In Commemoration of the 50th Anniversary of the 1963 Civil Rights Movement in Alabama

A Broad and Sweeping Federal Power:
Birmingham Barbecue and Southern Culture in the Crosshairs of the Commerce Clause

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- Special Guest Letter by Dr. Robert G. Corley on Becoming a Historian during Jim Crow
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THE VULCAN HISTORICAL REVIEW

The Vulcan Historical Review

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Letter from the Editors

The year 2013 marks the fiftieth anniversary of the Civil Rights Movement in the United States. The events that unfolded in 1963 shocked both the nation and the world as stories unfolded detailing the tragedies and triumphs that befell the booming metropolis of Birmingham, Alabama. Amidst the backdrop of church bombings, public demonstrations, and fire hoses on peaceful protestors, the country watched as African Americans across the city stood together, crossed arms, and dug their heels in so that their voices would be heard. Their cries for equal rights rang out across the South and reverberated across the fifty states with a goal of exposing a shameful secret that could no longer be successfully suppressed.

In April of 1963, Martin Luther King, Jr. sat alone enclosed in a Birmingham prison cell and addressed his fellow clergymen regarding the city's social irony. Located in a country proclaiming to bestow freedom and equality on all its citizens, many men and women faced discrimination and prejudice on a daily basis from their peers. Within his famous *Letter from Birmingham City Jail*, King denounced the actions of the southern city and defended the protestors as they pressed on for equal civil rights. As he wrote of segregation in Birmingham, he noted the oppression that African Americans had endured and their natural desire to break free from the vicious cycle of abuse. Imbedded in his letter is an essential, powerful statement:

> One day the South will recognize its real heroes. They will be the James Merediths, with the noble sense of purpose that enables them to face jeering and hostile mobs, and with the agonizing loneliness that characterizes the life of the pioneer. They will be old, oppressed, battered Negro women, symbolized in a seventy-two year old woman in Montgomery, Alabama, who rose up with a sense of dignity and with her people decided not to ride segregated buses, and who responded with ungrammatical profundity to one who inquired about her weariness: "My feets is tired, but my soul is at rest." They will be the young high school and college students, the young ministers of the gospel and a host of their elders, courageously and nonviolently sitting in at lunch counters and willingly going to jail for conscience' sake. One day the South will know that when these disinherited children of God sat down at lunch counters, they were in reality standing up for what is best in the American dream and for the most sacred values in our Judaeo-Christian heritage, thereby bringing our nation back to those great wells of democracy which were dug deep by the founding fathers in their formulation of the Constitution and the Declaration of Independence.[1]

This year, to memorialize the fiftieth anniversary of the Birmingham Civil Rights Movement, the editorial staff of the *Vulcan Historical Review* aims to pay tribute to those heroes of whom Martin Luther King, Jr. spoke. Had it not been for those often unknown and uncelebrated individuals, a dark chapter in America's history might have been prolonged or even have remained. The 2013 *Vulcan Historical Review* would like to honor those unnamed heroes who had the courage and determination to stand up for what others were reluctant to face. In choosing our cover photo for the 2013 *Vulcan Historical Review*, we considered carefully the individuals who helped progress the movement and spread the message of racial equality. The cover depicts Reverend Charles Billups and Reverend Fred Shuttlesworth demon-

1 Martin Luther King, Jr., *Letter from Birmingham City Jail* (Philadelphia: American Friends Service Committee, 1963), 14.

strating in front of the Federal Courthouse on 3rd Avenue North in Birmingham. Through the symbolic act of kneeling, the ministers displayed the seriousness of the civil rights movement and their unwavering determination to no longer be ignored, wronged, and refused. Further, the kneel-ins represented the majority's commitment to achieving equality through peaceful means. The photograph is a powerful statement. It is these demonstrations, and the vivid statements they made that allowed the fight against racial injustice to make headway in not only the state, but also around the country. Their endurance and bravery is something that should be celebrated and commemorated, and this issue is a testament to these individuals' historical achievements.

