body heat of its inhabitants, definitely accommodated chilled worshippers in the noon break between morning and afternoon services. It was also typically used for “seating the meeting”—when it was decided in which row each member would sit, according to social rank. It was not considered blasphemous or indecorous for important church business to take place in a tavern, since antipapal religious reformers rejected any suggestion that some houses were more legitimate than others. God was present in all of them.

When the tavern wasn’t being used as a de facto meeting-house, it often doubled as a courthouse. And even when a dedicated courthouse already existed, many towns granted licenses for tavern-keepers to open up next door so that trials could be held there on cold days and small disputes settled “out of court.”

Tavern court chambers were small rooms that held roughly twenty people. The fanciest ones, mainly in well-populated urban areas, often had elevated judges’ benches. In Boston, there were two major courts—John Turner’s Tavern and George Monck’s Blue Anchor. And while both of these provided respectable and well-run chambers, there were numerous examples of miscarriages of justice arising from the informality of the general set up. On occasion, there’d be a clear conflict of interest. One such case involved a Virginia hostler (another word for tavernkeeper) named Charles Hill, who allowed patrons to run up huge bills on credit. When patrons failed to pay, Hill, who also happened to be the county

jailer, would arrest and lock them up in the tavern, now doubling as a jail. From there, patrons would frequently “escape,” prompting Hill to turn to the county court for reimbursement for his unpaid tabs. Naturally, his argument would be that it was the *county jailer’s* fault the debtors had escaped.²⁴

It wasn’t at all uncommon for people to hold multiple offices as Hill did. A colonial tavernkeeper might also be the deacon, the constable, the surveyor, a selectman or tithing man. The latter made for a curious double role, since it was the tithing man’s job to root out unlicensed drinking houses and fine tavernkeepers for serving drunken patrons. David Conroy, another tavern historian, has unearthed tales of justices who held both offices in colonial Massachusetts, where there were no laws barring the practice. In Watertown, one individual who was both a selectman and tavernkeeper for twenty-seven years was found to display a very “tolerant attitude toward drinking,” since he dismissed almost all of his cases of public drunkenness.²⁵ While simultaneously selling alcohol and enforcing public drinking laws would seem an obvious conflict of interest, few jurisdictions attempted to legislate against the practice, despite the occasional critique like this one: “Drunkenness is decried from almost every pulpit, but what justice punishes drunkenness?”²⁶

Although little effort was put into fixing this problem, a good bit of legislation aimed at improving the quality of accommodation was enacted, so that circuit-riding judges weren’t subject to the colonial equivalent of the flea-bag motel. Complaints about some taverns ranged from raucousness, to having to sleep on the floor, to being nearly “eat up alive with bugs.” One step up from sleeping on the floor was shared accommodation, when taverns with more lodgers than beds simply assigned two or three strangers to a single bed. Traveling memoirist Francois Jean de Beauvoir, the Marquis de Chastellux, summed it up thusly: “After you have been some time in a bed, a stranger of any condition (for there is little distinction), comes in to the room, pulls off his clothes, and places himself, without ceremony, between your sheets.”²⁷

Then there was the food. Sarah Kemble Knight, an early diarist, wrote of the many and varied taverns at which she stayed, often complaining of atrocious meals. Once, she reported she was served a “twisted thing like a cable, but something whiter.” Whatever it was, the serving woman laid “it on the bord, tugg’d for life to bring it into a capacity to spread. The result was “served in a dish of Pork and Cabage.”²⁸

Having been regularly exposed to similar conditions in the line of duty, traveling magistrates were instrumental in standardizing tavern beds and fare, requiring, for example, that Maryland tavernkeepers have at least four “good feather beds” and “in any place where the county Crt is kept, eight ffeather or fflock beds at the least . . . and that they shall suffer noe drinking or gaming upon the Sabbath Day.”²⁹

Then, of course, there was the concern over the amount of alcohol consumed before, during, and after judicial proceedings and whether it might mar judgment. In some places, where the bottle was passed around freely and tankards of cider were readily refilled, there were those who were distressed that a justice might become “mellow in his cups,” since, as alcohol historian W. J. Rorabaugh explains, drunken juries led to a greater rate of acquittals.³⁰ If John Turner’s in Boston was any indication, though, few paid much attention to quantity control. There, witnesses and justices were served wine in quarts, despite a law prohibiting wine served in any quantity more than half a pint at a time.³¹

The fact that so much important civic and divine business was held in taverns meant that legislation typically specified that a respectable member of the community be there to run it. And, in order to keep things operating on the up and up, incentives were used in many regions. In Virginia in 1677, it was decreed there could only be two taverns per county—thereby guaranteeing lucrative monopolies. In Maryland, land grants, tax exemptions, and monopolies were given to upstanding community members who ran the ordinaries that had been deemed so severely lacking in 1662. In all states, tavern legislation was involved and constantly changing. In Virginia after 1638, there was more law on the books regarding the licensing of taverns than there was on “roads, land titles, care of the poor and general law and order.”³²

Many laws were less favorable to the tavernkeeper, such as those meant to keep order and discourage drunkenness. As early as 1633 in the Massachusetts Bay colony, before taverns were declared vital, fines and other punishments were imposed upon publicans “in whose howse any were found or suffered to drinke drunck,” just as it still is illegal to serve people to the point of intoxication. (Early settlements in New England look positively quaint in comparison to Virginia, where ministers were singled out and forbidden from giving themselves to “excesse in drinkinge or riot.”) In addition, they were warned against “spendinge their tyme idlllye by day or night,”³³ indicating another aspect of concern over the emerging Puritan drinking problem—that there was almost as much

cultural anxiety regarding what wasn't being done (namely, work) as there was over the drunken "rioting" that taverns occasionally produced. Later, toward the close of the seventeenth century, Nathaniel Saltonstall of Haverhill would complain that those who cried "povertie" spent much time and "their entire estate at such blind holes," and, further, that taverns were plagued with "pernicious loitering" and the foolish "firing and shooting off of guns."³⁴ In a preamble to a 1637 law regulating taverns, Puritan leaders expressed worry over the "waste of good creatures of God" and the "mispense of time."

Even before legislation, there were recorded incidents of tavern loafers and drunkards being punished, generally by shaming. Early tavern historian Alice Morse Earle tells of a James Woodward of New-Towne (now Cambridge, Massachusetts) who, in 1632, after having been caught "drunke," was "sett in the bilbowes," a handcuff device similar to "stocks," allegedly conceived in design capital Bilbao, Spain. When attached to both feet and hands, bilbowes managed to cause both humiliation and pain.³⁵ For the following year, there's record of a Robert Coles being fined ten shillings (roughly a hundred dollars today) and forced to stand with a sheet of paper on his back with the word "Drunkard," written large, for the crime of "abusing himself shamefully with drinke."³⁶ The 1633 "drinke drunck" legislation, therefore, had seemed a necessary response to Massachusetts Bay colonists such as Woodward and Coles, who had been "distempering themselves" with drink, selling to servants, and even selling to people who were already distempered, "thereby causing much disorder, drunkenness and misdemeanor."³⁷ Not that the legislation had much effect on behavior. In 1638, the courts fined one William Reynolds for having got so drunk that he "lay under the table" and vomited "in a beastly manner" at his host's home.³⁸

Some of the anxiety about it all had to do with concerns over sex outside of the confines of marriage, which was, then as now, a lot more likely to happen with alcohol. Punishments here were often harsh. In 1639 in Ipswich, Massachusetts, a man was whipped for copping a feel under a "girles coat." In another instance, also in Ipswich, Margery Rugs was lashed for having convinced George Palmer to "commit folly." It's interesting to note that Palmer wasn't punished. Perhaps pleading a case of the "drinke drunck," he maintained that he'd been unable to resist Margery's allurements.³⁹

We can imagine the many debates surrounding what constituted the state of "drinke drunck." Drunkenness, after all, remains contentious

even though we've achieved an understanding about blood-alcohol content. Maryland, apparently undaunted by ambiguities, forged ahead and defined the actual state. In 1638, its legislators agreed that drunkenness was characterized by a "noticeable perturbation of any organ of sense or motion." In Massachusetts, an attempt at a more refined definition was made in 1646: "And by Drunkenness is understood a person that either lips or falters in his speech by reason of overmuch drink, or that staggers in his going, or that vomits by reason of excessive drinking, or cannot follow his calling."⁴⁰

To prevent any of this from happening, patrons' attempts at getting "glaz'd" were thwarted (or, at least made more of a challenge) by some of the country's very first drinking laws. In 1646 in Plymouth, Massachusetts, the maximum amount of wine that could be served at any one time was a half-pint. By today's standards, that seems fairly generous—roughly a third of a contemporary wine bottle—another indication of the volume consumed in the colonial era. Closing time was also set at nine in the evening, except for people who were visiting from somewhere else. Out-of-towners were free to imbibe for as long as they wished; locals were banned from drinking for more than an hour at a time.⁴¹ (Talk about your happy hour.) Then again, they probably considered themselves lucky since they'd previously been allotted only thirty minutes. (Talk about your happy half-hour.)

At one point in Boston, residents were fined if they were found drinking in local taverns at all, part of an attempt to reduce the number of houses of entertainment from twenty-six to ten. The same rationale had led the Romans to divide the *deversoria* from the *meritoria* and was clearly an attempt to ensure taverns were used primarily for business, not pleasure. It was also surely the birth of the road trip.

Keeping track of who was from abroad and who was local and, among the latter, whose time was up, was the tavernkeeper's job. Neglecting to do so, or allowing patrons to get inebriated on premises, would result in a fine assessed per drunken patron or, in the worst cases, a revoked license. One tapster in Dorchester, Massachusetts, was caught serving patrons to the point of inebriation and as punishment ordered to surrender two gallons of his "stronge water" for the "benefit of the poor."⁴² On top of that, starting in 1670, lists of problem drunkards were in circulation and tavernkeepers were required to refuse service to those "habitual tipplers," even if their tipping had occurred elsewhere.

One group automatically granted honorary membership on this list were Indians. Later the list would gradually be extended to include other racial groups, as well as indentured servants, sailors, and, eventually, women. The laws that would bar most of these from taverns were justified by the generally accepted view that these groups were unusually prone to becoming drunk.

This is not to say that the upstanding were always sober and the downtrodden always drunk. Far from it. Along with the many individual accounts of people vomiting under the table, set in bilboes, or forced to wear the scarlet letter “D,” the extensive legislation governing drunkenness suggests that it occurred across the board. Increasingly though, there developed a fictional divide between those who had mastered the art of drinking well and drunkenness, which happened mainly to Indians, sailors, and other marginalized groups, but never to white men of high social standing. (We realize the use of the term “Indian” is problematic. However, since the legislation of the time refers to Indians, it seems confusing to switch back and forth to Natives or First Nations’ Peoples. In addition, in a later section, there is an antidrink movement begun by a political group that called itself Natives or Nativists, referring to second- or third-generation British settlers. To avoid further confusion, therefore, we will employ the term used most frequently in the contemporary records.)

Indians, in particular, were nearly always portrayed as drinking to drunkenness and, once drunk, behaving raucously. In 1636 Plymouth, it was made illegal to sell alcohol to Indians unless as medicine and, by the end of the 1660s, many communities had similar laws on the books. Punishments for noncompliance ranged from the confiscation of spirits (since any alcohol an Indian possessed was, by definition, contraband) to the jailing, and sometimes whipping, of the offender. In some cases, the rationale was clearly spelled out in the legislation—that it “caused disorder and offended colonists.” In Maryland, a limit on sales to Indians was put in place on the grounds that it made them “drunk and mad” and that the result would be a war between Indians and settlers.⁴³ The most commonly expressed fear over excessive drinking among Indians was that it led to “rioting.” Over time, this term has come to refer to angry crowds causing damage; during the colonial period, it had a broader usage that included “generally unrestrained.” And restraint was a key aspect of the Protestant model for success and domination. As identified by future governor of Connecticut Gurdon Saltonstall in the 1690s,

immodest or garish clothing, dancing, drinking, singing, personal ambition, and family discipline were all tightly regulated so as to “give check to those wretched Principles, of Pride and Contradiction, Disorder and Confusion.”⁴⁴

Initially, it was Indian rowdiness and rioting that was most feared and, therefore, most heavily pathologized. Always aware that violent conflict was a threat as they continued to encroach on Indian land, settlers were petrified of the natives—and with fair reason. In 1675–1676, the bloody conflict between colonists and natives known as King Philip’s War helped cement the settlers’ fears. More than half of New England’s settlements were attacked and almost eight hundred colonists lost their lives in the Indians’ response to settlers moving into their lands, particularly in western Massachusetts and Rhode Island. In Brookfield, Massachusetts, the entire town of eighty-two had to take refuge in Ayers’ Tavern, which Indians, acting like “wild bulls,” attempted to burn to the ground—twice. Between rain and efforts by firefighters, the tavern was saved (during the siege, two sets of twins were born in the tavern, bringing the Brookfield population up to eight-six).⁴⁵ The use of taverns as garrisons—as with the Ayers’ in Brookfield and Major Thomas Fenner’s in Providence—was a useful strategy for colonists against the Indians, who lost some three thousand during the hostilities.

To what degree this stereotype of drunken Indians (more specifically, drunken *violent* Indians) was based on truth is still a matter of intense debate in scholarly circles, although a few misconceptions have been put to rest. For instance, the popular notion that Indians are less able to metabolize alcohol than Europeans has been rendered false. Attempts to prove this have failed, as has the quest to identify a genetic basis for alcoholism. Among other problems with the theory, it makes the all-too-common mistake of identifying all the populations who lived on both American continents before Europeans as a monolithic “race.” Other theories have been advanced to account for the widespread reports of Indian drunkenness. Historian Andrew Barr contends that the “firewater myth” could well be a result of different cultural mores. Indians consumed large quantities of drugs such as tobacco and other inhalants in spiritual ceremonies to find enlightenment by “devouring” the spirit contained. A bottle of liquor, then, would have been seen as something to be consumed in its entirety in order to achieve an altered state—not something to drink semimoderately throughout the day (the acceptable “dram” drinking of colonial America) and somewhat less moderately at

social occasions. Less acceptable, of course, was binge drinking, which, nevertheless, was becoming more popular all the time, judging from the many New England laws lamenting the rampant drunkenness “fallen out at the inns and common victualing-houses.”

There’s some anecdotal evidence to support Barr’s theory. As early as 1630, Indian alcohol consumption was something French settler Paul Le Jeune of the St. Lawrence Valley thought worth noting. “The Savages have always been gluttons,” he writes, “but since the coming of the Europeans they have become such drunkards . . . Give two Savages two or three bottles of brandy, they will sit down and, without eating, will drink, one after the other, until they have emptied them.”⁴⁶ Forty years later, in describing colonial New York, Daniel Denton writes that Indians “do not care for drinking, unless they have enough to make themselves drunk.” European settlers might have simply failed to realize that alcohol was used, as historian Peter Mancall writes, in “spiritual and psychological quests . . . to achieve a greater sense of personal power.”⁴⁷

In addition to the cultural differences, there was the aggravating factor that some tribes might have had limited experience with fermented beverages (some, but not many, would have consumed fermented corn and spruce beers) and were not prepared for the introduction of distilled spirits, obviously a much more intense version of alcohol. Aftershocks from the introduction of spirits were not unique to North America, either. The Brits took at least thirty years to adjust to *genever* (Dutch gin), easily traceable from the five Gin Acts aimed at controlling vice and debauchery passed between the years 1729 and 1751. After that time (and considerable moral panic over fifteen thousand gin palaces—about one for every forty-five residents), however, gin-soaked Londoners learned to drink it for what it was—namely, *not* beer.

Still others have speculated that Indians learned to drink from the “wrong” types of colonists—sailors and fur traders.⁴⁸ This theory, though, reinforces the precise prejudice against marginal groups and their alcohol established during early colonial days. The notion that Indians would have picked up civilized habits had they learned to drink from respectable town elders and not *couriers de bois*, perpetuates the idea that there were two types of drinkers: degenerate drunks and those who had mastered “the art of drinking well.”

While it’s quite possible that the intense fear colonists felt toward the Indians was a factor in an overreporting of drunkenness, as were cultural factors and inexperience with alcohol, raucous behavior did occur

EXHIBIT 55

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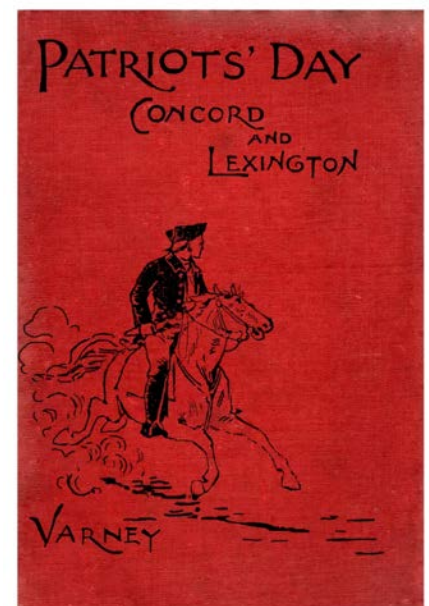
"American Independence" Samuel Adams Speech - August 1, 1776

American Independence is a famous speech delivered by Samuel Adams from the steps of the State House in Philadelphia, the meeting place of the Continental Congress. In the speech, Adams declares that by voting for the **Declaration of Independence**, Americans have restored "the Sovereign to Whom alone all men ought to be obedient" (meaning God) to the "throne" of America.



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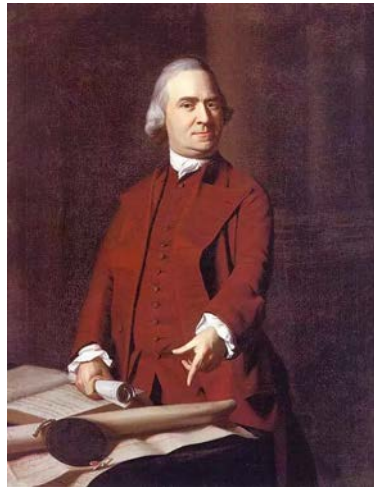
This speech was delivered the day before the familiar parchment copy of the **Declaration of Independence** was signed by the Continental



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Congress. The vote for independence was on July 2nd. The decision to use the Declaration written by **Thomas Jefferson** as the tool to announce the decision publicly was made on July 4th. The document was signed by the members on August 2nd.



Samuel Adams

Samuel Adams Speech "American Independence"

COUNTRYMEN AND BRETHREN: I would gladly have declined an honor, to which I find myself unequal. I have not the calmness and impartiality which the infinite importance of this occasion demands. I will not deny the charge of my enemies, that resentment for the accumulated injuries of our country, and an ardor for her glory, rising to enthusiasm, may deprive me of that accuracy of judgment and expression which men of cooler passions may Possess. Let me beseech you, then, to hear me with caution, to examine without prejudice, and to correct the mistakes into which I may be hurried by my zeal.

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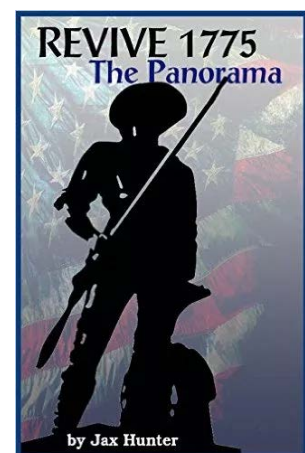
Truth loves an appeal to the common-sense of mankind. Your unperverted understandings can best determine on subjects of a practical nature. The positions and plans which are said to be above the comprehension of the multitude may be always suspected to be visionary and fruitless. He who made all men hath made the truths necessary to human happiness obvious to all.

Our forefathers threw off the yoke of popery in religion: for you is reserved the honor of levelling the popery of politics. They opened the Bible to all, and maintained the capacity of every man to judge for himself in religion. Are we sufficient for the comprehension of the sublimest spiritual truths, and unequal to material and temporal ones? Heaven hath trusted us with the management of things for eternity, and man denies us ability to judge of the present, or to know from our feelings the experience that will make us happy. "You can discern," say they, "objects distant and remote, but cannot perceive those within your grasp. Let us have the distribution of present goods, and cut out and manage as you please the interests of futurity." This day, I trust the reign of political protestantism will commence. We have explored the temple of royalty, and found that the idol we have bowed down to, has eyes which see not, ears that hear not our prayers, and a heart like the nether millstone. We have this day restored the Sovereign, to whom alone men ought to be obedient. He reigns in Heaven, and with a propitious eye beholds his subjects assuming that freedom of thought, and dignity of self-direction which He bestowed on them. From the rising to the setting sun, may His kingdom come.

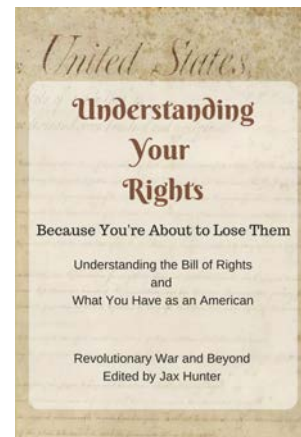
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Having been a slave to the influence of opinions early acquired, and distinctions generally received, I am ever inclined not to despise but pity those who are yet in darkness. But to the eye of reason what can be more clear, than that all men have an equal right to happiness? Nature made no other distinction than that of higher or lower degrees of power of mind and body. But what mysterious distribution of character has the craft of statesmen, more fatal than priestcraft, introduced?



According to their doctrine, the offspring of perhaps the lewd embraces of a successful invader, shall, from generation to generation, arrogate the right of lavishing on their pleasures a proportion of the fruits of the earth, more than sufficient to supply the wants of thousands of their fellow-creatures: claim authority to manage them like beasts of burden, and without superior industry, capacity, or virtue, nay, though disgraceful to humanity by their ignorance, intemperance, and brutality, shall be deemed best calculated to frame laws, and to consult for the welfare of society.

Were the talents and virtues, which Heaven has bestowed on men, given merely to make them more obedient drudges, to be sacrificed to the follies and ambition of a few? or, were not the noble gifts so equally dispensed with a divine purpose and law, that they should as nearly as possible be equally exerted, and the blessings of Providence be equally enjoyed by all? Away then, with those absurd systems, which, to gratify the pride of a few, debase the greatest part of our species below the order of men. What an affront to the King of the universe, to maintain that the happiness of a monster, sunk in debauchery and spreading desolation and murder

among men, of a Caligula, a Nero, or a Charles, is more precious in his sight than that of millions of his suppliant creatures, who do justice, love mercy, and walk humbly with their God! No! in the judgment of Heaven there is no other superiority among men, than a superiority in wisdom and virtue. And can we have a safer model in forming ours? The Deity then has not given any order or family of men authority over others, and if any men have given it, they only could give it for themselves. Our forefathers, 'tis said, consented to be subject to the laws of Great Britain. I will not, at present, dispute it, nor mark out the limits and conditions of their submission: but will it be denied that they contracted to pay obedience, and to be under the control of Great Britain, because it appeared to them most beneficial in their then present circumstances and situations? We, my countrymen, have the same right to consult and provide for our happiness, which they had to promote theirs. If they had a view to posterity in their contracts, it must have been to advance the felicity of their descendants. If they erred in their expectations and prospects, we can never be condemned for a conduct which they would have recommended had they foreseen our present condition.

Ye darkeners of counsel, who would make the property, lives, and religion of millions, depend on the evasive interpretations of musty parchments: who would send us to antiquated charters, of uncertain and contradictory meaning, to prove that the present generation are not bound to be victims to cruel and unforgiving despotism, tell us whether our pious and generous ancestors bequeathed to us the miserable privilege of having the rewards of our

honest industry, the fruits of those fields which they purchased and bled for, wrested from us at the will of men over whom we have no check? Did they contract for us that, with folded arms, we should expect that justice and mercy from brutal and inflamed invaders which have been denied to our supplications at the foot of the throne? Were we to hear our character as a people ridiculed with indifference? Did they promise for us that our meekness and patience should be insulted: our coasts harassed: our towns demolished and plundered, and our wives and offspring exposed to nakedness, hunger and death, without our feeling the resentment of men, and exerting those powers of self-preservation which God has given us? No man had once a greater veneration for Englishmen than I entertained. They were dear to me as branches of the same parental trunk, and partakers of the same religion and laws; I still view with respect the remains of the constitution as I would a lifeless body which had once been animated by a great and heroic soul. But when I am roused by the din of arms: when I behold legions of foreign assassins, paid by Englishmen to imbrue their hands in our blood: when I tread over the uncoffined bones of my countrymen, neighbors and friends: when I see the locks of a venerable father torn by savage hands, and a feeble mother, clasping her infants to her bosom, and on her knees imploring their lives from her own slaves, whom Englishmen have allured to treachery and murder: when I behold my country, once the seat of industry, peace, and plenty, changed by Englishmen to a theatre of blood and misery, Heaven forgive me, if I cannot root out those passions which it has implanted in my bosom, and detest submission to a people who

have either ceased to be human, or have not virtue enough to feel their own wretchedness and servitude.

Men who content themselves with the semblance of truth, and a display of words, talk much of our obligations to Great Britain for protection! Had she a single eye to our advantage? A nation of shopkeepers are very seldom so disinterested. Let us not be so amused with words: the extension of her commerce was her object. When she defended our coasts, she fought for her customers, and convoyed our ships loaded with wealth, which we had acquired for her by our industry. She has treated us as beasts of burden, whom the lordly masters cherish that they may carry a greater load. Let us inquire also against whom she has protected us? Against her own enemies with whom we had no quarrel, or only on her account, and against whom we always readily exerted our wealth and strength when they were required. Were these colonies backward in giving assistance to Great Britain, when they were called upon in 1739, to aid the expedition against Carthagena? They at that time sent three thousand men to join the British army, although the war commenced without their consent. But the last war, 'tis said, was purely American. This is a vulgar error, which, like many others, has gained credit by being confidently repeated. The dispute between the Courts of Great Britain and France related to the limits of Canada and Nova Scotia. The controverted territory was not claimed by any in the colonies, but by the Crown of Great Britain. It was therefore their own quarrel. The infringement of a right which England had, by the treaty of Utrecht, of trading in the Indian country of Ohio, was another cause of

the war. The French seized large quantities of British manufactures, and took possession of a fort which a company of British merchants and factors had erected for the security of their commerce. The war was therefore waged in defence of lands claimed by the Crown, and for the protection of British property. The French at that time had no quarrel with America: and, as appears by letters sent from their commander-in-chief, to some of the colonies, wished to remain in peace with us. The part therefore which we then took, and the miseries to which we exposed ourselves, ought to be charged to our affection for Britain. These colonies granted more than their proportion to the support of the war. They raised, clothed, and maintained, nearly twenty-five thousand men, and so sensible were the people of England of our great exertions, that a message was annually sent to the House of Commons purporting: "That His Majesty, being highly satisfied of the zeal and vigor with which his faithful subjects in North America had exerted themselves in defence of His Majesty's just rights and possessions, recommended it to the House, to take the same into consideration, and enable him to give them a proper compensation."

But what purpose can arguments of this kind answer? Did the protection we received annul our rights as men, and lay us under an obligation of being miserable?

Who among you, my countrymen, that is a father, would claim authority to make your child a slave because you had nourished him in his infancy?

It is a strange species of generosity which requires a return infinitely more valuable than anything it

could have bestowed: that demands as a reward for a defence of our property, a surrender of those inestimable privileges, to the arbitrary will of vindictive tyrants, which alone give value to that very property.

Political right and public happiness are different words for the same idea. They who wander into metaphysical labyrinths, or have recourse to original contracts, to determine the rights of men, either impose on themselves or mean to delude others.

Public utility is the only certain criterion. It is a test which brings disputes to a speedy decision, and makes it appeal to the feelings of mankind. The force of truth has obliged men to use arguments drawn from this principle who were combating it, in practice and speculation. The advocates for a despotic government, and non-resistance to the magistrate, employ reasons in favor of their systems drawn from a consideration of their tendency to promote public happiness.

The Author of Nature directs all his operations to the production of the greatest good, and has made human virtue to consist in a disposition and conduct which tend to the common felicity of his creatures. An abridgement of the natural freedom of man, by the institution of political societies, is vindicable only on this foot. How absurd, then, is it to draw argument from the nature of civil society for the annihilation of those very ends which society was intended to procure. Men associate for their mutual advantage. Hence the good and happiness of the members, that is, the majority of the members of any state, is the great standard by which everything relating to that state must finally be determined;

and though it may be supposed that a body of people may be bound by a voluntary resignation (which they have been so infatuated as to make) of all their interests to a single person, or to a few, it can never be conceived that the resignation is obligatory to their posterity: because it is manifestly contrary to the good of the whole that it should be so.

These are the sentiments of the wisest and most virtuous champions of freedom. Attend to a portion on this subject from a book in our defence, written, I had almost said by the pen of inspiration. "I lay no stress," says he, "on charters - they derive their rights from a higher source. It is inconsistent with common-sense to imagine that any people would ever think of settling in a distant country, on any such condition, or that the people from whom they withdrew should forever be masters of their property, and have power to subject them to any modes of government they pleased. And had there been express stipulations to this purpose in all the charters of the colonies, they would, in my opinion, be no more bound by them than if it had been stipulated with them that they should go naked, or expose themselves to the incursions of wolves and tigers."

Such are the opinions of every virtuous and enlightened patriot in Great Britain. Their petition to Heaven is - "That there may be one free country left upon earth, to which they may fly, when venality, luxury, and vice, shall have completed the ruin of liberty there."

Courage, then, my countrymen! Our contest is not only whether we ourselves shall be free, but

whether there shall be left to mankind an asylum on earth, for civil and religious liberty? Dismissing therefore the justice of our cause, as incontestable, the only question is, What is best for us to pursue in our present circumstances?

The doctrine of dependence on Great Britain is, I believe, generally exploded: but as I would attend to the honest weakness of the simplest of men, you will pardon me if I offer a few words on that subject.

We are now on this continent, to the astonishment of the world, three millions of souls united in one common cause. We have large armies, well disciplined and appointed, with commanders inferior to none in military skill, and superior in activity and zeal. We are furnished with arsenals and stores beyond our most sanguine expectations, and foreign nations are waiting to crown our success by their alliances. There are instances of, I would say, an almost astonishing Providence in our favor: our success has staggered our enemies, and almost given faith to infidels: so that we may truly say it is not our own arm which has saved us.

The hand of heaven appears to have led us on to be, perhaps, humble instruments and means in the great providential dispensation which is completing. We have fled from the political Sodom; let us not look back, lest we perish and become a monument of infamy and derision to the world! For can we ever expect more unanimity and a better preparation for defence: more infatuation of counsel among our enemies, and more valor and zeal among ourselves? The same force and resistance which are sufficient to procure us our liberties will secure us a glorious independence and support us in the dignity of free,

imperial States. We cannot suppose that our opposition has made a corrupt and dissipated nation more friendly to America, or created in them a greater respect for the rights of mankind. we can therefore expect a restoration and establishment of our privileges, and a compensation for the injuries we have received from their want of power, from their fears, and not from their virtues. The unanimity and valor, which will effect an honorable peace, can render a future contest for our liberties unnecessary. He who has strength to chain down the wolf is a madman if he lets him loose without drawing his teeth and paring his nails.

From the day on which an accommodation takes place between England and America, on any other terms than as independent States, I shall date the ruin of this country. A politic minister will study to lull us into security, by granting us the full extent of our petitions. The warm sunshine of influence would melt down the virtue, which the violence of the storm rendered more firm and unyielding. In a state of tranquillity, wealth and luxury, our descendants would forget the arts of war, and the noble activity and zeal which made their ancestors invincible. Every art of corruption would be employed to loosen the bond of union which renders our assistance formidable. When the spirit of liberty which now animates our hearts and gives success to our arms is extinct, our numbers will accelerate our ruin, and render us easier victims to tyranny. Ye abandoned minions of an infatuated ministry, if peradventure any should yet remain among us! - remember that a Warren and Montgomery are numbered among the dead. Contemplate the mangled bodies of our

countrymen, and then say, What should be the reward of such sacrifices? Bid us and our posterity bow the knee, supplicate the friendship, and plough, and sow, and reap, to glut the avarice of the men who have let loose on us the dogs of war to riot in our blood, and hunt us from the face of the earth? If we love wealth better than liberty, the tranquillity of servitude, than the animating contest of freedom - go from us in peace. We ask not your counsels or arms. Crouch down and lick the hands which feed you. May your chains set lightly upon you, and may posterity forget that ye were our countrymen.

To unite the supremacy of Great Britain and the liberty of America, is utterly impossible. So vast a continent and of such a distance from the seat of empire will every day grow more unmanageable. The motion of so unwieldy a body cannot be directed with any despatch and uniformity, without committing to the Parliament of Great Britain powers inconsistent with our freedom. The authority and force which would be absolutely necessary for the preservation of the peace and good order of this continent, would put all our valuable rights within the reach of that nation.

As the administration of government requires firmer and more numerous supports in proportion to its extent, the burdens imposed on us would be excessive, and we should have the melancholy prospect of their increasing on our posterity. The scale of officers, from the rapacious and needy commissioner, to the haughty governor, and from the governor with his hungry train, to perhaps a licentious and prodigal viceroy, must be upheld by you and your children. The fleets and armies which will be employed to silence your murmurs and

complaints must be supported by the fruits of your industry.

And yet, with all this enlargement of the expense and powers of government, the administration of it at such a distance, and over so extensive a territory, must necessarily fail of putting the laws into vigorous execution, removing private oppressions, and forming plans for the advancement of agriculture and commerce, and preserving the vast empire in any tolerable peace and security. If our posterity retain any spark of patriotism, they can never tamely submit to such burdens. This country will be made the field of bloody contention till it gains that independence for which nature formed it. It is therefore injustice and cruelty to our offspring, and would stamp us with the character of baseness and cowardice, to leave the salvation of this country to be worked out by them with accumulated difficulty and danger.

