

THE WHISKEY REBELLION OF 1794:
A DEMOCRATIC WORKING-CLASS INSURRECTION

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INTRODUCTION

What historians have come to call the Whiskey Rebellion was an armed uprising against the United States government in the latter half of 1794, which took place primarily in and around Pittsburgh in southwestern Pennsylvania. George Washington and John Marshall both thought that the Whiskey Rebellion was the single most significant event in the history of the fledgling United States in the 1790s, believing that “the very existence of government, and the fundamental principles of social order were involved in the issue.”² The executive raised more than 12,000 militia troops and sent them hundreds of miles across the Appalachian Mountains, an army as large as any the United States put in the field during the Revolution.³ The President,

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²JOHN MARSHALL, *THE LIFE OF GEORGE WASHINGTON* (5 vols., Philadelphia: C.P. Wayne, 1807), 5:583. The British consul in Philadelphia, suspicious of popular democracy like many elite Europeans, was of similar mind: he found it “a very alarming and dangerous insurrection” which portended “very serious and threatening schisms ... in the very body of the country” and showed that “the [United States governmental] system is too relaxed to promise either respectability or duration.” Phineas Bond to Lord Grenville, Sept. 20, 1794, in J. Franklin Jamieson, ed., *Letters of Phineas Bond, British Consul at Philadelphia, To the Foreign Office of Great Britain, 1790-94*, ANNUAL REPORT OF THE AMERICAN HISTORICAL ASSOCIATION FOR THE YEAR 1897 (Washington, D.C.: GPO, 1898), 554, 558.

³Thomas P. Slaughter, *The Friends of Liberty, the Friends of Order, and the Whiskey Rebellion: A Historiographical Essay*, in STEVEN R. BOYD, ed., *THE WHISKEY REBELLION: PAST*

for the first time in United States history, acted in the field as Commander-in-Chief, organizing and disciplining the troops at the commencement of their march west.⁴ The powerful Secretary of the Treasury, Alexander Hamilton, then took effective command and stayed with the expeditionary force throughout its operations.

The Rebellion seemed to melt away before the huge army, offering not a single musket shot at the troops. The government enacted violent, brutal reprisals nevertheless, brought back and tried a bedraggled group of captive rebels, then proceeded to downplay the episode in a manner echoed by most historians since 1795.⁵ Mainstream historians have either forgotten it, or have recalled it in a nostalgic and sanitized fashion. The most recent installment of this latter genre is Thomas P. Slaughter's *The Whiskey Rebellion*.⁶

However, the Rebellion deserves much greater modern attention. The large bulk of the Rebels, the working-class folk of their time, opposed both the United States under the Constitution of 1789 and the new government formed pursuant thereto, because they thought both were elitist and unresponsive to their needs. Most of all, they found the Federalist governmental structure and Hamilton's economic policies to be a violation of the democratic promise of the American Revolution to which they had offered their blood, farms, time, and treasure. The Whiskey Rebels—not only in the area around Pittsburgh, but elsewhere in the United States—did present to eastern elites (in Chief Justice Marshall's words) “apprehensions of a powerful and secret combination against liberty, which was to discover itself by the total overthrow of the republican system.”⁷

Historian Terry Bouton accurately calls them “Regulators,” citizens fed up with selfish elitist governmental economic and social policies, and successors to similar rebels who led a “Regulation” against the British administration of North Carolina in the 1760s. The self-adopted name of the North Carolina rebels connotes their status as responsible members of society attempting to achieve the self-governance they deserved by “regulating” the world and its awry

AND PRESENT PERSPECTIVES (Westport, CN: Greenwood Press, 1985), 9, 10.

⁴BURTON J. HENDRICK, *THE LEES OF VIRGINIA: BIOGRAPHY OF A FAMILY* (New York: Halcyon House, 1935) 375-76 (nominal military command was given to Washington's former deputy, General Henry “Light Horse Harry” Lee, Governor of Virginia). I am grateful to Michele Landis Dauber for bringing this account to my attention.

⁵As shown in Mary K. Bonsteel Tachau, *A New Look At the Whiskey Rebellion*, in BOYD, PERSPECTIVES, note 3 *supra*, 110-11.

⁶THOMAS P. SLAUGHTER, *THE WHISKEY REBELLION: FRONTIER EPILOGUE TO THE AMERICAN REVOLUTION* (New York: Oxford University Press, 1986).

⁷MARSHALL, *LIFE OF WASHINGTON*, note 2 *supra*, 5:360-61.

elites who were doing such a partisan, poor job.⁸ However, due to the weight of tradition I shall keep to the old usage, in the spirit in which other oppressed groups have assumed with pride the down-putting monickers with which startled elitists have labelled them.

Mainstream historians today – conservative or liberal – perpetuate at least two falsehoods about the past of the United States. First, they say that the Constitution of 1787 and the government established under it represent a fulfillment of the goals which most Americans had in throwing off the British yoke and establishing a new nation; they deny that a more democratic vision was held by any of the Revolutionaries, and they claim that the new government was and is a democracy. Second, they say that class antagonisms do not characterize the history of the United States.⁹ A material history of the Whiskey Rebellion shows the contrary: those on the bottom of American society in the 1780s and 1790s envisioned a democratic and egalitarian world very different from that which the Federalists desired and produced, and they saw themselves as an oppressed class opposed to “the few” who monopolized power and ran matters for themselves in the new nation.

These mainstream accounts of early United States history in general refuse to acknowledge the weakness of the nation in the 1790s, or the elitist antidemocratic nature of most post-Revolutionary American political leadership, or the viciousness and deviousness which characterized the Washington administration when it was threatened, or the class warfare which that administration waged against those who were to bear the brunt of “development” as envisioned by Hamiltonian economic plans. The mainstream has for two hundred years ignored the radical democratic and communal (if racist and sexist) vision of themselves and their future held by many American farmers, artisans, and common laborers in the 1780s and 1790s, to say nothing of the continuing resistance such groups have always demonstrated towards the plans of

⁸Terry Bouton, “Tying Up the Revolution: Money, Power, and the Regulation in Pennsylvania, 1765-1800” (Ph.D. dissertation, Duke University, 1996). For fine studies of the North Carolina rebellion—in which (unlike that in Pennsylvania) the Rebels attempted military pressure against their oppressors—see Marjoleine Kars, “‘Breaking Loose Together’: Religion and Rebellion in the North Carolina Piedmont, 1730-1790” (Ph.D. dissertation, Duke University, 1994); Marvin L. Michael Kay, *The North Carolina Regulation, 1766-1776: A Class Conflict*, in ALFRED F. YOUNG, ed., *THE AMERICAN REVOLUTION: EXPLORATIONS IN THE HISTORY OF AMERICAN RADICALISM* (Dekalb, IL: Northern Illinois University Press, 1976), 83-103.

⁹Mainstream historians find history with a central focus upon class to be reductionist, SLAUGHTER, *WHISKEY REBELLION*, note 6 *supra*, 4, and find Marxist materialist history “crude,” Akhil Reed Amar, *Continuing the Conversation*, 33 U. RICHMOND L. REV. 579, 594 n.78 (1999). Prominent historians of the period 1775-1800 who take the positions stated in the text include STANLEY ELKINS & ERIC MCKITRICK, *THE AGE OF FEDERALISM* (New York: Oxford University Press, 1994); GORDON S. WOOD, *THE CREATION OF THE AMERICAN REPUBLIC, 1776-1787* (Chapel Hill: University of North Carolina Press, 1969); GORDON S. WOOD, *THE RADICALISM OF THE AMERICAN REVOLUTION* (New York: Alfred A. Knopf, 1991).

American elites. Indeed, in the supposedly democratic United States the mere existence, much less the historical importance and power, of those at the bottom of the social and economic scale gets mostly negative attention. Such folks are assumed to be, and are portrayed, either as stupid, inert, and capable only of being led, or as disgusting, antisocial, and living an aimless, squalid, crime-ridden existence.

This study takes seriously not only the elitism, viciousness, and antidemocratic policies of the Washington administration, but also the reality of class warfare, caused by elite denial of the aspirations, abilities, courage, and democratic communal values of those at the bottom of society.

I. THE REBELLION CAUSED

Only one modern historian has told the story from the standpoint of the Rebels, but Dorothy Fennell's excellent unpublished study focuses only upon the seat of most of the armed resistance, the four "inflamed counties" (Alleghany, Washington, Fayette, and Westmoreland) around Pittsburgh in the southwestern corner of Pennsylvania, where the Ohio River is formed by the juncture of two local streams and river traffic begins on the whole mighty Mississippi/Missouri/Ohio system of rivers.¹⁰ In order to better understand the Rebels, we need to take to heart – and supplement – Fennell's findings about their context and background. We need to

¹⁰Dorothy Elaine Fennell, "From Rebelliousness to Insurrection: A Social History of the Whiskey Rebellion, 1765-1802" (Ph.D. dissertation, University of Pittsburgh, 1981). We can now supplement Fennell's work with another sensitive treatment from the standpoint of the lower classes, Bouton, "Tying Up the Revolution," note 8 *supra*, 402-40. Certainly the most thorough modern study is SLAUGHTER, WHISKEY REBELLION, note 6 *supra*, supplemented by Slaughter, *Historiography*, note 3 *supra*. All three have the virtue, absent in previous histories, of understanding the Rebellion to be a part of a long-standing set of grievances and frontier activities, and to be the product of genuine popular upset. Bouton and Fennell go to the root causes of the rebellion, while Slaughter essentially hides them and joins the Rebels' contemporaneous AntiFederalist and Jeffersonian elites in looking down his nose at them.

Other sharp, clearminded, and helpful studies of the Rebellion are Townshend Ward, *The Insurrection of the Year 1794, in the Western Counties of Pennsylvania*, 6 MEMOIRS HIST. SOC'Y PA. 120 (1858); Tachau, *New Look*, note 5 *supra*, and Mary K. Bonsteel Tachau, *The Whiskey Rebellion in Kentucky: A Forgotten Episode of Civil Disobedience*, 2 J. EARLY REPUBLIC 239 (1982). Four contemporaneous or nearly contemporaneous accounts are also important and—if their self-serving biases are taken into account—reliable. See HUGH H. BRACKENRIDGE, INCIDENTS OF THE INSURRECTION IN THE WESTERN PARTS OF PENNSYLVANIA (3 vols. in 1; Philadelphia: John McCullough, 1795); WILLIAM FINDLEY, HISTORY OF THE INSURRECTION (Philadelphia: Samuel Harrison Smith, 1796); James Carnahan, *The Pennsylvania Insurrection of 1794, Commonly Called the "Whiskey Insurrection"*, 6 PROC. N.J. HIST. SOC'Y 114 (1853); H.M. BRACKENRIDGE, HISTORY OF THE WESTERN INSURRECTION IN WESTERN PENNSYLVANIA ... (Pittsburgh: W.S. Haven, 1859).

understand the immediate prior history of democracy and rebellion in the United States, and in particular the American Revolution which meant so much to those who would become Rebels. We need to understand why the aftermath of the Revolution was so disappointing to them. We need to see how the administration of George Washington understood and approached this disturbance. Most of all, we need to learn why so many people *not* in that corner of Pennsylvania also joined the Rebellion, why resistance to the new government and its policies was so broad and widespread. These are portions of the story untold, or poorly told, by the historians of the American mainstream, who have, ever since 1795, treated the Whiskey Rebellion as a tempest in a teapot.

A. From the Revolution To the Rebellion, 1783-1794

I. Popular Notions of Democracy

The American Revolution was fought in the name of “freedom” and “the people.” Planter and commercial elites understood these words to refer to the affairs of the nation, but not to those of local governance—the United States was freed from *British* domination, but they never doubted that they would or ought to control it. However, “[f]armers, craftsmen, women, and blacks listened to debates among gentlemen, thought, and created their own, very different understandings of the meaning of the revolution.” Farmers, laborers, and artisans had actually bled and gone hungry and ragged during the six or seven long ferocious away-from-home years of battles, freezing bivouacs, painful marching, and pillaging—frequently having their farms and villages destroyed in the process—and many of them had a different understanding of those key words. Many of them thought that (at long last) they would govern themselves, in a country dominated not only numerically but economically by those who actually produced the wealth of society—themselves. The “many,” in tavern keeper/smallholder William Manning’s terms, would no longer be controlled by the “few.”¹¹

An economic depression cast a deep pall over much of the new nation early in the 1780s. Along with attempts by many states at heavy taxation to repay their war debts, there were widespread demands by creditors in the form of debt suits and resulting farm foreclosures. Three consecutive bad crop years hurt southern farmers. The common people—overwhelmingly farmers, laborers, and artisans, who had received almost-worthless debt certificates for their arduous army service and had little else but their brawn, farms, animals, and tools—could not pay. A merchant from Pittsburgh lamented, in 1787, that “Very few in this Town can procure Money to go to market. And as to pay ... a Debt it is out of the question.” That same summer, as the Constitutional Convention was meeting nearby, Philadelphia merchant Stephen Collins noted that “times have grown so bad, money so scarce [that] amazing quantities of real estate of every

¹¹ALLAN KULIKOFF, *THE AGRARIAN ORIGINS OF AMERICAN CAPITALISM* (Charlottesville: University of Virginia Press, 1993), 70 (source of quote in text), 132-51; see, e.g., *THE KEY OF LIBERTY [1799]: THE LIFE AND DEMOCRATIC WRITINGS OF WILLIAM MANNING, “A LABORER,” 1747-1814* (Michael Merrill & Sean Wilentz, eds., Cambridge, MA: Harvard University Press, 1993); *The Address of the Working Shoemakers of the City of Philadelphia to the Public*, [Philadelphia] *Aurora* [and] *General Advertiser*, Nov. 28, 1805.

kind [are] selling at both public and private sale.” Similar conditions prevailed everywhere in the new nation.¹²

The constitutions of several of the new states reflected some of the democratic views of the artisans and farmers. Although matters were not unequivocal, the constitutions gave new power to an expanded electorate. In a nation lacking hard money, hard-pressed but enfranchised smallholders, laborers, and artisans exercised that democratic power. They forced state legislators and state courts to listen, variously achieving tax remission, debt installment laws, laws making relatively worthless property a tender for debt, and the issuance of paper money. Court or jury refusal to enforce debts or to allow full interest became a national phenomenon. When the depression worsened, the people refused to pay the debts, gathered to protest and to deny the foreclosures, refused to pay the taxes, assembled in public places and marched, closed off rural roads, threatened legislatures, and forced courts to close their doors. Shays' Rebellion in western Massachusetts in 1786-87 was only the most noticeable and (to elites) the most frightening of these actions.¹³

¹²Robert Galbraith to George Woods, Dec. 4, 1787, in THE DOCUMENTARY HISTORY OF THE RATIFICATION OF THE CONSTITUTION (16 vols. to date, Merrill Jensen *et al.*, eds., Madison: State Historical Society of Wisconsin, 1976-), 2:Document 253, Frame 1167, microfiche supplement; Stephen Collins to Charles Wright, Sept. 7, 1787, vol. LXII, Letter Books, Stephen Collins & Sons Papers, Library of Congress, both as quoted in Terry Bouton, *A Road Closed: Rural Insurgency in Post-Independence Pennsylvania*, 87 J. AM. HIST. 855, 858, 859 (2000). See generally Wythe Holt, “*To Establish Justice*”: *Politics, the Judiciary Act of 1789, and the Invention of the Federal Courts*, 1989 DUKE L.J. 1421, 1430-58. For the depression in the rest of the country, see *id.*, 1445-46 n.79; Bouton, *supra*, 859 n.5.

¹³See Holt, “*To Establish Justice*,” note 12 *supra*, 1430-58; DAVID P. SZATMARY, SHAYS' REBELLION: THE MAKING OF AN AGRARIAN INSURRECTION (Amherst: University of Massachusetts Press, 1980); Bouton, note 12 *supra*; Ruth Bogin, *Petitioning and the New Moral Economy of Post-Revolutionary America*, 45 WM. & MARY Q. 391-425 (1988); Alan Taylor, *The Backcountry Conclusion to the American Revolution: Agrarian Unrest in the Northeast, 1750-1820*, in ALFRED YOUNG, ed., BEYOND THE AMERICAN REVOLUTION: FURTHER EXPLORATIONS IN RADICALISM (DeKalb, IL: Northern Illinois University Press, 1993), 221-45; Rachel R. Parker, *Shays' Rebellion: An Episode in American State-Making*, 34 SOC. PERSPECTIVES 95-113 (1991); Jean Butendoff Lee, *Maryland's Dangerous Insurrection of 1786*, 85 MD. HIST. MAG. 329-44 (1990).

In contrast, one of today's leading mainstream historians finds this a period of “mob-like committees and conventions ... self-constituted bodies organized for quasi-public purposes ... [and] the usurpation of governmental functions ... [at first] often directed and abetted by respectable members of the community ... [but soon leading to fears about] ‘[h]ow to keep them down’ ... [so that] some of the once fervent Whig leaders [of the Revolution] began to sound like the Tories of 1775 ... [, denouncing] [o]rganized mobs and unconstitutional combinations.” WOOD, CREATION OF THE AMERICAN REPUBLIC, note 9 *supra*, pp. 319-28.

2. *Elite Reaction: New Constitution, Less Democracy*

The elites fought back. Concerned to stem an unruly democracy and to protect their property by promoting commercial development, in what was essentially a coup d'etat¹⁴ they put in place, in the Constitution, a much less democratic, more powerful new government for the nation. Its centerpiece was a new national court system, seen by them as the bulwark of property and commercial stability for the nation. Soon to be appointed to the new Supreme Court, James Wilson in the Pennsylvania Ratification Convention defended the new federal judiciary by asking, rhetorically: “[I]s it not necessary, if we mean to restore either public or private credit, that foreigners, as well as ourselves, have a just and impartial tribunal to which they may resort? ... Is it not an important object to extend our manufactures and our commerce? This cannot be done unless a proper security is provided for the regular discharge of contracts.” James Madison, defending the Supreme Court in the Virginia Ratification Convention, said: “The establishment of confidence will raise the value of property, and relieve those who are so unhappy as to be involved in debts.”¹⁵ In addition, strong but vague power was given to the new Congress to tax, to support an army and a navy, and to regulate domestic and foreign commerce.

3. *Hamilton's Financial Program Provokes Active Opposition*

Opposition to the new Constitution was widespread, though it did not prevent the coup from happening. Astute Federalists, such as Madison, recognized that some compromising had to occur, catering to the strength of the opposition. Many elite AntiFederalists, and probably some others not at the top of the power structure, were in fact mollified by the important

¹⁴By “coup d'etat,” I mean that the Constitution was essentially forced upon a nation pretty strongly opposed to it. “The people,” in whose name the document was putatively written, were not permitted to vote. The economist Lee Soltow has demonstrated that it would have been defeated, had the Founders been so foolish as to submit it to them. LEE SOLTOW, *DISTRIBUTION OF WEALTH AND INCOME IN THE UNITED STATES IN 1798* (Pittsburgh: University of Pittsburgh Press, 1989), 214-28 (I am indebted to Allan Kulikoff for this reference). Rather, elite “conventions” (similar to that which wrote it) were convened in the states. I have shown that, had the membership of these bodies been fully present and actually voted according to their instructions, the Constitution would have been defeated. Holt, “*To Establish Justice*,” note 12 *supra*, at 1475-76 & n.201. After eleven state conventions “ratified,” North Carolina and Rhode Island still overwhelmingly rejected it. John Quincy Adams later remarked that the Constitution “had been extorted from the grinding necessity of a reluctant nation,” while Founder Gouverneur Morris stated in 1802 on the floor of the United States Senate that: “The passions of the people were lulled to sleep; State pride slumbered; the Constitution was promulgated; and then it awoke, and opposition was formed; but it was in vain.” Both quoted in *id.*, 1476-77 n. 202.

¹⁵DOC. HIST. OF RATIFICATION, note 12 *supra*, 2:518; 10:1419. The AntiFederalist writer “Brutus” saw all of the dangers of the new judiciary. “Brutus,” Essay XI (originally published in the *New York Journal*, January 31, 1788), 2 HERBERT J. STORING, ed., *THE COMPLETE ANTI-FEDERALIST* 418-422 (1981).

compromising structural legislation—particularly by the Bill of Rights, but also including the Judiciary Act of 1789—passed by the First Congress.¹⁶ Many other AntiFederalists, mostly farmers, laborers, and artisans, were not. After ratification, still poor and without hard money, they continued their opposition to the new government and to debt and foreclosure actions. Many just picked up and moved west, beyond the mountains, escaping old debts and, they hoped, most enforcement of the new Constitution.

The war debt certificates soldiers had been issued as pay, which they had been forced to sell at a few cents on the dollar to feed themselves during the hard times of the Revolution and the ensuing depression, had been bought up by wealthy speculators. Now these same speculators were foreclosing on their farms because they had no money to pay their debts, all the while voting in state legislatures to tax them heavily so as to enrich the speculators even more by paying off the war debt certificates—*their own* war certificates, as they saw it.¹⁷

The last straw was the “developmental” set of fiscal policies recommended in 1790 by Alexander Hamilton, President Washington’s powerful Secretary of the Treasury. The policies included payment of the war debt securities at face value to the current (that is, speculator) holders, rather than, as was widely suggested, to the original (that is, farmer, laborer, or artisan) holders. They included a privately-owned Bank of the United States which would not give lenient terms to the many needy people, and whose owners were those same rich speculators. And they included an excise tax on distilled spirits, which infuriated western rural people who depended upon such spirits, since Hamilton designed the tax to be much more burdensome upon the small personal distiller than upon the eastern businessmen who manufactured and sold spirits in bulk. Enactment of the plan in March 1791 proved that “the new government actively fostered policies that redistributed wealth from the public at large to a small number of wealthy individuals.”¹⁸

Western resistance rose. Farmers and artisans meeting in protest in Pittsburgh in 1791 and 1792 to petition Congress for redress stated in outline form most of the grievances which were to be at the core of Rebel upset two years later. They denounced the Bank for putting credit in the “hands of a few persons” with much political influence, the war debt funding program because it refused to make “discriminations between the original holders of public securities and the transferees,” and because it would “make fortunes” for speculators while the common people—who had given up their certificates only out of “ignorance or necessity”—would be taxed to pay, and the excise tax because it was “insulting to the feelings of the people to have ... their houses ... ransacked, [and] to be subject to informers,” because it would overburden the existing “scarcity of a circulating medium” and “bring immediate distress and ruin,” and because it would be used to pay off speculators who “make fortunes by the fortuitous concurrence of

¹⁶Holt, “*To Establish Justice*,” note 12 *supra*, 1513-17.

¹⁷See generally Bouton, *Road*, note 12 *supra*, 865-84.

¹⁸Bouton, “Tying Up the Revolution,” note 8 *supra*, 404.

circumstances rather than by economic, virtuous and useful employment.” A different sort of tax, assigning the burden based progressively on “the wealth of the people,” would be much more consistent with the egalitarian notions of, as Bouton says, “what they had come to believe were the basic requirements of a democratic republic.”¹⁹

The western petitions opposing the Washington administration’s fiscal plans were ignored by Congress, and violence began to occur. An excise tax collector was tarred and feathered in Washington County, Pennsylvania, in September 1791, and the deputy who tried to serve criminal warrants on the perpetrators was treated similarly. In August 1792 men disguised as Indians wrecked and shot up a house rented to the excise collector in the same county. Meetings continued and committees of correspondence—as in the recent Revolution—sprang up in western Pennsylvania and elsewhere. Unrest over the excise began to be exhibited in other parts of Pennsylvania and in other states.²⁰

In the Washington administration, only Hamilton was at this point apprehensive about a general rebellion, but he got the President to issue a proclamation against excise protests on September 15, 1792. Nevertheless, tax avoidance and insults to the collectors continued unabated. No one outside of western Pennsylvania would now even try to collect the tax. Armed black-faced mobs broke into excise collector Benjamin Wells’ Fayette County home in May and again in November 1793, latterly taking his papers and forcing him to resign. In the early summer of 1794 the owners of two southwestern Pennsylvania houses used for tax collection were besieged or broken into by armed black-faced mobs, one of the houses’ owners was tarred and feathered, and the barns of those who had volunteered to testify against the perpetrators were burned.

Hamilton, unchanged in his opinion, began plotting to provoke westerners into something more open,²¹ and by 1794 he had gathered together a powerful faction within the administration, centered on him and federal District Attorney for Pennsylvania William Rawle. In late May 1794, despite a recent federal act allowing trial in state courts for federal crimes, Rawle issued writs for more than sixty tax-resisting western farmer/distillers to appear in federal circuit court

¹⁹*Minutes of the Meeting at Pittsburgh, Sept. 7, 1791, and Minutes of the Meeting at Pittsburgh, 21, 22 Aug., 1792*, in PENNSYLVANIA ARCHIVES, SECOND SERIES (19 vols., reprint ed., Harrisburg, PA: E.K. Myers, 1874-1893), 4:20-22, 30-31, as quoted in part in Bouton, “Tying up the Revolution,” note 8 *supra*, 405-09; the longer quote is from 404.

²⁰The events in this and the succeeding eight text paragraphs are documented in SLAUGHTER, WHISKEY REBELLION, note 6 *supra*, 3, 109-58, 175-221, 274 n.16, *et passim*. For the intentions of the Pittsburgh area meetings to form committees of correspondence, and for the spread of unrest in 1792—especially to Chester, Bucks, and Philadelphia Counties in eastern Pennsylvania—see Bouton, “Tying up the Revolution,” note 8 *supra*, 410-11, 414-15.

²¹See *id.*, 418-23.

in Philadelphia in August.²² United States Marshal David Lenox began serving the writs in late June and reached westernmost Alleghany County at harvest time, on July 15, where many laborers and farmers were gathered to work the fields. Lenox encountered resistance. Farmer Thomas Miller refused to accept service of a writ, and he and his workers became upset.

4. Violence Erupts Near Pittsburgh

On July 16 and 17, hundreds of armed men from western Pennsylvania marched on Bower Hill, the Washington County home of wealthy and stubborn General John Neville, the regional excise tax collection supervisor, demanding his resignation and all of his tax records. He refused. Shots were fired—the first one emanating from Neville’s home and killing Miller’s brother Oliver. After a two-day battle, Neville was driven from his home, and the house and most outbuildings were put to the torch. Two or three attackers and one defender were killed. Later, the Rebels waylaid the United States mail emerging from Pittsburgh, so that they could ascertain which Pittsburghers were on which side. On the first of August, about 7000 mostly propertyless armed men from local militias met according to prearrangement at Braddock’s Field, then marched on Pittsburgh under a six-striped flag representing claimed independence for five Pennsylvania counties (the four “inflamed” counties plus Bedford, just to the east) and a contiguous county in Virginia (Ohio County).²³ The Rebels came close to attacking Fort Pitt and its federal arsenal but shied away from its artillery, instead banishing seven Pittsburghers and destroying the property of several others.

This was followed by more Rebel meetings, the raising of liberty poles as during the Revolution—at least three of them topped with the six-striped flag—more blackening of Rebel faces as had occurred in lower-class English uprisings for centuries, more tarring-and-feathering and property-burning violence against certain individuals in and around Pittsburgh, the spread of Rebel activities to eastern Pennsylvania and states to the south, and the posting of anonymous threats, many under the plebeian name “Tom the Tinker.” After an incendiary meeting on

²²Among their many deficiencies the writs were all invalid, since the circuit court met in October. But even to obtain their dismissal would have required the accused to hire Philadelphia lawyers and to travel hundreds of miles to the capital, at the height of the harvest in midsummer. At about the same time, interestingly enough, about 300 “of the lower class of people” assembled in Philadelphia’s streets to protest a proposed excise on tobacco and snuff as “oppressive and dangerous.” Samuel Hodgdon to Alexander Hamilton, May 9, 1794, THE PAPERS OF ALEXANDER HAMILTON (26 vols., New York: Columbia University Press, 1961-79), 16:397.

²³The flag had been expressly designed for the purpose by those who organized the Braddock’s Field assembly of Rebel “troops.” Bouton, “Tying up the Revolution,” note 8 *supra*, 432. Bouton, following Slaughter, erroneously states that two Virginia counties were represented among the six stripes.

August 14 at Parkinson's Ferry,²⁴ further community meetings became calmer, as elite westerners committed themselves to support of Pennsylvania's laws and, in October, to support of the nation. However, the Rebels still demanded repeal of the excise and termination of criminal trials outside the community, while unreconstructed plebeian Rebels wanted much more.

5. An Army Is Sent West

President Washington and his cabinet were now alarmed. They ignored pleas from the government of Pennsylvania to allow it to deal with the problem, and went through the legal forms preparatory to sending an army west. An August 7 presidential proclamation demanded the end of resistance. However, in response to concern from the Pennsylvania government, a peace commission consisting of three Pennsylvanians was sent to the Pittsburgh area, but the Hamilton faction was in charge, the commission was a sham, and war preparations had begun before the commission's report and recommendations arrived in the nation's capital, Philadelphia. In August the government called up 13,000 militia from New Jersey, Pennsylvania, Maryland, and Virginia. In early September it ordered the militia from the two northern states to rendezvous at Carlisle, Pennsylvania, the two southern contingents at Cumberland, Maryland—both actually centers of emerging Rebel resistance. Then, during the week of September 9, it decided that the army would march in two columns to Pittsburgh. President Washington led the marching troops in person from October 4 through October 20 before retiring to Philadelphia for Congress's upcoming session. Hamilton, accompanied by Rawle, Pennsylvania federal District Judge Richard Peters, and nominal military commander General Henry Lee—Virginia's Governor—continued the march west.

B. The Weak Position of the United States in 1794

Part of the explanation for such a strong response, from the administration's point of view, lay in the weak international position the United States found itself in at the time. Since this weakness is not generally acknowledged today, it will be treated at some length.

Publicly, in 1794, the national mood was a sort of euphoria. There was optimism, even ebullience, about national independence and the prospects for peace. This attitude especially characterized the lower classes, who had, they thought, achieved a millennial, miraculous military victory for democracy over a haughty, aristocratic, supposedly powerful Great Britain. Many elite AntiFederalist opponents of the government were similarly optimistic, while people of commerce generally harbored a belief in the inevitability of economic growth whatever the social or military situation and so had a sunny attitude towards the present and future. However, the Washington administration understood how poor, weak, and volatile the new national existence actually was, due to lack of internal cohesiveness, the threats and suspicions of European powers, the military strength of enemy Indian nations, and serious deficiencies in economic capacity and military force.

