

# ALPATA

## A JOURNAL OF HISTORY

University of Florida  
Volume 1, Spring 2004

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# PHI ALPHA THETA

## GAMMA ETA CHAPTER



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# A NOTE ABOUT THE INAUGURAL ISSUE

We are pleased to present to you the inaugural issue of *Alpata: A Journal of History*. Since this is the first Phi Alpha Theta journal from the University of Florida, we had many decisions to face during production. The title is drawn from the Timucuan word for alligator. The Timucuans were a culture indigenous to Florida, and the alligator is a representative feature of Florida's natural landscape and the mascot of the University of Florida. This title represents a mixture of present and past, emphasizing the crucial link between our world today and those who went before us.

The articles contained in *Alpata* demonstrate the breadth of the historical research undertaken within our department. Beginning with a study of nationalism during the Civil War, *Alpata* includes articles on topics as diverse as military trials in Spanish Florida, post-1960s American radicalism, the conversion of medieval Jews, and enclosure in Early Modern England. The eclectic nature of these articles illustrates a number of different historical problems and approaches.

The effort involved in preparing this journal was compounded by the fact that it was our first attempt. Not only did we ready the articles for print, but the entire design for the journal had to be created. We thank Chris Nyffeler for his work in preparing the cover, which began as only a vague notion and became something beautiful.

We also wish to thank the University of Florida's Department of History for providing funding for the production of the journal. Our Chair, Dr. Brian Ward, has been very generous.

We are especially grateful to Dr. Jack E. Davis, whose guidance and support has been crucial in this, our first year of publication. Without him, this journal would not have succeeded. He gave us the idea of a journal and let us choose the vision.

And so, it is with great pleasure that we invite you to browse the pages of *Alpata: A Journal of History*.

The Editors



# CONTRIBUTORS

**Paul Emerson** is a senior history major interested in baseball and reading.

**Dan Berger** graduated summa cum laude from the Interdisciplinary Studies Program and magna cum laude from the Department of Journalism in December 2003. He lives in Philadelphia, where he is completing a book about the Weather Underground, David Gilbert, and media.

**Nick Linville** is an M.A. student in United States History. His area of study is the territorial and early statehood periods of Florida history.

**Jacob Terpos** is a fourth-year history major with an emphasis in Christianity and the history of Science. He would like to thank Dr. Nina Caputo for her help and guidance.

**Kelly Minor** is a Ph.D. candidate. She received her B.A. in history education, and her M.A. in history at the University of West Florida. She is currently working on a dissertation on rural reform in Florida. While not her area of focus, she is also interested in agrarian history, with a decided attachment to Early Modern English and American agrarian reform history.

**Jason W. Crockett** is a second-year M.A./Ph.D. student in modern European history. He studies the political culture of the Habsburg Empire during the nineteenth century.

**Craig Doshier** is a Ph.D. candidate in United States history. His areas of interest include the history and literature of the South, race relations, gender, Caribbean and Brazilian history, and intellectual history. He is a native North Carolinian and former Peace Corps volunteer.

**Jace Stuckey** is a Ph.D. candidate. His area of research is Medieval Europe, and he is currently working on a dissertation studying the Crusades.

**Jason Antley** is a senior in history, with a minor in archaeology. His primary interest is the intersection of the British Empire, science, and exploration. He is also the president of the Gamma Eta Chapter. He will attend graduate school at the University of Florida this fall.





# SPECIAL SECTION

## Florida Archival Resources

For the benefit of scholars researching in Florida, the editorial board of *Alpata* is providing information on selected repositories holding materials on Florida history. The essays that follow offer brief, and by no means complete, descriptions of the fascinating collections to be found in archives, libraries, and centers around the state. Although Florida has many more repositories than those listed here—found at local historical societies, museums, and courthouses--what follows is a representative sampling of the type of material that researchers will find most accessible.

### University of Florida George A. Smathers Libraries

208 Smathers Library

University of Florida

Gainesville, FL 32611

(352)392-0342

Email: [special@mail.uflib.ufl.edu](mailto:special@mail.uflib.ufl.edu)

Web: <<<http://www.uflib.ufl.edu>>>

Hours: 9:00 AM to 6:00 PM Monday-Thursday, 9:00 AM to 5:00 PM

Friday

*Contact the library for special holiday and intersession hours.*

The Department of Special and Area Studies Collections of the George A. Smathers Libraries at the University of Florida, Gainesville, holds a great variety of sources for the historical researcher. The department is divided into two large divisions: the Area Studies Collection and the Department of Special Collections. Each of these divisions is in turn composed of several constituent parts.

Contained within the Area Studies Collection are the Latin American Collection, the Africana and Asian Studies Collections, and the Isser and

## Special Section

Rae Price Library of Judaica. The Latin American Collection, housed on the fourth floor of Smathers Library East, contains an overwhelming amount of material on Latin America as a whole—“approximately 350,000 volumes, 1,100 current/active serial titles, some 50,000 microforms, and a growing amount of computer-based information and access”—but the collection is especially strong in the Caribbean region.

The Africana and Asian Studies Collections, both of which form part of the general collections of Library West, are currently available in the second floor reading room in Smathers Library East while Library West undergoes renovations through spring of 2006. For those researchers interested in Asian Studies, sources available include more than 30,000 volumes on East Asia in a variety of Asian and European languages. The Africana Collection holds five major collections: the papers of Gwendolen M. Carter, a former professor of political science at the university; anthropology professor Robert Cohen’s papers; the George Fortune Collection containing 1,200 linguistic-related materials; Rene Lemarchand’s papers on political science in Rwanda, Zaire, and Chad; and George Shepperson’s papers relative to David Livingstone’s travels in Southern Africa.

Finally, the Isser and Rae Price Library of Judaica, housed in Norman Hall, holds 75,000 volumes of material on all aspects of the Jewish experience, ranging from sixteenth-century Hebrew manuscripts to a large collection on the Holocaust, as well as sources on “Virtually every Jewish population from Alaska to Argentina and from Scandinavia to Hong Kong.” Additional information on this library and all of the Area Studies Collections may be found at the Smathers Library Homepage.

The Department of Special Collections, located on the second floor of Smathers Library, holds a great number of smaller divisions. The Baldwin Library of Historical Children’s Literature boasts “more than 93,000 volumes published in Great Britain and the United States from the early 1700s through the 1990s.” Another collection within this department is the Belknap Collection for the Performing Arts, which contains more than 60,000 items of ephemera—from cinema, dance, theater, music, and more—from nineteenth- and twentieth-century Europe and America. Of great local interest is the P. K. Yonge Library of Florida History, housing materials on all periods of Florida history. For the colonial period, researchers can find collections drawn from the Archivo General de Indias and the East Florida

## Florida Archival Sources

Papers of the Library of Congress, as well as various British archives. Researchers with more modern sensibilities will find papers of political figures, newspapers, and a great many other materials.

The final three collections of the Department of Special Collections contain especially rare holdings. All are located in the second-floor reading room, Smathers Library. The Rare Books Collection, as the name suggests, contains a great variety of rare printed material, ranging from works of literary and theological value to natural science, almanacs, and various Latin American and Judaic materials. Next, the University Archives is the official repository of materials generated by the University of Florida, including university presidential papers, yearbooks, record copies of theses and dissertations, and the records of university organizations. Finally, the Manuscript Collection contains an immense variety of sources acquired by university archivists. Just a sampling of these sources includes the papers of noted author Marjorie Kinnan Rawlings; the Braga Brothers Collection, papers of an American firm engaged in the sugar trade in Cuba in the early twentieth century; and the Margaret Dreier Robins Papers on the Women's Trade Union League.

Researchers may find primary sources, as well as a great many secondary sources, through the Department of Special Collections and Area Studies on an incalculable number of topics, ranging from economics, psychology, and anthropology to the performing arts, literature, and photography. The only resource surpassed by the collections themselves are the librarians waiting for a researcher to arrive at the library, eager to pursue a new research project or expand an old one.

### **The Florida State Archives**

500 South Bronough Street  
Tallahassee, Florida 32399-0250  
(850) 245 - 6700

e-mail: [barm@dos.state.fl.us](mailto:barm@dos.state.fl.us)

Web: <<<http://dlis.dos.state.fl.us/barm/fsa.html>>>

Hours: 8:00 AM to 5:00 PM Monday thru Friday; 9:30 AM to 3:30 PM  
Saturday

*Closed Sundays, on state holidays, and on Saturdays of Friday or  
Monday holidays.*

## Special Section

The Florida State Archives (FSA), located on the first floor of the R. A. Gray building, two blocks west of the State Capitol, is the official depository of the state government. As such, Florida's state records, comprising the executive, legislative, and judicial branches from 1821 to the present, are housed at FSA. Additionally, the Archives maintains some local government records, including county tax, deed, marriage, and probate records, as well as some birth and naturalization records. There are also a number of non-governmental manuscripts covering correspondence, diaries, maps, and organizational papers of various business, religious, fraternal, professional, and social organizations.

Genealogists will want to consult the rich holdings of genealogically relevant materials, including county and census records, immigration records, Florida Pioneer Certificates, Florida military veterans records, and much more. Special topical indexes include guides to the Black Experience in Florida, the Film and Video collection, and Women's History resources. Of particular interest to Internet-savvy researchers are the on-line collections of World War I Service Cards, Florida Confederate Pension Application Files, the Call and Brevard Family Papers, Florida's Early Constitutions, Spanish Land Grants, and the Photographic Collection. The latter is another mainstay of the FSA's holdings, comprising over 800,000 still images and over 2,000 movies, which the Archives touts as "the largest and most comprehensive grouping of Florida-related images in existence." The Photographic Collection spans from colonial-era maps and prints to mid-nineteenth-century photographs and films and videos from the 1950s to the present.

The Photographic Collection constitutes one segment of the impressive Florida Memory project (<http://www.floridamemory.com>), which matches these images with time-lines, on-line exhibits, and primary sources to complement the "On-line Classroom," allowing students and teachers to incorporate these materials into their daily educational use. Over the next two years, the wide-ranging Florida Folklife Collection, which documents the cultural tradition of a number of ethnic groups from Florida, will be the focus of much of the FSA's efforts, as it digitizes, indexes, and catalogs these materials and incorporates them into the Florida Memory Project.

## Florida Archival Sources

### **Florida State University Archives**

Strozier Library and Claude Pepper Library

Florida State University

Tallahassee, FL 32306

Email: [spc@reserves.lib.fsu.edu](mailto:spc@reserves.lib.fsu.edu)

Web: <<<http://www.fsu.edu/%7Especcoll>>>

Hours: 8:00 AM to 5:00 PM Monday-Friday

*Closed Saturday and Sunday. Contact the library for special holiday and intersession hours.*

The collections at the Florida State University archives are numerous and diverse. They range from Civil War manuscripts to childhood themes in poetry. The archives are located in the Strozier Library and the Claude Pepper Library on the main university campus. The collections are open to students of the university as well as the public.

The Claude Pepper collection contains material associated with Claude Denson Pepper's political career, which spanned more than fifty years as Pepper served as a member of the Florida legislature, the United States Senate, and the United States House of Representatives. The collection includes both personal and official documents and correspondences, and its scope rivals many large presidential libraries.

The Strozier collection includes the John McKay childhood-in-poetry collection, which is primarily English and American poetry of the nineteenth and twentieth centuries. Over 5,000 volumes represent works from Wadsworth, Tennyson, Whitman, Coleridge, and many others. The Robert M. Ervin Jr. collection has over 1,200 titles in genres such as science fiction, fantasy, and horror, all from the 1950s, 1960s, and 1970s. A Scottish collection provides sources for research on Scotland and the Scottish influence in the southeastern United States and especially north Florida. The Florida collection deals primarily with north Florida and includes sources on environmental history, native peoples, industry, and government (this includes a manuscript collection on Florida governors). There is also a large collection of material on the French Revolution and the Napoleonic era.

Other holdings include numerous Civil War manuscripts, a collection of the history of the university (including a photo archive), and a rare book and printed collection, which has a 1611 King James Bible and a page from

## Special Section

a Gutenberg Bible (c. 1450s). Most, if not all, of the collection's specific holdings are listed on-line and can be accessed through the university's special collections web-page.

### **Rollins College Special Collections**

Olin Library

Rollins College

Winter Park, FL 32789

(407) 646-2421

Web:<<<http://www.rollins.edu/olin>>>

Hours: 9:00 AM to 4:00 PM Monday-Friday

*Closed Saturday and Sunday. Contact library for information on holiday and intersession hours.*

Located in Winter Park, Florida, the Olin Library at Rollins College is home to over 280,000 volumes of books, 1,500 periodical subscriptions, and 4,200 electronic periodicals. In addition, the library has numerous digital resources and is a U.S. Government Documents Depository containing approximately 74,000 items. The Olin Library is open for public use and provides a number of computers for on-campus access to its databases. Community users may purchase borrowing cards to check out books and other materials. Study areas, including conference and group study rooms, are available throughout the library.

The Olin Library Archives and Special Collections Department is located on the first floor and contains numerous items of interest to historians of Florida and Southern history. Rollins College opened in 1885 and the library archives provide books, artifacts, documents, and other information related to the history of the school, its students and faculty, and the surrounding community of Winter Park. The special collections section of the library includes the Rex Beach collection, the Blackman Manuscript collection, the Bucklin Moon Manuscript collection, and the Jessie Belle Rittenhouse collection. The library catalog also includes a collection of rare books and books about Florida included in the library catalog.

Of particular note is the Majorie Kinnan Rawlings collection. It charts—through photographs, letters, and transcripts of on-campus readings—her numerous visits to the campus. The collection's most prized

## Florida Archival Sources

asset is a forty-eight-piece correspondence between Rawlings and former Rollins College president Hamilton Holt that covers the years 1933 to 1949. This collection is an important supplement to the Marjorie Kinnan Rawlings papers located at the University of Florida.

### **The Tampa Bay History Center**

225 S. Franklin St.

Tampa, FL 33601

(813) 228-0097

Email: [info@tampabayhistorycenter.org](mailto:info@tampabayhistorycenter.org)

Web: <<[www.tampabayhistorycenter.org](http://www.tampabayhistorycenter.org)>>

Hours: 10:00 AM to 5:00 PM Tuesday-Saturday

*Closed Sunday, Monday, and holidays.*

The Tampa Bay History Center provides scholars with a wide range of sources on the history of Florida. Admission to the center in downtown Tampa is free, but memberships are available starting at thirty-five dollars. Individual members receive invitations to special events, home delivery of the center's quarterly newsletter, reduced admission to lectures/workshops, and a ten percent discount at the center gift shop. The center hosts continuing exhibits that focus on the history of west central Florida, including the Seminole wars, the Spanish-American War, the cracker cattle trade, railroads and shipping, and the Ybor City cigar industry. In addition, the center periodically presents special exhibits on the region's history. Recent topics include the Hillsborough County homefront and World War II, the development of American culture in Florida and the Caribbean, and a history of settlements in the Everglades from the early 1800s to the present.

In addition to its museum exhibits, the Tampa Bay History Center features a research library containing recent publications on state and local history, as well as a variety of other subjects. The library is also home to the Hillsborough County Historic Commission's collection, which includes books, maps, and other documents that deal with the history of the county and state. Scholars may also use a large genealogy section that contains information on Tampa and Hillsborough County pioneers, as well as Southern genealogy in general. The library accepts research requests through its website for those patrons unable to visit. This service costs five

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dollars per half hour of research time (the first half hour is free), as well as ten cents each for copies of documents. A free search engine is available on the center's website for browsing its holdings.

*Hillsborough's Communities* is a collection of histories that detail the settlements of Hillsborough County over the past 10,000 years. Published by the Tampa Bay History Center, this book focuses on more than two dozen communities and includes rare photographs and maps. The center also works closely with the Florida Studies Center at the University of South Florida to host the Florida Conversations lecture series. These informal talks address a vast array of themes dealing with Florida. They take place at various Tampa-area locations around the Tampa area, including the center, the university campus, and county public libraries. The center's website has a current listing of upcoming programs in this series.

### **University of South Florida Libraries**

4202 E. Fowler Ave.

Tampa, FL 33620

(813) 974-2731

Web: <<<http://www.lib.usf.edu>>>

Hours: Varies by collection.

*Contact the library for hours and information on other collections.*

Valuable sources abound within the University of South Florida (USF) library system. The main library on USF's Tampa campus is home to the Florida Studies Center. The Nelson Poynter Library of USF St. Petersburg and the Jane Bancroft Cook Library of New College of Florida/USF Sarasota each house distinct archival collections related to local topics.

The Tampa Library on the USF's Tampa campus boasts a Florida Studies Center dedicated to the promotion of arts and humanities in the Sunshine State. In 1997, the library began an oral history program focused on Florida politics, social justice, the history of USF, and Tampa Bay's economic development. The Tampa Library holds extensive special collections that include personal papers and historical photographs. The collections can be searched online.

The Nelson Poynter Library on USF's St. Petersburg campus also holds a useful special collections. The Florida History Research Collection



## Florida Archival Sources

contains over fifty papers about south Florida history written by USF students and outside scholars and researchers. The Poynter Library holds the papers of the library's namesake Nelson Poynter, longtime publisher and editor of the *St. Petersburg Times*. Not surprisingly, special collections related to south Florida journalism history are a particular strength of the Poynter Library. USF history professor Raymond O. Arsenault donated boxes of his personal research materials to form the foundation of a collection in his own name. The material includes clippings, public records, audiotape interviews, and photographs covering the years 1881-2001, with the majority of items falling between the years 1981 and 2001.

The special collections of the Jane Bancroft Cook Library contains numerous personal papers related to Sarasota history. A feature collection is the Ringling family papers, which trace several generations of the family behind the Ringling Bros. Circus. The Cook Library is also a repository for over 250,000 United States Government documents published by various federal agencies. Additionally, the library holds more than 250,000 Florida State Government documents and provides links to many Florida documents that can be accessed online.

### **Miami-Dade Public Library**

101 W. Flagler St.

Miami, FL 33103-1523

(305) 375-2665

Web: <<<http://www.mdpls.org>>>

Hours: 9:00 AM to 6:00 PM Monday-Saturday, 9:00 AM to 9:00 PM

Thursday, 1:00 PM to 5:00 PM Sunday (19 October-6 June)

*Closed county holidays.*

The public library complex of the main library on historic Flagler Street in downtown Miami contains a wealth of materials on south Florida and Cuban history. In the periodical and microform section of the library, researchers will find Florida newspapers not available elsewhere. The Miami library, for example, is one of only two repositories in the state that holds a complete selection of the Miami News-Record, the predecessor of the Miami Herald. The library's Florida Department includes rare books, documents, and the Gleason Waite Romer Collection of 17,500 photographic prints and negatives depicting south Florida history from

## Special Section

the early twentieth century to the 1950s. Few researchers are aware that this section of the library also contains a cache of small but invaluable manuscript collections not found elsewhere in the state. They are hidden away in file cabinets, where their accessibility requires the assistance of a librarian. The library's Cuban Collection is a repository for Cuban literature, art, religion, and history. Among its holdings are the works of Cuban revolutionary leader Jose Marti.

Across the plaza from the library is the Historical Museum of Southern Florida, an important repository for researchers. The archival collections--photographs and documents--at the museum are quite extensive, relating to archeology, history, folklife, and cultures of south Florida and the Caribbean. The collections can be searched on-line.

### **Hispanic Branch:**

2190 W. Flagler St.

Miami, FL 33135

(305) 541-9444

Hours: 9:30 AM to 6:30 PM Monday, Tuesday, Thursday, and Saturday;

11:30 AM to 6:00 PM on Wednesday

*Closed Friday, Sunday, and county-observed holidays.*

Located in the center of Little Havana, the Hispanic Branch constitutes a collection of 60,000 printed and photographic items in literature, history, and linguistics. Much of the material deals with the Cuban exile/immigrant experience in south Florida. The Cuban collection at the Hispanic Branch contains a number of rare books.

### **Florida Historical Society**

Alma Clyde Field Library of Florida History

435 Brevard Avenue

Cocoa Beach, Florida 32922

(321) 690-1971

Email: [fieldlib@aol.com](mailto:fieldlib@aol.com)

Web: <<[www.florida-historical-soc.org](http://www.florida-historical-soc.org)>>

Hours: 10:00 AM to 5:00 PM Tuesday-Saturday

## Florida Archival Sources

The Alma Clyde Field Library has more than 8,000 maps of Florida, dating from the late 1500s. In addition, the manuscript collection holds the Richard Keith Call Papers, the Pleasants W. White Papers, El Destino Plantation records, John Milton Letterbooks, the Francis Fleming papers, and several other minor collections. There are approximately 3,000 photographs, with a heavy concentration of East Coast photographs. Recently, the Field Library has acquired the organizational papers of the Sons of the Spanish-American War group, as well as some of the administrative records of the Florida Women's Club. In the Library's collections are papers from the WPA Federal Writers' Project in Florida, approximately 3,000 books, many of which are limited-run local history publications from around the state. Because of renovations to the library, scholars wishing to use the collection are encouraged to call in advance of their visit in order to allow the archivist time to access the needed materials. There are no research fees, but fees for photocopies and copies of pictures are assessed.



# UNFURLED NATIONALISM

## PATRIOTIC DISPLAYS AFTER THE BALTIMORE RIOT OF APRIL 19, 1861

### **Paul Emerson**

In his official report, Colonel Edmund Jones of the Sixth Massachusetts Regiment described his experience in the American Civil War's first bloodshed: "[Union soldiers] were furiously attacked by a shower of missiles, which came faster as [the troops] advanced. . . . pistol-shots were numerous fired into the ranks, and one soldier fell dead. The order 'Fire!' was given [by a Union commander], and it was executed."<sup>1</sup> This battle did not take place on a battlefield, but on the home front, in the nation's second largest city—Baltimore, Maryland.<sup>2</sup> On the nineteenth of April, 1861, Union troops from Massachusetts passed through the city en route to Washington, D.C., to protect the capital from possible Confederate invasion. These Massachusetts soldiers met a furious Baltimore mob, and a riot ensued, resulting in sixteen deaths.

Baltimore's citizens faced many consequences after the violence. First, and most importantly, the Union army quickly took control of Baltimore and imposed martial law. Second, to bolster this military occupation, Abraham Lincoln suspended the writ of habeas corpus, allowing the arrest, without charge, of those whom the government believed posed a threat to the Union. Third, the aftermath of the riot revealed Maryland's mixed allegiances to the North and South, and a heightened sense of patriotism for both regions arose. While Southern sympathizers pitied the civilians killed by the army, Unionists supported the Northern troops who were "unreasonably attacked" by the large rebel mob. Fourth, Baltimoreans displayed flags and wrote songs that defined Baltimore's patriotic mood.

Using a broad range of materials—such as newspapers, letters, diaries, songs, official documents, and the mayor of Baltimore's memoir—this essay will address the following question: how did Baltimoreans display nationalism after the riot of April 19, 1861, and the subsequent Union occupation? Before considering the roles that nationalism played after the

uprising, it would be helpful to examine, in greater detail, the Baltimore of early 1861, and especially the riot itself.

## **Early 1861 and the Baltimore Riot**

Baltimore, like the state of Maryland, was divided over national loyalty during the Civil War. On the one hand, *The New York Times* reported on April 15, 1861, that “The Union feeling in this city [Baltimore] has been unmistakably displayed since Friday [April 12, the day that the attack on Fort Sumter commenced]. Men with cockades and secession emblems have been chased by crowds and protected by the police.”<sup>3</sup> On the other hand, according to Baltimore Mayor George Brown, who was in office from October 1860 to September 1861, only 2,294 of Maryland’s white population of 515,918 voted for Abraham Lincoln in the 1860 presidential election.<sup>4</sup> Hence, on the eve of war, Lincoln and the Republican Party had no foothold in this critical border state. In fact, according to Brown, the sympathies of Maryland were “divided between the North and South, with a decided preponderance on the Southern side.”<sup>5</sup> These considerable pro-Southern sentiments in Maryland led to two famous episodes in early 1861—the supposed assassination plot against President-elect Lincoln, and the Baltimore Riot.

In February 1861, while journeying to Washington for his inauguration, Abraham Lincoln became convinced that there was a plot to assassinate him in Baltimore. Therefore, the president-elect secretly rode on a train through the city at night and thus evaded the possible attempt on his life.<sup>6</sup> This episode revealed many Northerners’ fear of pro-secessionists in Baltimore and the potential for a violent outbreak.<sup>7</sup>

The Confederate bombardment of Union-held Fort Sumter on April 12, 1861, marked the beginning of the Civil War. On April 15, following the Union surrender of the fort, President Lincoln issued a proclamation calling for 75,000 troops to fight for the Union.<sup>8</sup> In order to defend Washington, D.C., troops had to travel through the divided state of Maryland, with many citizens there, especially in Baltimore, unwilling to let an “invading” army enter their city or state.

On April 18, the States Rights Convention of Maryland adopted resolutions warning the federal government that sending troops through Baltimore would be an insult to the state. If Union soldiers entered

## Baltimoreans' Displays of Nationalism

Maryland, the convention recommended that they be attacked. As the convention chairman, A. C. Robinson, stated: citizens should “repel, if need be, any invader who may come to establish a military despotism over [Maryland].”<sup>9</sup>

When President Lincoln ordered the call to arms on April 15, 1861, the Sixth Massachusetts Regiment was the Union army's first division completely equipped and organized. Before arriving in Baltimore, the regiment's 700 soldiers learned that their passage through the city could bring a heated conflict with Southern sympathizers. Given this warning about the tumultuous nature of Baltimore and the potential for a violent outburst against the Yankee troops, the regiment's commander, Colonel Edmund Jones, ordered his troops to ignore potential rioters, even if they assaulted them. However, if anyone fired on a soldier, then an order to fire on the mob would be given.<sup>10</sup>

On April 19, 1861, the Sixth Massachusetts Regiment arrived at Baltimore's northbound President Street Station.<sup>11</sup> Since rail lines did not traverse the city, the troops had to walk for over a mile to the southbound Camden Station to continue the trek to defend the nation's capital.<sup>12</sup> It appears that the States Rights Convention got across its message of the previous day about attacking Northern troops, as the soldiers met an angry mob of an estimated 5,000 Baltimoreans.<sup>13</sup>

Many of these Southern sympathizers cheered Jefferson Davis and displayed the Confederate flag. They told the Massachusetts troops that the Baltimore rioters would “kill every ‘white nigger [Northern soldiers],”<sup>14</sup> rather than let a Union army march through the city. According to a soldier's journal, rioters attempted to inhibit the troops by making the roads almost impenetrable: digging up the streets and filling them with stones and boards.<sup>15</sup> The mob also tried to block a bridge on Pratt Street, the main road between the two railroad stations, by barricading it with anchors, rocks, and planks. Adding to the soldiers' troubles, the bridge floor was torn up, so after climbing over the barricade, they had to cross it on the stringers.<sup>16</sup> Finally, some rioters attacked the troops directly. Rioters threw stones and bricks and even shot pistols toward the Union soldiers. The troops responded by shooting into the crowd, as Colonel Jones previously ordered. When the smoke cleared, four soldiers and twelve civilians were dead.<sup>17</sup> These sixteen individuals were the first casualties of the Civil War, a conflict which ultimately took over 600,000 lives.

An incident at the end of the riot helped spark increased Southern sympathy. While the Massachusetts regiment was leaving Baltimore, a few Southern sympathizers, including Robert W. Davis, were standing on the side of the railroad track cheering for Jefferson Davis and the South. Even though these rebel supporters were not rioters—they probably had not yet learned that these troops had just been attacked—a distressed soldier fired his gun from the train and killed Robert Davis, the last casualty of the riot. Since Davis's death was not a result of a soldier's self-defense, many felt that this was an unjustifiable action taken by the Yankees.<sup>18</sup> According to Mayor Brown, this incident inflamed many Southern supporters against Northern troops.<sup>19</sup>

Many people feared that more Union regiments were headed to Baltimore. If additional troops entered the city, another riot may have ensued. Bearing this in mind, Mayor Brown, with the consent of Maryland Governor Thomas Hicks and the help of the Baltimore police, gave the order to burn and disable railroads and bridges surrounding the city in an effort to prevent more troops from entering Baltimore.<sup>20</sup>

Secessionist groups even cut telegraph wires to the capital, thereby temporarily isolating Washington from the rest of the North. Outraged by the trouble that supposedly loyal Baltimore was causing, some Northerners, including *New York Tribune* editor Horace Greeley, demanded the city be burned.<sup>21</sup>

## Governmental Responses to the Riot

Even after commanding the burning of bridges and tearing up of train tracks to prevent more troops from entering Baltimore, both the mayor and governor appealed to President Lincoln to order no more troops through the city: "No more troops can pass through Baltimore unless they fight their way."<sup>22</sup> Lincoln concurred in a letter to Brown and Hicks discussing his military plan: "I make no point of bringing them [troops] through Baltimore."<sup>23</sup> By ordering Union armies to avoid Baltimore, the president used his power as commander-in-chief to prevent another potential riot (which could have caused Maryland to secede from the Union).<sup>24</sup>

In early May 1861, a state criminal court organized a grand jury to determine what happened on April 19 and who participated in the riot. The court attempted to ensure that the rule of law still existed in Baltimore



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and, therefore, that this violent day would not be “passed over [by the government] without punishment, or accepted as lawful and pardoned as excusable.”<sup>25</sup> This shows that the government investigated the Baltimore riot to punish individuals responsible for the attack on the soldiers and to prevent another violent eruption. Along those lines, the Baltimore city council, on April 20, appropriated \$500,000 under Mayor Brown’s direction to defend the city from a second possible outbreak of violence. Brown asked all Baltimoreans to donate their weapons to the police. In addition, the police temporarily enrolled 15,000 men, heavily armed with muskets, shotguns, and pistols.<sup>26</sup> Many of these “defenders” thought that their purpose was not to restrain potential rioters, but to deter Yankee invaders. Indeed, some of these men eventually fought in the Confederate army.<sup>27</sup>

After the Maryland state legislature refused to secede from the Union,<sup>28</sup> many young men, still upset about the riot, took matters into their own hands by deserting the state and Union to join the Confederacy. An estimated 20,000 white men ultimately left Maryland,<sup>29</sup> with many from wealthy and renowned families.<sup>30</sup> One such soldier wrote a song stating that he departed Maryland to fight for the Confederacy and to free the state from the North’s grasp.<sup>31</sup>

The most important governmental response to the riot occurred on April 23, when U.S. martial law was declared in Baltimore. All Baltimore citizens faced a curfew requiring them to stay in their houses and thereby prevent more uprisings. Also, all places of “amusement” were closed, perhaps to avoid having large groups of people in one area simultaneously.<sup>33</sup> Baltimore’s citizens justifiably feared incarceration merely for seeming unsympathetic to the Union cause.<sup>34</sup> Citizens suspected of favoring the rebellion were prohibited from entering the jail housing Confederate prisoners of war. The Baltimore police, appointees of the Union army, seemed to enjoy wrecking havoc on civilians, including women.<sup>35</sup>

On May 13, 1861, the Union army, led by Brigadier-General Benjamin Butler, entered and occupied Baltimore. This was the first major Northern army incursion into the city since April 19, but Butler faced no real opposition. On the following day, Butler issued a proclamation explaining the intentions for military rule in the city: “A detachment of the forces of the Federal Government under my command have occupied the city of Baltimore for the purpose, among other things, of enforcing respect and obedience to the . . . United States laws, which are being violated within

its limits by some malignant and traitorous men.”<sup>36</sup> According to Butler, the occupation’s purpose was to guarantee that Baltimore remain loyal to the Union.

The United States military’s control of Baltimore placed a heavy financial burden on many civilians. For instance, according to Mayor Brown, “If horses and fodder, fences and timber, or houses and land, were taken for the use of the [Union] Army, the owner was not entitled to compensation unless he could prove that he was a loyal man; and the proof was required to be furnished through some well-known loyal person.”<sup>37</sup> Moreover, even the most fundamental aspect of democracy—voting—was limited in Baltimore, as only loyal men were given this right.<sup>38</sup>

Arguably, the greatest burden the federal government placed on Baltimore was the suspension of the writ of habeas corpus.<sup>39</sup> President Lincoln authorized the suspension as a means to protect public safety. With this power, Lincoln gave military commanders of the city the authority to arrest essentially anyone “disloyal” to the Union without proving a crime or even filing charges. In fact, alleged disloyalty of any sort became a punishable crime, one for which a judge might never hear the imprisoned suspect’s demand for a hearing. So, for example, any Baltimorean wearing red and white—the Confederate national colors—could be arrested for encouraging rebel sentiment. Additionally, newspapers that “promulgated disloyal sentiments” were censored and their editors were imprisoned.<sup>40</sup> Even religious organizations were impacted, as any clergyman who did not encourage loyalty was likely to get arrested.<sup>41</sup> Almost every aspect of life in Baltimore, from the media to religion, was controlled by the Union military and its right to ensure loyalty.