Prejudice, I confess, may warp our judgments. Let us hear the decision of Englishmen on this subject, who cannot be suspected of partiality: "The Americans," say they, "are but little short of half our number. To this number they have grown from a small body of original settlers by a very rapid increase. The probability is that they will go on to increase, and that in fifty or sixty years they will be double our number: and form a mighty empire, consisting of a variety of States, all equal or superior to ourselves in all the arts and accomplishments which give dignity and happiness to human life. In that period will they be still bound to acknowledge that supremacy over them which we now claim? Can there be any person who will assert this, or whose mind does not revolt at the idea of a vast continent,

holding all that is valuable to it, at the discretion of a handful of people on the other side the Atlantic? But if at that period this would be unreasonable, what makes it otherwise now? Draw the line if you can. But there is still a greater difficulty. Britain is now, I will suppose, the seat of liberty and virtue, and its legislature consists of a body of able and independent men, who govern with wisdom and justice. The time may come when all will be reversed: when its excellent constitution of government will be subverted: when pressed by debts and taxes, it will be greedy to draw to itself an increase of revenue from every distant province, in order to ease its own burdens: when the influence of the Crown, strengthened by luxury and an universal profligacy of manners, will have tainted every heart, broken down every fence of liberty, and rendered us a nation of tame and contented vassals: when a general election will be nothing but a general auction of boroughs, and when the Parliament, the grand council of the nation, and once the faithful guardian of the state, and a terror to evil ministers, will be degenerated into a body of sycophants, dependent and venal, always ready to confirm any measures, and little more than a public court for registering royal edicts. Such, it is possible, may, some time or other, be the state of Great Britain. What will at that period be the duty of the colonies? Will they be still bound to unconditional submission? Must they always continue an appendage to our Government, and follow it implicitly through every change that can happen to it? Wretched condition indeed, of millions of freemen as good as ourselves! Will you say that we now govern equitably, and that there is no danger of such revolution? Would to God that this were

true. But will you not always say the same? Who shall judge whether we govern equitably or not? Can you give the colonies any security that such a period will never come?" No! The period, countrymen, is already come. The calamities were at our door. The rod of oppression was raised over us. We were roused from our slumbers, and may we never sink into repose until we can convey a clear and undisputed inheritance to our posterity. This day we are called upon to give a glorious example of what the wisest and best of men were rejoiced to view, only in speculation. This day presents the world with the most august spectacle that its annals ever unfolded. Millions of freemen, deliberately and voluntarily forming themselves into a society for their common defence and common happiness. Immortal spirits of Hampden, Locke, and Sidney! will it not add to your benevolent joys to behold your posterity rising to the dignity of men, and evincing to the world the reality and expediency of your systems, and in the actual enjoyments of that equal liberty, which you were happy, when on earth, in delineating and recommending to mankind!

Other nations have received their laws from conquerors: some are indebted for a constitution to the sufferings of their ancestors through revolving centuries. The people of this country, alone, have formally and deliberately chosen a Government for themselves, and with open and uninfluenced consent, bound themselves into a social compact. Here, no man proclaims his birth or wealth as a title to honorable distinction, or to sanctify ignorance and vice with the name of hereditary authority. He who has most zeal and ability to promote public felicity, let him be the servant of the public. This is

the only line of distinction drawn by nature. Leave the bird of night to the obscurity for which nature intended him, and expect only from the eagle to brush the clouds with his wings, and look boldly in the face of the sun.

Some who would persuade us that they have tender feelings for future generations, while they are insensible to the happiness of the present, are perpetually foreboding a train of dissensions under our popular system. Such men's reasoning amounts to this - give up all that is valuable to Great Britain, and then you will have no inducements to quarrel among yourselves; or suffer yourselves to be chained down by your enemies, that you may not be able to fight with your friends.

This is an insult on your virtue as well as your common sense. Your unanimity this day and through the course of the war, is a decisive refutation of such invidious predictions. Our enemies have already had evidence that our present constitution contains in it the justice and ardor of freedom, and the wisdom and vigor of the most absolute system. When the law is the will of the people, it will be uniform and coherent: but fluctuation, contradiction, and inconsistency of councils must be expected under those governments where every revolution in the ministry of a court produces one in the state. Such being the folly and pride of all ministers, that they ever pursue measures directly opposite to those of their predecessors.

We shall neither be exposed to the necessary convulsions of elective monarchies, nor to the want of wisdom, fortitude, and virtue, to which hereditary

succession is liable. In your hands it will be to perpetuate a prudent, active and just legislature, and which will never expire until you yourselves lose the virtues which give it existence.

And, brethren and fellow-countrymen, if it was ever granted to mortals to trace the designs of Providence, and interpret its manifestations in favor of their cause, we may, with humility of soul, cry out, Not unto us, not unto us, but to thy name be the praise. The confusion of the devices among our enemies, and the rage of the elements against them, have done almost as much towards our success as either our councils or our arms.

The time at which this attempt on our liberties was made, when we were ripened into maturity, had acquired a knowledge of war, and were free from the incursions of enemies in this country, the gradual advances of our oppressors enabling us to prepare for our defence, the unusual fertility of our lands and clemency of the seasons, the success which at first attended our feeble arms, producing unanimity among our friends and reducing our internal foes to acquiescence - these are all strong and palpable marks and assurances, that Providence is yet gracious unto Zion, that it will turn away the captivity of Jacob.

Our glorious reformers when they broke through the fetters of superstition, effected more than could be expected from an age so darkened. But they left much to be done by their posterity. They lopped off, indeed, some of the branches of popery, but they left the root and stock when they left us under the domination of human systems and decisions, usurping the infallibility which can be attributed to

Revelation alone. They dethroned one usurper only to raise up another: they refused allegiance to the Pope, only to place the civil magistrate in the throne of Christ, vested with authority to enact laws, and inflict penalties in his kingdom. And if we now cast our eyes over the nations of the earth we shall find, that instead of possessing the pure religion of the gospel, they may be divided either into infidels who deny the truth, or politicians who make religion a stalking horse for their ambition, or professors, who walk in the trammels of orthodoxy, and are more attentive to traditions and ordinances of men than to the oracles of truth.

The civil magistrate has everywhere contaminated religion by making it an engine of policy: and freedom of thought and the right of private judgment, in matters of conscience, driven from every other corner of the earth, direct their course to this happy country as their last asylum. Let us cherish the noble guests, and shelter them under the wings of an universal toleration. Be this the seat of unbounded religious freedom. She will bring with her in her train, industry, wisdom, and commerce. She thrives most when left to shoot forth in her natural luxuriance, and asks from human policy, only not to be checked in her growth by artificial encouragements.

Thus by the beneficence of Providence, we shall behold our empire arising, founded on justice and the voluntary consent of the people, and giving full scope to the exercise of those faculties and rights which most ennoble our species. Besides the advantages of liberty and the most equal constitution, heaven has given us a country with every variety of climate and soil, pouring forth in

abundance whatever is necessary for the support, comfort, and strength of a nation. Within our own borders we possess all the means of sustenance, defence, and commerce; at the same time, these advantages are so distributed among the different States of this continent, as if nature had in view to proclaim to us - Be united among yourselves, and you will want nothing from the rest of the world.

The more northern States most amply supply us with every necessary, and many of the luxuries of life - with iron, timber, and masts for ships of commerce or of war: with flax for the manufacture of linen, and seed either for oil or exportation.

So abundant are our harvests, that almost every part raises more than double the quantity of grain requisite for the support of the inhabitants. From Georgia and the Carolinas, we have, as well for our own wants as for the purpose of supplying the wants of other powers, indigo, rice, hemp, naval stores, and lumber.

Virginia and Maryland teem with wheat, Indian corn, and tobacco. Every nation whose harvest is precarious, or whose lands yield not those commodities, which we cultivate, will gladly exchange their superfluities and manufactures for ours.

We have already received many and large cargoes of clothing, military stores, etc., from our commerce with foreign powers, and in spite of the efforts of the boasted navy of England, we shall continue to profit by this connection.

The want of our naval stores has already increased the price of these articles to a great height,

especially in Britain. Without our lumber, it will be impossible for those haughty islanders to convey the products of the West Indies to their own ports - for a while they may with difficulty effect it, but without our assistance, their resources soon must fail. Indeed, the West India Islands appear as the necessary appendages to this our empire. They must owe their support to it, and ere long, I doubt not, some of them will from necessity wish to enjoy the benefit of our protection.

These natural advantages will enable us to remain independent of the world, or make it the interest of European powers to court our alliance, and aid in protecting us against the invasions of others. What argument therefore do we want, to show the equity of our conduct: or motive of interest to recommend it to our prudence? Nature points out the path, and our enemies have obliged us to pursue it.

If there is any man so base or so weak as to prefer a dependence on Great Britain to the dignity and happiness of living a member of a free and independent nation - let me tell him that necessity now demands what the generous principle of patriotism should have dictated.

We have now no other alternative than independence, or the most ignominious and galling servitude. The legions of our enemies thicken on our plains; desolation and death mark their bloody career; whilst the mangled corpses of our countrymen seem to cry out to us as a voice from heaven - "Will you permit our posterity to groan under the galling chains of our murderers? Has our blood been expended in vain? Is the only reward which our constancy, till death, has obtained for our

country, that it should be sunk into a deeper and more ignominious vassalage? Recollect who are the men that demand your submission; to whose decrees you are invited to pay obedience! Men who, unmindful of their relation to you as brethren, of your long implicit submission to their laws; of the sacrifice which you and your forefathers made of your natural advantages for commerce to their avarice - formed a deliberate plan to wrest from you the small pittance of property which they had permitted you to acquire. Remember that the men who wish to rule over you, are they who, in pursuit of this plan of despotism, annulled the sacred contracts which had been made with your ancestors: conveyed into your cities a mercenary soldiery to compel you to submission by insult and murder - who called your patience, cowardice; your piety, hypocrisy."

Countrymen! the men who now invite you to surrender your rights into their hands, are the men who have let loose the merciless savages to riot in the blood of their brethren - who have dared to establish popery triumphant in our land - who have taught treachery to your slaves, and courted them to assassinate your wives and children.

These are the men to whom we are exhorted to sacrifice the blessings which Providence holds out to us - the happiness, the dignity of uncontrolled freedom and independence.

Let not your generous indignation be directed against any among us, who may advise so absurd and maddening a measure. Their number is but few and daily decreases; and the spirit which can render

them patient of slavery will render them contemptible enemies.

Our Union is now complete; our constitution composed, established, and approved. You are now the guardians of your own liberties. We may justly address you, as the Decemviri did the Romans, and say - "Nothing that we propose can pass into a law without your consent. Be yourselves, O Americans, the authors of those laws on which your happiness depends."

You have now in the field armies sufficient to repel the whole force of your enemies, and their base and mercenary auxiliaries. The hearts of your soldiers beat high with the spirit of freedom - they are animated with the justice of their cause, and while they grasp their swords, can look up to heaven for assistance. Your adversaries are composed of wretches who laugh at the rights of humanity, who turn religion into derision, and would, for higher wages, direct their swords against their leaders or their country. Go on, then, in your generous enterprise, with gratitude to heaven, for past success, and confidence of it in the future. For my own part, I ask no greater blessing than to share with you the common danger and common glory. If I have a wish dearer to my soul, than that my ashes may be mingled with those of a Warren and Montgomery - it is - that these American States may never cease to be free and independent!

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EXHIBIT 56

Monuments of Colonial New York: George III and Liberty Poles

 gothamcenter.org/blog/monuments-roundtable-george-iii-and-liberty-poles

For the last installment in our six-part series on monuments in / about colonial *Gotham*, Wendy Bellion and Shira Lurie discuss NYC's rebellion against British rule during the volatile decade before the War for Independence. Bellion begins with a story of destruction — the tearing down of the statue of George III in Bowling Green. Lurie tells of construction — the raising of five liberty poles on the Common (present day City Hall Park). But both go on to explore the afterlives of these events, and how they were remembered through public reenactments and visual representations in the decades that followed the revolutionary conflict. Whereas most civic commemorations and monuments associated with American independence and the founding era are linked with ideas of liberty, toleration, and equality, Bellion and Lurie show that such acts of remembrance also cultivated divisive as well as unifying sentiments and demonstrated defiance against continuing political oppression, racial discrimination, and social injustice.

Destruction: George III

By Wendy Bellion

As the Black Lives Matter movement continues to inspire a collective reckoning with public symbols, the power of images to shape understandings of New York history has never been more important.

Consider Johannes Oertel's "Pulling Down the Statue of King George III, New York City" (1852-53). Oertel's painting depicts a primal scene of American iconoclasm: on July 9, 1776, a crowd destroyed an equestrian statue of George III in Bowling Green. Yet the painting's creation – and its recreation in later images and civic reenactments – illuminates a broader struggle over monuments, race, and ethnicity.

The king's statue towered over Bowling Green for just six years, but its afterlife should relieve concerns that removing monuments erases history. Famously, Connecticut revolutionaries melted parts of the lead statue to mold bullets. Loyalists buried fragments underground, and the horse's tail figures among New York's most valued historical objects. For decades, the city debated what to put in place of George III: a statue of George Washington, a replica of the original, or a monument showing the colonists tearing it down (a proposal worthy of Banksy, who imagined a tribute to protestors upending the Bristol statue of slave trader Edward Colston).

It took 75 years for an artist to paint the statue's destruction, and notably, it was an immigrant who ventured to do so. In 1848, Oertel fled Bavaria for New York together with tens of thousands of "Forty-Eighters" displaced by European revolutions. He encountered an immigrant community still preoccupied with rebellion: German tradesmen mobilized labor movements, and newspapers covered unrest overseas. In this world, Oertel's picture reflected on German independence as well as American nationhood.

Revolutions abroad, however, mattered little to Oertel's imitators, who were eager to recast Bowling Green with Anglo-American patriots. "We will be free! Down with the statue!" chant figures in one popular engraving.



Credit: New-York Historical Society

Significantly, this print omitted the Native American family – a reference to the indigenous Lenni Lenape – that Oertel had prominently featured. Later pictures excised the single person of color from Oertel's scene, together with most of the women. Through such displacements, artists reinvented Bowling Green, an iconic site of colonial protest, as a space of white male historical memory.

It's no coincidence these transformations occurred in the decades following the Civil War, which produced many of the Confederate monuments to white supremacy that communities are now removing. Similarly, patriotic societies in New York reacted to mass immigration by reimagining a halcyon Anglo-American past – and even cosplaying iconoclasm. In civic pageants and parades, colonial revivalists rebuilt the George III statue in papier-mâché and threatened to bash it to pieces.

Today, Oertel's painting encourages more inclusive accounts of the nation's founding. An interactive version of the picture at the New-York Historical Society animated the Native American boy, and in an immersive video at Philadelphia's Museum of the American Revolution, women and people of color form part of the Bowling Green crowd. Such images restore figures lost for far too long from visual representations of nationhood. In so doing, they also demonstrate how a New York story of iconoclasm has become an ever-evolving narrative about American origins.

Wendy Bellion teaches American art history and material culture studies at the University of Delaware. Her latest book, *Iconoclasm in New York: Revolution to Reenactment* (2019), explores a history of material violence in New York City from the 1760s to the 1930s, tracing acts of political iconoclasm and the return of destroyed things in visual representations and civic performances.

Creation: The New York City Liberty Poles

By Shira Lurie



On the west side of City Hall Park, the observant visitor will notice an unusual flag pole – one topped with a gilded vane that reads “LIBERTY.” Below, a plaque states that the flagstaff is, in fact, a monument. It memorializes five liberty poles — tall masts with decorations bearing political messages — raised during the American Revolution.

That New Yorkers raised multiple liberty poles, and that later generations chose to commemorate them is, at first, a bit perplexing. After all, they were, it would seem, just wooden poles. But the story of this monument is about the power of public space and the power of symbols to transform them.

New York City residents erected the first liberty pole on May 21, 1766, in celebration of Parliament's repeal of the Stamp Act. Crowds of colonists flooded onto the common (today's City Hall Park) to raise a tall pine mast, affixed with a sign that read “George 3rd, Pitt – and Liberty.” A few weeks later, on the King's birthday, they added a flag with St. George's cross to their pole. The pole signified the colonists' victory in defeating the Stamp Act, but also their thankfulness to the King and Parliament for reversing course.[1]

Although initially a display of gratitude and loyalty to the empire, the liberty pole became an emblem of resistance as tensions mounted in New York City between colonials and quartered British soldiers, who viewed the pole as an affront to imperial rule. One night in August, a group of redcoats snuck out of their nearby barracks and tore down the pole, thus transforming it from a symbol of a free people living in an “empire of liberty” to one that stood for an oppressed people struggling for freedom in the face of unjust authority. The *New York Gazette* explained, the Sons of Liberty initially viewed their pole as a “Trifle” and would not have worried if “it had fallen by natural Decay.” But after “being destroyed by Way of Insult, we could not but consider it as a Declaration of War against our Freedom and Property, and resent it accordingly.”[2]



The colonists erected a replacement pole where the first had stood, but again redcoats tore it down, this time injuring two civilians. “It is now as common here to assemble on all occasions of public concern at the Liberty Pole and Coffee House as for the ancient Romans to repair to the Forum. And orators harangue on all sides,” complained General Thomas Gage, Commander-in-Chief of the British Army in North America. The back and forth of erecting and destroying liberty poles lasted years and culminated in the Battle of Golden Hill (1770), in which colonists armed with sleigh rungs

clashed with bayonet-wielding soldiers. This outbreak of violence marked a significant escalation of tensions between colonists and soldiers, preceding the Boston Massacre by six weeks.[3]

The struggle in New York confirmed colonial suspicions of a standing army and solidified the liberty pole as an emblem of American defiance. As the imperial relationship crumbled during the mid-1770s, over 50 liberty poles sprung up across the American colonies as symbols of the Patriot cause. After the War of Independence, as Americans transitioned from subjects to citizens, they returned to the liberty pole as their chosen method for protesting the federal government when it overreached and raised over 120 liberty poles between 1794 and 1800. As one witness to a pole-raising in 1794 explained, “It was said by the whole of the people that liberty poles were raised last war and they ought to be raised now.”[4]

The New York City liberty poles remind us that marking public space is a powerful mode of political expression and that conflicts over monuments reach back to the nation’s founding.[5]

Shira Lurie is a political historian of the American founding era. Her current book project on this subject is tentatively entitled *Protest and Power: Liberty Poles and the Struggle for American Democracy*.

[1] *New York Gazette, and Weekly Mercury*, February 12, 1770 (New-York Historical Society); *The New-York Gazette*, May 26, 1766 (David Library of the American Revolution); James Gabriel Montresor and John Montresor, *The Montresor Journals*, ed. G.D. Scull (New York: Printed for the New-York Historical Society, 1882), 367-368, 370 (David Library of the American Revolution).

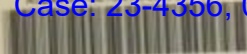
[2] *New York Gazette, or Weekly Post Boy*, August 14, 1766 (New-York Historical Society).

[3] Gage to Lt. Col; William Dalrymple, January 8, 1770, Gage Papers, (Clement Library); *New York Gazette, or Weekly Post Boy*, February 5, 1770; For more on the New York City liberty poles and the Battle of Golden Hill, see Wendy Bellion, “Mast Trees, Liberty Poles, and the Politics of Scale in Late Colonial New York,” in *Scale*, ed. Jennifer L. Roberts (Chicago: 2016), 218-249; Lee R. Boyer, “Lobster Backs, Liberty Boys, and Laborers in the Streets: New York’s Golden Hill and Nassau Street Riots,” *New-York Historical Society Quarterly* 57, (Oct. 1973), 281-308; David Hackett Fischer, *Liberty and Freedom* (Oxford: Oxford University Press, 2005), 6, 38-47; Arthur M. Schlesinger, “Liberty Tree: A Genealogy” *The New England Quarterly*, 25 (Dec. 1952), 435-458.

[4] Deposition of Henry Lebo, January 7, 1795, Rawle Family Papers (Historical Society of Pennsylvania); Shira Lurie, “Politics at the Poles: Liberty Poles and the Popular Struggle for the New Republic,” PhD, University of Virginia, 2019.

[5] Partisans continued to erect liberty poles throughout the nineteenth century. Most recently, marijuana legalization and D.C. statehood activists raised a liberty pole on the National Mall in April 2015. Perry Stein, “Marijuana and statehood activists are chaining themselves to ‘liberty pole’ on the Mall,” *The Washington Post*, April 15, 2015.

EXHIBIT 57



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The way it was in the

South



The Black Experience in

Georgia

DONALD L. GRANT

Edited and with an Introduction by Jonathan Grant

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Violence occurred throughout the state, although most of the 1870 Klan activity came in three major areas: Northwest, East-Central, and Southwest Georgia. The greatest Klan activity was probably centered around Wilkes County. These tactics, known as the "Georgia Plan," were later copied in other states, especially Mississippi, where Gen. John B. Gordon went in 1875 to help the Klan terrorize Republicans and return that state to Democratic control.

The poll tax was used again to ensure a Democratic victory in 1870, and in some areas Republican poll watchers and election managers were jailed. After military rule was reimposed, the reconstituted legislature passed the Akerman Bill, which was signed into law on October 3, 1870. This provided that voters did not need to pay poll taxes to cast ballots in the December elections. Democrats in towns like Sparta refused to acknowledge the new state law and swore out arrest warrants for black voters who would not pay their poll taxes and election managers who encouraged "illegal" voting.

All over Georgia white supremacists armed themselves and gathered at the polls on election day to prevent Republicans from voting. In some counties blacks had Republican ballots taken away from them and were forced to vote Democratic. Sometimes they were paid. Many blacks concluded that if they were going to have to vote against their principles, they might as well take whatever money was offered.

Despite widespread fraud by Democrats, Henry McNeal Turner was reelected by twenty-eight votes—and then was threatened with death if he did not immediately leave town. That night, 150 armed blacks protected his home and told city fathers that if one black was killed they would torch the town. It was peaceful in Macon that night. Later, Turner and other black leaders were convicted on charges of inciting to riot, but the convictions were overturned on appeal. Turner was denied his seat in the legislature, however.

In 1870, Georgia Democrats won 86 percent of the Senate and 81 percent of the House. Despite the overwhelming election of white Democrats, five blacks were elected to the Senate, two more than in 1868, and eighteen to House, as compared to twenty-nine in 1868. One, Abram Turner of Putnam County, was soon murdered, and the Klan initiated a race riot at the special election that was called to replace him, ensuring a Democratic victory. Even before the Democrat-controlled legislature assembled a year later, in November 1871, eleven of the remaining black members came under fire. Their elections were disputed by Democrats, and the Klan sent them notes saying they would die if they did not resign. Governor Bullock did resign and fled the state to avoid prosecution on charges of corruption. In "An Address to the People

EXHIBIT 58

CW Journal : Autumn 08 : Gambling

Gambling

Apple-Pie American and Older than the Mayflower

by Ed Crews

photos by Dave Doody

In 1660, Charles II restored the English monarchy to the throne after a lengthy exile abroad, bringing with him a robust love of life. It was a welcome contrast to the dark years preceding his reign—a time of brutal civil war and grim Puritan theocracy.

For many of his subjects, Charles was the “merrie” king, attracted to horses, women, and, above all else, gambling. At his court, games of chance became a focus of life. The aristocracy aped the king; commoners aped them. And, before long, one of history’s gaming frenzies had the nation in a firm, loving embrace.

The madness not only spread to England’s every corner but roared, like a gale, across the Atlantic and beset the North American colonies. Colonists, like their cousins in Europe, began betting on anything and everything.

Although Charles II gave gaming a kingly cachet, wagering had come to America long before his time. Native Americans were gambling before colonists arrived, and early arrivals were surprised to find native peoples risking all they owned on games of chance.

Early on, Jamestown colonists encountered native gambling, said Nancy Egloff, historian with the Jamestown-Yorktown Foundation. One English report



From left, interpreters Russell Wells, John Hamant, and Dennis Watson mix wine and wagers at a tavern card table.



Charles II. here in a

compared stick and straw games to cards. “They will play at this for their bows and arrows, their copper beads, hatchets, and their leather coats,” an observer wrote.

Elsewhere, colonists saw Native Americans bet on the outcome of athletic events. Roger Williams witnessed an intense football-like game accompanied by enthusiastic sideline wagers. Native Americans also played a game that used peach pits as dice, and some eastern Indians had six-sided dice made from animal bones and painted black and yellow. Games could go on for days, during which villages and tribes played and exchanged huge amounts of goods. Some of this zeal stemmed from native beliefs that gaming was a gift from the gods and had a spiritual dimension.

Though important within their own cultures, Native American practices had little influence on Englishmen. Europeans played games brought from home, games shaped by tradition, urban and rural life, and western attitudes. During the Elizabethan and Stuart periods, gambling was widespread and popular. William Shakespeare’s plays are filled with gaming references; he and his audiences knew the subject well. Of the many forms gambling took, cards and dice trumped everything. Having crossed the Channel from France in the 1500s, cards were still a novelty during Elizabeth’s reign. Dice were much older, and they showed up everywhere. Recent Jamestown archaeological digs have found twelve dice and what appears to be a peg used in a gambling game similar to backgammon.

Gambling quickly became a problem in Virginia. Captain John Smith complained about men “devoted only to idleness.” The colony adopted “The Laws Divine, Morall and Martial” in 1610 and 1612 to try to control behavior, gambling not the least. The rules didn’t change much, though, and that led to another crackdown and more laws in 1619 addressing “idleness, gaming, drunkenness and excesse in apparel.” Apparently, these did not have much effect either.

Charles V, Holy Roman Emperor, contemporary portrait, reclaimed the throne in 1660 and brought with him a taste for gaming.



An uncut sheet of eighteenth-century French playing cards. Cheats, professional and amateur, created a need for rules in card games, developed “according to Hoyle.”



Hogarth’s series *The Rake’s Progress* tours the shadowy corners of a vicious life—vicious in its eighteenth-century meaning of being addicted to vice—including this scene at the gaming tables, where the young rake seems possessed by a gambling fever.



Thomas Rowlandson, brother satirist to Hogarth, painted his version of a gaming den in *The Hazard Room*. On the walls is a bouquet of gambler’s delights: boxing, horse racing, the odds

In New England, Puritans took a dim view of the vice. Cotton Mather called it “a great dishonor of God.” The prevailing view was that gambling was inherently sinful and led men from God’s grace. Gaming also was “a door and a window” through which man could pass to worse sins. The Pilgrims established punishments ranging from substantial fines to whippings. Rules, sermons, and the lash, however, couldn’t control human nature. By the 1670s, gambling was a well-established feature—and irritant—of New England life.

Puritan disdain for gambling didn’t change human nature in either the New or Old Worlds. Oliver Cromwell tried mightily to stamp out games of chance in England when he controlled the country after the Civil War. He failed, and his repressive measures laid the foundation for the binge Charles II initiated. Tired of Puritan repression, Englishmen and -women were ready for a little fun in 1660.

Of course, that wasn’t the only reason gambling took off. Thanks to Charles’s royal endorsement, gaming was not only fashionable but also a sign of good breeding, so the aristocracy took up cards and dice. There was more disposable income because of the rising wealth of a new mercantile class accustomed to taking risks in business. In America, the tobacco planters were the counterparts of these Englishmen. Without eliminating chance, which is gambling’s allure, the study of probability provided those players with new ways to view and to conduct gambling, providing a framework for making decisions while playing.

Even now, in an age when poker games are televised and television dramas are set in casinos, it is hard to appreciate what Charles unleashed. Gambling in the English-speaking world was a powerful economic and social force from the 1660s—with some waxing and waning—into the 1800s.

Englishmen bet on everything: bull baiting, dog fights, backgammon, chess problems, military actions, sieges, births, deaths, walking and running contests,

boxing, horse racing, the odds of the day, and the patron saint of card games, Edmond Hoyle.



Early dice found in Virginia.



Bets were made wherever horses raced.



A Williamsburg cockfight scene in D. W. Griffith’s *America*.



and cricket games. Just about everybody from preachers to playwrights commented on the phenomenon. Casanova was stunned at the English devotion to betting. Undoubtedly, he readily understood Charles's other great interest—his mistresses.

One of the enduring legacies of the period was the creation of London's gaming houses, which evolved because of crackdowns that drove gambling from public places, like coffeehouses, to private clubs. In the club called White's, John Montagu, Earl of Sandwich, allegedly invented the food item that bears his name. In time, these establishments became the playgrounds of the rich and powerful, who also carried their activities to fashionable spas in the nation. Americans visiting London frequently played in the casinos. Virginia grandee William Byrd III lost thousands of pounds in them, and in the end his gambling losses led to his suicide.

Another legacy was the creation of two occupations—professional gamblers and cheats. Because cheats were detested, attracting such nicknames as rooks, wolves, and rogues in the eighteenth century, games began to be codified. Preeminent among the rule makers was Edmond Hoyle, who gave his name to the expression “according to Hoyle.”

English games, attitudes, and practices crossed the Atlantic, and Americans adopted them, but colonial gaming gained a character all its own. Gaming clubs never caught on in America because there weren't enough people to support them in the few existing cities. Moreover, settlers did not typically hazard the large sums routinely wagered in Great Britain.

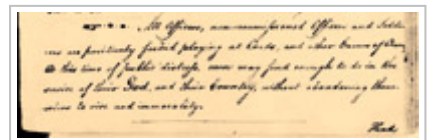
Even the wealthiest of planters did not have the deep pockets of British aristocrats, who could bet £15,000 without flinching. A frontier mentality accepted risk; it didn't accept recklessness. Having created their own success, fewer men were willing to throw it away, and few colonists had the leisure for games. In short, in America gambling was a pastime, but not a vice.

Excessive gaming was, however. Stories abound from the 1700s of lost fortunes, ruined reputations, and plantations and indentured servants lost on the turn of a card. Virginian Landon Carter said, “No African is so great a slave” as a man

A Raleigh Tavern bet on George Washington's cracking a walnut in Williamsburg: Story of a Patriot.



Daniel Cross and Tom Hay bet the farm, or perhaps a day's ration of beer, on a roll of the dice.



The 1776 order from General Washington's headquarters that vainly attempted to restrict gambling by soldiers during the Revolutionary War.

obsessed with gambling.

Most Americans accepted Carter's view and avoided Byrd's fate, but gaming was a centerpiece of colonial life. Everybody did it—men, women, rich, poor, gentry, and slave. Like their English cousins, colonists bet on all sorts of things. They wagered on card games, like whist, piquet, cribbage, loo, put, and all-fours. Foreigners reported that card lovers could start a game after supper and play until dawn. Dice was a standard pastime, and betting on combative activities—bear baiting, cock fights, dog fights, dogs killing rats, target shooting, and wrestling matches—was popular.

Arguably, horse races were the most popular venue for gaming. As early as 1665, a permanent oval track stood at Hempstead Plain on Long Island, New York. Many consider this the birthplace of the horse racing industry. New York City eventually wanted something closer to home and built a track in lower Manhattan. Other sites popped up throughout the colonies, especially in the South. During the 1700s, well-known tracks operated in Alexandria, Annapolis, Fredericksburg, and Williamsburg. Prominent men took an interest in these tracks and the horses that ran on them. George Washington was a member of the Alexandria Jockey Club, as well as a club in Annapolis.

If tracks were not handy, fans conducted impromptu contests on public roads, a practice that became a public nuisance. In 1776, a Philadelphia grand jury warned about the dangers of these events: "Since the city has become so populous the usual custom of horse racing at fair in the Sassafras Street is very dangerous."

The onset of the Revolutionary War did nothing to slow down gamblers. The Continental and British armies tossed dice and cards into the knapsacks and marched off to fight.

For commanders on both sides, gambling was a constant problem. Washington's headquarters repeatedly issued orders trying to stop the wagering, as a typical directive from 1776 shows: "All officers, non-commissioned officers and soldiers are positively forbid playing at cards, or other games of chance. At this time of public distress, men may find enough to do, in the service of their God and their country, without abandoning themselves to vice and immorality." Needless to say, the order's effect was nil. Starving soldiers at Valley Forge rolled dice to win acorns to eat.

Washington might have gained some solace if he knew that the British army was facing the same problem. "The men are given to great gambling," an English officer wrote, "and most shan't have a coin left, even parting with their shirts at the dice and sundry card games."

When the French appeared in American camps toward the war's end, they brought their games with them. French officers invented a pastime similar to whist and dubbed it "Boston." Boston migrated to New Orleans, where it enjoyed great popularity and became the namesake for the Boston Club, a private establishment that hosted many high-stakes contests over the years.

After Yorktown, United States citizens kept on gambling as they had when they were King George III's subjects. Attitudes began to change, though, in the 1820s and 1830s. According to historian David Schwartz, author of the recently published book *Roll the Bones: The History of Gambling*, Americans began to rethink their love of games of chance. Citizens of the republic were becoming more sophisticated about money as the nation's economy took off, growing used to handling large sums and more conservative with their funds. The religious revival of the Second Great Awakening launched abolitionist and temperance movements and helped define the productive and responsible citizen. To a lesser degree, it stimulated antigambling forces.

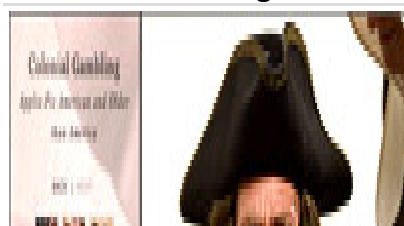
Opposition to gambling didn't gain momentum until late in the nineteenth century, when laws began appearing that restricted gaming. So gambling went underground and pretty much stayed there until after World War I. During the 1920s, gambling gained some respectability with the rise of horse racing and betting at the track. State governments legitimized gambling further when they started lotteries in the 1960s and 1970s. In the 1990s, casinos took off and are today a multibillion-dollar national gaming industry.

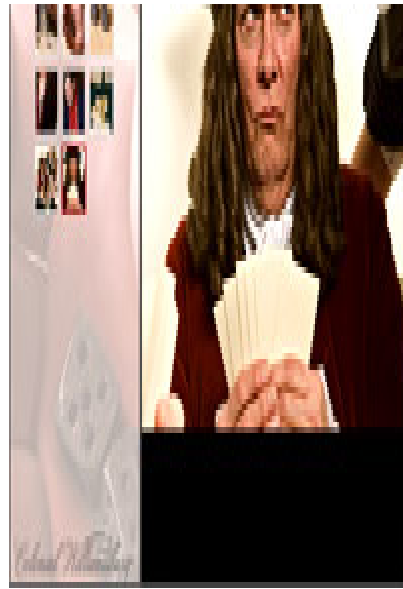
Schwartz said that gambling is as American as apple pie and much older than the Mayflower, and it isn't going away. It is something deep in the nation's bones and reflected not only in games of chance but in the stock market and entrepreneurship. There is, he said, a straight line—a legacy—from the early settlers and the plantation grandees to today's visitors to the Las Vegas Strip. None of these people mind taking a chance.

"Americans are more prone to take risks," he said in an interview. "This nation was founded by people who left what was home and came over here. Clearly, they took a risk to get here."



Colonial Gambling Slideshow





Ed Crews, a Richmond-based writer, contributed to the spring 2008 journal the story "[The Truth about Betsy Ross.](#)"

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EXHIBIT 59

Legalized Gambling

Legalized gambling has played an important cultural, political, and economic role in Louisiana's history from the colonial era to the present.

BY JAY PRECHT



FAIR GROUNDS RACE COURSE AND SLOTS.

A color reproduction of a painting by Theodore Sidney Moise entitled "Life on the Metairie."