²⁴See Fennell, "Whiskey Rebellion," note 10 *supra*, 183-86.

1. Economic Weakness

The national economy was beginning to grow again, after the depression decade from 1783 to 1793, but there was still a lack of local capital (a legacy largely of the colonial policies of Great Britain) and an insufficiency of foreign investment, caused in part by the debts both American governments and individuals owed in Europe.²⁵ To many Federalists, the only answer to economic weakness was what today is called “development,” that is, the initiating of internal manufactures, aggressive growth in international commerce, and the opening of the territory across the Appalachian Mountains to settlement, all financed by borrowing abroad and taxes on the weakest “locals.” This would take time, and for the nation to be given a respite from military interference by imperialistic Europeans.

2. Military Weakness: Battles Lost to Indians

However, the United States was not left alone. It was viewed by European powers as weak and unworthy of much international respect, as ripe for dissolution, dismemberment, or annexation.²⁶ And such views were accurate. First, there was the internal situation. Militarily exhausted by the Revolution, and without a large standing army even after it received the authorization to support one when the Constitution was ratified, the United States in 1790 and 1791 had suffered two severe and humiliating defeats at the hands of Indians along the Ohio, the second being “the greatest defeat ever inflicted by Indians on a white force in North America.” There were continuing threats and attacks from the powerful Creek Indians on the Georgia frontier in the southeast, and the Creeks were better armed and better fighters than any men the land-rapacious Georgians could put in the field against them. One of the strongest grievances of white Americans, all along the frontier, was their failure to receive what they considered to be sufficient protection against what they saw, in racist/imperialist fashion, as “the Indian menace.” The relatively puny attempts made by the national government to answer this need were literally the best it could do but redounded to it only as disaster, humiliation, and confirmation internationally of the military weakness of the new nation.²⁷

3. Diplomatic Weakness: Subversion by Europeans

Second, there was constant intrigue from Europe. The British (in Canada) and Spanish (along the Mississippi and in Florida) shared extensive borders with the United States, and both nations were adept at intrigues with various inhabitants inside U.S. territory, the goal of which was to disrupt and to dismember the United States, perhaps even to annex portions of it. Not only were Indian nations constantly armed and set against the U.S., but also Britain and Spain dealt directly with disaffected and greedy whites in the west (including, among many others, a young Andrew Jackson). Trans-appalachian intrigues and intriguers were most worrisome for the Washington government. There were two contradictory Federalist views of the western lands the

²⁵See Holt, “*To Establish Justice*,” note 12 *supra*.

²⁶See, *e.g.*, the remarks of British consul Bond in 1794, note 2 *supra*.

²⁷SLAUGHTER, WHISKEY REBELLION, note 6 *supra*, 28-30 & nn.2, 3, 40-43, 46-47, 61-62, 75-78, 93-95, 105-08, 159-60, 190-92 (quote from p. 106).

U.S. had acquired in the 1783 Peace Treaty. On the one hand, the President, former Secretary for Foreign Affairs/former acting Secretary of State John Jay, and many powerful members of eastern elites (from both north and south) did not favor encouraging western growth, thinking that western settlement would drain the east of farmers and workers, and possibly shift political power there, while imagining that the distant lands would be essentially ungovernable from the east. With the ongoing flood of folks crossing the mountains to stake out new lives for themselves, there was a broadly-held suspicion that eventually the United States would break into two (or four) confederacies. But, on the other hand, eastern speculators (one of the largest, paradoxically, being the President himself!) were doing “a land office business,” being extensively engaged in selling vast tracts of western land out from under the western settlers. They did not savor either the loss of such a valuable resource or the ignominy of apparent national weakness from any secession or dismemberment. Moreover, many southerners favored western settlement, in order to expand slavery and to increase their share of national power.²⁸

4. *British and Spanish Refusal to Open Trade Routes*

The British still smarted from their recent defeat by their former colonies and did not think much of its novel democratic/republican style of government. Many Britishers treated the United States with snobbish disdain, greed, and an expectation of collapse. Despite explicit language in the peace treaty that they would be given up, the British still in 1794 retained several forts along the Canadian frontier, all of them within American territory (including Mackinac Island at the juncture of the three northern Great Lakes, the settlements which became Detroit and Toledo, three forts along the St. Lawrence River inside New York, and two more inside Vermont). They used the forts protect their lucrative fur trade, to provide support for Indian and renegade westerner allies, to keep American farmers from using the St. Lawrence for foreign trade, and to remind the American upstarts where power really lay.²⁹

The Spanish controlled New Orleans and refused to open the port or much of the Mississippi to the commerce of the trans-appalachian west. Jay, as Secretary for Foreign Affairs during the Confederation period, had steadfastly (sometimes duplicitously and contrary to official policy) agreed with the Spanish position, thereby earning him bitter enmity in the west and in the southern states. While the United States could not force either European power to do anything, satisfying the needs of westerners was never a high government priority in the 1780s and 1790s. Directly related to their grievances concerning the Indians, American westerners were upset about

²⁸For this and the following two text paragraphs, support is found in *id.*, 29-43, 51-60, 87-88, 190-92. An astute westerner intimately involved with the Whiskey Rebellion declared in 1795: “There is no manner of question, but that the time will come when the western country will fall off from the eastern, as north will from the south, and produce a confederacy of four; but surely it is our mutual interest to remain together as long as possible” BRACKENRIDGE, INCIDENTS, note 10 *supra*, 1:114.

²⁹See A.C. McLaughlin, *The Western Posts and the British Debt*, ANN. REP. AM. HIST. ASS’N FOR 1894, 413-44.

the reluctance of the national government to throw open the west to settlement, and to increase the value of their produce, by expelling the British from their forts and by opening the Mississippi to American trade. Westerners had until the end of the Revolution petitioned for admission as various separate states, but by about 1785 their tempers had worn thin from persistent national inaction. Throughout the 1780s and early 1790s, residents in what was to become Kentucky, Ohio, and Tennessee engaged in subversive negotiations with the British and Spanish. The people of western Pennsylvania were no strangers to these dealings and understandings.

5. Internal Desires for Autonomy

Aggravating the fears of the eastern elites were increasingly militant shows of independence and force by aggrieved rural western settlers. Westerners wanted autonomy. Kentucky, Tennessee, and Vermont were the most persistent. The former, the western part of Virginia, petitioned to become a new state (as Transylvania) in 1775, and throughout the 1780s held conventions to seek separation. First as Watauga in 1776, and then as the putatively independent State of Franklin from 1784 to about 1789, the Tennesseans of western North Carolina had the same goal. And the Green Mountain Boys of Vermont adopted an independent constitution in 1779, openly intrigued with the British, and repelled attempts by New York and New Hampshire to assert claims to their lands. In a major reversal of eastern policy, all three were granted statehood (in 1792, 1796, and 1793 respectively), to keep them within the union and to lessen the force of British and Spanish intrigue. The desires of southwestern Pennsylvanians for autonomy were the same as those in the other western portions of eastern states, as seen by their petition for admittance in 1775 (as Westsylvania), by local attitudes during the war fought between Pennsylvania and Virginia in the early 1780s over possession of this territory, and by persistent dreams of the inhabitants of the Pittsburgh area for separation.³⁰

6. French and British Violations of U.S. Sovereignty

With the democratic revolution in France, active French interference in U.S. affairs was added to the other intrigues. France's new government declared war on Great Britain in 1793 and attacked British shipping. Concomitantly, the French claimed far-reaching rights under the alliance their former royal government had adopted to help Americans win independence. They began to recruit Americans as sailors, to use American ports to outfit and arm privateers, and to hold admiralty ("prize") courts in American cities to dispose of commercial British ships captured in battle. France thereby inflamed the British against the United States for the latter's spineless inability to prevent belligerent French activity on U.S. soil, all of it contrary to the U.S.-U.K. peace treaty of 1783. But French policy also essentially derogated the sovereignty of the United States, since such admiralty courts could under traditional international law be set up only within the jurisdiction of the captor nation. The French actions were seen as high-handed and insulting even by the usually Francophile Thomas Jefferson. However, the British also thumbed their military noses at the Americans, increasing hostile activities along the Canadian border, establishing a new fort in the middle of what was to become Ohio, joining with the Spanish to

³⁰SLAUGHTER, WHISKEY REBELLION, note 6 *supra*, 31-60, 107-08.

provoke more hostile Indian action along the Ohio River and in the southeast, and encouraging the Spanish to arm their troops along the Mississippi. Moreover, the British commenced in December 1793 to seize American ships carrying goods to the French West Indies, and eventually forced American seamen off American ships and into the British navy. Not only was the weakness of the United States being humiliatingly flaunted by both belligerents, the very security of the nation seemed at risk since the target of British and Spanish intrigues seemed to be the detachment of Ohio, Kentucky, Tennessee, and western Pennsylvania from the union.³¹

7. *The Emerging Domestic Opposition*

Also aggravating the fears of at least the Federalists among eastern elites was the emerging domestic opposition to the Washington administration then coalescing around Jefferson and James Madison. Embattled and conspiracy-minded Federalists such as Hamilton and Jay wrongly thought there was a continuity from the AntiFederalist opponents of the Constitution to this opposition party. Jefferson and Madison had supported the new government in 1788-89, Madison quite strongly, and there was quite a distance between their new group and many of the plebeian AntiFederalists. Despite Hamilton's paranoia, the Jeffersonians gave no support to the Whiskey Rebels. Nevertheless, to Federalists, any domestic opposition was not only unwarranted but highly dangerous in the inflamed and perilous situation the United States faced in the summer of 1794.³² Moreover, the 1793 decision of the Federalist-stacked Supreme Court in *Chisholm v. Georgia*, holding that a State could be sued by an ordinary citizen in federal court without its consent (thus defying what AntiFederalists thought to be Georgia's sovereign immunity),³³ had also caused much nationwide upset.

An embattled, militarily and economically weak national administration, squeezed between a fierce Indian menace and the intrigues, belligerent actions, and haughty disrespect of strong European powers, and with an opposition party emerging, could not brook armed internal dissension in the summer of 1794, especially internal dissension from the lower classes. It was crucial to the Washington government that blunt, overwhelming measures be taken against the excise tax protesters, not only to make a forceful example to other lower-class dissidents, but also

³¹*Id.* 154-62, 171, 190-92. See also STEWART JAY, *MOST HUMBLE SERVANTS: THE ADVISORY ROLE OF EARLY JUDGES* (New Haven: Yale University Press, 1997), 113-48; WILLIAM R. CASTO, *THE SUPREME COURT IN THE EARLY REPUBLIC: THE CHIEF JUSTICESHIPS OF JOHN JAY AND OLIVER ELLSWORTH* (Columbia, SC: University of South Carolina Press, 1995), 71-87.

³²See Fennell, "Whiskey Rebellion," note 10 *supra*, 177.

³³2 U.S. (2 Dall.) 419 (1793), well dealt with in MAEVA MARCUS *et al.*, eds., *THE DOCUMENTARY HISTORY OF THE SUPREME COURT OF THE UNITED STATES, 1789-1800* (6 vols. to date, New York: Columbia University Press, 1985-), volume 5, "Suits Against States." See [Minutes of Cabinet Meeting of Aug. 2, 1794], *HAMILTON PAPERS*, note 22 *supra*, 17:12 (Hamilton states that resistance to *Chisholm* was one of the "various co-operating sources of opposition to the Constitution and laws of the U.S.").

to hold the union together against external threats by demonstrating to the world that the United States government was powerful and capable of acting to lead an actual nation.³⁴

It was also crucial that the tax resistance not be seen as widespread. A broad rebellion would only confirm the suspicions of the Europeans that democracy could not work, and that the United States would not last long. The administration decided to single out western Pennsylvania,³⁵ since most of the incidents had happened there, since its location (within the state which contained the national government) was internationally embarrassing, and since it could be relatively easily reached by an army from the east.

C. The Grievances and Goals of the Rebels

Despite a class-based belief that lower-class folks like the Whiskey Rebels could never accomplish anything, causing some elite contemporaries to think of suppressing the Rebellion as not worth the effort,³⁶ a story concurred in by many modern historians,³⁷ the Rebels had genuine

³⁴Thus, the blunt and forthright President in early October told the emissaries sent by elite elements around Pittsburgh to treat for peace and to try to halt the army that “he thought it his duty to bring out such a force as would not only be sufficient to subdue the insurgents, if they made resistance, but to crush to atoms any opposition that might arise in any other corner; ... and would also convince other nations that we could defend ourselves.” FINDLEY, HISTORY OF THE INSURRECTION, note 10 *supra*, 180 (the recollection of what Washington said, of William Findley, Congressman from Pittsburgh and one of the emissaries); DONALD JACKSON *et al.*, eds., THE DIARIES OF GEORGE WASHINGTON (6 vols., Charlottesville, VA: University Press of Virginia, 1976-78) 6:185 (entry for Oct. 6-12) (“the government could, and would enforce obedience to the laws—not suffering them to be insulted with impunity”). Alexander Hamilton told his sister that “the insurrection will do us a great deal of good and add to the solidity of every thing in this country.” Hamilton to Angelica Church, Oct. 23, 1794, in HAMILTON PAPERS, note 22 *supra*, 17:340.

³⁵SLAUGHTER, WHISKEY REBELLION, note 6 *supra*, 117-20 (“During 1791 and 1792, ... Hamilton actively considered military intervention in western North Carolina.”).

³⁶See, *e.g.*, Alexander James Dallas to [his family], Oct. 31, 1794, vol. 18, folder 18 (“Letters on the Western Insurrection”), George Mifflin Dallas Collection, Historical Society of Pennsylvania (“Fifteen thousand men have been marched three hundred miles, without a symptom of opposition The fact is so farcical that it would excite laughter, did we not reflect upon the public expense, and the waste of private happiness, which it has produced.”); FINDLEY, HISTORY OF THE INSURRECTION, note 10 *supra*, 70-75, 223-25 (similar conclusions).

³⁷See, *e.g.*, Tachau, *Whiskey Rebellion in Kentucky*, note 10 *supra*; James H. Hutson, *The Origins of ‘The Paranoid Style in American Politics’: Public Jealousy from the Age of Walpole to the Age of Jackson*, in DAVID HALL *et al.*, eds., SAINTS AND REVOLUTIONARIES: ESSAYS ON EARLY AMERICAN HISTORY (New York: W.W. Norton & Co., 1984), 332. For a collection of historians taking this approach, see Tachau, *New Look*, note 5 *supra*, 110-11.

and longstanding grievances. Moreover, the grievances were held by many members of the lower classes throughout the United States in the early 1790s. Most importantly, the lower-class Rebels had a fully articulated alternative vision of egalitarian and communitarian (if racist and sexist), agrarian-based governance.

1. Longstanding Rural Opposition to Excise Taxes

The noted Revolutionary War slogan “no taxation without representation” largely referred to excise taxes. English rural resistance to excise taxation had been fierce for centuries, since such taxes hit “the poor, the propertyless, and the disenfranchised” the hardest and were “economically devastating to farmers and small producers.” (Excises are usually called “internal taxes” in English protest literature, since excise taxes always replaced “external” taxes or duties on imports, which fell heaviest upon merchants and consumers.) Scotch-Irish settlers, prominent in Appalachia and especially around Pittsburgh, had produced much opposition to excise taxes when they had been English subjects on the other side of the Atlantic. Pennsylvanians had defeated a state excise tax in the 1780s through stout local resistance, and they almost uniformly refused to pay the new federal tax on whiskey. The whole frontier was upset about the tax. “Similar violent resistance marked attempted enforcement [of the Hamilton tax] in Maryland, Kentucky, Virginia, North Carolina, South Carolina, and Georgia.” The excise and its centralized collection represented, in real terms, that loss of local power, that distant tyranny which the Revolution had been fought over.³⁸

³⁸Slaughter, *Historiography*, note 3 *supra*, 23-25 (second quote in text from 23). For frontier resistance, see Tachau, *Whiskey Rebellion in Kentucky*, note 10 *supra*; SLAUGHTER, WHISKEY REBELLION, note 6 *supra*, 117-20, 151, 169, 206-07; Barbara Karsky, *Agrarian Radicalism in the Late Revolutionary Period (1780-1795)*, in ERICH ANGERMANN *et al.*, eds., *NEW WINE IN OLD SKINS: A COMPARATIVE VIEW OF SOCIO-POLITICAL STRUCTURES AND VALUES AFFECTING THE AMERICAN REVOLUTION* (Stuttgart: Ernst Klett Verlag, 1976), 87-114.

For opposition from southerners and others (including the state legislatures of Pennsylvania, Virginia, Maryland, North Carolina, and Georgia) to the excise tax as proposed in 1790 and passed in 1791 (which marked a reversal of Hamilton’s probably politically convenient opposition to the excise stated only two years earlier in *Federalist* 12), see MARSHALL, WASHINGTON, note 2 *supra*, 5:288-90; SLAUGHTER, WHISKEY REBELLION, *supra*, 95-105, 109-10 (“Opponents of the excise in Congress included virtually all the men who could be considered representatives of frontier districts”[*id.* at 105].).

For the tradition of English rural resistance to excises because of their discriminatory effect upon rural and poor populations, see BRACKENRIDGE, INSURRECTION, note 10 *supra*, 17; SLAUGHTER, WHISKEY REBELLION, *supra*, 12-17 (first quote in text from 13). For the Revolutionary opposition to British excise taxes, dating from the Stamp Act in 1765, see FINDLEY, HISTORY OF THE INSURRECTION, note 10 *supra*, 47-49; SLAUGHTER, WHISKEY REBELLION, *supra*, 17-22, 39-40. For the special tradition of resistance to British excise taxes by the Scots and the Irish, and the important part in the 1794 rebellion played by Scotch-Irish immigrants, see Alexander Addison to Henry Lee, Nov. 23, 1794, reprinted in BOYD, PERSPECTIVES, note 3 *supra*, 52; Carnahan, *Insurrection of 1794*, note 10 *supra*, 118-20; Fennell,

2. Rebel Grievances and Methodology

The Whiskey Rebellion was widespread, not confined to southwestern Pennsylvania. And it was not merely about the excise tax, though the excise galvanized Rebel action, unified elite and lower-class Rebels, and symbolized what the protesters thought was wrong. We can get a better idea of the panoply and full meaning of Rebel grievances by taking a closer look at how they carried on their resistance and what they said.

(a). The Rebellion in Northumberland County, Pennsylvania

William Bonham, a county constable, was upset about the national government's enforcement of its excise tax on whiskey—and more. He was quoted as saying that he felt the “government had carried themselves to high and must be taken down,” that “the Excise Law was oppressive on the poor people,” and that “the tax should be on the land, and not on our own produce, and that the Land Jobbers should pay the Taxes.” His upset was in the context of his having heard about the armed confrontation at Neville's near Pittsburgh on July 16 and 17, 1794. Bonham was supposed by his neighbors to believe that “there was more men engaged in the present opposition [to government] than was at the Beginning of the Revolution.” Having “expected it for a long time,” since “the officers of Government and the Land Jobbers was engrossing all the property of the Country,” he allegedly felt “that a Revolution in this Country was highly necessary.”³⁹

Bonham began agitating in favor of what he thought was happening near Pittsburgh, speaking with folks throughout his county, “writing letters and dropping them about to stir up the minds of the people,” allegedly recruiting for an armed force to resist the army the government was sending to put the insurrection down, and demanding the erection of a liberty pole to symbolize opposition to the government and to taxation without representation.

Over about a month's period, Bonham found many who agreed with him. Interestingly, no person among the dissidents in Bonham's county was reported to have complained about the direct application of the excise tax to his own distilling. All the grievances seem to have been

“Whiskey Rebellion,” note 10 *supra*, 14-15, 231-32. For the defeat of Pennsylvania's excise tax on whiskey by local intransigence, including the same sort of lower-class ritualized resistance behavior used later against the federal excise, see FINDLEY, HISTORY OF THE INSURRECTION, *supra*, 26, 31-39; BRACKENRIDGE, WHISKEY INSURRECTION, *supra*, 10; Fennell, “Whiskey Rebellion,” *supra*, 5-6, 13-15.

³⁹Sources for this and the next paragraph are found in: Depositions of Daniel Reed, Dec. 12, 1794, and Oct. 17, 1794; Deposition of Peter Faulkner, Dec. 10, 1794; Depositions of James Jenkins, Nov. 11, 1794, and undated; Deposition of Benjamin F. Young, Oct. 16, 1794; Testimony of James Jenkins in *United States v. William Bonham* (not dated; Rawle's notes), all in Rawle Papers, vol. 1, 1791-1796 (“Insurrection in W. Pa.”), Historical Society of Pennsylvania. Here, and throughout, the spelling and grammar are those of the originals.

more communal, more generalized. Henry Lebo stated that “it was said by the whole of the people that liberty poles were raised last war and they ought to be raised now.” Bonham and several friends then raised a pole at a place called Billmyers, with a flag inscribed “no excise Liberty and Equality” atop it. When government supporters led by William Brady cut the pole down, many folks met together at Lebo’s tavern. Christian Yentzer, a government supporter, asked why normal means of redress should not be tried and was told that petitioning to repeal the tax had not worked. Yentzer commented upon the alternative to the excise which was supported by others at the meeting: “they would have a land tax, and then all would be equal.” Upon Lebo’s motion, the people voted to erect another liberty pole at a place called Derrstown. “[A]bout a week after, a second pole was brought in and a guard placed on it with arms.” The pole was raised the next day, with 100-300 people present (some of them armed), from all over the county, drinking liberally from the probably untaxed jugs of whiskey brought for the occasion and passed around with lots of shouting, cheering, and gunfire into the air. The second pole’s flag said “Change of Ministry and No Excise.” While much was said about tarring and feathering those like Brady and Yentzer who opposed the poles and had cut down the first one, nothing was done. Many wished to raise another pole nearby, and yet another across the river at the county seat; there is evidence that several other poles were raised in the county.⁴⁰

County government officials were alarmed and went to Derrstown. In a scene full of anger and tension, Judge William Wilson and magistrate William Cooke courageously confronted the pole crowd, argued that the pole should come down, and read the assembled through the riot act. Flavel Roane, the popular county sheriff, and other magistrates were present but pointedly did not assist Wilson and Cooke. A riot nearly broke out. Wilson and Cooke were told that they were “as likely to turn the Susquehannah, as to stop them for they were determined to have their grievances addressed.” In the heat of the moment, Wilson drew his pistol and aimed it at one pole defender while grabbing another around the chest. The traditional authority of Wilson and Cooke ultimately prevailed, and they were able to disarm several of their angry neighbors. The crowd apparently dispersed, but the officials were so unsure of themselves that the pole was not taken down “till the arrival of some Troops from Wyoming [Pennsylvania] who cut down the Pole and the day following all the other Poles in the County.” In what might appear a strange denouement,

⁴⁰Deposition of Henry Lebo, Jan. 7, 1795; Deposition of Joseph Sheres, May 26, 1795; Deposition of William P. Brady, Oct. 15, 1794; Deposition of Peter Faulkner, Dec. 10, 1794; Deposition of Jasper Ewing, Dec. 10, 1794; Testimony of Josiah Nuzzy in *United States v. William Bonham* (not dated; Rawle’s notes); Testimony of Henry Lebo in *United States v. William Bonham* (not dated; Rawle’s notes); Deposition of Christian Yentzer, Dec. 27, 1794; Deposition of Benjamin Wells, May 26, 1795, all in Rawle Papers, note 39 *supra*.

Interestingly, part of the New Jersey militia marched homeward not with the rest of the Pennsylvania and New Jersey troops through Carlisle on the southern route they had taken west, but through Northumberland County and in particular Billmyers and Derrstown, the sites of the two most notorious local liberty poles. James ten Eyck, *Diary of the Whiskey Rebellion Expedition, 1794*, undated and unpaginated sheets in rear of diary, in ten Eyck Family Papers, Alexander Library, Rutgers University.

Bonham swore out warrants against Judge Wilson for assault and had him arrested as he was traveling to Philadelphia to give his deposition.⁴¹

Most important in these incidents are the time and venue. Both of these pole raisings, and apparently others in this county, occurred in the last week of September 1794, at least *seven weeks after* President Washington had issued his proclamation denouncing the incidents at Pittsburgh, also *after* everyone knew he had called out the militia, and *after* the militia had begun to gather at Carlisle and Cumberland. Moreover, they occurred in Northumberland County, in east-central Pennsylvania, essentially *behind* the army. The Whiskey Rebellion was not confined to the summer ravings of nee'er-do-wells who had slunk across the mountains. While the most violent activity involving the most protesters did take place near Pittsburgh, popular farmer/laborer/ artisan dissent occurred not only throughout the west, but, as the Northumberland incident and others (below) show, also in the east.

Crucial too are the protesters themselves. Bonham, a constable, was an elected official, but constables were among the poorest paid officers in Pennsylvania's county government;⁴² and while Roane and other officials sat on the fence, most of the pole-raising protesters appear to have been tavern keepers, artisans, farm laborers, and smallholders, not gentry or prosperous farmers—the industrious poor rather than the middling or the well off.⁴³ Moreover, there was significant local support for protest: many people attended the meeting at Lebo's tavern, a large crowd from the whole county attended the second pole raising, and several other poles appeared in the county. Bonham had sufficient following to obtain the arrest warrants against Judge Wilson.

⁴¹Depositions of William Wilson, Nov. 20 and Nov. 29, 1794; Deposition of William Cooke, Nov. 19, 1794; Deposition of John McGrath, Dec. 22, 1794; Deposition of Rosewell Doty, Dec. 29, 1794; Deposition of Flavel Roane, Jan. 10, 1795; Affidavit of Daniel Montgomery in *Pennsylvania v. Montgomery*, Jan. 10, 1795, all in Rawle Papers, note 39 *supra*.

A local remembrance of these events, which must be used carefully since it contains several errors, adds these possible facts: the second, Derrstown liberty pole was set up near a militia arsenal; the “pole was driven full of nails from the ground, ten feet upwards, so that it could not be cut down”; the confrontation at the pole ended when “many of the more peaceably disposed persons, together with the ladies [*sic*], interfered to prevent shedding of blood”; and “[m]atters remained unsettled ... for several days, till the arrival of an armed Company of ninety-nine men and officers, from Lancaster,” which met stout resistance from the armed pole defenders until the troops engaged in a bayonet charge and dispersed them. J.F. MEGINNESS, OTZINACHSON; OR, A HISTORY OF THE WEST BRANCH VALLEY OF THE SUSQUEHANNA ... (Philadelphia: Henry B. Ashmead, 1857), 327-28.

⁴²R. EUGENE HARPER, THE TRANSFORMATION OF WESTERN PENNSYLVANIA 1770-1800 (Pittsburgh: University of Pittsburgh Press, 1991), 168.

⁴³Accord, SLAUGHTER, WHISKEY REBELLION, note 6 *supra*, 273 n. 8 (“the division [in Northumberland County] appears, for the most part, to have occurred along class lines”).

Finally, note the methods and grievances of the protesters. Their participatory self-governance and egalitarian ideas and goals are evident not only in what they said but in the organized, communal, democratic way they took action. Dissenters were not only allowed into the meeting at Lebo's, they could obtain the floor. Protesters were deeply aggrieved, not only by the excise tax—they were exasperated by previous futile petitions against it—but also by “the Ministry,” that is, the Washington administration and its policies, which had gone “to high” in its taxation of the produce of the poor (the grain used to make whiskey). They decried increasing disparities of wealth and opportunity, exemplified both by the charge that land speculators and government officials were taking all the good land in the county, and by their desire for an egalitarian, effectively progressive land tax rather than a retrogressive, discriminatory excise. Their methods of protest—tarring and feathering, liberty pole raising, local popular meetings—were traditionally American, having been in general use during the time of the American Revolution (it was called “the last war”), and lower class, that is, typical of English lower-class protest.⁴⁴

(b). The Rebellion in Virginia and Maryland

Similar protests took place in many, many other locales. In mid-September militia troops in Surry County in rural *southeastern* Virginia refused to permit any of their fellows to volunteer for western duty, and, for a short time, organized themselves into an anti-expedition rump militia of perhaps 150. The instigator, Benjamin Bilbro, was quoted as claiming that he and his men were the ones really “for liberty.” Two leaders were charged with federal treason and lay in jail for six weeks until federal District Judge Cyrus Griffin granted them bail. “In Norfolk, Virginia, ‘small parties of the lower order’ refused to enlist ‘upon a plea of serving against their countrymen, who were oppressed and could no other way obtain redress but by resort to arms.’” Two other militiamen were court-martialed in central Dinwiddie County, Virginia, for refusing to march west. “Philadelphia and Baltimore experienced [draft] resistance of a similar nature.”⁴⁵

⁴⁴On the history, nature, and Revolutionary flowering of English crowd protest methodology, see generally DIRK HOERDER, *CROWD ACTION IN REVOLUTIONARY MASSACHUSETTS 1765-1780* (New York: Academic Press, 1977); YOUNG, ed., *EXPLORATIONS*, note 8 *supra*, 37-69, 233-71, *et passim*; and the citations in Slaughter, *Historiography*, note 3 *supra*, 29-30 nn.35 & 36.