The occupation force, then under Major-General Nathaniel P. Banks’s command, arrested the Baltimore police commissioners on July 1, 1861, and established a new police force directly controlled by the Union army.<sup>42</sup> Although the grounds for these arrests were not clearly stated, Banks most likely imprisoned the commissioners to give the army-appointed police more discretion, with no potential interference from the local government, when these new police took action to “protect” the city from allegedly disloyal citizens.

Finally, in September 1861, five months after the riot, federal officials grew concerned, although erroneously, that the Maryland state legislature would vote for secession. Thus, Secretary of War Simon Cameron ordered

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the arrests of prominent legislators, newspaper editors, and Mayor Brown to stop Maryland's supposed attempt to join the rebellion. In addition, these arrests were meant to demonstrate that the federal government controlled the entire state and thereby intimidate Baltimore's Southern sympathizers.<sup>43</sup>

### **Nationalism Displayed in Baltimore After the Riot**

Historian Gary Gallagher has defined nationalism during the Civil War as “strong feelings of national identity” for either the Union or the Confederacy.<sup>44</sup> After the violence of April 19, 1861, both forms of nationalism—pro-North and pro-South—grew tremendously, as many Baltimoreans openly displayed their political beliefs by various methods, including displaying flags and writing songs. Numerous Southern sympathizers were enraged over the Union Army's incursion into their city and the Union occupation following the riot. On the other hand, many Unionists rallied behind the American flag or other national symbols, and they viewed the rebel mob as lawless men who had attacked the very soldiers who were risking their lives to keep the nation intact. Even songs, such as “Maryland, My Maryland,” were written with the violent attack on the soldiers in mind and as a means to articulate nationalistic (in this case, Confederate) feelings. A few days after the riot, for example, *The New York Times* stated that Baltimore was peppered with rebel flags and “no man [would] dare proclaim himself in favor of the Union.”<sup>45</sup> Baltimore seemed to have a strongly pro-Confederate tilt after the riot.

Even with Baltimore's seemingly fervent Southern sentiment, Mayor Brown believed that geography was destiny: a pro-North Maryland was required to prevent the isolation of the North's capital, so most Marylanders shared “an underlying feeling that by a geographical necessity her [Maryland's] lot was cast with the North.”<sup>46</sup> Although many Baltimoreans were passionate Southern nationalists, the remainder of the Union would not permit Maryland to leave the Union and isolate the capital.

Immediately after the riot, a town meeting was held. Speakers, including Mayor Brown and Governor Hicks, focused their energy on promoting peace between the nation's splintered regions. In fact, when the governor reported that he was devoted to the Union's reconstruction,

a large portion of the crowd shouted: “No, never.”<sup>47</sup> This reflected the substantial Southern loyalty in Baltimore. Significantly, a huge Maryland flag, not the national flag, served as the backdrop for this large public gathering.<sup>48</sup> The fact that the state flag was used revealed the sense that the public’s mood was focused on Maryland, not the Union. In the weeks following the Baltimore riot, the American flag largely disappeared, as many Baltimoreans favored secession.<sup>49</sup>

As perhaps the most important patriotic symbols, flags continued to play a key role in deciphering the nationalistic mood of Baltimore. For example, on May 1, 1861 the American flag was raised over Baltimore’s post office. According to the Chambersburg, Pennsylvania, newspaper *The Valley Spirit*, the ceremony was marked by a nonviolent contest of competing nationalists: Southern sympathizers protesting the Union banner, and Unionists singing Baltimore’s own “Star Spangled Banner.”<sup>50</sup> Therefore, many civilians recognized the United States flag as a powerful national icon, either by protesting its display or by celebrating its unfurling via a chorus of a rousing, patriotic song.

Knowing that flags influence patriotism, city authorities attempted to limit their use. On April 29, 1861, Baltimore’s city council passed an ordinance prohibiting “the public display of all flags or banners in the city of Baltimore, except on buildings or vessels occupied or employed by the Government of the United States.”<sup>51</sup> A few weeks later, General Butler banned only Confederate national symbols. In fact, Butler equated displaying a Southern flag or banner with actually aiding “enemies of the [Union].”<sup>52</sup> In September 1861, President Lincoln banned “the sale [in Baltimore] of Confederate flags, badges and envelopes and also the likeness of President Davis, Generals Beauregard, Lee, Johnston, and all persons [who are] citizens of the Confederate States.”<sup>53</sup> These restrictions on flag usage, especially the Baltimore ordinance completely banning all public displays of any flag (Union, Confederate, or otherwise), indicate how extensively the authorities pursued any means to prevent more violence inspired by conflicting nationalist symbols.

Many loyal Baltimore citizens showed their patriotism by presenting a large American flag to the Sixth Massachusetts Regiment on Independence Day, 1861.<sup>54</sup> Symbolically, this was important, as July Fourth, a national holiday, was chosen as the day to give the soldiers this gift. Citizen backing of the very soldiers who had endured the mob attacks on April

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19 accentuated the strong, pro-Union sentiments of these Baltimorean patriots for the North.

Even children were brought into the nationalist struggle. A Mr. Rawlings described how a secessionist manipulated Rawlings's eight-year-old son. After the boy erected a little American flag in the Rawlings's garden, a man demanded the flag's removal, as it offended his Southern sensibilities. Later, the man gave the boy a rebel cockade to wear on his hat and told the youngster that he must wear the Southern symbol. After these incidents, the Rawlings family decided to leave Baltimore, as they did not wish to remain in an atmosphere where children were used for Southern propaganda.<sup>55</sup> This story supports historian Peter Bardaglio's argument that children were used to show patriotic feelings in Baltimore. For example, Bardaglio claimed that adults, usually parents, encouraged children to take part in this internal struggle by wearing nationalistic symbols, as the Rawlings boy did, or even taunting the Northern soldiers as many children did throughout Baltimore's occupation.<sup>56</sup>

Some diarists, such as Reverend Abraham Essick of Pennsylvania, pointed out that even though Southern nationalism was increasing in Baltimore, many of the city's Unionists were also patriotic. As Essick noted, "the idea that the Federal troops should not be allowed to pass peaceably through a city [Baltimore] stil [sic] owing allegiance to the union, to the defense of their own capital, has justly awakened the extreme indignation of a loyal people."<sup>57</sup> Therefore, many Baltimoreans rallied behind the American flag in light of the pro-rebel attack on Union soldiers.

In his diary, Essick noted the importance of religion in patriotism. While in Baltimore, he "heard ministers . . . declaring that the [United States] government must be sustained, that to fight for the union was doing God [sic] service, and that it is the duty of all good christians [sic] to come up to the rescue"<sup>58</sup> and fight for the Union.<sup>59</sup> Essick even compared Baltimore to Sodom and Gomorrah. According to Essick, Baltimore would not meet the same fate of those Biblical cities because of the large number of citizens working to save the Union.<sup>60</sup> Historian Drew Faust notes similar language in *Mothers of Invention*. Faust claims that many white Southerners viewed themselves as "God's chosen" and prophesied that God had promised a Confederate victory.<sup>61</sup> Hence, both sides invoked religion as a source of moral support and nationalism. Both the North's and the South's supporters truly felt that God was on their respective side,

and they would therefore win the war.

Soon after the riot, at the height of Baltimore's Confederate nationalism, some white men stood up for their pro-Union beliefs. For example, in late April 1861, John Schoonmaker exclaimed to a large crowd in the city that he would never desert the stars and stripes and wanted the rebels to be hanged. For this public outcry, a gang of eleven rebels broke into Schoonmaker's house in the middle of the night and forced him to leave Maryland with nothing except the clothes he was wearing.<sup>62</sup> This confrontation exposes the tensions Baltimoreans then faced, as many people clashed over differing nationalistic beliefs.

Confederate loyalist John Breckinridge of Kentucky—who had run for president in 1860—traveled to Baltimore to give a speech to secessionists on August 8, 1861. The majority of the several thousand present, however, were Unionists who refused to allow Breckinridge to talk. These Northern loyalists demanded that the band attending this event play Union patriotic songs, such as the “Star Spangled Banner” and “Yankee Doodle.” The band, however, only would perform the Confederate tune “Dixie.” In response, Union supporters brought up the riot: “Remember the 19th of April!”<sup>63</sup> Shouting insults at the Southern sympathizers, the pro-Northerners in the audience blamed these rebel supporters for causing the bloody riot and its aftermath: “Remember the Week of Terror!”<sup>64</sup> Therefore, nearly four months after the riot, many pro-Union nationals stood up for their cause by refusing to let a renowned secessionist speak in Baltimore.

The spread of nationalism due to the riot was even heard in several songs, including James Ryder Randall's “Maryland, My Maryland,” now Maryland's state song. This boom in music and poetry helps to corroborate Alice Fahs's argument in *The Imagined Civil War* that the Civil War produced a large quantity of war-related literature, including songs.<sup>65</sup> Randall, a native Baltimorean, was teaching in New Orleans at the Civil War's outset and was a strong Confederate supporter. With the violence in Baltimore fresh on his mind, Randall wrote his poem on April 26, 1861.<sup>66</sup> In fact, the poem directly mentioned the Baltimore riot: “Avenge the patriotic gore / That flecked the streets of Baltimore, / And be the battle queen of yore, / Maryland! My Maryland!”<sup>67</sup> The language in Maryland's state song is clearly pro-Confederate and promises vengeance on Lincoln and the North. Depicting Northerners in repulsive terms, Randall used phrases such as “Northern scum” to describe the Union and words such as

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“despot” and “tyrant” when mentioning the American president.<sup>68</sup>

Similar to “Maryland, My Maryland,” another song, “Baltimore,” presented Baltimore as a city placed in chains by “Northern vandals.”<sup>69</sup> The song’s anonymous author concentrated on the notion that Northerners trampled Baltimoreans and stole their rights with martial law. In keeping with the common theme of revenge upon the North, “Baltimore” promised to “hurl the invaders” out of the city.<sup>70</sup> Alice Fahs supported the claim that “Maryland, My Maryland” encouraged nationalistic ideals in Baltimore comparable with “Baltimore” and other poems and songs of the era.<sup>71</sup>

Additional songs, “Welcome ‘Jeff’ to Baltimore” and “The Maryland Martyrs” depicted Baltimore as a pro-Confederate city. “Welcome ‘Jeff’ to Baltimore” attempted to woo to Baltimore such Southern heroes as Jefferson Davis, Robert E. Lee, and Stonewall Jackson, because the author was “sure they’l [sic] feel at home.”<sup>72</sup> As this song indicates, some Baltimoreans felt that pro-Confederate sentiment was strong enough in the city to make the leaders of the rebellion feel at ease there. “The Maryland Martyrs” portrayed Baltimoreans arrested for being disloyal to the Union as martyrs who should be freed.<sup>73</sup> The song revealed that some people in Baltimore sympathized with those who were arrested simply for being anti-Union, and these people, in championing the detainees’ rights, tried to rally others against this Northern practice of jailing citizens on flimsy or nonexistent charges.

Even though his diary entry was written nearly a year after the riot, Andrew Brooks of Virginia provided an interesting account of Baltimore. Brooks was a captured Confederate soldier writing of his time in Baltimore as a prisoner of war. Interestingly, as Brooks was marched through the city, thousands of civilians gathered to see the prisoners. Many women and children “waved their handkerchiefs and . . . hurrahed for Jeff Davis.”<sup>74</sup> Baltimore Confederate supporters even provided Southern prisoners, such as Brooks, with clothing. Many Baltimoreans were so committed to the rebel cause that they assembled by the jail that held Confederate prisoners and “testified their sympathy and support by every demonstration of their power.”<sup>75</sup> Brooks’s statements offered evidence that, long into the Union occupation, many Baltimore citizens remained patriotic to the South in a key way—showing loyalty to those fighting for the Confederacy.

## Conclusion

The Baltimore Riot of 1861 was a key moment during the Civil War. That violent day marked the first casualties of a long and bloody war. In the aftermath of the riot, the city became an occupied fortress with the Union army trying to prevent further chaos and controlling the citizens' lives through comprehensive, intrusive, and onerous measures, such as confiscating the property of Confederate supporters, enforcing curfew, banning large gatherings, and suspending the writ of habeas corpus.

Besides frequent confrontations between Northern and Southern supporters, Baltimoreans displayed nationalism in less physically threatening but nonetheless quite obvious ways after the riot of April 19, 1861. Such methods included the display of flags, use of children as proxies for advancing one side's cause, finding martyrs and religion to support either the North or the South, and putting sectional beliefs into words and music.

The riot revealed a severe split in Baltimoreans' nationalistic fervor. In the days before the riot, the city seemed to favor heavily the Union. In the months after the riot, however, Baltimore was deeply divided between Northern and Southern sentiment. Numerous images of patriotic feelings were displayed through flags, as many Baltimoreans used these icons of their "country" to indicate their nationalistic mood, whether pro-South or pro-North. Children were even used as tools to represent patriotic moods. Each side invoked religion for support, and there were martyrs—soldiers and citizens, respectively—for the Northern or Southern cause. Some Unionists were expelled from Baltimore by Southern sympathizers after standing up for their pro-Northern beliefs. On the other hand, the spate of arrests and other Union occupation "outrages" led many young men to flee southward to join the Confederacy. Moreover, by the summer of 1861, instilled with a confidence no doubt bolstered by the presence of an occupying Union army, Baltimorean pro-Union nationals shouted down Confederate loyalists, whether homegrown or invited, who tried to engage in secessionist or other "traitorous" speech. Even popular culture, notably songs, such as "Maryland, My Maryland" and "Baltimore," played significant roles defining nationalism in the city for the first several months of the Civil War.



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In early to mid 1861, Baltimore's citizens, whatever their beliefs, were very effective in getting their patriotic views before the public. That, indeed, was a major rationale for Union army suppression of all pro-Confederate expressions, so that further displays of nationalism would be of just one kind: ardently pro-Union.

### Notes

<sup>1</sup> George William Brown, *Baltimore and the Nineteenth of April, 1861: A Study of the War* (1887; Baltimore: The Johns Hopkins University Press, 2001), 46-47.

<sup>2</sup> Although the war began at Fort Sumter in South Carolina's Charleston Harbor, there were no deaths there.

<sup>3</sup> "How Received in Baltimore," *The New York Times*, 15 April 1861.

<sup>4</sup> Brown, *Baltimore and the Nineteenth*, 30.

<sup>5</sup> Ibid.

<sup>6</sup> Ibid., 11, 17-18.

<sup>7</sup> Ibid., 19. Mayor Brown commented that this distrust—reflected in Lincoln's nocturnal, secretive trip through Baltimore—was not based on any genuine intelligence, and the incoming federal administration's approach was counterproductive; it created or worsened anti-Union feelings in Baltimore.

<sup>8</sup> J. Matthew Gallman, *The North Fights the Civil War: The Home Front* (Chicago: Ivan R. Dee, Inc., 1994), 12.

<sup>9</sup> A. C. Robinson, "Resolutions of the States Rights Convention," as cited in Brown, *Baltimore and the Nineteenth*, 37-38.

<sup>10</sup> Brown, *Baltimore and the Nineteenth*, 42-44.

<sup>11</sup> Ibid., 44-45.

<sup>12</sup> Gallman, *The North Fights the Civil War*, 13.

<sup>13</sup> Brown, *Baltimore and the Nineteenth*, xiii.

<sup>14</sup> Captain Follansbee, "Letter to H. H. Wilder, Esq.," 20 April 1861, (<http://letterscivilwar.com/4-20-61a.html>).

<sup>15</sup> W. D. G., Journal Entry, 20 April 1861, (<http://letterscivilwar.com/4-20-61c.html>).

<sup>16</sup> W. D. G., Journal Entry. Stringers were wood beams that were part of the bridge's framework and supported the floor.

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<sup>17</sup> Brown, *Baltimore and the Nineteenth*, 53.

<sup>18</sup> Undoubtedly, it further provoked many Marylanders that there was no arrest for Davis's homicide.

<sup>19</sup> *Ibid.*, 52-53. In their reaction to Davis's death, many pro-Southern Baltimoreans acquired an even greater sense of Confederate nationalism. Moreover, many neutral persons, if not then favoring the South, may at least have come to dislike the Union military.

<sup>20</sup> George William Brown, "Message to the Baltimore City Council," 11 July 1861, (<http://www.civilwarhome.com/Baltimore3.htm>).

<sup>21</sup> "Baltimore Riot," (<http://www.civilwarhome.com/baltimoreriot.htm>).

<sup>22</sup> "No More Troops Through Baltimore," *The New York Times*, 21 April 1861.

<sup>23</sup> Brown, *Baltimore and the Nineteenth*, 62. (emphasis in original quotation).

<sup>24</sup> Shelby Foote, *The Civil War, a Narrative: Fort Sumter to Perryville*, (New York: Vintage Books, 1958), 53. Lincoln refused to listen to some appeals to not send any troops through Maryland, using an interesting analogy: "Our men are not moles, and cannot dig under the earth, . . . They are not birds, and cannot fly through the air. There is no way but to march across [Maryland], and that they must do."

<sup>25</sup> "From Baltimore: Judge Bond's Charge to Grand Jury in Reference to the Attack on the Military by the Mob," *The Brooklyn Daily Eagle*, 2 May 1861.

<sup>26</sup> Probably most of these weapons came from citizens who volunteered their arms, as the mayor had requested.

<sup>27</sup> Brown, *Baltimore and the Nineteenth*, 63.

<sup>28</sup> The vote was an overwhelming fifty-three against secession to thirteen for leaving the Union. "Important from Maryland: Secession Killed in the Legislature," *The New York Times*, 30 April 1861.

<sup>29</sup> More men, 30,000 Marylanders, fought for the Union. Gallman, *The North Fights the Civil War*, 14.

<sup>30</sup> Brown, *Baltimore and the Nineteenth*, 85.

<sup>31</sup> "The Exiled Soldier's Adieu to Maryland," Wake Forest University Rare Books and Manuscripts Department, 5 July 1861, (<http://www.wfu.edu/Library/rarebook/broads/exiled.jpg>). No doubt many Marylanders joining the Confederacy echoed the soldier's sentiments. See also Amy E. Murrell, "Union Father, Rebel Son: Families and the Question of Civil War Loyalty," in *The War Was You and Me: Civilians in the American Civil War*; Joan E. Cashin, ed. (Princeton: Princeton University Press, 2002), 359.

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<sup>33</sup> "The Very Latest from Baltimore," *The New York Times*, 24 April 1861.

<sup>34</sup> Brown, *Baltimore and the Nineteenth*, 94.

<sup>35</sup> For example, when female supporters of the Confederacy surrounded Southern prisoners, they begged for buttons from the prisoners. When a button fell at one lady's foot, "a policeman grabbed it up and refused to let her have it." Andrew Brooks, Diary, March 28-29, 1862, *Valley of the Shadow: Two Communities in the American Civil War*, Virginia Center for Digital History, University of Virginia (<http://etext.virginia.edu/etcbin/ot2www-cwdiaries?specfile=/web/data/civilwar/valley/cwdiaries.o2w&act=text&offset=1712673&textreg=2&query=Baltimore>).

<sup>36</sup> Benjamin F. Butler, "Proclamation from General Butler," *The Valley Spirit*, 14 May 1861.

<sup>37</sup> Brown, *Baltimore and the Nineteenth*, 94.

<sup>38</sup> *Ibid.*

<sup>39</sup> Gallman, *The North Fights the Civil War*, 14. The writ of habeas corpus is used to test the legality of an arrest, extradition, or imprisonment, the right to or amount of bail, or the jurisdiction of a court that has imposed a criminal sentence. Bryan A. Garner, ed., *Black's Law Dictionary*, Seventh Edition (St. Paul, Minnesota: West Group, 1999), 715.

<sup>40</sup> Brown, *Baltimore and the Nineteenth*, 94.

<sup>41</sup> *Ibid.*

<sup>42</sup> Brown, "Message to the Baltimore City Council."

<sup>43</sup> Brown, *Baltimore and the Nineteenth*, 101-103, 108.

<sup>44</sup> Gary W. Gallagher, *The Confederate War* (Cambridge: Harvard University Press, 1997), 63.

<sup>45</sup> "Latest from Baltimore and Washington," *The New York Times*, 22 April 1861.

<sup>46</sup> Brown, *Baltimore and the Nineteenth*, 34.

<sup>47</sup> "Meeting of Citizens of Baltimore," *The New York Times*, 21 April 1861.

<sup>48</sup> *Ibid.*

<sup>49</sup> Brown, *Baltimore and the Nineteenth*, 81. Both sides—Union or rebel—could favor display of the Maryland flag, while national flags—North or South—held divided loyalties within Baltimore.

<sup>50</sup> "The American Flag in Baltimore," *The Valley Spirit*, 8 May 1861.

<sup>51</sup> Brown, *Baltimore and the Nineteenth*, 82.

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<sup>52</sup> Butler, “Proclamation from General Butler.”

<sup>53</sup> “More Tyranny,” *Staunton Spectator*, 17 September 1861, page 1. Note: this is a quotation from the Virginian newspaper, not from Lincoln, as he would never have referred to people in the rebellious states as “citizens of the Confederacy.”

<sup>54</sup> “The Fourth of July in Baltimore,” *The New York Times*, 4 July 1861.

<sup>55</sup> “Citizens Fleeing From Baltimore: Narrative of Mr. Rawlings,” *The New York Times*, 28 April 1861.

<sup>56</sup> Peter W. Bardaglio, “On the Border: White Children and the Politics of War in Maryland,” in *The War Was You and Me*, Joan E. Cashin, ed., 317

<sup>57</sup> Abraham Essick, Diary, 8 May 1861, *Valley of the Shadow: Two Communities in the American Civil War*, Virginia Center for Digital History, University of Virginia (<http://etext.virginia.edu/etcbin/ot2www-cwdiaries?specfile=/web/data/civilwar/valley/cwdiaries.o2w&act=text&offset=2295747&textreg=2&query=Baltimore>).

<sup>58</sup> Essick, Diary, 8 May 1861.

<sup>59</sup> Even though, according to the *New York Times*, Baltimore’s Catholics were less likely than Protestants (such as Essick) to support the Union, the Baltimore Archbishop wrote a decree for all of the city’s Catholics to rally behind the American flag. “Important from Maryland,” *The New York Times*, 6 May 1861.

<sup>60</sup> Essick, Diary, 8 May 1861.

<sup>61</sup> Drew Gilpin Faust, *Mothers of Invention: Women of the Slaveholding South in the American Civil War* (New York: Vintage Books, 1996), 180-81.

<sup>62</sup> “Citizens Fleeing From Baltimore: Narrative of Mr. Schoonmaker,” *The New York Times*, 28 April 1861.

<sup>63</sup> “Exciting Times in Baltimore,” *The Brooklyn Daily Eagle*, 9 August 1861.

<sup>64</sup> Ibid.

<sup>65</sup> Alice Fahs, *The Imagined Civil War: Popular Literature of the North and South, 1861-1865* (Chapel Hill: The University of North Carolina Press, 2001), 1.

<sup>66</sup> Fahs, *The Imagined Civil War*, 80.

<sup>67</sup> James Ryder Randall, “Maryland, My Maryland,” Maryland State Archives, (<http://www.mdarchives.state.md.us/msa/mdmanual/01glance/html/symbols/lyricsco.html>). Randall went on to write other songs and poems about Baltimore. But “Maryland, My Maryland” is his most famous and certainly is one of his most staunchly pro-Confederate works.

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<sup>68</sup> Randall, "Maryland, My Maryland."

<sup>69</sup> "Baltimore," Wake Forest University Rare Books and Manuscripts Department, (<http://www.wfu.edu/Library/rarebook/broads/baltimor.jpg>).

<sup>70</sup> Ibid.

<sup>71</sup> Fahs, *The Imagined Civil War*, 62, 80.

<sup>72</sup> "Welcome 'Jeff' to Baltimore," Wake Forest University Rare Books and Manuscripts Department, (<http://www.wfu.edu/Library/rarebook/broads/welcjeffx.jpg>).

<sup>73</sup> "The Maryland Martyrs," Wake Forest University Rare Books and Manuscripts Department, (<http://www.wfu.edu/Library/rarebook/broads/maryla8.jpg>).

<sup>74</sup> Brooks, Diary, 25 March 1862.

<sup>75</sup> Ibid., 28 March 1862.



# THE PERMANENCE OF THE 1960S

## PRISON, POLITICAL PRISONERS, AND THE BRINKS AFFAIR OF 1981

**Dan Berger**

*“We study history not for the purposes of nostalgia or exotica but rather to learn the lessons to enable us to make history, to fight for a future that affords all people the conditions for survival and the opportunity to make a positive contribution.”—David Gilbert<sup>1</sup>*

Attica Correctional Facility, New York’s most infamous prison, is just two and a half hours from the town where I grew up. In July 2002, I first walked through the front door—a mouse hole in the castle-like walls surrounding the prison—and stepped into history. To most people, the prison is historic because of the 1971 revolt by prisoners there, and the tragic, brutal attack by the state that indiscriminately killed dozens of prisoners and guards to quell the rebellion. For me, I stepped into history because I came to visit David Gilbert. The state of New York calls him prisoner #83A6158, but law professor Bernardine Dohrn describes him as “one of those brilliant figures . . . a real intellectual . . . a gentle person . . . who, if it hadn’t been 1968, would surely have become a professor and an academic and written books.”<sup>2</sup>

History is kept well guarded here at Attica. After waiting about twenty minutes, going through a metal detector, waiting for gates to open so we could walk down four long hallways, showing our invisible ink stamp under a black light and our paperwork twice, we finally make it to the visiting room. Then we wait some more. Another twenty minutes of observing our surroundings, and then the groan of the back door sounds, and in walks David Gilbert. He is wearing green pants, like the other prisoners, and a short-sleeved red-collared shirt. He looks like the pictures I had seen of him, only now he is wearing glasses—thick glasses with big frames, like

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the kind my father used to wear. He has an air of compassion and a tender, unassuming quality about him. The three of us visiting stand up to greet him—he was maybe two or three inches shorter than I. He warmly shakes our hands with a gentle, caring grip that matched his personality. As we move to sit down, he cautions my friend who had been sitting facing the guard. “That’s the prisoner’s chair,” he says with a smile. “Good thing you’re not wearing green pants!”

In a way, it is ironic to be sitting in Attica with a former member of the Weather Underground Organization (WUO), a white anti-imperialist group of the 1970s. Among their many actions, the WUO bombed the New York Department of Corrections after the state’s vicious response to the 1971 Attica rebellion that left thirty-nine dead, ten of them prison guards, all killed by New York State Troopers in a hail of tear gas and bullets.<sup>3</sup> The WUO’s action was intended to draw attention to the state’s cruelty in addressing legitimate grievances by prisoners. As with its other actions, the WUO took special precautions to ensure that no one was hurt. Yet, the same government that indiscriminately gassed, shot, beat, and killed prisoners and guards to quell the rebellion labeled the WUO “terrorist.”

The WUO, initially called the Weathermen, grew out of Students for a Democratic Society (SDS), arguably the most organized representation of radical white youth in the 1960s. Combining elements of counterculture with political activism, SDS blossomed amidst the inspiration of revolutionary movements worldwide.<sup>4</sup> Movements led by people of color inside the United States along with the National Liberation Front of Vietnam and radical movements in Mexico, Japan, Germany, Angola, and elsewhere helped push SDS in a more radical direction. The organization shifted its strategy from “shaking the moral conscience of America” to identifying the system as in need of sweeping and fundamental change. Along with other radical activists, SDS began to define the system as imperialism. In a rising tide of global revolutionary struggles and increasingly severe attacks on radical movements, SDS, followed by the WUO, adopted a discourse that defined the system as in need of a total, if violent, overhaul. This talk of revolution became the language of the day. By the time of its death in 1969, SDS claimed more than 100,000 members.<sup>5</sup> A few months after Nixon invaded Cambodia in May 1970, The New York Times reported that “four out of ten college students—nearly three million people—thought a revolution was necessary” in the United States.<sup>6</sup> This upsurge in radicalism



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records only the increasing commitment of the student population; the actual number of those in the United States believing in revolution was much higher.

David Gilbert was in the thick of it. The man sitting next to me, whose dark hair is salted with gray and whose palpable warmth almost makes me forget that I am in a maximum-security prison, co-wrote the first SDS pamphlet describing “the system” as imperialism.<sup>7</sup> At Columbia University, he helped start both the Independent Committee on Vietnam and Columbia’s chapter of SDS. Also a member of the Congress of Racial Equality, Gilbert earned the title “father of the Columbia left.”<sup>8</sup> After graduating Columbia in 1966, he attended the New School for Social Research and was a member of the strike committee during the famous Columbia student strike of 1968. He was part of the “praxis axis” wing of Columbia SDS, the section of the group that, in contrast to the “action faction,” put more emphasis on theory, discussion, and building a base than in carrying out the biggest and most daring actions. SDS and its non-student offshoot, Movement for a Democratic Society, published several of Gilbert’s articles in pamphlet form from 1967 to 1970.<sup>9</sup>

A pacifist for his first seven years of political activism, Gilbert’s views started to shift in 1967, as realities about the U.S. government’s war against dissent, domestically and abroad, came to light. He was recruited early to WUO by Ted Gold, one of his best friends at the time, who died in an accidental WUO explosion on March 6, 1970. In recruiting Gilbert, who had a reputation of being too intellectual, Ted Gold took a risk in bringing a theory-heavy person into what was then an action-oriented group. That Gilbert was and remains an intellectual is a deeper irony to his incarceration. In reporting on the group, most histories characterize the WUO as a hedonistic collection of anti-intellectuals, making it seem more likely that the members who initially disregarded theory in favor of action would remain in prison rather than vice versa.<sup>10</sup>

Unlike most 1960s-era activists, Gilbert ended up in prison with a life sentence for his role as a white ally to the Black Liberation Army. An offshoot of the Black Panther Party, the BLA was a clandestine organization that used bank robberies to finance itself and certain black nationalist community programs. Gilbert was arrested on October 20, 1981, following his participation in the notorious Brinks robbery outside of New York City. Two police officers and a Brinks guard were killed in

the melee surrounding the robbery and attempted escape. Captured at the scene, Gilbert was one of four given a life sentence for the deaths. How could a person convicted of killing three people have anything valuable to say about history—or the present?

The answer to this question lies in the 1960s, a decade when David Gilbert was just one of many “young soldiers for the revolution.”<sup>11</sup> His story is emblematic of 1960s movements and points toward a new way of talking about the social movements of this era. Like millions of people of his generation, Gilbert began his activism as a pacifist focused on altering the consciousness of those in power. His activism started when the “beloved community” was a dominant movement theme. But this reform-oriented view shifted to a revolutionary perspective aimed at overturning existing power systems. His transition from a belief in changing consciousness to changing structures mirrors the shift that many of the serious, engaged radicals underwent as the 1960s progressed. Like other radicals of the time period, Gilbert came up against a state that used violence against citizens exercising their rights to speak, long before he considered the possibility of clandestine action.

Some scholars suggest that this shift to a more structural analysis of society represented a “death of the dream” of the 1960s, a conscious allusion to Martin Luther King’s famous dream.<sup>12</sup> But the “dream” did not simply die; it was killed by the state, along with dozens of activists during the 1960s and 1970s. Pacifist leader Martin Luther King was killed in 1968, shortly after becoming more vocal in his opposition to U.S. foreign and domestic policy. At the same time, the FBI’s CounterIntelligence Program (COINTELPRO) targeted the Black Panther Party for destruction.<sup>13</sup> Dozens of African American, Native American, Chicano, and, to a lesser extent, white radicals were also murdered during this time. Black Panther leaders Fred Hampton and Mark Clark became two of COINTELPRO’s most famous murder victims. Hampton, head of the Illinois Black Panther chapter, was a dynamic leader and powerful speaker. After being drugged by an FBI informant, Hampton was murdered asleep in his bed at 4:00 AM on December 4, 1969. A storm of police bullets killed not only the 21-year-old Panther leader, but also Mark Clark, who stood guard in the front of the apartment.<sup>14</sup> Two years later, the Black Panther Party was functionally dead, at which point the FBI set its sights on the American Indian Movement. Between 1973 and 1976, more than sixty AIM members were killed by COINTELPRO.<sup>15</sup>

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COINTELPRO was a full-fledged campaign against dissent in the United States. Its tactics included not only murder, but high-level surveillance, the planting and disseminating of false information to promote splits in organizations, and petty arrests to waste money and time. It was domestic counterinsurgency warfare at its highest. An internal memo by FBI Director J. Edgar Hoover said the program's goal was to "expose, disrupt, misdirect, discredit, or otherwise neutralize" political opposition, particularly among African Americans and American Indians.<sup>16</sup>

Seeing his friends and heroes arrested on trumped-up charges or even murdered, Gilbert was one of many who now felt an exigent need to build a movement to topple the state.<sup>17</sup> If one year marked a turning point toward this more revolutionary direction, that year would be 1968. In the first half of 1968 alone, both Martin Luther King and Robert F. Kennedy—two beacons of hope for those believing in the possibility of reforming the system—were assassinated. Bobby Hutton, the first and youngest member of the Black Panthers, was killed by police on April 6, just two days after King's death. Riots erupted in African American communities all across the country following King's murder. In the same year, student strikes brought college campuses to a halt in New York, San Francisco, Mexico City, Paris, Prague, and elsewhere. The Columbia strike was the first campus rebellion of its kind in the United States, and Gilbert had a significant role in it, both in terms of laying the base for the strike through his previous work at Columbia as well as his more direct role as a strike leader. That strike energized and radicalized the youth movement to the extent that a national slogan quickly became "create two, three, many Columbias."<sup>18</sup> Gilbert's story thus illuminates the radicalizing of social movements, particularly in relation to the effect of government repression.