L

egalized gambling has played an important cultural, political, and economic role in Louisiana's history from the colonial era to the present. Now part of the Louisiana landscape, gambling attracts tourists, provides jobs, and produces revenue—more than \$723 million in direct revenue in fiscal year 2008–2009—but also threatens to attract corruption. Currently more than twenty casinos operate in the state, including thirteen on

riverboats and four on racetracks. In addition, residents and visitors can play video poker in bars, restaurants, and truck stops throughout southern Louisiana. Casinos on tribal lands have also become an important source of income for many of the state's Native Americans.

Gambling in Colonial and Antebellum Louisiana

French Louisianans built a number of cabarets and billiard halls in New Orleans, even before building a church. After the completion of the St. Louis Church in 1727 (now known as St. Louis Cathedral), some continued to gamble rather than attend mass. In the eighteenth century, Louisiana officials passed ordinances outlawing gambling and other activities considered vices during religious services, limited the pots for games of chance, and finally prohibited gambling all together. When none of these measures proved successful, Louisiana Governor Louis Billouart de Kerlérec opened a government-run casino in New Orleans in 1753. All efforts to curb gambling failed, and it remained prevalent decades after Spain took control of the colony following the French and Indian War (1754–1763).

In 1803, when Louisiana became a US territory, New Orleans had more places to gamble than New York, Philadelphia, Boston, and Baltimore combined. So entrenched was the practice that when the federal government banned gambling in the territory in 1812, it exempted New Orleans. After statehood, Louisiana swung back and forth between extremes—legalizing casinos and then banning them—though these efforts had a limited effect on the number of facilities. The state authorized six operations for New Orleans in 1823 and again legalized gambling in the city after the Civil War (1861–1865).

Legalized Gambling after the Civil War

In 1866, the state legislature created the first Louisiana lottery. Two years later this body, now controlled by officials elected under Radical Reconstruction, authorized a private corporation called the Louisiana State Lottery Company to operate it. This company paid a small annual fee but no state taxes. Opposed to this arrangement and upset with the corruption surrounding the lottery, Democrats in the Louisiana legislature passed a law in 1879 to abolish all lotteries. The lottery company quickly appealed, and the US Circuit Court forced the state to honor its contract with the corporation. The company took advantage of this second chance and worked to improve its image, enlisting ex-Confederate generals P. G. T. Beauregard and Jubal A. Early to advertise the lottery and conduct the public drawings. By doing so, the Louisiana Lottery Company hoped to imbue the lottery with a sense of legitimacy.

Following on the heels of this government sanction, the Louisiana Lottery Company enjoyed unprecedented profits. The company paid its stockholders dividends well over 100 percent between 1887 and 1890. It operated in almost every state in the country and garnered 90 percent of its sales outside of Louisiana. The company's profits proved so substantial that it offered to pay a higher fee for its state license as part of its effort to renew the charter in 1890. But, in the late nineteenth century, the Louisiana Lottery Company faced serious opposition at both state and national levels. State governments, unhappy that their citizens spent money on Louisiana's lottery, convinced President Benjamin Harrison to sponsor a law prohibiting lottery sales and advertising through the US Post Office. As a result, the value of Louisiana Lottery Company shares decreased dramatically. Meanwhile, opponents of the Louisiana lottery successfully worked to elect anti-lottery governor Murphy Foster in 1892. The Louisiana legislature prohibited renewal of the lottery's charter less than three years later.

Gambling in Twentieth-Century Louisiana

In the 1920s, legal pari-mutuel betting on horse races at the New Orleans Fair Grounds became the only officially sanctioned form of gambling in Louisiana. Illegal casinos continued to operate, however, as the state alternated between raiding these operations and ignoring them. Only the collapse of the state's oil-based economy in the early 1980s prompted Governor Edwin Edwards in 1986 to promote the expansion of legalized gambling. Edwards proposed a special legislative session to create a state lottery and allow casinos in and around New Orleans. His initial efforts failed, and continuing to face budget shortfalls, he lost his reelection bid to Charles "Buddy" Roemer, a conservative Democrat who opposed a state lottery, as well as casinos.

Roemer proposed a tax reform plan to solve the state's financial problems, but with the success of lotteries in Virginia and Florida, many citizens preferred a state lottery to increased personal and property taxes. The legislature put a referendum for a constitutional amendment that would allow a state lottery before the people in 1990. Governor Roemer remained neutral during the debate, Louisianans approved the amendment, and the lottery returned to the state in September 1991.

In addition to raising revenue, Louisiana lawmakers sought to end the flow of the state's money to the Florida lottery and attract money from outside the state. With casinos authorized in nearby Mississippi in 1991, the promise of increased revenues, combined with the prospect of creating new jobs, convinced the legislature, with the support of Governor Roemer, to approve fifteen riverboat casinos: five in Shreveport-Bossier City, four in Lake Charles, three in New Orleans, and three in Baton Rouge. The same year, the governor allowed the legalization of video poker machines (which had operated illegally in bars and restaurants since the 1980s) to become law without his signature.

In 1991, campaigning in the gubernatorial primary, former governor Edwin Edwards initially promoted the construction of a land-based casino in New Orleans, claiming it would create 25,000 new jobs. However, in the runoff against former Ku Klux Klansman David Duke, Edwards agreed not to pursue the issue in an attempt to appease voters worried about corruption. Although Edwards initially kept his promise after taking office, he eventually guided legislation authorizing construction of a casino in the Crescent City.

Five years after Congress passed the Indian Gaming Regulatory Act in 1988, the three Native American tribes in Louisiana then recognized by the federal government—the Chitimachas, Coushattas, and Tunica-Biloxis—negotiated compacts with the state to open land-based casinos. After gaining recognition, the Jena, Louisiana Band of Choctaws also negotiated a compact with then governor Murphy Foster Jr., in 2002. The federal government approved the first agreements, and each of these tribes continues to operate a land-based casino. The Jena Band of Choctaws, however, never gained federal approval. Proposing a casino site near Lake Charles, the Jena faced opposition from both Texans and Coushattas, each fearing that the new casino would lure customers away from their establishments.

Legal gambling continued to expand as racetracks lobbied for slot machines. Their efforts eventually proved successful, and machines were installed at three tracks in 1997 and at a fourth track a few years later. Video poker also spread across the state as businesses took advantage of the legislature's inclusion of "truck stops," which it failed to clearly define.

As it did elsewhere, legal gambling sometimes led to corruption in Louisiana. Governor Edwards was convicted of accepting bribes to issue riverboat casino licenses and obtaining contracts for his children with the casino companies. The Federal Bureau of Investigation convicted members of organized crime families from both New York and New Orleans for their involvement in video poker in 1995, and in 2003, members of the Coushatta Tribe of Louisiana landed in the middle of the Jack Abramoff lobbying scandal. (Abramoff, a lobbyist, had been advising his clients—including the Coushattas—to hire public relations executive Mike Scanlon at an exorbitant rate; he then split the profits with Scanlon.) Despite the problems surrounding legalized gambling, however, the revenue produced for the state and the jobs tied to the industry mean it will likely continue as an important part of Louisiana’s culture and economy.

Author

Jay Precht

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Index letter

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EXHIBIT 60

Colonial Virginians at Play

By
JANE CARSON

COLONIAL WILLIAMSBURG

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- 108 -

By the middle of the seventeenth century Saturday afternoon--a holiday--had become the popular time for holding these public tests of speed. By the decade of the 'seventies there were favorite race tracks in the settled areas of the colony, notably in the level country of the Eastern Shore and in Henrico County. As early as 1674 Northampton people were speaking of the fall races customarily held at Smith's Field. In Henrico there were tracks in regular use at Bermuda Hundred, Varina, the Ware, Conecock, and Malvern Hill. Also there was Devil's Field in Surry, and in Rappahannock, the Rappahannock Church Course. In the 1690's the lower Northern Neck peninsula was already establishing its eighteenth-century reputation for fine horses and skilled riders with active tracks at Yeocomico, at Willoughby's Old Field in Richmond County, and at the Coan Race Course in Westmoreland.¹⁶

The seventeenth-century track was a straight path about a quarter of a mile in length, laid out in an abandoned field near a convenient gathering place--a church, a court house, or an ordinary

such a wager is in a letter from Napier to Soane dated a week before the race, also entered in the Order Book cited above: "I have sent the bearer [Littlebury Eppes] for my horse & desire you to draw the race you being at no trouble with your horse which is all from Yor. lov: Cos: & fr'd." Henry Randolph endorsed the communication with a memorandum that the note was delivered to Soane in his presence three days before the date of the race. No one involved in the suit seemed to feel that Soane should have granted Napier's request, despite the circumstance that no horse of Soane's was concerned; he was backing Eppes's sorrel.

¹⁶ Bruce, Social Life, Chapter XVII.

EXHIBIT 61

FREEHOLD

A HOMETOWN HISTORY

The
MAKING OF
AMERICA
Series



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THE
MAKING OF AMERICA
SERIES

FREEHOLD
A HOMETOWN HISTORY

BARBARA PEPE



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Front cover: One of the most exciting meets in harness racing took place on October 3, 1953 at Freehold Raceway. Three horses: Patchover, Penny Maid, and Payne Hall won the race in a triple dead heat. The three winners are pictured here with their drivers in front of the original grandstand.

In the middle of the nineteenth century, Freehold was a town booming with progress and hope for successful expansion. The *Monmouth Democrat* printed many editorials representative of this spirit. One, published on August 7, 1856, speaks of the building boom of the mid-1850s and mentions several “ornamental and tasty” residences and office buildings:

What we wish more particularly just now is to call attention of those who are seeking for a good location for a country residence, or to escape from the foul atmosphere and crazy din of the cities, to our beautiful village. In addition to the pure air of the county, we have the advantage of three excellent seminaries of learning, not surpassed in any respect by the best in our land; churches of six denominations of christians; and a railroad conveyance twice a day to the cities of New York and Philadelphia. If any other town in New Jersey can boast of more advantages than Freehold, we should like to know where it is to be found.

By mid-century, Freehold had become a desirable place in which to live and its residents were proud of their community. Perhaps the institution that spurred the most pride was the well-known landmark, Freehold Raceway. Located on Route 9 near the intersection of Routes 33 and 537, the raceway is actually situated in both the Township and the Borough. Horses were an integral part of the Freehold community and horseracing in Freehold dates back at least to the 1830s, when farmers brought their fastest horses to a makeshift racetrack at the same location as today’s Freehold Raceway. Country fairs, horseracing meets, and other outdoor events were held at the site for years before the raceway was constructed. One such was an agricultural fair, which some consider to be the beginning of the plans for Freehold Raceway.

On December 17, 1853, a group of Monmouth County residents met at the home of Nathaniel S. Rue near the intersection of Throckmorton and Broad Streets to discuss the possibility of holding an agricultural fair in Monmouth, similar to the yearly fair in Jamesburg. The group established the Monmouth County Agricultural Society and set about making plans for the fair. They elected William Henry Hendrickson as president. James S. Lawrence, Thomas Baird, and John M. Perrine were chosen as vice presidents. John S. Denise, Andrew Simpson, Abram Osborne, John W. Ely, Samuel W. Jones, Pierson Hendrickson, Benjamin W. Corlies, Robert Allen, Peter Smock, Benjamin F. Randolph, and Joseph Combs served as secretaries and Henry Bennett was appointed the treasurer. A lifetime membership cost \$10 with an additional annual fee of \$1.

From its beginning, the Monmouth County Agricultural Society hosted an annual fair in Freehold Township that included harness racing. The first such fair was in 1854. The society rented a 10-acre piece of land from Hudson Bennett that is part of the present-day site of Freehold Raceway. The rent in 1854 was \$50 per year. Four years later, the Society purchased a 20-acre tract of land—including the

EXHIBIT 62



Horses and Gentlemen: The Cultural Significance of Gambling among the Gentry of Virginia

T. H. Breen

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Horses and Gentlemen: The Cultural Significance of Gambling among the Gentry of Virginia

T. H. Breen

In the fall of 1686 Durand of Dauphiné, a French Huguenot, visited the capital of colonial Virginia. Durand regularly recorded in a journal what he saw and heard, providing one of the few firsthand accounts of late seventeenth-century Virginia society that has survived to the present day. When he arrived in Jamestown the House of Burgesses was in session. "I saw there fine-looking men," he noted, "sitting in judgment booted and with belted sword." But to Durand's surprise, several of these Virginia gentlemen "started gambling" soon after dinner, and it was not until midnight that one of the players noticed the Frenchman patiently waiting for the contest to end. The Virginian—obviously a veteran of long nights at the gaming table—advised Durand to go to bed. "'For,' said he, 'it is quite possible that we shall be here all night,' and in truth I found them still playing the next morning."¹

The event Durand witnessed was not unusual. In late seventeenth- and early eighteenth-century Virginia, gentlemen spent a good deal of time gambling. During this period, in fact, competitive gaming involving high stakes became a distinguishing characteristic of gentry culture. Whenever the great planters congregated, someone inevitably produced a deck of cards, a pair of dice, or a backgammon board; and quarter-horse racing was a regular event throughout the colony. Indeed, these men hazarded money and tobacco on almost any proposition in which there was an element of chance. Robert Beverley, a member of one of Virginia's most prominent families, made a wager "with the gentlemen of the country" that if he could produce seven

Mr. Breen is a member of the Department of History, Northwestern University. Research for this essay was made possible in part by a grant from the Northwestern University Research Committee. The author is indebted to the following people for encouragement as well as criticism: George Dalton, E. P. Thompson, Stephen Foster, Richard R. Beeman, Stephen Innes, Stephen Harper, and Russell R. Menard.

¹[Durand of Dauphiné], *A Huguenot Exile in Virginia: or Voyages of a Frenchman exiled for his Religion with a Description of Virginia and Maryland*, ed. Gilbert Chinard (New York, 1934 [orig. publ. The Hague, 1687]), 148.

hundred gallons of wine on his own plantation, they would pay him the handsome sum of one thousand guineas. Another leading planter offered six-to-one odds that Alexander Spotswood could not procure a commission as the colony's governor. And in 1671 one disgruntled gentleman asked a court of law to award him his winnings from a bet concerning "a Servant maid."² The case of this suspect-sounding wager—unfortunately not described in greater detail—dragged on until the colony's highest court ordered the loser to pay the victor a thousand pounds of tobacco.

The great planters' passion for gambling, especially on quarter-horse racing, coincided with a period of far-reaching social change in Virginia.³ Before the mid-1680s constant political unrest, servant risings both real and threatened, plant-cutting riots, and even a full-scale civil war had plagued the colony.⁴ But by the end of the century Virginia had achieved internal peace.⁵ Several elements contributed to the growth of social tranquility. First, by

² Rev. James Fontaine, *Memoirs of a Huguenot Family . . .*, ed. Ann Maury (Baltimore, 1967 [orig. publ. 1853]), 265-266; John Mercer, cited in Jane Carson, *Colonial Virginians at Play* (Williamsburg, 1965), 49, n. 1; H. R. McIlwaine, ed., *Minutes of the Council and General Court of Colonial Virginia, 1622-1632, 1670-1676 . . .* (Richmond, 1924), 252, 281, 285.

³ Throughout this essay I use the terms gentry, gentlemen, and great planters as synonyms. In each Virginia county a few gentry families dominated civil, ecclesiastical, and military affairs. While the members of these families were substantially wealthier than the great majority of white planters, they were not a class in a narrow economic sense. Their cultural style as well as their financial position set them apart. The great planters and their families probably accounted for less than 2% of the colony's white population. Louis B. Wright, *The First Gentlemen of Virginia: Intellectual Qualities of the Early Colonial Ruling Class* (San Marino, Calif., 1940), 57, estimates their number at "fewer than a hundred families." While entrance into the gentry was not closed to newcomers, upward mobility into that group became increasingly difficult after the 1690s. See Philip A. Bruce, *Social Life of Virginia in the Seventeenth Century* (New York, 1907), 39-100; Aubrey C. Land, "Economic Base and Social Structure: The Northern Chesapeake in the Eighteenth Century," *Journal of Economic History*, XXV (1965), 639-654; Bernard Bailyn, "Politics and Social Structure in Virginia," in James Morton Smith, ed., *Seventeenth-Century America: Essays in Colonial History* (Chapel Hill, N. C., 1959), 90-115; and Jack P. Greene, "Foundations of Political Power in the Virginia House of Burgesses, 1720-1776," *William and Mary Quarterly*, 3d Ser., XVI (1959), 485-506.

⁴ These disturbances are described in T. H. Breen, "A Changing Labor Force and Race Relations in Virginia 1660-1710," *Journal of Social History*, VII (1973), 3-25. The fullest account of Bacon's Rebellion remains Wilcomb E. Washburn, *The Governor and the Rebel: A History of Bacon's Rebellion in Virginia* (Chapel Hill, N. C., 1957).

⁵ Several historians have remarked on the unusual political stability of 18th-century Virginia. See, for example, Jack P. Greene, "Changing Interpretations of Early American Politics," in Ray Allen Billington, ed., *The Reinterpretation of Early American History: Essays in Honor of John Edwin Pomfret* (San Marino, Calif., 1966), 167-168, and Gordon S. Wood, "Rhetoric and Reality in the American Revolution," *WMQ*, 3d Ser., XXIII (1966), 27-30.

1700 the ruling gentry were united as they had never been before. The great planters of the seventeenth century had been for the most part aggressive English immigrants. They fought among themselves for political and social dominance, and during Bacon's Rebellion in 1676 various factions within the gentry attempted to settle their differences on the battlefield. By the end of the century, however, a sizable percentage of the Virginia gentry, perhaps a majority, had been born in the colony. The members of this native-born elite—one historian calls them a "creole elite"—cooperated more frequently in political affairs than had their immigrant fathers. They found it necessary to unite in resistance against a series of interfering royal governors such as Thomas Lord Culpeper, Francis Nicholson, and Alexander Spotswood. After Bacon's Rebellion the leading planters—the kind of men whom Durand watched gamble the night away—successfully consolidated their control over Virginia's civil, military, and ecclesiastical institutions. They monopolized the most important offices; they patented the best lands.⁶

A second and even more far-reaching element in the creation of this remarkable solidarity among the gentry was the shifting racial composition of the plantation labor force. Before the 1680s the planters had relied on large numbers of white indentured servants to cultivate Virginia's sole export crop, tobacco. These impoverished, often desperate servants disputed their masters' authority and on several occasions resisted colonial rulers with force of arms. In part because of their dissatisfaction with the indenture system, and in part because changes in the international slave trade made it easier and cheaper for Virginians to purchase black laborers, the major planters increasingly turned to Africans. The blacks' cultural disorientation made them less difficult to control than the white servants. Large-scale collective violence such as Bacon's Rebellion and the 1682 plant-cutting riots consequently declined markedly. By the beginning of the eighteenth century Virginia had been transformed into a relatively peaceful, biracial society in which a few planters exercised almost unchallenged hegemony over both their slaves and their poorer white neighbors.⁷

⁶ The phrase "creole elite" comes from Carole Shammas, "English-Born and Creole Elites in Turn-of-the-Century Virginia," in Thad W. Tate and David L. Ammerman, eds., *Essays on the Seventeenth-Century Chesapeake* (Chapel Hill, N. C., forthcoming). See also David W. Jordan, "Political Stability and the Emergence of a Native Elite in Maryland, 1660-1715," *ibid.* The process of forming a native-born elite is also discussed in Bailyn, "Politics and Social Structure," in Smith, ed., *Seventeenth-Century America*, 90-115; John C. Rainbolt, "The Alteration in the Relationship between Leadership and Constituents in Virginia, 1660 to 1720," *WMQ*, 3d Ser., XXVII (1970), 411-434; and Martin H. Quitt, "Virginia House of Burgesses 1660-1706: The Social, Educational, and Economic Bases of Political Power" (Ph.D. diss., Washington University, 1970).

⁷ Breen, "Changing Labor Force," *Jour. Soc. Hist.*, VII (1973), 2-25; Edmund S. Morgan, *American Slavery—American Freedom: The Ordeal of Colonial Vir-*

The growth of gambling among the great planters during a period of significant social change raises important questions not only about gentry values but also about the social structure of late seventeenth-century Virginia. Why did gambling, involving high stakes, become so popular among the gentlemen at precisely this time? Did it reflect gentry values or have symbolic connotations for the people living in this society? Did this activity serve a social function, contributing in some manner to the maintenance of group cohesion? Why did quarter-horse racing, in particular, become a gentry sport? And finally, did public displays such as this somehow reinforce the great planters' social and political dominance?

In part, of course, gentlemen laid wagers on women and horses simply because they enjoyed the excitement of competition. Gambling was a recreation, like a good meal among friends or a leisurely hunt in the woods—a pleasant pastime when hard-working planters got together. Another equally acceptable explanation for the gentry's fondness for gambling might be the transplanting of English social mores. Certainly, the upper classes in the mother country loved betting for high stakes, and it is possible that the all-night card games and the frequent horse races were staged attempts by a provincial gentry to transform itself into a genuine landed aristocracy.⁸ While both views possess merit, neither is entirely satisfactory. The great planters of Virginia presumably could have favored less risky forms of competition. Moreover, even though several planters deliberately emulated English social styles, the widespread popularity of gambling among the gentry indicates that this type of behavior may have had deeper, more complex cultural roots than either of these explanations would suggest.⁹

ginia (New York, 1975), 295-362; Rainbolt, "Leadership and Constituents," *WMQ*, 3d Ser., XXVII (1970), 428-429. On the social attitudes of the small planters see David Alan Williams, "Political Alignments in Colonial Virginia, 1698-1750" (Ph.D. diss., Northwestern University, 1959), chap. 1.

⁸ A sudden growth of gambling for high stakes in pre-Civil War England is discussed in Lawrence Stone, *The Crisis of the Aristocracy, 1558-1641* (Oxford, 1965). For the later period see Robert W. Malcolmson, *Popular Recreations in English Society, 1700-1850* (Cambridge, 1973); G. E. Mingay, *English Landed Society in the Eighteenth Century* (London, 1963), 151-153, 249-250; and E. D. Cuming, "Sports and Games," in A. S. Turberville, ed., *Johnson's England: An Account of the Life and Manners of his Age*, I (London, 1933), 362-383.

⁹ It is important to stress here that the Virginia gentry did not simply copy English customs. As I argue in this essay, a specific, patterned form of behavior, such as gambling, does not become popular in a society or among the members of a subgroup of that society unless the activity reflects or expresses values indigenous to that culture. In 17th-century Massachusetts Bay, for example, heavy betting did not develop. A small amount of gambling seems to have occurred among the poor, especially among servants, but I can find no incidence of gambling among the colony's social, political, or religious leaders. See Nathaniel B. Shurtleff, ed., *Records*

In many societies competitive gaming is a device by which the participants transform abstract cultural values into observable social behavior. In his now-classic analysis of the Balinese cockfight Clifford Geertz describes contests for extremely high stakes as intense social dramas. These battles not only involve the honor of important villagers and their kin groups but also reflect in symbolic form the entire Balinese social structure. Far from being a simple pastime, betting on cocks turns out to be an expression of the way the Balinese perceive social reality. The rules of the fight, the patterns of wagering, the reactions of winners and losers—all these elements help us to understand more profoundly the totality of Balinese culture.¹⁰

The Virginia case is analogous to the Balinese. When the great planter staked his money and tobacco on a favorite horse or spurred a sprinter to victory, he displayed some of the central elements of gentry culture—its competitiveness, individualism, and materialism. In fact, competitive gaming was for many gentlemen a means of translating a particular set of values into action, a mechanism for expressing a loose but deeply felt bundle of ideas and assumptions about the nature of society. The quarter-horse races of Virginia were intense contests involving personal honor, elaborate rules, heavy betting, and wide community interest; and just as the cockfight opens up hidden dimensions of Balinese culture, gentry gambling offers an opportunity to improve our understanding of the complex interplay between cultural values and social behavior in Virginia.

Gambling reflected core elements of late seventeenth- and early eighteenth-century gentry values. From diaries, letters, and travel accounts we discover that despite their occasional cooperation in political affairs, Virginia gentlemen placed extreme emphasis upon personal independence. This concern may in part have been the product of the colony's peculiar settlement patterns. The great planters required immense tracts of fresh land for their tobacco. Often thousands of acres in size, their plantations were scattered over a broad area from the Potomac River to the James. The dispersed

of the Governor and Company of the Massachusetts Bay . . . (Boston, 1853-1854), II, 180, III, 201, IV, pt. 1, 366; *Records of the Suffolk County Court, 1671-1680* (Colonial Society of Massachusetts, *Publications* [Boston, 1933]), XXIX, 131, 259, 263, XXX, 1162; and Joseph H. Smith, ed., *Colonial Justice in Western Massachusetts, 1639-1702: The Pyncheon Court Record* (Cambridge, Mass., 1961), 109.

¹⁰ Two of Clifford Geertz's essays here helped shape my ideas about Virginia society: "Thick Description: Toward an Interpretive Theory of Culture" and "Deep Play: Notes on the Balinese Cockfight" in Geertz, *The Interpretation of Cultures* (New York, 1973), 3-30, 412-453. Also see Erving Goffman's "Fun in Games" in Goffman, *Encounters: Two Studies in the Sociology of Interaction* (Indianapolis, 1961), 17-81; Raymond Firth, "A Dart Match in Tikopia: A Study in the Sociology of Primitive Sport," *Oceania*, I (1930), 64-96; and H. A. Powell, "Cricket in Kiriwina," *Listener*, XLVIII (1952), 384-385.

planters lived in their "Great Houses" with their families and slaves, and though they saw friends from time to time, they led for the most part isolated, routine lives.¹¹ An English visitor in 1686 noted with obvious disapproval that "their Plantations run over vast Tracts of Ground . . . whereby the Country is thinly inhabited; the Living solitary and unsociable." Some planters were uncomfortably aware of the problems created by physical isolation.¹² William Fitzhugh, for example, admitted to a correspondent in the mother country, "Society that is good and ingenious is very scarce, and seldom to be come at except in books."¹³

Yet despite such apparent cultural privation, Fitzhugh and his contemporaries refused to alter their life styles in any way that might compromise their freedom of action. They assumed it their right to give commands, and in the ordering of daily plantation affairs they rarely tolerated outside interference.¹⁴ Some of these planters even saw themselves as lawgivers out of the Old Testament. In 1726 William Byrd II explained that "like one of the Patriarchs, I have my Flocks and my Herds, my Bond-men and Bond-women, and every Soart of Trade amongst my own Servants, so that I live in a kind of Independance on every one but Providence."¹⁵ Perhaps Byrd exaggerated for literary effect, but forty years earlier Durand had observed, "There are no lords [in Virginia], but each is sovereign on his own plantation."¹⁶ Whatever the origins of this independent spirit, it bred excessive individualism in a wide range of social activities. While these powerful gentlemen sometimes worked together to achieve specific political and economic ends, they bristled at the least hint of constraint.¹⁷ Andrew Burnaby later noted that "the public or political character of the Virginians corre-

¹¹ Philip A. Bruce, *Economic History of Virginia in the Seventeenth Century* . . . , II (New York, 1935 [orig. publ. 1895]), 151.

¹² "A Letter from Mr. John Clayton Rector of Crofton at Wakefield in Yorkshire, to the Royal Society, May 12, 1688," in Peter Force, ed., *Tracts and Other Papers Relating Principally to the Origin, Settlement, and Progress of the Colonies in North America* . . . , III (Washington, D. C., 1844), no. 12, 21.

¹³ Richard Beale Davis, ed., *William Fitzhugh and His Chesapeake World, 1676-1701: The Fitzhugh Letters and Other Documents* (Chapel Hill, N. C., 1963), 15.

¹⁴ On the independence of the Virginia gentry see Gerald W. Mullin, *Flight and Rebellion: Slave Resistance in Eighteenth-Century Virginia* (New York, 1972), chap. 1.

¹⁵ William Byrd II to Charles, earl of Orrery, July 5, 1726, in "Virginia Council Journals, 1726-1753," *Virginia Magazine of History and Biography*, XXXII (1924), 27.

¹⁶ [Durand], *A Huguenot Exile*, ed. Chinard, 110.

¹⁷ I discuss this theme in greater detail in a paper entitled "Looking Out For Number One: Cultural Values and Social Behavior in Early Seventeenth-Century Virginia" (paper delivered at the Thirty-Second Conference in Early American History, Nov. 1974).

sponds with their private one: they are haughty and jealous of their liberties, impatient of restraint, and can scarcely bear the thought of being controuled by any superior power."¹⁸

The gentry expressed this uncompromising individualism in aggressive competitiveness, engaging in a constant struggle against real and imagined rivals to obtain more lands, additional patronage, and high tobacco prices. Indeed, competition was a major factor shaping the character of face-to-face relationships among the colony's gentlemen, and when the stakes were high the planters were not particular about the methods they employed to gain victory.¹⁹ In large part, the goal of the competition within the gentry group was to improve social position by increasing wealth.

Some gentlemen believed that personal honor was at stake as well. Robert "King" Carter, by all accounts the most successful planter of his generation, expressed his anxiety about losing out to another Virginian in a competitive market situation. "In discourse with Colonel Byrd, Mr. Armistead, and a great many others," he explained, "I understand you [an English merchant] had sold their tobaccos in round parcels and at good rates. I cannot allow myself to come behind any of these gentlemen in the planter's trade."²⁰ Carter's pain arose not so much from the lower price he had received as from the public knowledge that he had been bested by respected peers. He believed he had lost face. This kind of intense competition was sparked, especially among the less affluent members of the gentry, by a dread of slipping into the ranks of what one eighteenth-century Virginia historian called the "common Planters."²¹ Gov. Francis Nicholson, an acerbic English placeman, declared that the "ordinary sort of planters" knew full well "from whence these mighty dons derive their originals."²² The governor touched a

¹⁸ Rev. Andrew Burnaby, *Travels through The Middle Settlements In North America, In the Years 1759 and 1760; With Observations Upon the State of the Colonies*, in John Pinkerton, ed., *A General Collection of the Best and Most Interesting Voyages and Travels in All Parts of the World . . .*, XIII (London, 1812), 715.

¹⁹ According to John Rainbolt, the gentry's "striving for land, wealth, and position was intense and, at times, ruthless" ("Leadership and Constituents," *WMQ*, 3d Ser., XXVII [1970], 414). See Carole Shamma, "English-Born and Creole Elites," in Tate and Ammerman, eds., *Seventeenth-Century Chesapeake*; Morgan, *American Slavery—American Freedom*, 288-289; and Rhys Isaac, "Evangelical Revolt: The Nature of the Baptists' Challenge to the Traditional Order in Virginia, 1765 to 1775," *WMQ*, 3d Ser., XXXI (1974), 345-353.

²⁰ Louis B. Wright, ed., *Letters of Robert Carter, 1720-1727: The Commercial Interests of a Virginia Gentleman* (San Marino, Calif., 1940), 93-94.

²¹ Hugh Jones, *The Present State of Virginia Giving a Particular and short Account of the Indian, English, and Negroe Inhabitants of that Colony . . .* (New York, 1865 [orig. publ. 1724]), 48.

²² Quoted in Thomas Jefferson Wertebaker, *The Old South: The Founding of American Civilization* (New York, 1942), 19.

nerve; the efforts of "these mighty dons" to outdo one another were almost certainly motivated by a desire to disguise their "originals," to demonstrate anew through competitive encounters that they could legitimately claim gentility.

Another facet of Virginia gentry culture was materialism. This certainly does not mean that the great planters lacked spiritual concerns. Religion played a vital role in the lives of men like Robert Carter and William Byrd II. Nevertheless, piety was largely a private matter. In public these men determined social standing not by a man's religiosity or philosophic knowledge but by his visible estate—his lands, slaves, buildings, even by the quality of his garments. When John Bartram, one of America's first botanists, set off in 1737 to visit two of Virginia's most influential planters, a London friend advised him to purchase a new set of clothes, "for though I should not esteem thee less, to come to me in what dress thou will,—yet these Virginians are a very gentle, well-dressed people—and look, perhaps, more at a man's outside than his inside."²³ This perception of gentry values was accurate. Fitzhugh's desire to maintain outward appearances drove him to collect a stock of monogrammed silver plate and to import at great expense a well-crafted, though not very practical, English carriage.²⁴ One even finds hints that the difficulty of preserving the image of material success weighed heavily upon some planters. When he described local Indian customs in 1705, Robert Beverley noted that native Americans lived an easy, happy existence "without toiling and perplexing their mind for Riches, which other people often trouble themselves to provide for uncertain and ungrateful Heirs."²⁵

The gentry were acutely sensitive to the element of chance in human affairs, and this sensitivity influenced their attitudes toward other men and society. Virginians knew from bitter experience that despite the best-laid plans, nothing in their lives was certain. Slaves suddenly sickened and died. English patrons forgot to help their American friends. Tobacco prices fell without warning. Cargo ships sank. Storms and droughts ruined the crops. The list was endless. Fitzhugh warned an English correspondent to think twice before allowing a son to become a Virginia planter, for even "if the best husbandry and the greatest forecast and skill were used, yet ill luck at Sea, a fall of a Market, or twenty other accidents may ruin and overthrow the best Industry."²⁶ Other planters, even those who had risen to the top of

²³ Peter Collinson to John Bartram, Feb. 17, 1737, *WMQ*, 2d Ser., VI (1926), 304.

²⁴ Davis, ed., *Fitzhugh Letters*, 229, 241-242, 244, 246, 249-250, 257-259. For another example of the concern about outward appearances see the will of Robert Cole (1674), in *WMQ*, 3d Ser., XXXI (1974), 139.

²⁵ Robert Beverley, *The History and Present State of Virginia*, ed., Louis B. Wright (Chapel Hill, N. C., 1947), 226.

²⁶ William Fitzhugh to Oliver Luke, Aug. 15, 1690, in Davis, ed., *Fitzhugh Letters*, 280.

colonial society, longed for greater security. "I could wish," declared William Byrd I in 1685, "wee had Some more certain Commodity [than tobacco] to rely on but see no hopes of itt."²⁷ However desirable such certainty may have appeared, the planters always put their labor and money into tobacco, hoping for a run of luck. One simply learned to live with chance. In 1710 William Byrd II confided in his secret diary, "I dreamed last night . . . that I won a tun full of money and might win more if I had ventured."²⁸

Gaming relationships reflected these strands of gentry culture. In fact, gambling in Virginia was a ritual activity. It was a form of repetitive, patterned behavior that not only corresponded closely to the gentry's values and assumptions but also symbolized the realities of everyday planter life. This congruence between actions and belief, between form and experience, helps to account for the popularity of betting contests. The wager, whether over cards or horses, brought together in a single, focused act the great planters' competitiveness, independence, and materialism, as well as the element of chance.²⁹ It represented a social agreement in which each individual was free to determine how he would play, and the gentleman who accepted a challenge risked losing his material possessions as well as his personal honor.³⁰

The favorite household or tavern contests during this period included

²⁷ William Byrd I to Perry and Lane, July 8, 1686, in "Letters of William Byrd I," *VMHB*, XXV (1917), 132.