⁴⁵For the Bilbro militia revolt, see James A. Bradley to Henry Lee, Sept. 12, Sept. 16, 1794, Lemuel Cocke to James Bradley, Sept. 12, 1794 (with enclosure from “an Old Soldier”), Billy H. Avery to [Henry] Lee, Sept. 14, 1794, all in Box 87, Executive Papers, Virginia State Library. For the Norfolk event, see Bouton, “Tying up the Revolution,” note 8 *supra*, 438 (quoting from a cited letter). For the Dinwiddie event, see [St. George Tucker] to [James] Monroe, March 3, 1795, James Monroe Papers, Earl Greg Swem Library, College of William and Mary. See, for more evidence, SLAUGHTER, *WHISKEY REBELLION*, note 6 *supra*, 212-14 (quote from 212) (Slaughter’s citations on point are chaotic and deserve further sorting out). In Chester County, Pennsylvania, militia officers resigned rather than march against their countrymen, Fennell, “Whiskey Rebellion,” note 10 *supra*, 264, and in Lancaster and Northampton Counties, Pennsylvania, militia officers were arrested for sedition when they

Readers of a Baltimore paper learned that, on September 6, a man extolling King George was tarred and feathered and paraded through Winchester, Virginia; that on September 8 there was a threat to set up a liberty pole near Pittsburgh at Morgantown (then in Virginia); that on the same day troops had to disperse a meeting of folks in Martinsburg (then also in Virginia) who intended to erect a liberty pole in opposition to the excise; and that former United States Supreme Court Justice Thomas Johnson had chaired a town meeting in Frederick, Maryland, which, apparently disdaining reliance upon the local militia, formed a company of town troops to take down liberty poles in nearby Hagerstown and “to quiet the present alarm, occasioned by the insurgents.”⁴⁶

When the liberty pole raised by the Hagerstonians was cut down, subsequent events were eerily like those in Northumberland County, Pennsylvania. A mostly rural group—perhaps amounting to 300—armed itself, raised a second pole and guarded it, occupied Hagerstown, and threatened violence to those who supported the militia call, the excise tax, and the federal government. There was talk about marching on the federal arsenal at Frederick, and liberty poles sprouted in the countryside. A newspaper account, in prose typical of elite attitudes towards the excise tax protesters, said that “very few persons of any character or property [were] involved.”⁴⁷

When Johnson’s elite Frederick posse marched out against the rural pole crowd, however, the Northumberland simile ended and there was a nearly perfect harbinger of the later experience of the United States army in western Pennsylvania. Lower class resistance disappeared around Hagerstown. The posse chopped down many unguarded poles and netted 20 prisoners. The Baltimore Light Dragoons, an elite squad of “Volunteers Composed of the most respectable of our Citizens,” then scoured the Hagerstown countryside and rounded up about 125 more suspects. Eventually six of these 145 men were marched east to be tried for treason—but state court juries acquitted them. The violence that had broken out in Hagerstown was, according to Slaughter, “aimed ... at overthrowing established institutions of authority, and was repressed ... brutally by officials Conflict was primarily between rural members of lower classes—laborers and owners of very little land—and more economically successful residents of the town.”⁴⁸ However, a more

denounced the war efforts of the United States, Bouton, “Tying up the Revolution,” note 8 *supra*, 438.

⁴⁶*The Baltimore Daily Intelligencer*, Sept. 10, 12, 16, 20 (source of quote), 1794. I have added the information about Johnson’s former position and the speculation about the Frederick townfolks’ mistrust of the local militia.

⁴⁷[Philadelphia] *Gazette of the United States*, Oct. 4, 1794.

⁴⁸Thomas Sprigg to Thomas Sim Lee, Sept. 11, 1794, Thomas Sim Lee to Alexander Hamilton, Sept. 13 & Sept. 23, 1794, William Pinkney to Hamilton, Sept. 18, 1794 (source of first quote), all in HAMILTON PAPERS, note 22 *supra*, 17:201-02 nn.2, 4, 233 n.2, 231, 262, 249-50; Fennell, “Whiskey Rebellion”, note 10 *supra*, 262-63; SLAUGHTER, WHISKEY REBELLION,

complete telling of the story of the Rebels around Pittsburgh than Slaughter allows will show that overthrow of the government, class-based conflict, and brutal repression by the government were also true of what occurred in the heartland of the Rebellion.

Again, we see lower-class/Revolutionary symbology, centered around liberty poles; again, we have heavy but mostly rural support from people inured to powerlessness and refusing actually to confront authority in its concrete form; and again we see equation of the American and British administrations, with the tarring and feathering of the faux “King George.” We see elite fear of lower-class militia, and the favoring of elite troops, either regulars or irregulars. We also notice widespread resistance by militia personnel against being drafted to serve against fellow lower-class folks, even to the point of mutiny, and a need for independence similar to that Bonham’s people demonstrated. Surprisingly, there was middle-class sympathy for the rebels, shown in the Baltimore jury acquittals—since one had to have property and/or standing to be selected for jury duty. Resistance to the Washington administration and to its policies was broad and deep in the United States population in 1794.⁴⁹ Elites were wise to be afraid.

(c). The Rebellion in Cumberland County, Pennsylvania

An important branch of the disturbances took place in Cumberland County, in *southeast-central* Pennsylvania. Eight armed men with blackened faces (another traditional mode of English lower-class protest) visited the local excise tax collector in late August, demanding his tax papers. Just previously, on August 14—timed precisely to coincide with the Parkinson’s Ferry meeting of the Rebels at Pittsburgh, at which it was apparently contemplated by the committees of correspondence that independence could be declared—a group of Cumberland County dissidents adopted and published in the local paper a set of resolutions (the “Newville Resolutions”). They sounded very much like the complaints William Bonham was making at the same time in Northumberland County to the north. They called for support from Mifflin County (which bordered both Cumberland and Northumberland), and set August 29 at the county courthouse in Carlisle for a countywide meeting to debate the resolutions. At the appointed time and place, Cumberland County folks voted out a modified set of resolutions (including opposition to the excise tax) which sounded like the protests a similar local group had previously made public in Washington County, near Pittsburgh. (All of these resolutions will be discussed below.) Robert Lusk of Carlisle, an organizer, was later prosecuted in federal court for sending a letter which summarized all of this, offered solidarity to the western Rebels, and claimed that Alexander Hamilton and the government had little support. Committees of correspondence worked: the excise tax protesters were definitely in communication with each other.⁵⁰

note 6 *supra*, 209-11 (second quote from 209-10).

⁴⁹For stories of the Whiskey Rebellion in yet other states, see Tachau, *Whiskey Rebellion in Kentucky*, note 10 *supra*; Jeffrey J. Crow, *The Whiskey Rebellion in North Carolina*, 66 NO. CAR. HIST. REV. 1-28 (1989).

⁵⁰ *Carlisle Gazette*, Aug. 20, 1794; Newville Resolutions, Cumberland County, Aug. 14, 1794; [Carlisle Resolutions,] Aug. 29, 1794; Testimony of George Kline (no date) (Rawle’s

About 200 angry rural citizens rode into Carlisle on September 11 and erected two liberty poles, only a week or so before the northern half of the army was to begin to assemble itself there. Protesters paraded, “the cause of the insurgents was openly espoused at popular meetings,” prominent politicians were burned in effigy, guards were posted around the liberty pole erected near the courthouse, and other poles appeared in the county as the army approached.⁵¹ Alexander Dallas, later compiler of the first reports of decisions in the United States Supreme Court but then accompanying the army as Pennsylvania’s Secretary of State, wrote home from Carlisle on October 4 that “we daily pass and re-pass the most violent abettors of the Insurgents; nay the most active partizans in raising the whiskey pole, in the high street, parade, without insult, through the camp.”⁵² Members of the elites had good reason to be afraid, if such commotion, defiance, and opposition to the government could occur from members of the lower classes in a long-settled region just as the President of the United States and his huge army appeared.

Class feeling against the Rebels was palpable. As the detachment of Captain David Ford of the New Jersey militia passed through Reading, even further east than Carlisle, he recorded in his diary that “we found the people of the lower order very ignorant and illy informed, full of prejudice against our happy government, and very unfriendly to our cause.” And after he got to Carlisle on September 29, he found “the Philadelphia horse [an elite militia group] determined to begin the business of collecting the gentry of sedition They ... brought in several of the Pole gentry; one of them, after being a prisoner, used very abusive and provoking language, after which he endeavored to make his escape, upon which one of the Philadelphia troops ... shot him through with his pistol, of which wound he died next morning. ... We find a great majority of the

notes) (Newville Resolutions were brought to him by Robert Lusk); Argument of District Attorney Rawle (no date) (outline) (Lusk’s “most seditious and inflammatory letter” to people in Westmoreland County, near Pittsburgh, was an act “of excitement and encouragement” which “made the Western insurrection grow alarmingly” and was thus a “contempt[] for government & punishable misdemeanor[]”), *United States v. Lusk*; Testimony of Robert Guthrie (no date) (Rawle’s notes); Argument of William Rawle (no date) (outline), *United States v. Quigley*, all in Rawle Papers, note 39 *supra*; Robert Lusk to ?, Aug. 26, 1794, *United States v. Lusk*, microfilm M-986, “Criminal Case Files, U.S. Cir. Ct. E.D. Pa., 1791-1840,” Roll 1, “Case Files 1791-1799,” National Archives Regional Office, Philadelphia. Apparently the people of Mifflin County, and of adjacent Dauphin County, had similar meetings. See *The Oracle of Dauphin and Harrisburgh Advertiser*, Sept. 1, 1794, cited in Bouton, “Tying up the Revolution,” note 8 *supra*, 435 n.71.

⁵¹MARSHALL, WASHINGTON, note 2 *supra*, 5:585 n.* (source of quote); *The [Philadelphia] Independent Gazetteer*, Sept. 17, 1794; SLAUGHTER, WHISKEY REBELLION, note 6 *supra*, 207-12.

⁵²Alexander James Dallas to [his family], Oct. 4, 1794, Dallas Collection, note 36 *supra*.

people in this county have got the canine madness against government”⁵³

This supposed “prisoner” was actually an unarmed youth so ill that he could not quickly obey orders to lie down, who was murdered by a shot through the groin from an arrogant or nervous trigger-happy cavalryman. He died slowly, in excruciating agony. He had been rounded up in the cavalry’s sweep of the snobbishly-named “Pole gentry” but was not in fact a miscreant. The Commander-in-Chief, worried about AntiFederalist “states-rights” sentiment, poor militia discipline, and the potential depredations of a bored, ill-trained, and itself class-divided army, made a show of speaking sternly to the troops and of turning the killer over to the civilian courts of Pennsylvania.⁵⁴

“In effect,” as Thomas Slaughter recognizes, “the government marched two armies west”—a well-dressed and -fed but small group of “gentleman volunteers” and a huge gaggle of “poorly clad[,] ... poor, propertyless, often foreign-born” young men “composed largely of draftees and substitutes who enlisted for the bounties they received.” The government feared defections by such lower-class folk to the lower-class cause they were to rout out. Already, during the very assembly of the troops at Carlisle, discipline was a problem for the ragtag army. The poorly fed, ill-clothed irregulars, usually unhoused during the long march through difficult mountainous lands in a cold rainy fall, were to be plagued by drunkenness, desertion, whippings, gambling, and dysentery, were to engage wantonly in whoring and plundering (followed by its official counterpart, the impressment of civilian property), while being treated with disaffection or worse from most locals.⁵⁵ Allowing these “troops” to lord it over and abuse the farmers, laborers,

⁵³David Ford, *Journal of an Expedition Made in the Autumn of 1794* ..., in 8 PROCEEDINGS OF THE NEW JERSEY HISTORICAL SOCIETY (1859), 78, 81, 84.

⁵⁴See FINDLEY, HISTORY OF THE INSURRECTION, note 10 *supra*, 143-44, 147, 179, 188; Alexander Hamilton to Jared Ingersoll, Oct. 10, 1794, Alexander Hamilton to Thomas Mifflin, Oct. 10, 1794, in HAMILTON PAPERS, note 22 *supra*, 17:315, 317; SLAUGHTER, WHISKEY REBELLION, note 6 *supra*, 205-06.

⁵⁵For Slaughter’s description of the class-riven army, see *id.* 214.

For the travails of the army on its western expedition, see John H. Clunn, *Military Journal*, 71 PA. MAG. HIST. & BIOG. (1947), 44-67 (journal of New Jersey quartermaster) (tells variously of deserter receiving 20 stripes; drinking; frequent adventures with local girls; impressment of supplies; rainy, then snowy and cold weather; poor roads); H. Frank Eshelman, ed., *Autobiography of William Michael. Part II*, 25 LANCASTER CO. HIST. SOC’Y PUBLICATIONS (1921), 69-77 (journal of Pennsylvania commissary) (“irregular marches, scarcity of water, many commanders, dust, ...; on the 24th [of October, as they were crossing the Allegheny Mountains] it began to rain for thirteen or fourteen days, successively; here followed a long chain of inconveniences. Floundering of horses, others lame, sick, etc., wagons breaking and that is beyond conception to any one but those who were witnesses thereto. Our marches were greatly retarded by the seeking and pressing of horses and wagons ...”); [Robert Wellford,] “Diary,” Virginia Historical Society (journal of Virginia doctor) (tells of much fevers, diarrhea, and

and artisans they encountered along the way was the age-old method of dividing the poor against themselves. They continued to browbeat any “pole gentry” they encountered.

Meanwhile, the state judges dismissed charges against the killer. One of the two persons actually killed by the army in its entire tour of duty, this unfortunate poor rural youth and the open class prejudices which likely caused, and likely prevented the application of justice for, his death proved to be typical of the Whiskey Rebellion.

(d). The Grievances of Elite Protesters

The grievances of prosperous workers and farmers differed significantly from those of the genuinely poor. Slaughter’s *Whiskey Rebellion* differentiates the two groups, but he does not separate their grievances sufficiently clearly, and in all important instances he imagines the prosperous farmers (and the elite members who joined them until the going got rough), to be the “real” Rebels. Thus, for example, Slaughter can conclude that the rebellion was over, when western elites withdrew whatever little support they had given to the uprising in the teeth of the advancing United States military force—leaving “[o]nly [what Slaughter calls] the ‘ignorant and deluded’ poor maintain[ing] their dedication to open rebellion.”⁵⁶ All of the Rebel grievants shared a desire for autonomy and an animus against the government’s programs. But these were felt differently and expressed differently by different socioeconomic groups in the population.

dysentery); Jacob Ashmead, “Western Expedition,” Jacob Ashmead Papers, Historical Society of Pennsylvania (journal of Pennsylvania officer) (“rained all Day and continued for 13 Days afterwards”; “most horrid and Fatiguing Marches—mud up to Our knees a number of horses destroyed”); “A Journal of Major Spear’s Battalion of Maryland Militia on the Western Expedition ...,” U.S. Army Collection, Historical Society of Pennsylvania (tells of drinking; bad roads; rain; a Virginia soldier given 100 lashes for theft and assault on farmer); Mahlon Dickerson, [“Diary,”] Dickerson Papers, New Jersey Historical Society (journal of New Jersey officer) (tells of much rain; shows frequent interest in the young women he encountered); Carnahan, *Insurrection of 1794*, note 10 *supra*, 144 (gives example of troop plunder: seizure of hog called “bear hunt” “after the general orders against plundering had been issued”); JOSEPH SMITH, *OLD REDSTONE; OR HISTORICAL SKETCHES OF WESTERN PRESBYTERIANISM ...* (Philadelphia: Lippincott, Grambo & Co., 1854) 261 (“An unusual quantity of rain having fallen during the autumn, the army suffered greatly on their march, particularly several regiments composed of mechanics, merchants, and others from the cities, who were not inured to such hardships.”); George Washington to Alexander Hamilton, Oct. 26, 1794, in *HAMILTON PAPERS*, note 22 *supra*, 17:344 (“In some places, I was told they [*i.e.*, the militia army] did not leave a plate, a spoon, a glass or a knife At *most* if not *all* the encampments, I found the fences in a manner burnt up.”). See also Fennell, “Whiskey Rebellion,” note 10 *supra*, 250; SLAUGHTER, *WHISKEY REBELLION*, *supra*, 214-17.

⁵⁶SLAUGHTER, *WHISKEY REBELLION*, note 6 *supra*, 203. Slaughter is here quoting a contemporary source which cannot be identified from his footnote, but he does not distance himself from the disdain evident in his quoted source.

The more prosperous artisans, farmers, professionals, and entrepreneurs, relatively secure in person and fortune, saw autonomy in the same terms as did eastern propertied and commercial elites—as a matter of development, of economic growth. And, like those elites during the Revolution, their chief grievance was that they were not in control. They were not able to focus governmental largesse on *their own* development and growth. They wanted the government to build for them too—not just in the east—a network of circulating money and accumulating capital, neither of which was in large supply in the west. The chief item they had for market (other than their land itself) was grain, which was heavy and thus very difficult to transport overland in bulk form (especially back across the mountains). It could more easily be floated down rivers, but their rivers flowed west and south, not east toward the existing U.S. markets (ironically, President Washington was the leading voice urging the construction of a canal to connect Pittsburgh with the Potomac River). The mouth of the Mississippi was closed to them.

Both the prosperous and the poor westerners were persistently harassed and made miserable by attacks from the recently dispossessed owners of “their” land, the Indians. Abetted and supplied by the Spanish and especially the British, the Indians found courage and protection in no small part from the British military presence to the north, especially the British forts. The center of the cry of the prosperous for economic growth was for *their own* regional autonomy, with themselves in pretty firm control. As eastern elites had done through the Revolution, they wanted to end their economic dependency upon the east. Thus (in addition to demands for circulating specie) their primary “Whiskey Rebel” demands were that the Mississippi be opened, that the British and their forts be banished, and that the Indians be subdued. These prosperous westerners felt less and less attached to a union whose national government under Washington was stalling and duplicitous on the first two items and unable to muster sufficient military force to accomplish the third.⁵⁷

Three examples may suffice for proof. The Washington County Society for Hamiltons District (known to history as the Mingo Creek Association—and so it will be called herein) included both relatively prosperous and poor farmers/laborers/militia men from the very heart of the rebellious country. Their inner class division surfaced for all to see when relatively prosperous members of the group later chose to testify for the government in the federal trials of the Rebels in return for immunity from prosecution, thus turning against their less-well-off supposed comrades. The Mingo Creek Society published two sets of grievances in spring 1794, the first of which (in April) dealt entirely with the group’s disgust about government inaction regarding the Mississippi and should be seen as a statement of well-off western Rebels. Second, at the Parkinson’s Ferry meeting on August 14, the Rebels (aided by some elite mediation) listed

⁵⁷For the lack of circulating hard money in the west at the time, see FINDLEY, HISTORY OF THE INSURRECTION, note 10 *supra*, 40; see generally notes 12, 13, & 19 *supra* and accompanying text. For the necessity of converting grain into whiskey because of its bulk, see BRACKENRIDGE, INSURRECTION, note 10 *supra*, 17, 30, 67. For Washington’s promotion of a canal to Pittsburgh as early as 1784, and continuously thereafter, to promote his own economic interests in the region, see SLAUGHTER, WHISKEY REBELLION, note 6 *supra*, at 86-87.

their grievances for the three sham commissioners sent by the President, and second and third on the list were the Indian menace, and the British forts combined with opening the Mississippi. Third, one of the most critical Rebel community meetings occurred on August 29 at Redstone Old Fort, to decide whether to submit to terms offered by the President, with the likelihood of invasion by a large army now imminent. Rebellious activity around Pittsburgh was still at a nervous frenzy, the gallery of the Fort during the meeting was filled with lower-class supporters of the Rebellion, and other lower-class Rebels milled outside. A Committee of Sixty elected by local folks listened to speeches before voting on behalf of the whole populace for or against submission. However, the issues dwelled upon by the three elite speakers who dominated the session concerned not the excise but the grievances which *they*⁵⁸ understood to be important: opening the Mississippi, eliminating the British and their forts, and the Indian menace.⁵⁹

While local leaders such as Hugh Henry Brackenridge and Albert Gallatin attended meetings, and at heart opposed the excise and other policies of the Washington administration, it is striking that no elite leader, with the single exception of lawyer David Bradford, “openly advocated revolution ... none [at all] were linked to levelling, millennial, or radical critiques of equality ... [none] question[ed] the constitution or challenge[d] economic inequality.”⁶⁰ There were significant differences between the well off and the vast majority of the Whiskey Rebels.

(e). The Grievances Shared by All Protesters

However, it is also true that the Rebel “crowd [w]as a political force in which prominent, ordinary, and poor men acted collectively.”⁶¹ The Mingo Creek Society contained men from all three groups. So, there were issues which were shared by almost all of the Rebels. The most important and prominent of these was opposition to the excise. This deeply-felt grievance was

⁵⁸The three were prominent lawyer Hugh Henry Brackenridge and wealthy entrepreneur Albert Gallatin, both Jeffersonians (the latter eventually to be Jefferson’s Secretary of the Treasury), speaking in favor of submission, and lawyer David Bradford, in favor of continued armed rebellion. Bradford was soon to disappear into the western wilderness, surfacing later in Louisiana.

⁵⁹See Society of Hamiltons District, *Resolutions*, Apr. 7, 1794, Rawle Papers, note 39 *supra*; Fennell, “Whiskey Rebellion,” note 10 *supra*, 184; BRACKENRIDGE, INCIDENTS, note 10 *supra*, 1:112 (Gallatin), 1:114 (Brackenridge); FINDLEY, HISTORY OF THE INSURRECTION, note 10 *supra*, 124-25 (Bradford). Similarly, a body of militia delegates from Ohio County, Virginia (adjacent to the four inflamed Pennsylvania counties) mentioned “the free navigation of the Mississippi river” twice in their resolutions of protest. “[Militia] Resolves of Ohio County, Virginia,” [Sept. 9, 1794], in PENNSYLVANIA ARCHIVES: SECOND SERIES, note 19 *supra*, 4:270.

For the turncoat testimony of several Mingo Creek Society members, see note 148 and accompanying text, note 154, and text accompanying note 161 *infra*.

⁶⁰Fennell, “Whiskey Revolution,” note 10 *supra*, 46-54 (quote from 54).

⁶¹*Id.* 143.

both economic and political in nature, and both meant and symbolized the loss or absence of autonomy and self-control that underlay the Rebellion.

The excise, as noted by a contemporary westerner intimately involved in the episode of rebellion—a worker “risen” to the elite, the weaver-become-lawyer and -Congressman William Findley—was “universally believed to be unjust and oppressive. ... Nobody in the west approved of the law, or advocated it as good.” But, as noted by another historian, the son of the Brackenridge just mentioned, there was a class difference inside this grievance: “The opposition to the excise law was not everywhere equally violent, but it was everywhere prevalent.” Those less well off opposed the law violently, while those higher on the socioeconomic scale opposed it through petition and noncompliance. The first of the resolutions put forward by the August 29 Redstone Old Fort meeting, designed to state westerners’ grievances for presentation to the commissioners sent by the President, gave two reasons for opposition to the excise: the need for a “more equal, less odious” tax. The August 14 Newville Resolutions, from Carlisle in Cumberland County far to the east, condemned the excise as “unjust in principle, Oppressive in its operation.”⁶² The tax was thus seen to have two fatal deficits. It was “unjust,” or “odious,” or politically and traditionally unacceptable. And it was “oppressive,” or “less equal,” or economically injurious and imbalanced in effect. We have already noted the longstanding reasons among English, Scottish, and Irish rural interests and among American revolutionaries for opposing excise taxes as “odious,” opposition which had become ritualized but which harkens back to excise taxes’ economic oppression of the poor.⁶³ This particular excise, on whiskey, also economically oppressed the less well off.

On the one hand, smaller distillers were at a distinct disadvantage to large distillers because of the particular provisions of the act, as Henry Marie Brackenridge (the son of Hugh Henry) claimed and as historian Dorothy Fennell has conclusively demonstrated. While only about 5-10% of the taxable population in the four inflamed counties distilled grain, that was still a large number of people making alcohol. The large proportion of these distillers were farmers of small worth, who fulfilled several needs thereby. They were getting some drinking whiskey for the long hot days, the long cold nights, the many lonely times, and the occasional celebrations. They were making some money to pay their farm laborers and to fulfill other needs, since whiskey substituted for the absent hard currency in the west. And they were making a little extra if they could, to sell—it was almost always paid for in kind, by crops, tools, or services. Thus, they were distilling in order to engage in a barter system with their friends and neighbors.⁶⁴ They

⁶²FINDLEY, HISTORY OF THE INSURRECTION, note 10 *supra*, 45, 43; BRACKENRIDGE, INSURRECTION, note 10 *supra*, 128; BRACKENRIDGE, INCIDENTS, note 10 *supra*, 1:90; Newville Resolutions, Cumberland County, Aug. 14, 1794, note 50 *supra*.

⁶³See text accompanying note 38 *supra*.

⁶⁴Barter, not sale for cash, predominated in the United States during this time. A fine treatment is to be found in LAUREL THATCHER ULRICH, A MIDWIFE’S TALE: THE LIFE OF MARTHA BALLARD, BASED ON HER DIARY, 1785-1812 (New York: Alfred A. Knopf, Inc.,

were not really in business, but the tax applied to all distillers.

The law gave distillers two choices. They could either pay a \$54 yearly tax, or they could be taxed by the gallon. Most small distillers could not afford the annual single payment, a ridiculously large sum for folks whose total worth might not exceed \$300, and Fennell estimates that this put them to as much as a 7:1 disadvantage to large distillers in being able to pass this expense on to their customers. The tax was indeed designed to do away with the small distillers. Henry Marie Brackenridge noted how many formerly distilling western farmers were forced by the tax itself to turn to their wealthy neighbors to have their grain made into spirits. This was consistent with the “developmental” motivation behind Hamilton’s financial schemes: in order to create a money economy, where none existed before, smaller, more “inefficient” seasonal distillers were to be replaced by large commercial distillers. Not only did this mean that the larger western distillers were favored over the family farmers, but, as the second set of Mingo Creek Resolutions claimed, that huge eastern distillers were given a monopolistic favoritism over all western distillers. It was not just factional politics which caused western opposition to the whole Hamilton funding scheme by petition in 1791 and 1794, and which led the protesters in Carlisle in August 1794 to oppose “the funding system[,] particularly the assumption of state debts,” as “oppressive unjust and unconstitutional.”⁶⁵ Despite Hamilton’s stubborn denials, the excise tax was unjust and oppressive to the small distiller.

On the other hand, since there was no circulating specie in the west, distillers of any size had no means to pay the tax. Since workers were paid in the circulating medium that did exist—whiskey (or sometimes grain)—the excise tax operated unfairly as an income tax on farm laborers, on artisans, and in fact on most people.⁶⁶ Westerners justifiably felt attacked at the very heart of their economic and social life, and when this was added to their traditional hatred of excises, they were furious. The elite Whiskey Rebels hated being treated in a colonialistic fashion—the tax, and the Hamilton policies, were “odious”—while lower-class Rebels were also actually deprived by the tax—it was “unjust” *and* “oppressive.”

And, as petitioning and other forms of protest achieved no results, some, particularly the lower classes, increasingly resorted to more violent methods.

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⁶⁵See BRACKENRIDGE, *INSURRECTION*, note 10 *supra*, 17, 25; Fennell, “Whiskey Rebellion,” note 10 *supra*, 179, 184, 229-58; [Carlisle Resolutions,] Aug. 29, 1794, note 50 *supra*; William Irvine to ?, Aug. 1794 (draft, from Pittsburgh), Box 12, William Irvine Papers, Historical Society of Pennsylvania. The second set of Mingo Creek Resolutions decried rule of the west “by eastern America,” by men who have all the power and patronage and who operate “opposite to the true Line of our obvious Interests.” Society of Hamiltons District, [Resolutions], May 5, 1794, Rawle Papers, note 39 *supra*.

⁶⁶FINDLEY, *HISTORY OF THE INSURRECTION*, note 6 *supra*, 40; Fennell, “Whiskey Rebellion,” note 10 *supra*, 55-56, 92, 96, 239, 245-47.

There are many reasons to believe that the violence had deeper roots than upset over the excise. Hugh Brackenridge, who lived through these events and was a sharp observer, insisted at the time that “[i]t was not the excise law, alone, that was the object with the people; it was, with many, not the principal object.”⁶⁷ Dorothy Fennell’s painstaking and pathbreaking research gives us good support for this observation.

First, as just noted, distillers represented only 5-10% of the taxable population, and yet 7000 people assembled on Braddock’s Field on August 1 to protest and eventually to march on Pittsburgh. Fennell has found that the residences of those who strongly pushed rebellion were in the most settled and populous townships of the four inflamed counties. There, commerce and industry were burgeoning, and the number of landless folks was also burgeoning; indeed, there were fewer commercial farmers or distillers in the Rebellion’s focal points than in more rural townships. In her study of the particular Rebels she could find data on, Fennell concludes that 75% of them were *not distillers*. In fact, the principal Rebels were landless, poor, or marginal-farming militia members who were the principal customers of the distillers, and the principal farm laborers for whom whiskey was pay. From those four counties during the year 1794, Fennell tracked down 40 targets of ritual crowd condemnation and abuse (people whose heads were shaved, or who were tarred and feathered, or who were left bound and naked, or who were threatened anonymously, either in print or by disguised and armed crowds or by strong declamations at liberty poles). Amazingly, fewer than half had even a tenuous known connection to the excise (as collectors, agents, their relatives, etc.), while most targets were successful in economic development or as entrepreneurs. They had Rebels as their customers, waged employees, or poor neighbors. Moreover, of these ritually abused persons who were not connected with the excise, all suffered their public censure *after* the burning of collector Neville’s house in mid-July and *after* the people’s banishment of the seven from Pittsburgh on August 1, that is, when the Rebel movement attained its height of courage and numbers, and had seen that its violence was not going to be immediately punished by the government. Rebels began forming themselves into armed rump militias to deliver the people’s own punishment. The crowd finally came to a realization of its own power, then took some self-interested non-traditional actions, and successfully exercised that power against economically oppressive elite persons.⁶⁸

All of the Pittsburgh people whom the Braddock’s Field crowd banished from the area were wealthy. They moreover had cornered the lucrative military supply business (that is, supplying the army which was at that moment fighting the Indians in Ohio under General Anthony Wayne), a business which in the 1790 and 1791 campaigns had been in many hands. There is no record that any *prominent* western distiller was a Rebel, “and in many ways—economic, social, and political—it is virtually impossible to distinguish them from their

⁶⁷BRACKENRIDGE, INCIDENTS, note 10 *supra*, 1:86.

⁶⁸Support for this and the next paragraph is found in Fennell, “Whiskey Rebellion,” note 10 *supra*, 54-58, 69, 147, 60-61, 123-29, 148-49 (the quote in the next paragraph is from p. 149); BRACKENRIDGE, INSURRECTION, note 10 *supra*, 17, 25.