By 1969, fewer people could turn their other cheek to the violence of the state. Convinced that, as Frederick Douglass asserted more than 100 years previously, "power concedes nothing without demand," talk of revolution reached a fever pitch.<sup>19</sup> One outgrowth of this fervor was the Weather Underground, which went underground with its symbolic bombing campaign. Viewing Black Power as a positive challenge for white radicals to organize other whites against racism, the WUO emerged as a white anti-racist group to act in solidarity with, and take some of the pressure off of, radical groups of color. The people who formed the Weather Underground—coming of political age at a high-tide of national liberation

struggles, with black ghetto rebellions and a developing understanding of the United States as a repressive and imperialist power—were attempting to make real a militant anti-racism among whites.

Yet this interpretation is lost in the pathologizing process that labels white anti-racism as “guilt” and Black Power as separatist and divisive. The emergence of consciously anti-racist white radicals is an important step in U.S. history that cannot be dismissed as “guilt.”<sup>20</sup> “There is nothing guilt-ridden about identifying with oppressed people—especially when they have been blazing the trail toward humane social change,” Gilbert wrote in 1985.<sup>21</sup> In fact, Gilbert argues, to dismiss identification with and respect for oppressed people as a psychological problem only proves the depths to which racism and arrogance afflict this country.<sup>22</sup>

During the seven years of its existence, the WUO took responsibility for more than twenty bombings against corporate and government targets. Looked at in isolation, this number seems staggering, but it is a mere fraction of the thousands of bombings and other acts of sabotage of the 1960s and 1970s.<sup>23</sup> With revolution seemingly imminent, clandestine activity became an important trajectory following the more mass-based activism of the 1960s. The WUO was one of about a half dozen active, well-known underground groups in the 1970s.<sup>24</sup> Among its lesser-known achievements, the WUO published a book on its political beliefs, a newsmagazine, poetry pamphlets by the women in the organization, theoretical and strategic pamphlets, and a songbook. The group also was featured in a documentary called *Underground*, in which filmmakers met with five members of the organization in a safehouse to discuss (without showing the faces of the WUO members) the politics of being a white underground organization. The WUO also wrote communiqués after each action and sent them to both establishment and radical papers. As time passed, some members of the organization’s leadership decided to surface in an attempt to resume legal revolutionary political activity above ground. But other members of the group bitterly opposed this direction, known as inversion. Combined with criticisms of sexism, elitism, and even racism in the organization, the decision to surface was viewed as the last straw among many members. The group disintegrated in a flurry of bitter sectarianism by 1977, about seven years after it began.<sup>25</sup>

After the WUO imploded, not all members of the group resumed above ground activity. Some members critical of inversion formed what

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they called the Revolutionary Committee and were arrested trying to blow up the offices of a homophobic California politician.<sup>26</sup> Like David Gilbert, most WUO members, however, were aligned neither with the Revolutionary Committee nor the Central Committee, the former leaders of the group that pioneered the inversion strategy. Gilbert surfaced in Denver for eighteen months before returning underground to continue building a clandestine fighting force and to rejoin his partner, Kathy Boudin.

The two former WUO members, along with other militant anti-racist whites, tried to learn from and correct the mistakes of the WUO, particularly its white self-centeredness and a lack of accountability. To do that, Boudin and Gilbert joined what became known as the Revolutionary Armed Task Force (RATF), a unit of the Black Liberation Army with white members acting under their leadership. Boudin and Gilbert were not the first whites to join the RATF.<sup>27</sup> The RATF was an attempt to build a black-led multiracial clandestine group to respond to state aggression against black communities. But more importantly, it was an underground effort to do what radicals across the world have done: continue building an underground capacity for revolutionary movements, even (especially) in a reactionary time.

As with other clandestine organizations around the world, the RATF was composed of long-time organizers. The RATF comprised mainly former Black Panthers, such as Kuwasi Balagoon and Sekou Odinga, and white activists, such as Boudin, Gilbert, and Marilyn Buck, who were allied with the politics of the Weather Underground. In its ranks were people, including Odinga, who had been underground for more than a decade and those, such as Judy Clark, who were still living public lives. Although composed mostly of seasoned revolutionaries, not all members shared this rich history of political commitment. Sam Brown and Tyrone Rison, for instance, were picked for their knowledge of cars and weapons rather than their political knowledge or experience. Both men later cooperated with police against their former comrades.<sup>28</sup>

As was true of other clandestine organizations, some of the RATF's members were parents.<sup>29</sup> Judy Clark had a young daughter, and, after years of putting it off, Boudin and Gilbert finally decided to have a child. On August 20, 1981, Chesa Jackson Gilbert Boudin was born, feet-first. (His name is Swahili for "dancing feet," because Gilbert, who watched the birth, said it looked like Chesa was born dancing.)<sup>30</sup> Fourteen months after

his birth, Chesa's parents were arrested when the RATF unsuccessfully attempted to rob an armored car.

The RATF first made big headlines in 1979, when it helped BLA leader Assata Shakur escape from a New Jersey prison.<sup>31</sup> For the white radicals involved with the group, RATF represented a different way of operating than the Weather Underground. Instead of being an all-white organization like the WUO, the RATF was explicitly black-led. The RATF attempted to carry militant black nationalist politics into the Reagan era. One of the ways it did this was through what they called expropriations, or robberies for revolutionary purposes, of armored cars. Operating under the notion that all revolutions have had to take money from the elite, the BLA used this money to fund itself and nationalist programs in Harlem's Black community.<sup>32</sup>

The events of October 20, 1981, catapulted the RATF into headlines and public consciousness. On that day, Kathy Boudin, Sam Brown, Judy Clark, and David Gilbert were arrested in Nyack, New York, after an attempted robbery of a Brinks armored car. At the Nanuet Mall in Nyack, a group of revolutionaries surprised a Brinks truck making a delivery at about 3:45 PM<sup>33</sup> Shooting broke out, after which one Brinks guard was killed and two were wounded. The radicals made off with \$1.6 million and left the mall to meet their getaway car—a U-Haul truck, driven by the white allies, including David Gilbert and Kathy Boudin—behind a Korvettes store separate from the mall.<sup>34</sup> The BLA members climbed into the back of the U-Haul and the truck sped off. As they tried to escape, the truck was stopped by three police cars at a roadblock. Another exchange of gunfire erupted, during which policemen Waverly Brown and Edward O'Grady were killed.

To say it is difficult to write about the Brinks arrests and trials is like calling the Grand Canyon a pothole; it is an understatement of incomprehensible proportions. People died that day and in the ensuing days, which always heightens emotional intensity. Furthermore, several people received long prison sentences, from twelve to seventy-five years, for their roles, real or imagined, in the day's events. Even basic information is hard to come by, as most of the existing works on the subject, from the left or the right, are mired in sectarian arguments rather than an engaged factual discussion, while media reports were unreliable, hostile, and condescending.<sup>35</sup>

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Though it exists, an explanation for the Brinks affair is outside the framework of U.S. consciousness. In a time when supporting affirmative action often brands one as radical, popular discourse has no room to discuss people of color as constituting internal colonies; being militant in fighting for justice wins one few friends. If affirmative action is attacked as “reverse racism,” what hope do revolutionaries have to engage the mainstream in a discussion of reparations?

In the overall scheme of post-1960s radical actions, Brinks was not typical. People died that day, one of the few times a shootout happened at an attempted robbery by radical forces. Furthermore, the state’s investigation resulted in the arrest and incarceration of dozens of people, making the Brinks affair an opening for judicial action against revolutionary organizations, both legal and clandestine. Atypical as it may be, the Brinks affair is nonetheless an important event to explore to understand the lessons and legacies of the 1960s. The RATF involved more than a half dozen seasoned and well-known organizers from the anti-imperialist and Black Power movements, making it a significant but often overlooked trajectory of post-1960s efforts at building revolution. Furthermore, the trials raised tough legal questions about whether and how a government can fairly try its political opponents. Thus, for all its uniqueness, the Brinks affair is crucial in understanding the full meaning of 1960s-era social movements.

The arrests and trials raise certain fundamental questions about society and radical movements. What does it take to build a society truly free of white supremacy? In what ways are clandestine movements a response to state repression? How can movements address their own mistakes while still acknowledging the force of state repression and oppressive social conditions? In what ways are the media tied to systems of power in American society? Answers to these questions reveal that major institutions in U.S. society—namely, the criminal justice system but also the mainstream media—are woefully unequipped to comprehend political resistance except as criminality and psychosis.

Accurate details of what happened on October 20, 1981, are hard to come by. There are the eyewitness reports, which a reporter later called unreliable because of the fast pace with which everything happened.<sup>36</sup> Accounts by people who were there are sparse and equally circumspect. Radicals who were there that day have hotly contested information presented in the newspapers by police.<sup>37</sup> Police accounts are full of

inaccuracies.<sup>38</sup> In short, it is nearly impossible to easily and fully recreate what happened that day.

What follows, then, is a summary pieced together from the radicals' interpretations as well as the media reports of the time, which were based on police and eyewitness accounts. When the U-Haul truck was stopped at the police roadblock, former Weatherwoman Kathy Boudin was asked to step out of the cab of the vehicle. Shooting started after police opened up the back of the truck, where the black radicals were hiding. When the police opened the back of the truck, Boudin started running toward the Thruway. Before any policemen were killed, Boudin was captured by an off-duty corrections officer who saw her flee. Some of the radicals managed to get away in other cars or on foot through some nearby woods. As Sam Brown, Judy Clark, and David Gilbert tried to escape in a tan Honda, the car took a sharp turn and crashed. The three, along with Boudin, were taken into police custody. On October 23, Black Liberation Army member Sekou Odinga was captured in Queens following a high-speed chase with both sides shooting at each other. Fellow BLA soldier Mtayari Shabaka Sundiata was killed by police in the same incident. Brown, Clark, Gilbert, and Odinga remain in prison with life sentences; Kathy Boudin was granted parole in August 2003, after twenty-two years in prison.

Once captured, Clark and Gilbert were subjected to physical abuse from the police. She was knocked down, and he was beaten for more than three hours. At one point, police put a shotgun to his neck, telling him to talk.<sup>39</sup> But the treatment accorded Sam Brown and Sekou Odinga, the two black people arrested, was markedly more severe than the beatings suffered by the white detainees. Police broke Sam Brown's neck in two places and denied him medical care for eleven weeks—until after he agreed to cooperate with the police against his former comrades.<sup>40</sup> Sekou Odinga spent three months in the hospital with intravenous care after police burned him with cigarettes, flushed his head in the toilet, and beat his pancreas so bad it had to be removed. Odinga never wavered from his political commitment to not cooperate with the state.<sup>41</sup> In court, the Rockland County District Attorney said no beatings of any kind took place.<sup>42</sup>

Trials lasted until the late 1980s. As the story unfolded, there were three main arenas of legal battles: state murder trials, federal conspiracy



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trials, and grand juries used for investigative purposes. The state trials took place first and were the most heavily reported of the three legal proceedings. These trials were for those captured on or directly tied to the events of October 20, 1981. Initially, six people were charged in one case at the state level: Kuwasi Balagoon, Kathy Boudin, Sam Brown, Judy Clark, David Gilbert, and Sekou Odinga. Testimony from informant Tyrone Rison cleared Odinga of being on the scene that day, at which point Odinga was then moved to the federal level.<sup>43</sup> Balagoon, Clark, and Gilbert stood trial together, fighting a political rather than legal battle in the courtroom. Both Boudin and Sam Brown stood trial alone; the two put up more traditional legal defenses, and Boudin had an accomplished legal team. The state trials cost Rockland County more than \$8 million in security and legal expenses alone.<sup>44</sup>

Viewing themselves as captured freedom fighters against a racist, colonial regime, the people on trial refused to be tried for the criminal acts. Balagoon, Clark, and Gilbert sat out much of their own trial, often on their own volition. They argued that to participate in the trial would be recognizing the legitimacy of the court to proceed with *criminal* hearings of *political* offenses. When the judge prohibited them from raising political issues, the three often left the courtroom. When they did appear, they used the courtroom for political purposes, condemning white supremacy and U.S. imperialism and calling only one witness. (The prosecution, meanwhile, called eighty-one witnesses.)<sup>45</sup> The one witness for the defense was Sekou Odinga, who had been separated from the state trial to face federal conspiracy charges. Odinga's testimony served only to defend the right of revolutionary movements to expropriate from the ruling power as well as to highlight the importance of privileged people to fight alongside oppressed people.<sup>46</sup>

The people on trial thus demanded to be tried as political combatants in an international court under United Nations jurisdiction rather than in a United States court under U.S. law.<sup>47</sup> Arguing for international tribunals is a strategy political people and revolutionaries have used across the globe when arrested by the state they are organizing against. Toward the end of his life, for instance, Malcolm X urged the civil rights and Black Power movements to build a campaign taking the United States to the U.N. and World Court on charges of genocide. He argued that anti-racist movements could never be successful asking the U.S. government for

change (and reparations) because the United States was the guilty party. Malcolm X said the World Court should serve as the independent arbiter because “Uncle Sam . . . created the problem. He’s the criminal. You don’t take your case to the criminal, you take the criminal to court.”<sup>748</sup>

While those on trial fought an undoubtedly political battle in the courts, it is important to remember that the state also fought a political trial, even if it used criminal charges as the basis for its legal maneuvers and scoffed at the radicals’ dismissal of the court. Those on trial were treated differently from people arrested for non-political offenses. In his opening statement, Balagoon said, “I am not treated like a criminal, [and I] am never in the company of prisoners with non-political charges.”<sup>749</sup> Those arrested at the scene on October 20, 1981, were first held in the federal system, although it is illegal to hold people without federal charges there. Boudin’s lawyers sued, and all were transferred to a state prison, the first time in New York that non-convicts were held at a state prison and that women were held in a men’s prison.<sup>50</sup>

When the first state trial ended on September 15, 1983, Kuwasi Balagoon, Judy Clark, and David Gilbert were all convicted and sentenced to the maximum penalty: seventy-five-years-to-life on charges of triple murder. The District Attorney who prosecuted the case said he was upset that New York lacked a death penalty.<sup>51</sup> In New York, however, there is no shortcut around the minimum; the earliest Gilbert could see the parole board is in the year 2056, at the age of 112. He was never charged with shooting, or even having a gun. He was not even at the scene where Brinks guard Peter Paige was killed.<sup>52</sup> Furthermore, none of the prosecution’s eighty-one witnesses identified any of the three as the people who killed Paige or the two policemen.<sup>53</sup> The police had more information connecting informant Tyrone Rison to acts of violence than either Gilbert or Kathy Boudin.<sup>54</sup> But Rison cooperated with the state and testified against his former comrades. Under New York’s felony murder law, anyone associated with a murder can receive the same sentence as the one who pulled the trigger.<sup>55</sup> This was Gilbert’s first felony conviction.

## **Prisons and Social Control**

The treatment of political prisoners as inmates charged with criminal acts further reveals the use of prisons as a means of control. Put simply,

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political prisoners do harder time, even if arrested on the same charges as an apolitical person. Although its structural aspects are more searing, this harder time exists on the daily level of prison life—from denied visits to lost mail to even more severe treatment from guards. Despite the state’s insistence that captured revolutionaries will be tried and treated the same as common criminals, political prisoners and prisoners of war are given longer sentences and suffer far more harsh prison conditions than even the most hardened criminals.<sup>56</sup> Most political prisoners are housed in the most repressive of institutions—whether it be control units inside an existing prison (where people are locked-down and separated from any human contact for twenty-three hours a day) or in specially designed repressive federal prisons such as Marion or the “Maxi-Max” prison in Florence, Colorado. In these SuperMaxes (super maximum security prisons), prisoners are constantly monitored on closed-circuit televisions and separated from anyone else for most of their day.

Many political prisoners, including Sundiata Acoli, Marilyn Buck, Yu Kikumura, Ray Luc Levasseur, Leonard Peltier, Russell Maroon Shoats, and others, have found themselves held in super max prisons and control units.<sup>57</sup> These repressive circumstances are not the result of disciplinary infractions but rather a punishment and a means to stifle dissent, to preemptively stop people who the state knows to be organizers from doing anything that could disrupt incarceration as usual. While drug-war prisoners may be unwanted baggage from social problems, political prisoners are those people incarcerated for fighting to *solve* social problems—chiefly, white supremacy, patriarchy, homophobia, and class oppression. Their incarceration raises the question of the existence of these problems. Thus, it is easier for the state to pretend that a *system* of racism does not exist in this country (just like political prisoners do not exist) than it is to fundamentally solve the problem of racism.

Because he was tried and convicted by the state of New York, David Gilbert is incarcerated in state, rather than federal, prisons. Although he has not been subjected to the federal super maxes, Gilbert’s treatment in New York’s roughest prisons mirrors that of other political prisoners—a noticeably different and harsher treatment than most prisoners. He is subjected to frequent cell searches, where his property is strewn about (and sometimes taken); his mail is periodically “lost”; guards are often more hostile to his visitors than others. For instance, at least three

correspondences between him and me written during the completion of this article were “lost.” After the first day of one of our two-day visits, Gilbert received a 90-minute cell search, far beyond the normal time for such a procedure.<sup>58</sup>

At its most fundamental level, the question of trying and incarcerating political prisoners comes down to this: how can enemies of the state get a fair trial by the state they oppose? Existing United Nations standards provide at least a base model for fairly and accurately determining eligibility for those claiming status as political prisoners. The U.N. defines a political prisoner as any “person incarcerated for actions carried out in support of legitimate struggles for self determination or for opposing the illegal policies of the government and/or its political subdivisions.”<sup>59</sup> Similarly, the U.N. Geneva Convention, ratified in 1948, defined prisoners of war as “[t]hose combatants struggling against colonial and alien domination and racist regimes captured as prisoners.”<sup>60</sup> U.N. Resolution 3103 mandates that, once captured, “their treatment should be in accordance with the Geneva Convention.” While the United States often criticizes other countries for not abiding by these regulations, the situation is quite different domestically. Because it is a “democracy,” politicians assure the people that there is no need to discuss self-determination or struggles against racism within these borders.<sup>61</sup>

Four years before the Brinks incident, the U.N. passed a resolution for the “Protection of Persons Detained or Imprisoned As a Result of Their Struggle Against Apartheid, Racism and Racial Discrimination, Colonialism, Aggression and Foreign Occupation and for Self-Determination, Independence and Social Progress for Their People.”<sup>62</sup> The resolution “[e]xpresses its solidarity with the fighters for national independence . . . against racism” and “[d]emands the release of all individuals detained or imprisoned as a result of their struggle against . . . racism and racial discrimination . . . and for self-determination.”<sup>63</sup> This resolution, and others like it ratified since 1948, constitute the foundation of international law regarding the treatment of political prisoners and prisoners of war. These resolutions demand that member countries treat captured combatants in accordance with the Geneva Convention’s rules on the treatment of political prisoners. In many cases, these resolutions support the unconditional release of political prisoners, including those who used armed struggle to secure liberation.<sup>64</sup>

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International law thus declares that it is not criminal acts that determine whether one is a political prisoner, or a prisoner of war, as opposed to a “common criminal.” In fact, the argument could be made that these definitions—accepted at an international level, even by the United States, though this country does not apply these definitions domestically—assume that criminal or illegal acts *have* occurred and thus make allowances for the purpose and intent of the acts. As independent journalist I. F. Stone said of the Weather Underground, “a guerrilla movement is a political movement, *no matter how many crimes it commits.*”<sup>65</sup> That—or even if—international law supported the Brinks defendants claims as political prisoners was neither entertained by the court nor taken up by the media.

Recognizing that clandestine movements often break the law is not to suggest that anything and everything is acceptable as long as one’s motives are pure. Mistakes, including the mistakes of October 20, 1981, should be pointed out and sanctioned, in the interests of achieving justice and accountability for all people involved. But for any reconciliation process to be pursued in earnest, two things should be recognized: first, no government is going to make legal any revolution that displaces it from power, whether that revolution is violent, non-violent, or, more likely, combines elements of both. If a revolution could be achieved *without* breaking the law—if the law afforded people the ability to make revolution legally—it is unlikely that a revolution would be necessary. The very purpose of revolution is to overturn and replace power structures, not reform them. The second point is that revolutions are about struggles for power—the power to determine one’s life and to run society. Thus, there is a *power struggle* between those already in power and revolutionary forces. Power struggles are not one-way streets; multiple parties are involved. Indeed, many of the RATF members were driven to fight the government clandestinely after being targeted and attacked by COINTELPRO.

Thus, asking whether someone “did it” is not the question, or at least, it is not the whole question. Although U.S. revolutionaries, much like the National Liberation Front during the Vietnam War, distinguished between the people of this country and its government, they nonetheless have been branded as threats to society because of their political beliefs and actions. Criminal charges thus mask political prosecutions and what one former political prisoner called attempts at “judicial annihilation.”<sup>66</sup>

Nelson Mandela “did it” in the sense that he was a member of the armed wing of the African National Congress (ANC), which fought the brutal apartheid system that had outlawed participation in political groups such as the ANC. Yet Mandela was arguably the most famous and celebrated of the world’s political prisoners. His release in 1990 signified a hope to many of building a new South Africa following the collapse of apartheid.<sup>67</sup> Political people will often “do” at least part of what they are charged with because revolution against those in power will always be illegal to those in power. Good–evil binaries of innocence or guilt do not address the full scope of why a revolutionary may be arrested or incarcerated.

Political prisoners have been released in Ireland, the Middle East, and even under the fascist Pinochet regime in Chile. There is a global history of political prisoners being released.<sup>68</sup> But those people released are often categorized as political prisoners upon their incarceration. Not so in the United States. The national get-tough-on-crime rhetoric means that few politicians will release a convict, whether that person is in for political acts, criminal acts, or mistaken identity. “Only in the United States,” activist Julio Rosado said, “where deviation from political orthodoxy is typically presented as common criminal conduct, and where the act of resisting the objectives of the status quo is cast as something unnatural, akin to child molestation, selling drugs, or running a prostitution ring, do we find a refusal to recognize any category of political ‘criminality.’”<sup>69</sup> This criminalization of dissent allows the United States to occupy the position of having the highest incarceration rate in the world while simultaneously not having any (officially designated) political prisoners. By simply not having a category for political offenses, the country attempts to justify the continued imprisonment of its political internees.<sup>70</sup>

Keeping progressive political prisoners under lock-and-key with long criminal charges is also an attempt at hiding the political bias of the U.S. court system. On a first-time felony conviction for indirect involvement in an action, Kathy Boudin received a sentence of twenty-years-to-life, David Gilbert received seventy-five-to-life. Yet Ku Klux Klan leader Don Black was released after serving only two years of a ten-year sentence after being caught with a large cache of weapons and explosives he intended to use in an invasion of Dominica, a sovereign black nation in the Caribbean.<sup>71</sup> Similarly, Michael Donald Bray served only 46 months after bombing ten abortion clinics.<sup>72</sup> Klansmen who murdered five anti-racist communists in

North Carolina in front of television cameras at an anti-Klan rally served no time.<sup>73</sup> All these incidents happened between 1979 and 1985—roughly the same period as the Brinks trials.<sup>74</sup>

### **The Struggle is Forever: Gilbert's Life since Prison**

In the twenty years since the Brinks case, David Gilbert has been largely absent from media coverage. With the exception of brief mentions after his son won a Rhodes Scholarship and after Boudin was paroled (in the spring and summer of 2003, respectively), the media have had little use for Gilbert. Once in prison, the “Gilbert story” is done; out of sight, out of mind. The logic that says, “once caged, a person is irrelevant,” thus presents a three-way connection between the mainstream media, the criminal justice system, and the government. Using government officials as sources, the media defines a group of people as dangerous and meriting incarceration. At the state’s command, the prison then buries those people away from public view or discussion, relying on the media to maintain this isolation.

Despite the media silence, Gilbert has continued to be an organizer passionate about creating humane social change at a fundamental level. He remains an activist, though prison imposes harsh restrictions on his ability to interact with broader social movements. “[T]o me,” he said in a 1998 interview, “the most significant issue isn’t really what happened to me individually—I don’t mean to be cavalier. I feel it, my family feels it. But the most significant issue is, What are we doing to turn around the greater suffering?”<sup>75</sup>

When I first sat down to write about Gilbert’s life since being incarcerated, I was tempted to write about how he has “missed” the past 20 years. But this is not the case. While it may be a form of being buried alive, being imprisoned is *not* akin to being frozen alive. Although he has experienced the past two decades from a notably different social location than most people, David Gilbert has not “missed” the past 20 years like someone cryogenically frozen in 1981.

Since being in prison, he has been able to maintain his values and commitment, despite being subject to the Department of Corrections’ version of prison musical chairs. Although he has not committed any disciplinary infractions in the twenty-three years he has been imprisoned,

Gilbert has routinely been transferred among New York's most notorious prisons—the “burn circuit” of Attica, Auburn, and Comstock correctional facilities, as well as other repressive prisons in the state. Usually, these transfers occur as punishment for his organizing inside, but they have been unsuccessful in deterring his efforts.<sup>76</sup> When his best friend and codefendant Kuwasi Balagoon died of AIDS in 1986 after being diagnosed only a month previously, Gilbert wholly committed himself to AIDS activism.<sup>77</sup> Since that time, he has helped start participatory peer education groups on AIDS at different prisons in New York state. These groups have saved hundreds, if not thousands, of lives.<sup>78</sup> His ex-wife and codefendant, Kathy Boudin, together with Judy Clark, has engaged in similar work at Bedford Hills Correctional Facility.<sup>79</sup>

Besides his AIDS education activism and his writing, Gilbert also has tried as much as possible to work in a collective manner with those outside the walls. He has been active in the movement to free black journalist and political prisoner Mumia Abu Jamal and has worked with political prisoners Herman Bell and Robert Seth Hayes (along with a progressive organization in Canada) to put out radical calendars as a fundraiser for political prisoners in 2002 and 2003. He has also mentored youth activists. At the height of the anti-apartheid and anti-intervention movements of the 1980s, Gilbert wrote solidarity statements for teach-ins and civil disobedience actions at Columbia University and elsewhere.<sup>80</sup> With the rise of the global justice movement following the successful anti-World Trade Organization protests in 1999—and the post-9/11 anti-war movement—he has written for several alternative newspapers to share lessons from his history and ensure that any social movement is anti-racist and pro-feminist at its very base.<sup>81</sup> “Being a political prisoner is not just a status designation,” Gilbert wrote. “[I]t’s a lifelong commitment to fight against injustice.”<sup>82</sup>

As a way to both understand his own history and to help current movements (especially younger activists) find their political bearings, Gilbert has reflected considerably on the mistakes and accomplishments of the movements and organizations with which he has participated. While prison has not removed him from the world, it has afforded him (or forced upon him) the opportunity to engage in a self-critical evaluation of his forty years as an activist. His lessons, published in book reviews, interviews, and historical and theoretical articles, engage in dialogue with those eager



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to avoid the pitfalls of egotism, unreflective activism, and oppression within movements. These actions—writing, AIDS education/organizing, communicating with young activists—are extensions of, not deviations from, his lifelong commitment to social justice. It is that commitment to social justice that led him into SDS and the Congress of Racial Equality in 1960, into the Weather Underground in 1969, into the Revolutionary Armed Task Force in 1979, and, as a result, into the New York State Correctional System in 1981.

In this reflection process, he has, of course, thought at length about Brinks and his role in the Revolutionary Armed Task Force. Of all the subjects, this has likely been the most difficult for two reasons. First, it landed him in prison with a life sentence for something of which he is quite critical. But equally important, the death of people that day (along with Mtyari Sundiata's death three days later) weighs particularly heavily on him. Contrary to media reports at the time, Gilbert has always had an aversion to violence. "Even in a battle for a just cause," Gilbert has since written, "we can't lose our feeling for the human element. . . . I feel sorry for the losses and pain of the families of those who were killed."<sup>83</sup> Gilbert also expresses regret for the pain to his own family, "who never got to make choices about the risks I would take."<sup>84</sup> While taking responsibility for the tragic errors, he still tries to reframe the discussion of U.S. incarceration, saying he would "rather be accountable to some community group or something that represented legitimate power, not this murderous government."<sup>85</sup>

David Gilbert has spent the past twenty years trying to be himself—an intelligent, humble, gentle, and soft-spoken person trying to live his convictions in the most difficult of conditions. He has been a father to his son, seeing him at least twice a year for forty-eight-hour visits each time. He has mourned the loss of both of his parents while in prison; he was not allowed to attend either funeral. Through it all, he has been able to persevere with remarkable clarity, never losing sight of the larger struggle for social justice. His faith in the power of people to make change is unshakable. It shines through in our discussions of history, the present, and hopes for the future.

Leaving the prison is a totally different experience than going in. When the guard dispassionately yells “Visiting hours up!” at exactly 3:05 PM, I feel the urge to squeeze everything I can into the last few seconds. How long do we have to straggle? Out of the corner of my eye, I see others also taking their time in finishing up conversation, rising, and exchanging farewells. We all smile quietly at each other as we rise. At the end of the very first visit, I ask David if there is any procedure for leaving. He says no, we just go. (David, of course, gets searched on his way back.) I feel bad for asking the question, though, for it speeds up the leaving. He gives each of us our own hug. We assure him we will be back soon. We then start to make our way diagonally across the room to the door, passing tearful goodbyes between parents and children, husbands and wives. I look periodically back at David as we make our way toward the exit. He watches as we leave, with a gentle smile. As we approach the door leading out of the visiting room, I turn a final time, wave, and close my hand into a clenched fist briefly before leaving—a small expression of solidarity and hope in these difficult circumstances.

Things move much quicker once leaving the visiting room. The hallways seem shorter, less foreboding. Unlike entering the visiting room, when we walked all by ourselves, we now leave with the friends and loved ones of other prisoners, complete with a guard to escort us. I once again notice how few white people and how few men are among the visitors. With the exception of the guard escorting us, we all submit our hands under a black light for verification of the invisible ink stamp. We wait again for the gates to open, spitting us back into the front room we entered just five hours ago, though it feels like it is been much longer. The guards seem relieved that visiting hours are over, though I can not help but feel that they are especially glad that friends of the revolutionary are leaving. Regardless, we walk out of the tiny door and back into the warm summer air of Attica the village, leaving behind the cold, stilted air of Attica the prison. A little girl who had been visiting her father is bawling as we step outside.

My mind is filled with so many thoughts all at once. I wonder where David is right now—getting searched? In his cell? Still waiting in the visiting room to endure the hassles associated with leaving a visit? I

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marvel at all I learned from him today, at the thought of prison being the quintessential place to learn about history—and the future. I glance at the castle wall surrounding Attica, looming down on me. A guard on his way home yells at me to get away from the prison and to my car. He is off duty and I am outside the prison walls, yet he is still ordering people around. It hits me how fully trapped the legacy of the 1960s remains behind these prison walls and other such walls across the country. I want to scream, organize, cry, shout, march, yell, laugh, stomp, write the walls down. For the history of the 1960s cannot be told, let alone understood, without unlocking the prison doors.

### Notes

<sup>1</sup> David Gilbert, “Message to Columbia Students,” May 4, 1998. In author’s files, courtesy of Bob Feldman.

<sup>2</sup> “Being Left: 30 Years After the 1968 Columbia Revolt.” Interview with Bernadine Dohn” <<<http://www.zmag.com>>>

<sup>3</sup> For more on the Attica rebellion and its aftermath, see Tom Wicker, *A Time to Die* (New York: Ballantine, 1975).

<sup>4</sup> For how SDS was influenced by other movements, see Robert Pardun, *Prairie Radical* (Los Gatos, California: Shire, 2001) and Kirkpatrick Sale, *SDS* (New York: Vintage, 1974).

<sup>5</sup> Sale, *SDS*, 664.

<sup>6</sup> Max Elbaum, *Revolution in the Air*, (London: Verso, 2002), 18.

<sup>7</sup> David Gilbert and David Loud, *U.S. Imperialism*, (n.p.: Students for a Democratic Society, 1967).

<sup>8</sup> Bob Feldman, “Sundial” (unpublished memoir in author’s files), 149.

<sup>9</sup> These include “The Port Authority Statement,” “U.S. Imperialism,” and “Consumption: Domestic Imperialism.”

<sup>10</sup> See, for instance, Todd Gitlin in *The Sixties: Years of Hope, Days of Rage* (New York: Bantam, 1993).

<sup>11</sup> The phrase is Angela Davis’s, though it is quoted in bell hooks, *Talking Back: Thinking Feminist, Thinking Black*, (Boston: South End Press, 1989), 10.

<sup>12</sup> See, for instance, Gitlin, *The Sixties*.

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<sup>13</sup> Ward Churchill and Jim Vander Wall, *The COINTELPRO Papers* (Boston: South End, 1990).