²⁸ Louis B. Wright and Marion Tinsling, eds., *The Secret Diary of William Byrd of Westover, 1709-1712* (Richmond, Va., 1941), 223-224.

²⁹ Gaming was so popular among the gentry, so much an expression of their culture, that it became a common metaphor in their discussion of colonial politics. For example, an unsigned essay entitled "The History of Bacon's and Ingram's Rebellion, 1676" described the relationship between Nathaniel Bacon and Gov. William Berkeley as a card game. Charles M. Andrews, ed., *Narratives of the Insurrections, 1675-1690* (New York, 1915), 57. In another account of Bacon's Rebellion, written in 1705, Thomas Mathew noted that several members of the House of Burgesses were "not docill enough to Gallop the future Races, that Court seem'd dispos'd to Lead'em." *Ibid.*, 32. In May 1697 William Fitzhugh explained to Capt. Roger Jones: "your self will see what a hard Game we have to play the contrary party that is our Opposers, having the best Cards and the trumps to boot especially the Honor. Yet would my Lord Fairfax there [in England], take his turn in Shuffling and Dealing the Cards and his Lordship with the rest see that we were not cheated in our game, I question not but we should gain the Sett, tho' the game is so far plaid" (Davis, ed., *Fitzhugh Letters*, 352).

³⁰ Rhys Isaac provides a provocative analysis of the relationship between games and gentry culture on the eve of the Revolution in "Evangelical Revolt," *WMQ*, 3d Ser., XXXI (1974), 348-353. See also Mark Anthony de Wolfe Howe, ed., "Journal of Josiah Quincy, Junior, 1773," Massachusetts Historical Society, *Proceedings*, XLIX (1915-1916), 467, and William Stith, *The Sinfulness and pernicious Nature of Gaming. A Sermon Preached before the General Assembly of Virginia: At Williamsburg, March 1st 1752* (Williamsburg, 1752), 5-26.

cards, backgammon, billiards, nine-pins, and dice. The great planters preferred card games that demanded skill as well as luck. Put, piquet, and whist provided the necessary challenge, and Virginia gentlemen—Durand's hosts, for example—regularly played these games for small sums of money and tobacco.³¹ These activities brought men together, stimulated conversation, and furnished a harmless outlet for aggressive drives. They did not, however, become for the gentry a form of intense, symbolic play such as the cockfight in Bali.³² William Byrd II once cheated his wife in a game of piquet, something he would never have dared to do among his peers at Williamsburg. By and large, he showed little emotional involvement in these types of household gambling. The exception here proves the rule. After an unusually large loss at the gaming tables of Williamsburg, Byrd drew a pointed finger in the margin of his secret diary and swore a "solemn resolution never at once to lose more than 50 shillings and to spend less time in gaming, and I beg the God Almighty to give me grace to keep so good a resolution . . ." Byrd's reformation was short-lived, for within a few days he dispassionately noted losing another four pounds at piquet.³³

Horse racing generated far greater interest among the gentry than did the household games.³⁴ Indeed, for the great planters and the many others who

³¹ The best discussion of these household games is Carson, *Virginians at Play*, 49-89. See also Charles Cotton, *The Compleat Gamester or Instructions How to Play at Billiards, Trucks, Bowls, and Chess . . .* (1674), in Cyril H. Hartmann, ed., *Games and Gamesters of the Restoration: The Compleat Gamester by Charles Cotton, 1674, and Lives of the Gamesters, by Theophilus Lucas, 1714* (London, 1930).

³² After 1750, however, the gentry's attitude toward household or tavern games seems to have changed. The betting became so heavy that several eminent planters lost fortunes at the gaming tables. A visitor at Williamsburg in 1765 wrote of these men that "they are all professed gamesters, Especially Colonel Burd [William Byrd III], who is never happy but when he has the box and Dices in hand. [T]his Gentleman from a man of the greatest property of any in America has reduced himself to that Degree by gameing, that few or nobody will Credit him for Ever so small a sum of money. [H]e was obliged to sel 400 fine Negroes a few Days before my arival." "Journal of a French Traveller in the Colonies, 1765, I," *American Historical Review*, XXVI (1920-1921), 742. Byrd was not alone. Robert Wormeley Carter and Robert Burwell were excessive gamblers, and as the aging Landon Carter (Robert "King" Carter's son) observed the wagering of the gentry on the eve of the Revolution, he sadly mused, "they play away and play it all away." Jack P. Greene, ed., *The Diary of Colonel Landon Carter of Sabine Hall, 1752-1778*, II (Charlottesville, Va., 1965), 830. On this generation's addiction to gambling see Emory G. Evans, "The Rise and Decline of the Virginia Aristocracy in the Eighteenth Century: The Nelsons," in Darrett B. Rutman, ed., *The Old Dominion: Essays for Thomas Perkins Abernethy* (Charlottesville, Va., 1964), 68-70.

³³ Wright and Tinsling, eds., *Secret Diary*, 75, 442, 449.

³⁴ Only one mention of cockfighting before 1730 has come to my attention, and that one refers to contests among the "common planters." Jones, *Present State of Virginia*, 48. See Carson, *Virginians at Play*, 151-152.

came to watch, these contests were preeminently a social drama. To appreciate the importance of racing in seventeenth-century Virginia, we must understand the cultural significance of horses. By the turn of the century possession of one of these animals had become a social necessity. Without a horse, a planter felt despised, an object of ridicule. Owning even a slow-footed saddle horse made the common planter more of a man in his own eyes as well as in those of his neighbors; he was reluctant to venture forth on foot for fear of making an adverse impression. As the Rev. Hugh Jones explained in 1724, "almost every ordinary Person keeps a Horse; and I have known some spend the Morning in ranging several Miles in the Woods to find and catch their Horses only to ride two or three Miles to Church, to the Court-House, or to a Horse-Race, where they generally appoint to meet upon Business."³⁵ Such behavior seems a waste of time and energy only to one who does not comprehend the symbolic importance which the Virginians attached to their horses. A horse was an extension of its owner; indeed, a man was only as good as his horse. Because of the horse's cultural significance, the gentry attempted to set its horsemanship apart from that of the common planters. Gentlemen took better care of their animals, and, according to John Clayton, who visited Virginia in 1688, they developed a distinctive riding style. "They ride pretty sharply," Clayton reported; "a Planter's Pace is a Proverb, which is a good sharp hand-Gallop."³⁶ A fast-rising cloud of dust far down a Virginia road probably alerted the common planter that he was about to encounter a social superior.

The contest that generated the greatest interest among the gentry was the quarter-horse race, an all-out sprint by two horses over a quarter-mile dirt track.³⁷ The great planters dominated these events. In the records of the county courts—our most important source of information about specific races—we find the names of some of the colony's most prominent planter families—Randolph, Eppes, Jefferson, Swan, Kenner, Hardiman, Parker, Cocke, Batte, Harwick (Hardidge), Youle (Yowell), and Washington.

³⁵ Jones, *Present State of Virginia*, 48. This observation was repeated in other accounts of Virginia society throughout the 18th century. William Byrd II wrote "my Dear Countrymen have so great a Passion for riding, that they will often walk two miles to catch a Horse, in Order to ride One." William K. Boyd, ed., *William Byrd's Histories of the Dividing Line Betwixt Virginia and North Carolina* (Raleigh, N. C., 1929), 258. See also Carson, *Virginians at Play*, 102-105.

³⁶ "A Letter From Clayton," in Force, ed., *Tracts and Other Papers*, no. 12, 35.

³⁷ On the development of racing in Virginia, especially the transition from the quarter-mile straight track to the oval course, see W. G. Stanard, "Racing in Colonial Virginia," *VMHB*, II (1894-1895), 293-305, and Fairfax Harrison, "The Equine F. F. V.'s: A Study of the Evidence for the English Horses Imported into Virginia before the Revolution," *ibid.*, XXXV (1927), 329-370. I suspect that quarter-horse racing was a sport indigenous to Virginia.

Members of the House of Burgesses, including its powerful speaker, William Randolph, were frequently mentioned in the contests that came before the courts.³⁸ On at least one occasion the Rev. James Blair, Virginia's most eminent clergyman and a founder of the College of William and Mary, gave testimony in a suit arising from a race run between Capt. William Soane and Robert Napier.³⁹ The tenacity with which the gentry pursued these cases, almost continuations of the race itself, suggests that victory was no less sweet when it was gained in court.

Many elements contributed to the exclusion of lower social groups from these contests. Because of the sheer size of wagers, poor freemen and common planters could not have participated regularly. Certainly, the members of the Accomack County Court were embarrassed to discover that one Thomas Davis, "a very poore Man," had lost 500 pounds of tobacco or a cow and calf in a horse race with an adolescent named Mr. John Andrews. Recognizing that Davis bore "a great charge of wife and Children," the justices withheld final judgment until the governor had an opportunity to rule on the legality of the wager. The Accomack court noted somewhat gratuitously that if the governor declared the action unlawful, it would fine Davis five days' work on a public bridge.⁴⁰ In such cases country justices ordinarily made no comment upon a plaintiff's or defendant's financial condition, assuming, no doubt, that most people involved in racing were capable of meeting their gaming obligations.

The gentry actively enforced its exclusive control over quarter-horse racing. When James Bullocke, a York County tailor, challenged Mr. Mathew Slader to a race in 1674, the county court informed Bullocke that it was "contrary to Law for a Labourer to make a race being a Sport for Gentlemen" and fined the presumptuous tailor two hundred pounds of tobacco and cask.⁴¹ Additional evidence of exclusiveness is found in early eighteenth-century Hanover County. In one of the earliest issues of the colony's first newspaper, the *Virginia Gazette*, an advertisement appeared announcing that "some merry-dispos'd gentlemen" in Hanover planned to celebrate St. Andrew's Day with a race for quarter-milers. The Hanover gentlemen explained in a later, fuller description that "all Persons resorting there are desir'd to behave themselves with Decency and Sobriety, the Subscribers being resolv'd to discountenance all Immorality with the utmost

³⁸ Besides Randolph, there were John Stone, William Hardidge, Thomas Yowell, John Hardiman, Daniel Sullivant, Thomas Chamberlain, Rodham Kenner, Richard Kenner, William Soane, and Alexander Swan.

³⁹ Aug. 1690, Henrico County, Order Book, 1678-1693, 340. All references to manuscript county records are to the photostat copies at the Virginia State Library, Richmond.

⁴⁰ Jan. 16, 1666, Accomack Co., Orders, 1666-1670, 9.

⁴¹ Sept. 10, 1674, York Co., Deeds, Orders, Wills, 1672-1694, 85.

Rigour." The purpose of these contests was to furnish the county's "considerable Number of Gentlemen, Merchants, and credible Planters" an opportunity for "cultivating Friendship."⁴² Less affluent persons apparently were welcome to watch the proceedings provided they acted like gentlemen.

In most match races the planter rode his own horse, and the exclusiveness of these contests meant that racing created intensely competitive confrontations. There were two ways to set up a challenge. The first was a regularly scheduled affair usually held on Saturday afternoon. By 1700 there were at least a dozen tracks, important enough to be known by name, scattered through the counties of the Northern Neck and the James River valley. The records are filled with references to contests held at such places as Smith's Field, Coan Race Course, Devil's Field, Yeocomico, and Varina.⁴³ No doubt, many races also occurred on nameless country roads or convenient pastures. On the appointed day the planter simply appeared at the race track and waited for a likely challenge. We know from a dispute heard before the Westmoreland County Court in 1693 that John Gardner boldly "Challeng'd all the horses then upon the ground to run with any of them for a thousand pounds of Tobo and twenty shillings in money."⁴⁴ A second type of contest was a more spontaneous challenge. When gentlemen congregated over a jug of hard cider or peach brandy, the talk frequently turned to horses. The owners presumably bragged about the superior speed of their animals, and if one planter called another's bluff, the men cried out "done, and done," marched to the nearest field, and there discovered whose horse was in fact the swifter.⁴⁵

Regardless of the outcome, quarter-horse races in Virginia were exciting spectacles. The crowds of onlookers seem often to have been fairly large, as common planters, even servants, flocked to the tracks to watch the gentry challenge one another for what must have seemed immense amounts of money and tobacco. One witness before a Westmoreland County Court reported in 1674 that Mr. Stone and Mr. Youle had run a challenge for £10 sterling "in sight of many people."⁴⁶ Attendance at race days was sizable enough to support a brisk trade in cider and brandy. In 1714 the Richmond County Court fined several men for peddling liquors "by Retaile in the Race Ground."⁴⁷ Judging from the popularity of horses throughout planter

⁴² *Virginia Gazette*, Nov. 19-26, 1736, Sept. 30-Oct. 7, 1737.

⁴³ Bruce, *Social Life*, 195-209; Carson, *Virginians at Play*, 108-110.

⁴⁴ Apr. 7, 1693, Westmoreland Co., Order Book, 1690-1698, 92; "Racing in Virginia in 1700-05," *VMHB*, X (1902-1903), 320.

⁴⁵ Aug. 1683, Henrico Co. Records [Deeds and Wills], 1677-1692, 254.

⁴⁶ Oct. 16, 1674, Westmoreland Co., Deeds, Patents, Etc., 1665-1677, 211; Bruce, *Social Life*, 197-198; Carson, *Virginians at Play*, 109.

⁴⁷ Beverley Fleet, ed., *Richmond County Records, 1704-1724*, Virginia Colonial Abstracts, XVII (Richmond, Va., 1943), 95-96.

society, it seems probable that the people who attended these events dreamed of one day riding a local champion such as Prince or Smoaker.

The magnitude of gentry betting indicates that racing must have deeply involved the planter's self-esteem. Wagering took place on two levels. The contestants themselves made a wager on the outcome, a main bet usually described in a written statement. In addition, side wagers were sometimes negotiated between spectators or between a contestant and spectator.⁴⁸ Of the two, the main bet was far the more significant. From accounts of disputed races reaching the county courts we know that gentlemen frequently risked very large sums. The most extravagant contest of the period was a race run between John Baker and John Haynie in Northumberland County in 1693, in which the two men wagered 4000 pounds of tobacco and 40 shillings sterling on the speed of their sprinters, Prince and Smoaker.⁴⁹ Some races involved only twenty or thirty shillings, but a substantial number were run for several pounds sterling and hundreds of pounds of tobacco. While few, if any, of the seventeenth-century gentlemen were what we would call gambling addicts, their betting habits seem irrational even by the more prudential standards of their own day: in conducting normal business transactions, for example, they would never have placed so much money in such jeopardy.

To appreciate the large size of these bets we must interpret them within the context of Virginia's economy. Between 1660 and 1720 a planter could anticipate receiving about ten shillings per hundredweight of tobacco. Since the average grower seldom harvested more than 1500 pounds of tobacco a year per man, he probably never enjoyed an annual income from tobacco in excess of eight pounds sterling.⁵⁰ For most Virginians the conversion of tobacco into sterling occurred only in the neat columns of account books. They themselves seldom had coins in their pockets. Specie was extremely scarce, and planters ordinarily paid their taxes and conducted business transactions with tobacco notes—written promises to deliver to the bearer a designated amount of tobacco.⁵¹ The great preponderance of seventeenth-century planters were quite poor, and even the great planters estimated their income in hundreds, not thousands, of pounds sterling.⁵² Fitzhugh, one of the wealthier men of his generation, described his financial situation in detail.

⁴⁸ Carson, *Virginians at Play*, 105. See Aug. 29, 1694, Westmoreland Co., Order Book, 1690-1698, 146.

⁴⁹ Aug. 22, 1695, Northumberland Co., Order Book, 1678-1698, Pt. 2, 707-708.

⁵⁰ Morgan, *American Slavery—American Freedom*, 142, 198, 204.

⁵¹ Bruce, *Economic History*, II, 495-512.

⁵² Aubrey Land's analysis of the probate records in a tobacco-producing area in nearby Maryland between 1690 and 1699 reveals that 74.6% of the estates there were worth less than £100 sterling. According to Land, the differences between the social structures of Maryland and Virginia at this time were not "very great." Land, "Economic Base and Social Structure," *Jour. Econ. Hist.*, XXV (1965), 641-644.

"Thus I have given you some particulars," he wrote in 1686, "which I thus deduce, the yearly Crops of corn and Tobo. together with the surplusage of meat more than will serve the family's use, will amount annually to 60000lb. Tobo wch. at 10 shillings per Ct. is 300£ annum."⁵³ These facts reveal that the Baker-Haynie bet—to take a notable example—amounted to approximately £22 sterling, more than 7 percent of Fitzhugh's annual cash return. It is therefore not surprising that the common planters seldom took part in quarter-horse racing: this wager alone amounted to approximately three times the income they could expect to receive in a good year. Even a modest wager of a pound or two sterling represented a substantial risk.

Gentlemen sealed these gaming relationships with a formal agreement, either a written statement laying out the terms of the contest or a declaration before a disinterested third party of the nature of the wager. In either case the participants carefully stipulated what rules would be in effect. Sometimes the written agreements were quite elaborate. In 1698, for example, Richard Ward and John Steward, Jr., "Covenanted and agreed" to race at a quarter-mile track in Henrico County known as Ware. Ward's mount was to enjoy a ten-yard handicap, and if it crossed the finish line within five lengths of Steward's horse, Ward would win five pounds sterling; if Steward's obviously superior animal won by a greater distance, Ward promised to pay six pounds sterling.⁵⁴ In another contest William Eppes and Stephen Cocke asked William Randolph to witness an agreement for a ten-shilling race: "each horse was to keep his path, they not being to crosse unlesse Stephen Cocke could gett the other Riders Path at the start at two or three Jumps."⁵⁵

Virginia's county courts treated race covenants as binding legal contracts.⁵⁶ If a gentleman failed to fulfill the agreement, the other party had

⁵³ William Fitzhugh to Dr. Ralph Smith, Apr. 22, 1686, in Davis, ed., *Fitzhugh Letters*, 176.

⁵⁴ The full covenant is reproduced in Stanard, "Racing in Colonial Virginia," *VMHB*, II (1894-1895), 296-298.

⁵⁵ *Ibid.*, 296.

⁵⁶ Virginia law prohibited fraudulent gaming, certain kinds of side bets, and gambling by persons who had "no visible estate, profession, or calling, to maintain themselves." William Waller Hening, ed., *The Statutes at Large; Being a Collection of all the Laws of Virginia . . .*, IV (Richmond, 1820), 214-218; George Webb, *Office and Authority of A Justice of Peace . . .* (Williamsburg, Va., 1736), 165-167. Wagers made between two gainfully employed colonists were legal agreements and enforceable as contracts. The courts of Virginia, both common law and chancery, apparently followed what they believed to be standard English legal procedure. Whether they were correct is difficult to ascertain. Sir William Holdsworth explains that acts passed by Parliament during the reigns of Charles II and Anne allowed individuals to sue for gaming debts, but he provides no evidence that English courts regularly settled disputed contests such as horse races. Holdsworth, *A History of English Law* (London, 1966), VI, 404, XI, 539-542.

legitimate grounds to sue; and the county justices' first consideration during a trial was whether the planters had properly recorded their agreement.⁵⁷ The Henrico court summarily dismissed one gambling suit because "noe Money was stacked down nor Contract in writing made[,] one of wch in such cases is by the law required."⁵⁸ Because any race might generate legal proceedings, it was necessary to have a number of people present at the track not only to assist in the running of the contest but also to act as witnesses if anything went wrong. The two riders normally appointed an official starter, several judges, and someone to hold the stakes.

Almost all of the agreements included a promise to ride a fair race. Thus two men in 1698 insisted upon "fair Rideing"; another pair pledged "they would run fair horseman's play."⁵⁹ By such agreements the planters waived their customary right to jostle, whip, or knee an opponent, or to attempt to unseat him.⁶⁰ During the last decades of the seventeenth century the gentry apparently attempted to substitute riding skill and strategy for physical violence. The demand for "fair Rideing" also suggests that the earliest races in Virginia were wild, no-holds-barred affairs that afforded contestants ample opportunity to vent their aggressions.

The intense desire to win sometimes undermined a gentleman's written promise to run a fair race. When the stakes were large, emotions ran high. One man complained in a York County court that an opponent had interfered with his horse in the middle of the race, "by meanes whereof the s[ai]d Plaintiff lost the said Race."⁶¹ Joseph Humphrey told a Northumberland County court that he would surely have come in first in a challenge for 1500 pounds of tobacco had not Capt. Rodham Kenner (a future member of the House of Burgesses) "held the defendt horses bridle in running his race."⁶² Other riders testified that they had been "Josselled" while the race was in progress. An unusual case of interference grew out of a 1694 race which Rodham Kenner rode against John Hartly for one pound sterling and 575 pounds of tobacco. In a Westmoreland County court Hartly

⁵⁷ Not until the 1750s did Virginians begin to discuss gambling as a social vice. See Stith, *The Sinfulness . . . of Gaming*; R. A. Brock, ed., *The Official Records of Robert Dinwiddie, I* (Richmond, Va., 1883), 30-31; Samuel Davies, *Virginia's Danger and Remedy. Two Discourses Occasioned by The Severe Drought . . .* (Williamsburg, 1756).

⁵⁸ Oct. 1690, Henrico Co., Order Book, 1678-1693, 351. See also Aug. 28, 1674, Northampton Co., Order Book No. 9, 1664-1674, 269, and Nov. 4, 1674, *ibid.*, No. 10, 1674-1679.

⁵⁹ Stanard, "Racing in Colonial Virginia," *VMHB*, II (1894-1895), 267; Henrico Co. Records [Deeds and Wills], 1677-1692, 466.

⁶⁰ Carson, *Virginians at Play*, 109-110.

⁶¹ "Some Extracts from the Records of York Co., Virginia," *WMQ*, 1st Ser., IX (1900-1901), 178-179.

⁶² Jan. 1694, Northumberland Co., Order Book, 1678-1698, Pt. 2, 643.

explained that after a fair start and without using “whipp or Spurr” he found himself “a great distance” in front of Kenner. But as Hartly neared the finish line, Kenner’s brother, Richard, suddenly jumped onto the track and “did hollow and shout and wave his hat over his head in the plts [plaintiff’s] horse’s face.” The animal panicked, ran outside the posts marking the finish line, and lost the race. After a lengthy trial a Westmoreland jury decided that Richard Kenner “did no foule play in his hollowing and waveing his hatt.”⁶³ What exactly occurred during this race remains a mystery, but since no one denied that Richard acted very strangely, it seems likely that the Kenner brothers were persuasive as well as powerful.

Planters who lost large wagers because an opponent jostled or “hollowed” them off the track were understandably angry. Yet instead of challenging the other party to a duel or allowing gaming relationships to degenerate into blood feuds, the disappointed horsemen invariably took their complaints to the courts.⁶⁴ Such behavior indicates not only that the gentlemen trusted the colony’s formal legal system—after all, members of their group controlled it—but also that they were willing to place institutional limitations on their own competitiveness. Gentlemen who felt they had been cheated or abused at the track immediately collected witnesses and brought suit before the nearest county court. The legal machinery available to the aggrieved gambler was complex; and no matter how unhappy he may have been with the final verdict, he could rarely claim that the system had denied due process.

The plaintiff brought charges before a group of justices of the peace sitting as a county court; if these men found sufficient grounds for a suit, the parties—in the language of seventeenth-century Virginia—could “put themselves upon the country.”⁶⁵ In other words, they could ask that a jury of twelve substantial freeholders hear the evidence and decide whether the race

⁶³ Aug. 29, 1694, Westmoreland Co., Order Book, 1690-1698, 146-146a. Also see Oct. 1689, Henrico Co., Order Book, 1678-1693, 313, and Stanard, “Racing in Virginia,” *VMHB*, II (1894-1895), 296.

⁶⁴ A gentleman could have challenged an opponent to a duel. Seventeenth- and early 18th-century Virginians recognized a code of honor of which dueling was a part, but they did everything possible to avoid such potentially lethal combats. I have found only four cases before 1730 in which dueling was even discussed. County courts fined two of the challengers before they could do any harm. (“A Virginian Challenge in the Seventeenth Century,” *VMHB*, II [1894-1895], 96-97; *Lower Norfolk County Antiquarian*, IV [1904], 106.) And two comic-opera challenges that only generated blustery rhetoric are described in William Stevens Perry, ed., *Historical Collections Relating to the American Colonial Church*, I (Hartford, Conn., 1870), 25-28, and Bond, ed., *Byrd’s Histories of the Dividing Line*, 173-175. On the court system see Philip A. Bruce, *Institutional History of Virginia in the Seventeenth Century . . .*, I (Gloucester, 1910), 484-632, 647-689.

⁶⁵ Aug. 29, 1694, Westmoreland Co., Order Book, 1690-1698, 146a.

had in fact been fairly run. If the sums involved were high enough, either party could appeal a local decision to the colony's general court, a body consisting of the governor and his council. Several men who hotly insisted that they had been wronged followed this path. For example, Joseph Humphrey, loser in a race for 1500 pounds of tobacco, stamped out of a Northumberland County court, demanding a stop to "farther proceedings in the Common Law till a hearing in Chancery."⁶⁶ Since most of the General Court records for the seventeenth century were destroyed during the Civil War, it is impossible to follow these cases beyond the county level. It is apparent from the existing documents, however, that all the men involved in these race controversies took their responsibilities seriously, and there is no indication that the gentry regarded the resolution of a gambling dispute as less important than proving a will or punishing a criminal.⁶⁷ It seems unlikely that the colony's courts would have adopted such an indulgent attitude toward racing had these contests not in some way served a significant social function for the gentry.

Competitive activities such as quarter-horse racing served social as well as symbolic functions. As we have seen, gambling reflected core elements of the culture of late seventeenth-century Virginia. Indeed, if it had not done so, horse racing would not have become so popular among the colony's gentlemen. These contests also helped the gentry to maintain group cohesion during a period of rapid social change. After 1680 the great planters do not appear to have become significantly less competitive, less individualistic, or less materialistic than their predecessors had been.⁶⁸ But while the values persisted, the forms in which they were expressed changed. During the last decades of the century unprecedented external pressures, both political and economic, coupled with a major shift in the composition of the colony's labor force, caused the Virginia gentry to communicate these values in ways that would not lead to deadly physical violence or spark an eruption of blood feuding. The members of the native-born elite, anxious to preserve their autonomy over local affairs, sought to avoid the kinds of divisions within their ranks that had contributed to the outbreak of Bacon's Rebellion. They

⁶⁶ Jan. 1694, Northumberland Co., Order Book, 1678-1698, Pt. 2, 643.

⁶⁷ Sometimes the courts had an extremely difficult time deciding exactly what had occurred at a race. A man testified in 1675 that he had served as the official judge for a contest, and that while he knew which horse had finished first, he was "not able to say much less to Swear that the Horse did Carry his Rider upon his back over the path." Sept. 16, 1675, Surry County, Deeds, Wills and Orders, 1671-1684, 133. For another complex case see Mar. 5, 1685, Rappahannock Co. Orders [no. 1], 1683-1686, 103, 120, 153.

⁶⁸ For evidence of the persistence of these values among the gentry in the Revolutionary period see Isaac, "Evangelical Revolt," *WMQ*, 3d Ser., XXXI (1974), 348-353.

found it increasingly necessary to cooperate against meddling royal governors. Moreover, such earlier unrest among the colony's plantation workers as Bacon's Rebellion and the plant-cutting riots had impressed upon the great planters the need to present a common face to their dependent laborers, especially to the growing number of black slaves who seemed more and more menacing as the years passed.

Gaming relationships were one of several ways by which the planters, no doubt unconsciously, preserved class cohesion.⁶⁹ By wagering on cards and horses they openly expressed their extreme competitiveness, winning temporary emblematic victories over their rivals without thereby threatening the social tranquility of Virginia. These non-lethal competitive devices, similar in form to what social anthropologists have termed "joking relationships," were a kind of functional alliance developed by the participants themselves to reduce dangerous, but often inevitable, social tensions.⁷⁰

Without rigid social stratification racing would have lost much of its significance for the gentry. Participation in these contests publicly identified a person as a member of an elite group. Great planters raced against their social peers. They certainly had no interest in competing with social inferiors, for in this kind of relationship victory carried no positive meaning: the winner gained neither honor nor respect. By the same token, defeat by someone like James Bullocke, the tailor from York, was painful, and to avoid such incidents gentlemen rarely allowed poorer whites to enter their gaming relationships—particularly the heavy betting on quarter horses. The common planters certainly gambled among themselves. Even the slaves may have laid wagers. But when the gentry competed for high stakes, they kept their inferiors at a distance, as spectators but never players.

The exclusiveness of horse racing strengthened the gentry's cultural dominance. By promoting these public displays the great planters legitimized the cultural values which racing symbolized—materialism, individualism, and competitiveness. These colorful, exclusive contests helped persuade subordinate white groups that gentry culture was desirable, something worth emulating; and it is not surprising that people who conceded the superiority of this culture readily accepted the gentry's right to rule. The wild sprint down a dirt track served the interests of Virginia's gentlemen better than they imagined.

⁶⁹ The planters' aggressive hospitality may have served a similar function. Hospitality in Virginia should be analyzed to discover its relationship to gentry culture. Robert Beverley makes some suggestive comments about this custom in his *History and Present State of Virginia*, 312-313. An interesting comparison to the Virginia practice is provided in Michael W. Young, *Fighting with Food: Leadership, Values and Social Control in a Massim Society* (Cambridge, 1971).

⁷⁰ A. R. Radcliffe-Brown, *Structure and Function in Primitive Society: Essays and Addresses* (New York, 1964), chaps. 4, 5.

EXHIBIT 63



Bellevue History

Our mission is to provide the highest quality of care to New York's population and to deliver health care to every patient with dignity, cultural sensitivity and compassion, regardless of ability to pay.

NYC Health + Hospitals/Bellevue Celebrates 280 Years of Caring for the People of NYC

As NYC Health + Hospitals/Bellevue commemorates its 280th anniversary in 2016, we take pride in our rich and unique history and the many historic milestones that have made us a leader in health care – then and now.

NYC Health + Hospitals/Bellevue is America's oldest operating hospital, established in 1736. We have a long and distinguished history of innovative contributions to public health, medical science, and education.

Today, we continue the special NYC Health + Hospitals/Bellevue traditions:

- A spirit of inclusiveness—all are welcome

- One standard of care for everyone
- Responsiveness to community needs
- Providing continuity of services, and,
- Advocating for health care as a right.

Affiliated with the NYU School of Medicine, NYC Health + Hospitals/Bellevue offers a wide range of medical, surgical, and psychiatric services and is a major referral center for highly complex cases.

Our state-of-the-art facilities include:

- A 25-story patient care facility housing more than 800 inpatient beds and six Intensive Care Units
- A world-renowned Emergency Service and Trauma Center, and
- A 6-story modern Ambulatory Care Pavilion.

With a full-time attending physician staff of more than 1,200, NYC Health + Hospitals/Bellevue is committed to delivering high-quality patient care, to preventing disease, and to educating medical professionals.

NYC Health + Hospitals/Bellevue is a member of NYC Health + Hospitals, the nation's largest public hospital system.



View more photos [here](#).



EXHIBIT 64

The 150 Largest City Parks

These are the largest parks located within the limits of a U.S. city. Most are owned by the municipality, but some are owned by a state, a county, a regional agency or the federal government. If a park extends beyond the boundary of the city, only the acreage within the city is noted here.



Key: (M): Municipally Owned Park (R): Regional Park
 (S): State Park (NP): National Park
 (C): County Park (NWR): National Wildlife Refuge

Rank	Park Name	Type	Acres	City
1	Chugach State Park	S	490,125	Anchorage, Alaska
2	Franklin Mountains State Park	S	25,631	El Paso, Tex.
3	Bayou Sauvage National Wildlife Refuge	NWR	24,293	New Orleans, La.
4	South Mountain Preserve	M	16,094	Phoenix, Ariz.
5	McDowell Sonoran Preserve	M	16,000	Scottsdale, Ariz.
6	Cullen Park	M	9,270	Houston, Tex.
7	Topanga State Park (part)	S	8,960	Los Angeles, Calif.
8	Timucuan Ecological and Historic Preserve	NP	7,870	Jacksonville, Fla.
9	George Bush Park	C	7,800	Houston, Tex.
10	North Mountain Preserve	M	7,500	Phoenix, Ariz.
11	Gateway National Recreation Area (part)	NP	7,138	New York, N.Y.
12	Don Edwards San Francisco Bay National Wildlife Refuge (part)	NWR	6,800	San Jose, Calif.
13	Jefferson Memorial Forest	M	6,013	Louisville, Ky.
14	Eufaula National Wildlife Refuge (part)	NWR	6,000	Eufaula, Ala.
15	Mission Trail	M	5,840	San Diego, Calif.
16	William B. Umstead State Park	S	5,579	Raleigh, N.C.
17	Cecil Field Greenway	M	5,366	Jacksonville, Fla.
18	Ahupua'a O Kahana State Park	S	5,229	Honolulu, Hawaii
19	Forest Park	M	5,157	Portland, Ore.
20	Eagle Creek Park and Golf Course	M	4,766	Indianapolis, Ind.
21	Far North Bicentennial Park	M	4,500	Anchorage, Alaska
22	Griffith Park	M	4,217	Los Angeles, Calif.
23	Fairmount Park - Wissahickon Valley	M	4,167	Philadelphia, Pa.
24	Pumpkin Hill Creek Preserve	S	3,896	Jacksonville, Fla.
25	Walter E. Long Park	M	3,715	Austin, Tex.
26	Bidwell Park	M	3,670	Chico, Calif.
27	Fort Worth Nature Center/Wildlife Refuge	M	3,662	Fort Worth, Tex.
28	Mountain Creek Lake Park	M	3,643	Dallas, Tex.
29	Bays Mountain Park	M	3,585	Kingsport, Tenn.