[supposed] opponents. ... Ideologically, these [men] seemed committed to the commercial economy.” They in fact made money off the excise, since smaller distillers now came to them for distilling. The distance of the larger distillers from their supposed cause, and the direction of Rebel wrath against those successful in the emerging commercial economy, demonstrate the deepest cause of western anger: the rise of dependent wage labor, the growth of a commercial money economy, the concentration of wealth, the growth of a wealthy class as well as a landless and impoverished one, increasing disparities of wealth between rich and poor, government favoritism towards the rich, the imminent and increasing failure of a dream of relatively egalitarian smallholding farm-driven prosperity and local community autonomy. Anger at the excise, shared by all westerners, was for members of the rural crowd a way they could exorcise some of the demons derived from the dislocations and disappointments inherent in the coming of capitalism, which they imagined to be the fault of powerful rich easterners who were favored by, and controlled, the national government.

Second, issues of debt enforcement troubled all Whiskey Rebels, great and small. The lack of money in circulation made it difficult, and poor times made it impossible, for anyone to pay their debts. Rebels turned from obstructing auctions, building roadblocks, and demonstrating at courthouses⁶⁹ to the institution of extra-legal courts for debts and other local problems. They gave up on the regular courts, because they foreclosed first and asked questions later, and because they demanded payment in nonexistent hard money in order to prevent foreclosure, thereby “reduc[ing a debtor] from a state of competency to beggary and his family hurled into the depths of misery.” The last straw occurred in late fall 1791, when the Pennsylvania legislature changed the method of selecting local district and associate judges from election to appointment in order to try to prevent jurors, bystanders, or local connections from overriding “justice,” that is, debt repayment. The appointed judges were a great irritant to one Rebel in August 1794, as recounted by Brackenridge: “A man, of some note, and whose family had been at the burning of Neville’s house, was seen on horseback, in Pittsburgh, the day of Braddock’s field [that is, August 1, when the 7000 marched on Pittsburgh], riding along with a tomahawk in his hand, and raised over his head, [shouting]‘This is not all that I want: it is not the excise law only, that must go down; your district and associate judges must go down; your high offices and salaries. A great deal more is to be done; I am not done yet.’”⁷⁰

By 1794, informal court systems were in place in Washington, Westmoreland, and Alleghany Counties. The Society for Hamiltons District established a court in February 1794, whose goal “was to avoid high court costs and circumvent the rulings of appointed judges who proved too willing to foreclose property and imprison debtors.” Bouton’s research in the Washington County docketbooks reveals, that beginning in late 1791 and escalating thereafter, “numerous creditors dropped debt suits (and paid stiff penalties for doing so) to comply with the

⁶⁹Bouton, “Tying up the Revolution,” note 8 *supra*, .

⁷⁰“Petition,” *Carlisle Gazette*, Apr. 2, 1788 (source of first quote); BRACKENRIDGE, INCIDENTS, note 10 *supra*, 1:86 (second quote).

new” court. Suitors paid no fees for lawyers, writs, or judges—all was informal and local, neighbors heard both parties, arbitrated between them, and helped settlements to occur, and re-evaluation of the debt and of the value of a debtor’s goods in payment was done on the spot. While the courts were entirely voluntary, so that both debtor and creditor came willingly and agreed to accept the decision, the Society of Hamiltons District required its members to use only its own court, so it is likely that creditors acquiesced because of tremendous local social pressure, in the realization that only in this way would any part of their debts be paid to them.⁷¹ Acceptance of new judicial structures was revolutionary in and of itself, and all sorts of people seemed to participate in this aspect of the Rebellion.

A third source of mutual discontent was the provision in the Judiciary Act of 1789 which rendered all of Pennsylvania one federal judicial district, thereby, in the words of the second set of Mingo Creek Resolutions, allowing the “dragging the People west of the Allegheny mountains to be tried in Philadelphia for offences alleged to be committed in their respective counties,” 300 miles away from their witnesses and from juries of the vicinage who would be aware of local circumstances. Breach of the excise law could be a crime, and from its passage in 1791 this portion of the Act received condemnation from the west. It was another violation of the peoples’ political sensibilities, since it was traditional in English jurisprudence that persons accused of crime were to be tried in the area where the crime was committed, and by a jury from the vicinage. A westerner noted that “[t]he taking persons ‘beyond seas for trial,’ is one of the grievances complained of in the Declaration of Independence, and the idea of trial by the vicinage is one of the instincts of Saxon and American liberty.” But like the excise, this was an economic and practical matter as well, for the expense of such a trip was considerable, rendering the taking of one’s witnesses impossible and the trip itself quite distressing. Thomas Miller, the Washington County farmer at whose serving with a criminal writ for violation of the excise law by federal Marshal Lenox the Rebellion actually started in earnest, told Hugh Brackenridge: “I felt myself mad with passion. I thought 250 dollars would ruin me ... to go to the federal court, at Philadelphia.” Brackenridge’s son explains: “The western people ... cultivated their own farms ... [which were] seldom worth more than three hundred to one thousand dollars. ... [S]uits in the Federal court at Philadelphia ... subjected them to an expense equal to the value of their homesteads. ... Their *homes*, the homes of their wives and children, were in jeopardy.”⁷²

⁷¹“Constitution of the Mingo Creek Society,” Feb. 28, 1794, in BRACKENRIDGE, INCIDENTS, note 10 *supra*, 3:25; “Constitution for the District of Hamiltons,” Rawle Papers, note 39 *supra*; Bouton, “Tying up the Revolution,” note 8 *supra*, 423-27 (quotes from 426, 427). Some evidence of protesters’ effects on state courts may be found in Alexander Addison to Thomas Mifflin, Nov. 4, 1792, in PENNSYLVANIA ARCHIVES: SECOND SERIES, note 19 *supra*, 4:36-39.

⁷²Judiciary Act of 1789, 1 Stat. 73, secs. 3, 4, 5, most conveniently found in SUPREME COURT DOCUMENTARY HISTORY, note 33 *supra*, 4:41-48; Society of Hamiltons District, [Resolutions], May 5, 1794, note 65 *supra*; “A Citizen,” datelined “Nov. 19 1791, Washington County, Pennsylvania,” in *Dunlap’s American Daily Advertiser* [Philadelphia], Dec. 20, 1791,

The younger Brackenridge goes on to note: “[P]ower should have been given to [try the excise criminal cases in] the State courts, which the people would have respected. ... A law [to permit this] had been enacted [by Congress] to go into operation in the month of June 1794, only one month before the outbreak; but while this law was under discussion, and only a few days before it was signed, process as usual was issued returnable to Philadelphia; and ... the service of this process was the *immediate cause of the riots*.” The Washington administration did not wish to trust western courts or juries in criminal whiskey tax cases, but its distrust and fear of lower-class westerners precipitated the Rebellion.⁷³ While, as with the excise, all westerners found this

reprinted, SUPREME COURT DOCUMENTARY HISTORY, *supra*, 4:565; BRACKENRIDGE, INSURRECTION, note 10 *supra*, 30, 67; BRACKENRIDGE, INCIDENTS, note 10 *supra*, 1:122. See also “[Militia] Resolves of Ohio County, Virginia,” note 59 *supra*.

⁷³*Id.*, 26-27; Excise Act of June 5, 1794, secs. 9, 18, 1 Stat. 378. Congressman Findley, a bitter foe of the Washington administration, thought that Alexander Hamilton deliberately brought on the insurrection. The amendment allowing excise cases to be brought in state courts he thought “never to have been seriously designed” for operation. “[T]he treasury department ... [acted] in such a manner as was only calculated to encourage the opposition and discourage every exertion of well disposed citizens to support the law. ... Many [men of discernment] knew that he who stood at the helm of the revenue department had no aversion to being employed as a pilot in a storm.” FINDLEY, HISTORY OF THE INSURRECTION, note 10 *supra*, 74-75. Findley thought that Hamilton was willing to spend soldiers’ lives and westerners’ blood and fortunes in order to have an overwhelming show of force strengthening the new, centralized national government, and thus engineered nonuse of the new law.

It is clear that Hamilton disdained westerners, thought most of them rabble, had in 1792 advocated a military solution to excise tax noncompliance, “insisted [in the Cabinet meeting of Aug. 2, 1794,] upon the propriety of an immediate resort to Military force [against the western counties],” wrote four newspaper articles (as “Tully”) in August and early September 1794 whipping up enthusiasm for an overwhelming military force, and chose to go upon the expedition against the insurgents because “In popular governments ‘tis useful that those who propose measures should partake in whatever dangers they may involve. Twas very important there should be no mistake in the management of the affair.” SLAUGHTER, WHISKEY REBELLION, note 6 *supra*, 139-41, 118-21; [Minutes,] Conference Concerning the Insurrection in Western Pennsylvania, [Aug. 2, 1794], “Tully” Nos. I-IV, Aug. 23, Aug. 26, Aug. 28, Sept. 2, 1794, Alexander Hamilton to George Washington, Hamilton to Angelica Church, Sept. 19, 1794, Oct. 23, 1794, all in HAMILTON PAPERS, note 22 *supra*, 17:13, 132, 148, 159, 175, 255, 340. Hamilton did not trust the westerners to submit to anything else, so he *was* very desirous of having an overwhelming army go west, whatever the consequences to individuals. But it is probable that he did not conspire to prohibit the issuance of criminal writs returnable to state courts despite the new law; rather, this can likely be attributed to the whole Cabinet’s distrust of western state judges and jurors to convict. The instructions the Cabinet sent to the sham commissioners who went in midAugust to treat with the Rebels said: “If they speak of the hardship of being drawn to the federal Courts at a distance, ... reply ... that ... on all occasions

provision odious and infuriating, only middling and poor westerners would have been bankrupted or severely harmed economically by having to defend themselves in a criminal action in eastern Pennsylvania.

Land speculation provided yet another source of irritation and economic insecurity or dependency. The fury and growing sense of helplessness and alienation caused in the lower classes by this practice (typical of wealthy eastern entrepreneurs for at least the half-century before the Whiskey Rebellion) may be introduced by quoting (in their own spelling) two of the “Newville Resolutions” of August 14 from long-settled Cumberland County (which echo “the Land Jobbers” William Bonham was apparently complaining of contemporaneously in Northumberland County):

[Resolved, that] the mode of selling the Back Lands in Great Quantity’s to companys is unjust and improper, [unjust] Because it is destructive of an Esensial Principal in Every Republican Government, Viz., the Equal Division of Landed Property which Ought to be encourag’d By Law ... Impolitic, Because, it tends to Alienate the affection of the common people to the Federal Government by being themselves Deprived of Becoming Purchasers upon the same terms with the Favourites off Government

[Resolved, T]hat the people of the United States ought not to choose at the Ensuing Election for members of Congress any Speculators in the funds, any Stock Holder in the Bank of the United States, nor any Land Jobber, as these are a class of men who seem to Have a Separate Interest from the Mass of the People⁷⁴

In this view, a chasm of different interests separated “the mass of the people,” who desired and needed both equality of property ownership and a fair chance to own land, from those wealthy enough to participate in the great land-grabbing companies, and from those who made their money not by toil but by currency speculation, by coupon-clipping and dividends, and by speculation in lands. The wealthy and those who, today, desire a lower capital-gains tax, aided by a government favorable to the rich which was alienated from the people, were, to these lower-class protesters, neither good republicans nor worthy of handling the public trust. Such conditions were even worse for most westerners, where the percentage of land owned by absentees was great and growing, where the best, most fertile lands were held by speculators, and where for decades petitions had failed because, to governments sitting in the east and more beholden to the great men who speculated, the situation of western farmers was never as important as the interests of the speculators. Moreover, absentee owners enforced their rights,

which will permit the State Courts to be used without inconvenience to the United States or danger of their being frustrated in the object of the suits and prosecutions the State Courts will be resorted to—but the choice of Jurisdictions must always depend upon the discretion of the United States and therefore nothing more specific can be said at present.” Edmund Randolph to James Ross, Jasper Yeates, & William Bradford, Aug. 5[7], 1794, in *AMERICAN STATE PAPERS, MISCELLANEOUS 86-87* (Washington: Gales & Seaton, 1854).

⁷⁴Newville Resolutions, Cumberland County, Aug. 14, 1794, note 50 *supra*.

using coercion, threats, and lawsuits to pitch “squatters” off their lands. For many westerners, “the western country would remain, even more than the colonies had been in the British empire, economic captives of remote commercial and political overlords”—in a word, they would be colonials.⁷⁵

Perhaps the biggest and most successful “land jobber” was George Washington. Several trips through the country of western Pennsylvania and Ohio—first when he was a youth, then as a soldier, and finally to enforce his land rights (making the last such visit in 1784)—gave this shrewd, imperious wealthy planter, entrepreneur, and surveyor immediate acquaintance with the characteristics of the land. Washington became an avid and ruthless land speculator in the rich expanses he saw, always craving more, eventually holding title to more than 63,000 western acres (including 4700 in southwestern Pennsylvania), thus “becoming one of the largest absentee landlords the western country knew during his day.” He acquired this property in the manner usual to most capital accumulators: in making and holding his purchases, he lied, he knowingly and repeatedly broke the laws of Great Britain, Pennsylvania, and Virginia, he cheated the soldiers under his command who trusted him, including taking the best lands for himself when he distributed land allocated to his command, he browbeat, he sued (exhibiting disgust at the lack of respect “squatters” had for the law!), and he threatened. “Washington and other speculators were rapidly becoming the most despised men in the western country. ... [A bitter suit against immigrant squatters along Chartiers Creek, in the hotbed of the later Rebellion in Washington County,] exacerbated the local image of Washington as a rapacious speculator and grasping landlord.”⁷⁶

The squatters, respectable Scots, had entered during the Revolution. When Washington visited in 1784 they offered to pay him for their land, describing the hardships they had endured and their determination to make the land they had cleared and cultivated into a worthwhile home. Washington offered them 999-year leases or sale over three years with interest. The Scots could not afford it immediately, but agreed to pay his price if he gave up the interest and allowed them more time. Washington impatiently refused, then was angered that they declared willingness to fight him in court, as most squatters could not afford to go to court or just backed down under the General’s famous glare. Exclaiming “I will have this land just as surely as I now have this handkerchief,” Washington stamped out, sued the Scots in ejectment in the Pennsylvania Supreme Court in Philadelphia for fear of western judges and juries, and in October 1786 won. The Scots and all Washington’s other squatters were summarily thrown off his land. “Washington and other absentee landlords monopolized much of the area’s best land while local farmers

⁷⁵Fennell, “Whiskey Rebellion,” note 10 *supra*, 29-30, 39; SLAUGHTER, WHISKEY REBELLION, note 6 *supra*, 36-37, 65 & n.16, 88 (source of quote). For Bonham’s complaint, see text accompanying note 38 *supra*. For contemporaneous middle-class opposition to speculation, to government favoritism towards speculators, and to “the refined mazes of funding systems,” see FINDLEY, HISTORY OF THE INSURRECTION, note 10 *supra*, 51-53.

⁷⁶SLAUGHTER, WHISKEY REBELLION, note 6 *supra*, 78-89 (quote from 82).

labored to scratch a living from what remained.”⁷⁷

An assembly of delegates from the militia companies of Ohio County, Virginia, adjacent to the four inflamed Pennsylvania counties, complained about “men of wealth” who “engross[ed] land profusely.” First on the list of western grievances drawn up by the Redstone Old Fort August 29 assembly of the Whiskey Rebels for President Washington’s sham commissioners was concern about judicial refusal to recognize squatter titles, and the last item in their paper complained about the engrossing of large amounts of land by a few. The commissioners were shocked at these “specific demands aimed at remedying economic inequality, mostly in terms of equalizing access to opportunity and to land ownership.”⁷⁸ Again, eastern land speculation and engrossment rankled almost all westerners—90% of the wealthy westerners around Pittsburgh did not engage in land speculation—but it hurt middling and poor folks the most.

(f). The Grievances of the Lower Class

There were also complaints and sources of upset which affected only the poor and the marginal. We see these but dimly, since most historians either refuse to utilize class categories at all and lump everyone together—not looking distinctly at those on the bottom—or have great difficulty imagining that the lesser could be as important as the lessor. Moreover, poor folks leave little or no written record and were never viewed warmly or dispassionately by their better-off neighbors who did (although the “industrious poor” were occasionally sheared off from the “indolent,” “slothful,” “ignorant and obstinate” for praise by patronizing “liberals” or by those who lived by the artisanal work ethic).

However, since the poor constituted both the most numerous class of western residents and the great bulk of active Whiskey Rebels, we must look at them and the grievances entertained mostly by them with great care. Fortunately, five factors make this easier for us to do. First, since there were so many lower class Rebels, bits and pieces of their goals and grievances do survive. The Newville Resolutions, the Mingo Creek Resolutions, the Ohio County Virginia militia resolutions, and the preserved testimony in the Bonham/Northumberland County instance are the most important. Some newspaper articles found by Bouton help here. Second, this group of poor Rebels had a literate prophet whose sermons and writings were addressed to (in his own words) “the labouring industrious people, the militia of freemen” who would, he knew, “prevail over the standing armies of kings and tyrants that only rob them and live upon their labour in

⁷⁷ *Id.* 85.

⁷⁸ “[Militia] Resolves of Ohio County, Virginia,” note 59 *supra*; Fennell, “Whiskey Rebellion,” note 10 *supra*, 183-86 (second quote from p. 185). Most of the grounds of complaint mentioned in the text were presented to the sham commissioners, who “expressed their surprise at the extent of these complaints.” James Ross, Jasper Yeates, & William Bradford, [Report,] Sept. 24, 1794, in AMERICAN STATE PAPERS, MISCELLANEOUS, note 73 *supra*, 88.

idleness and luxury.”⁷⁹ He had been a part of the North Carolina Regulation, and his consistent messages and sermons captured and illustrated “many of the issues and grievances westerners ... raised throughout the Rebellion”—a prophet named Herman Husband.⁸⁰ Third, one contemporary member of the local elite recorded stories and anecdotes about the lower class Rebel folk whom he knew and served as lawyer, as aspiring politician, and as a sort of mediator during the Rebellion, stories which do not contain the disdain and smug social ignorance which characterizes the usual approach of the elite to the very poor. Hugh Brackenridge was also a novelist, and perhaps this phenomenon can be attributed to his novelist’s eye and ear. Fourth, much of the last half century of Anglo-American Marxist historiography has focused upon listening to the words of the people themselves, so techniques, usages, and models for the task are there for historians to take up. And finally, one marvelous historian has undertaken the challenge. Dorothy Fennell has painstakingly unearthed the socioeconomic characteristics of the Whiskey Rebels—their grievances, dreams, relationships, and activities—as well as can be done 200 years after their Rebellion was smashed.

One exclusively lower-class Rebel hope was independence. Only “the people of the country” ever spoke of separating themselves from the government of the United States. “I had frequently heard it said [reports Brackenridge] ... since the introduction of the excise law, that it were better for them to be under the British. ... [S]uch language began to be very common. But I cannot say, that I ever heard any person *of note* breathe the idea.” The poor had much less stake in the American government than did its elite defenders, especially given their view that Washington’s administration was oppressive, so they could more easily contemplate a major change. A second lower-class issue: only farmers were disturbed, it seems, about the intrusions into their private homes which were authorized by the excise laws. Probably, having little, they were zealous to protect it all, and deeply resented the power of some distant government to force itself onto their very hearthsides to search for untaxed whiskey.⁸¹ We shall soon see that all

⁷⁹HERMAN HUSBAND, XIV SERMONS ON THE CHARACTERS OF JACOB’S FOURTEEN SONS (Philadelphia, 1789), quoted in Fennell, “Whiskey Rebellion,” note 10 *supra*, 219-20.

⁸⁰Fennell, “Whiskey Rebellion,” note 10 *supra*, 190. For Husband’s North Carolina rebellion, see note 8 *supra* and accompanying text.

⁸¹BRACKENRIDGE, INCIDENTS, note 10 *supra*, 1:85; BRACKENRIDGE, INSURRECTION, note 10 *supra*, 18 (emphasis added).

This intrusive aspect of excises might have been rhetorically challenged by appeal to the Fourth Amendment, just as other Rebel grievances might have been talked about in terms of the First and Fifth Amendments of the recently-enacted Bill of Rights. While Magna Carta and the Declaration of Independence were cited by a people much more aware of their legal and constitutional rights and heritage than most people are today, not once was the Bill of Rights mentioned in any shape or form by any Rebel or other protester, high or low, during the entire Whiskey Rebellion, so far as my research has disclosed. Despite the hopes and overblown claims of modern civil rights historians, this is partial proof that the Bill of Rights was not very important as a practical matter for most of the American public during the 1790s.

Whiskey Rebels should have been upset at the power claimed by the government to enter their homes.

A third major grievance of the lower sort was that General Neville had grossly abused their trust in accepting the office of collector. When they and others had sent Neville to the state legislature, he had spoken out against the Pennsylvania state excise.⁸² Thomas Miller, whose anger at Marshal Lenox's attempt to serve a writ on him had commenced the violent stage of the Rebellion, and whose brother Oliver was killed by the first shot from Neville's house the next day, told Brackenridge: "General Neville ... had been against the excise law as much as anybody. When old Graham, the [state] excise man, was caught and had his hair cut off, I heard general Neville himself say, they ought to have cut the ears off the old rascal." Henry Marie Brackenridge remembered the same thing: "The people were indignant at the idea of [Neville's] having sought their favors [*i.e.*, votes], and then deserting them for the sake, as they believed, of the emolument of the office." The excise oversight pay was low, for a man of Neville's wealth, but it was not inconsiderable from the standpoint of those who were furious at this breach of faith. Fennell notes that the appointment of Washington's old friend Neville "reeked of patronage," gave the elite yet another advantage, and portended to the poor the likelihood that the excise law would not be impartially enforced.⁸³

Findley's account of the fury directed at Neville adds another level of understanding of the precommercial, precapitalist, traditional customs and beliefs of the western Pennsylvania crowd: he notes, in partial explanation, that the people also disliked salaried officers. Further, they disliked having a host of petty officials whom their taxes would have to pay. This was extremely important to the lower and middling sort, the backbone of the Rebellion in the west, as two anecdotes related by Brackenridge attest. The first, the "man of some note" who rode through Pittsburgh with his tomahawk high on August 1, shouted that "your high offices and salaries [must go down]." And on August 29, as the final western vote was being taken at Redstone Old Fort on whether and under what terms to end the Rebellion, "Torence Campbell ... came to me and informed me, that the excise law was not the only object with which the people were dissatisfied; the high salaries of officers, both in the general [*i.e.*, federal] and state governments, were a grievance; that he had prepared resolves on this, and some other subjects A number of other persons were anxious to bring forward resolves, and motions, to the same effect with Torence." It was burdensome to the poor and middling to have to pay for so many officials. The second set of Mingo Creek resolutions condemned the national government for "multiplying courts and civil officers with their enormous salaries."⁸⁴

⁸²See note 38 *supra* and accompanying text.

⁸³BRACKENRIDGE, INCIDENTS, note 10 *supra*, 1:122; BRACKENRIDGE, INSURRECTION, note 10 *supra*, 21 (source of "favors" quote); Fennell, "Whiskey Rebellion," note 10 *supra*, 124-25.

⁸⁴FINDLEY, HISTORY OF THE INSURRECTION, note 10 *supra*, 79-80; BRACKENRIDGE, INSURRECTION, note 10 *supra*, 18; BRACKENRIDGE, INCIDENTS, note 10 *supra*, 1:86, 1:99-100;

Solutions were also crucial. As we have seen, one remedy proposed by the Rebels and their sympathizers for the rising plague of undue advantage was “equal taxation” – in effect, as Bouton concludes, the institution of “a progressive tax on property and income.”⁸⁵ Moreover, though many elite persons acquiesced in votes proposing “more equal” taxes in the abstract, only Hugh Brackenridge among the elites is on record as advocating that taxes needed to be made equal in order to reduce the undue advantage they received.⁸⁶ this was overwhelmingly a lower class issue.

And it was a solution that had been advanced for several years. The 1792 multicounty meeting in Pittsburgh had advocated taxing “the wealth of the people.” Newspaper writer “M.S.” from Dauphin County in the east had in the winter of 1793 advocated “equal taxation” affecting “every individual according to his circumstances” or “according to the property they possess,” thereby compelling the “rich and opulent” to join in Hamilton’s funding schemes. “Men of fortune have engrossed immense tracts of land,” “M.S.” noted. “The *happy* excise law exempts them from paying taxes on their own property, and shoulders it over on others, as if they were beasts of burden and insensible of the imposition.”⁸⁷

This solution was widely advocated during the Rebellion itself. Many liberty pole flags were inscribed “equal taxation”; the Redstone Old Fort meeting on August 29 agreed that “a more equal, and less odious tax will be cheerfully paid by the people of these counties”; and from Northumberland and Cumberland Counties in eastern Pennsylvania to the four inflamed counties to Ohio County in Virginia, the protests of poor and middling folks all proposed precisely the same kind of “equal taxation.” Bonham had wanted land taxed, not the produce of the poor; and in the meeting at Lebo’s tavern there was apparently sentiment that “they will have a land tax, and [*i.e.*, if it were to be enacted] all will be equal.” In the words of the August 14 Newville Resolutions from Carlisle in Cumberland County, “we unanimously Resolve, that we will be Ready at all times to Support Government by the payment of Taxes (in common with our Fellow Citizens[]) in Proportion to the Value of our estates Real or Personal.” This was refined by the next Carlisle meeting on August 27 to read (but with the same meaning): “Resolved that all property real and personal but especially unseated [*i.e.*, unimproved] Land ought to be taxed by a direct Tax when needful for the support of government.” People would be willing, thus, to pay

Society of Hamiltons District, [*Resolutions*], May 5, 1794, note 65 *supra*.

⁸⁵Bouton, “Tying up the Revolution,” note 8 *supra*, 408.

⁸⁶Brackenridge was somewhat equivocal on this point—he wanted “a direct tax with a view to reach unsettled lands which all around us have been purchased by speculating men who kept them up in large bodies and obstructed the population of the country.” BRACKENRIDGE, INCIDENTS, note 10 *supra*, 3:14.

⁸⁷*Minutes of the Meeting at Pittsburgh, 21, 22 Aug., 1792*, note 19 *supra*; “M.S.,” *The Oracle of Dauphin and Harrisburgh Advertiser*, Jan. 14, 28, Feb. 11, 1793, as quoted in Bouton, “Tying up the Revolution,” note 8 *supra*, 409.

taxes in proportion to their income and wealth; all property owners (including “our Fellow [rich] Citizens”) would pay, and government would be supported fairly “when needful” without any class or group gaining an undue advantage.⁸⁸

The poor and middling Rebels saw equal taxation as part of a general reform. They wanted government to make things equal by helping them too, not just the rich. The Ohio County Virginia Militia Resolutions urged that affording “the industrious men of a middle and low class an equal privilege with those of the rich ... ought to be the true object of a republican government.” The Newville Resolutions, as we have seen, demanded that the government stop favoring land jobbers by remedying the balance in favor of “the common people”: their authors thought it an “Essential Principal in Every Republican Government” that there be an “Equal Division of Landed Property,” so that the “affection of the common people to the federal Government” would not be “Alienate[d]” because they were unable to buy land from government “upon the same terms with the Favourites of Government.” Two other sources of potential remedial government aid for the poor and middling, who formed the overwhelming bulk of the militia, were implicit in the denunciation by the Newville Resolutions “that the present pay of Militia is no way adequate to their service, as being short of the pay of the Day Labourers” and of the “so great [Disproportion] Between the pay of [militia] Officers and Privates.” The latter complaint was also made in the Ohio County Virginia Militia Resolutions. Petitions from the Pittsburgh area to the government in Washington drafted even prior to the summer of 1794 complained bitterly of inadequate militia pay, the poor credit available to westerners, and abuse of patronage, and noted that the excise tax on whiskey would discourage farming and distilling by the smaller producers, since it fell hardest upon “the laborious and poorer classes.”⁸⁹

These petitions and grievances speak openly and bluntly from the standpoint of “freemen,” the militia, the “common people,” “industrious men of a low class,” “Day Labourers,” “the poor,” “the laborious and poorer classes.” The people were actually speaking up. The poor and middling folk who comprised the overwhelming majority of United States citizens were voicing their deeply felt upset at the undue advantage that the government and the economy were giving to the rich, at their cost. They thought that a good republican government (as it called itself) had a moral obligation to help them acquire land and gain an *actual economic equality* with

⁸⁸Fennell, “Whiskey Rebellion,” note 10 *supra*, 181-82; Carnahan, *The Pennsylvania Insurrection of 1794*, note 10 *supra*, 1:90; Bonham and crowd at Lebo’s (from Northumberland) quoted in text accompanying note 40 *supra*; Newville Resolutions, Cumberland County, Aug. 14, 1794, note 50 *supra*; [Carlisle Resolutions,] Aug. 29, 1794, note 50 *supra*. See also Fennell, *supra*, at 181 (noting that an earlier petition from the western counties, desiring the resignation of Neville, asked for a direct tax operating in proportion to wealth); “[Militia] Resolves of Ohio County, Virginia,” note 59 *supra*, 269 (desiring “a direct tax on real property”).

⁸⁹ “[Militia] Resolves of Ohio County, Virginia,” note 59 *supra*, 269; Newville Resolutions, Cumberland County, Aug. 14, 1794, note 50 *supra*; Fennell, “Whiskey Rebellion,” note 10 *supra*, 178-79, 182 (quote from 179).

“the Favourites of Government.” They wanted a government whose officials did not “seem to Have a Separate Interest from the Mass of the People,” a government responsive to the needy that would redistribute property down the economic scale rather than up. They were fed up with being inadequately fed and impoverished, and wanted neither a government nor an economy which promoted impoverishment.⁹⁰

The lower-class Rebels thought they wanted human political, economic, and social equality, in which all (though they really meant ‘all white men’) were supposed to be listened to and satisfied by their government. The Newville Resolutions opined “that every Law made by the Representatives not agreeable to the voice of those from whom they Derive their Authority is Tyranical and unjust, as virtue is the only spring that Supports a Republican government, and not power.” The only good republican government was one which protected the people in their rights and promoted the popular welfare, according to the second set of Mingo Creek Resolutions.⁹¹ The Whiskey Rebels, through bitter experience with political reality a decade after what they thought was popular victory in the Revolution against Great Britain, knew that the Pennsylvania government under its less democratic 1790 constitution, and the new government of the United States embodied by Washington and Hamilton, were moving away from rather than towards such goals.