Such a tribute would not have possible if it were not for the collaboration and assistance of multiple individuals. The UAB Department of History faculty and staff gave us tireless encouragement and support. Special thanks must be extended to Dr. Walter Ward, our faculty advisor; Dr. Colin Davis, the department chair; Dr. Harriet Amos Doss; Dr. George O. Liber; Dr. Carolyn Conley; and Dr. John Van Sant, all of whom challenged their students to become critical thinkers and, in turn, better historians. Also, special thanks must be given to Dr. Robert G. Corley who not only teaches about the Civil Rights Movement at UAB, but lived through it in Birmingham, Alabama. It is his passion and involvement that challenges his students to understand and appreciate the importance of these events in history. His personal accounts and memories of the atrocities that unfolded in Birmingham bring a personal nature to the criticality of understanding how far we have come and just how far we have to go. For that we owe him a great debt. Furthermore, without the continued support of Dr. Jean Ann Linney, funding this publication would have been extraordinarily challenging. We are, lastly, indebted to our contributing authors, who spent countless hours diving into the mysteries of the past in order to not really decipher the truth of bygone events, but to understand the reality of the present.

Becoming a Historian

Dr. Robert G. Corley

REFLECTING BACK ON HOW I became a historian, I have realized that growing up in Birmingham and reaching maturity in the 1960s -- a tumultuous and fascinating period of change -- I was surrounded by History. At times, it felt like History was literally pulling me into its widening vortex. Events with long lasting historical ramifications were unavoidable and met me at every turn: in school, in church, and even at home.

I was fifteen in the spring of 1963. Birmingham voters had recently decided that the city would have a new form of government, changing from a three-member city commission to a mayor and nine-member council. The primary purpose of this change, which had been led by nominally conservative (and suburban) business leaders in alliance with young progressive professionals, was to remove from office the notorious and increasing controversial Commissioner of Public Safety, Eugene "Bull" Connor.

After more than 20 years in the office, Connor did not go quietly, and in March he had run second in the race to become the Mayor in the new government. Then in the runoff on April 2, Connor and former Lieutenant Governor Albert Boutwell vied for the top office. Boutwell won, apparently ending Connor's lengthy, and oppressive, reign. However, Connor and his fellow commissioners refused to leave office, claiming their terms did not legally end until 1965. The matter remained in dispute until May 26, when the Alabama Supreme Court affirmed the new government.

In the meantime, the City had been reeling from a wave of demonstrations, first at lunch counters and then in the streets, mounted by the Southern Christian Leadership Conference (SCLC) and led by Dr. Martin Luther King, Jr. These long planned demonstrations -- which had been delayed until after the election so as to avoid giving Connor a critical issue -- began on April 3, the day following the election. The story of these demonstrations and their eventual outcome on May 10 has been told in great detail and even greater eloquence by numerous historians (in addition to me), including the incomparable Taylor Branch, as well as Birmingham natives: Glenn Eskew (*But for Birmingham*), Andrew Manis (*A Fire You Can't Put Out*), and Diane McWhorter (the Pulitzer-Prize winning *Carry Me Home*).

The main thing one should know is that during the entire period in which the demonstrations were occurring, the City had two governments -- the new Mayor and Council, and the former Commission who refused to leave office and challenged the election in court. That is why Bull Connor was still in charge of the police during the demonstrations. Therefore, it was under his orders that the powerful fire hoses and terrifying police dogs were deployed against school children who joined the demonstrations in early May. And this police violence was actually a key to King's success.

As we all know now, these demonstrations carried significant weight in the history of 20th century America. The Birmingham demonstrations were not spontaneous events, but rather a carefully planned campaign designed to test

whether King and the SCLC could achieve success in the "most segregated city in America." They followed years of combat between Rev. Fred Shuttlesworth and Connor, during which the scrupulously nonviolent Shuttlesworth's life had been repeatedly at risk; he had nearly been killed at least three times. King's victory here, limited though it was in actual achievements, nevertheless riveted the attention of the national media, especially television news, and ultimately the direct involvement of President John F. Kennedy.