<sup>14</sup> *Ibid.* See especially pp. 103, 135, 138-41.

<sup>15</sup> See Charles Johnson, *The Black Panther Party Reconsidered*, (Baltimore: Black Classics Press, 1998), 363-90; and Churchill and Vander Wall, *The COINTELPRO Papers*, 249. For a full discussion of COINTELPRO's impact on AIM, see pp. 231-302.

<sup>16</sup> *Ibid.*

<sup>17</sup> Author's visit with David Gilbert, July 18, 2002.

<sup>18</sup> This slogan was a play on Che Guevara's slogan for defeating imperialism, "create two, three, many Vietnams."

<sup>19</sup> The Freedom Archives, ed., *The Roots of Resistance*, vol. 1.

<sup>20</sup> For more on white anti-racism as political, rather than guilt-driven, see Thompson, *A Promise and a Way of Life* (Minneapolis: University of Minnesota Press, 2001).

<sup>21</sup> David Gilbert in "Beyond Brinks: David Gilbert Talks About The Robbery, the Underground, the Struggle," interview with Bob Feldman, *Columbia Daily Spectator*, April 2, 1985. In author's files, courtesy of Bob Feldman.

<sup>22</sup> David Gilbert, "To the Forum on Student Activism," November 1986. In author's files, courtesy of Bob Feldman.

<sup>23</sup> Elbaum, *Revolution in the Air*, 1-40, Sale, *SDS*, 369-90, 425-30, 474-77, 503-18, 600-53.

<sup>24</sup> Getting an exact number of underground organizations at this time period is difficult, in part because some people acted clandestinely without being underground per se. But in terms of organized underground activity in the 1970s, among the most famous were the WUO, the Black Liberation Army, the George Jackson Brigade, the Symbionese Liberation Army, Los Matacheros, Fuerzas Armadas de Liberacion Nacional (FALN a.k.a. the Armed Forces for National Liberation), and the Sam Melville/Jonathan Jackson Unit.

<sup>25</sup> For more on the implosion of the WUO, see Ron Jacobs, *The Way the Wind Blew* (London: Verso, 1997).

<sup>26</sup> *Ibid.*, 179.

<sup>27</sup> *Ibid.*

<sup>28</sup> For more on the cooperation with the state, see Castellucci, *The Big Dance* (New York: Dodd, Mead & Co., 1986) or Balagoon, *A Soldier's Story* (Montreal:

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Solidarity, 2001).

<sup>29</sup> Members of other U.S. clandestine groups had children while living and operating clandestinely. See Tim Blunk and Ray Luc Levasseur, *Hauling Up the Morning* (Trenton, NJ: Red Sea Press, 1990).

<sup>30</sup> David Gilbert, letter to the author, April 5, 2003.

<sup>31</sup> This escape occurred on November 2, 1979. See Evelyn Williams, *Inadmissible Evidence* (Lincoln, Nebraska: Universe.com, Inc., 2000).

<sup>32</sup> David Gilbert, "Spectator Interview." In author's files, courtesy of Bob Feldman.

<sup>33</sup> "3 Killed in Armored Car Holdup," *The New York Times*, October 21, 1981.

<sup>34</sup> See Castellucci, *The Big Dance*, 16-20.

<sup>35</sup> From the left, both the Marxist Guardian and the left-liberal Nation rarely printed anything on the Brinks case—and both were sharply critical. See *A Soldier's Story* and *The Big Dance*, 215. From the right, see David Horowitz and Peter Collier, *Destructive Generation: Second Thoughts About the Sixties* (New York: Summit Books, 1989).

<sup>36</sup> Castellucci, *The Big Dance*, 303-4. In recreating the events of October 20 in the first few chapters of his book, reporter John Castellucci says eyewitness testimony from that day is unreliable. Instead he relies largely on the testimony police officers gave under hypnosis as the basis for these chapters. See pp. 226, 301.

<sup>37</sup> See, for instance, David Gilbert, "Spectator Interview" and Balagoon, *A Soldier's Story*, especially pp. 25-70.

<sup>38</sup> Ibid. Even mainstream journalist John Castellucci admits this in his book, *The Big Dance*, 301-304.

<sup>39</sup> David Gilbert, "Spectator Interview."

<sup>40</sup> Castellucci; 222-24, 243, 247, 255, 257, 275. See also Gilbert, "Spectator Interview."

<sup>41</sup> New York State Task Force on Political Prisoners "Clemency Petition," 19. See also Gilbert, "Spectator Interview."

<sup>42</sup> "Civil Liberties and the 1981 Brinks Case," *Downtown*, October 23, 1991. In author's files.

<sup>43</sup> Visit with David Gilbert, July 31, 2003.

<sup>44</sup> Castellucci, 288. The county even raised taxes to help pay for the trial. Visit with David Gilbert, July 31, 2003.

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<sup>45</sup> Castellucci, 283-84.

<sup>46</sup> Ibid.

<sup>47</sup> “Brinks Holdup Hearing Becomes a Free-for-All” in *The Washington Post*, September 21, 1982.

<sup>48</sup> Malcolm X, “This Government Has Failed Us,” *Malcolm X Speeches and Soundbites* (Montreal: Abraham Guillen Press, 2003).

<sup>49</sup> Balagoon, *A Soldier’s Story*, 27-28.

<sup>50</sup> Visit with David Gilbert, August 1, 2003.

<sup>51</sup> Castellucci, *The Big Dance*, 284.

<sup>52</sup> As getaway drivers, Gilbert and Boudin were more than a mile away from where the robbery occurred.

<sup>53</sup> “State Jury Finds 3 Radicals Guilty in Brinks Killings,” *The New York Times*, September 15, 1983.

<sup>54</sup> Rison confessed to an earlier killing—the only time, by Rison’s account, someone at a BLA action panicked and fired needlessly. Gilbert, letter to the author, April 22, 2000 and visit with the author, July 31, 2003.

<sup>55</sup> See Thompson, 270

<sup>56</sup> Ward Churchill and Jim Vander Wall, eds., *Cages of Steel*, pp. 382-385 (Washington, D.C.: Maisonneuve Press, 1992.). See also *Assata: A Memoir* (Chicago: Lawrence Hill Books, 1987); *Angela Davis: A Memoir* (New York: International Publishers, 1988); Jim Fletcher, et al, eds., *Still Black, Still Strong* (New York: Semiotext(e), 1993); or Albert Nuh Washington, *All Power to the People* (Montreal: Solidarity, 2002).

<sup>57</sup> See CEML, ed., *Can’t Jail the Spirit* (Chicago: Editorial Coqui Publishers, 1998).

<sup>58</sup> Author’s visit with David Gilbert, August 1, 2003.

<sup>59</sup> See <<<http://www.un.org/documents/ga/res/32/ares32r122.pdf>>>.

<sup>60</sup> Ibid.

<sup>61</sup> See, for instance, the inaugural addresses of Richard Nixon (1969, available from <<<http://www.yale.edu/lawweb/avalon/president/inaug/nixon1.htm>>>) and Ronald Reagan (1981, available from <<<http://www.yale.edu/lawweb/avalon/president/inaug/reagan1.htm>>>).

<sup>62</sup> Resolution 32/122, adopted by the General Assembly 105th plenary meeting, December 16, 1977. Available from <<<http://www.un.org/documents/ga/res/32/ares32r122.pdf>>>.

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<sup>63</sup> Ibid. That the United States voted against the resolution is discussed in Mutulu Shakur, et al., “Prisoners of War: The Legal Standing of Members of National Liberation Movements,” in *Cages of Steel*, 163.

<sup>64</sup> *Proclaim Release!* reprints several of these resolutions.

<sup>65</sup> In Roxanne Dunbar-Ortiz, *Outlaw Woman* (San Francisco: City Lights, 2002), 239-40; emphasis added.

<sup>66</sup> Alan Berkman, “Resistance Conspiracy” video.

<sup>67</sup> Nelson Mandela was a political prisoner from 1962 until 1990 for his role as leader of the armed unit of the African National Congress, one of the main organizations that struggled against apartheid. He was given a life sentence for violating racist apartheid laws prohibiting travel or organizing by Africans. His release came after a long international campaign against apartheid. See <<<http://www.anc.org.2a/people/mandela.html>>>.

<sup>68</sup> See Churchill and Vander Wall, eds., *Cages of Steel*, 382-85.

<sup>69</sup> Ibid.

<sup>70</sup> See Joy James, *Imprisoned Intellectuals* (Lanham, Maryland: Rowman and Littlefield, 2003), 201-215.

<sup>71</sup> See Churchill and Vander Wall, eds., *Cages of Steel*, 368.

<sup>72</sup> Ibid.

<sup>73</sup> See Mab Segrest, *Memoirs of a Race Traitor* (Boston: South End Press, 1994), 5-9, 75-76, 120-21.

<sup>74</sup> The International Tribunal on Political Prisoners and Prisoners of War in the United States compared the sentences of these men (and others) to left-wing radicals arrested on similar grounds, finding similar sentencing disparities. Whereas Bray served forty-six months for bombing ten occupied abortion clinics, Ray Luc Levasseur was sentenced to forty-five years for bombing four unoccupied military buildings protesting U.S. foreign policy. Another abortion bomber received seven years for possessing more than 100 pounds of explosives in a populous New York City apartment. Tim Blunk and Susan Rosenberg each received sentences of 58 years for keeping explosives in an empty storage unit. Don Black, who violated the Neutrality Act with his attempted take over of Dominica, was back on the streets after two years for possessing a boatload of explosives and illegal weapons. Former Weather member Linda Evans was sentenced to forty years for purchasing four weapons with false identification. For more, see the excerpt of the tribunal’s findings, published in *Cages of Steel*, 403-13.

<sup>75</sup> David Gilbert, “A Lifetime of Struggle” video.

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<sup>76</sup> Thompson, *A Promise and a Way of Life*, 270.

<sup>77</sup> Washington, *All Power to the People*, 88. Gilbert's father died within three months of Balagoon.

<sup>78</sup> Ibid.

<sup>79</sup> Thompson, *A Promise and a Way of Life*, 270-76.

<sup>80</sup> See, for instance, his "Statement to the [Columbia] Student Activist Forum," November 1986; "To Columbia Students," May 1998; and "To the Berkshire Forum," July 1989. All these statements are courtesy of Bob Feldman.

<sup>81</sup> See, for instance, his SDS/WUO pamphlet and his article "The Terrorism that Terrorism Wrought."

<sup>82</sup> David Gilbert, *Enemies of the State*, 45.

<sup>83</sup> Ibid., 35.

<sup>84</sup> Ibid.

<sup>85</sup> David Gilbert, "A Lifetime of Struggle" video.



# THE COURTS-MARTIAL OF EAST FLORIDA, 1785-1795

## CRIME AND PUNISHMENT ON THE PERIPHERY OF THE SPANISH COLONIAL EMPIRE

**Nick Linville**

On a late September day in 1789, Lorenzo Barretto, a soldier of the Royal Army of the Americas, was hanged in the square at St. Augustine, East Florida. Days before, he stood trial by a military court that found him guilty of murder and condemned him to die. Throughout the proceeding against him, Barretto watched in silence as one witness after another came forward and told the court about the heinous crime that had been committed. Not until all the testimony was heard did the judge allow Barretto to offer his side of the story. The soldier told the court he had been sent to East Florida from Cuba as punishment for deserting his company. Finding the conditions of life poor and uncomfortable in this backwater of the empire, Barretto again abandoned his post. After two months of hiding on the outskirts of St. Augustine, he tossed away a blade he wore on his belt and offered himself up to the mercy of the local church. But the sanctuary he sought was breached by the power of the military tribunal, and he was locked in the jail of the Castillo de San Marcos. In his testimony, Barretto swore to God and Crown that he had nothing to do with the recent murder, regardless of what the witnesses had to say. However, his word, and that of accused criminals like him, carried little weight in the courts-martial of East Florida. Provincial law held that any Spanish citizen who murdered an Indian was to have his head turned over to the natives. Fearing trouble with the Indians, the judge, with the authorization of the governor of East Florida, bypassed normal procedure for a death sentence and sent Barretto to his fate without the approval of the *audiencia* in Havana. Though bound by wider imperial laws, the courts-martial of East Florida often negotiated justice in a way that satisfied the reality of local conditions.<sup>1</sup>

This study examines how justice was administered to regular army soldiers in the military courts of East Florida during the era known as the

Second Spanish Period (1784-1821). The primary source of information is the records created by the courts-martial at the provincial capital of St. Augustine.<sup>2</sup> My decision to focus on the years 1785 to 1795 has been made for several reasons. During this decade, the courts-martial tried a total of eighteen cases, a manageable number that allows for a closer examination of the details surrounding each crime, the structure of the trials, and the sentences delivered. Lesser offenses such as fraud, robbery, slander, and assault were represented in the sample, as were more serious crimes of dueling, desertion, sodomy, and murder. Often, more than one soldier was tried in each case. Thus, the diversity of the crimes committed in these years also underlies the decision to concentrate on this decade. The first part of this paper will describe the size and composition of the East Florida garrison as well as the conditions that soldiers experienced that encouraged lawbreaking in the frontier province. Then, the procedure by which accused criminals were tried will be discussed. As an institution, the courts-martial of East Florida was part of the larger judicial system of the Spanish colonial empire, and as such it was bound to certain standards of operation that were uniform throughout Spanish America. In practice, however, as the case of Lorenzo Barreto and many others illustrate, local realities in East Florida often had a much greater influence on the actual administration of justice by the courts-martial than did the wider imperial laws regarding procedure.

The military was, without a doubt, the purpose of Spain's long presence in East Florida. In 1783, the territory, which included the entire peninsula westward to the Apalachicola River, was returned to Spain after twenty years of British occupation. No strangers to the region, the Spanish had controlled East Florida for over two hundred years before the British in an era known to historians as the First Spanish Period (1565-1763). Then, as in the Second Spanish Period (1783-1821), East Florida's importance to the Spanish American empire was its strategic location. With shorelines on the Gulf of Mexico, the Caribbean, and the Atlantic Ocean, Florida offered military protection for shipping lanes that transported gold and silver from Mexico to Spain. The province also became a buffer zone between Anglo-Americans to the north and the Spanish empire. Economically speaking, what little development that existed was mostly connected to the local garrison.<sup>3</sup>

## The Courts-Martial of East Florida

Despite its physical size, East Florida's population was always very small and centered around St. Augustine. A diversity of people walked the streets of the city, including Floridanos (expatriates of the colony who had resided in Cuba), Minorcans, Englishmen, and blacks (free and enslaved). In the countryside were sparse settlements of Spaniards, some Americans, and a few Swiss. Some country people were wealthy planters while others squatted on land illegally. The dominant influence in East Florida, to be sure, was Hispanic, not in small part due to the large concentration of Spanish-born soldiers in St. Augustine.<sup>4</sup>

Between 1784 and 1795, the population of East Florida was roughly 1,600 persons, with soldiers making up about twenty-five per cent of that number.<sup>5</sup> The size of the regular army in the province rarely exceeded 500 men and usually averaged around 450. When the Spanish returned to St. Augustine in 1784, they brought with them 164 men from the Immemorial del Rey Regiment, 112 men from the 3rd Battalion Havana Regiment, and 164 from the Hibernia Regiment.<sup>6</sup> These men were scattered across several small outposts in the hinterland of the peninsula. On the northern reaches of the St. Johns River stood San Vicente Ferrer, a crude fort manned by about a dozen soldiers. There were other locations like it on the St. Marys River and on Amelia Island that were built to absorb any potential invasion from the north, while Fort Matanzas protected the southern approach to St. Augustine. The vast majority of the province's troops, however, were stationed in the capital where the main bastion of defense, the Castillo de San Marcos, was located. East Florida's various governors during the Second Spanish Period were also the head military commanders of the garrison and carried the rank of commandant general.<sup>7</sup> Spain's interest in keeping the territory was part of a larger imperial defense strategy. If the mother country wanted to maintain its position there, the army garrison had to be disciplined.

The quality and character of the men who filled the ranks of the regular army in Spanish America in the late colonial period was notoriously bad, and Spain was largely to blame. Throughout the eighteenth and early nineteenth centuries, Spain used its American regiments as a depository for its thieves, alcoholics, and other unwanted miscreants. A common sentence for petty offenders in Spain was eight years military service in one of the overseas colonies. Crimes such as concubinage and adultery received naval and military service sentences in lieu of prison terms.

Death sentences and jail time could often be exchanged for army service in America. As for men who were already enlisted, assignment to frontier regions such as Louisiana and Florida became a form of punishment by the mid-eighteenth century. Quite a number of the American troops had been exported from the peninsular army for desertion.<sup>8</sup>

As a result of Spain's policies, the behavior of soldiers across the empire was a constant problem for colonial administrators and civilians. In his study of the Cuban colonial military, historian Allan J. Keuthe described the Havana garrison as being made up of "the most miserable human beings."<sup>9</sup> One reason that few native Cubans sought enlistment was because most young men did not want to be associated with the hapless vagabonds, criminals, and captured deserters that made up the regular army on the island. The 400 to 500 troops in Spanish Louisiana "represented the dregs of European and colonial society."<sup>10</sup> Historian Christon Archer found soldiers in New Spain in this period to be especially horrible. "Homicides and crimes of passion committed by soldiers were so common as to be scarcely noteworthy," he wrote. These "professional drunks, gamblers, and plotters" who made up the colonial forces committed crimes so frequently that a degree of disorder came to be expected wherever troops were stationed.<sup>11</sup>

The composition of the East Florida garrison was no better than that of other locales in the empire, and it elicited a steady complaint from provincial governors in St. Augustine. In a 1790 letter to the Subinspector General of Cuba, Governor Vicente Manuel de Zéspedes y Velasco described the soldiers sent to defend the region as full of "vicious habits, from which it is hopeless to reform them, especially their perverted inclinations to steal, to get intoxicated, and to desert." Zéspedes spoke from seven years of experience with the East Florida lot. "Right from the start, they began deserting by gangs, becoming scandalously intoxicated and stealing from the gardens of the unfortunate settlers. . . . [T]hese men have been rejected by every other corps in the army and should not be sent to this province."<sup>12</sup> Zéspedes's successor, Juan Nepomuceno de Quesada, complained of the similar problems with the garrison. Duels, desertions, alcoholism, and abandoning the guard plagued his administration. He feared for the safety of civilians. Surrounding the soldiers' barracks was a high wall. Intended to separate soldiers from civilians, the structure was a stark reminder of the malevolent nature of the local garrison.<sup>13</sup>

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The conditions of life for troops in East Florida during the Second Spanish Period were especially harsh and fostered much discontent. An annual subsidy called the *situado* provided the money and goods that were needed to maintain the provincial government, whose main expense was the four hundred-plus soldiers it had to feed, clothe, house, and pay. Historian Helen Tanner wrote that the appropriation of the *situado* “was one of the items lost in the shuffle of inter-colonial correspondence.”<sup>14</sup> The shipment, sent from New Spain (present-day Mexico), rarely arrived in a timely manner, if it arrived at all. For example, Spanish East Florida went without its *situado* in the years 1788, 1789, and 1790. Throughout the 1780s, officers’ pay was usually one or two years late and regular soldiers seldom received the small monthly allowance that was owed them.<sup>15</sup>

On the rare occasion when the *situado* was delivered on time, the contents therein were usually inadequate. Few suffered more as a consequence than the soldiers, whose existence was essentially dependent on the allotment. In 1792, dozens of troops were hospitalized with stomach ailments. Governor Quesada connected the sickness to the poor quality of the flour sent to the province and implored the high offices in Cuba to increase the quality of ration shipments.

Perhaps more than food, inadequate housing seems to have been the most continuous hardship that soldiers endured. The barracks, located south of St. Augustine’s central plaza, dated back to the early British period and were in an acute state of disrepair, inside and out. Governor Zéspedes imported blankets and straw mattresses from Charleston shortly after he arrived in St. Augustine, but within a few years these were worn out and soldiers were forced to sleep on the floor. During rainy months, the men fought a constant battle to keep their knapsacks dry from leaky roofs and broken windows.<sup>16</sup>

Problems with the troops’ quarters were continual. When Governor Quesada arrived in 1790, the roof was still in need of repair, as was the wall around the building that kept soldiers locked-up at night. The governor’s warning to the intendency in Havana in 1792 echoed that of Zéspedes before him: Poor living conditions, caused by the tardy and insufficient *situado*, bred dissatisfaction among the East Florida garrison and created a “propensity to revolt.”<sup>17</sup> Fortunately for East Florida’s governors, soldiers there did not unite in any collective display of their displeasure with military life. Nonetheless, they often expressed their discontent individually or in small groups.<sup>18</sup>

In Spanish East Florida, as in all of Spain's empire, soldiers accused of criminal acts were tried by military courts. A judicial prerogative known as the *fuero militar* conveyed upon enlisted men the right to be tried before military tribunals rather than before civil tribunals.<sup>19</sup> Military courts were part of the larger judiciary system in colonial Spanish America. The King, who was considered a divinely ordained arbiter of justice, was at the apex of this structure, although he invested his power in the Supreme Council of the Indies. Cases from frontier areas like East Florida, whether military or civil, usually did not progress to this level. Whenever appeals were made from the provinces, the *audiencias* heard them. East Florida belonged to the one located in Havana.<sup>20</sup>

Within the province itself, the governor was the chief judicial authority over both civil and military cases. Any decision that a court made required his approval, although he often referred cases to Havana. Capital punishments could not be completed without the authorization of the *audiencia*. When a soldier was accused of a crime in East Florida, as in other frontier provinces, the case against him was heard by the local Auditor of War (*auditor de guerra*) who held the military rank of captain and was experienced in the administration of justice.<sup>21</sup> Essentially a judge, he had the responsibility to consult the letter of the law and determine the appropriate resolution to a case with regard to the facts as he saw them. His conclusion was always submitted to the governor.<sup>22</sup>

Historians who study the military in Spanish America have not explained the actual procedure of the colonial Spanish American military tribunal, nor have scholars of crime and punishment analyzed it. After a close examination of the general process of the courts-martial in East Florida, however, one finds that the reason for this lack of attention becomes clear. Military tribunals were very similar in structure to their civil counterparts. Trial procedure in the East Florida courts-martial cases correlates with that of civil courts as described by historian Charles Cutter in his study of northern New Spain. There, as in East Florida, criminal proceedings against soldiers began by accusation (*querrela de parte*), by notification (*denuncia*), or at the judge's request (*de oficio*). After this point came the three main phases of the criminal trial—the *sumaria*, the *plenario*, and finally the *sentencia*. The first phase, the *sumaria* or fact-finding inquiry, attempted to clarify the events surrounding the crime by gathering testimony and investigating. When a case involved physical

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injuries, a medical practitioner conducted a detailed examination of the injured (*fe de heridas*) and submitted his report before any testimony was gathered. More than anyone else, the judge shaped the course of the *sumaria* and, by extension, the entire criminal proceeding. He determined which witnesses were to be heard and formulated the questions they were to be asked. No participation was allowed from the defendant in the *sumaria*. As in many European-derived legal cultures of the day, the suspect's guilt was presumed throughout the duration of his case. This feature led one scholar to quip that in the *sumaria* phase, "the trial was configured and, one could almost say, decided."<sup>23</sup> In fact, the majority of the East Florida courts-martial cases examined had guilty verdicts.

In colonial East Florida, as in the rest of Spanish America, the court heard testimony regardless of the race, class, or gender of the witness. Slaves testified often in the courts-martial criminal cases considered here, as did children when determined competent to proceed.<sup>24</sup> So many languages were spoken in and around St. Augustine—Spanish, English, Catalán, as well as African and Indian languages—that interpreters were frequently called into military trials. Before they testified, soldiers were asked if they were acquainted with the Royal Ordinances, the canon of law that they served under. Judges also wanted to know if soldiers had accepted "the charity of the army, performed their service, and practiced good judgement on the honor of the Crown."<sup>25</sup> The response to both questions was usually in the affirmative. Also important was the religious affiliation of each witness. If not Catholic, one could expect further questioning as to his or her belief in the divine power of God. Once his or her testimony had been taken, the judge read the statements back to the witness and allowed for alterations. The voice of the suspect was not heard until the end of the *sumaria*. His/her testimony was called a *confesión*, the mere terminology implying his guilt.<sup>26</sup>

The process of administering justice in East Florida and elsewhere in the Spanish empire was sometimes delayed when military criminals sought asylum in the church. Since medieval times, capture inside the church often meant a lighter punishment than if one were captured elsewhere, so criminals often fled to the local place of worship.<sup>27</sup> While the influence of the Catholic Church remained a considerable force throughout the entire colonial period, the eighteenth century was a time of slow but inexorable growth of secular over religious aspects of colonial administrations. In

St. Augustine and other parts of the Spanish empire, criminals were not allowed the protection of the Church when tribunals called for them. In 1797, a new royal *cédula* streamlined the steps needed to remove military men from churches and to speed the course of justice.<sup>28</sup> Yet East Floridian soldiers who committed crimes still fled to the church without hesitation.

After the initial *sumaria* phase of a criminal courts-martial proceeding came the *plenario*. Cutter found that this stage, when present at all, often blended into the *sumaria*. “Indeed, frequently the entire phase failed to materialize in the court record, or did so only in abbreviated or haphazard fashion.”<sup>29</sup> The same holds true for the East Florida criminal cases of the courts-martial. Such procedural irregularity underscored the importance of the *sumaria* in the colonial judicial process. On the rare occasion that a formal *plenario* did occur, it consisted of the assignment of defenders to each party. The defenders described the perceived facts of the case in light of legal principles. In the course of the *plenario*, additional witnesses could be requested. If testimonies differed substantially, a face-to-face confrontation between the two parties, known as a *careo*, was held. In East Florida, northern New Spain, and presumably other frontier areas, a clear-cut *plenario* phase was rare and reflected the near absence of trained legal professionals in these areas.<sup>30</sup>

The final phase of a courts-martial proceeding began with the *sentencia*. Since there was no trial-by-jury in the Spanish legal system, the local judge in East Florida again took the leading role. Always a military officer, his influence was strengthened by the fact that Castilian law did not require, indeed prohibited, an explanation of the legal points on which a judge founded his *sentencia*. The general purpose of punishment was to turn the guilty soldier away from his wicked ways and to repair any harm he may have done to society. Incarceration was a form of punishment in Spanish America in the eighteenth century, although it was not very common. In civil cases, fines often served as punishment, but such a penalty never appeared in the East Florida criminal courts-martial cases for 1785 to 1795.<sup>31</sup>

Perhaps a more important reason behind punishment than amending the criminal or satisfying society was the need to deter further criminal acts. Public humiliation, therefore, was a recurring aspect of the sentences that East Florida judges ordered. In such a small community as St. Augustine, where most troops lived, peer opinion held considerable weight. Soldiers



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were sentenced to wear shackles and clean the barracks for months at a time in a number of cases involving minor offenses.<sup>32</sup> Convict, or *presidio*, labor was a more common punishment for heavier offenses. Throughout the empire, prisoners (or *presidarios*) performed the heavy manual labor of construction, repair, and maintenance of fortifications and other military facilities. In the late 1780s and early 1790s, public works projects were a top priority in East Florida, and one of the government's main sources of labor were *presidarios*.<sup>33</sup> Not only physically strenuous, *presidio* labor placed a convicted soldier in a very visible position in St. Augustine. They were to serve as an example to other soldiers with criminal tendencies.<sup>34</sup>

East Florida's need for manpower often influenced the sentences arrived at by the courts-martial. Juan Enguera was accused of stabbing Antonio Denis, a soldier from his same company. The dispute apparently began over a nail in the soldiers' barracks. Denis wanted to hang his hat upon it but found Enguera's pack already there. Words were exchanged over the next several days as the tension between the two men grew. One evening after supper, Enguera encountered Denis smoking a cigar on the patio of the barracks kitchen. Witnesses reported that Enguera verbally assaulted Denis, calling him a "filthy pig." At this point, their petty quarreling erupted into open physical confrontation. They kicked and gouged one another for some time until Enguera managed to draw a bayonet and stab Denis several times in his right thigh and forearm.<sup>35</sup> Enguera immediately rose to his feet and, with little hesitation, fled to the church. He was promptly extracted the following morning and brought before the courts-martial.

Like most soldiers accused of crimes involving physical violence, Enguera told the court that he acted in self-defense. After leaving the mess hall one night, he stumbled upon an old bayonet point, which he decided to keep. He then took a brief stroll outside of the barracks. On this point, the judge, Captain Eduardo Nugent, was particularly angry since there were "vigorous rules against leaving the soldiers' quarters at night." Enguera responded that he planned to return before anyone knew. In fact, he said he could have done so had he not been attacked by Denis and forced to defend himself. The Judge had difficulty believing Enguera's case. No witnesses could verify that Enguera was anything but the aggressor, and so the suspect's innocence was unfounded. According to the Royal Ordinances, ten years *presidio* labor in Europe or Africa was the proper

punishment for wounding a comrade. Nevertheless, Governor Zéspedes felt the need to mold the sentence to fit local needs, and thus he ordered that Engueras serve out the punishment in East Florida on account of the lack of labor there.<sup>36</sup>

Antonio Ruiz and Salvador González faced a military tribunal for a similar offense in 1787, although the sentence handed down was different. The two soldiers, both from the Havana Regiment, had reportedly stabbed fellow soldiers Estevan Rodríguez and Tomás García. As the *sumaria* revealed, the attack happened the night before the trial in a tavern near the barracks. The victims called on the establishment with the intention to drink a bottle of wine together and dance with the women of the house. Across the room sat Ruiz and González, who were sufficiently intoxicated. In their drunken merriment, they began to sing some verses aloud that García and his company found a disturbance. Fed up with the noise, García and Rodríguez confronted Ruiz and called him a drunk. Ruiz retorted by inviting his opponents outside to settle the matter. Moments later, he was entangled with García and Rodríguez on the dusty street in front of the tavern. Hearing the ruckus from inside, González and other soldiers rushed out to try to break up the scuffle but they were too late. Ruiz drew a knife and stabbed his opponents, García and Rodríguez. Immediately, he tossed the bloody knife away and ran in the direction of the church.

In their testimonies before the courts-martial, Rodríguez and García, who suffered non-fatal wounds, outwardly admitted that they started the fight when they approached Ruiz about his singing. The two claimed that they carried no weapons that evening and that they had no previous dispute with Ruiz or González. In his *confesión*, Ruiz flatly stated that he was not the aggressor but rather the defender. He and González, in fact, had left the tavern to avoid a fight. According to Ruiz, García was the one who pulled the knife. Witnesses disagreed, including Ruiz's comrade, González. That Ruiz immediately fled the scene of the crime for the sanctuary of the church did not help his case. Nonetheless, the judge was hesitant to announce a sentence. Governor Zéspedes appealed the case to the Captain General of Cuba, Josef de Espleta, and within two months received a response. González, who by all accounts had merely tried to stop the brawl, was to be freed since he had committed no crime. Here was one of very few occasions when a suspect was absolved of any wrongdoing. Ruiz's guilt was beyond doubt and he was ordered to serve one year of prison for his crime.<sup>37</sup>

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As was mentioned earlier, judges were not required to explain the particular motives behind their rulings. Thus, the record gives no information on why Ruiz's punishment was different from that awarded to Enguera. Just two years before Ruiz's case was decided, Enguera was convicted of wounding a comrade but received ten years of *presidio* labor, a conceivably worse fate. This dichotomy might be explained by the fact that the earlier wounding case was concluded in East Florida, whereas Havana determined the latter one. Possibly, the colonial administration in East Florida had more interest than Havana in assuring that punishment in their province was sharp.

On the one hand, the delivery of justice in East Florida was often slowed when the accused soldier offered up an alibi. On the other hand, when a suspect was candid about his crime, the courts-martial delivered a punishment with remarkable speed. Francisco Tejero, a soldier in the Havana Regiment, had been enlisted in the service of the King's army for hardly a year before he was called into the military court for having robbed a shirt, a new pair of blue trousers, and several rations of bread from drummer Evaristo Garrido. Tejero openly admitted to the court that he stole these items from Garrido and said he sold the shirt to a local civilian and the pants to a fellow soldier. The following morning, as if he knew he would be caught, Tejero took sanctuary at the church, where he confessed his crime and remained until he was extracted by a sergeant of his company. A conviction came rather easy since Tejero offered no defense whatsoever. Citing the appropriate Royal Ordinance, Captain Nugent, the judge presiding, ruled that Tejero's crime was worthy of ten years *presidio* labor in Europe or America. Governor Zéspedes approved the sentence, but only with the stipulation that the term be completed in East Florida since the province could not afford to lose another man.<sup>38</sup>

In another robbery case, the unique way in which the crime was perpetrated forced the East Florida courts-martial to refer the case to the *audiencia* in Havana. Josef Bataller had stolen 193 rations of salted meat from the Castillo over the course of several weeks by way of several forged receipts. Bataller was one of few soldiers who could write his signature. He could also sign that of his sergeant fairly well. As soon as the receipts made their way back to the sergeant, they were instantly recognized as forgeries and Bataller was suspected. He was temporarily locked-up in the Castillo until a proper *sumaria* could be held. In the meantime, he adamantly

denied the accusations against him. While on a stretch break at some point thereafter, he bolted for the church. As usual, military officials extracted him with little problem. At the trial, two soldiers testified that they had seen Bataller sell the meat to civilians in St. Augustine. Surprisingly, Bataller's intense expression of denial dissipated in the face of the courts-martial. Nonetheless, justice was postponed when Judge Nugent could not find the definitive article in the Royal Ordinances that treated such an unusual brand of robbery. Finally, he determined that ten years of *presidio* labor, the articulated punishment for robbery, was a fitting punishment. Havana agreed with Nugent. As may be expected, in the final ruling Governor Zéspedes added that the term must be fulfilled in East Florida.<sup>39</sup>

The special circumstances of East Florida frequently influenced the way in which the courts-martial operated. Most crimes committed by soldiers directly involved other soldiers, but sometimes civilians fell within the jurisdiction of the military tribunal. As in northern New Spain, there was a lack of trained legal administrators in East Florida who could officiate over civil and criminal cases.<sup>40</sup> Thus, the boundary of the courts-martial was often arbitrarily defined to include civilians when they were involved in cases against soldiers. Such incidents were in clear violation of the code of the *fuero militar*, which dictated that the military could only judge itself. A sodomy case involving many soldiers and several boys illustrates the jurisdictional ambiguity that prevailed in St. Augustine in the Second Spanish Period.