Radical change was necessary, though, as the Declaration of Independence showed, it could be accomplished by the people themselves through communal deliberation and fortitude. The second Mingo Creek Resolutions avowed that the “sole constitutional mode” for obtaining what the people truly needed was “a complete and radical reform of the representation of the People in the legislature,” which in turn could be achieved “only by unanimity, decision, and spirit in the people.” The Mingo Creek Society which put these resolves forward was organized on very different principles from those of the national government under the new Constitution. Its Council was chosen from each of the eight militia captain’s districts in the area from which the Hamiltons District militia battalion was taken. Councillors’ terms of office were six months. Men could vote at 18 and serve on Council or as its President at 25. The President was elected from the same suffrages only for a term of 9 months. The minutes of each Council meeting were to be provided in writing to each of the eight militia captains. All Society officials were subject to impeachment. While there was a subordinate executive, primary power lay with the Council, in which all legislative and judicial functions were vested. Such a democratic body was more likely than the national government to have “the affection of the common people” because the common people composed it, because (as with membership in Congress under the Articles of Confederation) they could recompose it quite frequently, and because it would be more likely to listen “to the voice of those from whom they Derive their Authority.”⁹² Virtue, rather than power, would more likely be its prime attribute. It appeared from their recent history, however, that

⁹⁰Newville Resolutions, Cumberland County, Aug. 14, 1794, note 50 *supra*.

⁹¹*Id.*; Society of Hamiltons District, [*Resolutions*], May 5, 1794, note 65 *supra*.

⁹²*Id.*; “Constitution for the District of Hamiltons,” note 71 *supra*.

sufficient reform to achieve a national government similarly responsive to the needs of ordinary working poor and middling folks would be very difficult, if not impossible.

3. *The Economic Situation of the Lower-Class Rebels*

We should take care not to radically disentwine the economic from the political. The deepest concern of the poor was poverty itself. As they saw it, small producers were facing impending ruin; the government was hurting, not helping; and that hurt was directly benefitting elites in the eastern part of the United States. As the first set of Mingo Creek Resolves put it, protesting the failure to open the Mississippi, “if wretchedness and Poverty awaits us, it is of no concern to us how they are produced—we are gratified in the prosperity of the Atlantic states, but would not speak the language of truth and sincerity, were we not to declare our unwillingness, to make any sacrifices to it, when their importance and those sacrifices results from our distresses.”⁹³

We will here take note of the conditions around Pittsburgh, because they have been studied closely. Wretchedness and poverty were the conditions of living across the Alleghenies, but matters were not a great deal different in rural areas of the east thanks to the depression which blanketed the nation during the period 1783-93. Urbanization and the introduction of a money economy were proceeding in all portions of the union. So the conditions of life for the western Rebels probably approximated the conditions of life for all the Rebels.

Poverty, filth, whiskey, overcrowded leaky cabins in a harsh empty landscape, violence, rude and ignorant people, and a barter economy constituted “the west” to astounded elite visitors from the east, especially those traveling westward because of rosy lies contained in the propaganda of the land speculators.⁹⁴ Conditions *were* rude and poor, but the situation worsened after the Revolution. Poverty increased in the years before 1794 because of the rise of landlessness and the coming to local economic dominance of waged labor. Everyone knew that autonomy, independence, and selfhood were impossible unless one had “ownership”—land, or an artisanal skill, or a shop or business. Landlessness and wage labor did not constitute “ownership,” but, on the contrary, were forms of personal enthrallment. Day labor always existed, whereby one made ends meet during beginnings, or during bad times on the farm or in the mechanic’s shop. But wage work for another on a permanent basis—outside the hierarchical systems of skilled artisanry—was by definition an unfree existence, productive of political dependence and moral degradation. Many people had come across the mountains precisely to escape dependence—wage-labor and/or heavy indebtedness—or because landed independence could no longer be assured from the dwindling stocks of arable land in the east. Many also found the growing cash economy of the seaboard distasteful or oppressive, to say nothing of legislative policy in the eastern states which betrayed a sporadic but marked tendency to favor urban areas, commerce, and “development.” John Holcroft, a leader in the Mingo Creek Society, reputedly had just fought

⁹³Society of Hamiltons District, [*Resolutions*], Apr. 7, 1794, note 59 *supra*. See generally Fennell, “Whiskey Rebellion,” note 10 *supra*, 177-90.

⁹⁴SLAUGHTER, WHISKEY REBELLION, note 6 *supra*, 63-64, 68-69, 71.

against economic submergence as a member of Shays' Rebellion in western Massachusetts, for example, moving across the mountains upon Shays' defeat. The recent American Revolution served as a memorable benchmark for all: the lower sort understood that the hard-fought victory of their farmer/artisan army had promised the possibility of independence and autonomy for the average person, but increasing poverty and loss of autonomy dashed those hopes.⁹⁵

Dorothy Fennell has investigated the economic situation of the people of western Pennsylvania during the two decades preceding the Whiskey Rebellion. She found that, in the most settled areas, along the rivers and major creeks, especially in Washington and Alleghany Counties where the Rebellion had its home, by 1794 most of the people were neither distillers (only 5-10% of the *taxable* population) nor commercial farmers. They were, instead, landless folk whose dreams of autonomy had ended up in the what was, for them, the nightmare of wage labor.

Three concomitant trends are most important to this understanding. First, in the 15 years since the Revolution had effectively ended, landless folk came to comprise as much as 60% of the taxable population of these older, settled townships, while the top 10% of landowners (those who had owned the most land in 1780) had expanded their holdings and middling farmers had begun to engage in commercial farming.⁹⁶

Second, squatting farmers were increasingly displaced by absentee "land jobbers" or land speculators (such as George Washington). Third, these townships "showed many signs of a developed commercial economy—nonagricultural occupations, wage labor, landlessness, manufacturing and cottage industry, and a crystallized class structure." Less than half of the adult male residents of Washington and Fayette Counties owned land in 1796, while wage "laborers, tenants, apprentices, and artisans now appeared in considerable numbers in the river townships of all four counties." In Washington County alone, landless inhabitants in the river townships accounted for about 45% of the *taxable* population. Many land holdings were too small to comprise self-sufficient farms, while commercial activity (milling, distilling, bootmaking, saddlemaking, manufacturing, trading, innkeeping) now employed many people. Pittsburgh, in Alleghany County, was the chief commercial center of the region, and many artisanal trades and businesses had sprung up there to accommodate both the growing Ohio River traffic and General Wayne's army battling the Indians further west. The army spent more than \$10,000 there on wages and supplies in 1793 alone. Pittsburgh's non-farming activity had begun to spread down into Washington County and further up into Alleghany County, *in those very areas which would produce the first and most vigorous Rebels*. Ironmaking had become important, second only to

⁹⁵Fennell, "Whiskey Rebellion," note 10 *supra*, 25, 96, 116, 176, 185-86, 194-206, 214-15, 219; SLAUGHTER, WHISKEY REBELLION, note 6 *supra*, 69-70. For the rumor that Holcroft had previously been a Shaysite, see Albert Gallatin to Hannah Gallatin, May 12, 1795, in HENRY ADAMS, THE LIFE OF ALBERT GALLATIN (Philadelphia: J.B. Lippincott & Co., 1879), 149.

⁹⁶Fennell, "Whiskey Rebellion," note 10 *supra*, 54-60.

boat-building in terms of employment. Fennell estimates that between 30% and 60% of the population was engaged in trades, businesses, and commercial ventures in 1794, overwhelmingly as paid labor. In a “swift but painful” change which had taken place over two decades, “[s]ubsistence farmers or their sons [had] turned to wage labor [and i]ncreasingly tenants [had] failed to become landowners.” The Whiskey Rebellion “evidently offered many opportunities to express the frustration and disappointment that are commonly associated with the transition from an agricultural economy to a commercial and manufacturing economy,” a frustration again heightened by the ideology of propertied autonomy and locally-centered popular freedom which their heritage and the Revolution had imbued them with. This is why they were so indignant about land speculation and the growing un-republican imbalances in land ownership, so concerned that the excise tax would discourage agriculture, and so protective of small producers and the laborious and poorer classes in their statements of grievance.⁹⁷

4. “It was the People [that] led” the Rebellion

The landless, frustrated, displaced, and poor folk described in the previous sections were in fact the bulk of the Whiskey Rebels. The Rebels were not the wealthy distillers nor the commercial and middling farmers who people our class-biased mythology of the Rebellion. Most of the Rebels were the customers and hired hands of the distillers and middling farmers. Some were the landless sons of landowners. Some were Revolutionary War veterans now bootless. Some were mechanics and laborers. Some were owners of small stills and too-small farms. Many were drifting. All wanted to work, most did work, but work was just as unfulfilling for them as was politics.

Fennell has given us one measure of proof of the working-class nature of the Rebels. She studied the characteristics of the 190 Rebels she could dredge up sufficient information about, a sample which itself overrepresents the prominent. Only one-quarter were distillers, of which 40% (11% of the whole 190) were poor or middling distillers. An astounding 55 of the 190 were militia officers in 1793 or 1794, while six others served special militia assignments during those years and six more were to become militia officers in the period 1795-97, in all totaling more than one-third of her sample. “Over two-thirds of these rebels appear to have been no more than ordinary men,” Fennell finds, so landless men were elected by their fellow troops to serve them as

⁹⁷*Id.*, 38-39, 79-97 (quotes from 79-80, 80, 97, 39). William Winans later remembered growing up in the Pittsburgh area at the time of the Rebellion: “Before I was fifteen years old, ... I lived in a region abounding in furnaces and forges for the manufacture [of] iron, and was frequently employed in them, at such labor as I could perform.” William Winans, *Recollections of Boyhood Years in Southwestern Pennsylvania, 1788-1804*, 22 W. PA. HIST. MAG. 25 (1939).

Slaughter has a weak but similar version of the exigencies of lower-class circumstances in the west, but since his goal is to deny a class-based understanding of the Whiskey Rebellion, his discussion of these circumstances is less sharp than Fennell’s, and is scattered throughout his book. He frequently fails to cite those parts of Fennell’s work which support many of his conclusions, instead citing non-class-based works. See SLAUGHTER, WHISKEY REBELLION, note 6 *supra*, 65-67, 70, 154, 165, 186-87, 203, and relevant footnotes.

officers. The militia was the most inclusive, and by far the most democratic, community organization available. All white males between the ages of 16 and 43 served; all chose their officers by ballot up to the level of regimental colonel; and all were eligible to serve as officers. "Men who did not have the clothes, social connections, or money to run for a civil office" could nevertheless succeed in the militia. "[F]or the ordinary man, a militia office was perhaps his only structured opportunity to serve the community." It is indisputable that the militia, rather than farmers as a group or distillers as a group, formed the core of the Rebellion. The Mingo Creek Society was militia-based, the Ohio County Virginia Militia Resolves came from a nearby militia unit, and the Newville Resolutions from Cumberland County demanded higher pay for militia privates. William Findley noted how prominent in the two-day assault on General Neville's house were the Mingo Creek militia. Armed groups performed most of the activities the Rebels became notorious for, and it was through the militia that the 7000 assembled on August 1 at Braddock's Field. At the Redstone Old Fort meeting on August 28-29, where the Rebels hammered out their response to the sham commissioners sent by President Washington, Findley tells us that an armed party of about 65 infantry and horse paraded outside with drums beating.⁹⁸

These conclusions are confirmed by the data Fennell was able to obtain on 65 Rebels from Washington County. One-third either owned no land (20) or did not appear in tax assessments and were described in court records as laborers or apprentices (6). Twenty owned stills, while 15 held a militia office in 1794 and eight more either did so later or served on special militia assignment in 1794 or were described as militia officers though no commission could be found. Six of the 15 officers of 1794 owned neither land nor stills. Forty-three of the 65 did not sign the submission to the United States government on October 11. Forty-three percent of the 65 were landless, both in the two most rebellious townships, and in the county as a whole, and since it is clear that many landless people did not make it into the sample, the overall percentage of landless Rebels from Washington County was likely much higher.⁹⁹

⁹⁸Fennell, "Whiskey Rebellion," note 10 *supra*, 60-62, 147-48, 151-58; FINDLEY, HISTORY OF THE INSURRECTION, note 10 *supra*, 56, 84-86, 121. See generally STEVEN ROSSWURM, ARMS, COUNTRY, AND CLASS: THE PHILADELPHIA MILITIA AND "LOWER SORT" DURING THE AMERICAN REVOLUTION, 1775-1783 (New Brunswick, NJ: Rutgers University Press, 1990).

⁹⁹Fennell, "Whiskey Rebellion," note 10 *supra*, 159-62.

It will be argued by some that this work is undertheorized. I have certainly not defined such important terms as "capitalism," "class," and "elite," and I have placed artisans and landless laborers into the same group as yeomen farmers. On the one hand, Allan Kulikoff has done my theoretical work for me (and for all of us) in AGRARIAN ORIGINS, note 11 *supra*, pp. 1-47, 69-77 *et passim*. The Whiskey Rebels were, in Kulikoff's apt terms, either actually or aspirationally members of what he calls the yeoman class. Their goal was to achieve or maintain ownership of sufficient farm land to keep themselves, their families, and their farming communities in independence—and especially did they want to be independent of market relations, which they greatly feared. "While upholding [inequalities of sex, class, race, and wealth], they nonetheless

A second way of measuring the lower-class nature of the Rebellion is to look at the manner in which Rebel activities occurred. Excise officials were constantly threatened with, and some were subjected to, traditional lower-class modes of retribution: brash demands for free whiskey, tarring and feathering, the shaving of heads, being left bound and naked (and then “found” soon after), being menaced or attacked under additional cover of darkness by men with blackened faces or disguised as Indians (blackening, or disguise, being a traditional British lower-class manner of both hiding the protesters’ identities and signaling that they represented the larger community), demanding the official papers of the activity disapproved of, being forced to resign—and especially the intimidation posed by the erection of liberty poles. While persons of middling or elite status would have refused to pay the tax, would have joined a boycott, would have refused jury service or, serving, would have acquitted their neighbors, such people would have found it disgusting and embarrassing to participate in the kinds of crowd activity just mentioned. When around August 1 traditional crowd protest activity began to expand, threatening handbills and notes put into the local newspaper were still anonymous, signed by “Tom the Tinker,” an artisanal or lower-class designation. As Henry Marie Brackenridge said later, these “vulgar pranks [were] disapproved of by the respectable part of the people, but it was not in their power to prevent them.”¹⁰⁰

Noting the existence of such activity in western Pennsylvania for decades prior to the Rebellion, Fennell says: “[This] sequence of capture, personal abuse, threats, and compromise represented the style of popular protest characteristic of eighteenth-century [British] crowds This ritualized violence set the stage for the victim to denounce legitimate authority and to promise that he would reform along the lines requested. These attacks were part of a political tradition that allowed the community, under certain circumstances, to overrule legitimate authority simply by forcing its representatives to resign or to do less than the office entailed.” At

thought that there should be no differences among men, ... supported political democracy, ... and urged the widest possible franchise Only such a democratic polity could protect their economic rights to land and subsistence.” *Id.*, 35.

On the other hand, there are grave dangers to overtheorization. The most persistent and militant Whiskey Rebels were not in fact yeomen themselves—they were either aspiring yeomen whose landowning dreams were being crushed by land speculators and government favoritism towards land speculation, or those whose yeoman status had been diminished or erased by developmental capitalist forces embodied in the Hamilton plan and the Washington government. The actual yeomen among the Rebels, in the main, capitulated to the administration's use of force and terror. The remaining Rebels, the poorest and most impacted, continued to fight for an ideal of yeoman independence that they did not have, or have much of.

I think I am describing what happened, and I am less concerned with drawing static lines across a fluid landscape of rebellion, less concerned with categorization. The practice of class revolution is more important than any theory of classes.

¹⁰⁰FINDLEY, HISTORY OF THE INSURRECTION, note 10 *supra*, 32, 54, 58-61, 67-68, 115; BRACKENRIDGE, INSURRECTION, note 10 *supra*, 19 (source of quote), 28-29, 85, 128.

first the Rebels only attacked those who tried to enforce the excise, and later those few who tried to comply with its provisions. However, the scale of government and elite opposition to their attempted traditional participation in government through crowd protest and negation, and their success at exercising power, caused them to move into new arenas of protest, and with new methods.¹⁰¹

A third measure of the lower-class nature of the Rebellion has surprisingly received little notice: every commentator upon the Rebellion has concluded that lower-class elements prevailed in it. From Alexander Hamilton to William Findley, from John Marshall to modern historians, all have agreed that the prime movers and chief footsoldiers of rebellion were members of the lower classes. Almost all of these commentators, however, use pejorative terms to describe the Rebels, or focus on the agency of others, in order to dismiss or dilute the power of the lower class in this crucial struggle. Those who feel comfortable with the Federalist position openly scorn the Rebels' supposedly lower-class failings, their grievances, and their inability to put up much of a battle. For example, historian Forrest McDonald calls them "lawless hotheads" who were "uncouth, drunken, lazy, brutal, wasteful, and contentious." Federalist historians do not, however, deny the brutish agency the lower class exerted in 1794. Others, whom we might call proponents of the Jeffersonian or liberal view, such as historian Thomas Slaughter, find the Rebels uncouth and powerful but essentially reactive—unworthy of much focused attention as real

¹⁰¹Fennell, "Whiskey Rebellion," note 10 *supra*, 5-6, 11-15 (quote from p. 12), 60, 64-66, 99-108. Persons of substantial property were never tarred and feathered; rather, they were "tried" and censured or banished, or had their property destroyed. *Id.* at 114.

The classic treatments of the transfer of radical traditions and beliefs from England to the new world are Alfred F. Young, *English Plebeian Culture and Eighteenth-Century American Radicalism*, in MARGARET & JAMES JACOB, eds., *THE ORIGINS OF ANGLO-AMERICAN RADICALISM* (London: Allen & Unwin, 1984); Peter Linebaugh, *All the Atlantic Mountains Shook*, *LABOR/LE TRAVAILLEUR* (1982) 10:87-121.

It should be noted that most peasant farmers from England and Scotland had been used to equitably distributed use of and community power over their farmlands, fens, and forest lands, arguing over and governing the parish and village commons which, being shared by the whole community and not just the wealthy, allowed the poor to grow crops, pasture farm animals, and heat their houses. Commoning traditions were remembered in their egalitarian demands just as protest traditions were remembered in their activities, see generally J.M. NEESON, *COMMONERS: COMMON RIGHT, ENCLOSURE AND SOCIAL RIGHT IN ENGLAND, 1700-1820* (New York: Cambridge University Press, 1993), and the commons persisted in one form or another in the eastern and southern United States until after the Civil War, see STEVEN HAHN, *THE ROOTS OF SOUTHERN POPULISM: YEOMAN FARMERS AND THE TRANSFORMATION OF THE GEORGIA UPCOUNTRY, 1850-1890* (New York: Oxford University Press, 1983). In fact, the twin British traditions of commons government and lower-class protest were directly connected: the trees used for liberty poles, to the commoners, were their natural right and fruit of their land, while, to the elites, were stolen from the common (or elite-enclosed) forest without shadow of right. See NEESON, *supra*, 60-63.

people or primary actors—with most of the cause, story, and “blame” regarding the Whiskey Rebellion to be found elsewhere.¹⁰² Only a very few members of the elite have seen the lower-class Rebels as praiseworthy: one, contemporary Pittsburgh lawyer and Rebel neighbor Hugh Brackenridge, still clearly a member of the ruling class in his own mind, nevertheless gave the Rebels their due as powerful lower-class members of society, without the accompanying disdain other elite members display.¹⁰³

Evidence of the snobbish nature of contemporary Federalist and Jeffersonian attitudes towards the Rebels is rampant. John Marshall called the Rebels “a furious multitude,” implying that they were misguided. Alexander Hamilton called them “madmen.” Henry Marie Brackenridge, who at one place condemned Hamilton for “assuming the right to think for” the Rebels, “as if those who feel the oppression are not the best judges of its extent and severity,” nevertheless himself looked down his nose at some of the Rebels, calling them “ignorant and reckless,” “the dregs of society.” William Findley, who was elected to Congress as an opponent of the Federalists by some of the Rebels, and who had been a weaver by trade before he improved himself to become a lawyer, consistently sneered at those of his neighbors and constituents he thought lower class—even though he also gives us an accurate picture of the force and strength of the aroused, desperate western poor. As the Rebellion progressed, as the Rebels became more

¹⁰²Slaughter’s history, note 6 *supra*, gives a great deal of evidence of what I have called the Federalist position on the Rebellion, which he calls the position of the “friends of order,” but he fails to describe those views as elitist. Moreover he, like most historians, fails to notice how most of those who opposed the Federalists, whom he praises as the “friends of liberty,” had a similarly pejorative view of the lower-class Rebels—nor does he admit that he is one of the “friends of liberty.” See Slaughter, *Historiography*, note 3 *supra*, esp. 16-24 (quoting McDonald at 19). More accurate on this point than the Jeffersonians, the “friends of order” note the collective agency of the poor but fear and openly denigrate their lower class characteristics. Most “friends of liberty” (like Slaughter), on the other hand, submerge the same dismissive sentiment in a sea of anti-class wishy-washiness. The whole of Slaughter’s *WHISKEY REBELLION* is designed to scrape together all the “causes” of the Rebellion from all differing viewpoints—with no critical ranking—so as effectively to lose the primary agency of the lower class in a postmodern hodgepodge of “factors” and “viewpoints.”

¹⁰³Brackenridge, throughout his account of the Rebellion, takes a traditional aristocratic position that, as an opponent of violent popular revolution, it was his duty (in his own words) “to manage the people” in order “to take the business out of the hands of the multitude.” Unlike his Federalist or Jeffersonian contemporaries, however, he never uses pejoratives to describe that multitude. He gives evidence of much sensitivity, for example, his helping to pay for a doctor’s treatment of a Rebel wounded at Neville’s who “had nothing himself in the world,” and his being aware that the demand by the sham commissioners that each westerner sign a submission on October 11 in order to gain amnesty “would be considered by some as humiliating” because so many Rebels were illiterate. BRACKENRIDGE, INCIDENTS, note 10 *supra*, 1:91, 1:104-05, 2:10, 1:123.

bold and yet more desperate because of apostasy in the face of the invading army, for Findley it was “the ignorant and the obstinate becom[ing] more outrageous,” while he describes another Rebel event as an attack by “the meanest of the rabble.” Finally, after the vote at Redstone Old Fort on August 29 for submission to the army and the President, indicating the melting away from the Rebellion of the fearsome middling sort who had something to lose, Findley heard and saw threats made “by a description of people, whose voice is not heard in society in settled times ... such as seldom attended elections ... who had not horses to ride nor cloaths to put on.” Recall also the hostile impressions of lower-class folk recorded in army journals. Captain Ford of the New Jersey militia revealed the depths of class feeling: noting how few disaffected persons they met, when the army got to Harrisburg, and saying “that to use the language of our soldiers, we thought we had again got among white folks, or Christians.”¹⁰⁴ This is more than racism, more than religious bigotry: it is the palpable relief at being among his own kind is clearly class critique.

The language of class was not foreign in the 1790s. Strange as it seems to our modern sensibility, since we have been deprived of our heritage of class struggle by liberal politicians and historians, elites in the east carried on debates over the excise and the Rebellion in class terms. To the Federalists, their greatest threat was the “rabble” apparently led by ambitious elite members, since it was unthinkable to people like Washington, Hamilton, and Marshall that the poor could ever lead themselves. They wanted to “subdue the[se untoward] passions unloosed by the Revolutionary experience.”¹⁰⁵ The Rebels were the lower class, and all knew it then, elites and lower class folk alike. All observers have seen it since then, but the current vocabulary of classlessness does not allow them to label or to understand it.

Lower class people—*the people*—led the Rebellion themselves, despite the impotent vision of them held by Hamilton and other Federalists. Hugh Henry Brackenridge makes this absolutely clear, actually depicting in miniature the birth of lower-class leadership. In one Rebel assault, he relates, “the rioters had been at first at a loss for a leader; no one willing to take upon him so ostensible, and of consequence, so responsible a part; at length, a certain Spangler came forward and accepted it, ... saying ‘I have nothing to lose.’” “It is a great mistake,” Brackenridge urges, “to suppose that Bradford or Marshall [elite persons who appeared to run the Rebel cause], or others, led the people. It was the people [that] led them. It was the mass of the people that commanded; and it was the fear of them, that operated on the minds of the more conspicuous

¹⁰⁴MARSHALL, LIFE OF WASHINGTON, note 2 *supra*, 5:366; Alexander Hamilton to Angelica Church, Oct. 23, 1794, in HAMILTON PAPERS, note 22 *supra*, 17:340; BRACKENRIDGE, INSURRECTION, note 10 *supra*, 21, 250, 42; FINDLEY, HISTORY OF THE INSURRECTION, note 10 *supra*, 63, 161, 128, 131; Ford, *Journal*, note 53 *supra*, 82. Findley was quick to distinguish the “not only slothful, but ignorant and obstinate” lower class Rebels, who had “nothing to lose,” from the “industrious poor” who were “better behaved.” FINDLEY, *supra*, 132.

¹⁰⁵SLAUGHTER, WHISKEY REBELLION, note 6 *supra*, 195-96.

individuals [such as Brackenridge himself].”¹⁰⁶ The Rebels understood how they would be viewed by the elite, too; in Westmoreland County a resolution was passed that anyone who called the people a mob should be tarred and feathered.¹⁰⁷

At first, the people in rebellion confined themselves to traditional tactics, but as they became more numerous, saw the power they had, and simultaneously became more desperate as they understood the strength of the forces arrayed against them, they adopted new, more overt, more aggressive tactics. They began to march undisguised. They destroyed increasing amounts of valuable “private” property. And they began to act like a government, holding their own civil courts, forming their own militia units, holding mock criminal trials (of excise officials, of leading commercial people in Pittsburgh, and of nonconforming poor people), and raising their new six-striped flag in the march on Pittsburgh and atop liberty poles on at least three other occasions, thereby openly calling for independence. During this time of self-realization, most of their violence was directed *not* at nonconforming distillers but at members of the wealthy commercial or propertied few who were exploiting their labor, taking their land, socializing separately from them, flaunting wealth, benefitting from their taxes, sometimes enforcing debts against them when it was known no one could pay his debts, using ties to the distant state and national governments in partisan, privileged fashion to cement and increase power and fortune—in general, not acting as part of the community, but as greedy individuals or as members of a privileged elite. A class in itself briefly became a class for itself.¹⁰⁸

The Rebels claimed that government had the moral responsibility to aid the poor, and were willing to leave the union when it persisted in not doing so.¹⁰⁹

“[Liberty] pole raising was the most overtly political act committed in the western country because around those poles men publicly affirmed a desire to oppose the government, and on

¹⁰⁶BRACKENRIDGE, INCIDENTS, note 10 *supra*, 3:153, 1:105; see also *id.* at 2:10, 2:58.

¹⁰⁷Testimony of Albert Gallatin, June 3, 1795 (Paterson’s notes), Folder 120, “United States v. Philson and Husbands [*sic*],” William Paterson Papers, Askew Library, William Paterson University of New Jersey; BRACKENRIDGE, INCIDENTS, note 10 *supra*, 3:157 (confirming the county as Westmoreland).

¹⁰⁸“Fennell, “Whiskey Rebellion,” note 10 *supra*, 44, 66-71, 98-115, 123-40. The moment of class self-realization was contemporaneously noted: careful observers knew and talked about that definite after which, in the words of Henry Marie Brackenridge, the Rebels threw aside all respect for existing laws and openly talked of taking lives and violating the “rights” of property. BRACKENRIDGE, INSURRECTION, note 10 *supra*, 85.

¹⁰⁹Fennell, “Whiskey Rebellion,” note 10 *supra*, 189. Hugh Henry Brackenridge tells the story of “an old man, by the name of Bar, from Mingo creek” who came to his law office to tell him “of making Bradford or me governor, on this side of the mountains. This led me to think that there must have been some talk of an independent government.” BRACKENRIDGE, INCIDENTS, note 10 *supra*, 1:99.

a few occasions to oppose men of wealth and property. ... [There,] ordinary men defiantly demonstrated their willingness to oppose the federal troops[;] ... men heard fiery speeches, intimidated critics, and on at least [three] occasions, raised the rebel standard.” Poles grew up anonymously but with maddening frequency—in front of the advancing army, to threaten the sham commissioners upon their arrival, to protest Washington’s command that U.S. troops march against their countrymen, and to impede and threaten their arrival in the west. They appeared everywhere as the Rebellion spread eastward into central and eastern Pennsylvania and southward into Virginia and Maryland.¹¹⁰

The elite lawyer David Bradford and his cronies worked to broaden the Rebellion, and through the committees of correspondence, they and other Rebels found kindred spirits and masses of similarly upset poor people in other regions of the United States. William Bonham, in Northumberland, knew in August what had happened at Neville’s. The Newville Resolutions, in Cumberland County, were issued purposefully on the very day of the Parkinson’s Ferry meeting of the Rebels in distant Washington County. Robert Philson, of Bedford County (on the eastern side of the mountains, in between inflamed Fayette and Cumberland County), was asked by a Marylander to help raise liberty poles along the army’s southern route through Cumberland, Maryland. An identical outlandish rumor about the evils of the excise tax surfaced both in Frederick, Maryland and in Norristown, Pennsylvania.¹¹¹

The Rebellion arose primarily within a disaffected lower and lower-middling class, the working people of what was in 1794 the American west (and of many portions of the east). Their grievances, symbolized by the Washington regime and its excise tax on whiskey, were generated out of their positive (if difficult) experiences with revolution against Great Britain in a cultural atmosphere of independence, freedom, and democracy, and then from their negative experiences with government in a time of social and economic dislocation brought about by the advent and spread of an elite-favoring government actively promoting a nascent money-centered, developmental capitalist economy. When the going got rough, the more middling folks mostly

¹¹⁰Fennell, “Whiskey Rebellion,” note 10 *supra*, 116-22 (quote from pp. 117, 121); BRACKENRIDGE, INCIDENTS, note 10 *supra*, 1:99, 1:102, 2:6; BRACKENRIDGE, INSURRECTION, note 10 *supra*, 128, 138, 195; “Journal of Major Spear’s Battalion,” note 55 *supra*. See notes 40, 43, 46-47, & 51-53 *supra* & accompanying text.