30	False Cape State Park and Natural Area Preserve	S	3,572	Virginia Beach, Va.
31	Bonita Lakes Park	M	3,462	Meridian, Miss.
32	North Landing River State Natural Area Preserve	S	3,440	Virginia Beach, Va.
33	First Landing State Park	S	3,410	Virginia Beach, Va.
34	Shelby Farms Park	C	3,200	Memphis, Tenn.
35	Trinity River Park	M	3,173	Dallas, Tex.
36	Mohawk Park and Golf Course	M	3,100	Tulsa, Okla.
37	Brecksville Reservation (part)	R	3,026	Brecksville, Ohio
38	Pelham Bay Park	M	2,765	New York, N.Y.
39	Newport News Park (part)	M	2,688	Newport News, Va.
40	Otter Creek Park	M	2,600	Louisville, Ky.
41	Los Penasquitos Canyon	M	2,405	San Diego, Calif.
42	Longview Lake Park (part)	C	2,381	Kansas City, Mo.
43	Blue River Parkway	C	2,319	Kansas City, Mo.
44	Mill Stream Run Reservation (part)	R	2,238	Strongsville, Ohio.
45	Fleming Park (part)	C	2,229	Lee's Summit, Mo.
46	Steele Creek Park	M	2,224	Bristol, Tenn.
47	Bear Creek Pioneers Park	C	2,168	Houston, Tex.
48	Tilden Park	M	2,077	Berkeley, Calif.
49	Percy Warner Park	M	2,058	Nashville, Tenn.
50	Cheyenne Mountain State Park	S	2,040	Colorado Springs, Colo.
51	Sepulveda Basin Recreation Area	M	2,031	Los Angeles, Calif.
52	Galveston Island State Park	S	2,013	Galveston, Tex.
53	Smith and Bybee Wetlands Natural Area	R	1,973	Portland, Ore.
54	White Rock Lake Park	M	1,952	Dallas, Tex.
55	Swope Park	M	1,805	Kansas City, Mo.
56	Torrey Pines State Reserve	S	1,800	San Diego, Calif.
57	Calero County Park	C	1,782	San Jose, Calif.
58	Greenbelt Park	M	1,778	New York, N.Y.
59	Barton Creek Greenway	M	1,771	Austin, Tex.
60	Little Talbot Island State Park	S	1,768	Jacksonville, Fla.
61	Mission Bay Park	M	1,756	San Diego, Calif.
62	Rock Creek Park (part)	NP	1,754	Washington, D.C.
63	Tijuana River Valley Regional Park	C	1,720	San Diego, Calif.
64	Big Talbot Island State Park	S	1,708	Jacksonville, Fla.
65	Adobe Dam Recreation Area	C	1,642	Phoenix, Ariz.
66	Fort Harrison State Park	S	1,640	Lawrence, Ind.
67	Lake Leatherwood Park	M	1,620	Eureka Springs, Ark.
68	Pennypack Park	M	1,618	Philadelphia, Pa.
69	Claremont Hills Wilderness Park	M	1,589	Claremont, Calif.
70	Burns Park	M	1,575	North Little Rock, Ark.
71	Hidden Valley Wildlife Area	R	1,510	Riverside, Calif.
72	Water Works Park	M	1,500	Des Moines, Iowa
73	Beaman Park	M	1,493	Nashville, Tenn.

74	The Presidio	NP	1,491	San Francisco, Calif.
75	Wilderness Park	M	1,472	Lincoln, Neb.
76	Mt. Airy Forest	M	1,471	Cincinnati, Ohio
77	Glenn Cunningham Lake	M	1,439	Omaha, Neb.
78	Hansen Dam Recreation Center	M	1,437	Los Angeles, Calif.
79	Stumpy Lake Park	M	1,435	Virginia Beach, Va.
80	Memorial Park	M	1,431	Houston, Tex.
81	Longview Lake Park (part)	C	1,429	Lee's Summit, Mo.
82	Sycamore Canyon Wilderness Park	M	1,424	Riverside, Calif.
83	Kincaid Park	M	1,411	Anchorage, Alaska
84	Rancho Diana	M	1,392	San Antonio, Tex.
85	Sacred Falls State Park	S	1,374	Honolulu, Hawaii
86	Garden of the Gods Park	M	1,319	Colorado Springs, Colo.
87	City Park	M	1,300	New Orleans, La.
88	Forest Park	M	1,293	St. Louis, Mo.
89	Black Mountain Park	M	1,284	San Diego, Calif.
90	Cherokee Park	M	1,282	Madison, Wis.
91	North Cheyenne Canyon Park	M	1,260	Colorado Springs, Colo.
92	Flushing Meadows/Corona Park	M	1,255	New York, N.Y.
93	Martin Luther King, Jr. Shoreline Park	R	1,220	Oakland, Calif.
94	Lincoln Park	M	1,216	Chicago, Ill.
95	Anacostia Park	NP	1,215	Washington, D.C.
96	Cave Buttes Recreation Area I & II	M	1,200	Phoenix, Ariz.
96	Gwynns Falls/Leakin Park	M	1,200	Baltimore, Md.
98	Liberty State Park	S	1,188	Jersey City, N.J.
99	Thunderbird Conservation Park	M	1,185	Glendale, Ariz.
100	McClay Gardens State Park	S	1,179	Tallahassee, Fla.
101	Three Creeks Parks	M	1,156	Columbus, Ohio.
102	Van Cortlandt Park	M	1,146	New York, N.Y.
103	Red Mountain Park	M	1,144	Mesa, Ariz.
104	Pioneers Park	M	1,139	Lincoln, Neb.
105	T.O. Fuller State Park	S	1,138	Memphis, Tenn.
106	Emma Long Park	M	1,137	Austin, Tex.
107	Rouge Park	M	1,100	Detroit, Mich.
108	Balboa Park	M	1,091	San Diego, Calif.
109	Bedford Reservation (part)	R	1,033	Bedford, Ohio
110	Rochester Park	M	1,032	Dallas, Tex.
111	River Legacy Park	M	1,031	Arlington, Tex.
112	Golden Gate Park	M	1,027	San Francisco, Calif.
113	Olmos Basin	M	1,010	San Antonio, Tex.
114	North Chagrin Reservation (part)	R	1,004	Willoughby Hills, Ohio
115	Stinchcomb Wildlife Refuge	M	988	Oklahoma City, Okla.
116	Richmond Parkway	M	984	New York, N.Y.
117	Belle Isle Park	M	982	Detroit, Mich.

118	Bryan Park	M	980 Greensboro, N.C.
119	Anderson Lake County Park	C	975 San Jose, Calif.
120	Riverfront Park	M	955 Kansas City, Mo.
121	Longview Lake Park (part)	C	952 Grandview, Mo.
122	Koko Head Regional Park	R	951 Honolulu, Hawaii
123	Eisenhower Park	C	930 East Meadow, N.Y.
124	Bedford Reservation (part)	R	924 Walton Hills, Ohio
125	Hubbard Park (part)	M	902 Meriden, Conn.
126	Hubbard Park (part)	M	901 Berlin, Conn.
127	San Diego National Wildlife Refuge Complex	NWR	900 San Diego, Calif.
128	Papago Park	M	895 Phoenix, Ariz.
129	Lake Wheeler Park	M	866 Raleigh, N.C.
130	McAllister Park	M	856 San Antonio, Tex.
131	Reedy Creek Park & Nature Preserve	C	853 Charlotte, N.C.
132	El Dorado Park	M	850 Long Beach, Calif.
133	Delaware Park	M	846 Buffalo, N.Y.
134	Central Park	M	840 New York, N.Y.
135	San Antonio Missions National Historical Park	NP	835 San Antonio, Tex.
136	Scripps Miramar Open Space	M	822 San Diego, Calif.
137	San Jacinto Battleground State Historic Park	S	820 La Porte, Tex.
138	Tierrasanta Open Space	M	818 San Diego, Calif.
139	William T. Davis Wildlife Refuge	M	814 New York, N.Y.
140	Shelby Bottoms	M	810 Nashville, Tenn.
141	Bell's Bend Park	M	809 Nashville, Tenn.
142	Mill Creek Park (part)	M	802 Youngstown, Ohio
143	Oak Point Park	M	801 Plano, Tex.
143	Robert H. Hodge Park	M	801 Kansas City, Mo.
145	Tres Rios	M	800 Phoenix, Ariz.
146	Gerritsen Beach (Marine Park)	M	798 New York, N.Y.
147	Hamilton Creek Park	M	790 Nashville, Tenn.
148	Cobb's Creek Park	M	786 Philadelphia, Pa.
149	Sabre Springs Open Space	M	780 San Diego, Calif.
150	Ka'ena Point State Park	S	779 Honolulu, Hawaii

The Oldest City Parks

These are the 84 oldest U.S. city parks ranked chronologically. In the case of parks which were enlarged later, the date refers to the year of initial creation or acquisition. In the case of parks whose names have changed, the modern name is given. Of course, before the European invasion, there were hundreds of even older plazas, sports fields, ceremonial grounds and food preparation commons in such Native American communities as Cahokia, Cheektowaga, Tathlapotle and Taos Pueblo, but the pre-historical record does not yield dates of their establishment.



Rank	Park Name	City	Year Established
1	Plaza de la Constitución	St. Augustine, Fla.	1573
2	Boston Common	Boston, Mass.	1634
3	New Haven Green	New Haven, Conn.	1641
4	Washington/Marion Squares	Charleston, S.C.	1680
5	Rittenhouse/Washington/Logan/Franklin Squares	Philadelphia, Pa.	1682
6	Salem Common	Salem, Mass.	1685
7	Battery Park	New York, N.Y.	1686
8	Military/Washington Parks	Newark, N.J.	1697
9	Jackson Square	New Orleans, La.	1718
10	San Pedro Springs Park	San Antonio, Tex.	1729
11	Bowling Green	New York, N.Y.	1733
11	Johnson Square	Savannah, Ga.	1733
13	Old Town Plaza	Albuquerque, N.M.	1760
14	El Pueblo	Los Angeles, Calif.	1781
15	National Mall	Washington, D.C.	1790
16	Settlers Landing	Cleveland, Ohio	1796
17	Duane Street Park	New York, N.Y.	1797
18	Village Green Park	Worthington, Ohio	1803
19	Lafayette Square	Washington, D.C.	1804
20	River Common	Wilkes-Barre, Pa.	1807
21	Gravois/Laclede/Mt. Pleasant Parks	St. Louis, Mo.	1812
22	Jackson Place Park	St. Louis, Mo.	1816
23	Auction Park	Memphis, Tenn.	1819
24	Santa Fe Plaza	Santa Fe, N.M.	1821
25	Washington Square	New York, N.Y.	1823
26	Patterson Park	Baltimore, Md.	1827
27	Union Square	New York, N.Y.	1832
28	Tompkins Square Park	New York, N.Y.	1833

29	Cathedral Square Park	Milwaukee, Wis.	1835
29	Van Vorst Park	Jersey City, N.J.	1835
31	Port Richmond Park	Staten Island, N.Y.	1836
32	Grant Park	Chicago, Ill.	1837
33	Lafayette Park	St. Louis, Mo.	1838
34	Daniel Carter Beard Memorial Square	Queens, N.Y.	1841
35	Chapman Park	Portland, Ore.	1843
36	Wyanda Park	Queens, N.Y.	1844
37	Thomas Square	Honolulu, Hawaii	1845
38	Madison Square Park/Reservoir Square (Bryant Park)	New York, N.Y.	1847
38	Portsmouth Square	San Francisco, Calif.	1847
38	Washington Park (Fort Greene Park)	Brooklyn, N.Y.	1847
41	Rice Park	St. Paul, Minn.	1849
41	Sutter Land Grants Park	Sacramento, Calif.	1849
43	Grand Circus Park	Detroit, Mich.	1850
43	Oakland Cemetery	Atlanta, Ga.	1850
43	Orton Park	Madison, Wis.	1850
43	Pantoja Park	San Diego, Calif.	1850
43	Union/Washington Squares	San Francisco, Calif.	1850
48	Goodale Park	Columbus, Ohio	1851
48	Monroe Park	Richmond, Va.	1851
50	Union Park	Chicago, Ill.	1853
51	Artesian Park	Corpus Christi, Tex.	1854
51	Bushnell Park	Hartford, Conn.	1854
51	City Park	New Orleans, La.	1854
51	Elm Park	Worcester, Mass.	1854
55	East Fairmount Park	Philadelphia, Pa.	1855
55	Esther Short Park	Vancouver, Wash.	1855
55	Washington Park	Cincinnati, Ohio	1855
58	Hemming Plaza	Jacksonville, Fla.	1857
58	Murphy Square	Minneapolis, Minn.	1857
60	Central Park	New York, N.Y.	1858
60	San Jacinto Plaza	El Paso, Tex.	1858
62	Druid Hill Park	Baltimore, Md.	1860
63	Miller Park	Lynchburg, Va.	1862
64	Old Fort Park	Fort Wayne, Ind.	1863
65	Pershing Square	Los Angeles, Calif.	1866
66	Allegheny Commons	Pittsburgh, Pa.	1867
66	Buena Vista Park	San Francisco, Calif.	1867
66	Cooper Park	Lincoln, Neb.	1867
66	The Ellipse	Washington, D.C.	1867
70	Balboa Park	San Diego, Calif.	1868
70	DeFremery Park	Oakland, Calif.	1868
70	Farragut/Franklin Squares	Washington, D.C.	1868

70	Prospect Park	Brooklyn, N.Y.	1868
74	Golden Gate Park	San Francisco, Calif.	1870
75	Acadia Park	Colorado Springs, Colo.	1871
75	Lenk's Park	Toledo, Ohio	1871
75	Savage Park	Toledo, Ohio	1871
78	Alum Rock	San Jose, Calif.	1872
78	Belle Isle	Detroit, Mich.	1872
78	Emancipation Park	Houston, Tex.	1872
78	Hanscom Park	Omaha, Neb.	1872
78	Riverside Park	New York, N.Y.	1872
83	Garfield Park	Indianapolis, Ind.	1873
83	Hyde Park	Fort Worth, Tex.	1873

The Most Visited City Parks



Rank	Park	City	Annual Visitorship
1	Central Park	New York, N.Y.	25,000,000
2	Lincoln Park	Chicago, Ill.	20,000,000
3	Mission Bay Park	San Diego, Calif.	16,000,000
4	Balboa Park	San Diego, Calif.	14,000,000
5	Golden Gate Park	San Francisco, Calif.	13,000,000
6	Forest Park	St. Louis, Mo.	12,000,000
6	Griffith Park	Los Angeles, Calif.	12,000,000
8	Coney Island Beach and Boardwalk	New York, N.Y.	10,600,000
9	Fairmount Park	Philadelphia, Pa.	10,000,000
9	The National Mall	Washington, D.C.	10,000,000
11	Cleveland Lakefront State Park	Cleveland, Ohio	8,431,000
12	Prospect Park	New York, N.Y.	8,000,000
13	Fair Park	Dallas, Tex.	5,585,730
14	Liberty State Park	Jersey City, N.J.	5,326,978
15	Hermann Park	Houston, Tex.	5,200,000
16	Chain of Lakes Regional Park	Minneapolis, Minn.	5,115,200
17	City Park	New Orleans, La.	5,000,000
17	Old Sacramento State Park	Sacramento, Calif.	5,000,000
17	The Presidio	San Francisco, Calif.	5,000,000
20	Independence National Historical Park	Philadelphia, Pa.	3,998,309
21	Bryant Park	New York, N.Y.	3,800,000
22	Green Lake Park	Seattle, Wash.	3,650,000
23	Piedmont Park	Atlanta, Ga.	3,500,000
24	White River State Park	Indianapolis, Ind.	3,300,000
25	Memorial Park	Houston, Tex.	3,246,000
26	Centennial Olympic Park	Atlanta, Ga.	3,200,000
27	Battery Park	New York, N.Y.	3,000,000
27	Belle Isle Park	Detroit, Mich.	3,000,000
27	Como Park	St. Paul, Minn.	3,000,000
27	White River Greenway	Indianapolis, Ind.	3,000,000
31	Riverside Park	New York, N.Y.	2,800,000
32	Drew Field	Jacksonville, Fla.	2,500,000
32	Millennium Park	Chicago, Ill.	2,500,000
34	Jefferson National Expansion Memorial	St. Louis, Mo.	2,360,109
35	Rockaway Beach and Boardwalk	New York, N.Y.	2,300,000
36	Lake Harriet Park/Lyndale Park	Minneapolis, Minn.	2,250,000
37	Boston National Historical Park	Boston, Mass.	2,155,026
38	Boston Common	Boston, Mass.	2,000,000
38	City Park	Denver, Colo.	2,000,000
38	Garden of the Gods Park	Colorado Springs, Colo.	2,000,000
38	Lyon Park	St. Louis, Mo.	2,000,000
38	Rock Creek Park	Washington, D.C.	2,000,000
43	Swope Park	Kansas City, Mo.	1,850,000
44	Delaware Park	Buffalo, N.Y.	1,800,000

45	San Antonio Missions National Historical Park	San Antonio, Tex.	1,765,548
46	First Landing State Park	Virginia Beach, Va.	1,762,464
47	Schenley Park and Plaza	Pittsburgh, Pa.	1,750,000
48	Encanto Park	Phoenix, Ariz.	1,500,000
48	Louisville Waterfront Park	Louisville, Ky.	1,500,000
48	Park at Lady Bird Lake	Austin, Tex.	1,500,000
48	Point State Park	Pittsburgh, Pa.	1,500,000
48	Trinity Park	Fort Worth, Tex.	1,500,000
53	Country/Jaycee Park	Greensboro, N.C.	1,444,286
54	Timucuan Ecological & Historic Preserve	Jacksonville, Fla.	1,318,872
55	Balloon Fiesta Park	Albuquerque, N.M.	1,300,000
56	Chugach State Park	Anchorage, Alaska	1,200,000
56	Monon Greenway	Indianapolis, Ind.	1,200,000
58	The Esplanade	Boston, Mass.	1,100,000
59	Centennial Park	Santa Ana, Calif.	1,040,000
60	Burke-Gilman Trail	Seattle, Wash.	1,000,000
60	Bushnell Park	Hartford, Conn.	1,000,000
60	Centennial Park	Nashville, Tenn.	1,000,000
60	Longview Lake Park	Kansas City, Mo.	1,000,000
60	Myriad Gardens	Oklahoma City, Okla.	1,000,000
60	Overton Park	Memphis, Tenn.	1,000,000
60	San Antonio Riverwalk	San Antonio, Tex.	1,000,000
60	Tower Grove Park	St. Louis, Mo.	1,000,000
68	Nu'uuanu Pali State Wayside	Honolulu, Hawaii	905,300
69	T.O. Fuller State Park	Memphis, Tenn.	856,338
70	McCormick-Stillman Park	Scottsdale, Ariz.	850,000
71	Cabrillo National Monument	San Diego, Calif.	822,447
72	Park Road Park	Charlotte, N.C.	815,980
73	Audubon Park	New Orleans, La.	770,000
74	Al Lopez (Horizon) Park	Tampa, Fla.	750,000
74	Franke Park	Fort Wayne, Ind.	750,000
74	Martin Luther King, Jr. National Historic Site	Atlanta, Ga.	750,000
77	Mount Trashmore Park	Virginia Beach, Va.	715,005
78	Land Park	Sacramento, Calif.	709,597
79	Randall's Island	New York, N.Y.	700,000
80	Fort McHenry National Monument	Baltimore, Md.	660,589
81	Eagle Creek Park	Indianapolis, Ind.	635,206
82	Diamond Head State Monument	Honolulu, Hawaii	634,300
83	El Dorado Park	Long Beach, Calif.	625,000
84	Ottawa Park	Toledo, Ohio	600,000
84	Woodward Park	Fresno, Calif.	600,000
86	William B. Umstead State Park	Raleigh, N.C.	595,424
87	Lewis and Clark Landing	Omaha, Neb.	587,399
88	Hermann Square	Houston, Tex.	584,000
89	William W. Powers State Recreation Area	Chicago, Ill.	575,000
90	Fairmount Park	Riverside, Calif.	552,500
91	Pioneers Park	Lincoln, Neb.	550,000
92	Pullen Park	Raleigh, N.C.	540,000
93	Tranquility Park	Houston, Tex.	517,000
94	Cherokee Park	Louisville, Ky.	500,000

94	Meridian Hill Park	Washington, D.C.	500,000
94	Mohawk Park	Tulsa, Okla.	500,000
94	Riverside Park - Central	Wichita, Kan.	500,000
94	Seneca Park	Louisville, Ky.	500,000
94	Shelby Farms Park	Memphis, Tenn.	500,000
94	Warner Park	Madison, Wis.	500,000
101	Sawyer Point	Cincinnati, Ohio	441,837
102	Adobe Dam Recreation Area	Phoenix, Ariz.	438,310
103	Bayfront Park	Miami, Fla.	433,362
104	Town Square	Anchorage, Alaska	425,000

EXHIBIT 65

June 2009

BACKGROUND

Parks and Recreation in the United States

Local Park Systems

Margaret Walls

1616 P St. NW
Washington, DC 20036
202-328-5000 www.rff.org



Parks and Recreation in the United States: Local Park Systems

Margaret Walls*

Introduction

The United States has 53 national parks and over 6,600 state park sites, but many outdoor pursuits often begin at the playground around the corner, the nature center down the road, or the sports fields at a nearby recreation area. These close-to-home parks and open spaces are a critical component of the U.S. recreation estate. Characterizing and describing these resources is difficult, however, given the wide variety of parks provided in individual communities and the lack of a central organization or government agency responsible for collecting and managing data on local parks. In this background, we show some of the available information. We analyze park acreage and facilities for a set of cities, show trends in local government spending on parks and recreation services, and describe results from a survey we conducted of local park directors identifying current challenges they face and popularity trends in their parks.

A Brief History

Parks have played an important and ever-changing role in American urban life. The Boston Common, designated as a public open space in 1634, is considered the nation's first city park. A total of 16 parks were created before 1800, including the National Mall in Washington, DC, in 1790 (Trust for Public Land 2008).

From the mid to late 1800s, the urban park vision centered on providing natural settings in an urban environment, or so-called "pleasure gardens." The parks designed by noted landscape architect Frederick Law Olmsted epitomized this vision. Olmsted's view was that parks should provide a natural, somewhat pastoral environment where city residents could escape the hustle and bustle of city life. Olmsted parks such as Central Park in New York City,

* Senior Fellow, Resources for the Future. I appreciate the excellent research assistance of Jeff Ferris and the helpful comments of Peter Harnik, Ben Welle, and Colleen Gentles of the Trust for Public Land, Catherine Nagel of the City Parks Alliance, and Joe Wynns, former Director of the Indianapolis Department of Parks and Recreation. The National Recreation and Park Association and the City Parks Alliance assisted with the RFF survey of urban park directors. This background is one in a series for the Outdoor Resources Review Group (see www.rff.org/orrg).

Resources for the Future**Walls**

Washington and Jackson Parks in Chicago (originally a single park known as South Park), and Prospect Park in Brooklyn were all created in the late 1800s.¹

Beginning in the early 1900s, the vision for urban parks began to change. According to Cranz (2000), the Progressive movement of the time included a demand for “reform parks” that provided recreation opportunities, particularly for children, in close-to-home neighborhood parks. Thus was born the notion of the playground. The recreation concept expanded to include swimming pools, ball fields, and indoor facilities in the early and middle part of the 20th century. But after World War II, interest in city parks waned. The move to the suburbs, where everyone would have a yard of their own, was thought to make the notion of public parkland rather obsolete (Harnik 2006). Many urban parks declined. According to Harnik (2006), city parks did not begin to experience a revival until about the 1990s, when the center city populations of many urban areas began to grow.

City Parks Today

A comprehensive national dataset on local park acreage, facilities, and characteristics does not exist. However, the Trust for Public Land’s Center for City Park Excellence (CCPE) collects information each year on parks in 75 cities.² We present some summary information and distributional findings from those data. National data on park usership are sorely lacking. Many cities conduct periodic surveys or measure use at particular facilities, but comprehensive data, systematically collected across a range of cities, are unavailable. We report here on findings from a Resources for the Future Survey of Urban Park Directors conducted in the fall of 2008, in which we asked park directors about perceived popularity trends of various activities in their parks. We also present some information from individual cities that have conducted surveys, and we show some statistics collected by the CCPE on use of the largest city parks.

City Parks Today: Acreage and Facilities

The 75 cities in the CCPE sample average approximately 18,000 acres of parkland within their borders. Acreage varies widely, however, from only 330 acres in Santa Ana, California to nearly 104,000 in Jacksonville, Florida, and well over 500,000 in Anchorage, Alaska. Figure 1

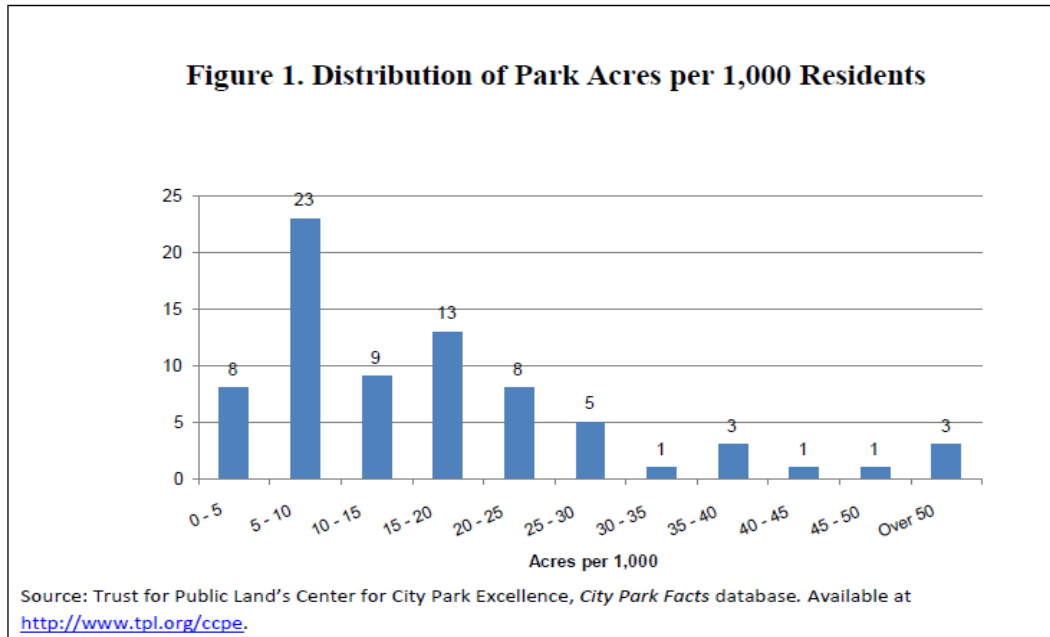
¹ For more information on the Olmsted legacy, visit the National Association of Olmsted Parks website at <http://www.olmsted.org/>.

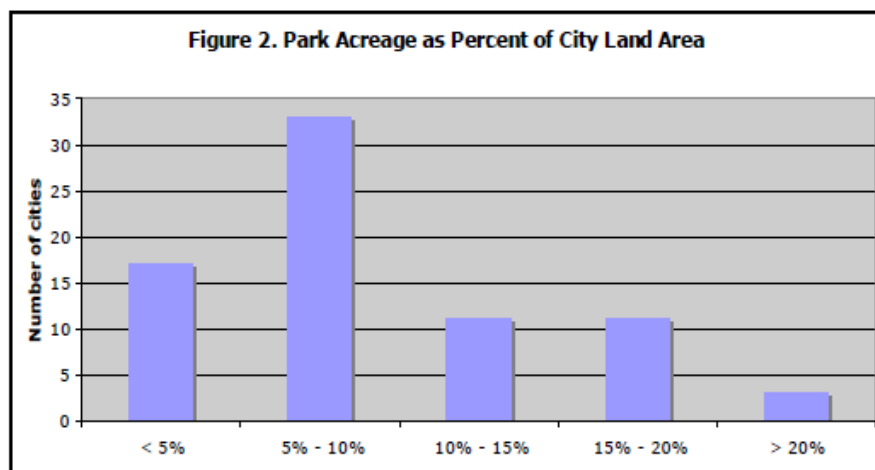
² For more information on the Center for City Park Excellence, see <http://www.tpl.org/ccpe>.

Resources for the Future

Walls

shows the distribution of park acres per 1,000 city residents and Figure 2 shows the distribution as a percentage of city land area. Most cities in the sample have between 5 and 10 acres per 1,000 people, but some provide much more than that, as Figure 1 makes clear. The three cities with more than 50 acres per 1,000 people are Anchorage, Jacksonville, and Albuquerque. The average across all 75 cities in the sample is 41 acres per 1,000 people. Parks make up just less than 10 percent of the total land area of an average city. Again, there is some variation across cities, as shown in Figure 2, though less than for acres per person. Most cities—32 out of the 75 in the sample—lie in the 5 percent to 10 percent range and only 3 cities have more than 20 percent—Anchorage, Albuquerque, and San Diego, with 40 percent, 30 percent, and 22 percent, respectively. The lowest percentage is Honolulu, with 1.6 percent.





Source: Trust for Public Land's Center for City Park Excellence, *City Park Facts* database. Available at <http://www.tpl.org/ccpe>.

For illustrative purposes, we show in Table 1 two cities that have approximately equal populations. Philadelphia has only about half the park acreage of San Antonio, on both a total and per resident basis. But, as a percentage of the land area of the city, Philadelphia has much more than San Antonio. Philadelphia also has more park units—301 versus 213 in San Antonio. What does this mean for city residents? Philadelphia residents are likely to live closer to a park than residents of San Antonio, but they have to share that park with more people. In addition, that park is likely to be smaller, as average park size is much smaller in Philadelphia than San Antonio.

Table 1. Park Acres, Number of Units, and Population for Selected Cities in 2007

	<i>Philadelphia</i>	<i>San Antonio</i>
Population	1.45 million	1.30 million
Park Acres	10,937	20,753
Number of Park Units	301	213
Acres/1,000 Resident	7.6	16.0
Acres/Park Unit	36.3	97.4
Acres as % of Land Area	12.7%	8.0%

Source: Trust for Public Land's Center for City Park Excellence, *City Park Facts* database. Available at <http://www.tpl.org/ccpe>.

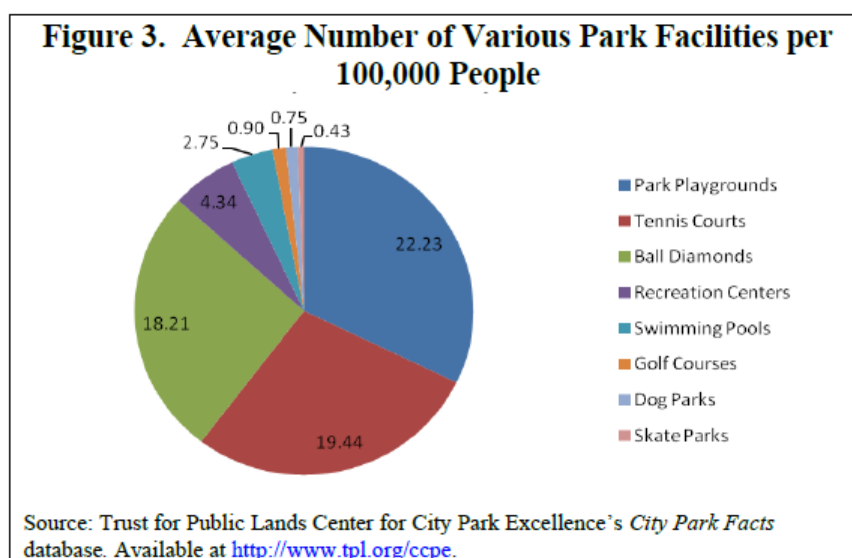
Of course, this is a simplistic characterization; spatially detailed and disaggregated data on parks and population would allow for a more careful analysis. With advances in geographic information system (GIS) technology, many local governments now collect such information but neither the CCPE nor any other organization or government agency keeps a consistent dataset of

Resources for the Future

Walls

this type across cities.³ In order to fully address the adequacy of park resources across communities, analysis of GIS data is essential. Such data would allow for an assessment of park locations relative to population in cities, with analysis of various socioeconomic and demographic characteristics of that population, as well as analysis of the types of parks and recreation facilities provided.

Figure 3 shows some information on facilities that the CCPE collects in its survey. It summarizes the average number of each of eight different types of facilities per 100,000 residents. Not surprisingly perhaps, playgrounds are the most popular kind of facility in city parks, followed closely by tennis courts and ball diamonds.⁴ The facilities that are more costly to build and operate—recreation centers, swimming pools, and golf courses—are less common. And the facilities that have become more popular in recent years, such as skate parks and dog parks, are far fewer in number.



In addition to these facilities and developed areas, most cities provide nature-based parks with trails and undeveloped lands. The CCPE asks park directors in its survey how much of their

³ More progress has been made in California than anywhere else. The California Protected Areas Database, a GIS inventory of all protected open space in the state developed by GreenInfo Network, includes urban parks. See <http://www.calands.org/home.php> for more information.

⁴ The large number of ball diamonds reported suggests that the number may include other types of ball fields as well as baseball and softball diamonds. Welle (2009) admits that the CCPE survey has struggled with accurately measuring specific types of fields as most fields in busy urban areas are used for multiple activities.

Resources for the Future**Walls**

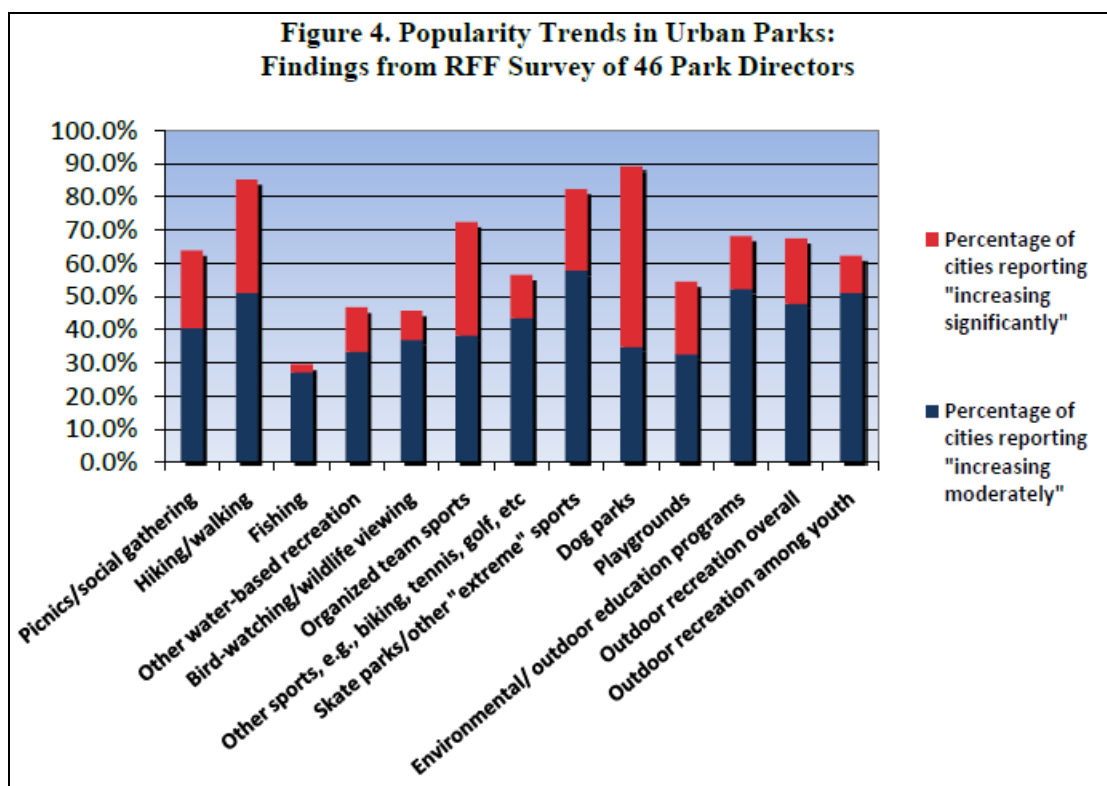
acreage is “natural” and how much “developed.” Natural acreage as a percentage of total park acreage averages 33 percent across all of the cities. However, several cities—mostly in the West—have significantly more acreage in a natural state. Natural acreage accounts for more than 70 percent of total park acreage in Anchorage, San Diego, Phoenix, Bakersfield, and Albuquerque; Albuquerque’s is as high as 92 percent.⁵

City Parks Today: Use and Popularity Trends

The RFF survey, conducted in the fall of 2008, asked urban park directors a range of questions about their budgets, funding sources, challenges they are facing, and also their opinions about whether various activities that take place in their parks were “declining significantly,” “declining moderately,” “about constant,” “increasing moderately,” or “increasing significantly.”⁶ The activities listed ranged from picnics to hiking to organized team sports. They also included “outdoor recreation overall” and “outdoor recreation among youth.” Figure 4 shows the percentage of respondents who reported “increasing moderately” or “increasing significantly” to each of the 13 activities on the survey.