In 1788, three soldiers were accused of repeated acts of sodomy with four local boys, but by the close of the proceeding, five additional soldiers and two sailors had been indicted. The judge, Lieutenant Ignacio Royo, began by interrogating the boys who had up to that time been held in the dungeon of the Castillo. Timoteo Clarenca was born on Catalina Island, Portugal. Judge Royo estimated him to be about eleven years old. His godfather was Carlos Howard, a prominent citizen and captain in the Hibernia Regiment. It was through Clarenca that the crime had been discovered. He came home one day with a suspicious sum of money and his godfather demanded to know the source of it. Clarenca said he stole it from a Minorcan, but the truth eventually came out that he and some of his friends had repeatedly received money from soldiers in exchange for sexual favors. While on the witness stand, Clarenca, at Royo's prompting, revealed in detail the sexual acts that were committed, where in town they

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were committed, and the soldiers involved. The other boys faced similar questioning. Of great importance to the court was each boy's motive in committing the act. Archer Stone was eleven years old, born in Virginia, and an orphan. He and Clarenia admitted that the crime was done for a small sum of money. Nicolas Dimmaracht, ten years old and a native of St. Augustine, concurred while Francisco de León was the only one of the youths who denied any involvement in the events.

Clearly, the courts-martial at St. Augustine was equally as suspicious of the faithfulness of civilians who came before them as they were of soldiers. Before the boys were asked their names, the judge closely scrutinized the depth of their faith with a series of questions that echoed the aggressive trials of the Inquisition. He demanded that the boys tell the court how often they had taken confession over the past months. Clarenia said he had done so several times. Since Stone was not a Catholic, whether he knew God at all was an issue. He claimed he did but testified that he was unfamiliar with any proper doctrine. Finally, the court sought to determine whether each boy knew the sinful nature of his actions. Their responses were, in the face of such pressure, short and affirmative. This facet of the sodomy case reveals that, on occasion, the courts-martial at St. Augustine overstepped its jurisdictional boundaries by exposing the bad behavior of non-military witnesses.

The court faced great difficulty in determining the truthfulness of the boys' statements, and thus searched for more evidence before turning to the testimony of the accused soldiers. Governor Zéspedes allowed the *presidario* Eusebio de León, Francisco's father, to be released temporarily so that he could be interrogated. León had little to offer and was essentially used by the court in a failed attempt to determine if any of his son's other friends were involved in the crime. A search of the home of Dimas Cortés, one of the purported meeting places, turned up nothing. Cortés, an official of the local *Contaduría*, told the court that two of the accused soldiers were working at his home months earlier and that one of them was seen sharing oranges with neighborhood boys. Clarenia's and Stone's teacher gave a long report in favor of his students' character. Finally, the accused soldiers were summoned to the witness stand. Each man absolutely denied that he knew the boys and that he had anything to do with the case. The secrecy of the criminal act postponed the deliverance of justice significantly.

Having made little progress, the court opted to broaden the case and, consequently, the evidence against the accused mounted. The surgeon Bourquet was ordered to conduct physical examinations of the boys to determine if they suffered any physical damage as a result of the supposed encounters. The results were positive for one of the youths. Two female slaves from Timoteo's household testified that blood had been found on his sheets on more than one occasion. Dozens of soldiers were questioned if their comrades had solicited or participated in sexual relations with boys and, in the process, the number of suspects expanded.

After weeks of interviews and investigations, the court at last came to a verdict. The four boys were to be turned over to their guardians with the recommendation that the youths be exiled from the province. Five other soldiers and two sailors, grabbed up in the dragnet, were awarded a similar fate for solicitation. The soldiers were exiled from Florida while the two sailors were to suffer a month of prison during which time they would be shackled and forced to clean the barracks. Josef de la Torre, Ventura Villamarín, and Gregorio Quevedo, the original three suspects, were found guilty of sodomy and sentenced to two years of *presidio* labor. Such a large and complicated case could not be kept from the higher courts in Havana. Nonetheless, the *audiencia* upheld the sentence that the St. Augustine tribunal mandated with one exception: the three soldiers guilty of sodomy were to serve out their *presidio* time in Puerto Rico rather than East Florida.<sup>41</sup>

Given the small size of the population at St. Augustine, soldiers and civilians were in close contact and, as a consequence, the latter frequently were witnesses, accomplices, or victims in crimes that were committed by soldiers. In a case that came before the courts-martial in the summer of 1786, Sergeant Antonio Borge from the Hibernia Regiment was accused of murdering Matías Bernard, a soldier of the same regiment, at the home of an English laundress named Ysabel Tailor. Bourquet, the garrison surgeon, certified that the three stab wounds to the man's chest were done by some type of sword-like weapon and were responsible for his death. Tailor and her thirteen-year-old son, Jorge, were the only witnesses of the brutal murder.

Tailor's testimony indicated that the fight that led to the murder had broken out rather unexpectedly. Her guests, Sergeant Borge and a soldier named Juan Cabrioly, had been discussing the sale of a pistol over a bottle

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of wine. No deal was made and the two went on chatting and drinking as before. Cabrioly testified that as he got up to leave, he was accosted on the patio by Bernard, who hit him over the head with a blunt object. The people inside the house heard nothing. Tailor said that Bernard came into the house and sat down on the edge of the bed near the table where Borge sat. Borge then yelled at Bernard in a language Tailor did not comprehend, and Bernard lunged upon him in response. At this point, Jorge, who had been asleep in his bed, awoke to see the horrible crime committed.

Unfortunately, the text of Borge's *confesión* is illegible. Nevertheless, it seems that the dispute, which led to Bernard's death, was over Tailor. Jorge testified that Bernard was a regular at the house and usually "slept in the same bed" as his mother, who herself admitted that she and Bernard "lived together." When Bernard arrived at the house to see Cabrioly leaving and Borge there with a bottle of wine, perhaps he was overcome with a jealous rage. Regardless of Bernard's motive, the confrontation that resulted from it was deadly. After lunging upon Borge, he held the sergeant on the floor and punched him repeatedly in the face. All the while, the two yelled back and forth in French as Tailor tried to separate them. Finally, Bernard stood up, but he was far from finished. He grabbed a rifle barrel that was lying around as Borge, his face covered in blood, stumbled to his feet and unsheathed his saber. Bernard then ran at his opponent with the barrel hoisted high but Borge, in one swift movement, dodged the blow and sunk his saber deep into Bernard's chest. Somehow, Bernard was able to make his way out of the house and into the street. A group of soldiers a few doors down saw him collapse to the ground. Minutes later, he died. Word of the murder spread rapidly.

Jorge's, Tailor's, and Cabrioly's presence at the scene of the murder landed them in jail along with Borge, the accused murderer. Since Jorge and Tailor were the only ones besides Borge who were conscious enough to recall the events surrounding the homicide, they provided the crucial testimonies in the case. Their account of events convinced the court that Borge used unnecessary force to defend himself from the attacker.

A crime of this sort was worthy of the death penalty in the eyes of Judge Diego Cortés. To fulfill the sentence, permission from the *audiencia* in Havana was necessary. The response must have come as a shock to all who followed the case. In his assessment, Josef Cartas y Texerina, the Auditor of War in Havana, found that Borge's defense of himself had not

been excessive and the death sentence was therefore suspended.<sup>42</sup> Such reluctance to execute a death sentence was by no means unique to this case. In the eighteenth and early-nineteenth centuries, capital punishment was rarely recommended as a sentence anywhere in Spanish America. Cutter attributed this phenomenon to the close social and familial relationships in many colonial communities.<sup>43</sup> St. Augustine was without a doubt bound by these, but for the most part the common soldiers seemed to be largely outside of these relationships. This was in part due to their behavior and the transient nature of their service. By the 1780s, American regiments were regularly rotated from one province to another. The St. Augustine garrison scarcely had a chance to become deeply connected to the local society, and very rarely intermarried with citizens.<sup>44</sup> For these reasons, death does not seem to have been an uncommonly suggested punishment in the courts-martial.<sup>45</sup>

Judge Ignacio Royo intended to send drummer Tomás López and Christoval Vais to the gallows for dueling. Both suffered non-fatal injuries in the drunken knife fight, which began for unclear reasons at a tavern in town. Before he proceeded with his confession, López, who had previously served in Cuba, was asked the usual question: have you received the charity of the army in your time as a soldier? Most in his position responded with a seemingly dishonest, yet uncomplicated, “yes,” but López was feeling much more brazen, and instead took the opportunity to complain about how he had not been paid for months. Clearly, the military tribunal was the wrong setting to express such a grievance, especially when the incriminating evidence against one was so overbearing. Moreover, López and Vais could put forth no believable alibi. The drastic sentence they received was approved by at least three high-ranking officers, not including the judge. Following standard procedure, the decision had to be finalized by Havana. As in the murder case involving Sergeant Borge two years earlier, the *audiencia* overturned the courts-martial’s ruling and ordered in its place six years of *presidio* labor for López and Vais.<sup>46</sup>

Five men accused of desertion with intention to travel abroad came before the courts martial at St. Augustine in 1789. Estevan González and Josef Arrosa were members of the *fusileros* company of the Havana Regiment, and Diego Gómez and drummer Lorenzo Tallatigo belonged to the CataluZa volunteers unit. Also indicted was Joaquin Faule, a *presidario* who had worked in the royal army’s *panadería* in St. Augustine. All



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the deserters had been enlisted for nearly four years at the time of their desertion and were natives of Spain and the Canary Islands. During the proceedings against them, over twenty soldiers, as well as several workers from the royal bakery, gave testimony. The court wanted to know about the deserters' motives, what they brought with them, when they left, and for what destination. The deserters had left by canoe the night of November 11 of the previous year. Rumor had it that a pistol and other firearms were taken. Faule, the interrogations determined, was doing *presidario* labor for an earlier desertion when he absconded. None of the soldiers could cite any motive. Before the confessions of the accused were taken, the circumstances of their capture were related to the court. Sergeant Antonio Carballo and several soldiers had caught up with the deserters several miles from the Georgia border on the St. Marys River north of St. Augustine on November 26. The bedraggled band of runaways, still in their military uniforms, did not resist arrest.

Of top priority in the questioning of the deserters was, "Why did you desert?" Their response gives us a brief glimpse into the everyday life of a common Spanish soldier in the frontier colony of East Florida. Gómez and his partners all pointed to the excessive work that was required of soldiers at St. Augustine. Tallatigo claimed that he was required to stand guard for lengthy periods without rest and to go through training procedures that generally were not required of drummers like him in other parts of the empire. Furthermore, his superior officers barked orders at him and his comrades as if they were boys (Tallatigo was 25 years old). Arrosa complained about the poor bedding, lack of rain gear, and "continuous drills" one had to endure. Disdain for military life in East Florida clearly had compelled them to desert.

As the deserters' confessions continued, the remarkable details of their escape emerged. Gómez and Tallatigo had crept out of their quarters on the evening of the 11th and made their way down to the beach where a canoe awaited them. As they prepared to disembark, Arrosa and González appeared out of the shadows and asked the seafarers where they were headed. Gómez answered that he and his shipmate were "going hunting." The others, who recognized a desertion in progress, asked if they could join. Believing, possibly, that safety was in numbers, Gómez and Tallatigo made room for two more in the canoe. Still, the crew was not complete. Before they pushed off, the *presidario* Faule happened upon the scene and squeezed himself into the crowded vessel.

The court demanded to know the deserters' destination. González and Tallatigo plainly stated that they were headed for Havana. Faule, the *presidario*, actually thought he was on a hunting excursion until they crossed the bar and entered the open ocean. Gómez, perhaps more realistic about their chances on the high seas, told the court that he had hoped to make it to "Buena Ventura or Havana or Puerto Rico." As the testimony unfolded even more, it became clear that the deserters' ultimate goal was to present themselves to the captain-general at Havana in order to file a report on the poor conditions of military life at St. Augustine. This plan quickly fell apart as the deserters lost sight of land. Their meager supply of food and water spoiled as the canoe quickly took on water. With no sense of direction and an unfavorable current, the deserters decided to make their case to the commanding officer at the frontier outpost on the St. Marys River. They dipped into a rivulet and later disembarked, but they were no more successful navigating on land than on water. After days of confusion, hunger, and disillusionment in the wilds of East Florida, they were apprehended.

Judge Royo found them all guilty of desertion with intent to go abroad, a crime that carried the death penalty. The *defensores* of the guilty party argued that such a punishment was inappropriate in consideration of the circumstances of the case. This was simple desertion, not the more serious type that the judge alleged. First, the deserters had never arrived at their intended destination and thus they had not really deserted to a foreign land. Second, they fled because they wanted to report to higher authorities the poor quality of life for soldiers at St. Augustine. Essentially, they meant no harm in fleeing as was evidenced by the fact that they put up no resistance against their captors. (The loaded pistol and the two flintlock rifles that were found in the deserters' canoe were conveniently forgotten in the defenders' statement). In light of this appeal, Governor Zéspedes commuted the death sentence and ordered the deserters to serve four months in prison in addition to eight years of military service. Since Faule was already serving time as a *presidario* for desertion, his term was extended by six more years.<sup>47</sup>

The harsh punishment that the military courts of East Florida demanded for deserters indicates how important it was to deter other soldiers from committing the crime.<sup>48</sup> Deporting criminals, while it may have rid the province of a troublemaker, probably did more to encourage lawbreaking

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than to quell it. After all, East Florida was one of the last places that any soldier wanted to be, from the lowliest grunt to the governor himself. Therefore, by requiring convicted criminals to be punished in the colony, military leaders and colonial administrators attempted to kill two birds with one stone, so to speak: they retained manpower and used the example of delinquent soldiers to dissuade other soldiers from breaking the rules.<sup>49</sup>

Deserters oftentimes were the most dangerous of criminals. They commonly preyed upon unsuspecting civilians to maintain a life on the lam. In late colonial Mexico, those civilians who knew about and did not report deserters were liable to pay fines and they could be condemned to serve out the deserter's enlistment. Civilians in St. Augustine and the surrounding countryside had a vested interest with military officials who wanted deserters brought to justice. By a royal *cédula* in 1785, rewards were offered to individuals who could aid in the capture of such criminals.<sup>50</sup>

In East Florida, money was not the only inducement for civilians to bring miscreant soldiers to justice. For Francisco Xavier Sánchez, a civilian who led a small party that captured nine deserters in the fall of 1790, the stronger incentive seems to have been his own desire for security. A wealthy and powerful member of the St. Augustine community, he owned two large plantations north of the city. One day in late September, while on a walk through one of his plantations, he spotted several soldiers creeping around the vicinity. Shortly thereafter, word came from a neighbor that at least nine soldiers had abandoned their post. In the course of their marauding, they had killed a man. Upon receiving the news, Sánchez gathered up three of his slaves and his nephew and set out after the brigands. He later described that he embarked on the search out of fear that the deserters might attack his own home. Heavily armed, the party soon found the criminals' trail and followed it cautiously until they heard the soldiers' voices. Sánchez and his men came within twelve paces and called out to them to surrender whereupon one of them, Francisco Rubio, abruptly raised a hatchet. Seconds after, Sánchez and Juan, one of the slaves, dropped Rubio to the ground with gunfire. Surrounded by their well-armed pursuers, the deserters were apprehended.

Though no record has been found of criminal proceedings against these soldiers, military authorities were particularly interested in the circumstances of the deserters' capture, and the courts-martial held a *sumaria* to determine if Sánchez and his slave shot Rubio in self-defense

or in an act of unnecessary aggression. Once again, the military courts of East Florida had stepped outside of their designated boundaries in the name of justice. Rubio lay in a hospital bed with two gunshot wounds as he gave his deposition concerning his recent capture. A soldier from the Third Battalion of Cuba, he planned his desertion in conjunction with Antonio Marín and seven other soldiers of his company. He mentioned no motive but his account was revealing of the activities of soldiers on the run in East Florida. Armed with hatchets, he and his comrades fell upon a frontier cabin. After ransacking it for supplies, they killed the English settler who lived there and went on their way. Rubio denied his involvement in the attack and the charge leveled by Sánchez that he had raised a hatchet in anger. All Rubio remembered was that he was shot one time by Sánchez and another time by someone else. The other deserters could offer few details as most of them were asleep during the episode and only awoke when they heard the gunfire.

To try to sort out the matter, the court transported the witnesses to the scene of the fray to reenact what had happened. Amidst the arguing over who was where and when, it became clear that Rubio was quite a distance away from Sánchez and his party when the shots were fired. Indeed, the bulk of the evidence indicated that Sánchez and the slave he commanded to fire had overreacted. In spite of these indications of guilt, the court, with little explanation, absolved Sánchez and his three slaves from any wrongdoing. To be sure, his influence in the community helped his case. Furthermore, the deserters' violent nature justified the method of their capture.<sup>51</sup>

As can be imagined, not every criminal act committed by a soldier was prosecuted by the East Florida courts-martial. Various pieces of contemporary correspondence give the impression that there was more crime happening in the province than was prosecuted by the courts-martial.<sup>52</sup> But even if one looks at the records that have survived for the years 1785 to 1795, it is clear that a certain degree of unlawful behavior was simply ignored by the courts-martial. Since the reoccupation of the territory by Spain in 1784, a law existed that soldiers must remain in their quarters after roll call at the end of the day unless specific permission was given otherwise.<sup>53</sup> Yet in at least half of the eighteen cases examined for this study, the crime in question was committed while the suspect was outside of his quarters after roll call. While on trial, soldiers alluded to

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such offenses as if they were accepted behavior. In the summer of 1790, soldier Miguel Tenorio was accused of slandering sailor Francisco Pagán. Tenorio recounted to the court the evening that led up to the dispute. At 11:00 PM, he crawled through a window of the barracks and made his way for the house of trader John Leslie where a dance was being held for the newly arrived Governor Quesada. While there, Tenorio ran into another soldier, Sancho González de Castro. Three hours and many glasses of wine later, the two left the party but not before a romp around the plaza on a couple of horses that did not belong to them. Thereafter, Pagán was roused out of bed and protested the racket made by the drunks, who retorted with a sequence of insults. The verdict of the courts-martial freed González de Castro, who merely watched the confrontation, but Tenorio was to suffer one year in prison. That the two soldiers were out of their quarters at night was, as in many other cases, overlooked by the judge. In other words, it appears that military officials accepted a certain degree of unruly behavior as impossible to control.<sup>54</sup>

In the courts-martial records of East Florida for the years 1785 and 1795, there are a number of recurring characteristics in the way justice was delivered. For all of the eighteen cases that reached the court in this decade, conviction rates were high. Of the thirty-eight soldiers who were tried in tribunals, only two were found not guilty.<sup>55</sup> Indeed, the accused had very little hope of convincing the court of his innocence and hardly an opportunity to do so. Exoneration for a crime usually came only from the *audiencia* in Havana. The age-old practice of church sanctuary, illegal by this era, was still a common recourse of criminals in East Florida, although it was an ineffective means of bargaining for a lighter sentence.<sup>56</sup> There were no disputes between ecclesiastical and military officials as far as legal jurisdiction in the cases studied here. By no means does this imply that the courts-martial strictly obeyed the legal boundaries prescribed to them by the *fuero militar*. On numerous occasions, civilians were tried and sentenced along with military offenders by the courts-martial. Interestingly enough, an officer only stood trial for a crime one time in this decade.<sup>57</sup> As has been explained, there were some crimes, the most notable of which was being outside of the barracks after the evening roll call, that simply were not prosecuted. Sentences were usually negotiated according to the need for manpower in the province and the need for deterrence against further criminal acts by soldiers and, without a doubt, civilians. Sometimes

punishment was particularly harsh. Though seldom carried out, the death penalty was an oft-suggested sentence in East Florida as opposed to the wider pattern in the empire. All told, the judge who presided over the trial had the most influence over how the trial would proceed and how the case would be interpreted. The governor of East Florida and the *audiencia* in Havana could and, at times, did overrule the sentence arrived at by the local magistrate, but the evidence that he gathered was always what informed the new resolution.

Military officials in St. Augustine during the Second Spanish Period had the responsibility of ensuring that the force that protected the province was properly disciplined. This task, which was shared with administrators like them in other parts of the Spanish empire and invested by the King, was often made difficult in East Florida on account of the roguish nature of the local garrison. Dissatisfied with their assignment to the region from the start, soldiers languished under the harsh circumstances of living on a frontier that was often forgotten in the greater scheme of colonial maintenance. Troops repeatedly expressed their anger by disobeying the laws that governed them. At other times, the crimes they committed were purely of a personal nature. Regardless of motive, a crime was still a crime and military judges in East Florida were required to prosecute them. As the above cases have shown, judges consulted the wider imperial laws regarding punishment but often the sentences they arrived at had more to do with the needs of the province. Justice, as a result, took on its own unique expression in the Spanish province of East Florida.

## Notes

<sup>1</sup> East Florida Papers. St. Augustine Martial Courts 1785-1821. Film 119. P. K. Yonge Library of Florida History, Gainesville, Florida (hereafter EFP, PKY). Barreto for murder of Indian, 22 September 1789, R1, film 119, bundle 280, doc. 1789-2.

<sup>2</sup> The records of the courts-martial begin in 1785, nearly a year after Spain's occupation, and end in 1821 with the transfer of the territory to the United States. These cases deal with soldiers accused of crimes, as opposed to such things as wills, property sales, debts, and so on. Only regular soldiers, and not local militiamen, feature in the cases studied here.

<sup>3</sup> William S. Coker and Susan R. Parker, "The Second Spanish Period in the Two

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Floridas,” in *The New History of Florida*, Michael Gannon, ed. (University Press of Florida, 1996), 159.

<sup>4</sup> Sherry Johnson included Spaniards, Cuban/Floridanos, and Minorcan Catholics in her definition of Hispanics in St. Augustine. In her estimate, they were 88 percent of the population. Johnson, “The Spanish St. Augustine Community, 1784-1795: A Reevaluation,” *Florida Historical Quarterly* 68:1 (July 1989): 27-54, 39.

<sup>5</sup> For population figures, see Jane Landers, *Black Society in Spanish Florida* (Urbana: University of Illinois Press, 1999), 82.

<sup>6</sup> In 1788, the Hibernia Regiment was called back to Spain. This translated to a loss of about 150 men, but troops from Cuba filled the void and kept the number around 450 men. See Helen Hornbeck Tanner, *Zéspedes in East Florida, 1784-1790* (Coral Gables, FL: University of Miami Press, 1963), 126.

<sup>7</sup> Vicente Manuel de Zéspedes y Velasco served from 1784 to 1790 followed by Juan Nepomuceno de Quesada, whose term lasted from 1790 to 1795. Tanner, 24 and 128-9.

<sup>8</sup> Derek Noel Kerr, “Petty Felony, Slave Defiance and Frontier Villainy: Crime and Criminal Justice in Spanish Louisiana, 1770-1803,” (PhD. dissertation, Tulane University, 1983), 192-193; Juan Marchena Fernández, *Oficiales y soldados en el ejército de América* (Sevilla: Escuela de Estudios Hispanoamericanos, 1983), 296-97.

<sup>9</sup> Allan J. Keuthe *Cuba, 1753-1815: Crown, Military, and Society* (Knoxville: The University of Tennessee Press, 1986), 88-89.

<sup>10</sup> Kerr, 220.

<sup>11</sup> Christon I. Archer, *The Army in Bourbon Mexico, 1760-1810* (Albuquerque: University of New Mexico Press, 1977), 254.

<sup>12</sup> Juan Nepomuceno de Quesada quoted in Kerr, 194.

<sup>13</sup> Janice Borton Miller, *Juan Nepomuceno de Quesada: Governor of Spanish, East Florida, 1790-1795* (Washington, D.C.: University Press of America, 1981), 28-29. When governors made these claims, they did not distinguish between each regiment but rather generalized about the entire garrison.

<sup>14</sup> The *situado* sent from New Spain also included Indian presents and rations (for diplomacy), money for public buildings, and medicinal, linen and hospital supplies. See Tanner, 112-13.

<sup>15</sup> Paul E. Hoffman, *Florida's Frontiers* (Bloomington: University of Indiana Press, 2002), 243; Tanner, 119. In contrast to Archer's findings on soldiers in Mexico and similar discoveries elsewhere in Latin America, epidemic outbreaks

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were not a fact of life for soldiers in East Florida. See Archer, 266-67.

<sup>16</sup> Miller, 58-9; Tanner, 187.

<sup>17</sup> Quesada to Las Casas, 1792, in Miller, 38.

<sup>18</sup> Miller, 55; There was no mass rebellion against authority in East Florida in the Second Spanish Period, but in Santiago, Cuba, in May of 1765, 98 soldiers from the Second Battalion of the Fijo took refuge in the cemetery of the cathedral to protest their grievances over unpaid wages. See Keuthe, 84.

<sup>19</sup> The roots of the *fuero militar* could be traced to the sixteenth century in Spain. From there, it developed into a more sophisticated body of law, codified by the Bourbon monarchs of Spain, that distinguished between officers, militia, and regular soldiers, among other distinctions. See Lyle N. McAlister, *The "Fuero Militar" in New Spain 1764-1800* (Gainesville: University of Florida Press, 1957), 6-8.

<sup>20</sup> Charles R. Cutter, *The Legal Culture of Northern New Spain, 1700-1810* (Albuquerque: University of New Mexico Press, 1995), 48-54.

<sup>21</sup> When such an individual was not available in the territory, the governor himself assumed the position. See Court martial of sailor Diego Seguí for slander and assault of soldier Juan Rosedo, EFP, PKY, 3 October 1787. R1, film 119, bundle 280, doc. 1787-2.

<sup>22</sup> Cutter, 54-58.

<sup>23</sup> Cutter, 113-14.

<sup>24</sup> Indians featured only once in the East Florida courts-martial for the years 1785-1795. See EFP, PKY, Court martial of Barreto for murder of Indian, 22 September 1789, film 119, bundle 280, doc. 1789-2. Their legal status was equivalent to that of a minor according to Cutter, 117-21.

<sup>25</sup> For an example of this required oath, see any of the noted St. Augustine courts-martial cases.

<sup>26</sup> By the late colonial period in Spanish America, torture was rarely used to elicit incriminating testimony from a witness. See Cutter, 123. The courts-martial criminal cases of East Florida discussed here show no evidence, written or implicit, of the use of torture.

<sup>27</sup> The Catholic Church in St. Augustine was located on the main plaza near the barracks. According to Miller, below the main floor and directly under the altar were two rooms: one for the sacristan and the other for the temporary lodging of soldiers. Miller, 55.

<sup>28</sup> Cutter, 7; Archer, 273.



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<sup>29</sup> Cutter, 125.

<sup>30</sup> Cutter, 125.

<sup>31</sup> Cutter, 133.

<sup>32</sup> For example, see EFP, PKY, Court martial of Tomás Lopez and Christoval Vais for dueling, 3 June 1788, film 119, bnd 80, doc. 1788-3.

<sup>33</sup> Tanner, 115.

<sup>34</sup> Ruth Pike, "Penal Servitude in the Spanish Empire: Presidio Labor in the Eighteenth Century," *Hispanic American Historical Review* 58:1 (February 1978), 22.

<sup>35</sup> Juan Bourquet, the surgeon for the Havana Regiment, verified the wounds.

<sup>36</sup> EFP, PKY, Court martial of Juan Enguera for wounding Antonio Denis, 9 July 1785, film 119, bundle 280, doc. 1785-1.

<sup>37</sup> EFP, PKY, Court martial of Antonio Ruiz and Salvador González for wounding Estevan Rodríguez and Thomas García, 22 August 1787, film 119, bundle 280, doc. 1787-1.

<sup>38</sup> EFP, PKY, Court martial Francisco Tejero for robbery of Evaristo Garrido, 12 August 1785, film 119, bundle 280, doc 1785-3.

<sup>39</sup> EFP, PKY, Court martial of soldier Joseph Bataller for theft of provisions through fraud, 26 April 1786, film 119, bundle 280, doc 1785-3.

<sup>40</sup> Cutter, 125.

<sup>41</sup> EFP, PKY, Court martial of various soldiers for the crime of sodomy involving boys, 13 September 1788, film 119, bundle 280, doc. 1788-1. Tanner indicated that Archer Stone and the half dozen soldiers convicted of sodomy were shipped out of East Florida to Havana in spring of 1789. No record has been found to verify this statement. See Tanner, 195.

<sup>42</sup> EFP, PKY, Court martial of Sgt. Antonio Borge for murder of Matías Bernard, 4 September 1786, film 119, bundle 280, doc 1786-1.

<sup>43</sup> Charles Cutter examined 600 criminal and civil cases from the entire eighteenth century era in northern New Spain and discovered only a few cases of capital punishment. See Cutter, 138-140.

<sup>44</sup> Soldiers were not allowed to marry without official permission. Marriage between officers and citizens was more common although it still was not widespread. Johnson, 40.

<sup>45</sup> In stark contrast to what Cutter found, there were four cases in one decade of the East Florida criminal courts-martial in which the death penalty was

considered as a viable punishment. Besides the one described here, see EFP, PKY, Court martial of Tomás López and Christoval Vais for duelling, 3 June, 1788, film 119, bnd 80, doc. 1788-3. Also see EFP, PKY, Court martial of Barreto for murder of Indian, 22 September 1789, R1, film 119, bundle 280, doc. 1789-2. And finally, see EFP, PKY, Court martial of Estevan González and others for desertion, 13 January 1789, film 119, bundle 280, doc. 1789-1. (All are examined in this paper).

<sup>46</sup> López was required to serve his time in Louisiana while Vais was to complete his in Cuba. EFP, PKY, Court martial of Tomás López and Christóval Vais for duelling, 3 June, 1788, film 119, bnd 80, doc. 1788-3.

<sup>47</sup> Josef de Cartas y Texerina, the Auditor of War in Havana, upheld the punishment in May of 1789. EFP, PKY, Court martial of Estevan González and others for desertion, 13 January 1789, film 119, bundle 280, doc. 1789-1.

<sup>48</sup> In Spanish Louisiana, convicted deserters had to run the gauntlet between 200 men, plus serve ten years of prison. Kerr, 194.

<sup>49</sup> Try as they did to prevent desertion, the crime was still a plague in East Florida. A brief look at courts-martial cases in the East Florida Papers for the years 1796 to 1821 shows many instances of desertion.

<sup>50</sup> Officers in Mexico often referred to ‘the epidemic of desertion.’ See Archer, 267-269; Zéspedes mentions the receipt of the royal cedula in EFP, PKY, Governor Zéspedes to Conde de Galvez, 24 February 1786, film 16, bnd 41B4, doc 117.

<sup>51</sup> EFP, PKY, Testimony concerning the capture of deserters by Francisco Sánchez and three slaves, 4 October 1790. EF, R1, film 119, bnd 280, 1790-2.

<sup>52</sup> The source for this information is EFP, PKY, Correspondence between the Governor and Civil, Financial, and Military Subordinates on the St. Johns and St. Mary Rivers, Matanzas, and other East Florida Outposts, 1784-1820. Therein are scattered letters that mention deserters. For example, a 1788 letter from Sgt. Josef Trujillo to Governor Zéspedes mentioned the apprehension of several deserters on the St. Johns. However, no record has been found to indicate if they were ever prosecuted by the courts-martial. See EFP, PKY, Trujillo to Zéspedes, 30 November 1788, R1, film 45, bnd 119B10, doc 1788-358.

<sup>53</sup> Tanner, 185.

<sup>54</sup> EFP, PKY, Prosecution of soldiers Miguel Tenorio and Sancho González de Castro for slandering sailor Francisco Pagán, 29 July 1790. R1, film 119, bundle 280, doc. 1790-3; For other examples, see EFP, PKY, Court martial of Juan Enguera for wounding Antonio Denis, 9 July 1785, film 119, bundle 280, doc. 1785-1 and EFP, PKY, Court martial of Estevan González and others for

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desertion, 13 January 1789, film 119, bundle 280, doc. 1789-1.