¹¹¹FINDLEY, HISTORY OF THE INSURRECTION, note 10 *supra*, 109, 137 (Bradford’s attempts to broaden the Rebellion), 178, 184 (spread of the Rebellion east and south); BRACKENRIDGE, INCIDENTS, note 10 *supra*, 1:87 (Bradford’s attempts to broaden the Rebellion), 1:85 (spread east and south); text accompanying note 38 *supra* (Bonham); note 50 *supra* and accompanying text (Newville Resolutions, and Lusk’s letter to Westmoreland County); testimony of William Dunn and James Sprague, June 4, 1795 (Paterson’s notes), Paterson Papers, note 107 *supra*; *The Baltimore Daily Intelligencer*, Sept. 10, 1794 (rumors in Frederick, MD, that excise applied to birth of male children); Ford, *Journal*, note 53 *supra* (entry for Sept. 19, 1794, reporting rumor in Norristown, PA, that excise applied to birth of male children).

bailed out. The remaining lower-class Rebels led themselves toward effective expression of their grievances, toward a broader alliance with similar folks, and toward self-government. It was in fact what eastern elites feared: the revolt of the lower classes, those very “people, whose voice is not heard in society in settled times,” whose “passions [had been] unloosed by the Revolutionary experience.”¹¹²

5. The Community-Centered, Egalitarian, Democratic Vision of Herman Husband

The Rebels wanted an egalitarian, communal (if sexist and racist) democracy. They saw themselves as raising the same issues and desires as they had two decades earlier, fighting for their freedom against the British. Debts, foreclosing courts, and the lack of circulating hard money had been problems in that time. Back then, they had opposed an excise tax enacted upon them by a centralizing and uncaring government which claimed to be able to transport them far from their homes in order to inflict criminal punishment. Liberty poles had also been widely used then. Early Washington County whiskey tax resolves were modeled after the Stamp Act resolutions of 1765. The Mingo Creek Resolutions decried “treatment ... worse than the colonies met with from the King of Britain, as it appears by the first Petition of Congress in 1774 and the Declaration [of Independence] of the representatives of the united Colonies in 1775.”¹¹³

Some Rebels were amazed that the Washington administration wanted to hang them for the same sorts of actions which had been praiseworthy and heroic a short time before, while Hamilton and Washington never seemed to notice this deadly irony. Pennsylvania federal District Attorney William Rawle—who had been a Tory (that is, an adherent of King George during the Revolution)—may have had more reason to be unaware of the similarly harsh irony of his invention of the common-law misdemeanor of “liberty pole raising,” which he wanted to use to prosecute 24 of the Rebels, or of his charging as treasonous acts and speeches just like those his Washington administration colleagues had made two decades previously. Modern historian Thomas Slaughter weakly concludes that “Revolutionary traditions were not hallowed symbols sanctified by their association with that historic event.” Given the pragmatic promises these same men had made defending their own rebellious activity, or the recently-campaigned-for Constitution—many of which promises were abandoned upon victory or upon the Constitution’s adoption—one might be moved to draw harsher and more complex conclusions about the duplicity and the self-serving vision which motivated the famous gentlemen in the Washington administration.¹¹⁴

The Rebels wanted to achieve only the popular autonomy and prosperity that the

¹¹²The first of these quotes is from Findley, cited at note 104 *supra*. The second is from Slaughter, cited at note 105 *supra*.

¹¹³Society of Hamiltons District, [*Resolutions*], May 5, 1794, note 65 *supra*.

¹¹⁴BRACKENRIDGE, INSURRECTION, note 10 *supra*, 22, 30, 39, 128; SLAUGHTER, WHISKEY REBELLION, note 6 *supra*, 128, 186, 208-09 (quote from p. 209); Holt, “*To Establish Justice*,” note 12 *supra*, 1471-76.

Revolutionary experience had promised them. Decrying their increasing poverty, for which the government offered no help, the Mingo Creek Resolutions looked to local self-governance as the answer, and the Mingo Creek Society established itself as an alternative civil court. The demand for equalization of taxation was everywhere raised—by resolutions, by liberty pole flags, by speeches. “[R]uled by eastern America,” the Mingo Creek Society said, the west would not adhere to any government which did not protect the rights and promote the welfare of *all* of the people. Its resolutions found the tyranny of the Washington administration—in unequal taxation, in refusing to listen to petition after petition, in land-grant policy, in creating ever more governmental positions and salaries, in sending people far away from home, witnesses, and local knowledge for criminal trial—to be “but symptoms of that mortal disease, which corrodes the vitals of our constitution.” They wanted a reformed government reconciled with the needs of the common people, a rejuvenated republican government such as that promised by the Revolution.¹¹⁵

The Rebels also had a plan, or a vision, of how this better world might look. It was put forth in the writing and preaching of Herman Husband, one of the most remarkable of the Rebels. In the 1760s Husband had helped to foment another rebellion, against the landed authority of the colony of North Carolina. Forced to flee, this educated farmer-turned-preacher/writer hid deep in the Allegheny wilderness of Bedford County, Pennsylvania, taking to heart the lessons of the American Revolution. A great champion of radical democracy, Husband spoke to and for the landless, the poor farmer with a bit of land, the village artisans, and the other members of the western lower class. He was dismissed as a crank by members of the elite. Albert Gallatin thought of him as “the crazy man of Bedford,” while Hugh Henry Brackenridge, who had visited him in 1780 and had heard some of his preaching on Ezekiel and what Husband called “the new Jerusalem,” thought that Husband’s “church is composed, like many others, of the ignorant and the dissembling.” When the Rebel crowd at the crucial August 14 Parkinson’s Ferry meeting selected Husband along with Gallatin and Brackenridge (plus Bradford) for the committee to put their resolutions into good readable shape, Brackenridge thought not of allying with Husband but only that he could make “use of Herman Husband, ... to amuse Bradford with him,” that is, aristocratically to manipulate Husband as though he were a toy or a curiosity in order to gain some needed time. Middling and elite people literally could not hear Husband’s message. At Husband’s later federal court trial, prosecution witness Robert Smilie echoed the class sensibility of Gallatin when he chuckled that Husband had written “some foolish things about the New Jerusalem,” but Husband’s neighbor and fellow Bedford farmer James Wilson, a witness for the defense, calmly stated that Husband was “employed in writing upon prophets, & making riddles” and had “found the situation of New Jerusalem [to be] at Kentucky.”¹¹⁶

¹¹⁵“Constitution for the District of Hamiltons,” note 71 *supra*; Society of Hamiltons District, [*Resolutions*], May 5, 1794, note 65 *supra*; Newville Resolutions, Cumberland County, Aug. 14, 1794, note 50 *supra*; “[Militia] Resolves of Ohio County, Virginia,” note 59 *supra*, 269-70.

¹¹⁶Fennell, “Whiskey Rebellion,” note 10 *supra*; Albert Gallatin to Hannah Gallatin, May 15, 1795, in Albert Gallatin Papers, New-York Historical Society; BRACKENRIDGE, INCIDENTS,

Husband's lower-class neighbors in Bedford County, noting that he was not exactly sensible at times, did not find him a joke or a crank. They marveled at his business ability; they elected him to the Pennsylvania Assembly, to the Pennsylvania Constitutional Convention of 1790, as constable, and as auditor of road-maintenance accounts. They usually put him in the chair of local meetings. And they had no difficulty hearing *and* understanding his message of "the New Jerusalem."¹¹⁷

Although it was stated in millennial and apocalyptic terms and was packaged as an extended commentary on the Biblical prophet Ezekiel, Husband's "New Jerusalem" was the true goal of the American Revolution, he thought, and it would be directly contrary to the elite-centered Washington government elected under the equally elite-centered Constitution. Husband's plan envisioned a republic of and for the landless, the laborer, and the small farmer. Putting Adam Smith to good use, Husband advocated workers' cooperatives, which he thought would imbue workers with the common economic interest of the whole community. Defining "exploitation" as one man living off the labor of hundreds, he was highly critical of the exploitation and the immorality he saw as inherent in the commercial wage-labor economy that was emerging. He thought part of the answer to exploitation was land ownership for every person—man, *woman*, and child—limiting each family to 2000 acres, and confiscating any excess land for redistribution. Like other Rebels, he thought that government in a democratic republic had a moral obligation to aid *all* citizens. One of the chief purposes of government in his "New Jerusalem" would be to establish administrative agencies that would closely regulate the sources of exploitation—commerce, and land distribution. Another purpose of government would be broad public education. He would deny public office (but not the vote; suffrage was to be very broad) to lawyers, merchants, and tavern keepers, who he did not think could have the common interest at heart. He advocated easy public access to, and control over, the regulatory agencies of government.

In the "New Jerusalem," the state would be made up of many autonomous local communities. In each, the franchise of the laborer, the farmer, the common man would prevail due to their numbers. The state would be financed by charges on the use of public lands, taxes on those who served the public such as millers, merchants, and tavern keepers, and especially taxes on accumulated wealth. There would, however, be no "standing armies," only militias of the

note 10 *supra*, 1:94-95; testimony of Robert Smiley [*sic*] and James Wilson, June 3 and 4, 1795 (Paterson's notes), Paterson Papers, note 107 *supra*. For Husband in North Carolina's Regulation, see note 8 *supra* and accompanying text.

¹¹⁷Testimony of James Wells, Thomas [unreadable], Robert Smiley [*sic*], James Wilson, Philip King, and David Wright, June 3 and 4, 1795 (Paterson's notes), Paterson Papers, note 107 *supra*. A search of all extant contemporary court records in Bedford has shown no attempt by his fellow citizens to discipline him for poor service as constable or auditor, though many other such officials were being haled into court in Pennsylvania during this time. E-mail communication from historian Jack Marietta, Oct. 12, 2003.

common people. Elections of public officials would be frequent, while their salaries would be small, especially those of legislators. There would be several additional avenues for the redress of popular grievances, but no courts staffed by elite judges and lawyers. The government would run itself essentially by legislative committee, as had the United States under the Articles of Confederation. Husband advocated stiff resistance to the Washington administration, but only through peaceful and open means. He was a pacifist, strongly opposed to the use of force, and, as a child of the Enlightenment, he believed deeply in reason and argument.¹¹⁸

It is easy to understand how the Whiskey Rebels thought well of Husband's message, since it was conceived from the same history and within his experience of the same difficulties they encountered and understood. It answered their deep needs, promising them land, autonomy, community control of government, and especially termination of the exploitation they suffered from an enveloping, oppressive, propertied and commercial, moneyed, elite-controlled economy. It was founded upon an Enlightenment-generated recognition of personal human dignity, a vision they shared for themselves and thought they deserved from the American community at large—and which they had bled and died for during the American Revolution. Husband's "New Jerusalem" also shared the racist colonialism of the Rebels' elite oppressors by excluding black and red people from its notion of community, and it continued the sexism of most of western European society in denying women the vote. It did, surprisingly, grant women ownership rights in land equal to men, a harbinger of the kind of progressive enlargement of the Enlightenment-based notions of humanity and equality which has actually occurred, through great struggle, in the equally Enlightenment-based dominant United States culture during the two centuries which separate us from Husband and his Whiskey Rebels. For its time, it was an extremely progressive vision of egalitarian democratic socialist worker-centered community.¹¹⁹

¹¹⁸A fine summary of Husband's views is to be found in Fennell, "Whiskey Rebellion," note 10 *supra*, 190-225. A useful account of Husband's life, though disappointing in its treatment of his "New Jerusalem" governmental plan, is Mark Haddon Jones, "Herman Husband: Millenarian, Carolina Regulator, and Whiskey Rebel" (Ph.D. dissertation, Northern Illinois University, 1983).

¹¹⁹Some modern historians see ideas such as Husband's to be merely a typical reaction of agrarian people to the incursions of a new commercial world, ideas which the historians then label "backward-looking." Such people as the Rebels are, "[u]nder this framework, ... striv[ing not] to gain democratic control of the tools of economic survival, but to defend themselves against the intrusions of the market place." Bouton, "Tying up the Revolution," note 8 *supra*, 2-8 (quote from 6). Fennell's Marxist investigation of the Whiskey Rebels and their Rebellion is, in this view, "a depiction ... of a movement against modernity." *Id.* 10 n.9.

The contemporaneous epithet with which Federalists tarred their opponents—"localists"—means precisely the same thing as "backward-looking" and "against modernity." The philosophical descendants of the Federalists today still confuse "democratic control" with "the market place," imagining that market growth is both inevitable and uncritically good, and ignoring or papering over the essential incompatibility of "free market economics" with

Husband's message was distributed throughout western Pennsylvania in the way traditional for common folk, word of mouth. Herman Husband preached in local churches and talked at meetings. He spent most of his time writing, allowing others to manage his farm. He distributed printed pamphlets, was occasionally published in newspapers and magazines, and even had collections of sermons published as books. But mostly folks heard and talked about his message. The Washington administration was well aware of him—if not the details of his message—and made him one of the two prime targets they wished to arrest for fomenting the Rebellion. For once, the elites were correct. When Husband showed up for the Parkinson's Ferry meeting of the Rebels on August 14, he and his views were so well known amongst the people that, despite his not making any recorded speech at the meeting, and despite his pacifism in a group largely wanting to fight, he was elected by the whole body to the committee to put the resolutions in good order. Since the other three committee members were from the elite, two of them lawyers (David Bradford, a Rebel firebrand, and Hugh Brackenridge, an opponent of armed rebellion) and another a wealthy entrepreneur (Albert Gallatin, also an opponent of armed rebellion), Husband was probably selected as the trusted spokesperson and guardian of the democracy of the common people who made up the bulk of the meeting and, indeed, of the whole Rebellion. He really was their leader.¹²⁰

D. A Lower-Class Rebellion

The common people of the western United States, and many if not most of them in the east, were in the early 1790s severely aggrieved by and disaffected from the national government of George Washington, the new Constitution which allowed it to be put into place, and the economic policies of the United States. They suffered under landed, commercial, and emerging capitalist exploitation, an exploitation they understood very well. They believed they had fought

“democracy.” I think this study shows that the Rebels were attempting precisely to gain a democratic control of their lives and government which the marketplace was denying them, indeed taking away from them; that there are more pathways to “economic survival” than solely “the market place”; and that the Rebels and Husband were forward-looking (if racist and sexist) in their communitarian, democratic methods and practices intended to solve their problems. The “backward-looking” epithet is simply another evidence of the class bias of these modern historians.

For a similar Enlightenment-based working-class vision of democratic equality put forward by a tavern-keeper in Massachusetts at about the same time, see *THE KEY OF LIBERTY*, note 11 *supra*.

¹²⁰For the modes of distribution of Husband's message, see sources cited in note 116 *supra*; testimony of James Wells, James Wilson, and Philip King, June 3 and 4, 1795 (Paterson's notes), Paterson Papers, note 107 *supra*. For the intense antipathy of Washington and Hamilton toward Husband, see George Washington to Alexander Hamilton, Oct. 26, 1794, in *HAMILTON PAPERS*, note 22 *supra*, 17:343, and note 129 *infra* and accompanying text. For the Parkinson's Ferry meeting, see *BRACKENRIDGE, INCIDENTS*, note 10 *supra*, 1:87-100; testimony of Albert Gallatin, June 3, 1795 (Paterson's notes), Paterson Papers, *supra*.

the British to gain freedom, and they were sorely disappointed in the amount of local democratic community autonomy that actually existed after the Revolution. They steadily resisted what they saw the eastern governments doing to them, and protested by meeting, petitioning, and traditional lower-class expressions of discontent, such as tarring and feathering government representatives.

Some middling and a very few upper class people joined them in protesting and opposing several of the government's policies, most specifically the excise tax on whiskey. To the surprise of most of their elite adherents, the lower classes of the west rose in active rebellion in the summer of 1794, when their petitions and plebeian warnings were ineffective and when some of them were subpoenaed to appear in federal court in the east, a matter at the heart of their grievances. The timorous elite fellow-travelers were never in favor of violence. They wanted to exercise traditional elite control over the lower classes and to run any secessionist government, and they began rapidly to desert the cause when the Washington administration answered the Rebel challenge with massive shock-and-awe force. Many pockets of lower-class sympathizers east of the mountains also joined the protests and sometimes the violence, because they had the same grievances. These easterners never effectively coalesced with the western Rebels, but given time the Whiskey Rebellion could have had national proportions.

The Whiskey Rebels directly challenged elite rule in the United States in 1794, presenting severe problems for the government. They essentially wanted a democratic socialist society with equal and limited amounts of land for all, a levelling of wealth, and a minimal, communal government which would have its few officers poorly paid, frequently elected, and thoroughly watched over, so as to serve the interests of the whole people. They wanted a transparent governmental structure, a broad franchise, and control of all public matters by the farmers, mechanics, and other common workers who formed the vast majority of the people. The Washington administration was absolutely correct (from the elite point of view) in perceiving the Whiskey Rebellion as a fundamental threat, and in moving quickly to suppress it.

II. THE REBELLION SURPRESSED

A. The Army Marches West in Lurches

1. Getting Going

Faced with rebellion from these disaffected and perhaps independence-minded lower class elements, in fact a Rebellion which appeared to be spreading rapidly, the government did its best to get an army assembled and moving west, but this took a good deal of time. Though President Washington and Secretary Hamilton were ready to begin mustering troops by August 2, the government of Pennsylvania balked at having a federal army within its territory to punish its citizens before peaceful means were exhausted, and weeks were consumed in the western trip of Washington's sham commissioners. With the President and his even more bellicose assistant already certain that great federal force was necessary, and with commissioners William Bradford (United States Attorney General) and James Ross (United States Senator from the Pittsburgh area) of similarly frightened and warlike mind, the commission was not likely to produce peace. In addition, upon the arrival of the commissioners, the Rebels displayed open belligerence. They greeted the delegation with a fresh liberty pole, they appeared individually and in groups to threaten and menace the commissioners during their meetings, and they mustered 23 (of 57) votes

for continued rebellion when the local Committee of Safety took a secret ballot in the presence of the three commissioners after strong arguments for peace were made by Albert Gallatin and Hugh Brackenridge. So the commission, quite naturally, was not convinced that pacification could occur without force. Since the Rebels were trying to contact persons of similar mind in the east and in states south of Pennsylvania, and since many Rebels remained recalcitrant, this was probably a correct reading. In mid-August, Washington communicated with General Henry (“Light Horse Harry”) Lee, Governor of Virginia, to begin the muster of troops, before the commission had finished meeting with the Rebels.¹²¹

There were supply difficulties throughout the expedition, and it took time to plan and execute a set of coordinated troop movements for thousands of green, ill-disciplined troops from four states moving in two huge waves along relatively poor roads through a largely uninhabited wilderness during a cold and rainy fall. Moreover, the states of Pennsylvania, Maryland, and Virginia had a great deal of difficulty recruiting enough militia troops. Many resisted being drafted, and many others, in the words of the Carlisle Resolutions of August 29, would “with much reluctance much rather pay their fines ... than march against their fellow Citizens friends and relatives in the western country.” Thomas Slaughter notes that “[v]olunteers represented a very small percentage of enlisted men—as low as zero and seldom above 25 percent among rural brigades.”¹²²

Delay also occurred because major branches of the Rebellion were breaking out in the east (as we have seen), in Hagerstown, Maryland, in Northumberland County, Pennsylvania, and in the very location where the New Jersey and Pennsylvania troops were to assemble, Carlisle, Pennsylvania.¹²³ Disturbances also bubbled in the Virginia counties near Pennsylvania, in the upper Shenandoah Valley, and elsewhere. The troops dared not leave until these fires had been quenched. The northern branch of the army lay around its rendezvous at Carlisle for a week or more, lurched forward, and then hunkered down again for several days when it reached Bedford County. Discipline was an ever-present problem, in no small part because the class differences which had caused the Rebellion were mirrored in the army’s make-up, as jaunty and nattily dressed gentleman officers rode, slept dry, drank to excess, and ate well while poorly-clad, poorly-fed plebeian foot soldiers slogged through the mud, slept wet, fell ill, drank to excess, plundered, mutinied, and deserted.¹²⁴

¹²¹Alexander Hamilton to Henry Lee, Aug. 21, 25, 1794, in HAMILTON PAPERS, note 22 *supra*, 17:121, 142; SLAUGHTER, WHISKEY REBELLION, note 6 *supra*, 196-201.

¹²²*Id.* at 212-14 (quote from p. 213); [Carlisle Resolutions,] Aug. 29, 1794, note 50 *supra*; note 55 *supra* and accompanying text.

¹²³See text accompanying notes 39-55 *supra*.

¹²⁴SLAUGHTER, WHISKEY REBELLION, note 6 *supra*, at 214-17; note 55 *supra* and accompanying text. Soldiers’ diaries reveal that the northern army stayed about a week (or more) at Carlisle, and four to five days at Bedford, while the countryside was scoured and

2. *The President Orders the Judiciary To Accompany the Army*

The administration wished to give the appearance that civil authority was the predominant mode of governance in the United States. President Washington, the Commander-in-Chief under the Constitution, left Philadelphia to command the army on September 30, accompanied by his adviser and the expedition's organizer, Secretary (now General) Hamilton.¹²⁵ Following the statute exactly, Supreme Court Justice James Wilson had issued a certificate on August 4 "from evidence, which has been laid before me" (that is, he made no separate investigation on his own, as an independent member of the judiciary supposedly should have done) that the laws of the United States were being opposed in Washington and Allegheny Counties "by Combinations too powerful to be suppressed by the ordinary Course of judicial Proceedings, or by the Powers vested in the Marshal of that District."¹²⁶ Thus was the militia properly called out. Civil authority obediently and transparently allowed the military to march west.

Then it became necessary to have officials representing civil power as members of the expedition, to assure the outside world that civil process had not really been interrupted by rebellion in the young country. Washington felt the federal judiciary must fulfill such a role, and he required the federal District Attorney for Pennsylvania, William Rawle, to accompany the army. Rawle, in turn, felt that his "attendance there will probably be of little utility unless one of the Judges of the Supreme Court of the United States, or the District Judge [for Pennsylvania] be present." District Judge Richard Peters was asked, but (for reasons not now known) he balked at making the trip. Then the Commander-in-Chief, through his assistant Hamilton, told Peters peremptorily that "it is necessary that the District Judge should also repair without delay to the army." Washington recorded in his diary that both Rawle and Peters "had been required" to march west with the army. Though he pretended in his instructions to General Lee, when turning over command to him, that "the Judge cannot be controuled in his functions," he made it clear to Lee that Peters could be counted on "to cooperate in such a general plan as shall appear to you consistent with the policy of the case," and that Lee's "method of giving a direction to legal

"pacified." See, e.g., *Journal of Major William Gould ...*, PROC. N.J. HIST. SOC'Y (1849) 3:173, 179-82; Ford, *Journal*, note 53 *supra*, 82-87; Clunn, *Journal*, note 55 *supra*, 49-53. The Maryland militia similarly stopped at Frederick for 10 days to mop up Rebels. "Journal of Major Spear's Battalion," note 55 *supra*.

¹²⁵WASHINGTON DIARIES, note 34 *supra*, 178.

¹²⁶James Wilson, [Certificate,] AMERICAN STATE PAPERS, MISCELLANEOUS, note 73 *supra*, 85. The Secretary of State, Edmund Randolph, himself a respected lawyer and former Attorney General, wrote to the President the day after Wilson signed the certificate: "[T]he testimony [upon which the certificate was grounded] is not, in my judgment, yet in sufficient legal form to become the groundwork of such an act; and a judge ought not *a priori* to decide, that the marshall is incompetent to suppress the combination by the posse comitatus [Also,] the certificate specifies no particular law, which has been opposed." Edmund Randolph to George Washington, Aug. 5, 1794, George Washington Papers, Library of Congress.

proceedings ... will be by instruction” given directly to Rawle.¹²⁷

Judge Peters thus joined his Supreme Court brother Wilson in subordinating the judiciary to the executive, accepting a chain of command which originated in the executive (indeed, in the military arm of the executive), subordinating the judicial branch to the executive in a manner both contrary to modern notions of separation of powers and subjecting the judiciary to being bypassed whenever the executive thought expedient. Just as every evidence shows that Wilson accepted his certification task with aplomb, there is no record that Peters was upset at this arrangement, and his actions in the west were perfectly consistent with it. It became a matter of remark that the judge and the district attorney accompanied the troops.¹²⁸

3. *The Capture of Herman Husband*

Major Gould of the New Jersey militia noted in his diary on October 20 that “[t]his day several whiskey men [were] brought in by the light-horse.” The northern branch of the army was stopped in Bedford County, looking for the pole-raisers among the “party of [300] liberty boys” who had invaded the town of Bedford near the end of August to disrupt the state courts. They had put up a pole of liberty flying the Rebels’ six-striped flag, emblematic of independence. The pole was still standing, with its flag, when the President’s sham commissioners went through homeward bound on September 5. Two of those arrested for pole-raising, George Lucas and George Wisecarver, were sent back to Philadelphia to stand trial, while others were turned over to the state courts. The troops that day netted a greater prize than pole-raising liberty boys, however; they captured one of the two people they thought to be the principal leaders of the Rebellion, and indeed that person most responsible for the vision of democratic liberty espoused by the Rebels: Herman Husband. He and Robert Philson, who had both attended Rebel meetings near Pittsburgh in August, were also sent under close guard to Philadelphia. The capture both elated and troubled Washington, who left Bedford to return east that same day and who explained

¹²⁷William Rawle to Edmund Randolph (copy), Oct. 2, 1794, Edmund Randolph to Richard Peters, Oct. 3, 1794, vol. 10, Richard Peters Papers, Historical Society of Pennsylvania; Alexander Hamilton to Edmund Randolph (extract), Oct. 6, 1794, Edmund Randolph to William Rawle, Oct. 8, 1794, Edmund Randolph to George Washington, Oct. 8, 1794, in HAMILTON PAPERS, note 22 *supra*, 17:308; Richard Peters to Edmund Randolph (copy), Oct. 7, 1794 (accepting the job and noting that “the Business of the District, particularly in the Admiralty, will suffer much by my Absence”), Peters Papers, *supra*; WASHINGTON DIARIES, note 34 *supra*, 195 (entry for Oct. 20); Alexander Hamilton to Henry Lee, Oct. 20, 1794, in HAMILTON PAPERS, *supra*, 334 (relaying “instructions for the general direction of your conduct in the command of the Militia army” by “special instruction from the President of the United States”).

¹²⁸See John Neville to Isaac Craig (?), Oct. 28, 1794, in Kenneth A. White, ed., “*Such Disorders Can Only Be Cured By Copious Bleedings*”: *The Correspondence of Isaac Craig During the Whiskey Rebellion*, W. PA. HIST. MAG. (1984), 67:239; Alexander J. Dallas to [his family], Oct. 19, 1794, in Dallas Collection, note 36 *supra* (“The judge afforded us considerable mirth on the road.”).

his feelings to his diary: “I call it unlucky because my intention was to have suspended all proceedings of a Civil Nature until the Army had united its columns in the Center of the [four western] Insurgent Counties & then to have ciezed at one & the same time all the leaders and principals of the Insurrection and because it is feared that [this capture] ... will have given the alarm [allowing others to escape].”¹²⁹

This ominous note demonstrates that the executive planned a single dragnet arrest operation rather than using the lengthier, but more legally acceptable, processes either of a grand jury (of local citizens) or of witness interrogation, followed by issuance of writs and subsequent arrest. The latter course occurred at Bedford. Washington’s lawless plan was, however, carried out precisely in the four inflamed counties.

B. A Day of Thanksgiving and A Dreadful Night

Washington had made a characteristically blunt statement in early October to the representatives the Rebels had sent east, who had met with the President in Carlisle. He said (as he recorded it in his diary) that westerners should “be cautious that not a gun was fired, as there could be no answering for the consequences in this case. I assured them that every possible care should be taken to keep the Troops from offering them any insult or damage and that those who always had been subordinate to the Laws, & such as had availed themselves of the amnesty, should not be injured in their persons or property; ... [t]hat the Army, unless opposed, did not mean to act as executioners, or bring offenders to a Military Tribunal; but merely to aid the civil Magistrates, with whom offences would lye.” William Findley, one of the representatives, had reasonably understood this to mean that the President “had authorized us to assure the citizens who had sheltered themselves under the faith of government, that one hair of their head should not be injured, let their crimes have been ever so great.” To Findley and to many Rebels, the “sheltered” westerners included all active Rebels who signed the pledge of submission. Following a process approved at Redstone Old Fort in late August by the President’s sham commissioners and by the Rebels’ Committee of Safety, and actually referred to by Washington in the meeting, many westerners (including David Bradford and other prominent Rebels guilty of

¹²⁹*Journal of Gould*, note 124 *supra*, 181 (source of first quote); *The Baltimore Daily Intelligencer*, Sept. 5, 1794 (publishing abstract of letter from Bedford dated Aug. 31, 1794) (source of second quote); William Bradford to Edmund Randolph, Sept. 5, 1794, Wallace Collection, Historical Society of Pennsylvania (written from Bedford; describing flag); George Washington to Alexander Hamilton, Oct. 26, 1794 (noting that Husband and David Bradford were thought by the two to be the chief leaders of the Rebellion), Oct. 31, 1794 (noting the jailing in Philadelphia of “Husbands and the other prisoners”), Hamilton to Washington, Oct. 25, 1794 (“Bradford and Fulton [another Rebel leader in Pittsburgh] it is said have gone off. By tracing time, it is not probable they were at all influenced by the arrest of *Husbands & Philson*.”), in HAMILTON PAPERS, note 22 *supra*, 17:343, 349, 342; John Neville to Isaac Craig (?), Oct. 28, 1794, *Craig Correspondence*, note 128 *supra* (“old Husbands” and three others sent to Philadelphia with 12 light horse; 10 or 12 others bound over to state court, “their offences being less criminal”); WASHINGTON DIARIES, note 34 *supra*, 195 (source of third quote).

crimes of rebellion) would sign a complete submission on October 11, in return for amnesty. Thus westerners thought that, if it met with no resistance, the army would leave people alone (especially those not in rebellion), that the federal judiciary would handle matters, and that every signer of submission would be amnestied from further punishment.¹³⁰ The Father of his Country, however, had not spoken the truth.