⁵ Natural areas are defined by the CCPE as either pristine or reclaimed lands left undisturbed and managed for conservation. They may have trails and occasional benches, but they are not developed for recreation beyond walking, running, and bicycling. Designed areas have been created, constructed, planted, and managed primarily for human use (Welle 2009).

⁶ For the survey and a summary of findings, see Walls et al. (2009a). A similar survey of state park directors was also conducted (see Walls et al. 2009b).



Some interesting findings show up in the figure. First, most of the listed activities are reported to be increasing in most cities. For example, about 85 percent of the directors reported that the popularity of hiking and walking is increasing either moderately or significantly in their cities. Over 80 percent of the directors reported skate parks are increasing in popularity. And dog parks are increasing in popularity in nearly 90 percent of the cities. Although the CCPE data show (see Figure 5 above) that there are very few of these latter two facilities in most cities, there are indications that interest in them is on the rise. Outdoor recreation overall and outdoor recreation among youth are also reportedly increasing. The latter finding is interesting for two reasons. First, concern over declining youth participation in nature-based activities has been expressed in many recent studies and is a focus of both media attention and new private and public sector programs (Pergams and Zaradic 2008; Kareiva 2008; Louv 2005). Second, in a similar study of state park directors, 46 percent of respondents reported youth outdoor recreation as declining (see Walls 2009 and Walls et al. 2009b).⁷

⁷ The National Survey on Recreation and the Environment, an ongoing national survey of recreation participation conducted by the U.S. Forest Service, has recently added a youth survey and some initial findings are available in Cordell and Betz (2009) and Cordell, Betz, and Green (2009).

Resources for the Future**Walls**

The RFF survey asked park directors whether they collected park visitor and use statistics. Although 26 out of 46 reported that they did, the information collected varies widely across cities. Most park directors reported collecting use information only at facilities and sites that charge fees or for park programs that require payment. Some collect information periodically—say, every five years—for community master plans. Some have counted, or measured, visitors in some way but do not appear to collect demographic or other information that would permit analysis of the data.⁸ The CCPE estimates usership for the 75 most-visited city parks. In 2006, these parks had 289 million visitors. To put this number into perspective, the national park system, with 391 individual sites on 84 million acres of land, had 276 million visitors in 2007. State parks, with 6,600 sites and 14 million acres, had 730 million (Walls 2009a).

Funding of Local Parks: Park Budgets

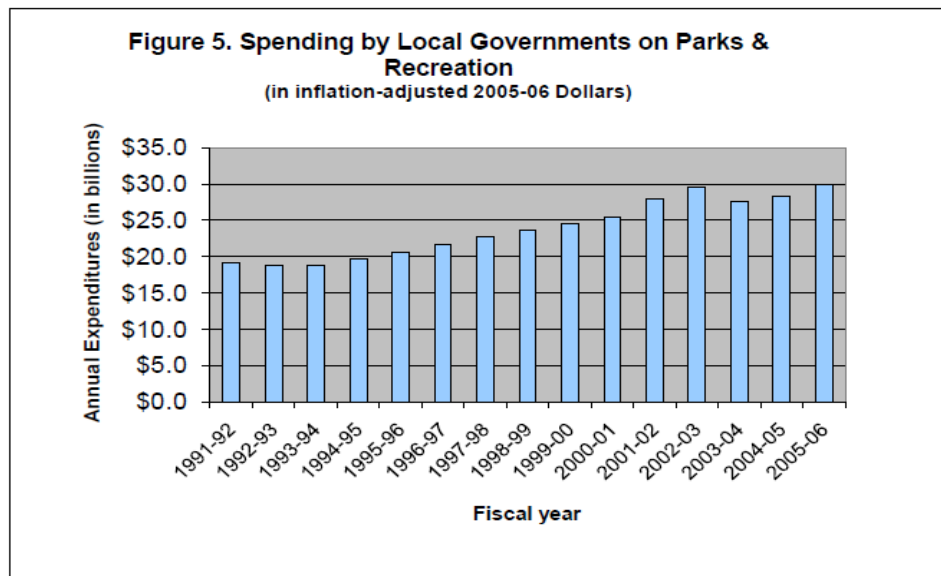
Local governments spent just under \$30 billion on parks and recreation in FY2005–06. As Figure 5 makes clear, spending has risen over time. The figure shows U.S. Census Bureau data on annual spending, in inflation-adjusted dollars, from FY1991–92 through FY2005–06.⁹ Over that 15-year period, total local parks and recreation spending rose 56 percent. Population over that same period rose by only 17 percent, thus communities have been spending more money per person on parks since the early 1990s. They also, however, have been spending more money on everything. Figure 6 shows local spending on parks and recreation as a percentage of all local government spending. Although there have been slight ups and downs from year to year, the changes are quite small—parks spending has stayed roughly constant at about 2 percent of total spending over the 15 years covered by the Census data.

⁸ To highlight the issues, we note that San Diego reported total annual visits to all of the city's parks and recreation areas of 54.8 million, while Chicago reported 3 million and Virginia Beach 3.7 million. It seems unlikely that San Diego has 18 times more park visitors than Chicago. See Harnik and Kimball (2005) for more on the topic of measuring urban park use.

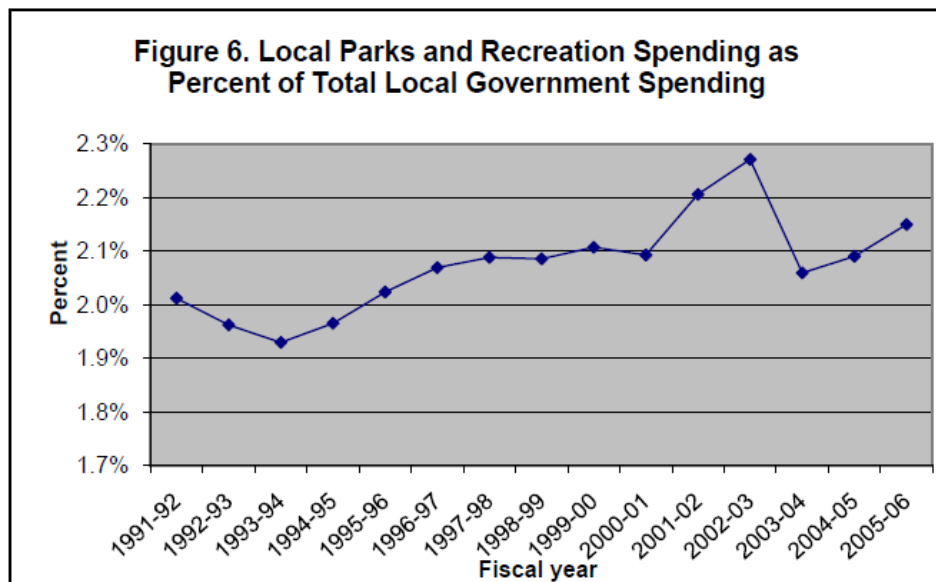
⁹ The annual Census data are not based on a complete census of all units of government; the Census estimates total spending based on sampling numbers, so there is some sampling error involved. The full census is conducted every five years; the most recent data available is from 2002. In that year, there were 38,976 general purpose local governments—3,043 counties, 19,429 municipalities, and 16,504 townships—ranging greatly in size of population served. See U.S. Census Bureau (2005).

Resources for the Future

Walls



Source: U.S. Census Bureau. *State and Local Government Finances*. Various years. Available at <http://www.census.gov/govs/www/estimate.html>.



Source: U.S. Census Bureau. *State and Local Government Finances*. Various years. Available at <http://www.census.gov/govs/www/estimate.html>

The Census data is the only consistent data over a long period of time on local government spending. It is comprehensive and thus provides a good estimate of total spending across all communities. However, it includes municipalities as small as 67 people, along with

Resources for the Future**Walls**

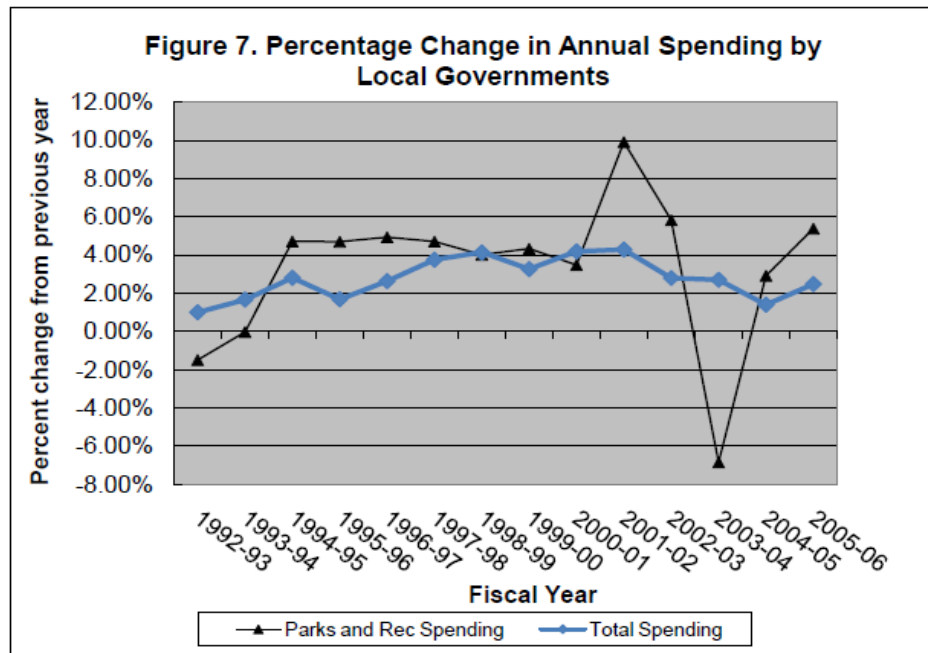
Los Angeles County, which has a population of nearly 7 million. Information on a smaller but more uniform set of larger communities is available from the CCPE. In 2006, spending by 75 cities, home to nearly 55 million people, totaled approximately \$5 billion. On a per capita basis, these cities spent an average of \$91 per city resident. Information collected in the 2008 RFF survey of local park directors provides estimates that lie in a similar range. The cities and counties that responded to the survey—mainly urban and suburban communities—spent a total of \$3 billion in FY2008. These cities serve approximately 32 million people and range in size from New York City, with 8.3 million people, down to Brookline, Massachusetts (a Boston suburb), with 58,700. Average spending for communities in the RFF survey was \$106 per person, quite close to the average from the CCPE data.

Money for local park operations comes from the general fund in most communities. The RFF survey showed that, on average, 76 percent of park operating budgets comes from the general fund. Four respondents to the survey reported that 100 percent of their funding comes from the general fund. Only 15 percent, on average, comes from user fees such as park entrance fees or passes. This contrasts with state parks, which cover 42 percent of their operating budgets, on average, with revenues from user fees (Walls 2009).

This reliance on general funds and the perception that sometimes exists that parks and recreation services are less essential than some other local government services often means that parks get hit hard in times of recession and budgetary shortfalls. Figure 7 shows the annual percentage change in local government spending in total and on parks and recreation—that is, the increase or decrease from the previous year's spending. In the wake of the 2002 to 2003 recession, local park spending dropped more sharply than overall spending.¹⁰ The current recession, in 2008 and 2009, has led many cities to cut parks budgets. In Indianapolis, the Parks Department faced a larger cut in its FY2009 budget than any other department; in fact, the city actually increased spending in some other areas, such as police and fire departments and road work (O'Shaughnessy 2008). Several cities have reported changes in plans for land acquisitions and new parks. In Florida, proposed cuts in state funding halted new park plans in Sarasota; similarly, in the Bronx, plans to convert a vacant lot into a neighborhood park were dropped (see Sword 2009; Potkewitz 2008). Several respondents to the RFF urban park director survey in the

¹⁰ Although the drop in park budgets was steep, because those budgets are a relatively small percentage of total local spending, the decline is not as noticeable in Figure 8.

fall of 2008 reported recent sharp declines in budgets for the current year and expectations of future drops due to the poor economic climate.



Source: U.S. Census Bureau. *State and Local Government Finances*. Various years. Available at <http://www.census.gov/govs/www/estimate.html>.

Funding of Local Parks: The Role of Nonprofit Organizations.

In recent years, city parks have come to rely more heavily on the nonprofit community and volunteers as a way to leverage often limited local government finances, introduce new and innovative programs, and invest in park infrastructure. These organizations range from small “friends of the park” groups, which sometimes only work with individual parks, to large park conservancies and foundations that operate across a park system. The City Park Foundation in New York City has an annual operating budget of \$10 million and works across 1,800 parks in the city. Its mission is focused on provision of educational and other programs in the parks. The Olmsted Parks Conservancy in Louisville, Kentucky, which is home to the last park system designed by Frederick Law Olmsted, focuses on park restoration. It has raised \$25 million since 1990. Seattle Parks Foundation also focuses on restoration, along with expanding park acreage and facilities. Since 2001, it has raised \$28 million. While the efforts of these organizations are important and may even be essential to provision of quality park services, it is important to put

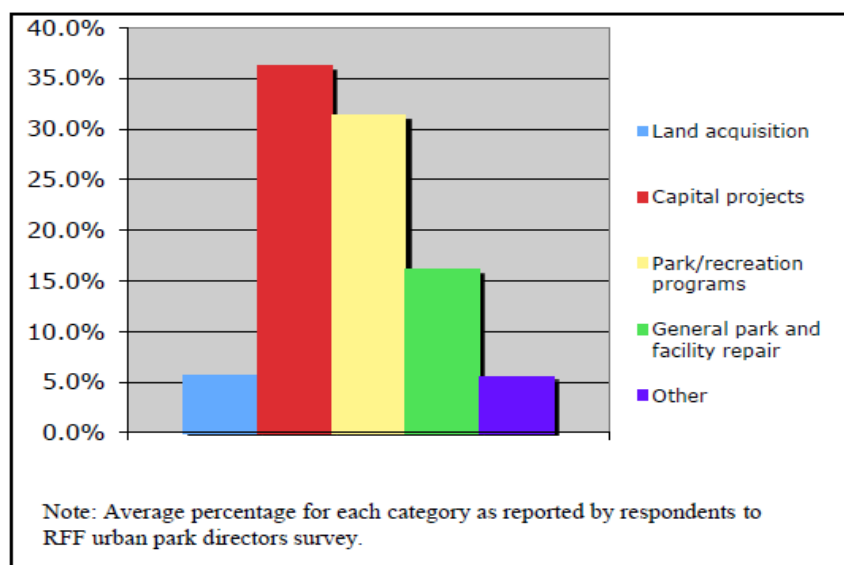
Resources for the Future

Walls

their budgets into perspective. As one example, the Seattle Parks Department’s FY2008 budget was \$125 million.¹¹

The RFF survey asked local park directors how much money was generated for their park systems by park foundations, conservancies, friends groups, or other private donors (wills, gifts, special fundraisers) in the most recent fiscal year. For the 44 directors who responded to this question, a total of \$143 million was reported. More than half of that came from New York City alone, but eight cities reported between \$2 million and \$12 million and only five reported zero. The survey asked local park directors what percentage of the funds raised from this sector went for capital projects, park programs, general park and facility repair, land acquisitions, and other activities. The findings are shown in Figure 8. The figure makes clear that most of these groups spend their time and money on capital projects and on park programs. In general, routine operations and maintenance are not covered by these support groups.¹²

Figure 8. Use of Funds Raised through Local Park Conservancies, Foundations, and “Friends” Groups



¹¹ Seattle participated in the RFF Survey and reported this figure. The 2007 operating budget was \$117 million and is available on the department’s website at <http://www.seattle.gov/parks/quickfacts.htm>. The foundation’s spending figure is available at <http://www.seattleparksfoundation.org/aboutUs.html> and the Olmsted Park Conservancy information is available at <http://www.olmstedparks.org/conservancy/>.

¹² According to Nagel (2009), one of the most important activities these groups undertake is lobbying and advocacy to ensure continued public funding. She points out the California State Parks Foundation and the Philadelphia Parks Alliance as two successful organizations in this regard.

Resources for the Future**Walls**

It is not clear what the full implications of the conservancy movement are for park financing and operations, or how it will evolve in the future. Local governments may come to rely on these organizations to provide more and more park resources in a community and cut back government funding as a result. This can be problematic. One issue is funding stability: since these nongovernmental organizations have no taxing authority and typically rely on donations, there is a great deal of uncertainty in their funding streams. Moreover, citizens have a tendency to free ride, presenting a classic “public good” problem, whereby people enjoy the benefits without paying the costs. Another problem can arise in communities that have friends groups for individual parks. A community of “haves” and “have-nots” might arise, with parks in wealthier areas better funded than those in poorer neighborhoods. Clearly, good coordination and cooperation between local government agencies and their nonprofit partners is essential. Further study of these relationships and development of models for best practices going forward would be worthwhile.

Funding of Local Parks: State Programs

Local parks have also received a boost in some states in recent years from new state government funding programs. Three of the states that do the most in this regard are Colorado, Florida, and California.

Colorado’s Great Outdoors Colorado, or GOCO, program receives a fixed percentage of lottery revenues each year. An independent GOCO board allocates the money to four broad areas: wildlife habitat, state parks, open space, and local parks and recreation areas. Local governments can apply for open space grants and for funding for park projects through a matching grant program. In FY2008, GOCO’s budget was \$53.1 million. In addition, the Conservation Trust Fund, also financed by lottery proceeds, distributes money on a per capita basis to local governments. The Conservation Trust Fund had a budget of \$48.9 million in FY08. The Florida Forever program, which receives \$300 million annually from bonds backed by a document stamp tax, also provides matching grants to local government. The Florida Communities Trust’s Parks and Open Space grant program receives 60 percent of the Florida Forever funds each year. In California, five propositions have been approved by voters since 2000, providing a total of \$10.2 billion for a range of conservation, open space, and parks investments, including local parks. In 2008, the California state legislature passed the Park Development and Community Revitalization Act, which will provide \$400 million in grants for local park development in communities that are underserved—that is, have less than three acres of usable parkland per 1,000 residents—and that have a significant percentage of the population

living below the poverty line.¹³ While several other states have programs similar to California, Colorado, and Florida, most are not as well-funded as these three.

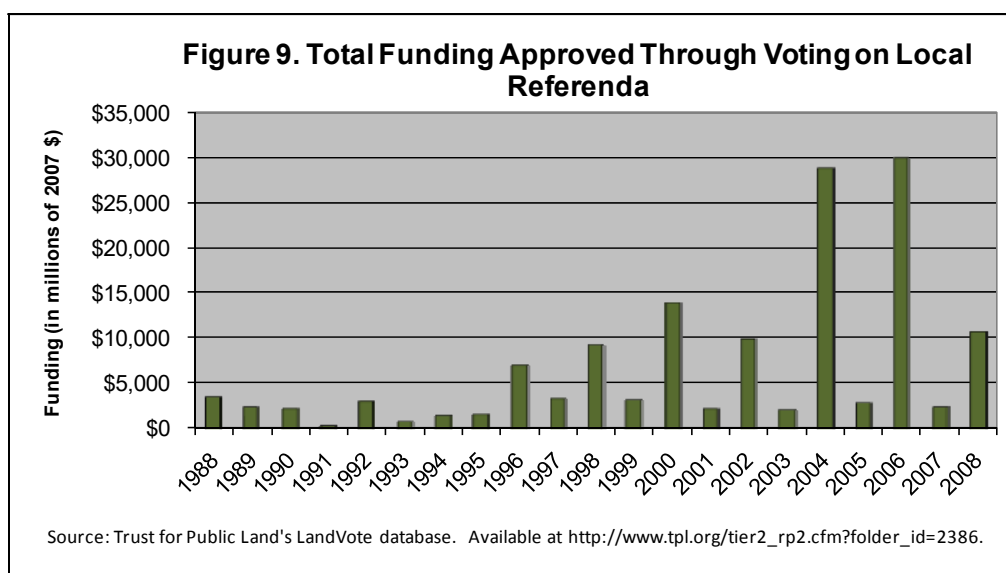
Funding of Local Parks: Local Referenda

Since the late 1980s, local ballot initiatives have become an increasingly popular way to raise money for open space. These referenda ask voters to approve a bond or tax measure to finance various kinds of open space and conservation programs. Between 1988 and 2008, approximately 76 percent of the referenda placed on ballots have passed (Trust for Public Land 2009). Figure 9 shows the dollars approved in ballot initiatives nationwide since 1988, in inflation-adjusted 2007 dollars. At the peak year, 2006, nearly \$30 billion was raised for open space, conservation, and recreation.

A closer look at the data reveals some interesting facts. While referenda are popular in some states, 17 states have passed fewer than three measures in 20 years, and 7 states have never passed a referendum at all. In fact, a handful of states are constitutionally barred from taking such measures to the voters. Massachusetts and New Jersey account for one-third of all measures that have passed. These states have innovative state matching grant programs—the Community Preservation Fund in Massachusetts and the Garden State Preservation Trust in New Jersey, which operates the Green Acres program (a farmland preservation program) and a historic preservation program. These programs provide matching state funds for money that local communities raise themselves through referenda, thus providing a strong incentive for communities to put measures on the ballots. California by itself accounts for one-half of all funds that have been approved over the 1998 to 2008 period. And finally, nearly a quarter of the ballot initiatives passed between 2000 and 2004 targeted farmland preservation. In other words, not all of these dollars raised—in fact not many of the dollars raised—are going to city parks.¹⁴

¹³ See California State Assembly Bill No. 31 at http://www.parks.ca.gov/pages/1008/files/ab_31_bill_9-2008_chaptered.pdf. Interestingly, analysis to identify underserved communities was facilitated by the mapping of urban parks and open space that has been done in the state; see discussion above on page 4 and footnote 4.

¹⁴ See Szabo (2007) for more detailed analysis of types of lands conserved and other issues. Some studies by economists in recent years have used the LandVote data to econometrically analyze the factors that explain both a measure being placed on a ballot and the likelihood that it passes. See, for example, Banzhaf et al. (2007), Sundberg (2006), and Kotchen and Powers (2007).



Funding of Local Parks: The Declining Federal Government Role

These state programs and ballot initiatives passed by voters have stepped in to fill a void left by declining federal funds. The Land and Water Conservation Fund (LWCF) Act, passed in 1965, provided funding for land acquisition for the federal government, mainly the National Park Service, and for a state matching grant program. The states are required to share funding with localities. Between 1965 and 1981, congressional appropriations for the stateside LWCF program averaged, in inflation-adjusted 2007 dollars, \$626 million per year. Between 1982 and 2007, however, the program averaged less than one-tenth that amount, \$61.9 million per year (Walls 2009). In FY2008, stateside LWCF appropriations were only \$23 million. The Urban Park and Recreation Recovery (UPARR) program, passed in 1978, provided funding to communities to repair and replace deteriorating facilities. During its first six years of operation, UPARR spent \$467 million (in 2007 dollars). However, the program declined sharply thereafter; funding dropped to zero in several years in the 1990s and the program was disbanded in 2002. Today, the Community Development Block Grant (CDBG) program, administered by the Department of Housing and Urban Development, provides some limited funds for parks and recreation with spending targeted especially to communities in need. In FY08, appropriations were \$93 million, which amounted to approximately two percent of total CDBG spending (U.S. Department of Housing and Urban Development 2009). Annual parks and recreation funding in the CDBG program has remained roughly constant since 2001.

Resources for the Future**Walls**

Although LWCF and UPARR have declined in importance and the CDBG program is limited, the federal government continues to spend significant amounts of money on a range of land conservation programs—in FY2008, approximately \$6.5 billion was spent on 32 separate programs. Of those, 23 were introduced in the 1990s and 2000s. However, almost none of the programs have a recreation focus and most do not provide funding directly to local communities.¹⁵ The Farm Bill programs such as the Conservation and Wetlands Reserve Programs and the Farmland Protection Program accounted for approximately \$4 billion of the \$6.5 billion in FY08.

Current Challenges in Urban Park Systems

The RFF survey asked local park directors about the current challenges they face. On a scale of 1 to 5, the survey asked directors to state whether each of a set of 12 specific challenges was “not a challenge,” “a minor challenge,” “a significant challenge,” “a major challenge,” or a “huge issue.” The challenges listed included both funding problems and issues associated with park use. The survey also asked directors to identify the single biggest challenge among the options on the list.

Figure 10 summarizes the responses by showing the percentage of park directors who reported each of the 12 issues as “major challenges” or “huge issues.” The specific categories of challenges are listed in the graph legend. Having adequate funding for operations and maintenance was a clear concern expressed in the survey responses. Fully 65 percent of respondents listed this as a “major challenge” or “huge issue” and 50 percent listed it as their single biggest challenge. Funding for capital expenditures and construction of new facilities was also important: 52 percent listed this issue as a “major challenge” or “huge issue.” In written responses on the questionnaire, several directors mentioned the problem of “deferred maintenance” and costs associated with replacement of aging infrastructure. Funding for park programs was also cited as important. Although the graph makes clear that funding concerns loom large, for some cities, it is clear that other issues are front and center. For example, those cities that reported lack of acreage or suitable sites for new parks emphasized the severity of the

¹⁵ The exceptions are the CDBG program, the Department of Transportation’s Recreational Trails program, and some parts of the Transportation Enhancements program (Maher 2009). Funding for federal programs compiled by RFF; details from the author upon request.

Resources for the Future**Walls**

problems they face with a highly developed land base and expensive properties. For public safety, some communities mentioned problems with gangs as a serious concern.

Notable from the graph is the fact that almost no city park directors reported inadequate use of their parks and facilities. This is consistent with their responses to the “popularity trends” questions that we asked and reported on above and confirms discussions we had with many directors about the heavy use of many parks and recreation areas.

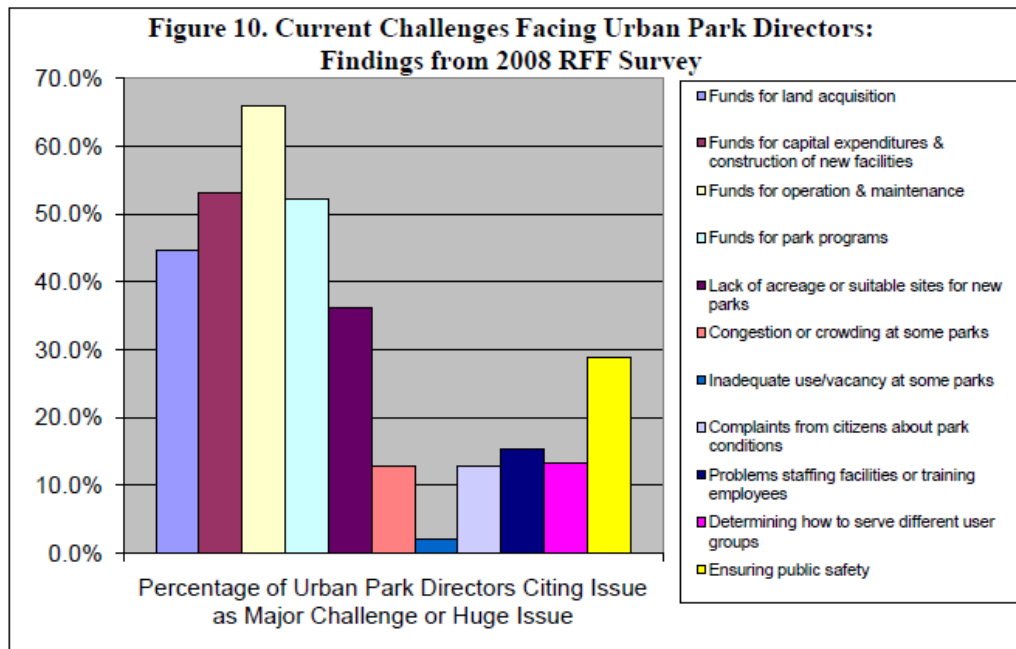
Conclusions

In this backgrounder, I have summarized available information on local park and recreation resources, reported on trends in local park funding and sources of funding, and described results of an RFF survey of urban park directors about popularity trends in their parks and challenges that they currently face.

Data from the Trust for Public Land’s Center for City Park Excellence on 75 large to mid-sized cities show that the number of parks, types of facilities, and park acreage vary across cities. However, national data with spatial and other detail on local parks and open space are sorely lacking. In addition, park usership data at the national level are nonexistent. Some local park systems gather data of various kinds to measure use but these data are often limited in scope and are not comparable across cities. Park directors report increasing popularity of many parks and recreation areas in their communities and discussions with park directors suggest that use is high, but without good data it is hard to know whether the supply is meeting demand, what characteristics of park resources are most valued, and what gaps need filling. With advances in GIS technology, spatially detailed data could be available but local datasets need to be developed to take advantage of the technology.

Resources for the Future

Walls



Spending by local governments on parks and recreation has risen in real terms since 1991. Nonetheless, our survey of park directors showed that adequate funding for operations and maintenance, park programs, capital expenditures, and land acquisition are significant challenges. Nonprofit park conservancies and other support groups are filling many gaps and reliance on volunteers is growing. However, further study of these trends is needed to take inventory of what is happening in communities, identify gaps, and document best practices.

Local governments have also raised money by going directly to voters. Since the 1980s, there has been a sharp rise in the number of local referenda directed toward conservation, recreation, and open space. On average, these referenda are adopted about 75 percent of the time. The extent to which these referenda benefit local parks is not clear, however. Many of the programs target farmland preservation.

Finally, a number of innovative state programs have been adopted since the 1980s. Some states do more than others but the most active raise substantial amounts of money, a portion of which is usually shared with local governments.

This rise in state and local spending may be due to the sharp decline in federal government contributions since the late 1970s. The Land and Water Conservation Fund, which provides grants to states and local communities, has diminished in size and importance. Whether the financial resources now provided by state, local, and private nonprofit groups are adequate to support the needs of communities is unclear. Recent evidence suggests that close-to-home

Resources for the Future

Walls

recreation opportunities are growing in importance relative to more distant locations. Americans have more leisure time than in the 1980s, but that leisure time comes in smaller increments rather than large blocks (Godbey 2009). This makes it important for people to be able to get outdoors quickly and engage in activities that take less time. Local parks, open space, trails, and recreation areas help to meet this need. And because 80 percent of the U.S. population resides in urban areas, the local parks that seem to be most critical are those in cities and suburbs. Policymakers would benefit from a better understanding of the resources available and the needs across communities.

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EXHIBIT 66

Before Parks: Public Landscapes in Seventeenth- and Eighteenth-Century Boston, New York, and Philadelphia

Anne Beamish

ABSTRACT By the late nineteenth century, U.S. cities were busy building public parks for residents' leisure and social activities. Before the development of parks, city dwellers had a variety of public spaces available to them, but these landscapes rarely receive the credit due to them. Using historical newspapers, journals, and city documents, this article argues that the very practical public landscapes of seventeenth- and eighteenth-century Boston, New York, and Philadelphia played an important, though frequently unrecognized, role in the development of the nineteenth-century American public park. The very modest utilitarian village green, common, square, and parade ground are the unsung ancestors of public parks. Although they usually did not begin as places for leisure, residents slowly began to layer on new uses and functions, gradually transforming them into park-like places and creating a shared familiarity with the types of activities that would become core to the public park.

KEYWORDS Public space, parks, streets, squares, leisure, open space, history

INTRODUCTION

Each city illustrates the very different ways that North American cities used public open space in the 200 years before parks were created. Boston had one space, the Common, specifically established for grazing and military exercises. New York had several spaces—the Bowling Green in the middle of the town; the Battery, originally used for defense; and the Fields on the outskirts of town. Although Philadelphia had the most planned formal open spaces, the city used its squares for strictly utilitarian purposes and took advantage of private commercial pleasure gardens in and outside the city for leisure and socializing.

Background

Public parks are such an integral part of urban public space—our cities would be unimaginable without them—that it is easy to forget they are a relatively recent innovation. Fortunately there are several important histories about public parks (Doell and Fitzgerald, 1954; Chadwick, 1966; Cranz, 1982; Schenker, 2009; Taylor, 2009) and the first great one in the United States, Central Park (Rogers, 1972, 2018; Kinkead, 1990; Miller, 2003). But as Rosenzweig and Blackmar (1992) note, the literature rarely refers to the urban conditions and landscapes that predate the public park. The purpose of this article is to highlight the existence and variety of the urban public spaces available to seventeenth- and eighteenth-century Americans in the three largest cities of Boston, New York, and Philadelphia before the introduction of public parks in the nineteenth century. It argues that these prepark landscapes played an important, albeit often unrecognized, role in the development of the public park in the nineteenth century, for they were the stage on which

cities were not only on the forefront of urban innovation, they illustrate three very different approaches to public open space before the development of parks.

Early Public Landscapes

Before the nineteenth century, the demand for large open green space was low because most towns were relatively compact, density was low, homes had their own gardens and orchards, and residents had easy access to the countryside. Even in 1794, Thomas Pemberton described Boston as “capable of great increase, as many large spaces of land still remain vacant.” He went on to say that most of the town’s houses had wells and gardens “in which vegetables and flowers are raised, in some fruit trees are planted” (Pemberton, 1794, 249–50). Eighteenth-century maps all show that most residents could be outside of town and in nature within a 15-minute walk.

Most people worked long and hard, with little time for leisure and recreation, but like people everywhere, opportunities to socialize were valued (Cross, 1990). Typically, seventeenth- and eighteenth-century residents of Boston, New York, and Philadelphia found opportunities to gather in taverns, the common, markets, and streets.