<sup>55</sup> Salvador González was found not guilty in the knife fight (mentioned in footnote 37), as was Sancho González de Castro in the slander case (cited in footnote 52). Sometimes, the sentence was not mentioned in the record, which accounts for some differences. Of the thirty-eight men who were tried, thirty-one were either guilty or their fate was not recorded. Still, the number of convictions is great.

<sup>56</sup> Although the privilege of asylum had been restricted by this date, the continuation of jurisdictional and procedural disputes permitted some criminals in Mexico to escape and others to commit new crimes before they might be extracted from sanctuary. See Archer, 273.

<sup>57</sup> Sgt. Borche for murdering soldier Matías Bernard. When officers broke the law, justice was probably handled privately.



# MEDIEVAL CONVERTS

## UNDERSTANDING THE JEWISH CONVERSION TO CHRISTIANITY IN MEDIEVAL ENGLAND, ITALY, AND SPAIN

### **Jacob Terpos**

The history of Jews living under Medieval Christendom is a particularly complex topic. Relationships between Jews and Christians were never perfect and often were filled with mistrust by both groups. How Jews lived among Christians, surviving physical attacks and attacks on their faith during the Crusades and inquisitorial trials, is a testament of their ability to survive as a dispersed people living within foreign kingdoms. While living under European Christendom, the Jewish people were pitted against a kingdom trying to define its religious beliefs and identity as a single Christian entity, and thus were faced with the challenge of withstanding conversion or expulsion. However, throughout the Middle Ages, thousands of Jews ultimately converted to Christianity. There are many various causes which led to these conversions, which will be examined in the rest of this text. The following pages will trace the lives and acts of Jewish-Christians living under Christendom, examining why they converted to Christianity and how they in turn were accepted by their communities and Christendom at large. This essay argues that the majority of Jewish converts converted primarily in response to some sort of pressure, whether direct or indirect. As often was the case, this pressure was an oppressive condition, exerted by economic, mental, physical, or social disorder and distress. This kind of pressure can also be considered to be “a constraining moral force, or any burden, force, painful feeling, or influence.”<sup>1</sup> The majority of pressures, however, took their physical form in the presence of the crusades, the inquisitorial trials, the polemical debates and attacks against the Talmud, laws directed at the Jews, and reaction from others in the community.

These pressures were complex and were often intertwined with each other, only very rarely acting as independent causes for one’s conversion. It

is also necessary to define two key concepts, missionizing and conversion, which acted independently of each other in certain examples, and in others are the same idea. Conversion had the same goal as missionizing and included the latter in its meaning. However, conversion tactics may be implemented with forceful persuasion and pressure, and could be practiced by non-clergy members as well as the Church. Such was the case with the conversions that were carried out in the First and Second Crusades: Jews were given the option of death at the hands of common villagers if they did not convert to the Christian religion. Missionizing was the attempt to bring non-Christians into the Christian religion and was mainly practiced by members of the European Church. Furthermore, the ideal was for such proselytizing and missionizing to be practiced peacefully. The Franciscan and Dominican orders of monks were established to gather knowledge and persuade non-Christians to convert. Moreover, conversions also occurred due to indirect pressure. For example, a person, after hearing an apologetic defense of the Christian faith or a particularly impressive sermon, may have decided to convert not out of a direct confrontation with others but from the persuasive voice of that person's own will.

Peaceful persuasion was what many of the popes and clergy promoted as the acceptable means of conversion, yet it was a form of subtle pressure, nonetheless. Pope Innocent III issued a decree in the twelfth century stating, "no Christian shall use violence to compel the Jews to accept baptism."<sup>2</sup> This was done out of the understanding that anyone who received baptism for any reason other than out of their own free will was not a true convert to Christianity."<sup>3</sup> Moreover, the Pope condemned those who showed avarice toward Jews.

There was great social pressure imposed on the community, usually resulting from laws made to govern Jews. Both faith groups lived relatively close to one another, which created heightened tension. Jewish scholar Robert Stacey notes that many churches were placed in the middle of Jewish communities, and these were often old synagogues that were revamped. Jews were also prohibited from appearing on the streets during the Christian Holy Week or feasts. All the above social conditions, as Stacey points out, led to increased violence, which also led to many conversions.<sup>4</sup> This was possibly due to exhaustion on the part of the Jews from the fighting and living conditions. As a result of converts being sent to monasteries, many families were separated. While the orphans,

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widows, and parents would normally be taken care of by the rest of the Jewish community, it was getting increasingly difficult to provide for the growing number of family members left behind. As a result, many of these people converted to survive.<sup>5</sup> In the attempt to keep a unique Christian identity, communication and trade between Jews and Christians were forbidden, and Jews were to be moved to separate neighborhoods. Most of the communities never became segregated, and as a result many Jews were evicted, often dying from exposure. Historian David Nirenberg cites the above examples as leading to thousands of conversions to escape this segregation.<sup>6</sup>

Political persuasion, economic influence, and incentives were not significant before 1232, at least in England. Jewish property was actually forfeited to the crown as a consequence of their conversion.<sup>7</sup> This changed in England in the following years when King Henry ordered the building of the House for Jewish Converts, also named the *Domus Conversorum*. Designed to act as a halfway house for converts, the House provided shelter, Catholic schooling of the faith, and a weekly stipend.<sup>8</sup> The *Domus* was designed to harbor the new converts while they made their transition into the Christian community, yet it often served as a figurative prison. Many stayed there for the entire course of their lives, marrying other converts from the house and raising their families there. The difficulty of being recognized as a full Christian and intolerance for Jews and Jewish-Christians kept many in the house for their entire life.<sup>9</sup> This guarantee of provisions, as well as the annulment of certain taxes after conversion, certainly must have appealed to some. Robert Stacey writes that an upsurge in conversions between 1240 and 1260 reflected the harsh taxation of the Jews by King Henry III, who collected more than 70,000 pounds from that community in the first fifteen years.<sup>10</sup>

Other social pressures took the form of forced sermons. With the arrival of the Dominicans into England in the thirteenth century, a new wave of missionizing began in which Jews were forced to hear the Dominican's sermons.<sup>11</sup> Historian Joshua Starr argues that the majority of converts in Italy changed their status due to the increasingly aggressive stance of the Dominicans as inquisitors and missionaries. One estimate of converts in Italy puts their numbers around 8,000.<sup>12</sup> The Inquisition also enabled the King to renew his profits by collecting the properties of crypto-Jews, also called Judaizers (converts still secretly committed to Judaism), discovered

by the Inquisitors.<sup>13</sup> Not only were the crypto-Jews hounded by the Inquisition, but so too were Jews who never converted. A document by Charles II in Italy granting the inquisitors more freedom in dealing with the Jews suggests that increased pressure on Jews by the Inquisitors also led to conversions.<sup>14</sup>

Converts represented a segue between the Jewish life and Christians of Medieval Europe. Their treatment ultimately shaped Christendom in Europe. Jewish heritage was something that was hard to give up, and this led to dualities in the lives of many conversos and eventually fuelled the fire for many of the rules imposed on Jews. One of the main arguments indicating the majority of Jews converted out of pressure came about from this dual livelihood. Judaizers were prime examples of this dual lifestyle, and became the target of the Spanish Inquisition in later years. Many tried to convert others back to Judaism, and many people returned to their former faith. Although this was a consequence of the pressures exerted onto the Jews, it indirectly shows that the converts felt something was wrong with their new life that made them want to go back to their old way of life. Judaizing was perhaps the most notorious charge held against these Christians.

Conversion also occurred out of violence and death threats. The most common examples are found in the crusades as well as the Black Death riots. There are examples in England in the thirteenth century in which Jewish prisoners facing death suddenly converted. One such case involved a man named Isaac of Norwich who converted while on trial for coin clipping. He was cleared of all charges after the conversion, as was usually the circumstance for criminal converts.<sup>15</sup> While criminal charges might have persuaded some, violent bloodshed threatened many others to convert. As was the case with the conversions during the First Crusade, it was rumored that many women who faced death during the Baron's Wars of 1263-1265 in England converted.<sup>16</sup>

Understanding the reasons for conversion leads to more questions, one being how the new converts interacted with their family, friends, and neighbors, who were still followers of Judaism. One common practice was the constant attempts by the new converts to bring the rest of the Jewish community into the Christian fold. As the attempts to fight off Muslims in the Crusades failed, Christians turned to methods of conversion as a way of dealing with opposition to Christianity.



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Polemics and apologetics held a high position in the art of conversion. Rising from a need to defend the Christian faith, they also were used to denounce other faiths as well as persuade the followers of other religions to convert. Ramon Llull, a thirteenth-century Franciscan philosopher from Majorca, Spain, recognized the importance of a strong Christian defense of the faith. Along with advocating a Christian education of apologetics, he persuaded rulers to force Jews to study Latin and liberal arts in hopes of getting them to understand the Christian thought process and ultimately accept it as truth.<sup>17</sup> Llull primarily focused on the argument of the trinity as a unified body in hopes of getting the Jewish audience to recognize this unity. Frequently, Jews were threatened with expulsion if they did not agree to adhere to Christian practices.<sup>18</sup>

However, most often, Jewish converts initiated these debates, having known all the arguments from their previous faith and out of zeal to reveal the truth to their fellow men and women. Nicholas Donin may be recognized as one of the most notorious converts to debate and attack Jewish believers, having led the assault on the Talmud in 1236.<sup>19</sup> The primary technique for conversion was through forced sermons. However, because the audience consisted wholly of Jews, it was not often that they would part from their comrades during these sermons. As a result, the conversion method spread to the individual level. Sermons were often focused on the discrediting of the Jewish faith. It is quite possible many converted as a result of constant sermons claiming the Jews were no longer God's chosen people. Ministers often pointed to the Jews' current social status as an example for this argument. In his book *Libre del Gentil*, Llull, creates an imaginary setting in which a Gentile philosopher, after engaging in dialogue with a Jewish scholar, cites the dispersion of the Jewish nation as a punishment and evidence of God's abandonment of the nation.<sup>20</sup>

There are exceptions to this model of harsh and forceful polemics, however. In a letter to the Archbishop Anselm of England in the late eleventh century, a Christian named Gilbert Crispin indicated how his polemic disputations with a Jew were no more than friendly talks between one another.<sup>21</sup> The pair, who had also conducted business with each other, never seemed to get into heated discussion; nor was there any violence involved. As a result of these types of friendly discussions, Crispin indicated in his letter that one of the Jews listening to the disputes received baptism out of his own free will.

The practicing Jewish community generally embraced Jewish-Christians. Due to the fact that the majority of converts were forced into the Christian fold, the Jewish community viewed these people as still faithful in their Jewish heritage. That is, they may have appeared to have changed their whole lifestyle and beliefs through the symbolic baptism, but there was still something distinctively Jewish about them. This argument testifies to the many Judaizers who returned to their roots after their baptism. Rabbi Solomon Bar Isaac, a popular Jewish scholar and legal advisor of the eleventh century, was one of many in the Jewish community who sympathized with the converts. In a communal affair dispute around 1100, Rashi, as he was more commonly referred to, gave his decision on a case dealing with Jewish identity in the aftermath of conversions.<sup>22</sup> Examining the validity of a married couple who were forced to convert, Rashi claimed they were not directly at fault, and, quoting from the book of Joshua, he stated that the couple was still Jewish at heart.<sup>23</sup> Rashi, as a leader of the community, led by example and forgave these people by recognizing they were still part of the community. A similar example of recognizing and accepting a convert, or in the following case a *converso* occurred in a fifteenth-century poem from Spain. In it, the author identified another poet, a Jewish convert to both Islam and Christianity, as a man who remained a Jew even though he went through these conversions.<sup>24</sup>

There was also an attempt to universalize the Christian Europe under one identity, one set of beliefs, and one dogma. People of different faiths living under Christian Europe were viewed as corrupting the faith, thus an attempt was made to limit relations between the groups. The Fourth Lateran Council's decree requiring Jews to dress differently, based on a passage in the Book of Numbers, was issued to separate Jews from Christians, mainly to prevent intermarriage and sexual relations.<sup>25</sup> Tassels and dark-colored cloths were to be worn, symbolizing the Jewish people's promise to adhere to the laws of God and to not stray into desires of the flesh. This concept was part of the lingering fear of a mixture of interfaith and old blood with new blood. Intermarriage was frowned upon, and references to this mindset appear in many documents. One such text from twelfth-century England reveals the discomfort among Christians of their fellow sharers of the faith drinking with Jews, as well as entering into Jewish homes.<sup>26</sup> This discomfort arose out of the fear of sexual relations and intermarriage between the two groups. Robert Stacey describes this

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feeling in England of Jewish blood flowing still within the converts as follows: “there was clearly an irreducible element to Jewish identity in the eyes of many Christians, which no amount of baptismal water could entirely eradicate, at least from a layman. Through baptism, converts from Judaism became Christians, but this did not mean that they had entirely ceased to be Jews in the eyes of their brothers and sisters in Christ.”<sup>27</sup>

Fifteenth-century Spain produced the first legal law document pertaining to the issue of old Christian “pure” bloods pitted against the new Christian “dirty” bloods.<sup>28</sup> It banned conversos from public office because of their impure blood quality. This text was also a precursor to the eventual expulsion of the Jews from Spain. The whole focus on the “new bloods” as being inferior gave the sense that conversion was no longer an acceptable process for dealing with Jews in Christian lands. The underlying message of the document was that repentance and baptism were completely ignored as criteria for a Christian, and only works (or lack of works thereof) and heritage indicated a true Christian. As a consequence of this text, many of the new Christians, or neofiti as they were called in Italy, lived completely separated from other Christians.<sup>29</sup> The image of Christians as the body and bride of Christ lay at the foundation of this rhetoric as well. Converts with dirty blood, it was thought, would contaminate the body of Christ. The bride was typically represented only by women, and for the women to be contaminated by this blood in the eyes of the Christians was an even greater offense.

Knowing the reasons behind the often-forceful conversions, it is also important to know why such harsh treatment was handed out by Christians towards the Jews in the first place. It is reasonable to assume that Christians felt aggravated at the customs of Jewish law, particularly since the Christian faith annuls most of the old laws. Many Christians felt they were used as a means to do the Jews’ “dirty” work, such as buying the unfit meat from Jewish markets. The *Shabbot Goy*, a thirteenth-century text from the Talmud, provides another example of this source of Christian frustration, in which it justifies the use of kindling fires on the Sabbath, or performing other works for that matter, by having a gentile perform the stated work.<sup>30</sup> By doing these tasks that Jews would not do, Christians felt they were being mocked and made inferior in the eyes of the Jews. Jewish defenses of their beliefs from polemics also antagonized the Christians. The *Toledoth Yeshu*, a text passed down by Jewish scholars, who depicted

an alternate historical narrative of the life of Jesus, was one example of these defense techniques used by the persecuted community to bring down their oppressors. The text described Jesus as a mortal man, who stole the sacred name of God and used it to perform miracles.<sup>31</sup> Naturally, such claims infuriated Christians. This aggravation also increased the levels of intolerance toward the new Christians. It is also argued that during the First Crusade, the warriors who struck the Rhineland did so out of sheer heightened anxiety and emotion.

All the converts gave up some former part of their Jewish heritage. In a letter by Anselm, Archbishop of Canterbury in the eleventh century, it is revealed that a recent convert from Judaism left his parents, their home, and valuables as well, and most likely brought his family with him to live under the care of monks. He also almost surely changed his name to what is referred to as Robert in the letter, leaving behind almost all of his past. Furthermore, Anselm beseeched Robert's caretakers to comfort him for making the right decision and console him in his losses.<sup>32</sup>

Following the first wave of conversions in Spain in the early fifteenth century, many conversos expressed their emotions, the social events, and daily life through works of poetry called *cancioneros*.<sup>33</sup> In these collections, there lies the question of the new Christian dogma, grief over turning away from old life, and other regrets that conversos shared. Montoro, a poet and converso of fifteenth-century Spain, lamented in one of his poems that he was unlucky and made this way by God, having little worth.<sup>34</sup> From these texts it is apparent that many conversos felt a great deal of sorrow over their new way of life and the treatment they received. For those who seriously accepted the baptism and all the spirituality Christianity offered, a great deal of remorse and guilt was felt for the death of their Savior, and they saw their Jewish lineage as a sin for this reason. In one poem, Montoro is granted a pardon from his horse for the death of Christ.<sup>35</sup> Some converts also struggled with intellectual doubts of the Christian faith, as expressed in their poems. Other poems refer to the disgust of eating pork and guilt from being circumcised after receiving cruel jokes from other Christians.<sup>36</sup> These writings offer examples of those who genuinely converted out of their own will with probably very little pressure.

As Christians gained their identity in Europe, they sought to mark Europe as wholly Christian, and persuasive conversions were undertaken to bring not only Jews but also Muslims and Christian heretics into the

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Christian body of followers. Compassionate persuasion was the hopeful means of conversion to be used. However, such attempts were often overshadowed by the violent Crusades and pressures of the Inquisition. For those who would not convert, expulsion from their homelands or even death was often the consequence they faced. Yet for the majority of Jews who converted to Christianity, their new way of life suffered perhaps just as many hardships. When examining the question of Jewish converts in Medieval Europe, the daunting reality of is that for many, conversion was far from the act of free choice.

### Notes

<sup>1</sup> "Pressure." *Webster's Dictionary*. 1991.

<sup>2</sup> Paul Halsall, ed., "Medieval Sourcebook: Innocent III: Letter on the Jews 1199," *Internet Medieval Source Book*, February 1996, Fordham University, November 22, 2003, <<<http://www.fordham.edu/halsall/source/inn3-jews.html>>>.

<sup>3</sup> Paul Halsall, ed., "Medieval Sourcebook: Innocent III: Letter on the Jews 1199," *Internet Medieval Source Book*, February 1996, Fordham University, November 22, 2003, <<<http://www.fordham.edu/halsall/source/inn3-jews.html>>>.

<sup>4</sup> Robert C. Stacey, "The Conversion of Jews to Christianity in Thirteenth-Century England," *Speculum* 67:2 (April 1992): 264-266.

<sup>5</sup> *Ibid.*, 271.

<sup>6</sup> David Nirenberg, "Conversion, Sex, and Segregation: Jews and Christians in Medieval Spain," *The American Historical Review* 107:4 (October 2002): 54-74.

<sup>7</sup> Stacey, "The Conversion of Jews to Christianity," 266.

<sup>8</sup> *Ibid.*, 267.

<sup>9</sup> *Ibid.*, 275.

<sup>10</sup> *Ibid.*, 270.

<sup>11</sup> *Ibid.*, 267.

<sup>12</sup> Joshua Starr, "The Mass Conversion of Jews in Southern Italy (1290-1293)." *Speculum* 21:2 (April 1946): 207-208

<sup>13</sup> *Ibid.*, 209.

<sup>14</sup> Ibid., 211.

<sup>15</sup> Stacey, "The Conversion of Jews to Christianity," 272.

<sup>16</sup> Ibid., 272.

<sup>17</sup> Harvey J. Hames, *The Art of Conversion: Christianity and Kabbalah in the Thirteenth Century* (Leiden, The Netherlands: Brill, 2000.)

<sup>18</sup> Ibid., 105-7.

<sup>19</sup> Leonard B. Glick, *Abraham's Heirs: Jews and Christians in Medieval Europe* (Syracuse: Syracuse University Press, 1999.), 193-203.

<sup>20</sup> Jeremy Cohen, *The Friars and the Jews: The Evolution of Medieval Anti-Judaism* (Ithaca: Cornell University Press, 1982.), 205-12.

<sup>21</sup> Paul Halsall, ed., "Medieval Sourcebook: Gilbert Crispin: Disputation of a Jew with a Christian about the Christian Faith (Before 1096)," *Internet Medieval Source Book*, January 1999. Fordham University. November 14, 2003 <<<http://www.fordham.edu/halsall/source/1196crispin-jews.html>>>.

<sup>22</sup> Paul Halsall, ed., "Medieval Sourcebook: Rashi (1040-1105): Communal Affairs in Troyes, c.1100," *Internet Medieval Source Book*, October 1997, Fordham University, October 16, 2003, <<<http://www.fordham.edu/halsall/source/1105rashi.html>>>.

<sup>23</sup> The section of Joshua 7:11 Rashi referred to states "Israel has sinned and broken my covenant. . . ." Rashi made the connection that even though Israel sinned, it still remained Israel, and not another identity.

<sup>24</sup> Yirmiyahu Yovel, "Conversion Dualities in the First Generation: The Cancionaros," *Jewish Social Studies* 4:3 (Spring/Summer 1998): 1.

<sup>25</sup> Paul Halsall, ed., "Medieval Sourcebook: Lateran IV: Canon 68—on Jews," *Internet Medieval Source Book*. February 1996, Fordham University, November 22, 2003, <<<http://www.fordham.edu/halsall/source/lat4-c68.html>>>.

<sup>26</sup> Paul Halsall, ed., "Medieval Sourcebook: Contact between English Jews and Christians: Two Twelfth-century Views," *Internet Medieval Source Book*, January 1999, Fordham University, October 20, 2003, <<<http://www.fordham.edu/halsall/source/12jewschristian-2views.html>>>.

<sup>27</sup> Stacey, "The Conversion of Jews to Christianity," 278.

<sup>28</sup> Perp Sarmiento, "The First Racial Law: The Sentencia-Estatuto, Toledo (1449)," *The First Racial Law: The Sentencia-Estatuto, Toledo (1449)* (University Park, PA: Penn State University), December 10, 2003, <<<http://www.personal.psu.edu/users/m/z/mzk108/limpieza.html>>>.

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<sup>29</sup> Starr, "The Mass Conversion of Jews in Southern Italy (1290-1293)", 207.

<sup>30</sup> Paul Halsall, ed., "Medieval Sourcebook: A Rabbinic Responsum: The Shabbat Goy," *Internet Medieval Source Book*, January 1999, Fordham University, October 16, 2003, <<<http://www.fordham.edu/halsall/source/shabbasgoy.html>>>.

<sup>31</sup> Alan Humm, "Toledoth Yeshu," *Ancient Jewish Accounts of Jesus*, February 17, 1997, University of Pennsylvania, October 17, 2003, <<<http://ccat.sas.upenn.edu/~humm/Topics/JewishJesus/toledoth.html>>>.

<sup>32</sup> Paul Halsall, ed., "Medieval Sourcebook: Anselm of Canterbury: How to Treat a Convert (before 1100)," *Internet Medieval Source Book*, November 1998, Fordham University, November 17, 2003, <<<http://www.fordham.edu/halsall/source/1100anselm-convert.html>>>.

<sup>33</sup> Yovel, "Conversion Dualities in the First Generation: The Cancionaros," 1.

<sup>34</sup> *Ibid.*, 2-4.

<sup>35</sup> *Ibid.*, 5.

<sup>36</sup> *Ibid.*, 5-16.





# THE “PRINCIPALL AND ONLY MEANS TO RIPEN THE FRUIT OF NEW HOPES”

## HUSBANDRY MANUALS AND PARLIAMENTARY ENCLOSURE IN EARLY MODERN ENGLAND

**Kelly Minor**

Sheep devouring men. Sir Thomas More’s nightmarish image became the metaphorical tool of opponents of enclosure in England. It was a testament to the fate of ploughmen turned proletariat and to the cancerous spread of vagabonds and highway thieves—castoffs from the capitalistic enterprises of greedy men. The outcry against enclosure stemmed in part from the national imagination of the virtuous, suffering ploughman depicted in poetry, prose, and art, such as *Piers the Ploughman*, *God Spede the Plough*, and *The Fleece*. Early agricultural texts, drawing heavily from traditional agrarian discourse, tended to emphasize the virtues of the everyman farmer over the details of his work. This timeless, idyllic portrait contrasted strongly in the early sixteenth century with burgeoning agricultural innovation. Though it would be a century and a half before innovation developed beyond the fledgling stage, the sixteenth century marked an exciting time for English agriculture. These early developments, the introduction of new crops from the continent and new ways of raising established ones, were made possible by the diffusion of information through “an entirely new class of books of husbandry.”<sup>1</sup> These works, distinct from their literary predecessors, were devoted to improvement, new research, national advancement, and theories tested by experiment and proven by practice. Hundreds of pages long, they were volumes of details on every agricultural topic imaginable, aimed squarely at instruction and persuasion for country gentlemen and, increasingly, ordinary husbandmen.

The sixteenth century still revered the ploughman and his labors in a way the seventeenth would not, when these manuals struggled against lack of interest and poor distribution, until the workings of agriculture again captured the national imagination in the eighteenth century.<sup>2</sup> As scientific agriculture took hold, agricultural leaders, including Fellows in the Royal Society, advocated more complex methods and greater profits. Importantly, they began to add their voices to those in favor of enclosure. Supporters argued that open, unused land wasted potential; any land, no matter how barren it might seem, could be improved and made to generate profit. With this in mind, some agricultural writers joined a swell of critics who saw commoners and squatters as leeches on the countryside, adding nothing to the realm's wealth while siphoning off its resources. Yet, in the sixteenth and early seventeenth centuries, critics of enclosure blamed that process for *creating* a population of poor people and increasing the charity rolls. This ideological and economic battle increasingly took on a public tone as Parliament entered the fray. Both critics of enclosure and critics of the commons used the House of Commons as a pulpit from which to preach their particular brand of English agrarianism. That the enclosers eventually drowned out most of the commoners is in great part the work, unintentional and deliberate, of agricultural instructors. In 1697, in his fourth edition of *Systema Agriculturae*, John Worlidge argued that there were several large forests, chaces, heaths, downs, moors, commons, and other waste lands

that are not evenly divided among Proprietors, and where divided not all owners can improve their share. . . . anyone would think that so much excellent Land as is in this Kingdom uninclosed, open, and waste, should not lie so, but those persons concerned in them, should agree unanimously to appropriate or enclose the same where the Proprietors are by Law capable. And where they are not to implore the assistance of the Legislative Power, to capacitate them to effect so great and profitable a Work.<sup>3</sup>

Progressives did implore, and the Legislative Power did respond. Parliament became directly involved in enclosure, transforming the traditional process from voluntary and communal to imposed and individualistic. Husbandry manuals played a key role in this transformation

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by encouraging landholders to enclose and by encouraging Parliament to see enclosure not as sheep devouring men, but as men making the most of England's potential.

There are two schools of agrarian history. The first, "cows and ploughs" history, deals with the actual practice of farming and rural living. The second examines the social and cultural significance of agriculture.<sup>4</sup> This article will incorporate both camps, because the changes enclosure made to "cows and ploughs" (sometimes literally) had profound implications for the social and cultural meaning of agrarian England. Agricultural history has not been prominent in discussions of Early Modern science or politics. Yet, enclosure represents a significant confluence of the scientific and political worlds of Early Modern England. The politics of enclosure are easy enough to trace; from the early seventeenth century onward, Parliament took the lead in enclosing the English countryside, making decisions that at times reflected political concerns of both members and petitioners.

Science as it pertained to Early Modern agriculture emerged from the greater atmosphere of scientific exposition and investigation. Botany, mineral and soil science, and animal husbandry were critical pools of knowledge. Husbandry manuals, the most important scientific treatises regarding agriculture, were not the work of Francis Bacon (though he spoke eloquently on enclosure), Galileo, Newton, or Laplace, but they shared with the evolving scientific philosophy these men represented the conclusion that farmers had "no need of that hypothesis." Guesswork, superstition, even tradition, were subsumed by the demonstrative power of experiment, observation, and planning. Agricultural instruction evolved from verse advocating virtuous husbandry in the early sixteenth century to thick volumes seeking a comprehensive treatment of every aspect of agriculture, gardening, livestock, horticulture, and timber by the mid-eighteenth century. The focus of husbandry manuals shifted from subsistence to the market, adapting to and supporting an English population boom. It became clear that prescriptive agriculture and its professed profits were possible only on large, continuous tracts of land. Enclosure, a long-standing practice in rural England, was the apparent solution. Consequently, the number of private petitions sent to Parliament rose dramatically. Parliament, its own interest in enclosure piqued, responded by passing even more bills in favor of privatized consolidation of land.

The agrarian landscape, little changed in the Middle Ages, continued essentially untouched through the sixteenth century. Life for a husbandman and his family was not secure by any standard, though enclosure's opponents were quick to point out the better standard of living the farmer enjoyed before the onset of large-scale enclosure. The diversity of farm laborers' experience is remarkable, from wage laborers with uncertain employment to men who held land but could barely subsist to well-off husbandmen in relative comfort. The popular but nebulous yeomen filled the void "between greatness and want." Many leased, rather than owned, land. Some were wealthier than the lower gentry, and after the 1540s, many came to own land their predecessors had worked as tenants.<sup>5</sup> These successful husbandmen, and the gentry alongside and above them, made up the bulk of husbandry-manual readership and enclosure enthusiasts.

As the Early Modern period opened in England, agriculture was simpler and less uniform than it would become in terms of field systems, social and cultural ties, land ownership, and landscapes. Timber, marsh, and fenlands were as widespread as arable land, and husbandry was a mix of custom, fashion, experience, and ingenuity. Innovations like crop rotation were limited to allowing certain lands to lie fallow for two or three years, an ultimately wasteful practice that did not maximize possibilities for rejuvenating the soil.<sup>6</sup> Many farmers who did read husbandry manuals did not have the financial security to risk new methods or crops on the advice of a much wealthier man they had never met, while others simply eschewed innovation as a fad.<sup>7</sup> Farmers raised primarily cereal staples of wheat, rye, barley, and oats, along with pulse crops of peas and beans. Barley predominated; its threefold use for bread, beer, and feed made it indispensable, and it could be grown in less fertile soil than wheat demanded. Farmers employed at least six kinds of ploughs, depending on their expense and the nature of the soil. The simplest and poorest farmers tended to use the plain plough, "of least Workmanship, Burden, or Charge" and best on uneven, stone-free ground where wheels were useless.<sup>8</sup> Farmers selected draught animals for either strength or agility, depending on the soil to be worked, and their fodder requirements. Wealthy farmers enjoyed the luxury of employing and keeping both oxen and horses. Manuring was crucial to keeping land in cultivation and restoring pasture, and farmers used every resource available: castle, town, and stable waste; fish pond scum; river sludge; burnt limestone and beach pebbles; wood and soap

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ash; brine from salt pits; decaying fish; animal entrails; blood; hair; and, of course, livestock manure.<sup>9</sup> Harvesting, the most important task of the season, was done according to local custom or fashion.

However, some innovations did come to light, though with mixed success. In 1649, Gervase Markham recommended that farmers plant lupine on marshy grounds, as it made excellent sheep feed. Though it was suited to arable rotation, it virtually was ignored by farmers in favor of more familiar grasses.<sup>10</sup> Markham's timing was not the problem. Conrad Heresbach had advocated coleseed in 1577 as useful for manure, fodder, and oil extraction. This had launched a boom in coleseed by the 1590s, so much that England grew enough for export. Its economic benefit was especially attractive; England had been searching for a way to manufacture its own oil so as to decrease imports. Interest in raising coleseed grew quickly, matched by dramatic increases in acreage. It was especially suited for growth in fens and marshland, exactly the kind of impetus that led to enclosing such areas for cultivation.<sup>11</sup> Market value also encouraged farmers to plant new crops, such as weld, madder, and woad, which could be harvested for dyes. Again, the potential for national profit was evident; producing its own dyes for a growing textile industry, England could reduce its exports of textiles from France. Agriculturalists also advocated dye-producing plants as useful for revitalizing cultivated soil, and so as a tool in rotation. Among early innovations, tobacco was most successful, once farmers could be convinced of its success.<sup>12</sup>

Agriculture, new or old, faced certain impediments that science continually attempted to overcome. The demand for nitrogen, a key ingredient in soil fertility, was difficult to meet in the Early Modern period. Cultivation steadily drained it from the soil, and husbandry attempted to compensate. Allowing land to lie bare fallow could replenish nitrogen from the atmosphere, but that was not so effective as cultivating legumes like peas and beans. Even legumes, though, could not replace nitrogen so fast as farmers later discovered clover could. Pests, too, were a persistent and potentially disastrous threat to crops. Crop rotation, steeping seed in brine, lime, or urine before planting, and reducing soil acidity helped check the accumulation of pests and pathogens. The weather's impact varied by soil, crop, and stock. Farmers used ridges and harrows for drainage, and wet soil could support a man on foot, but soggy earth was disastrous to sheep, as drought was to cattle without an alternative feed supply. Grain suffered

in excessive wet, but some grasses failed in dry heat.<sup>13</sup> It is little wonder that husbandry texts grappled with weather in every form, including how to predict and cure these “Offenses from the influences of Heaven.”<sup>14</sup>

By the mid-seventeenth century, agriculture was undergoing a radical transformation, a revolution by some standards. The precise timing of any revolution is a subject of debate among English agrarian historians, depending on the criteria each considers revolutionary. Traditionally, the “Agricultural Revolution” was argued to have occurred in the century after 1750, marked by Parliamentary enclosure, the transformation of bare fallow to root crops and grasses, the introduction of seed drills and other improved implements, drainage of farmland, sheep and cattle breeding, and the replacement of oxen with horses. All this coincided with the Industrial Revolution and the accession of George III, and was essentially complete by 1832. Eric Kerridge in 1967 expressly rejected both this periodization and most of these criteria, arguing that “the spread of the Norfolk four-course system belongs to the realms of mythology; the supersession of oxen by horse is hardly better; the enclosure of common fields by Act of Parliament, a broken yardstick; the improvement of implements, inconsiderable and inconclusive; the replacement of bare fallows, unrealistic; developments in stock-breeding, over-rated; and drainage alone seems a valid criterion.”<sup>15</sup> The mid-eighteenth century persisted, however, as a starting point for an agricultural revolution, though the exact criteria were usually in flux. Isser Woloch in 1982 argued for the later revolution, citing convertible husbandry and enclosure as the salient markers. The transition from bare fallow lands to root crop or meadow lands to revive the soil was a significant, not “unrealistic,” development. More importantly, enclosure by Act of Parliament was a revolutionary force in that it allowed improved husbandry to take hold where it might not otherwise have been possible. Landlords began leasing large tracts to tenants, and wage laborers actually performed most of the work. Cottagers lost their customary communal rights, and often had to sell their holdings, which were meager once enclosed land was redistributed. Squatters, who traditionally had enjoyed access to shelter and subsistence, were dispossessed entirely.<sup>16</sup> Thus, revolution was not just in husbandry practices, but the social and cultural transformations wrought by those changes.