Amazingly, no resistance was offered. The army “met no resistance, either in the mountains or in the infected districts. ... ‘Not a dog wagged his tongue’ against the army,” not a single shot was fired (though liberty poles continued to sprout up in the army’s path). The people of the west were now either frightened or cowed, or repentant. The huge military force straggled out of the mountains, moved into positions throughout the four counties, and sat there. For a week or so, “[a] kind of inquisitorial court was opened” by Hamilton, Rawle, and Peters, moving from place to place, “in which testimony was taken against individuals denounced for treasonable acts or expressions.” But for these several days no grand jury was called and no writs were issued by Judge Peters. By about November 10 many thought that the unused militia forces were going home, especially since orders to that effect were distributed on November 10 and 11. Then, these orders to move out were suddenly countermanded, and troops, especially the cavalry under General Anthony Walton White of New Jersey, were secretly moved into the woods during the night of November 12.¹³¹

Washington’s real plan was about to be put into effect. Hamilton wrote grimly to the President that “the impression” of submission already forced upon the Rebels by the presence of the troops “will be stronger & more permanent by what is to follow.” The haste and secrecy of November 12-13 were, ostensibly, to prevent Rebel leader escapes (most of which had already occurred) and to prevent delay beyond the time the weather would permit such a large army to deploy in the west—it had snowed on November 12. However, the real causes were the unruliness and restlessness of the troops, and the brutal goal of Washington and Hamilton, namely, to smash the Rebels, to shock and awe them, to completely grind them into abject submission. The

¹³⁰*Id.* at 186; FINDLEY, HISTORY OF THE INSURRECTION, note 10 *supra*, 186, 193 (telling of his giving his version of Washington’s message to the Rebels); SLAUGHTER, WHISKEY REBELLION, note 6 *supra*, 198, 201-03, 216.

¹³¹SMITH, OLD REDSTONE, note 55 *supra*, 262 (source of both quotes); Clunn, *Journal*, note 55 *supra*, 58-59 (orders to march on Nov. 12 were countermanded, then troops were put under arms on the morning of Nov. 13); Jonas Smith, [“Diary,”] New Jersey Historical Society, entry for Nov. 9 [10?](“at evening sunset we was ordered to march. Struck our tent & all mounted in 15 minutes the baggage had marched away then the orders was countermanded”); Anthony White to Henry Lee, Nov. 14, 1794, Folder 20, Anthony Walton White Papers, Alexander Library, Rutgers University, New Brunswick (speaking of “my Com[man]d the whole of which has been on active duty since the day broke yesterday”); William Leddel, [“Diary,”] Leddel Collection, New Jersey Historical Society, orders for Nov. 13 and entry for Nov. 13.

government was going to follow neither the law nor its own solemn promises. In Hamilton's own words, it was no longer "wait[ing] for preliminary investigations to apprehend the guilty upon process." The "whole of the light [cavalry] corps [under White] and perhaps a part of the Brigade of [regular] Cavalry" had been secretly deployed in Washington County that night, along with other troops in Pittsburgh and the other three counties, in order "to take hold of all who are worth the trouble in a more summary way, that is by the military arm."¹³²

The army's orders for the treatment of any prisoners taken were plain: "the Prisoners must be treated without Insult & with decency" was the injunction from New Jersey Governor Howell to White's cavalry for the early morning of November 13. Washington's orders to Lee had been to give "scrupulous regard to the rights of persons and property," and that "the duties of the army are confined to the attacking and subduing of armed opponents of the laws, and to the supporting and aiding of the civil officers in the execution of their function." Lee's orders concerning the November 13 actions cautioned his officers to "use great circumspection to embrace none but real offenders nor will you be too promiscuous or too general the persons apprehended ought either to be leading or influential characters or particularly violent."¹³³ Like the law and the amnesty promises, these orders were widely disregarded.

November 13, as it happened, had been "appointed by the inhabitants here [in Washington County] as set apart for Thanksgiving and prayer." They were not to celebrate or give thanks that day, however. "Each company [of White's light horse]" had been deployed at "post[s] within 1/4 mile of each other" in Washington County's woods, and upon "the firing of a Gun from the artillery" at two in the morning they swept through the whole area, irrupting into homes without warning, "drag[ging] men unexpectedly and unprepared, from their wives and children." Similar operations occurred in other places, but Washington County was, and was thought to be, the heartland of the Rebellion. While the army worked from lists and were apparently aided by local guides, no care was taken to seize only those under arms (in fact, nobody was still under arms), or only leading or influential or particularly "violent" persons, or only those who had failed to sign the October 11 submissions statements, as the military orders plainly stated. Almost no care was taken to treat witnesses differently from suspects. Hundreds of western men were summarily dragged from their beds, arrested, and placed under military guard. The cavalry dragnet continued throughout the supposed day of Thanksgiving and on into November 14. Each contingent of horse treated alike the innocent, the witnesses, those who had signed the amnesty,

¹³²Alexander Hamilton to George Washington, Oct. 31 (source of first quote), Nov. 8 (source of second and fourth quotes), Nov. 3, 1794 (source of third quote), in HAMILTON PAPERS, note 22 *supra*, 17:352, 361, 353. For the snow, see Clunn, *Journal*, note 55 *supra*, 58 (entry for Nov. 12).

¹³³Leddel, ["Diary,"] note 131 *supra*; Alexander Hamilton to Henry Lee, Oct. 20, 1794, in HAMILTON PAPERS, note 22 *supra*, 17:335-36; Henry Lee to William Irvine, Nov. 9, 1794, Irvine Papers, note 65 *supra*. See generally BRACKENRIDGE, INSURRECTION, note 10 *supra*, 312-16.

and active Rebels, leaders and followers.¹³⁴

Some detachments accorded their prisoners some dignity and politeness, in compliance with orders. Pennsylvania militia cavalry captain John Dunlap (in civilian life printer of a prominent Philadelphia daily newspaper, and a veteran of the Revolution) and his troop, which had been assigned a portion of volatile Washington County, gave all of their prisoners food and drink, lodged them decently, and treated them as human beings. Dunlap was later complimented by some of his captives for “the polite usage we received ... [when being taken] under your care to Washington and Pittsburgh.”¹³⁵ General William Irvine, commanding the Pittsburgh roundup, reproved his troops for the vicious verbal abuse they gave their charges. He had the prisoners removed from the outdoors waste pen they were held in for several days and moved into the Pittsburgh fort, when a room became available, although this room was without fire in the cold wet fall. Only when the overworked Rawle and Peters ordered them to be examined did Irvine discover that several he had thus treated as prisoners were actually witnesses; others were later found to have signed the October 11 submission and should not have been captured at all.¹³⁶

However, most of the ill-trained, haggard, bored army, which had been plied with propaganda for months about the evils of the westerners, and had been told that the Rebels had taunted the Pennsylvania and New Jersey militia as a bumbling, larking, cowardly “Water Melon Army,” treated their prisoners in much worse fashion. Ill-clothed and unmounted prisoners were frequently sworn at, taunted, driven like cattle, housed in fireless places or stables or even on the wet ground, poked with bayonets, given no food, and marched through mud and snow with little

¹³⁴Clunn, *Journal*, note 55 *supra*, 59 (source of first three quotes); FINDLEY, HISTORY OF THE INSURRECTION, note 10 *supra*, at 199-201 (fourth quote from p. 201); Leddel, [“Diary,”], note 131 *supra* (“proceeded on to the different places of residence of the above named persons and by sunrise of the next Morning made them all Prisoners”); Carnahan, *The Pennsylvania Insurrection of 1794*, note 10 *supra*, 144 (“about two o’clock in the morning [a company of Virginia horse] surrounded the house [in Canonsburg] where I lodged, and ... ordered my landlord, an old man, to ... guide them to a neighborhood about eight miles distant”); “Journal of Major Spear’s Battalion,” note 55 *supra* (entry for Nov. 14: “Horsemen still out in quest of the Insurgents who are brought in daily.”); BRACKENRIDGE, INCIDENTS, note 10 *supra*, 2:68, 2:70 (similar army dragnet sweep in Pittsburgh at two a.m.). The orders said that “the matter must be so timed as to strike at every person as nearly Daybreak as possible.” Leddel, [“Diary,”] *supra*.

¹³⁵John Corbley to Captain John Dunlap, Dec. 16, 1794, *printed in The [Philadelphia] Independent Gazetteer*, Dec. 31, 1794; FINDLEY, HISTORY OF THE INSURRECTION, note 10 *supra*, 202. For Dunlap’s civilian career, see WASHINGTON DIARIES, note 34 *supra*, 189 n.7.

¹³⁶FINDLEY, HISTORY OF THE INSURRECTION, note 10 *supra*, 202-04.

regard for their well-being.¹³⁷ The worst treatment of all was administered by General White and his troops. Heaping a continual torrent of verbal abuse upon them himself, he confined his prisoners for two days and nights in the wet muddy freezing basement of an undaubed log cabin, had them bound back to back, kept them as far as possible from the fire he had made for their guards, forbade a tavern owner to feed them or give them drink, and prevented one of them (who had actually surrendered himself to the General) from going home under guard to visit his dying child. Then, while they were marching the prisoners to the town of Washington, and a prisoner had a convulsive fit, White “ordered them to tie the ‘damned rascal’ to a horse’s tail, and drag him along with them” as punishment for what he decided without examination to be feigned behavior. Meanwhile, he wrote to General Lee complaining that taking the prisoners into the militant town of Washington would be too dangerous for his tired and overworked troops, but, before the prisoners were turned over to another unit, he requested permission to seize the horses from the prisoners who actually had them in order to mount some of his troops who had lost theirs to disease or fatigue.¹³⁸

November 13 was long remembered in southwestern Pennsylvania as the “dreadful night,”

¹³⁷*Id.* 158-60 (many in the army hated westerners; great pains were taken to have all westerners viewed as obnoxious; many army members had been induced to join by tales of plunder), 119, 163 (Water Melon Army jibe, and its consequences), 205-06; J.M. Porter to H.M. Brackenridge, undated [1859], in BRACKENRIDGE, INSURRECTION, note 10 *supra*, 329 (memoir of circumstances of arrest and imprisonment written by Captain Robert Porter, one of the prisoners, communicated by his grandson) [hereinafter cited as Porter Memoir]. The diaries of the soldiers, already cited, are rife with vitriol and invective directed willy-nilly at all westerners. For an example of the anti-western propaganda given to the troops, see Address of General White to Brigade Officers, Aug. 29, 1794, Folder 13, White Papers, note 131 *supra*.

William Winans, later a noted itinerant Methodist minister but then a boy of ten who aped his elders and erected a little liberty pole in the excitement, said that when the soldiers came that night, “I was terribly alarmed I soon prostrated the honors of my Liberty pole in the dust, and assumed the aspect of a submissive citizen, subject to the ‘powers that were.’” Winans, *Boyhood Years*, note 97 *supra*, 28.

¹³⁸FINDLEY, HISTORY OF THE INSURRECTION, note 10 *supra*, 206-09 (quote from p. 207); Anthony White to Henry Lee, Nov. 14, 1794, White Papers, note 131 *supra*.

The conduct of General White was so notorious that Albert Gallatin, in Philadelphia later for the trials of the Rebels, refrained from trying to make the acquaintance of Supreme Court Justice William Paterson, one of the judges, solely because Paterson was White’s brother-in-law. Albert Gallatin to Hannah Gallatin, June 1, 1795, Gallatin Papers, note 116 *supra*. White was damned with faint praise by the prisoners marched east, in their letter to the newspaper which complimented Dunlap for actually helping them, saluting White sarcastically for “his friendly and moving address to us on the road from Greensburgh to Bedford [in the mud and snow, as they were marched to Philadelphia].” John Corbley to Captain John Dunlap, note 135 *supra*.

for what Findley, a lawyer, called this “lawless rage” against the people, this “outrage ... against humanity and decency.”¹³⁹ The United States authorities were confronted with a large-scale rebellion. They were, however, supposedly devoted to due process and to the principles of community respect and governance in much of their legal and political heritage. These principles were embedded in the common law, in many crucial military and parliamentary battles fought in the previous century of Anglo-American history, in the Revolution they had won only a decade and a half previously, and in the Constitution and its Bill of Rights adopted within the previous five years. In addition, the government had given assurances of safety, amnesty, and civilian control and process. Findley had heard what the President said, and these assurances were also a part of the military orders actually given. Coupled with the placidity of the countryside upon the army’s approach and during its ten days or so of resting in the Pittsburgh environs, Findley’s outrage against what was done, and the bitterness of the remembrance of the people concerning the army dragnet, were both entirely justified.

Hundreds of families were disrupted, hundreds of people humiliated, embarrassed, and perhaps physically hurt, and hundreds of people innocent under the lights actually applied were harrassed and impounded for weeks. In fact, few people brought in by the dragnet were actually tried for crimes, and only a tiny number of those were convicted. The results of the dragnet of the one cavalry sweep about which we have sufficient facts are instructive in this regard. Of the 39 or 40 men known to have surrendered to or been captured by General White in Washington County, only two were kept in prison in the west and then marched to Philadelphia for trial. Three others were among those the federal officials most suspected of criminal activity, but one of these was released by the judiciary in Pittsburgh and later surrendered himself again to the federal authorities for trial, while two turned states’ evidence and testified for the United States. A sixth—Samuel Nye—was released by the judiciary in Pittsburgh, celebrated his good fortune with drink and insults to a cavalry lieutenant or two, was pursued for thirty miles by the cavalry to be rearrested solely for the insults, and was marched to Philadelphia and kept in jail for months. Of these six, two were indicted, tried for treason, and found innocent; two testified for the prosecution; and no bills of indictment were found against two. None of the 38 or 39 was found guilty of anything, while the only person White’s dragnet caught who was worthy of trial as a leader of the Rebellion—Mingo Creek Society member David Hamilton—was allowed to turn states’ evidence. On the other hand, White’s sweep missed no fewer than three other supposed major leaders, and he caught only four of the fourteen men whose names were on his list. The dragnet was useful mostly for purposes of terror, not for those of the law.¹⁴⁰

¹³⁹FINDLEY, HISTORY OF THE INSURRECTION, note 10 *supra*, 189, 206.

¹⁴⁰For the names of White’s prisoners, see Order to Officer of the Guard, Nov. 14, 1794 (all but Hamilton listed), and Anthony White to [Henry Lee?], undated [draft, Nov. 1794] (list of evidence will “be handed to you by a prisoner, David Hamilton Esq.”); for the endorsements of those not found (including the supposed leader Col. John Hamilton, who had already surrendered himself and was not in fact a Rebel, and two others, who later surrendered themselves and turned states’ evidence), see [List of Persons To Be Apprehended,] no date [Nov. 13, 1794], all in

C. The Judiciary and The “Spanish Inquisitorial Mode” of Interrogation

Judge Peters may have had little control over the army’s decision to make its illegal sweep of the countryside, but he should have had a great deal of control over the mode of interrogation of witnesses and suspects. As we have seen, the interrogations commenced when Hamilton, Rawle, and Peters arrived, and they were redoubled upon the capture of so many prisoners. As bad as the mode of capture was, the manner of interrogation was worse, and Peters not only did not try to halt it, he participated in it, in ways that demonstrated both his relish for the type of actions taken and his total subservience to the executive.

A generation later, Henry Marie Brackenridge called it “the Spanish inquisitorial mode of seeking evidence.” The interrogators relied upon the tales told by informers, by government friends in the region, and by those hurt by the Rebellion. They fell back only upon their own assumptions about who must have acted improperly. Then they attempted to force evidence from witnesses by surprise cross-examination of persons who did not know they were suspected or going to be examined, by threats of punishment, by promises of leniency, by threats to revoke the amnesty the subject had supposedly successfully claimed, by statements that the questioner had information which made the person questioned seem either a liar or foolish not to talk, by questioning persons continuously in relays of investigators not all of whom treated the persons being interrogated with respect or used decent language, by confinement under armed guard of persons being questioned, by giving no answers to questions of whether, and for what, a person might have been charged, and by repeated demands for specific testimony from the person interrogated. We might call it the “third degree,” or “Star Chamber proceedings,” although physical torture does not seem to have been used. Contemporary lawyers Hugh Brackenridge and William Findley denounced it as illegal, though it must be noted that they were among its primary targets.¹⁴¹

1. Three Examples of the Inquisitorial Mode in Action

After the Secretary of the Treasury demanded that local county judges meet to plan a distribution of the prosecutions between state and federal courts, two Westmoreland County judges reported to Hamilton and Peters. Surprisingly, they immediately found themselves under close examination from both about the alleged misconduct of Albert Gallatin and Findley. They

Folder 20, White Papers, note 131 *supra*. For the trials and acquittals, see microfilm roll M-932, “Minutes of U.S. Cir. Ct. E.D. Pa. 1790-1844,” target 2, “Engrossed Minutes,” National Archives Regional Office, Philadelphia, under dates of May 6 and 7, 1795 (indictments respectively of Barnet and Bolton for treason), of May 20 (Barnet acquitted), and of Oct. 16 (Bolton acquitted). For the discharges of two without indictment, see *id.* under dates of May 11 and 12. Hugh Brackenridge cites the instances of two innocent Pittsburghers rounded up by Irvine’s troop whose health was damaged by these circumstances of arrest and imprisonment. BRACKENRIDGE, INCIDENTS, note 10 *supra*, 2:71.

¹⁴¹BRACKENRIDGE, INSURRECTION, note 10 *supra*, 295; BRACKENRIDGE, INCIDENTS, note 10 *supra*, 2:78-79; FINDLEY, HISTORY OF THE INSURRECTION, note 10 *supra*, 235-36, 239-41.

were instructed by Hamilton to state that Gallatin had uttered treasonable expressions at one of the early meetings. The judges both denied that Gallatin had done any such thing, recounting how courageous and consistent he had been in opposing the Rebellion and attempting to restore order. Hamilton persisted, claiming he already had proof, and pressing the judges to state that Gallatin, Findley, and another opposition Congressman from the west, Robert Smilie, were the originators of the Rebellion and enemies to the government. The judges courageously continued to say that the opposite was true. Peters backed down, but Hamilton (showing that personal spite rather than actual knowledge motivated him) stated that he “could never forgive [Findley] because [he] had told or wrote lies about him.” The Caribbean-born Secretary of the Treasury then censured people who would elect to Congress “foreigners” like Gallatin (born in Switzerland) and Findley (born in Scotland).¹⁴²

Hugh Brackenridge had heard that his local political enemies, especially including General Neville and his family, had represented to Hamilton and Peters that he was a leading proponent of the Rebellion. As with Gallatin and Findley, such was the opposite of the truth, as Brackenridge had joined them in maneuvering for peace and order. He knew he was to be questioned, and asked (through an intermediary) that the judge request his attendance rather than arrest him. Peters gave such an assurance, but then issued a subpoena for his attendance anyway. Upon reporting as ordered, instead of the judge, he was interrogated by the Secretary. Hamilton rudely interrupted Brackenridge’s statement of what he knew about the course of the Rebellion, noting that Brackenridge was not in the amnesty (since, due to his diligence in ensuring that others sign, he had signed on October 12 instead of October 11). Then Hamilton suggested that Brackenridge was not telling the truth about who led the Rebellion, and said that his fate would depend upon truthful statements. Brackenridge replied that he was telling the truth and stood by everything he had said. At lunch, Hamilton checked with Neville’s son and son-in-law on some of the facts upon which Brackenridge claimed innocence, and then begrudgingly told Brackenridge his conduct had been “horribly misrepresented.” The remainder of the examination, that afternoon and the next day, left Hamilton with no doubts about Brackenridge’s veracity or lack of guilt, and the Secretary concluded, “you will not be troubled even with a simple inquisition by the judge.”¹⁴³

John Hamilton was a respected person in Washington County. A veteran of the Revolution, he was the elected colonel of its militia regiment, and the elected sheriff of the county. Like almost all other westerners he opposed the excise, and had been violently opposed to it three years earlier when he had been a part of a disguised gang that had tarred and feathered

¹⁴²*Id.* at 239-44.

¹⁴³BRACKENRIDGE, INCIDENTS, note 10 *supra*, 2:73-78. Henry Marie Brackenridge said of his father’s ordeal that: “Testimony obtained in such a manner would be scouted with abhorrence by a court of justice, under the free common law adapted to a republican government. ... What was it on the part of the Secretary, but holding out the inducement to commit perjury, as the means of saving the witness’ life?” BRACKENRIDGE, INSURRECTION, note 10 *supra*, 306.

the previous excise inspector Robert Johnson. But with his elected offices he had become calmer. He participated in none of the violence in 1794 even though many of the principal Rebels were in his regiment, while some of them were also leaders in the radically democratic Mingo Creek Society. He did his best to lessen violence or to prevent it entirely, trying, among other endeavors, to keep his troops from joining the 7000 at Braddock's Field despite severe pressure from his soldiers, friends, and neighbors. Informed that the federal troops were coming for him, on November 11 he travelled the 30 miles to Pittsburgh and turned himself in to Judge Peters, asking to be examined on any charges that might exist against him. Peters said he was too busy just then, but would do so later. Hamilton was immediately arrested, put under guard, and confined with other prisoners. Days later, he was marched back to the town of Washington, but Peters still had no time to examine him. Still under guard, on November 22 he was sent back to Pittsburgh, and then he was marched to Philadelphia to be tried. He had never been examined by a magistrate of any variety, much less Judge Peters, never knew what he was charged with, if anything, and never had a chance to make a statement.¹⁴⁴

2. Class Motivations for Interrogations and for those Released from Charges

The domineering Secretary of the Treasury clearly acted as though he was in charge, not the Judge, who apparently willingly went along with what Hamilton wished and is not on record as opposing his leadership or his methods of interrogation in any way.¹⁴⁵ Several of Hamilton's fundamental assumptions drove the interrogation process, most of them flowing from his elite

¹⁴⁴John Neville to George Clymer, Sept. 15, 1791, Oliver Wolcott Jr. Manuscripts, Connecticut Historical Society; FINDLEY, HISTORY OF THE INSURRECTION, note 10 *supra*, 98-99, 101, 103, 230-32; Fennell, "Whiskey Rebellion," note 10 *supra*, 149-50; Alexander Hamilton to George Washington, Nov. 11, 1794, in HAMILTON PAPERS, note 22 *supra*, 17:366 (noting John Hamilton's voluntary surrender).

¹⁴⁵The examples given show "the subserviency of the district judge, who condescended to act a secondary or inferior part in the ministrations of his office, to one who had no judicial authority whatever." BRACKENRIDGE, INSURRECTION, note 10 *supra*, 296, 294, 300; FINDLEY, HISTORY OF THE INSURRECTION, note 10 *supra*, 227-28 (Alexander Hamilton "issued orders and considered all in the army as beneath him and subject to his controul. ... [W]ith the judiciary, ... he was generally taken, or perhaps mistaken, to be the principal director." Findley then confirms his agreement with those who saw Hamilton in complete charge, by giving the examples I have used).

Hamilton wrote his sister that he went on the expedition in part because "twas very important there should be no mistake in the management of the affair," Hamilton to Angelica Church, Oct. 23, 1794, in HAMILTON PAPERS, note 22 *supra*, 17:340, and the evidence from Hamilton given elsewhere herein demonstrates that he understood himself as in control of all judicial activities. It is true that Hugh Brackenridge's account implies that Peters was in judicial control, not Hamilton, but internal evidence shows that he did the writing of much of it before the first session of the federal circuit court began sitting in May 1795, and he could not afford to alienate a judge who might try him for treason, and must in any case hear him as a witness.

position and his aristocratic class background. He simply could not imagine the central fact of the Rebellion—that poor people could make a revolution—so he never ceased to believe that the Rebellion was fomented and led by members of the elite.¹⁴⁶ The Secretary’s search for local elite culprits was aided immeasurably by reports from and conversations with the Federalists in the area, centered around the Nevilles, most of which placed their political opponents Brackenridge, Gallatin, and/or Findley in charge. Both his elite position and his politics pushed him to accept these messages almost without question. But his thin political skin, his unshakeable faith in his own developmental economic system, and his inability to imagine the legitimacy of any opposition—a position many members of the elite took in the 1790s, including Jefferson—also helped to focus that search solidly upon his political enemies in the area, Gallatin, Brackenridge, Smilie, and Findley. They were all becoming part of the Jeffersonian Democratic-Republicans, and had publicly opposed most of his financial policies. He also never ceased to suspect Col. John Hamilton, whose militia troops did a great deal of the rebelling, and some of whom formed the Mingo Creek Society. (Not so surprisingly, John Hamilton would also be Democratic-Republican in local politics in the future).¹⁴⁷ Peters likely shared his fundamental assumption about the inability of the poor to lead, as did most politicians of the time, including Gallatin and Findley themselves. Hamilton and Peters thus went into the interrogations confident that they knew who the culprits were, and concentrated in the sessions on forcing people to give them concurring evidence.

This early and certain focus, plus other elite assumptions, allowed all of the actual Rebel leaders who had been taken into custody to escape trial. If, as Hamilton and Peters believed, well-known local politicians were the leaders, then all the others were by definition led, and not so important. Several of these actual Rebel leaders, such as David Bradford and James Marshall, left the area and were never apprehended, and others such as David Lock and Peter Lisle (a Mingo Creek Society member) escaped from detention. However, many other leaders thought dangerous and important either were captured and did not escape, or returned to Pittsburgh and gave themselves up either to General Lee or to his substitute General Daniel Morgan (a member of the Neville family, who commanded the contingent of 1500 federal troops that stayed in the inflamed counties until summer 1795). Benjamin Parkinson (President of the Mingo Creek

¹⁴⁶“There is a reluctance in the rulers or public agent to admit that the discontent rises spontaneously among the people, instead of being manufactured for them. ... The holding responsible the ‘influential men’ ... goes on the idea that the masses take no part in [political events], but they are acted upon by a few individuals; a very great mistake, but very natural in those who hold the people in a low estimate, and doubt their capacity for self-government.” BRACKENRIDGE, *INSURRECTION*, note 10 *supra*, 23, 25. See also BRACKENRIDGE, *INCIDENTS*, note 10 *supra*, 2:58.

¹⁴⁷Observers at the time and later agreed that Hamilton was acting upon his political feelings. FINDLEY, *HISTORY OF THE INSURRECTION*, note 10 *supra*, 234; Carnahan, *The Pennsylvania Insurrection of 1794*, note 10 *supra*, 147. For John Hamilton’s political career after 1795, see Fennell, “Whiskey Rebellion,” note 10 *supra*, 150.

Society, and one of the Rebel leaders) turned himself in, was paroled by Morgan, and eluded further custody. John McDonald, John Holcroft (long thought to be “Tom the Tinker”), and Col. David Philips, all Mingo Creek members, were given the privilege of turning states’ evidence, as were Arthur Gardner and Thomas Lapsley, Rebels closely sought by the federal forces in the fall of 1794.¹⁴⁸

All of these decisions—to parole, to nol pros, to grant permission to be state’s evidence—were made by the well-connected Generals Lee and Morgan, or by the beleaguered and essentially ignorant Rawle and Peters, or by Hamilton and the President—all members of the elite. That class-skewed decisions determined who was to be tried was understood by contemporaries. Findley noted that “several [leaders of the Rebellion] were in custody and dismissed [T]hose who had the greatest address [that is, ability to put themselves forward] or the most influential friends would of course obtain an amnesty, whilst the bashful, the ignorant, and the friendless were necessarily left to be the subjects of atonement.” The leader of the western expedition, Alexander Hamilton, wanted only to prosecute “fit subjects for examples,” aristocratically caring little that any particular person (except Husband) be punished, desiring only to terrorize the stupid but numerous poor for listening to dastardly elite members—thereby (as Findley put it) to create “atonement.” Contradictory though elite sensibilities might have been, nevertheless favoritism borne of class solidarity, pity borne of class (and gender) distance, and the need to punish the poor through the chance selection of anonymous examples—a need borne of class fear and class hauteur—eliminated most of the prime suspects in custody, so that not a single elite leader of the Rebellion was sent to Philadelphia for trial, and almost all of those who did make the harsh trip

¹⁴⁸For the escapes of Lisle (called Lyle) and Lock, see Proclamation of Gen. Henry Lee, Nov. 24, 1794, PENNSYLVANIA ARCHIVES, SECOND SERIES, note 19 *supra*, 4:476. Parkinson, Holcroft, Lapsley, and Gardner were considered to be so central to the Rebellion by the federal authorities that they were specifically exempted from the pardon issued by Lee in Washington’s name. General Lee’s Proclamation of Pardon, Nov. 29, 1794, *id.*, 4:479. They were still considered dangerous a month later, though by then all had surrendered. See William Rawle to Alexander Addison, Dec. 24, 1794 (Lapsley called Tapley), *id.*, 4:500; Alexander Addison to Richard Peters, Dec. 5, 1794 (Lapsley jailed; Gardner has returned), Rawle Papers, note 39 *supra*. Holcroft was indicted by the grand jury for treason in May 1795, appeared in court just in time to avoid being arrested by the marshal, pleaded not guilty, and was nol prossed (that is, not further proceeded against) by Rawle when he presented a statement from the President that his October 11 submission should be honored, despite his exception from the amnesty, and that he should be discharged. See “Circuit Court Engrossed Minutes,” note 140 *supra*, under dates of May 7, 8, 20, and June 5; William Bradford to William Rawle, June 4, 1795 (called Holdcraft), *United States v. John Holcroft*, “Criminal Case Files,” note 50 *supra*. For the further escape of Parkinson and the deal made with Holcroft and Gardner to become witnesses, see William Rawle to Alexander Addison, July 17, 1795, PA. ARCH., *supra*, 4:533. Hamilton himself suggested making the deal with McDonald. See Alexander Hamilton to Henry Lee, Nov. 13, 1794, in HAMILTON PAPERS, note 22 *supra*, 17:369.

eastward were of the lower class.¹⁴⁹ Findley commented wryly that the class terror and atonement desired by Hamilton was not achieved, since few western Rebels actually repented “unless giving testimony liberally against [fellow Rebels] was sometimes considered as an evidence of repentance.”¹⁵⁰

3. *The Prisoners Walk to Philadelphia*

A bedraggled group of 17 insurgents set off for Philadelphia under close cavalry guard and the hostile eye of General White on November 25. Three more were added at Greensburg, where the whole group was “drawn out and paraded in the street, and compelled to stand mid-leg deep in mud and snow.” While some of the prisoners had been taken to Pittsburgh mounted, all of them were forced to walk from Pittsburgh to Philadelphia. General White ordered that two mounted guards with swords drawn, gaudy in their resplendent blue uniforms, be placed before each pair of prisoners, and at the end of the column. An eyewitness of a similar column of captured Rebels White had taken from Washington (Pennsylvania) to Pittsburgh remembered it thus: “Some were old, some young, some hale, respectable looking men, others were pale, meager, and shabbily dressed. Some had great coats, some had blankets over their shoulders. The countenance of some was downcast, melancholy, dejected; that of others stern, indignant.” At night, relates the memoir of one of the prisoners, they “were placed in cellars, barns and such other places as suited the disposition or fancy of our guard.” And so they moved wearily for thirty days through snow and mud towards the nation’s capital, Philadelphia.¹⁵¹

On Christmas Day 1794 the column entered the city. The prisoner’s memoir notes that they were forced by order of General White to wear white slips of paper as cockades, “to be put in our hats to distinguish us as insurgents from the rest of the crowd that we were to march through, or as trophies of victory.” The administration assured that this would be a Roman triumph in form: church bells rang, artillery was fired, a band played, and the President watched them be

¹⁴⁹FINDLEY, HISTORY OF THE INSURRECTION, note 10 *supra*, 218-19; Alexander Hamilton to George Washington, Nov. 8, Nov. 11 (“It is not yet certain how much can be proved against [Col. John Hamilton]; but otherwise he is a very fit subject [for an example].”), Nov. 15 (source of quote in text), Nov. 19, 1794, in HAMILTON PAPERS, note 22 *supra*, 17:361, 366, 372, 391. General Wilkinson, a contemporary Pittsburgh resident, is quoted as commenting that “many found acquaintances, and influential friends, who interposed in their behalf, and obtained their immediate release.” SMITH, OLD REDSTONE, note 55 *supra*, 262. The classic presentation of the use of “examples” to maintain class dominance through terror is Douglas Hay, *Property, Authority, and the Criminal Law*, in DOUGLAS HAY *et al.*, eds., ALBION’S FATAL TREE: CRIME AND SOCIETY IN EIGHTEENTH-CENTURY ENGLAND (New York: Pantheon Books, 1975), 17-63. See also PETER LINEBAUGH, THE LONDON HANGED: CRIME AND CIVIL SOCIETY IN THE EIGHTEENTH CENTURY (2d ed., London: Verso Books, 2003).