The privately owned tavern or inn played a key role in the public life of the town and provided places where residents could drink, eat, and socialize. Some of these taverns and inns evolved into pleasure gardens in the eighteenth and early nineteenth centuries, which were privately owned businesses, enclosed by a fence or wall, open to the paying public as a resort or amusement area (Garrett, 1978). Pleasure gardens originated in London and were admired and emulated in other parts of the world, including North America. Baltimore, Boston, Charleston, New Orleans, Philadelphia, and many other cities created their own versions of Vauxhall, Ranelagh, and Cremorne Gardens (Douglas, 2011; Conlin, 2013). Paying to access these gardens was standard, which is why it isn’t surprising that Downing initially proposed that a “small admission fee” be charged to enter the new public park he envisioned (Downing, 1921a, 376). Foreshadowing the future public park, one of the important characteristics of these pleasure gardens was the mixing of social classes.

The common was land owned by the king but intended for community use. There were several

types of common in English law, including the right to graze livestock (common of pasture), cut wood for fuel or building for the cutter’s own use (common of estovers), dig peat for fuel, and take away sand or stone for the digger’s use. It was a familiar concept firmly embedded in the experience of the colonists and a successful model that New Englanders brought with them (Stilgoe, 1982; Rawson, 2010). The role of this land, held in common by the residents, was to ensure the survival of the town, which meant that it was utilitarian in nature. For example, Boston’s common had many uses, such as grazing cattle, stockpiling gunpowder, temporarily storing merchandise for businesses that caught on fire, and even into the twentieth century, planting a victory garden during World War I.

A town’s streets, docks, and markets were an important part of the community’s economic life, but they also provided a place to meet friends and strangers (Figure 1). An active street life was highly valued, for a writer in the first half of the seventeenth century marveled at the transformation of Boston, which was no more than 20 years old at the time, from “hideous thickets” full of wolves and bears to a place where “the streets are full of Girles and Boys sporting up and down, with a continued concourse of people” (Johnson, 1654, 43).

Before spaces for leisure and socializing became formalized in the form of public parks in the late nineteenth century, cities provided designated public landscapes, but their approaches differed markedly. Boston had a single open space, the Common; New York converted utilitarian spaces; and even though Philadelphia had planned formal squares, none were used for that purpose. These were the public landscapes that created the conditions and foundation for the public park.

BOSTON

The Common

Located on the edge of the town, the treeless 45-acre Common was set aside as public open space in 1634, four years after the town’s founding (Figure 2). Its use was unambiguous: “the Towne laid out a place for a trayning field; and which ever since and now is used for that purpose, and for the feeding of Cattell” (Newman, 1855, 10). Though intended as a place for grazing livestock and military use, Bostonians



Figure 1

The streets were some of the most common public spaces used by residents in eighteenth-century cities. *The Accident in Lombard Street, Philadelphia* by Charles Willson Peale, 1787. Image courtesy of the Library of Congress, Prints & Photographs Division [LC-USZ72-213].

regularly used it for their own practical purposes. For example, much to the chagrin of the selectmen, residents used the Common as a source of sod, sand, and stones and as a household trash dump. By 1666 the selectmen forbid the dumping of stones, entrails, garbage, dead dogs or rats, or any other stinking thing (City of Boston 1881, 31–32). A hundred years later in 1768, the selectmen were still exasperated to note that “the Carcasses of several Horses which have died of a Contagious disorder now prevalent have been carried into the Common & other parts of the Town & left unburied,” and they declared that the culprits who “leave the dead Bodys of Horses or any other Creatures so exposed above Ground, will be prosecuted” (City of Boston, 1889, 283). Bostonians ignored them. The Common was also a place to air the bedding and clothing of those who had died from smallpox during one of the town’s many epidemics (City of Boston 1881, 119), and though the gallows were on the edge of town,

criminals were occasionally hung at the bottom of the Common (City of Boston, 1896, 38; “News from Europe,” 1789).

The Common also served as a site for informal socializing and recreation. John Josselyn visited Boston in the 1660s and observed that:

On the South there is a small, but pleasant Common where the Gallants a little before Sunset walk with their Marmalet-Madams, as we do in Morefields, &c. till the nine a clock Bell rings them home to their respective habitations, when presently the Constables walk their rounds to see good orders kept, and to take up loose people. (Josselyn, 1674, 162)¹

The first row of elm trees was planted on the almost treeless Common by Jonathan Williams in 1725. A second row was added in 1734 (City of Boston, 1883, 192; 1885, 75, 78), and by 1740 the

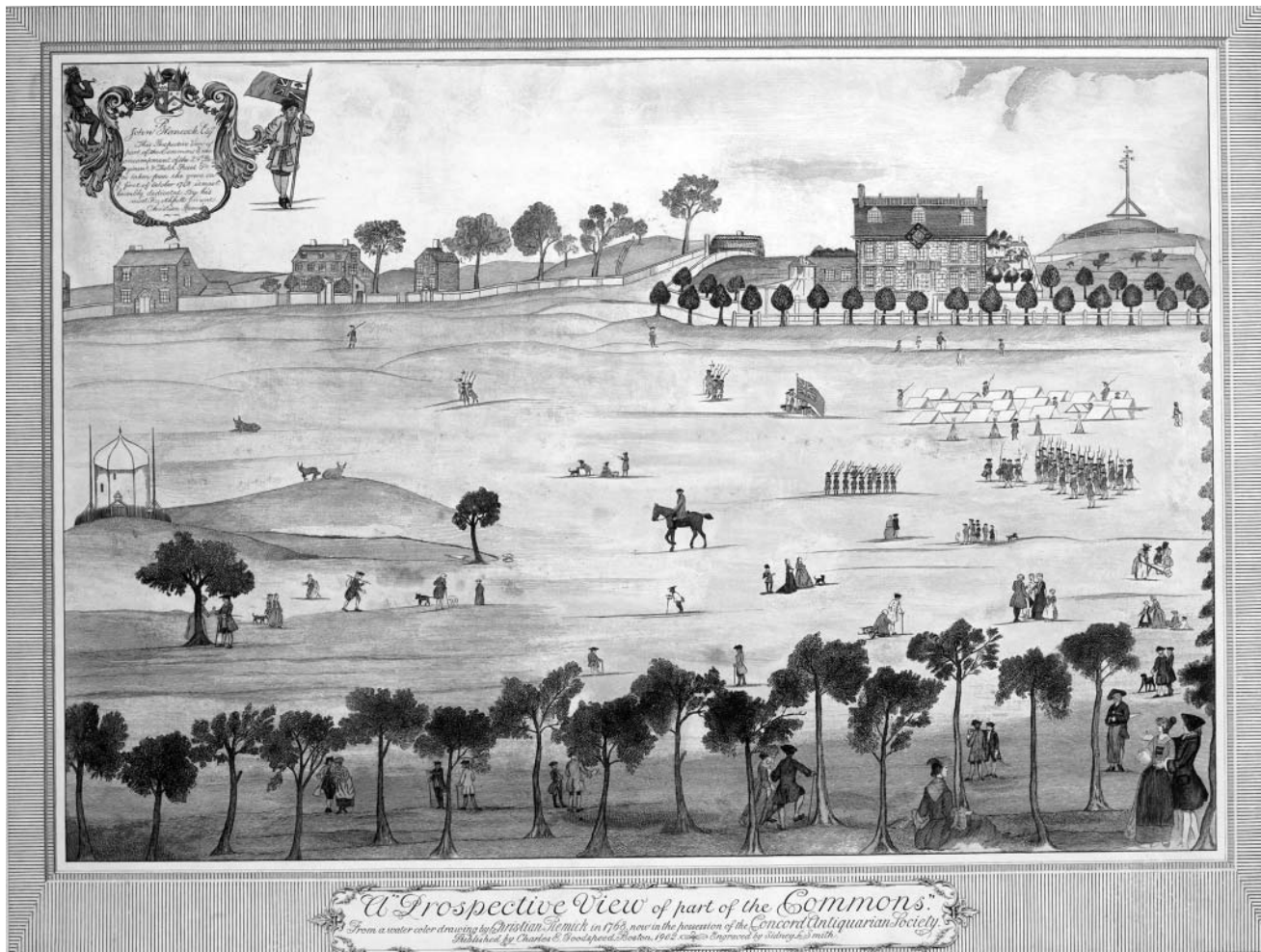


Figure 3

The treeless Common eventually had two rows of trees planted in 1725 and 1734 that created a mall for promenading. John Hancock was given permission to plant a row of lime trees in front of his house on the far side of the Common in 1754. The center of the Common was kept open for military exercises and grazing. *A Prospective View of Part of the Commons* (Christian Remick, 1768). 1902 engraving by Sidney L. Smith after Remick's 1768 watercolor. Image courtesy of the Miriam and Ira D. Wallach Division of Art, Prints and Photographs: Print Collection, The New York Public Library. Retrieved from <http://digitalcollections.nypl.org/items/510d47d9-7ad9-a3d9-e040-e00a18064a99>.

September 29," 1740; "Last Week the Rev. Mr. Whitefield Preached . . .," 1740).

The Common was also the site for the town's raucous celebrations. For example, the celebration of military victories such as the fall of Louisburg in 1745 when the "the joy of the people knew no bounds," meant bonfires, food, and drink on the Common (De Wolfe Howe, 1910, 27–28). One of the largest celebrations was held in 1766 when the reviled Stamp Act was repealed, which led "to great rejoicing." It was an extraordinary event. Church bells rang, colors were displayed on ships, the town was illuminated, and the elms on the mall were decorated with lanterns (City of Boston, 1902, 10). There

were fireworks, bonfires, and even a transparency obelisk designed by Paul Revere,³ which unfortunately caught fire on the Common before it arrived at its final destination (Brigham, 1969, 26–31).

The transformation of the hardscrabble Common into "one of the most picturesque spots in the United States" did not occur until the nineteenth century, spurred by the 1795 construction of the new State House on its northeastern edge ("Miscellany," 1819). As a sign of the Common's new role, the almshouse and jail on its eastern edge moved to another part of the city, and the street was renamed Park Street in 1803 (City of Boston, 1910, 357). Even though the Common was slowly becoming

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PLACE

Boston Common

[Boston National Historical Park](#), [Boston African American National Historic Site](#)



View of the Water Celebration, on Boston Common, October 25th 1848.

Lithograph by P. Hyman and David Bigelow. Public Domain.

Quick Facts

LOCATION: 148 Tremont St., Boston, MA

SIGNIFICANCE:

Considered the oldest public park in the United States, Boston Common played an important role in the history of conservation, landscape architecture, military and political history, and recreation in Massachusetts.

DESIGNATION: National Historic Landmark; Freedom Trail Site

MANAGED BY: [City of Boston Parks & Recreation](#)

Considered the oldest public park in the United States, Boston Common played an important role in the history of conservation, landscape architecture, military and political history, and recreation in Massachusetts. The Common and the adjoining [Public Garden](#) are among the greatest amenities and most visited outdoor public spaces in Boston. The history of the Common's use by the city illuminates the conservation movement in Massachusetts and mirrors similar models carried out by American conservationists throughout the nation.

In 1634, the townspeople of Boston voted to tax each household six schillings for the purchase of William Blackstone's farm to be used as a community common. The newly established Common served a combination of public, military, agricultural, and recreational purposes. In the 1600s and 1700s, companies from Boston and surrounding communities performed military training on the Common. During the winter of 1775 and 1776, British soldiers installed artillery entrenchments on the Common, and a garrison of 1,700 soldiers remained encamped there. Other early public uses of the Common included public hangings and whippings. The Common also served agricultural purposes. The Common was a pasture for cattle from the time of its creation through the early decades of the 1800s. As an early example of "utilitarian" conservation, regulations protected the land from overgrazing by restricting the number of cattle each family could graze on the Common.

There were also indications the Common was a place for recreation as early as the 1660s. John Josselyn wrote about men and women of Boston enjoying evening strolls on the Common: "On the South there is a small, but pleasant Common where the Gallants a little before Sun-set walk with their Marmalet-Madams...till the nine a clock Bell rings them home to their respective habitations, when presently the Constables walk their rounds to see good orders kept, and to take up loose people."

Children enjoyed the Common, too, wading in the Frog Pond in summer, and skating and sledding in the winter. Gradually recreational activities began to dominate the Common. The changes in land use mirrored changes in landscape design. The first wide, tree-lined mall added along Tremont Street in 1722 is one reflection of these changes. As the city grew, livestock grazing was further and further restricted, with cows forbidden altogether in 1830 and pasture fences removed in 1836.

In the 1800s as the Urban Parks Movement gained momentum, the Common began to acquire monuments, fountains, and artwork. Erected in 1897, the most famous of these memorials honors [Colonel Robert Gould Shaw and the 54th Massachusetts Infantry](#), a celebrated regiment of free Black soldiers who fought in the American Civil War. Distinguished sculptor [Augustus St. Gaudens](#) was the designer and McKim, Mead, and White were the architects of the memorial. The 50-acre Common today is remarkably intact, due to the continued vigilance of local citizens. In the 1890s, a proposal to build a trolley line across the Common caused great public opposition that forced the examination of other transportation options, and in 1895, Boston installed the first subway in the United States. The first subway station, the Tremont Street Subway, still exists today bordering the Common along Tremont Street.

Since its inception, activities held on the Common stretched beyond relaxation and recreation to include public assembly. [George Washington](#), John Adams, and General Lafayette celebrated our nation's independence in this space. In the 1800s, abolitionists strove to abolish slavery and the United States Army recruited soldiers to fight in the Civil War. During the fight for the 19th Amendment, women suffragists drew crowds at open-air

meetings and rallies. In the 1900s, Charles Lindbergh spoke to crowds on the Common about the future of commercial aviation. Anti-Vietnam and Civil Rights rallies, including one led by Martin Luther King Jr., took place on the Common. Today, Bostonians still gather on the Common to protest grievances and promote new ideas.

Used, enjoyed, and largely protected by generations, the Boston Common exemplifies the spirit of public conservation in Massachusetts and the trend in American cities to preserve nature within growing urban areas. Today visitors can enjoy ball fields, a tot lot, and the Frog Pond where the public skates in winter and children frolic in the summer. Other additions to the Common over time include a large underground parking garage and tennis courts. Despite these changes, the Common still retains its original function for the people of Boston: a relaxing open space in a congested city. Boston Common is one of the nine parks that are part of the Emerald Necklace, a 1,100-acre chain of parks linked by parkways.

Boston Common was added to the National Register of Historic Places on July 12, 1972. [Read the full nomination at the National Archives](#) (learn more about the [National Register of Historic Places program](#)).

It was designated a National Historic Landmark on February 27, 1987 (learn more about the [National Historic Landmark program](#)).

You can learn more about Boston Common in the Teaching with Historic Places lesson plan, [The Emerald Necklace: Boston's Green Connection](#).

To discover more Massachusetts history and culture, visit the [Massachusetts Conservation Travel Itinerary website](#).

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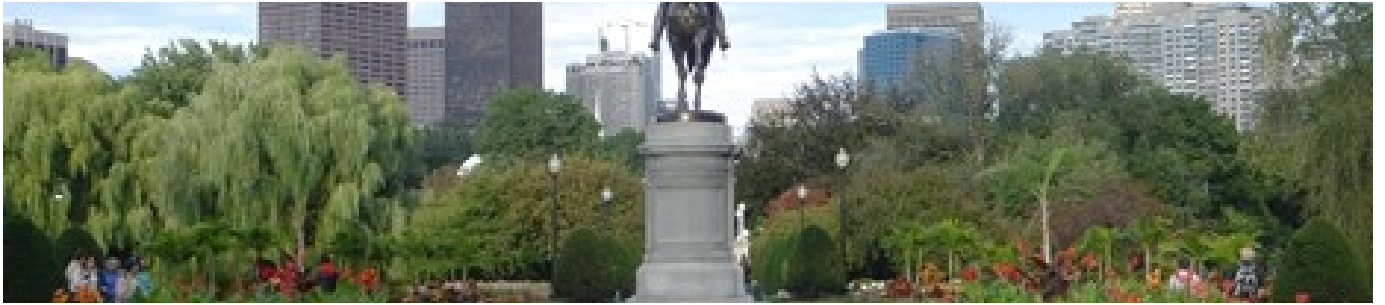


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Last updated: January 8, 2023

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NYC Parks

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The Earliest New York City Parks

The Department of Parks & Recreation has a long history of serving the public with clean and safe spaces to relax and recreate, but parks and open spaces existed in New York long before the first "Department of Public Parks" was established in 1870. The earliest parks date to the Dutch and Colonial era, and parks before 1856 were maintained by the Mayor's office and street commissioner. But as the city grew and open space diminished, it became important to reserve open space for the city's citizenry. In 1856, a new era of park planning emerged when the Board of Commissioners of Central Park was established to build that great landmark. The Board also built parks in Harlem (Jackie Robinson, Marcus Garvey, Morningside and St. Nicholas Parks), and in 1870, a Parks Department similar to what we have today was established to oversee all parks in the city; that there was an entire city department for parks shows the importance of parks in the late 19th century.

European Roots



The concept of the village green was common in Europe for centuries, and European settlers frequently built early American towns around a town green or commons area. When the Dutch and later the English settled at the southern tip of Manhattan in the 17th century, a communal pasture existed south of Collect Pond known as the "Vlackte" or "Flats" that was also used for executions and the burial of paupers and slaves — a portion of this spot survives as City Hall Park. In the early years of the Dutch West India Company enterprise in New Amsterdam, the area now known as Bowling Green served as a market place and parade ground. The site survives today, in continuous use for almost 400 years.

On April 27, 1686, Governor Thomas Dongan issued an early city charter that enumerated the responsibilities of the Colonial government. The Dongan Charter of the City of New York officially put all "waste, vacant, unpatented and unappropriated lands" for the first time in municipal care, under the jurisdiction of the Common Council. These "unappropriated lands" included the marketplaces and public commons that later became the first city parks. In addition to Bow

Green and City Hall Park, the Battery, at the southern tip of Manhattan, served as an open area for the batteries of cannon that gave the park its name. The City's ownership of all these parks is traced back to the Dongan Charter.

Gathering Grounds



These early parks were centers of early New York life. Bowling Green sits at the beginning of Heere Staat, or High Street —now Broadway — the important trade route that extended north through Manhattan and the Bronx. Broadway also runs by City Hall Park's western boundary. In 1765, New Yorkers protested the Stamp Act at City Hall Park, and a year later the first "Liberty Pole," a commemorative mast topped by a vane featuring the word "liberty," was built by pro-independence New Yorkers (a replica dating to 1921 now stands between City Hall and Broadway, near its original location).

During the American Revolution (1776–1783) the British controlled New York and used a debtor's prison on the site to hold Revolutionary prisoners of war, executing 250 of them on gallows located behind barracks there. When the Declaration of Independence was read in City Hall Park on July 9, 1776, a raucous crowd proceeded down Broadway to Bowling Green Park and toppled the statue of George III, hacking it to pieces to be recast as musket balls. City Hall Park was improved with trees and grass after 1784, and by 1803 the popular commons and gathering place was referred to as "The Park."

New Yorkers continued to use City Hall Park for gatherings and events throughout the 19th century, including public meetings after the declaration of the Mexican–American War in 1846, and a call to volunteers in 1862 to enlist in the Civil War (1861–1865). [U.S. Presidents \(/sub_about/parks_history/presidents_in_parks/index.php\)](/sub_about/parks_history/presidents_in_parks/index.php) Andrew Jackson, Andrew Johnson, Benjamin Harrison and Jimmy Carter all visited City Hall during their presidencies. And after President Lincoln was assassinated, his funeral procession for New York residents originated at City Hall.

An Important Base



Located at the southern tip of Manhattan with ready access to the harbor and the Hudson River, Battery Park is where the history of New York City began. The area's strategic location was recognized by Native Americans and Dutch settlers, who called it Capske Hook (from Kapsee, an Indian term for rocky ledge). Near this point, the colonists of the Dutch West India Company began the settlement of New Amsterdam in 1625. Both the Dutch and English used the site for military installations to defend the island in New York's early years. Battery Park's promenade and view of the harbor made it a popular place for New Yorkers to visit in the early 18th century, and, over time, the harbor was filled in to give parkgoers more room. (In 2005, work on the new South Ferry subway station uncovered evidence of 18th century sea walls that will be preserved in some capacity.) George Washington mentioned frequent walks "round the Battery" in the diaries he kept during his time in New York at the beginning of the new republic.

In the 19th century, the circular fort known as Castle Clinton was converted to a setting for countless receptions, demonstrations, and performances. U.S. Presidents were feted at "Castle Garden," among them John Tyler, James K. Polk, Franklin Pierce, and Andrew Jackson (as well as his vice president Martin Van Buren, who would go on to become president). The Marquis de Lafayette was welcomed there in 1824 and Hungarian patriot Lajos Kossuth visited in 1851. Inventor Samuel F.B. Morse demonstrated his "wireless telegraph" at Castle Garden in 1842. From 1855 to 1890, the building was used as the federal immigration center for the east coast, processing approximately eight million immigrants.

Bowling Green Park became more of an "official" park — perhaps the first city park — when it was established by the Common Council on March 12, 1733 (2008 marks its 355th anniversary). Bowling Green was an early public-private partnership — it was leased at an annual rent of one peppercorn to John Chambers, Peter Bayard, and Peter Jay, who were responsible for improving the park with grass, trees, and a wooden fence "for the Beauty and Ornament of the Said Street as well as for the Recreation & Delight of the Inhabitants of this City." A gilded lead statue of George III, commissioned by grateful New York City merchants after the repeal of the Stamp Act, was the first statue in a city park when it was erected in the center of Bowling Green Park in 1770. In 1771, a wrought iron fence was erected around the irregular oval of the Bowling Green to protect the park and its royal monument; the fence survives and is a designated New York City Landmark.

Transformed Space



Many open spaces we now know as parks were originally used for other purposes. Property along Minetta Brook in Greenwich Village was acquired by the city in 1797 for a potter's field. In 1823, the cemetery was closed, and the area was declared a public square known as Washington Parade Ground, or Washington Square. Bryant Park was once a reservoir until it opened officially in 1847. And Madison Square Park was officially opened in 1847, only after the demolition of the state arsenal (constructed there in 1806) was completed. Another early Manhattan park, Beach Street Park at the intersection of Beach, Walker, and Chapel (now West Broadway), was purchased by the city in 1810. Jackson Square Park is another one of New York City's oldest parks. The park is situated along Greenwich Avenue, the oldest known road in Greenwich Village. This plaza consists of two parcels of land, each with a distinct origin and history of uses. Elsewhere in Manhattan, Coenties Slip (Vietnam Veterans Plaza) first served as boat slip, and then open space after it was filled in 1835.

Buying and Building

Stuyvesant Square, which opened as a public park in 1850, has a direct link to New York's early history. In 1836, Peter Gerard Stuyvesant and his wife Helen Rutherford reserved four acres of the family farm and sold it for five dollars to the City of New York as a public park. The Stuyvesant family farm dated to the 1660s when Stuyvesant's relative Peter Stuyvesant — the last Dutch Director–General of the colony of New Netherland — established it in the wilderness beyond the village on the tip of the island. Today, Stuyvesant Square is nestled in the middle of busy Manhattan, open space for the entire history of the city, and visitors to the site experience a direct link to the island's past. (New Netherland Director–General Stuyvesant is commemorated at the site with a bronze sculpture.)

The first public space acquired by the City specifically for use as a public park was Duane Park, located at Hudson and Duane Streets in Manhattan. Trinity Church sold the triangle of land to the City for five dollars in 1797, on the condition that it be fenced and landscaped "as promotive of health and recreation."



The Commissioners' Plan of 1811, which mapped out the streets of Manhattan, designated several spots as open space, including Union Square, Tompkins Square Park, Madison Square Park and Marcus Garvey Parks; in general, early plans allotted more space for these sites than what was finally built. Also, some parks that once existed were eventually eliminated. One, an ornate and elegant square known as Hudson Square or St. John's Park, appeared on Manhattan maps as early as 1797 and existed at what is now the southern exit of the Holland Tunnel until the City sold the land to Cornelius Vanderbilt, who built the Hudson River Railroad Freight Depot there in 1867.

The Village of Brooklyn was incorporated as a city in 1834, which gave it increased powers to lay out squares and parks. The first park in Brooklyn was "City Park," now known as Commodore Barry Park, established in 1836. By 1839, a board of commissioners had presented a city plan with 11 planned parks and squares including Washington (Fort Greene) and Tompkins (Von King) Parks. Although not a city park, the Green-Wood Cemetery, which opened in 1840, provided the public 478 landscaped acres and 20 miles of pedestrian paths. The cemetery introduced the public to the amenities of the landscaped "pleasure ground," and led in part to the creation of Prospect Park. Carroll Park in Carroll Gardens is another early Brooklyn site; its origins date to the 1840s when it was established as a private community garden after much of the neighborhood (which now comprises the Carroll Gardens Historical District) was laid out by surveyor Richard Butt. The land was acquired for use as a public park by the City of Brooklyn in 1853.

Fort Greene Park had been the site of military installations from the days of the Revolutionary War. After the War of 1812, locals enjoyed visiting the grounds of the old fort for recreation and relaxation. Fort Greene Park was established by the City of Brooklyn in 1847, successfully concluding a long struggle led by Walt Whitman, editor of the Brooklyn Eagle, for more parks in Brooklyn. Tompkins Park, originally named for New York Governor and U.S. Vice President Daniel D. Tompkins, was acquired by the City of Brooklyn in 1857.

The population of Brooklyn had risen from 48,000 in 1840 to almost 280,000 in 1859. For years, Brooklynites had wanted more parks to relieve what Walt Whitman had described as the "swarmingness of the population." In 1859, the State Legislature appointed a Brooklyn Board of Park Commissioners who, a year later, proposed a site for Prospect Park. In 1865, Olmsted and Vaux were hired to design the park and supervise its construction. Partly because Olmsted and Vaux were able to define the park's size, shape, and location more completely in this second major commission, Prospect Park has often been cited as the purest example of their art.

In Queens, the oldest parks are Daniel Carter Beard Memorial Square (known as Flushing Park until 1942), which was acquired by the town of Flushing in 1875, and Wayanda Park, which was acquired by the town of Jamaica in 1844. Wayanda Park, named for the Native American word for "The Place of Happy Hearts," was once used as a burial ground or potter's field.

The first public space acquired by the City specifically for use as a public park was Duane Park, located at Hudson and Duane Streets in Manhattan. Trinity Church sold the triangle of land to the City for five dollars in 1797, on the condition that it be fenced and landscaped "as promotive of health and recreation." The Commissioners' Plan of 1811, which mapped out the streets of Manhattan, designated several spots as open space, including Union Square, Tompkins Square Park, Madison Square Park and Marcus Garvey Park; in general, early plans allotted more space for these sites than what was finally built. Also, some parks that once existed were eventually eliminated. One, an ornate and elegant square known as Hudson Square or St. John's Park,

appeared on Manhattan maps as early as 1797 and existed at what is now the southern exit of the Holland Tunnel until the City sold the land to Cornelius Vanderbilt, who built the Hudson River Railroad Freight Depot there in 1867.

The Village of Brooklyn was incorporated as a city in 1834, which gave it increased powers to lay out squares and parks. The first park in Brooklyn was "City Park," now known as Commodore Barry Park, established in 1836. By 1839, a board of commissioners had presented a city plan with 11 planned parks and squares including Washington (Fort Greene) and Tompkins (Von King) Parks. Although not a city park, the Green-Wood Cemetery, which opened in 1840, provided the public 478 landscaped acres and 20 miles of pedestrian paths. The cemetery introduced the public to the amenities of the landscaped "pleasure ground," and led in part to the creation of Prospect Park. Carroll Park in Carroll Gardens is another early Brooklyn site; its origins date to the 1840s when it was established as a private community garden after much of the neighborhood (which now comprises the Carroll Gardens Historical District) was laid out by surveyor Richard Butt. The land was acquired for use as a public park by the City of Brooklyn in 1853.



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The oldest park on Staten Island is Veterans Park in Port Richmond, which was laid out in 1836 as Port Richmond Park when Port Richmond's village streets were mapped and the site designated as the village green.



The earliest parks in the Bronx are more recent, owing to the borough's later development. The Bronx parks are important, however, in that they comprise a total park system, as opposed to the haphazard way parks took shape in early Manhattan. In 1881, John Mullaly (honored by Mullaly Park in the Bronx), formed the city's first open-space advocacy organization, the New York Park Association, to advocate for the acquisition of nearly 4,000 acres above the Harlem River. The Association helped secure State legislation in 1883 to establish six large parks and three broad parkways. On December 12, 1888, Bronx, Claremont, Crotona, St. Mary's, Van Cortlandt and Pelham Bay Parks, as well as Crotona, Mosholu and Bronx-Pelham Parkways, were vested to the City of New York, quintupling the City's green space overnight.

[The Bronx](#)
[Brooklyn](#)
[Manhattan](#)
[Queens](#)
[Staten Island](#)
[Bronx Park, 1888](#)
[\(/sub_your_park/historical_signs/hs_historical_sign.php?id=8772\)](/sub_your_park/historical_signs/hs_historical_sign.php?id=8772)
[Claremont Park, 1888](#)
[\(/sub_your_park/historical_signs/hs_historical_sign.php?id=6292\)](/sub_your_park/historical_signs/hs_historical_sign.php?id=6292)
[Crotona Park, 1888](#)
[\(/sub_your_park/historical_signs/hs_historical_sign.php?id=11153\)](/sub_your_park/historical_signs/hs_historical_sign.php?id=11153)
[St. Mary's Park, 1888](#)
[\(/sub_your_park/historical_signs/hs_historical_sign.php?id=233\)](/sub_your_park/historical_signs/hs_historical_sign.php?id=233)
[Van Cortlandt Park, 1888](#)
[\(/sub_your_park/historical_signs/hs_historical_sign.php?id=8177\)](/sub_your_park/historical_signs/hs_historical_sign.php?id=8177)
[Pelham Bay Park, 1888](#)
[\(/sub_your_park/historical_signs/hs_historical_sign.php?id=11648\)](/sub_your_park/historical_signs/hs_historical_sign.php?id=11648)

Related Information

[Before They Were Parks \(/sub_about/parks_history/before_parks.html\)](/sub_about/parks_history/before_parks.html) [Online Historic Tour](#)

[\(/sub_about/parks_history/historic_tour/historic_tour.html\)](/sub_about/parks_history/historic_tour/historic_tour.html) [Presidents in Parks](#)

[\(/sub_about/parks_history/presidents_in_parks/index.php\)](/sub_about/parks_history/presidents_in_parks/index.php)

EXHIBIT 69



Tribeca in Manhattan in New York County, New York — *The American Northeast (Mid-Atlantic)*

Duane Park Origins

Inscription.

Duane Park
Origins

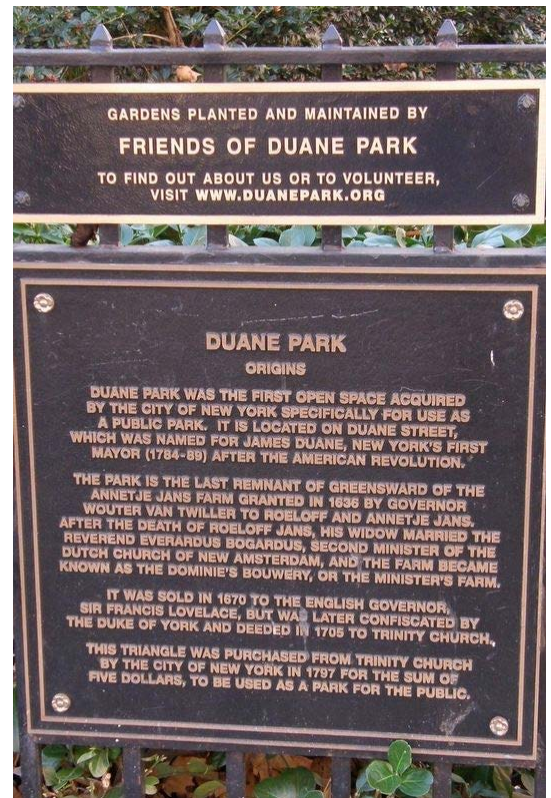
Duane Park was the first open space acquired by the City of New York specifically for use as a public park. It is located on Duane Street, which was named for James Duane, New York's first mayor (1784-89) after the American Revolution.

The park is the last remnant of Greensward of the Annetje Jans farm granted in 1636 by Governor Woulter van Twiller to Roeloff and Annetje Jans. After the death of Roeloff Jans, his widow married the Reverend Everardus Bogardus, second minister of the Dutch Church of New Amsterdam, and the farm became known as the Dominie's Bouwery, of the Minister's Farm.

It was sold in 1670 to the English governor, Sir Francis Lovelace, but was later confiscated by the Duke of York and deeded in 1795 to Trinity Church.

This triangle was purchased from Trinity Church by the City of New York in 1797 for the sum of five dollars, to be used as a park for the public

Gardens planted and maintained by Friends of Duane Park
To find out about us or to volunteer, visit www.duanepark.org



Photographed By Larry Gertner, January 2009

1. Duane Park Marker

Topics. This historical marker is listed in these topic lists: [Colonial Era](#) • [Parks & Recreational Areas](#). A significant historical year for this entry is 1636.



Click or scan to see
this page online

Location. 40° 43.031' N, 74° 0.563' W. Marker is in Manhattan, New York, in New York County. It is in Tribeca. Marker is at the intersection of Duane Street and Duane Street when traveling north on Duane Street. The park is at a triangle bounded by Hudson, Duane and Staples Streets. [Touch for map.](#) Marker is in this post office area: New York NY 10013, United States of America. [Touch for directions.](#)

Other nearby markers. At least 8 other markers are within walking distance of this marker. A different marker also named [Duane Park](#) (here, next to this marker); [James Bogardus Viewing Garden](#) (about 400 feet away, measured in a direct line); [Headquarters](#) (about 400 feet away); [James Bogardus Triangle](#) (about 500 feet away); [New York Mercantile Exchange](#) (about 600 feet away); [31 Harrison Street](#) (about 700 feet away); [Icarus](#) (about 700 feet away); [Finn Square](#) (approx. 0.2 miles away). [Touch for a list and map](#) of all markers in Manhattan.



Photographed By Larry Gertner, November 2009

2. Duane Park from Staple Street



Photographed By Larry Gertner, November 2009

**3. New York City Parks & Recreation
Department marker**

Standard style marker at NYC parks.