Mark Overton agrees with Woloch that any agricultural revolution occurred only after 1750. His criteria include, first, a variety of changes

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in techniques and agricultural practices, including new fodder crops and new rotations, watering meadows, improvement of livestock, and the introduction of machinery. Each of these certainly had antecedents, but only after 1750 were they firmly in place. Second was a successful response to and support for population growth. Not until the eighteenth century could population growth break through a ceiling from which it had always receded in the past. Third, revolution had to include increased output gained through improved productive practices.<sup>17</sup> In every discussion of agricultural revolution, enclosure figures prominently, either implicitly or explicitly, because the opportunity and conditions to achieve certain improvements were often possible only by enclosing expanses of land. Prescriptions for progressive agriculture significantly influenced the growth of informal enclosure, followed by a dramatic increase in Parliamentary Acts of enclosure as petitioners lobbied the Commons for the right to private use of land.

Enclosure was not new to the Early Modern period. Since at least the Middle Ages, villagers had enclosed land in several ways, based on community agreement and compensation for any diminished use or right. First, farmers might enclose commons, wastes, fens, or multiple arable lands by formal agreement, in which each participant received a new plot within the enclosure proportionate to the size and value of his original portion(s). The result was a regular close of considerable size. A second alternative, more informal, was piecemeal enclosure agreed upon by several farmers who wanted to add to lands already designated for their private use. This type of enclosure actually served as an impetus for formal, large-scale enclosure to consolidate and organize scattered holdings. Third, based on custom, squatters were allowed to make a home upon the commons provided there were resources enough to meet the needs of the village. Finally, and discreetly, villagers often added to their own holdings by skimming furrows from their neighbors in scarcely noticeable amounts.<sup>18</sup> Villagers enclosed land for a variety of reasons other than immediate cultivation. Soil fertility, of course, was a prime concern, and a community might decide to take a commons out of use for a time to flood it. "Floating a meadow" involved damming a water source and building timber-lined ducts in order to release water over the meadow in uniform depths, about one inch, leaving behind nutrient-rich deposits when drained. This practice called for an experienced, and expensive, floater, so

the community usually bore the cost together.<sup>19</sup> Closely tied to enclosure was the process of engrossing, though they were not interchangeable and not always concomitant. By engrossing, a landholder combined two or more properties, evicting the tenants and allowing the extra farmhouse(s) to decay or go to a cottager. Some enclosers engrossed to make enclosure profitable, but this was not always the case.<sup>20</sup>

Enclosure by Parliamentary Act began in the mid-sixteenth century, but was exceedingly rare until the mid-eighteenth century. Between the 1730s and 1754, Parliament passed about four enclosure acts per year, though the number of petitions that were presented but failed is not clear. Then, between 1755 and 1764, the number of acts increased to an annual average of twenty-two, eventually reaching as many as sixty-four per year in the 1770s. In the 1780s the trend slowed, but resumed from the 1790s onward until the process was nearly complete in the nineteenth century.<sup>21</sup> Because contemporary and historiographical controversy has surrounded enclosure, it is important to relate the number of acts passed to the actual number of acres enclosed by each, which is often difficult to glean from Parliamentary records. Most historians agree that enclosure before Parliamentary act was common, and quite a bit of rural England was in close by the mid-eighteenth century.<sup>22</sup> However, it was the imposed nature of Parliamentary enclosure that fired the strongest reaction in some regions, especially where enclosure caused a significant change in customary right or social relationships.

Stemming in part from traditional, sympathetic representations of the English ploughman, the atmosphere surrounding enclosure was decidedly hostile, even as it was being practiced. Literary denunciations of enclosure, like More's *Utopia*, cast the process in a monstrous light: "your shepe, that were wont to be so myke and tame, and so smal eaters, now . . . become so greate deuowerers, and so wylde, that they eate vp and swallow down the very men them selves. They consume, destroy, and deuoure hole fieldes, howses, and cities."<sup>23</sup> Most opposition was more literal, and typically localized. Not surprisingly, cottagers and small commoners led the way against enclosure, for they stood to lose dramatically. At the heart of opposition were customary rights associated with the commons, such as grazing livestock on stubble left after a harvest.<sup>24</sup> Yet it was the commons, including wastes, fens, and timber, that attracted proponents of enclosure, for they saw the potential of more arable land for cultivation or, in the



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case of enclosing arable land, pasture land upon which to raise sheep for their wool. Influenced by the ploughman tradition, Parliament was slow to join the enclosure foray, steadily opposing the process until the mid-seventeenth century.

Indeed, Parliament initially passed bills aimed at preserving tillage and rural homes and towns. The earliest of these passed the House of Commons in 1490.<sup>25</sup> In 1545, the first act that could be called a Parliamentary enclosure, to partition Hounslow Heath, passed.<sup>26</sup> The next fifty years witnessed a series of bills aimed at preserving the agricultural status quo, notably an act for the maintenance of tillage and increase of corn in 1552 and an act “for the re-edifying of decayed houses of husbandry, and for the increase of tillage” in 1555, as well as two similar bills in 1589.<sup>27</sup> At the time, decay in the wake of engrossing was most alarming, but enclosure became more pertinent in the 1590s. In 1592, Parliament heard a bill for “restraint of...Inclosures in and neer unto the cities of London and Westminster.”<sup>28</sup> The following year, with grain stores overflowing, Parliament repealed a 1563 act that forbade converting tillage into pasture. But only a year later, need prompted a reverse in policy. In 1594, five years of dearth began, and Parliament moved to assuage the impact of flood, wind, crop failure, soaring prices, food riots, and the very real possibility of starvation for England’s poor.<sup>29</sup> After a planned revolt in Oxfordshire was, ironically, rained out in 1596, Francis Bacon in November 1597 asked to “revive moth-eaten laws” [Act of 1563] and introduced two bills, the first against the decay of towns and houses of husbandry, and the second for maintenance of husbandry and tillage.<sup>30</sup> The debate that followed, including Bacon’s speech, articulated the place of agrarian England in the English imagination at the close of the sixteenth century.

As the first bill’s original title, “for the increase of people for the service and defence of the Realm,” indicates, Bacon’s ambition was set firmly in ideological agrarianism. The overwhelmingly positive response to the bill confirms the widespread disapproval of engrossing and an animosity towards landlords who evicted tenants and allowed homes to crumble. The act’s intention was to force landlords to rebuild all homes fallen into disrepair where the land was owned by the original offender, and rebuild the greater part where it was owned by an heir or purchaser. If the decay had occurred in the last seven years, all land lost was to be restored, and if longer since the engrossing, at least twenty acres was to

be returned. The bill easily passed the Commons, and after thirty-one specific objections and some moderation by the House of Lords, the bill passed as the less emotive “act against the decaying of towns and houses of husbandry.”<sup>31</sup> The second bill, to preserve husbandry and tillage, confronted directly enclosure of arable land for sheep pasture. Land that had been converted since 1584 after at least twelve years in tillage would be restored to cultivation permanently, and future conversions to pasture would be prohibited.<sup>32</sup>

Bacon argued that while his proposition might seem prejudicial to lords who had enclosed land and torn down houses, anyone interested in the benefit of the commonwealth would favor reviving the 1563 laws. Enclosure, as Bacon saw it, had long-range ill effects set in motion when a landlord hedged off property, “For Inclosure of grounds brings depopulation, which brings first Idleness, secondly decay of Tillage, thirdly subversion of Houses, and decay of Charity, and charges to the Poor, fourthly impoverishing the state of the Realm.” Recalling More’s imagery, “I would be sorry to see within this Kingdom, . . . instead of a whole Town full of people, nought but green Fields, but a Shepherd and a Dog.”<sup>33</sup> The bill’s loudest critic, Henry Jackman, likely influenced by his own wool interests, took a decidedly unemotional tack. Acknowledging that he tread dangerous ground by criticizing so popular a motion, he nevertheless called the bill “mischievous and inconvenient,” incapable of remedying the disease of dearth, for it was the weather, not decay of tillage, which had brought on scarcity and soaring prices. Countering Bacon’s chain of ill effects, Jackman argued that decreasing pasture land would decrease the number of sheep, naturally decreasing the amount of wool available to the woolens industry, which would decrease employment and subsequently increase the number of beggars.<sup>34</sup> Though support was clearly not unanimous, the bill passed.

In 1601, with dearth eased and agricultural prospects brighter, Bacon’s legislation came up for debate once again as the Commons considered its continuation.<sup>35</sup> More so even than Bacon’s original speech for his bills, the debate for continuing or repealing them as the seventeenth century opened was pointed and eloquent, the attitudes toward enclosure and agrarian England crystallizing further, marking the beginning of a transition for the ploughman ideal. Arguments for repeal and continuation each called forth images of the ploughman and his survival, but in different ways. The first

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argument for repeal noted the changed circumstances in agriculture since 1597, when “it was not considered that the hand of God was upon us.” Now that corn had become plentiful once again, and prices had dropped, if continued the bill would harm the husbandman, “whom we must provide for, for he is the Staple man of the Kingdom.” Bacon countered, “the Husbandman is a strong and hardy man, the good footman which is a chief observation of good Warriors, &c.” To these persuasions, Sir Walter Raleigh made a practical reply that focused upon rural independence. Corn was plentiful, while seed was not, so that farmers could not each plough as much as they should, and in any event, “I think the best course is to set it at liberty, and leave every man free, which is the desire of a true *English* man.”<sup>36</sup>

Three speeches called forth three images of the English husbandman, and Secretary of State Robert Cecil added one more, the critical image of the plough and ploughman as the identity of the nation. In perhaps the most famous statement regarding Early Modern enclosure, Cecil began, “I do not dwell in the Country, I am not acquainted with the Plough: But I think that whosoever doth not maintain the Plough, destroys this Kingdom.” Ploughmen comprised the bulk of the Kingdom, he argued, and “excepting Sir *Thomas Moore’s Utopia*, or some such feigned Commonwealth you shall never find but the Ploughman is chiefly provided for: The neglect thereof will not only bring a general but a particular damage to every man.” England, he assured skeptics, had transportation enough to ferry away excesses of corn. Echoing Bacon’s original argument, Cecil concluded, “If we debar Tillage, we give scope to the Depopulator; and if the poor being thrust out of their Houses go to dwell with others, straight we catch them with the Statute of Inmates; if they wander abroad, they are within danger of the Statute of the Poor to be whipt. . . . If former times have made us wise to make a Law, let these latter times warn us to preserve so good a law.”<sup>37</sup> With only the exemption of Northumberland and a proviso to allow a certain Mr. Dormer to enclose 300 acres formerly granted patent to him, the bill escaped repeal. But the growing strength of the opposition hinted at Parliament’s change of heart over the next century regarding enclosure. Husbandry texts became increasingly influential in shaping the significance of, and public policy toward, agriculture.

Since the Early Modern manuals’ connection to changing agricultural practice and policy is crucial, their own evolution is worth review. The

thirteenth century witnessed the first surge of husbandry writing, exceeded only by the late sixteenth and early seventeenth centuries.<sup>38</sup> What is remarkable is how much these Early Modern manuals evolved in terms of sophistication, detail, and focus. Even illustrations became more complex and instructive. One of the earliest, and most famous, manuals is Thomas Tusser's *Five Hundred Points of Good Husbandry*, published in expanded form in 1557. A series of verses combining practical and moral advice regarding husbandry precedes a calendar, also in verse, for the yearly duties of both the husbandman and his "huswife." Thus, as one year ends with "Good Husbandlie Fare" and a Christmas carol, another begins with new labor spelled out in an "abstract" of fifty-three verses, including:

Lay durt upon heapes,  
some profit it reapes.  
When weather is hard,  
get muck out of yard.  
A fallow bestowe,  
where pease shall growe.  
Good peason and white,  
A fallow will quite.<sup>39</sup>

The poems establish an ideological, not experimental, context for practical advice. But it is a precursor to its successors in that it applies "the ideals of improvement to the interests of the smallholder."<sup>40</sup> Within this format, however lyrical, are words of advice that later will become full-fledged instruction, such as advocating crop rotation and discussions of diverse soils.<sup>41</sup>

Twenty years later, Barnabe Googe translated and amended Conrad Heresbach's *Fovre Bookes of Husbandry*. While the level of detail and sense of instructiveness increased, the literary style was yet unshakable. Each book is constructed as a dialogue between several men, one usually giving advice at the request of his friends. The first book takes place between Cono, Rigo, Metella, and Hermes. Says Cono, "Mee thinketh I heare a neighing and trampling of horses without, goe Hermes, goe know what strangers there are." The rider is Rigo, who has returned to the country from the city, pleased to "have founde you in the middes of your countrey joyes and pleasures."<sup>42</sup> Agricultural advice ensues in a series of questions

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and answers, heavily dosed with husbandry's venerable lineage; in the first chapter alone, Lucellus, Scipio, Socrates, St. Anthony, biblical verses, and God figure in the discussion.<sup>43</sup> Cono and company base their advice on the "aucthours, husbandes, whole auctorities, and observations" from antiquity, plus some widely read contemporary husbandry authors, such as Master Fitzherbert. The books cover an eclectic mix of topics, from soil quality to camels.<sup>44</sup> The actual agricultural advice covers topics similar to later manuals, but in a fashion based far more on tradition. For example, the best way to test soil fertility, says Cono, is to sprinkle a dirt clod with water and see how easily it can be crushed by hand and what consistency it takes, to determine its "naturall fatnesse and richnesse." And the best time to manure the ground is in February, when "the moon encreasing, for this is the best time to cause encrease of grass."<sup>45</sup>

By 1649, one of the most popular husbandry authors, Gervase Markham, was changing the face of these texts and revising their focus. *Markham's Farewel to Husbandry* simultaneously critiques superstition and reifies the weather. Markham's work represents a passage between tradition and experiment; it incorporates both without any sense of conflict while making explicit its progressive preferences. He delivered a step-by-step process for improving barren earth, the central theme of this text: ploughing, hacking, liming, manuring, second ploughing, second hacking, harrowing, sowing seed, and second harrowing, and how long each step should take with precise instructions for each. He included drawings of several of the most important implements so that readers might construct their own.<sup>46</sup> His discussion of weather reveals most clearly the position of his text as straddling two agrarian worlds. While commenting on the climate as a determinant of soil quality, Markham noted that those lands near the sea are not so fertile because "the continuall Fogges, stormes, Mysts, and ill Vapours arising from thence, doe poison and starve the earth."<sup>47</sup> Though mildew damages wheat, other grains are hurt by "blastings, or other malice of the Starres."<sup>48</sup> He was, however, critical of some traditional cures for such malice, such as ringing bells for thunder, closing a "hedge-toad" in an earthen pot and burying it in a corn-field for lightning, or flicking branches in a corn-field for hail. Because each of these and many others "smell rather of conjuration, charme, or exorcisme, then of any probability of truth; I will neither here stand upon them, nor perswade any man to give further credit unto them, then as to the vapours of mens brains."<sup>49</sup>

Within twenty years, agricultural writing had emerged as scientific treatise that eschewed superstition and most reification in favor of experiment and practicality. Manuals expressly advocated improvement, including enclosure. Worlidge's 1697 *Systema Agriculturae* embodied two such shifts in national agrarianism. The first was the steady progression towards scientific agriculture; the second was a seventeenth century popular disavowal of agricultural labor and laborers, formerly and later the focus of agrarian art, poetry, and literature. Despite interest in agriculture among scientific and husbandry communities, Worlidge noted the poor sales of his work's first three editions, partly blaming the glut of husbandry texts over the last century. "It's now a bad time for so mean and Rustick a Subject to appear again," Worlidge wrote in his address to his gentlemen and yeomen readers. "Yet I hope it may obtain a better Welcome than heretofore,... in many places Enlarged" and, the real sell, "many new and necessary Experiments and Observations added." He felt sure that the readers "being every day more and more addicted to this Noble, though heretofore neglected Science," evidenced by the contrast between improved and "Slothfull" landscapes, would embrace his newly revised work to reap the greatest reward from their endeavors.<sup>50</sup> In a defensive preface, Worlidge acknowledged, and warned against, the disdain developing for agriculture as a worthy pursuit. While this was "an Age, wherein to commend or extol such an Ingenious Art or Science, might be esteemed a needless Labour . . . by the vainer and more Pedant sort of persons . . . who judge it below their Honor or Reputation, to take nay notice of so mean a Profession; that esteem the Country no other than a place for Beasts, as Cities for Men," agricultural study and labor enjoyed a long and honorable position among great and learned men and should not be abandoned lightly.<sup>51</sup>

Worlidge's advice was similar to his predecessors', but more sophisticated and precise. For example, he explained that the position of the sun caused the seasons and that comets were composed of clouds of vapor and viscous matter, which appear round from earth because farmers see them through the atmosphere. He recommended that farmers procure or construct a "weather-glass" to gauge the temperature and air pressure, as well as watch animals and insects for signs of approaching weather.<sup>52</sup> In 326 pages of detailed discussion and instruction, he examined diversification in timber, fruit, herbs, roots, fruits, fowl, and bees, experiments in building, nine types of dung, fourteen grains, and at least forty-nine trees, and how

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to propagate them in a nursery. He advocated new plants, like lupine and woad, and listed their care and benefits.<sup>53</sup> In his *Two Treatises*, Worlidge added a description of ploughs, including a new one he claimed to have constructed. Increasingly, manual authors' recommended methods were those they had tested themselves and found useful. For example, Worlidge described a trap for destroying snake eggs as one he had developed, tried, and knew to work.<sup>54</sup>

The eighteenth century fostered the continued development of husbandry manuals, as agriculture was again popular among private and public audiences. Notably, images of the ploughman were positive, but he appeared less independent than had been the case in the sixteenth century; he was yet capable, but now in need of guidance.<sup>55</sup> Enter William Ellis, Richard Bradley, and Jethro Tull. Short on philosophy, long on footnotes, and big on invention, their manuals defined the genre for the century. In academic fashion, they cited and debated colleagues while applying general principles to particular cases. William Ellis's 1732 text, *The Practical Farmer, or the Hertfordshire Husbandman*, compared farming methods in different counties with precise discussion of certain crops, such as fourteen pages devoted to selecting, raising, harvesting, and benefiting from clover, the improving grass Chiltern farmers swore by. In the fourth edition, five years after Tull published his treatise on horse-houghing, Ellis commented upon this "ingenious" method, but described the mistakes actual farmers had made and how to avoid them.<sup>56</sup> Though horticulture and crop science was advancing, veterinary medicine lagged behind. As advanced as Ellis's advice was, his administration for a "cow that pisses blood" was to put a frog down her throat, upon which she would jump into the water in surprise and her ailment would be gone, "a perfect cure."<sup>57</sup>

Not one to settle for tradition or gradual improvement, Jethro Tull determined to exceed his predecessors' and contemporaries' accomplishments. Intending to replace the husbandry texts that Cicero had complained wasted his time, Tull dedicated an entire chapter in 1733's *The horse-houghing husbandry* to "remarks on the bad Husbandry that is so finely express'd in Virgil's First Georgic" and another, contemporaneous, chapter on "Some Differences between the Old and the New Husbandry."<sup>58</sup> Tull explained that he came to farming by chance, inheriting land and becoming frustrated with its poor administration. To replace hands' poor work, he invented (arguably) the Drill that made him famous. Most of his

manual was an exposition on the virtues of the Drill and houghing, the dangers it posed to untrained users, and the marked inferiority of sowing and other remnants of the old husbandry.<sup>59</sup> Like Ellis, Tull emphasized the proven benefits of his recommended method in “Experiment, Observations, and Arguments to prove those Principles in Theory which seem to solve all the Phaenomena of Vegetation necessary to be known in Agriculture.”<sup>60</sup> As his central achievement (much of the manual was an autobiographical success story), Tull argued that he was able to raise a crop of wheat for five successive years without manure or weeds, on a single, smaller piece of pasture that required him to move the planting only slightly each year.<sup>61</sup> Under the New (Houghing) Husbandry, his land could support ten acres of wheat for every one acre under the Old (Virgilian) Husbandry, at nine-tenth the expense.<sup>62</sup> Though primarily a testimonial to sell progressive farmers on his work, Tull’s manual draws a hard line between old and new agricultural practice, calculating the precise cost of the former and profit of the latter. Such an argument was difficult for improving farmers, or legislators, to ignore. Tull’s sense of frustration with the slow spread of improvement is evident in his contemporaries’ work, as well.

Richard Bradley, a professor of botany at the University of Cambridge and a Fellow in the Royal Society, expressed his own impatience with the state of husbandry in *A General Treatise of Agriculture*, published in 1707 and reissued in 1757. He opened with a lament: “though our English husbandmen are allowed by all nations to have a genius in Agriculture . . . it is rare to find one among them that ever attempts any new discovery; or even can give any other reason for what he does, than that his father did the same before him.” In 1736, Bradley argued in *The Country Gentleman* that labor could not elevate husbandry beyond barest subsistence if “Discretion and Good Judgment” did not guide the husbandman’s endeavors. In the “Business of Husbandry,” brain was more important than brawn.<sup>63</sup>

Like rural reformers for the next two centuries, eighteenth-century writers wanted to revitalize the countryside, and saw science and improvement as the way to do it.<sup>64</sup> In 1758, William Ellis articulated the goals of progressive agrarianism: “When the practice of Husbandry can be made more familiar to an ordinary Capacity, and more delightful to the brighter Genius by the true relations and practice of Things as they result from Experience, there will be more Gentlemen than ever occupy themselves in a Country Life, and then will find as one of them was pleased



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to say more Pleasure in one day in the Country, than London could produce in a month,” relieving at last the melancholy of the country.<sup>65</sup> Parliament agreed.

Between 1640 and 1660, Parliament considered four types of agricultural legislation: encouragement of agricultural production and diversification, improvement of neglected land (wastes, fens, forests, and chases), regulation of enclosure, and provision of more work for the poor.<sup>66</sup> Parliament was acquainted with husbandry manuals; some writers addressed them directly to that body, as Walter Blith did in 1649 to promote his new text, *The English Improver Improved*. Parliament knew from a variety of sources what stunted agricultural improvement, and read or heard recommendations about what could be done. Blith argued that all land could be used and none should be left to lie untilled; he was among those who believed that tillage was the most honorable and worthwhile agricultural pursuit, as were most husbandry text authors. Though many agricultural changes did not become firm until after 1660, an air of economic need and scientific interest created an opening for the partnership of scientific agriculture and public policy through Parliamentary enclosure.<sup>67</sup>

Indeed, by the 1630s, enclosure had shed many of its vile associations, its advantages seeming to outweigh whatever harm might result. In good part, this was because its purpose had shifted away from converting arable land into permanent pasture, from tillage to sheep, so that More's grotesque depiction of enclosure was fading rapidly. Husbandry manuals were instrumental in guiding the enclosure movement, as most authors supported the process if it could be done fairly and with minimal disruption. Parliament endeavored to ensure that enclosures were made carefully and that all possible compensation was made to commoners. Moreover, the express purpose of enclosure in husbandry texts was diversified land use and increased soil fertility.

John Worlidge dealt at length with enclosure, naming its many advantages as both an ends and means of improvement. Private lands would prevent trespassing, human and animal, to which commons were prone, hedges sheltered land from cold and wind, trees sheltered cattle in winter and summer and furnished the farmer with firewood, construction materials, and fruit. Enclosure, by employing the poor with continual labor, could remedy begging and enclosed land could support three times as many people as open, champion fields.<sup>68</sup> He was quick to answer objections,

acknowledging that “the poor are likely to be very great sufferers, who now can keep 2 or 3 small Beasts,” and can use lands that others have more interest in. However, he argued, “there is neither Law nor Reason for the continuation of an evil custom, to the hindrance of a good.” By allowing cottagers to live off meager lands, England was keeping them from more ambitious agricultural pursuits. Indeed, open lands became the “Producers, Shelterers, and Maintainers of the vast number of Vagrants, and Idle Persons . . . and are encouragements to Theft, Pilfering, Lechery, Idleness, and many other Lewd Actions” less common where men enclosed their land. To combat the ignorant who opposed enclosure, Worlidge called for legislative interference to compel the opposition to submit.<sup>69</sup> Other proponents also linked enclosure with social benefits.

An express treatise on the need for enclosure was Adam Moore’s *Bread for the Poor and Advancement of the English Nation, Promised by Enclosure of the Wastes and Common Grounds of England*, published in 1653. Addressing tenants and commoners, Moore compared an idle member of a community to a drone in a bee-hive, in danger of losing his countrymen’s affections and goodwill. Worse still was the man that hindered the progress of his neighbors by working against them. He challenged their reason, asking “Why should it seem strange to you to question customs that are evill? . . . Should you love a desert more than a garden, or prefer the comfortless Wilderness of Arabia to the pleasant fruitfull fields of Canaan? . . . [I]s it a better spectacle without your doors to see a confused Common fruitlesse, naked, and desolate, or fields and vales of plenty?” Moore goes on to argue that any man would prefer to have property he could call his own than to live amongst neighbors and share land he could not sell or use of his own accord.<sup>70</sup> The only corrective for the “deformities” that dot England’s landscape was enclosure, “the principall and only means to ripen the fruit of new hopes.” Commons, he maintained, were pest-houses for stock disease, dens of thievery, and a labyrinth in which valuable stock were lost to stray forever.<sup>71</sup> Enclosure would, according to Moore, employ the idle and the poor, “whom terrour never yet could enure to travell,” either in the work of enclosing or in the towns manufacturing into goods that progressive farmers produce. The natural increase of the English population easily would absorb the greater abundance of food and manufactures, and prosperity would increase at least four-fold.<sup>72</sup>

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Once the foundation for a relationship between science and politics in agriculture was laid, enclosure emerged as the fruit of that partnership. Farmers increased the number of private petitions they brought before Parliament for a variety of reasons. First, they sought legal backing for the lands they owned or acquired by custom, desiring a legal seal on enclosures reached by agreement. Second, where agreement could not be had, progressive husbandmen looked to Parliament to override their neighbors' opposition and impose the requested enclosure. Third, inspiring a demand for enclosure in the first place, was the realization that the kind of improvements certain farmers wanted to make were possible only on large, continuous tracts of the right land. And, of course, shifting grain prices and marketing opportunities made enclosure a profitable venture, especially where land could be leased at a high rent or meat and wool production was favorable enough to covert tillage to pastureland.<sup>73</sup> That Parliament increasingly favored these petitions over the remaining years of the seventeenth century and took its own initiative to enclose in the eighteenth reflects a changing attitude in that body, for it also had a variety of motives for enclosure.<sup>74</sup> The acts that passed through Parliament in the seventeenth and eighteenth centuries reveal the legislature's concern, in common with the husbandry authors, for a more judicious use of the countryside.

In 1606, Parliament voted to enclose about one third of Herefordshire, but most acts in the seventeenth century simply confirmed enclosures made by agreement.<sup>75</sup> In 1621, a bill came before the Commons to revive the 1597 and 1601 statutes "concerning the maintenance of tillage." It met with a move for repeal on the grounds that it was "nowe of noe Use but for Promoters."<sup>76</sup> That same year witnessed a flurry of activity regarding land use, including a debate on a bill against the importation of corn that revived an older tradition. The bill had to pass, supporters cried, because "The husbandman must live." Converting tillage to pasture, made possible by importing corn, was dangerous to the English, for their native corn kept away starvation. The whole of the Realm could suffer, for "If the plow man shall not be incouraged but the land made pasture, it will goe ill with the state."<sup>77</sup> At the same time, the Commons passed an act for "improving and better ordering of Commons, interCommons, and wast groundes for the good of the poore Commoners and all interested therein." Soon after, however, Parliament passed acts for enclosure. Supporters reasoned that

the grazing land in question was not worthwhile and could not support a decent dairy operation. Cattle wandered into existing corn fields, causing waste and spoilage to the detriment of the Kingdom. Enclosure, by contrast, would increase the availability of woods and nourish the commonwealth. A second act called for increasing the “Decayed rates of Corne, cattell, and other Contrye commodities” by repealing certain sections of an act passed during the reign of Edward VI that punished enclosers.<sup>78</sup>

In the 1660s, several significant cases came before the Commons concerning enclosure, revealing Parliament’s prime concern with the details of an enclosure rather than its moral implications. In 1666, a “great debate” began about a pesthouse at Cambridge and the move to enclose some acreage adjoining it in order to build a separate house for patients recovering from the plague. The vote was divided, but the bill passed its first reading. When it reappeared the next year, proponents argued that in a time without infection, the profits from rent and enclosure could go to the poor and give them a chance to work. By December 5, the bill was ready for its final draft when Sir Robert Holt and Colonel Sandys objected to the final reading with a petition from “many commoners who have right to the common there, whose right will be taken away from them if those 40 acres be enclosed.” The Commons voted to send the bill and petition on to the Bar to judge the legality of both.<sup>79</sup>

A second case, for which John Milward provides details sorely lacking in other Parliamentary records, was the debate concerning timbering in the Forest of Dean. From October 1667 to May 1668, Sir John Winter, the commoners, the House of Commons, and finally, the King, fought out the details of rights to the forest. In October 1667, Winter petitioned the Commons for the right to enclose 10,000 acres of wood in the Forest of Dean to increase timber and protect young wood, plus another 8,000 acres for his personal use. The members did not object to his proposal for protecting timber, but they were wary of his personal request. The forest was only 22,000 acres, of which the king already possessed 10,000. If Winter took another 8,000 for himself, that left only 4,000 acres for the commoners, an imbalance they saw as unfair and unnecessary. In early November, the commoners submitted a petition contesting Winter’s request for the personal 8,000 acres. They argued that he had been “principall in cutting down and wasting all those many 1000s of goodly oaks, . . . and now he aims for the soil also.” Both petitions went to a committee for review.

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By February the following year, the chair of the committee was ready to make his report, but was stalled by a suit between the commoners and the King regarding ownership of the commons. That trial was suspended pending Parliament's decision. The House sent the case to the Chief Baron to decide who owned the property, and then Parliament could decide the matter of enclosing it. The next day, the chair of the Forest of Dean committee made his "very long" report. The freeholders and commoners made a "great complaint" against Winter, accusing him of contracting with the King for the wood at very little value and no profit to anyone but Winter. His critics accused him of being wasteful and a Papist, so that "it might reasonably be suspected that it was a design between him and the King of Spain [to] spoil that forest" and leave England without timber for ships. The committee set about deciding if Winter or the commoners could make a more advantageous deal with the King. In further debate, Winter's unpaid debts to the King and other men emerged, to be paid out of Winter's iron and coal stock. Ultimately, with the Lords' approval, it was decided that no timber could be cut without the permission of the Lord Treasurer, and 11,000 acres would be enclosed to grow timber and maintain a deer population of 800 animals at the King's discretion. The rest of the forest, another 11,000 acres, was left open to private claims, though Winter was denied his.<sup>80</sup> Enclosure was not a problem for the House, assuming the proposal was considered fair and the petitioner upstanding. The evolution of Parliamentary debates and acts passed regarding enclosure, the evolution and increased influence of the husbandry manuals that instigated petitions for enclosure to Parliament, and the participation of Parliament in enclosure in the late seventeenth and especially eighteenth centuries represent a particular meshing of science and politics in Early Modern England.