¹⁵⁰FINDLEY, HISTORY OF THE INSURRECTION, note 10 *supra*, 219.

¹⁵¹Porter Memoir, note 137 *supra*, 330 (source of first and third quotes); Carnahan, *The Pennsylvania Insurrection of 1794*, note 10 *supra*, 146 (source of second quote).

paraded by, probably beaming with immense satisfaction. “We were marched through 20,000 spectators by a circuitous route through the city to the new jail, where we were placed in cells and kept all night without food or light.” At the jail the Rebels found six other prisoners already there, the four sent from Bedford, and one each from the disturbances in Cumberland and Northumberland Counties. While others would be added to their number, and some would be let out on bail, most would languish in the jail for many months.¹⁵² A total of 64 men were eventually jailed or faced with criminal charges as a result of the Rebellion (including 22 from Franklin, Northumberland, and Cumberland Counties in the east, four from Bedford, and one from Ohio County, Virginia). Only two of this whole group would ever be convicted of any crime resulting from the Rebellion.

D. The Judiciary and the Trials of the Rebels

The Supreme Court refused to move the trials back to Pittsburgh, giving specious reasons,¹⁵³ as these good Federalist judges were not about to allow grand jurors from the localities in rebellion to decide on Rebel indictments, or petit jurors from there to determine the guilt of the Rebel prisoners. Former United States District Judge William Lewis, appointed as one of the counsel for the prisoners, successfully obtained bail for Col. John Hamilton by filing a writ of habeas corpus in the Supreme Court. Four other prisoners of perhaps middling class status were also bailed, while only two of the obviously working-class prisoners obtained a similar release—and one of those, a Revolutionary War veteran, benefitted from pleas made by his Revolutionary commanding officer. None was discharged due to lack of evidence.¹⁵⁴ While bending slightly, the judiciary wanted the Rebels tried, not freed on technicalities. National security, rather than

¹⁵²Porter Memoir, note 137 *supra*, 330 (source of quotes); ELAINE FORMAN CRANE, ed., *THE DIARY OF ELIZABETH DRINKER* (Boston: Northeastern University Press, 1991), entry for Dec. 26, 1:634; [Baltimore] *Maryland Journal*, Dec. 26, 1794; *Dunlap and Claypoole’s American Daily Advertiser* [Philadelphia], Dec. 26, 1794. A friendly visitor to the jail wrote that the prisoners “live very well but have hardly room enough.” Absalom Baird to Susan Baird, Feb. 21, 1795, in *SUPREME COURT DOCUMENTARY HISTORY*, note 33 *supra*, 6:519.

¹⁵³*United States v. Hamilton*, 3 U.S. (3 Dall.) 17 (1795).

¹⁵⁴*United States v. Hamilton*, 3 U.S. (3 Dall.) at 17-18. The perhaps middling Rebel suspects who were bailed include James Kerr, a Mingo Creek Society member who agreed to testify for the prosecution, justice of the peace Thomas Sedgwick, the Rev. John Corbley, and Bedford County resident George Wisegarver. Minutes of the Supreme Court, Feb. 25-27, 1795, *SUPREME COURT DOCUMENTARY HISTORY*, note 33 *supra*, 1:242; Recognizance of John Corbley, Mar. 4, 1795, *United States v. Corbley*, “Criminal Case Files,” note 50 *supra* (reprinted, *SUPREME COURT DOCUMENTARY HISTORY*, *supra*, at 6:520); Porter Memoir, note 137 *supra*, 330-31. The two working-class bailees were Samuel Nye, whose only offence had been drunkenly insulting cavalry lieutenants in Pittsburgh, *see* text accompanying note 140 *supra*, and Revolutionary War veteran George Lucas. *See* Lucas to William Irvine, Feb. 5, Feb. 19, 1795, vol. 13, Irvine Papers, note 65 *supra*. Lucas was successful with his pleas to General Irvine. *FINDLEY, HISTORY OF THE INSURRECTION*, note 10 *supra*, 212.

individual justice, was most important to them in what they saw as a time of crisis for the United States and its government.

Similar attitudes persisted when the federal circuit court for Pennsylvania finally began to deal with the Rebels in May. The court consisted of Supreme Court Justice William Paterson (General White's brother-in-law) and District Judge Richard Peters, who, as we have seen, already had great personal acquaintance with the facts and issues. The two judges exhibited overwhelming bias against the defendants. Albert Gallatin, who witnessed some of the events and all of the trials, remarked in a private letter that "Judge Peters ... has behaved during the whole course of the trials not as a Judge but as a Prosecutor." Paterson's usually laudatory biographer finds that, when Paterson addressed the grand jury, and when he gave charges to the two petit juries considering the cases of the men who would eventually be convicted, he "lost control" and took a political rather than a judicious position because of "his concerns about the political stability of the new nation." In each of the two convictions, the biographer concludes, Paterson "made it all but impossible for the jury to bring in anything but a verdict of guilty"; the Justice "was telling [the jury] that the defendant must be made an example for those who might foment rebellion in the future."¹⁵⁵ The predetermined guilt of all, and the need for exemplary punishment of a few, was also the position of Washington and Hamilton, as we have seen.

However, thanks to superb work by the counsel appointed to represent the defendants, poor work by prosecutor William Rawle, and (most importantly) a sympathy that jurors had towards the defendants, only those two convictions were obtained. All in all (Whiskey Rebellion prosecutions continued at the next session of the circuit court in October), federal grand jurors issued 52 indictments, 24 for treason, two for felony for robbing the mails, and 26 for various speech-related misdemeanors. Only 12 of these—10 for treason, and two for the misdemeanor of fomenting rebellion—were brought to trial, and only two resulted in convictions. Just as importantly, the Philadelphia grand jury also refused to find indictments against 12 persons for treason (including William Bonham, who was nevertheless indicted for a misdemeanor), refused to indict four persons for misprision of treason (that is, learning of treasonous activity but failing to report it to a proper authority), and refused to indict five persons for various misdemeanors.¹⁵⁶

Sheriff Hamilton, Justice of the Peace Sedgwick, and the Reverend Mr. Corbley had unsuccessfully sought discharge from the Supreme Court because of lack of evidence. The grand

¹⁵⁵Albert Gallatin to Hannah Gallatin, June 1, 1795, in SUPREME COURT DOCUMENTARY HISTORY, note 33 *supra*, 3:53 ; JOHN E. O'CONNOR, WILLIAM PATERSON: LAWYER AND STATESMAN 1745-1806 (New Brunswick, NJ: Rutgers University Press, 1979), 234-36. Slaughter agrees with O'Connor's assessment of Paterson's injudiciousness. SLAUGHTER, WHISKEY REBELLION, note 6 *supra*, 220.

¹⁵⁶"Circuit Court Engrossed Minutes," note 140 *supra*, under dates of April 11-June 5 and October 12-23, 1795; also *id.*, Target Three, 73-75.

jury refused to indict Hamilton for misprision of treason, refused to indict Sedgwick for either misprision of treason or seditious speech, and refused to indict Corbley for treason. It did indict Corbley for misdemeanor for his inflammatory speeches at several of the Rebel gatherings; however, Rawle in April 1796 himself dismissed this charge.¹⁵⁷ Apparently the evidence against these people was just as slim as they claimed it was.

All of the Rebellion-derived misdemeanor actions were brought for speech-related activity—most for raising liberty poles, one for writing an allegedly seditious letter, and others for various speeches allegedly inciting to rebel. Of these the only one actually tried—for speech inciting to rebel—resulted in a jury verdict of innocence. Rawle’s attempt to erect liberty-pole-raising into a crime failed abjectly. The grand jury refused to indict five on charges of liberty-pole raising, and the other 19 were eventually dismissed.¹⁵⁸ It proved difficult to convict Rebels for criticizing the government or even for inciting rebellion against it.

Rawle’s preparation was hasty, and was based upon his overwhelming assumption that all were guilty so that not much had to be done. For example, the first Rebel to be tried was Captain Robert Porter, for treason. Rawle alleged that Porter was present when General Neville’s house was fired upon and then put to the torch on July 17. But not one of the eleven prosecution witnesses could place him at the scene. The testimony was, as observer Albert Gallatin reported, “so lame and confused that [Porter’s] counsel would not even take the trouble to call any witness in his behalf.” Justice Paterson directed a verdict of not guilty, which the jury agreed to without leaving the jury box. In all of the cases, Rawle consistently failed to put forward the two witnesses to an overt act of treason required by the Constitution. Observer William Findley commented: “Two or three of [those tried] ... might probably have been found guilty on a charge of misdemeanour, but the charge on which they were tried being *treason*, two witnesses were necessary to prove the same fact, and this requisition could not be complied with.”¹⁵⁹

¹⁵⁷“Circuit Court Engrossed Minutes,” note 140 *supra*, under dates of May 6, 7, 9, 11, 12, 18, 22, 23, 28, 29, June 1, 3-5, Oct. 16, 19-22, 1795; Porter Memoir, note 137 *supra*, 330, 331; [nol pros], Apr. 4, 1796, *United States v. John Corbley*, and “List of criminal Cases remaining,” both in “Criminal Case Files,” note 50 *supra*; Albert Gallatin to John Badollet, May 20, 1795, Albert Gallatin to Thomas Clare, May 30, 1795, Gallatin Papers, note 116 *supra*.

¹⁵⁸“Circuit Court Engrossed Minutes,” note 140 *supra*; *United States v. John Holcroft*, *United States v. John Corbley*, *United States v. Thomas Geddes*, and “List of criminal Cases remaining for Trial Apl. Sess. 1796” (listing nol prosses of eight Whiskey Rebellion indictments for misdemeanor, involving 20 different defendants, from Northumberland, Cumberland, and Franklin Counties), “Criminal Case Files,” note 50 *supra*. For the pardons of the two men who were convicted, see Timothy Pickering to George Washington, Nov. 2, 1795, microfilm M-179, “Misc. Letters of the Dep’t of State 1784-1825,” National Archives. For the release of James Kerr, see Porter Memoir, note 137 *supra*, 330; note 154 *supra*.

¹⁵⁹Albert Gallatin to Hannah Gallatin, May [18-19] 1795, Gallatin Papers, note 116 *supra*; Porter Memoir, note 137 *supra*, 331; U.S. CONST. Art. III, sec. 3; FINDLEY, HISTORY OF

Defense attorneys consistently pointed out the flaws in Rawle's prosecutions, and put on excellent witnesses themselves. The testimony in one case of alleged treason, Gallatin thought, resulted in a verdict of innocent because it showed "there was at least a strong presumption that [the defendant] went there either to prevent mischief or at most only as a spectator." In another, where Gallatin thought the defendant guilty, Lewis "made a very good defence" and the jury found innocence within 15 minutes of leaving the jury box. By October, Lewis had an even better defense: provocation—that is, no treason had been committed, because General Neville himself had fired the first shot when the insurgents came on July 16, and the occupants of the house had been the first to fire on the second day, July 17. Both of the treason trials Rawle pursued in October resulted in verdicts of "innocent," probably as a result.¹⁶⁰

It was probably also obvious to the jurors that no Rebel leaders were being prosecuted, while many were giving testimony for the prosecution. At various times in the six treason trials for the attack at Neville's, turncoat Rebels John McDonald, Arthur Gardner, James Kerr, Thomas Lapsley, and the two actual leaders of the attack, John Holcroft and David Hamilton, testified for the prosecution. Rawle himself understood well the reluctance of the juries in these cases. "At the last sitting of the circuit court," he wrote after that court rose in June, "it was discovered that a great unwillingness to say to much against their fellow citizens, a reluctance in the jury to convict the smaller engine on the testimony of their ringleaders, and a natural repugnance to capital convictions, occasioned some unexpected acquittals."¹⁶¹ The equities of class were understood and applied by the citizens who served on these juries.

After two consecutive terms of circuit court with such a dismal conviction rate, and with all remaining charges (except for one concerning Corbley) either against folks who had not been apprehended, or against persons who were not from the western counties, or for the dubious crime of liberty-pole raising, the government apparently decided to quit. It was probable that too much negative publicity—that the Rebellion was widespread and affected settled areas in the east, or that the government could not win another Rebellion case before a jury—would be the result of further prosecution. The decision was not easy. But, just before the next meeting of the circuit court in April of 1796 Rawle dropped all remaining Whiskey Rebellion charges.¹⁶²

THE INSURRECTION, note 10 *supra*, 210.

¹⁶⁰Albert Gallatin to Hannah Gallatin, June 1, 1795, note 155 *supra*; "Circuit Court Engrossed Minutes," note 140 *supra*, under dates of May 23, 25, 29, 1795; BRACKENRIDGE, INCIDENTS, note 10 *supra*, 3:151; "Circuit Court Engrossed Minutes," *supra*, under dates of Oct. 16, 19-22, 1795.

¹⁶¹*Id.* under dates of May 18, 25, 28, 29, Oct. 16, 19, 21, 1795; William Rawle to Alexander Addison, Aug. 15, 1795, in PENNSYLVANIA ARCHIVES, SECOND SERIES, note 19 *supra*, 4:535.

¹⁶²Rawle appeared ready to throw in the towel in late October, after losing two more treason trials. See William Rawle to Alexander Addison, Oct. 29, 1795, in PENNSYLVANIA

It remains to look closely at the two convictions Rawle did obtain, and at the trial of Herman Husband. Both convicted defendants epitomized elite stereotypes of the lower class. Both were extremely poor and probably landless, both were apparently drunk at the time they committed the crimes, both were suggestible and had been led into their dangerous circumstances by fellow Rebels, and both had strong social and perhaps mental deficiencies. Neither was fully in charge of himself, in other words, especially from an elite viewpoint, and both thus needed good leadership, good instruction, and much more docility. Both were expendable.¹⁶³ They were indeed Alexander Hamilton's "fit examples." After the second, Philip Vigol, was convicted by the petit jury (which stayed out all night before doing so), the jurors unanimously sought mercy. Gallatin accepted from them the task of drafting a petition for clemency to the President, which the entire jury signed. William Lewis undertook to transmit it to the President, and other petitions on behalf of both convicted defendants poured in from Quaker Philadelphia. Reluctant to grant the requests for mercy, Washington postponed execution of the defendants pending the Rebel trials to take place at the ensuing circuit court in October. But when two more treason trials resulted in verdicts of innocence in October, he decided that clemency was appropriate for these two objects of class pity.¹⁶⁴ Class arrogance in this case trumped class fear, and it was decided to maintain class dominance through the channel of magnanimity rather than through the channel of terror.

Only one prosecution was attempted for speech rather than acts. Rawle and Hamilton were

ARCHIVES, SECOND SERIES, note 19 *supra*, 4:539. But Corbley's nol pros was not entered until April 4, 1796, and the undated list of cases to be nol prossed at the April 1796 term does not include Corbley's instance, so the decision to quit must be dated later than April 4 but before the court met on April 11, 1796. Probably the President was hard to convince that the prosecutions should be dropped.

¹⁶³See Daniel Morgan to George Washington, Jan. 19, 1795, "Miscellaneous State Department Letters," note 158 *supra*; Morgan to [William Rawle], Jan. 19, 1795, *United States v. John Mitchell*, "Criminal Case Files," note 50 *supra*; FINDLEY, HISTORY OF THE INSURRECTION, note 10 *supra*, 93, 211, 213-14; Albert Gallatin to Hannah Gallatin, May 25, 1795, Gallatin Papers, note 116 *supra*, partially reprinted in HENRY ADAMS, THE LIFE OF ALBERT GALLATIN (Philadelphia: J.B. Lippincott & Co., 1879), at 149, and June 1, 1795, note 155 *supra*.

¹⁶⁴*Carlisle Gazette*, June 3, 1795 (Vigol jury out all night); *The Pittsburgh Gazette*, June 27, 1795 (noting the reprieve, until November); [Philadelphia] *Aurora* [and] *General Advertiser*, Nov. 5, 1795 (noting the pardon); William Lewis to Timothy Pickering, June 12, 1795, "Whiskey Rebellion Collection," Library of Congress (enclosing petition drafted by Gallatin and signed by all petit jurors) (collection contains petitions for both convicted men, carrying the signatures of hundreds, including the signatures of all the petit jurors and of all the grand jurors).

positive that they could convict their nemesis, Herman Husband, whose ravings and writings had been extremely inspirational for the Rebels. But Rawle once again proved unprepared, relying on the assumption that anything said in opposition to government policy was seditious. Not a single witness could state that either Husband or his codefendant Robert Philson had said anything seditious at the August 14 Parkinson's Ferry meeting. They had in fact been explicitly instructed by the Rebels of Bedford County to promote peace and constitutional measures. Moreover, all witnesses concurred that when the two returned to Bedford, they were happy that the result of Parkinson's Ferry would be peace, not war. Several witnesses described both men as opposing the Washington administration, favoring a government which the popular will controlled, and favoring solidarity of and with the people. A defense witness captured Husband well, quoting him as having said, "Whatever was the will of the people ought to be the law of the land." But the witnesses also testified to Husband's opposition to war, opposition to the burning of houses, opposition to liberty poles, and opposition to tarring and feathering, emphasizing again and again how he favored only constitutional sorts of opposition. Without much ado, the jury found Husband and Philson innocent. The vendetta of Washington and Hamilton against the radical democrat Herman Husband, indeed against any word of opposition to government or its policies, especially words stated by anyone poor or disreputable, had proved utterly empty when put before a jury—and Husband's jury was composed of easterners.¹⁶⁵ Even during a rebellion, and even when voiced by a crank, opposition to the government was not seditious per se.

The arrogance and solidarity of class elitism eliminated all the Rebel leaders from the pool of defendants, enabling jurors to perceive the class bias of the prosecutions, and caused poor preparation on the part of the prosecutors, locking the prosecution into the indictments and witnesses it obtained under poor assumptions. Moreover, the law's arena proved to be, as it can often be, a battleground of conflicting class forces. Revolutionary ideals of freedom and concomitant legal provisions had been stated neutrally and inclusively, and proved useful for the poor and landless who predominated among the Rebel defendants. Competent lawyers trained in a more communal legal climate than ours, a climate which emphasized cross-class obligations, argued ingeniously for their clients, middle as well as low. The law was supposed to be neutral and fair for all, and, thanks largely to the American Revolution and the struggles of "the many-

¹⁶⁵Testimony of Albert Gallatin, James Wells, Daniel Stoy [*sic*], Robert Smiley [*sic*], Thomas Kennedy, James Wilson, Jacob Countryman, David Wright, and Abel Faith, June 3 & 4, 1795 (Paterson's notes), in Paterson Papers, note 107 *supra*. The jury in the trial of Husband and Philson was drawn entirely from Philadelphia and from nearby Chester and Delaware Counties. "Circuit Court Engrossed Minutes," note 140 *supra*, under date of June 3, 1795.

Husband was not allowed to enjoy his triumph over the Washington administration for very long. Exhausted by his long imprisonment, the 73-year-old pacifist, revolutionary firebrand and philosopher, and as much a hero of democracy as I have encountered, died soon after leaving prison, at a tavern outside Philadelphia as he was beginning his journey home.

headed hydra”¹⁶⁶ and the Whiskey Rebels, “all” now meant a much larger segment of the populace than it had for a very long time,¹⁶⁷ both in the minds and hearts of the Rebels themselves, and at significant times in the approaches taken by their elite Philadelphia lawyers.

Juries were comprised of “the people.” In these cases, the jury was drawn from a more elite segment of the citizenry than either most of the Rebel defendants or than would have been true had the trials been in the west. Nevertheless juries were more popular, less elite, and more representative of all the people than any appointed or elected government officials. Moreover, juries were in the 1790s in charge of the law.¹⁶⁸ Juries were then, just as they are now, the most democratic part of government in the United States, and jury nullification of unpopular law or unpopular criminal legal proceedings was even more legally correct then. The law itself helped. Stronger restrictions on tyrannous government had been built into strict definitions and technicalities within the law of treason, because within relatively recent memory other more elite rebels fighting an even more elite British rule had been ground down through more loose and less cabined laws, and when these rebels won they amended the law in neutral, inclusive terms. These technicalities—fueled by a common memory of the recent need to escape tyranny, and a bitter long war full of the people’s spilled blood accomplishing that escape—tended to work in favor of all of defendants.

¹⁶⁶See PETER LINEBAUGH & MARCUS REDIKER, *THE MANY-HEADED HYDRA: SAILORS, SLAVES, COMMONERS, AND THE HIDDEN HISTORY OF THE REVOLUTIONARY ATLANTIC* (Boston: Beacon Press, 2000), 211-48.

¹⁶⁷The Rebels were all white men, and so far as I can ascertain, they exhibited the same sexist and racist assumptions and behaviors as did most white males in the United States at the time, including all of the prominent Jeffersonian “liberals.” But, just as the American Revolution had helped to fuel egalitarian drives by some blacks and had inspired some women to think of themselves more as equals, see SANDRA F. VANBURKLEO, “BELONGING TO THE WORLD”: WOMEN’S RIGHTS AND AMERICAN CONSTITUTIONAL CULTURE (New York: Oxford University Press, 2001), 47-48, 56-57; GARY B. NASH, *FORGING FREEDOM: THE FORMATION OF PHILADELPHIA’S BLACK COMMUNITY* (Boston: Harvard University Press, paperback ed., 1991), so it had aided many men of the lowest rank to imagine the government and the culture as no longer so solidly opposed to their thinking of themselves as fully competent and able.

For the thousands of generations of socialist democracy and substantive egalitarianism in human political history, see, e.g., Christopher Boehm, *Global Conflict Resolution: An Anthropological Diagnosis of Problems with World Governance*, in *EVOLUTIONARY PSYCHOLOGY AND VIOLENCE* (Richard W. Bloom & Nancy Dess, eds., Westport, Connecticut: Praeger, 2003), 204, 209, 211. I am indebted to Bill Lipe for this reference.

¹⁶⁸See, e.g., *Bingham v. Cabot*, 3 U.S. (3 Dall.) 19, 33 (1795)(opinion of Iredell, J.); *Van Horne’s Lessee v. Dorrance*, 2. U.S. (2 Dall.) 304, 306 (opinion of Paterson, J., at the same circuit term as the Whiskey Rebels began to be tried); Matthew P. Harrington, *The Law-Finding Function of the American Jury*, 1999 WISC. L. REV. 377.

Moreover, the jury verdicts of acquittal and the petitions for clemency for those convicted demonstrate both a sharp popular ability and a somewhat surprisingly vigorous sense of popular solidarity with the Rebels and/or against the government. Hugh Brackenridge found, “in Philadelphia, some who had a warm side to the insurrection.”¹⁶⁹ Largely nonpoor grand and petit jurors, not drawn from the Rebel community but gaining a community feeling through the news and through proper education by witnesses and counsel, witnessed the government’s arrogant elitism in its selection of witnesses and defendants, were revolted by the application of the death penalty to these poor and bedraggled Rebels, and mostly refused to stanch the speech activity of protest—all despite the clear existence of a rebellion, in which the defendants clearly had fought. The elite people running the government could not remember when they had danced around liberty poles, but the jurors could. “Sorry I am,” mused Major Ford of the Water Melon Army to his war diary, “that Americans seem so fond of the idea of revolutions, and changing government, that the flame of alteration catches fire with avidity.”¹⁷⁰

III. THE CLASS NATURE OF THE REBELLION

The class warfare which forms the foundation of this article is precapitalist and premodern in its location of the engine of oppression essentially in aristocratic control of agriculture and the agricultural workplace—land—rather than profit-desiring owner control of commodity production and of the manufacturing workplace. It is a story of rich against poor and the well-landed against the un- or poorly-landed. The class battles were, at least as the Rebels saw it, over the existence of a free peasant community which owned and governed its own equally-distributed farmland (although one of the hidden but root causes of Rebel upset and protest, as Fennell shows, was the loss of what remained of this feudal way of life, the only dimly recognized coming of a moneyed, wage-labor-founded capitalist economy and the dislocations which that caused for many people). So too members of the Federalist government (including the judges) and the law of the 1790s were precapitalist and premodern, being capitalist only in the commercial developmentalism of Federalist economic policy. It does historians no good to imagine that most things stay the same, since human institutions are malleable and the fundamental tenet of existence is change, not stability.

It was class warfare nevertheless. One measure is that the Rebel cause was not supported by elite segments, as the premodern assumptions of Washington and Hamilton said that it was. AntiFederalist elites and AntiFederalist newspapers were just as opposed to the Rebellion as was the administration. Though they hated administration policies, Albert Gallatin, William Findley, and Hugh Brackenridge never supported an armed rebellion or an egalitarian peasant-governed farming community. The usually inclusive and open-minded Brackenridge laughed at the lower-class champion who did support peasant governance—Herman Husband—while Gallatin, when

¹⁶⁹BRACKENRIDGE, INCIDENTS, note 10 *supra*, 3:35. See Roland M. Baumann, *Philadelphia’s Manufacturers and the Excise Tax of 1794: The Forging of the Jeffersonian Coalition*, in BOYD, ed., WHISKEY REBELLION, note 3 *supra*, 135-64.

¹⁷⁰Ford, *Journal*, note 53 *supra*, 83.

Husband desired to read a pamphlet at the Parkinson's Ferry meeting, looked it over and counseled against its being read, Gallatin thinking Husband "out of his senses."¹⁷¹ Husband's millennial message was for the poor; those with education, whose lives fit into commercial society, thought it mad—including Jeffersonian AntiFederalists. No Jeffersonian newspaper in the east gave the faintest support to the Rebels, including the two most outspoken sheets in Philadelphia, Benjamin Franklin Bache's *Aurora* and Eleazar Oswald's *Independent Gazetteer* (being published in 1794-95 by his wife, Elizabeth Holt Oswald, due to Eleazar's absence fighting in the French and Irish Revolutions).¹⁷²

The Washington administration accurately perceived that the Whiskey Rebels represented a deep-seated, widespread popular lower-class antagonism towards both its elitist, developmental, commercially-oriented, money-economy policies and the less-democratic, more powerful new government created by the 1789 Constitution. The administration could not imagine that poor people could govern themselves, so it erroneously understood the antagonism both to be shared by some among the AntiFederalist elites and, within the ideology of aristocratic feudalism into which they had all been born and educated, that the smoldering opposition would be used by other elite persons who wished to rule themselves. Especially in what the administration perceived to be a very tense and perilous international situation, it was imperative for them that the internal opposition, both lower-class and elite, be crushed and done away with. National security demanded that a strong force be used to overwhelm the Rebels, to teach not only Rebels but elite opponents and international antagonists that the Washington administration was firmly in power and that the new United States was neither weak nor cowardly nor ineffective, and that the union was not crumbling. However, it was also important that it appear to the world that the Rebels could be dealt with in a properly calm, orderly, judicious fashion.

The government responded with massive force to defeat and humiliate the lower-class threat. The federal judges saw themselves fully as part of the political regime, and they spoke and acted—even from the bench—as a part of the government's massive force. When more convictions could not be wrenched from a suspicious populace, the Washington administration decided to cover the matter up, to tell the story of a tempest in a teapot. The Rebels did not give in, but thanks to the Federalist victory and cover-up they have faded from our history. These courageous

¹⁷¹Testimony of Albert Gallatin, June 3, 1795 (Paterson's notes), in Paterson Papers, note 107 *supra*.

¹⁷²I have carefully searched both papers for the years 1794 and 1795, and found almost no mention of the Rebellion. For Bache and the *Aurora*, see KIM TOUSLEY PHILLIPS, WILLIAM DUANE, RADICAL JOURNALIST IN THE AGE OF JEFFERSON (New York: Garland Publishing, Inc., 1989), 54-56; for the Oswalds and the *Independent Gazetteer*, see JOSEPH TOWNE WHEELER, THE MARYLAND PRESS 1777-1790 (Baltimore: Maryland Historical Society, 1938), 27-36; LEONA M. HUDAK, EARLY AMERICAN WOMEN PRINTERS AND PUBLISHERS (New York: Scarecrow Press, 1978), 533-41.

proponents of democracy, these forward-looking men who had a vision of equality in action, deserve better.