Credits. This page was last [revised](#) on January 31, 2023. It was originally submitted on February 11, 2018, by Larry Gertner of New York, New York. This page has been viewed 187 times since then and 5 times this year. **Photos:** 1, 2, 3. submitted on February 11, 2018, by Larry Gertner of New York, New York. • Bill Pflugsten was the editor who published this page.

m=113982

EXHIBIT 70



About Us

The South Carolina Lowcountry has always been home to a cast of eclectic, unconventional characters - scholars, scientists, scribes, and socialites, revolutionaries and world travelers, collectors, curators. They have been lovers of the established and experimental, the rare, beautiful, odd and unusual. Our history is a blend of beauty and pain, grace and war, great storms and calm seas.

We are a melting pot of cultures and customs, remade with each changing tide. We are writers of a never-ending story that asks life's most essential question: **Who are we?**

The search for the answer is our reason for being. So, we dig into attics and archives. We pore over ancient artifacts, journals, and albums. We study, document, preserve, interpret, and share.

We do it for the electric joy of discovery. The stories and humanity revealed. But perhaps even more, we do it for what it inspires within us. The thoughts that ask us to rethink our past and our place in the world. The thoughts that spark a conversation not just about who we were, but who we are - and who we can be.

We are all a story. And our story starts here.

Mission Statement

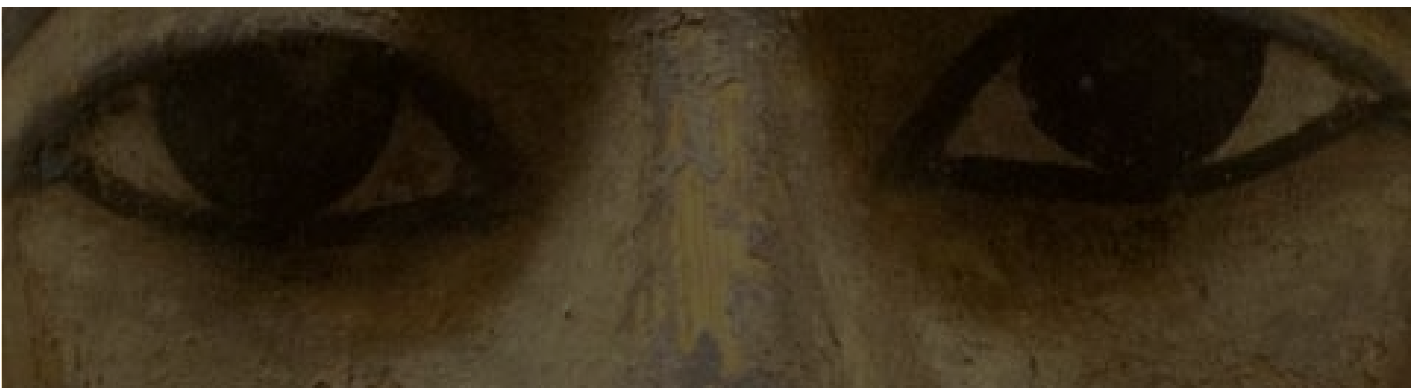
To educate Charleston area residents and visitors about the natural and cultural history of the South Carolina Lowcountry through collections, exhibitions, preservation, conservation, research and related programming.

History

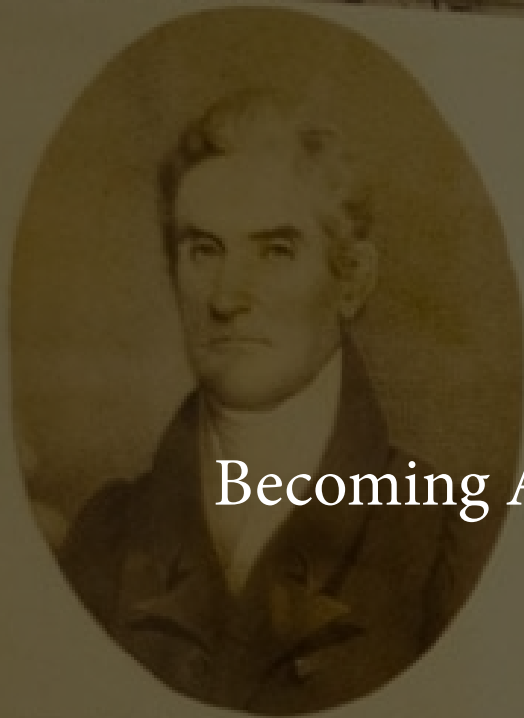
Founded in 1773 and commonly regarded as “America’s First Museum,” The Charleston Museum is a 501(c)(3) nonprofit organization, accredited by the American Alliance of Museums.

Inspired in part by the creation of the British Museum, the Museum was established by the Charleston Library Society on the eve of the American Revolution and its early history was characterized by association with distinguished South Carolinians and scientific figures including Charles Cotesworth Pinckney, Thomas Heyward, Jr., Reverend John Bachman and John J. Audubon.

The Museum continued to develop prominent collections of ethnological and zoological specimens, which Harvard scientist Louis Aggasiz declared in 1852 to be among the finest in America. Operations were temporarily suspended due to the Civil War, but began again shortly afterward. Progressively acquired since the late 18th century, the Museum's collections now represent the most comprehensive assemblage of South Carolina materials in the nation. Focusing on the South Carolina Lowcountry, modern collecting emphases include natural history, historical material culture and both documentary and photographic resources.



The Early Days



Nathaniel Hayward
(1766-1811)

Nathaniel Hayward was born in 1766 in Charleston to Daniel Hayward and his second wife, Elizabeth Cogswell. A natural wit, he inherited five acres and relatively unproductive plantations. A few years later he was managing his brother's estates, where he proved his abilities as a planter. Hayward became one of the largest rice planters of his day, at the time of his death owning 17 plantations (12,000 acres) along the Charleston River. They were rendered productive by over 2,000 enslaved Africans.

Hayward determined to put his inheritance to maximum benefit by experimenting with the new tidal production, and he is often credited with its introduction. He and brother James "son of water" thought long and hard their neighbor planters, but rice production far outstrips their limited. In contrast, his brother-in-law Joseph Mansfield had a large plantation just to west production from his

In 1798 he married Henrietta Mansfield. They were the parents of four children, and made their home on the Charleston. They owned four mills, some earlier on the falls. Two of his daughters married into Mansfield's first cousins, and Hayward involved many gifts to his children and their spouses, including Charles Mansfield to secure proper positions in Lowcountry society.

Becoming Americans



Natural History



Kidstory

EXHIBIT 71



ABOUT

Museum History

True to the spirit of its past, PEM is dedicated to creating a museum experience that celebrates art and the world in which it was made.

The roots of the Peabody Essex Museum date to the 1799 founding of the East India Marine Society, an organization of Salem ship captains and supercargoes who had sailed near or beyond either the Cape of Good Hope or Cape Horn. The society's bylaws included a provision for the establishment of a cabinet of "natural and artificial curiosities," which we would now call a museum. Society members came back to Salem with a diverse collection of objects from the Pacific Northwest, Asia, Africa, Oceania, India and elsewhere. By 1825, the society had moved into its own building, East India Marine Hall.

In the late 1860s, the Essex Institute refined its mission to the collection and presentation of regional art, history and architecture. In so doing, it transferred its natural history and ethnological collections to the East India Marine Society's descendent organization, the Peabody Academy of Science (the "Peabody"). In turn, the Peabody, renamed for its benefactor, the philanthropist George Peabody, transferred its historical collections to the Essex.

In the early 20th century, the Peabody Academy of Science changed its name to the Peabody Museum of Salem and continued to focus on collecting international art and culture. Capitalizing on growing interest in early American architecture and historic preservation, the Essex Institute acquired many important historic houses and was at the forefront of historical interpretation.

With their physical proximity, closely connected boards and overlapping collections, the possibility of consolidating the Essex and the Peabody had been discussed over the years. After in-depth studies showed the benefits of such a merger, the consolidation of these two organizations into the new PEM was confirmed in July 1992.

True to the spirit of its past, PEM is dedicated to creating a museum experience that celebrates art and the world in which it was made. By presenting art and culture in new ways, by linking past and present and by embracing artistic and cultural achievements worldwide, the museum offers unique opportunities to explore a multilayered and interconnected world of creative expression. It has the distinction of being the oldest continuously operating and collecting museum in the United States.

Stay up to date.

Enter your email to sign up for our newsletter.

EXHIBIT 72

History - The Peale

thepeale.org/history/

Our History

The Peale is Baltimore's Community Museum.

Renovations 2017-2022

Historic Garden

A History of Firsts

The Peale was the first museum that was purposefully built in the United States. It was commissioned in 1813 by Rembrandt Peale, a member of the first family of American artists and museum pioneers. Through the Peale family's explorations, scientific investigations, and museum displays, they also contributed greatly to the new nation's understanding of science, technology, and natural history. Check out a 5-minute history of the Peale, created by our friends at Baltimore Heritage.

We're working on more detailed histories of the Peale!

Please come back soon to check for new information.

OR, feel free to reach out to us! Email: online@ThePealeCenter.org.

1814-1829

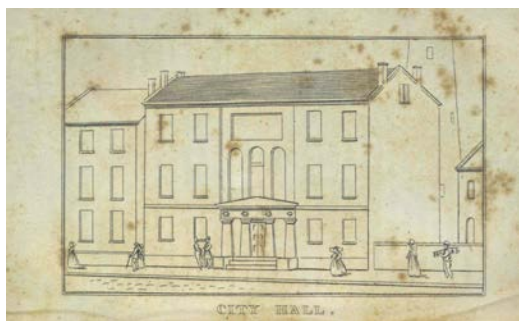


The Founding of the Peale

In 1813, Rembrandt hired Baltimore architect Robert Cary Long to design a museum. Long produced what was essentially a Federal Period townhouse with a spacious rear gallery extension. Peale's "Museum and Gallery of the Fine Arts" opened in August 1814.

Coming Soon

1830-1875



Baltimore's First City Hall

In April 1830, the Mayor and City Council bought Rembrandt Peale's former museum property at public auction. Under the direction of local architect William F. Small, the building was extensively altered to serve as Baltimore's first dedicated City Hall.

Coming Soon

1878-1887



Colored School No. 1

In 1878, the Peale underwent its second major renovation, becoming the Male and Female No. 1 Colored Primary School. Over the next 11 years, the building housed a primary school, grammar school, and the city's first "Colored" high school. Learn more on our Smartify tour.

Learn more

1887-1930



Shops and Manufacturers

In the late 19th century, the Peale housed private businesses, including an organ factory, sign painting company, machine shop, and bedspring factory—while continuing to be regularly condemned as unsafe. The building was nearly demolished.

Coming Soon

A History of Gaslight at The Peale



Rembrandt Peale Experiments with Gaslight

On November 29, 1814, Rembrandt Peale advertised in the *Baltimore Daily Advertiser*, an “Evening Illumination and Peale’s Museum, and GALLERY OF THE FINE ARTS. TUESDAYS & THURSDAYS. In announcing to the public the commencement of the Evening Illuminations on the plan adopted in Philadelphia, the proprietor deems it proper to remark that in making no addition to the price of admission, notwithstanding the increased expense, his remuneration must depend on the numbers whose leisure and curiosity may thus be gratified . . . Admission to the whole 25 cents.”

[Learn More](#)



1930-1997

Municipal Museum of the City of Baltimore

In 1929, as Baltimore prepared to celebrate the 200th anniversary of its founding, Mayor William F. Broening announced his support for converting the aging landmark into a municipal museum. The Municipal Museum of the City of Baltimore opened to the public in October 1931 and remained open until 1997. It was known as the Peale Museum.

Coming Soon!



1998-2017

A Vacant Landmark on Holliday Street

During this period, the brick building on Holliday Street remained largely vacant. However, it soon saw new life again. In 2005, the Friends of the Peale formed to explore various uses for the local historic landmark. Later merging with another group, in 2012, the Friends created a new organization, the Peale Center for Baltimore History and Architecture.

Coming Soon



2017-Present

The Peale, Baltimore's Community Museum

Between 2014 and 2018, the Peale raised money to install a new roof, make exterior repairs and begin restoring the garden. Interior renovations began in 2019, culminating with the completion in 2022 of major repairs to plasterwork, flooring, woodwork, and the installation of ramps and an elevator.

Take the Tour



Peale Family

American Artists, Inventors, and Museum Innovators

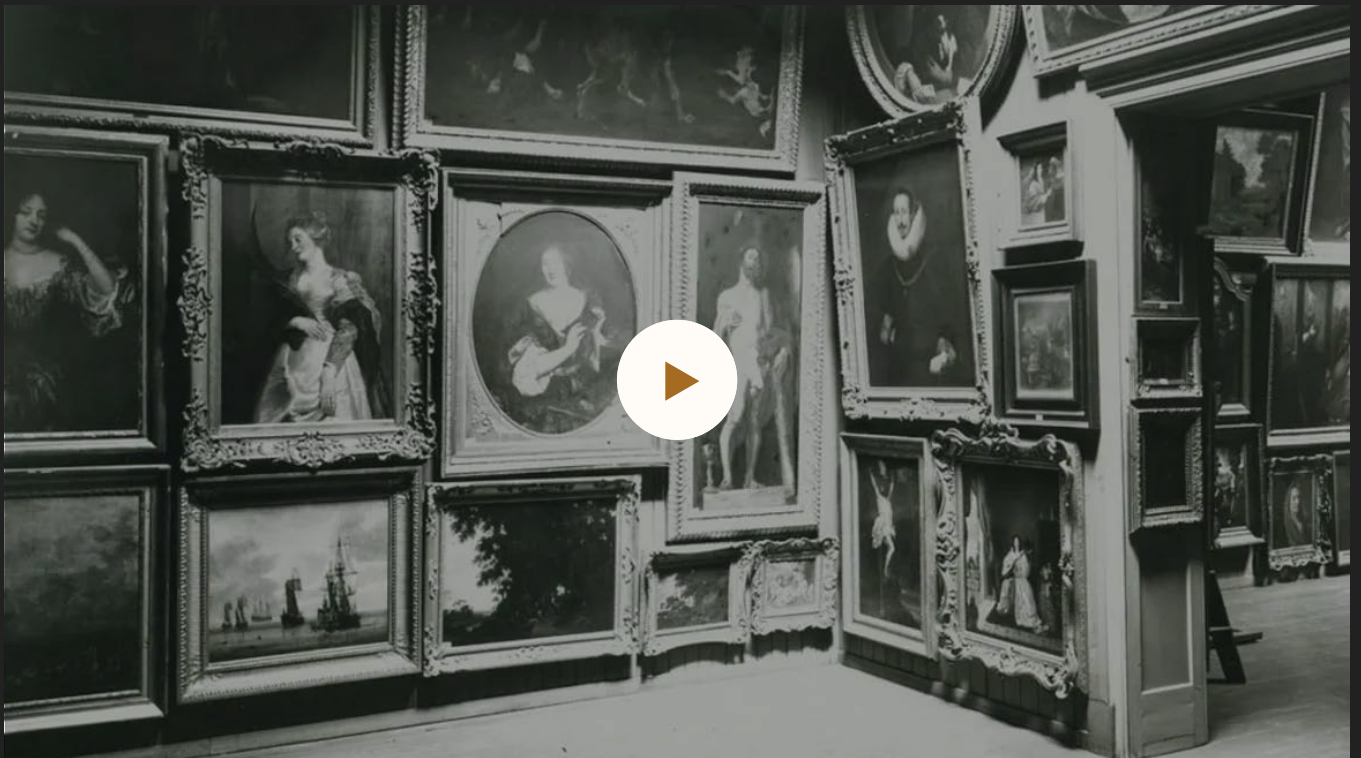
The Peale family is considered the first family of American artists. The family's patriarch Charles Willson Peale (1741-1827) was a prominent 18th-century artist and patriot. Charles' son Rembrandt was born in 1778 in Bucks County, PA. On August 15, 1814, he opened our museum, which has endured—in one form or another—until this day.

Coming Soon

Today, the Peale is a the 501 (c)(3) tax-exempt, non-profit corporation that works in partnership with Baltimore's Department of General Services, which owns the building. The Peale is Baltimore's community museum, a center for Baltimore stories, and a cultural commons helping culture keepers and communities share their authentic stories of the city both through live performance and online.

EXHIBIT 73





New-York Historical Society: Uncovering America's History

Take a look back at New-York Historical's founding in 1804 and our ongoing mission

to preserve America's history and uncover untold stories from our collective past.



The New-York Historical Society Museum

Our Museum presents exhibitions on subjects ranging from the colonial era to the modern day and is home to some of the nation's beloved historical collections—including Tiffany lamps, Hudson River School paintings, and Audubon's Birds of America series.

[Learn More >](#)





Patricia D. Klingenstein Library

New-York Historical's Patricia D. Klingenstein Library is one of the oldest, most distinguished research libraries in the United States and a vital center of research into the history of New York and the nation.

[Learn More >](#)



DiMenna Children's History Museum

The first history museum in the U.S. designed specifically for children, we invite families to connect with our past, present, and future through fun, meaningful exhibitions, collections, and programs.

[Learn More >](#)



Center for Women's History

The first of its kind in the nation within a major museum, the Center presents exhibitions, initiatives, and programs that reveal the untold stories of women who have shaped the American experience.

[Learn More >](#)





Public Programs

Join us for outstanding talks, conversations, film screenings, and tours that showcase the nation's most eminent historians, writers, and thinkers.

[Learn More >](#)



Education

Our education department provides year-round dynamic programming and curriculum resources for K-12 students and teachers in New York and beyond.

[Learn More >](#)

New Wing

The New-York Historical Society announced a major expansion of our longtime headquarters at 170 Central Park West.

[Learn More](#)





History Responds

Our renowned collecting program that preserves history as it's happening

[Learn More](#)

President & CEO



Louise Mirrer

President & CEO

Louise Mirrer joined the New-York Historical Society as President & CEO in June 2004. Under her leadership, the institution has reinvigorated its commitment to greater public understanding of history and its relevance today, the support and encouragement of historical scholarship, and the education of young people. Mirrer holds a double Ph.D. from Stanford, a graduate Diploma from Cambridge, and a BA magna cum laude from the University of Pennsylvania. She is also an Honorary Fellow of Wolfson College, Cambridge.

...

Read More ▾

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EXHIBIT 74

“At the Instance of Benjamin Franklin”

A Brief History of the
Library Company of Philadelphia

“At the Instance of Benjamin Franklin”

*A Brief History of the
Library Company of Philadelphia*



PHILADELPHIA:

The Library Company of Philadelphia
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Philadelphia, Pennsylvania 19107
2015

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Cover illustration: James Reid Lambdin, *Benjamin Franklin*. Oil on canvas, 1880. Purchased by the Library Company, 1880.

On July 1, 1731, Benjamin Franklin and a number of his fellow members of the Junto drew up “Articles of Agreement” to found a library. The Junto was a discussion group of young men seeking social, economic, intellectual, and political advancement. When they foundered on a point of fact, they needed a printed authority to settle the divergence of opinion. In colonial Pennsylvania at the time there were not many books. Standard English reference works were expensive and difficult to obtain. Franklin and his friends were mostly mechanics of moderate means. None alone could have afforded a representative library, nor, indeed, many imported books. By pooling their resources in pragmatic Franklinian fashion, they could. The contribution of each created the book capital of all.

Fifty subscribers invested forty shillings each and promised to pay ten shillings a year thereafter to buy books and maintain a shareholder’s library. Thus “the Mother of all American Subscription Libraries” was established. A seal was decided upon with the device: “Two Books open, Each encompass’d with Glory, or Beams of Light, between which water streaming from above into an Urn below, thence issues at many Vents into lesser Urns, and Motto, circumscribing the whole, *Communiter Bona profundere Deum est.*” This translates freely: “To pour forth benefits for the common good is divine.” The silversmith Philip Syng engraved the seal. The first list of desiderata to stock the shelves was sent to London on March 31, 1732, and by autumn that order, less a few books found to be unobtainable, arrived. James Logan, “the best Judge of Books in these parts,” had assisted in the choice, and it was a representative one.

Were one to draw up a list of the works most commonly found in colonial American—and probably provincial English—libraries, the early selection of the Library Company could serve as a pattern. In the earlier ecclesiastical and collegiate libraries of British America the choice of books was imposed from without for theological or educational purposes and reflected the formal learning of donor or teacher. In the Library Company the desire for the book stemmed from the prospective reader.

EXHIBIT 75

5 Zoological Gardens of the United States

Vernon N. Kisling, Jr. and Rick Barongi

CONTENTS

5.1	Introduction	141
5.2	Eighteenth- and Nineteenth-Century Menageries.....	141
5.3	Nineteenth-Century Zoos and Aquariums	144
5.4	Twentieth-Century Zoos and Aquariums	154
5.5	Charting a New Course for the Twenty-First Century	164
5.5.1	Focusing on Mission.....	164
5.5.2	Growing Great Leaders	164
5.5.3	Raising the Bar on Animal Care and Conservation.....	165
5.5.4	Powering Up through Philanthropy and Partnerships.....	165
5.5.5	The Future	165
	References.....	166
	Additional Sources.....	169

5.1 INTRODUCTION

Prior to the European colonization of North America, there is no information on primitive animal collections, although the southwest native American tribes kept and bred tropical parrots obtained in trade from the Aztecs of Central America and Incas of South America.^{1,2} Hard work, frugality, simple pleasures, and the need to establish a new society in an overwhelming and threatening wilderness characterized America's colonial period. Colonists did not look favorably upon frivolous pursuits and amusements, and this viewpoint applied to the itinerant animal acts that appeared early in the eighteenth century. Nevertheless, fascination with wild animals attracted onlookers to these early itinerant acts, which featured bears and other native animals. These animals were brought to a tavern or village square for show and then the owner would pass around the hat to collect enough money to take him and his animals to the next town.³ The intellectual study of America's indigenous wildlife during the colonial period was the domain of visiting European naturalists.^{4,5}

5.2 EIGHTEENTH- AND NINETEENTH-CENTURY MENAGERIES

Exhibiting native species in itinerant animal shows remained common during the eighteenth century, but occasionally the native animals were replaced with more fascinating exotic animals from distant lands. A lion had the distinction of being the first exotic species exhibited when it was brought to Boston, Massachusetts in 1716. This representative of the "dark continent" was housed at the home of Captain Arthur Savage before it was moved in 1720 to the home of Martha Adams. Adams advertised in the newspaper, welcoming all to visit her lion whenever they wanted. She also had a sign on her house that read, "The Lion King of Beasts is to be seen here." This lion was shipped to the West Indies in 1726, but returned in 1727 to be shown in Philadelphia, Pennsylvania. In 1728, it appeared in New York and New Jersey and finally in New London, Connecticut before vanishing from the historian's view. It would be 1791 before another lion made it to American shores.^{3,6}

Another exotic species reached America soon after the lion arrived in Boston. This was a camel, which arrived from Africa and was on display for about four weeks in 1721. Other camels arrived in 1739 in Boston and in 1787 in New York. This last occurrence involved a pair of camels that were exhibited all over New England, New York and Pennsylvania for about ten years.^{3,6} Camels had actually been imported into Virginia in 1701, but for the purpose of domestication rather than exhibition.⁷ A “ferocious Greenland bear,” the “great white [polar] bear” was brought to Boston in 1733 and kept on its owner’s property among the hustle and bustle of the Boston wharves. Another polar bear made its way to Boston in 1798.³ Several ostriches were shown at Wourt’s Tavern, Boston in 1794 before leaving for South Carolina, the first documented occurrence of this species.³

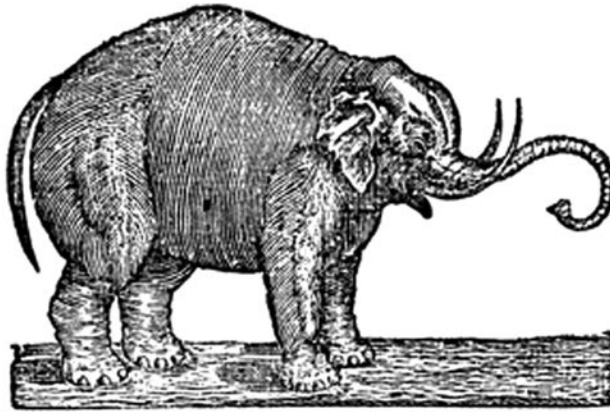
These exotic animal arrivals were few and far between. Most exotic animal shipments during the eighteenth century went to British and European menageries. However, American sea captains occasionally ventured to transport exotic animals to America, where they hoped to sell these animals for a high profit. It was then up to the itinerant showmen who purchased these animals to keep them alive long enough to recoup their huge investment. To do so, the animals had to travel to as many communities as possible, an arduous undertaking at the time. Exotic animals usually appeared at one of the major commercial ports in the northeast and then traveled to other major cities, such as Boston, New York, Philadelphia and Baltimore, Maryland. These cities provided the largest audiences, but on the way to these cities the animals were exhibited at smaller intervening towns. To attract customers, the traveling animal shows were advertised in local newspapers and printed flyers. However, these documents were ephemeral and few have survived.

Itinerant animal acts exhibiting several species began to appear in the larger cities during the late 1700s and carried over into the early 1800s when traveling menageries and circus menageries became popular. A menagerie containing reptiles and birds, in addition to the usual mammals, was exhibited in New York in 1781. Another menagerie, consisting of a tiger, orangutan, sloth, baboon, buffalo, crocodile, lizards, snakes and other creatures, was exhibited at New York in 1789. In 1796, a menagerie of birds, a seal and about 20 other animals appeared in New York, followed the next year by another, which consisted of wolves, monkeys, a mongoose, numerous small mammals and numerous birds. Although the exact identity of some of these animals is not known, some no doubt represented species that were probably making their first appearances in the United States.^{3,8}

The tiger promoted in the 1789 menagerie was part of a collection from Africa and Brazil so it may, or may not, actually have been a tiger since tigers are not from these regions. Two tigers from India did appear at Crombie’s Tavern in Salem, Massachusetts in 1806. These tigers appeared later in 1806 in New York, and another tiger arrived in Salem in 1816. Likewise, the orangutan is not from the regions advertised. This orangutan, however, was followed by others shown in New York in 1828, in Salem in 1831 and in Boston in 1836.

The first elephant to arrive in America was a two-year-old female Captain Jacob Crowninshield brought to New York in 1796 aboard his ship *America*. After exhibition at Beaver Street and Broadway in New York, the elephant was sold and taken on tour to Philadelphia (1796), Baltimore (1796), Charleston, South Carolina (1796), Philadelphia (1797), New York (1797), Providence, Rhode Island (1797), Cambridge, Massachusetts (1797), Salem (1797), Philadelphia (1798), Charleston (1798), Boston (1804), Philadelphia (1806), New York (1808), Baltimore (1811), Gettysburg, Pennsylvania (1812), New York (1818) and many points in between. While at Cambridge in July 1797, the elephant (*the* elephant because she was the only elephant in America and her owner felt no obligation to name her) supposedly attended commencement ceremonies at Harvard University^{3,6} (Figure 5.1).

Captain Crowninshield bought the elephant for \$450 and sold it for \$10,000, a fortune in 1796. The price of admission to see the elephant was 50 cents, so many paying customers were needed to recover the investment and maintenance costs. At the time (1790s) there were only two cities with more than 25,000 residents and most towns had fewer than 2,500.⁹ Fortunately for the owner, the elephant was immensely popular and stayed healthy for two decades. Many other exhibitors were not as fortunate.³



T H E

Elephant,

ACCORDING to the account of the celebrated BUFFON, is the most respectable Animal in the world. In size he surpasses all other terrestrial creatures; and by his intelligence, he makes as near an approach to man, as matter can approach spirit. A sufficient proof that there is not too much said of the knowledge of this animal is, that the Proprietor having been absent for ten weeks, the moment he arrived at the door of his apartment, and spoke to the keeper, the animal's knowledge was beyond any doubt confirmed by the cries he uttered forth, till his Friend came within reach of his trunk, with which he caressed him, to the astonishment of all those who saw him. This most curious and surprising animal is just arrived in this town, from Philadelphia, where he will stay but a few weeks. — He is only four years old, and weighs about 3000 weight, but will not have come to his full growth till he shall be between 30 and 40 years old. He measures from the end of his trunk to the tip of his tail 15 feet 8 inches, round the body 10 feet 6 inches, round his head 7 feet 2 inches, round his leg, above the knee, 3 feet 3 inches, round his ankle 2 feet 2 inches. He eats 130 weight a day, and drinks all kinds of spiritous liquors; some days he has drank 30 bottles of porter, drawing the corks with his trunk. He is so tame that he travels loose, and has never attempted to hurt any one. He appeared on the stage, at the New Theatre in Philadelphia, to the great satisfaction of a respectable audience.

A respectable and convenient place is fitted up at Mr. VALENTINE's, head of the Market, for the reception of those ladies and gentlemen who may be pleased to view the greatest natural curiosity ever presented to the curious, and is to be seen from sun-rise, 'till sun-down, every Day in the Week, Sundays excepted.

☞ The Elephant having destroyed many papers of consequence, it is recommended to visitors not to come near him with such papers.

☞ Admittance, ONE QUARTER OF A DOLLAR. — Children, NINE PENCE.

Boston, August 18th, 1797

◆ BOSTON: Printed by D. BOWEN, at the COLUMBIAN MUSEUM Press, head of the Mall. ◆

FIGURE 5.1 Poster dated 1797 advertising the Boston exhibition of the first elephant brought to the United States. Facsimile of the original poster. Courtesy of Vernon Kisling.

After the American Revolution, European naturalists returned home, but since their work had primarily supported European scientific endeavors, there was little effect because there was no American scientific infrastructure to collapse. During the early republic period, American naturalists, after initially relying on European resources, began developing their own education programs, research support, societies, communication networks and collections. However, financial resources and human efforts had to be devoted to endeavors that would allow the newly independent nation to survive, and therefore the natural sciences emerged only slowly. American knowledge about

natural science improved in the early to mid-1800s as colleges were established, state-sponsored survey expeditions increased, journals and publications became more numerous, and the number of naturalists grew.¹⁰⁻¹³

American attitudes during the first half of the 1800s were still a mixture of a practical need to survive, a fear of the unknown wilderness and a need to conquer and cultivate that wilderness.¹⁴ Itinerant animal acts continued to make the rounds of the big cities, as well as the new frontier towns, traveling the back roads and along the rivers. A lion, elephant and camel made their way to the remote frontier town of Natchez, Mississippi in 1806 and 1808 and two trained bears appeared at the Mississippi Hotel, Natchez in 1835. These itinerant acts, along with circus acts and other public amusements, were on their way to or from New Orleans, Louisiana.¹⁵

Other new species were displayed in America for the first time during the antebellum years, including a zebra in 1805, a rhinoceros in 1826, a quagga in 1833, a giraffe in 1837 and a hippopotamus in 1850.^{3,16} A one-horned rhinoceros walked onto the stage at Peale's Museum, New York in 1826 and was still being exhibited in New York in 1829. Another rhinoceros appeared at Washington Gardens, Boston in 1830 and was on the road from 1831 to 1835. The quagga, a species (*Equus quagga*) that soon became extinct, was an important part of one traveling menagerie in 1833. Rufus Welch, Zebedee Macomber and Eisenhart Purdy, the managers of this menagerie, were able to obtain this rare animal because they fielded their own expeditions during 1833/34. Three giraffes from Cape Town, South Africa were brought to America in 1837 and exhibited for several years. By 1842, only one survived and was still exhibited. Another was imported in 1839 and shown at Peale's Museum, New York. George Bailey imported a hippopotamus in 1850.

In 1835, a gathering of traveling menagerie owners representing most of the menageries then in existence met at the Elephant Hotel in Somers, New York to form the Zoological Institute. The institute was formed as a corporation that owned and managed its menageries jointly in a coordinated manner, monopolizing the traveling menagerie business to control expenses. The institute was short-lived, however, since it succumbed to the financial crisis of 1837. From the 1830s until the Civil War the circus was coming of age, and many exhibited their own menageries, often including trained animal acts.^{17,18}

5.3 NINETEENTH-CENTURY ZOOS AND AQUARIUMS

Joel R. Poinsett expressed interest in establishing a zoological garden in the United States during his Washington, D.C. address to the National Institution for the Promotion of Science in 1841. Poinsett called for a national institution that would include, among other organizations, a zoological garden.¹⁹ His concern was expressed as part of a broader debate on establishing the Smithsonian Institution. Poinsett thought the Smithsonian should be modeled after the Jardin des Plantes in Paris, which had "an observatory, a museum containing collections of all the productions of nature, a botanic and zoological garden, and the necessary apparatus for illustrating every branch of physical science."^{19,20} This suggestion, however, was in the minority and there was little interest in the zoological garden idea. The Smithsonian was eventually established in 1846 with a museum of natural history rather than a zoological garden.²¹ The zoological garden idea was not publicly debated again until 1859 in Philadelphia, 1870 in Washington and 1872/73 in Boston, but no zoological garden was established until 1874.

Until 1800, Philadelphia was the capital of the American republic, as well as its largest city and a leading cultural center. It was a city distinctive in its civic pride and its patronage of science. It was the location of America's first scientific society (the American Philosophical Society, 1743), the first botanical garden (the Bartram Botanical Garden, 1731) and the second natural history museum (the Peale Museum, 1784). The antebellum years found Philadelphia with a number of public parks, gardens, museums, circuses, menageries, concerts, theaters and other cultural entertainment.²² And with the determined assistance of some dedicated naturalists and civic leaders, Philadelphia would eventually find itself with America's first zoological garden.

EXHIBIT 76

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greatly in the eighteenth century, but even the main English highways were not safe after dark. Stagecoach guards and travelers carried blunderbusses, or other short guns, such as traveling or coaching carbines, or (most often) a pair of ordinary pistols.³² The muzzle of the blunderbuss flared outward slightly, like a bell. This made it easier to load while bouncing in stagecoach, or on a swaying ship.³³ One military use was by sailors to repel boarders.³⁴ In the American Revolution, Americans found it most useful for “street control, sentry duty and as personal officer weapons.”³⁵

For centuries England had been a backwater for firearms manufacture, and most firearms, other than basic military matchlocks, were imported. By the early eighteenth century, that had changed, and far more handguns were manufactured in England than anywhere else.³⁶



British navy [blunderbuss](#) made about 1760.

4. *Breechloaders and Repeaters*

The blunderbuss, the Brown Bess, fowlers, and the vast majority of other firearms were *muzzleloaders*. To load or reload the gun, the user would pour a

32. George, at 80, 91, 98.

33. Brown, at 143.

34. George, at 59.

35. Neumann, at 20.

36. Harold L. Peterson, *Arms and Armor in Colonial America 1526-1783*, at 212 (Dover 2000) (1956) (handguns); Held, at 51 (no one in England could make a good matchlock before 1660, or repair one before 1600; before 1620, only “crude military matchlocks” and cannons were manufactured in England).