The sources for Parliament are frustratingly negligent regarding records of enclosure debates. Understandably, the Civil War eclipsed agriculture for a period in the records, as did colonization, trade, and religion. One source, Milward's personal diary, indicates that agriculture did enter into Commons debates, and quite regularly. His careful record of the Forest of Dean petition process says much about how similar petitions must have moved through Parliament, even when other chroniclers thought they were not important enough to record. The 1597 and 1601 debates remain the fullest and most eloquent of their kind for the Early Modern period,

and they reveal much about the concerns political men held regarding agrarian England. As enclosure by act became more common, it would be helpful to know how many petitions came before Parliament requesting enclosure, how many were accepted, what members continued to think of what transpired, how they articulated changing visions of the countryside, and where they saw the new and improved ploughman in the scheme of national progress. Evidence suggests that Parliament became ever more aware of agriculture in the health of the national economy, but how did it see the farmer and farming in that context? Did enclosure continue to concern members personally? Were individual members convinced by what husbandry manuals prescribed? How many had read them? William Cobbett, who compiled a weighty set of Commons records, was an admirer of Jethro Tull and helped ensure that his *Horse-Houghing Husbandry* would be reissued. But the contents of others' libraries and nightstands remain a mystery as far as agriculture is concerned.

What can be ascertained with some certainty is that Parliament's acts reflect the diffusion of scientific agriculture across England. Certainly, other influences more purely economic or political were at work. But the growing connection between science and national progress in England, fostered by the Scientific Revolution, opened the door for a greater acceptance of private petitions as progressive farmers sought official aid for improving their lands. The arguments against enclosure as a depopulating mill for vagabonds and the ruin of agrarian England were washed away in the face of arguments like Adam Moore's that enclosure *saved* the countryside from waste and unnecessary spoil, that it sent less prosperous husbandmen on to more fruitful occupations, and that it allowed the nation to provide for itself and support a burgeoning industrial economy and blossoming population. Parliament soon took the lead by passing general acts that called for enclosing any lands suited for such action.<sup>81</sup> Enclosure allowed an economic boom in agriculture, but it had more profound meanings, as well, as science and politics met at the doorstep of England's ploughman.

Dispossession and depopulation did result from the enclosure process, dispossession perhaps the more important. Enclosure in this regard had a significant social impact, for the families pushed out of their homes and squatters left without subsistence swelled the population of vagabonds in England's towns and led to a seeming epidemic of highway robbery, reflected in the spate of vagrancy legislation revealed in Commons records

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for the eighteenth century. Whether or not Karl Marx was right that the displaced farmer became the industrial proletariat, the depopulated countryside and swollen urban population, leaving behind abandoned homes in the former and infesting ramshackle houses in the latter, did seem to bear out Francis Bacon's warning about the decay of tillage and rural towns.

Furthermore, dispossession had a political impact that is only now being considered. Published in 2000, Peter Linebaugh's and Marcus Rediker's *The Many-Headed Hydra. Sailors, Slaves, Commoners, and the Hidden History of the Revolutionary Atlantic* explores the upheaval created by the disgruntled and dispossessed as they helped forge the revolutionary spirit of the Early Modern Atlantic world.<sup>82</sup> In particular, Linebaugh and Rediker discuss the literal and symbolic attempt of this "motley crew" to restore lost commons. It is a useful point when considering enclosure, as it did tear away the literal and symbolic basis of most Englishmen's lives since before the Middle Ages. That they could make a new living was less an issue for the newly dispossessed than that the rights and privileges due them by custom had been abolished, increasingly without their consent. Enclosure had been taking place peaceably for centuries because commoners and landlords agreed on the process and each were compensated accordingly. Enclosure itself in the later seventeenth and eighteenth centuries was not the sole source of discontent. Rather, concentrations of wealth, highly restricted land use, loss of customary right, and imposed enclosure to benefit an individual all flew in the face of traditional agrarian understandings of what was fair.

Together, husbandry manuals and Parliamentary act helped recast the meaning of agrarian England, what it expected from its laborers, and what they could expect from it. These agricultural texts are a fascinating window onto the Early Modern period, for they encompass the power of tradition and the critical place of the husbandman in England, and they are advocates for progress and innovation, casting the Early Modern as a waystation between two worlds.<sup>83</sup> The evolution of their style and content alone articulates an evolution in thinking, ambitions, and ends. They prompted farmers to change their methods, sometimes drastically, by demonstrating the efficacy of their actions and investment. Husbandry manuals provided Parliament context for debate and justification for what might have been unpopular policies in light of scathing criticism. Together,

the texts and the acts fell back upon fluid notions of national progress as the ultimate reckoning for improvement. Over time, it became apparent that enclosure and custom could not exist together in many places. The compartmentalized landscape symbolized two breaks with the past: a promising first, by gaining greater control over shortage, famine, disease, and waste, but a disappointing, indeed demoralizing, second, by recasting the figure of the husbandman, who remained a symbol of the English countryside, even as he fled or was driven away from what once was his.

## Notes

I wish to thank Michelle Miller, Ayne Terceira, Steven Matthews, Isabelle Fleming, Jace Stuckey, Jason Crockett, and Samuel Pierce for their critiques of and suggestions for this paper.

<sup>1</sup> Joan Thirsk, ed., *Chapters from the Agrarian History of England and Wales, 1500-1750, Volume 3*, (Cambridge: Cambridge U, 1990), 264.

<sup>2</sup> Liana Vardi, "Imagining the Harvest in Early Modern Europe," *American Historical Review* 101 (December 1996): 1356-97.

<sup>3</sup> John Worlidge, *Systema Agriculturae, the mastery of husbandry discovered...* 4<sup>th</sup> ed. (London: Samuel Speed, 1697), 11.

<sup>4</sup> Mark Overton, *Agricultural Revolution in England. The Transformation of the Agrarian Economy 1500-1850* (Cambridge: Cambridge U, 1993), xii.

<sup>5</sup> On average, forty-one percent of laborers owned only a cottage with a garden or croft; twenty-six percent owned less than one acre of land; thirteen percent owned between one and one and three-quarters acres; another thirteen percent owned between two and three to three and three-quarters acres, while only seven percent owned four or five acres. The percentage of laborers with larger holdings, or any land holdings at all, decreased between 1560 and 1620, while the number of cottagers rose by almost thirty percent. *Chapters from the Agrarian History*, v. 3, 66-67, 167.

<sup>6</sup> Isser Woloch, *Eighteenth-Century Europe. Tradition and Progress, 1715-1789* (New York: W.W. Norton & Company, 1982), 35.



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<sup>7</sup> Overton, *Agricultural Revolution*, 62, 51.

<sup>8</sup> Worlidge, *Systema*, 229-31.

<sup>9</sup> Worlidge, *Systema*, 39; *Chapters from the Agrarian History*, v. 3, 18-24.

<sup>10</sup> Gervase Markham, *Markham's Farewel to Husbandry: . . .* (London: George Sawbridge, 1676), 48; *Chapters from the Agrarian History*, v.3, 26.

<sup>11</sup> Conrad Heresbach, *Fovre Bookes of Husbandry* (London: Richard Watkins, 1577), 56. Some evidence of this sort of enclosure is a 1649 act to drain the Great Level of the fens, partly to raise coleseed. *Chapters from the Agrarian History*, v.3, 27-28, 139.

<sup>12</sup> *Chapters from the Agrarian History*, v.3, 28-29, 30.

<sup>13</sup> Overton, *Agricultural Revolution*, 16-18.

<sup>14</sup> Markham, 99-100.

<sup>15</sup> Eric Kerridge, *The Agricultural Revolution* (New York: Augustus M. Kelley Publishers, 1968), 15-39.

<sup>16</sup> Woloch, 136-39.

<sup>17</sup> Overton, *Agricultural Revolution*, 7-9; Mark Overton, "Re-Establishing the English Agricultural Revolution," *Agricultural History Review* 44 (1996): 1.

<sup>18</sup> G. E. Mingay, *Parliamentary Enclosure in England. An Introduction to Its Causes, Incidence, and Impact, 1750-1850* (London: Longman, 1998), 11-13.

<sup>19</sup> *Chapters from the Agrarian History*, v. 3, 35-36.

<sup>20</sup> *Ibid.*, 54.

<sup>21</sup> Mingay, *Parliamentary Enclosure*, 21-22.

<sup>22</sup> J. R. Wordie, using the work of W.E. Tate, calculates that a maximum of 45 percent of England was enclosed by 1500, a maximum of 46-47 percent by 1600, then a *minimum* of 75 percent of England was enclosed by 1760, illustrating a dramatic increase in the rate of enclosure during the period Parliament was actively involved. J. R. Wordie, "The Chronology of English Enclosure, 1500-1914," *Economic History Review* 36 (1983):486; on non-Parliamentary enclosure see also Michael

Reed, "Enclosure in North Buckinghamshire, 1500-1750," *Agricultural History Review* 32 (1984): 133-144; John Chapman and Sylvia Seeliger, "Enclosure by Non-Parliamentary Means: Some Comments on the Records," *Archives* 22 (1996): 100-6; Chapman and Seeliger, "Formal Agreements and the Enclosure Process: The Evidence from Hampshire," *Agricultural History Review* 43 (1995): 35-46.

<sup>23</sup> J. Churton Collins, ed., *Sir Thomas More's Utopia* (Oxford: Clarendon Press, 1904), 15-16.

<sup>24</sup> For case studies, see J. M. Neeson, "The Opponents of Enclosure in Eighteenth-Century Northamptonshire," *Past and Present* 105 (1984): 114-139; Steve Hindle, "Persuasion and Protest in the Caddington Common Enclosure Dispute 1635-1639," *Past and Present* 158 (1998): 37-78; Michael Turner, "Economic Protest in Rural Society: Opposition to Parliamentary Enclosure in Buckinghamshire," *Southern History* 10 (1988): 94-128.

<sup>25</sup> William Cobbett, *Cobbett's Parliamentary History of England: 1066-1803, Volume 1* (New York: Johnson Reprint, 1966), 471.

<sup>26</sup> Frank Sharman, "An Introduction to the Enclosure Acts," *Journal of Legal History* 10 (1989): 47.

<sup>27</sup> Cobbett, v.1, 606, 634; Hayward Townshend, *Historical Collections, or, An exact account of the proceedings of the four last parliaments of Q. Elizabeth of famous memory . . .* (London: T. Basset, W. Croke, and W. Cademan, 1680), 5.

<sup>28</sup> Townshend, 77.

<sup>29</sup> J. E. Neale, *Elizabeth I and Her Parliaments 1584-1601* (New York: St. Martin's Press, 1958), 335-36.

<sup>30</sup> Cobbett, v.1, 964-65; Sir Simonds D'Ewes, *A Compleat Journal of the Votes, Speeches and Debates, Both of the House of Lords and House of Commons Throughout the Whole Reign of Queen Elizabeth, . . .* (London: Paul Bowes, 1693), 551.

<sup>31</sup> Neale, 345-46.

<sup>32</sup> *Ibid.*, 339.

<sup>33</sup> *Ibid.*, 340-41.

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<sup>34</sup> Ibid., 341-42.

<sup>35</sup> Townshend, 299-301; D'Ewes, *A Compleat Journal*, 674; Cobbett, v.1, 966.

<sup>36</sup> D'Ewes, *A Compleat Journal*, 674.

<sup>37</sup> Ibid.

<sup>38</sup> *Chapters from the Agrarian History*, v.3, 15.

<sup>39</sup> Thomas Tusser, *Five Hundred Points of Good Husbandry* (London: James Tregaskis & Son, 1931), 65.

<sup>40</sup> Andrew McRae, *God Speed the Plough. The Representation of Agrarian England, 1500-1660* (Cambridge: Cambridge U, 1996), 147-48.

<sup>41</sup> Tusser, 43, 42.

<sup>42</sup> Heresbach, 1.

<sup>43</sup> Ibid., 2a-6b.

<sup>44</sup> Ibid., 19b, 126a, b, d.

<sup>45</sup> Ibid., 18b, 20a-b.

<sup>46</sup> Markham, 5-10, 6, 12, 13, 27.

<sup>47</sup> Ibid., 2-3.

<sup>48</sup> Ibid., 99.

<sup>49</sup> Ibid., 99-101.

<sup>50</sup> Worlidge, *Systema*, address to readers.

<sup>51</sup> Ibid., i.

<sup>52</sup> Ibid., 290, 293, 299.

<sup>53</sup> Ibid., 30, 69-71, 39-42, 89-103.

<sup>54</sup> John Worlidge, *Mr. Worlidge's Two Treatises* (London: n.p., 1694), 83-88, 81.

<sup>55</sup> Vardi, 1395-96.

<sup>56</sup> William Ellis, *The practical farmer, or the Hertfordshire husbandman: containing many new improvements in husbandry* 4<sup>th</sup> ed. (London: Weaver Bickerton, 1738), 49-62, 80-81, 13, 17, 34-35.

<sup>57</sup> Ibid., 111-12.

<sup>58</sup> Jethro Tull, *The horse-houghing husbandry, or, An essay on the principles of tillage and vegetation . . .* (Dublin: R. Gunne, G. Risk, G. Ewing, W. Smith and Bruce, Booksellers, 1733), iv.

<sup>59</sup> Ibid., xi-xiv; xxi.

<sup>60</sup> Ibid., vi-vii.

<sup>61</sup> Ibid., ix.

<sup>62</sup> Ibid., 5-11, 140-144.

<sup>63</sup> Richard Bradley, *A general treatise of agriculture, both philosophical and practical . . .* (London: W. Johnston, et al., 1757), 1; Richard Bradley, *The Country Gentleman and Farmer's Monthly Director . . .* (London: D. Browne, 1736), vii-ix. In his work, Bradley delved into particulars of husbandry not usual to other manuals, such as the internal anatomy of bees and other bee information “never before made publick,” pruning fruit trees, constructing rabbit warrens, and elaborate illustrations of a cider mill. Like Tull, he was critical of dung as a fertilizer, arguing that it would breed insects and canker. Instead, farmers must learn all they could about their various soils and mix them to create a fertile bed for planting. Like John Worlidge, Bradley recommended using scientific means to understand the weather, though Worlidge’s weather-glass was for Bradley a barometer and a hygrometer.

<sup>64</sup> I am grateful to Steven Matthews for pointing out how Francis Bacon would have viewed agricultural reform. How exactly the specifics of enclosure fit in is unclear, but Bacon would have seen agrarian reform as a “function of instauration science,” rebuilding the countryside from the decay into which it had fallen.

<sup>65</sup> William Ellis, *The practice of farming and husbandry in all sorts of soils, according to the latest improvements . . .* (Dublin: William Williamson, 1758), preface.

<sup>66</sup> *Chapters from the Agrarian History*, v.3, 130-31.

<sup>67</sup> Ibid., 131.

<sup>68</sup> Worlidge, *Systema*, 11-12.

<sup>69</sup> Ibid., 13.

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<sup>70</sup> Adam Moore, *Bread for the Poor and Advancement of the English Nation Promised by Enclosure of the Wastes and Common Grounds of England* (London: Nicholas Bourn, 1653), ix-x.

<sup>71</sup> *Ibid.*, 13, 21, 23.

<sup>72</sup> *Ibid.*, 39.

<sup>73</sup> Mingay, 24-25.

<sup>74</sup> See David Brown, "The Variety of Motives for Parliamentary Enclosure: the Example of the Cannock Chase Area, 1773-1887," *Midland History* 19 (1994): 105-27; John Chapman, "The Extent and Nature of Parliamentary Enclosure," *Agricultural History Review* 35 (1987): 25-35; J.M. Martin, "Members of Parliament and Enclosure: A Reconsideration," *Agricultural History Review* 27 (1979): 114-39.

<sup>75</sup> Sharman, 47-8.

<sup>76</sup> *Commons Debates for 1621, Volume 3*, ed. Wallace Notestein, Frances Helen Relf, and Hartley Simpson (New Haven: Yale U, 1935), 309, 314; *Commons Debates for 1621, Volume 4*, ed. Wallace Notestein, Frances Helen Relf, and Hartley Simpson (New Haven: Yale U, 1935), 359.

<sup>77</sup> *Commons Debates for 1621, Volume 5*, ed. Wallace Notestein, Frances Helen Relf, and Hartley Simpson (New Haven: Yale U, 1935), 163, 172.

<sup>78</sup> *Commons Debates for 1621, Volume 7*, ed. Wallace Notestein, Frances Helen Relf, and Hartley Simpson (New Haven: Yale U, 1935), 112-18, 118-19, 213-17.

<sup>79</sup> *The Diary of John Milward, Esq. Member of Parliament for Derbyshire. September 1666 to May 1668*, ed. Caroline Robbins (Cambridge: Cambridge U, 1938), 38, 98, 140, 154.

<sup>80</sup> Milward, 92, 125-26, 180-81, 182-83, 187, 198-99, 200, 241, 245, 258-59, 301.

<sup>81</sup> *House of Commons Sessional Papers of the Eighteenth Century: Bills, Volume XI*, ed. Sheila Lambert (Wilmington: Scholarly Resources, Inc, 1975), 255-62; *House of Commons Sessional Papers of the Eighteenth Century: Bills, Volume X*, ed. Sheila Lambert (Wilmington: Scholarly Resources, Inc, 1975), 205-11.

<sup>82</sup> Peter Linebaugh and Marcus Rediker, *The Many-Headed*

Kelly Minor

*Hydra. Sailors, Slaves, Commoners, and the Hidden History of the Revolutionary Atlantic* (Boston: Beacon Press, 2000).

<sup>83</sup> This sense of passage is evident throughout the Early Modern world. One of the best examples is the evolution of the relationship between science and religion, which moved from science as the “handmaiden of religion” to Laplace’s rejection of God’s will in the universe, all in the course of the Early Modern period. See David C. Lindberg and Ronald L. Numbers, eds., *God and Nature. Historical Essays on the Encounter between Christianity and Science* (Berkeley: U of California, 1986).

## BOOK REVIEWS

**Maria Bucur. *Eugenics and Modernization in Interwar Romania*. Pittsburgh: University of Pittsburgh Press, 2002.**

Studies of East Central Europe do not normally view science as a tool in the construction of a national identity. With *Eugenics and Modernization in Interwar Romania*, Maria Bucur demonstrates the importance of science in the development of a state and national culture. She argues simply, “Eugenics was an important force in Romania during the first half of the twentieth century” (4). Bucur does not strive to provide a complete history of the movement, but focuses on the main themes of the eugenics programs, as well as the motivation of those who supported them. Her objective approach to eugenics seeks not to judge the movement, but to reexamine “the antagonism between traditionalist and modernist forces in interwar Romania” (10). Eugenicists seized the popularity and benefits of both groups in an appeal to the Romanian people that embraced their past while looking toward the future. This new vision became an important factor in the development of the new Romanian state.

Bucur’s work focuses on the development of the eugenics movement in Romania from 1918 to 1940. Section one (chapters one through four) examines the expansion of a eugenics discourse in Romania. She charts the rise of important eugenicists, describes their new scientific paradigm, gives their plan for a biopolitical state, and explains the importance of hierarchy and values to the movement. The second section (chapters five and six) analyzes the implementation of eugenic programs, especially in the areas of education, public health, and reproductive control. Iuliu Moldovan, a medical doctor from Transylvania and former Habsburg officer, emerged after 1918 as the most important proponent of eugenic policies during the interwar period. In 1919, he helped found a medical school and the Institute of Hygiene and Social Hygiene in Cluj, both of which served as important centers of eugenic ideas. Moldovan’s later involvement in Astra, a Transylvanian cultural association that served as a focal point for the construction of a Romanian identity, further increased the public exposure of eugenics (23). Inclusive in Moldovan’s beliefs was the presentation of an “other” (such as Hungarians, Jews, or gypsies) against which Romanians could judge their inherent superiority.

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Romania's large rural population and the corresponding importance of the Church necessitated that eugenicists create scientific discussions about personal identity and social organization. Prior to 1918, the majority of Romanians knew little or nothing about science. This allowed eugenicists "to make universalistic claims without great opposition from an already well-established scientific community" (51). Moldovan's *Biopolitica*, published in 1926, outlined his plan for the state's use of eugenics. He believed that such policies would succeed voluntarily and supported German methods, though Bucur differentiates his tactics from Nazi racial policies. Eugenicists also saw education as an important tool and argued, "although biological characteristics, including personality, moral character, and intelligence, were inherited to a great extent, they existed in each individual as 'potentialities' rather than as fully developed traits" (158). The most intrusive eugenic arguments supported legislation that would control individual reproductive choices and give the state more control over individuals.

Power relationships are important to Bucur's Foucauldian emphasis on power relations. Her post-modern approach relies on three methods: (1) literary critique (as defined by Dominique LaCapra), (2) gender analysis, and (3) an examination of the intersection of class, gender, and ethnic identities. Within the narrative, gender analysis emerges as the most important of these. She is particularly concerned with the reproductive programs advocated by eugenicists, as well as the rigid gender roles in which they believed. "Crimes against public health," such as prostitution, almost always resulted in harsher punishments for women than men (203). She also notes that despite the criminalization of abortion in 1936, many eugenicists were still fearful of legal loopholes that gave women power over their bodies. However, her critique does not discuss the role of the Church in this abortion debate, despite her earlier claims of its importance in Romanian society.

Although a discussion of eugenics could appear baffling, Bucur succeeds in writing a clear and concise narrative. Her work appeals mostly to the fields of East Central European history and the history of science, but it is easily accessible to non-specialists. However, the book reveals weaknesses. While she explicitly defines many terms, Bucur offers only an implicit meaning of "eugenics." In addition, her emphasis on the work of Moldovan and Astra makes Transylvania the focus of many eugenic



policies. Other areas of Romania are scarcely discussed. Finally, her explanation of eugenic policies provides the reader with the impression of Romania as an advanced European state, on par with countries such as Germany and France. This places the analysis out of context and ignores the reality of Romania's economic and political situation.

Nevertheless, Bucur's work is an original and important contribution that presents a distinctive variable in the construction of a national identity.

Jason W. Crockett

**Michel Foucault. *Madness and Civilization: A History of Insanity in the Age of Reason*. Trans. Richard Howard. New York: Vintage Books, 1965.**

At first glance, the juxtapositions in the title of Foucault's 1965 work, those of madness and civilization, insanity and reason, seem innocuous enough. To the academically and socially conditioned positivistic mind of the reader, the proximity of the words and their respective meanings imply a "good versus bad" formulation. Here *civilization* contrasts *madness* by its relative "goodness," and likewise with *reason* and *insanity*. A visceral reaction seems to inform the construct, as *madness* and *insanity* immediately conjures up rather unseemly mental images of deeply troubled individuals. Delving a bit deeper into the thoughts behind such a perception, it could be said that prejudice against, if not pity for, the insane likewise inform the "good versus bad" dichotomy. A valued judgement is involved and the title of Foucault's work is intended to educe it. In fact, the title is a trap. Foucault takes issue with positivistic thinking by exploring and exposing the genesis of the concept of madness. In the process, he offers alternative tools to history writing as well as critiques of the history profession and Western civilization at large.

For Foucault, people of the modern industrialized world, particularly in Western Europe, take the meanings behind words and concepts for granted. Indeed, according to him, historians as well as those outside the profession often neglect the origins and values with which language is

imbued. If they would heed the lessons of etymology, he asserts, they would understand the past and the present much better. Accordingly, he implies that the social ills of the present have been manufactured by the state for the purpose of maintaining order. With that agenda in mind, in *Madness and Civilization* Foucault argues that the present-day concept of madness was created in England and France during the seventeenth and eighteenth centuries. He finds intellectuals in the Age of Reason guilty of formulating the construct so as to restrict and control those deemed harmful to society. These Enlightenment thinkers, in turn, are given sanction by the governing authorities, to separate the mad from the sane and place them in prison-like conditions. Here Foucault finds the precedents for present repression in all of its forms.

An intellectual work with a highly theoretical content, *Madness and Civilization* derives its strengths from philosophy, literature, and history. Foucault grounds his interpretation in primary sources in French, English, and Latin in all of the aforesaid categories. Although he consults a few twentieth-century secondary scholarly works on the topic, his abundant base of primary sources ranges from the 1500s through the 1700s. The fact that Foucault relies so heavily on materials from the classical age underscores his attention to context. His model in *Madness and Civilization* is meant as a critique of those historians who deal with outcomes instead of process, those who generalize and make sweeping assertions. “To explore [madness] we must renounce terminal truths, and never let ourselves be guided by what we know of madness (ix),” he writes in the Preface.

Besides attacking positivist thought, Foucault reveals his biases against the creation of madness. He does so in sentences dripping with sarcasm. When, for example, he discusses proposed Enlightenment cures for insanity, he describes the application of iron (shackles) in a facetious manner. “How could man help nature and lend it an abundance of strength by a surer means—that is, one closer to nature and more obedient to man—than by the application of iron?” (161) he asks in “Doctors and Patients.” As stated previously, Foucault has problems with the “establishment” from the sixteenth century onward.

In addition to imbuing his work with a radical agenda, Foucault aims it at an elite audience of intellectuals and the like. His flare for the poetic and sarcastic is counterbalanced by his predilection for opacity. Rather than explaining his arguments in clear and concise prose, he often makes

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his writing inaccessible through complicated and “tricky” language or jargon. Foucault writes as if simplicity were for the simpleton.

That said, *Madness and Civilization* makes a significant contribution to the fields of history and psychology. For the former in particular, Foucault has provided a model work of contextualization and deconstruction. His amalgam of literary criticism, philosophy, and history makes for a compelling methodology.

Craig Doshier

### **Patrick Geary. *The Myth of Nations: The Medieval Origins of Europe*. Princeton: Princeton University Press, 2002.**

In his recent book *The Myth of Nations; The Medieval Origins of Europe*,<sup>1</sup> Patrick Geary outlines many of the problems associated with the concepts of nationalism, nation-formation, and ethnicity. In many ways, Geary’s analysis is an attempt to correct many of the popular misconceptions about the origins of modern European nations and its “peoples.” One of his main goals is to show the inherent flaw in the idea that modern national movements have origins in the early medieval period. Geary does not see modern European national identity existing in the Middle Ages. Instead, he argues that the nationalists’ sentiments felt so strongly by Europeans only emerged in the midst of the political and national movements of the nineteenth century. In fact, Geary argues, “there is nothing particularly ancient about either the peoples of Europe or their supposed right to political autonomy. The claims to sovereignty that Europe is seeing in Eastern and Central Europe today are a creation of the nineteenth century, an age that combined the romantic political philosophies of Rousseau and Hegel with ‘scientific’ history and Indo-European philology to produce ethnic nationalism” (13).

Geary begins his analysis by addressing the modern issues of identity and nationalism and the problems scholars face in analyzing and defining them. He then moves on to address the supposed medieval origins of European nationalist sentiments and attempts to correct the misguided views of nationalist origins. Geary contends that historical, linguistic,

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and archeological evidence is often used by modern politicians to justify and legitimize national and ethnic claims. In turn, these claims are often used to draw boundary lines or make nationalist claims, which are usually disputed by another group. This situation, then, becomes the source of conflict such as that seen in Eastern and Central Europe today.

To Geary, the idea of tracing national identity or heritage back to ancient or medieval peoples like the Huns, Franks, or Goths is a historical fantasy. First, early medieval and ancient peoples were not very homogenous, particularly those of the great migration period of the early Middle Ages on which Geary focuses. Second, national character is something that cannot be formed at one moment in history and then fixed for all time. Instead, the formation of Europe and its national character is really a product of a very long process and, in fact, is still ongoing. He concludes, “The peoples of Europe are a work in progress and always must be” (157).

Geary’s underlying objective in this study is more than uncovering the myth of the medieval origins of modern nationhood, but also to address the popular and increasingly complex topic of ethnicity. Few scholars agree on exactly how to define it, but few dispute its importance, considering some of the political developments of the twentieth century such as the ethnic cleansing in the Balkans and the widespread mistreatment of minorities throughout the continent. His arguments force the reader to re-examine previous definitions of the concept.

Geary obviously does not see the origins of modern nationalism as a consequence of medieval historical developments and spends much of the book arguing against this methodology. However, the book also seems to be an implicit critique of modern nationalism and its deadly results, as he perceives them. There is a strong sense of nationalism that spawns from modern Europeans who take ideas of national origins and ethnicity for granted. However, the problems and misconceptions do not exist only in overzealous politicians and the accommodating public, but also with complicit scholars, particularly those of the nineteenth century. In fact, according to Geary, the biggest problem may lie with those complicit scholars who legitimize the myths and the radical nationalism that follows.

Not only does Geary’s book treat nationalism and ethnicity in a comprehensive manner, but it re-enforces the importance of the concept in the context of modern political developments. If there was ever a need

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for a book that could be used as an example for the importance of studying and knowing history, particularly medieval history, this book fills the void. Geary demonstrates convincingly the need for proper understanding of medieval history and the relationship of ancient peoples to the modern European world. With this knowledge, modern Europeans will have a better understanding of themselves, their neighbors, and their history. In addition, they will understand that ethnogenesis is a process that is constantly in flux and will always be changing, and as Geary argues, “No efforts of romantics, politicians, or social scientists can preserve once and for all some essential soul of a people or a nation” (174).

One possible critique of the book is that it treats topics as disparate as the fifth-century Huns and Shaka Zulu without giving a great deal of background or depth. However, this is probably because the book is not necessarily intended for specialists. The book is for a much wider readership, but it is certainly of great value to scholars of both medieval and modern history. Considering the increased interest in ethnicity and continued focus on European nationalism, this book will be a welcome addition to the current debates.

Jace Stuckey

### **E. A. Burtt. *The Metaphysical Foundations of Modern Science*. Amherst, New York: Humanity Books, 1999.**

In *The Metaphysical Foundations of Modern Science*, E. A. Burtt argues that the difficulties in understanding and dealing with the problems and possibility of knowledge can be located in the metaphysics of early modern science, from Copernicus through Galileo and Descartes to Newton. Using excerpts from Dante and G. B. Shaw, Burtt is able to highlight the extreme contrast in the place and philosophy of man that was a result of the development and maturation of science in the Scientific Revolution. From occupying the center of the astronomical sphere as the all-important creation of God, humans were separated from nature, reduced to just another mathematical collection of points in a universe that operated without any specific care for anything. This banishment and

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reduction of humans is what Burt traces out, focusing on how certain assumptions and methods have been accepted and developed, bringing modern philosophy to face the metaphysical problems of science as it shaped intellectual thought. “Surely there is need for a critical, historical study of the rise of the fundamental assumptions characteristic of modern thinking . . . it will compel us . . . with a more objective insight into our own intellectual postulates and methods” (17).

Burt, in this highly influential work that is still rightly studied as a critical insight into the creation of the complex flux of science, examines the development of key terms and assumptions about the nature of knowledge and man’s role in the world. Using extensive quotations from the actual scientists and thinkers, Burt attempts to delineate the history of concepts such as causality, time, form, qualities, motion, space, positivism, and theory from Copernicus to Newton. Though at times the original arguments and writings may become confused and lose their focus, Burt is able to tie them back into his own narrative and show how they interplay and relate to one another. The chapters on Newton and the impact of “the uncritical acceptance” of over two hundred years of metaphysics that culminate in his work provides a powerful critique to the basic dualities and difficulties of science as it unfolded along its particular historical and intellectual path (30).

The reductionism and simplification of the medieval world through mathematics and geometry first began the separation of man from his traditional place in the hierarchy through astronomy. The work of Copernicus and Kepler depended greatly on the assumptions and *a priori* beliefs of aesthetics and the validness of evidence and hypothesis that would become characteristic of the eventual metaphysical synthesis. Here Burt first approaches the driving role that non-rational elements of thought such as aesthetics and religion would play throughout the period (an issue others do not cover as deeply in the early historiography), as well as the dependence on mathematics as separate from any actuality.

This dependence on mathematics would, in time, become a dependence on physics through the work of Galileo and Descartes. Burt identifies Galileo as the first to truly separate man from nature explicitly through primary and secondary qualities and a growing belief in experiments as a way to knowledge only. The senses are not to be trusted. This is doubly true for Descartes, whose famous dualism served as a source of

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conflict or inspiration. Extrapolating the “hows” of nature through laws and descriptions became the only possible recourse when the mind was fettered behind the bars of the senses. It would no longer be possible or even desirable to approach a teleological explanation, to answer “why” in addition to “how.”

Newton’s accomplishments in the *Principia* and *Optiks* made possible the uncritical acceptance of his metaphysical foundations of science. His famous dictums against hypotheses and supposed adherence to strict empiricism and his positivism are all analyzed and attacked by Burt. It is these claims, which for Burt carry the inherent problems of the dichotomy between man and nature, that make it so difficult for modern metaphysics to approach the possibility of knowledge, his fundamental concern. Newton’s religious basis is also examined in relation to both God and man’s place in his mechanical universe, and how eventually God’s place would be shorn by the ultra-mechanization of it.

Burt conceived this work to be a needed historical study into the nature of the creation and selection of the metaphysics of science as primarily human driven. As the book moves towards its conclusion and through the growing trends of the positivism and value-neutral claims that are made by Newton and others, Burt tries to make clear his objection to such a stance. The values of humans and society are expressed through the beliefs and assumptions of science, and as such science cannot be value-free. Metaphysics and values judgements are impossible to avoid; with that comes attempts at teleological explanations (308-309). The reduction of humans, into a false position from which they cannot fully realize their potential to know the world, is a serious one that underlies the metaphysical foundations of modern science and one that, in his concluding comments on Huxley and the mind, Burt hopes will be revised and remodeled.

Jason Antley