Overwhelmingly, historians and movement leaders all agree that Birmingham represented what McWhorter has termed "the climactic battle of the civil rights revolution." In June President Kennedy finally addressed the issue of civil rights on national television. In what may have been his most passionate and personal speech, he announced that "because of events in Birmingham and elsewhere" he had decided to introduce comprehensive civil rights legislation for the first time since the end of Reconstruction. Kennedy later told Shuttlesworth and King when they met with him in Washington to discuss the legislation, "But for Birmingham, we would not be here today."

As a white Birmingham teenager observing these events at a safe distance, and mostly through the news accounts on national networks (the local newspapers buried the stories deep inside), I was confused and concerned. I was confused because I did not have information to help me understand what was happening. I did not even know, for example, that thousands of the demonstrators who were being arrested were my age or younger. I was concerned because even from the relative isolation of my white middle class neighborhood, the demonstrations were perceived as dangerous and unprovoked, an insult to the citizens of Birmingham who had worked to remove Connor from office, just as my own parents had done, even though his residence -- with a cast-iron bull in the front yard -- was located just a few blocks away.

I was confused when I sought the opinion of my maid, Ophelia, whom I had known for two-thirds of my life and who dutifully came to wash our clothes and clean our house twice each week. Ophelia assured me that she did not understand why all of these young people were stirring up such trouble, that she had no problems with the way things were. I was also confused when I arrived at my church one Sunday in April and found a large number of ushers guarding the doors. I was told demonstrators were coming and "we" were not going to allow them "to disrupt our worship of God."

I was also confused because just a few weeks before the demonstrations began I had been in the standing-room-only audience at Woodlawn High School for the Warblers Club's *Farewell Minstrel Show*. After a run of shows stretching back more than thirty years, the traditional black-face minstrel that the *Birmingham News* described as offering the "old familiar songs, the bright young talent, the roars of laughter and the burst of applause…" was now coming to an end. Sitting and cheering in the audience for that last performance, I yearned to be on the stage. I wanted more than anything to be a Warbler, not because I wanted to black my face and speak in a crude Negro dialect, but because they seemed to be enjoying themselves so much. And the music was simply glorious. I was fifteen and not too worldly, and nothing about the *Farewell Minstrel* offended me then.

Only much later, as a historian, did I learn about the demeaning past of minstrel shows and about the white assimilation of those moving and beautiful songs the Warblers sang -- mostly spirituals whose music and lyrics were all composed by African Americans to reflect their deep pain as slaves, but also their great hope for eventual liberation. It would only be through my study of History that I would learn about the culture and spirit of this long-suffering community of people who were for me -- and for nearly all whites in 1963 -- quite invisible. Indeed, just in the last few years have I recognized the profound irony that this last, farewell minstrel show was being performed in my all-white, legally

segregated school at the same moment that Shuttlesworth and King were plotting to change Birmingham and the nation much more profoundly than anyone ever imagined. When the demonstrations began on April 3, it had barely been two weeks since the Warblers wiped the shoe black off their faces for the last time.

Since 1963, I have literally spent a lifetime studying and thinking about these events and their meaning, not just for me personally, but also for our city and our nation. For me and for many, these events echo through time, and this echo resounds into the present, shaping and reshaping our response to them as we engage each other through our deeper understanding of their history. It is a story that has not yet ended. It is the continuing story of this community and of this nation. It is not finished, and may never be.

Eventually I also came to understand that the reason I wrote my dissertation about race relations in Birmingham, and why I continue to study about race and teach civil rights history, is because I am still trying to know myself more clearly by understanding what really happened in the past. I want to understand the increasingly consequential changes that this history wrought in our nation, changes that not only destroyed an oppressive system of racial apartheid, but also eventually led to the election of the first African American President.

Finally, I have come to see more clearly that I am not alone. All of us are pulled into the vortex of History; whether it is through the Cold War; or September 11 and the "war on terror;" or the "Great Recession" of 2009; or the immigrants living among us. History is inescapable. Knowing History -- our own and that of our times -- is essential if we are to know who we truly are, and what we need to do with our lives to give them meaning and purpose.

I was fortunate to grow up in a place and during a time when those lessons were easier to learn. But their value is never confined just to the past. As William Faulkner reminds us, "The past is never dead. It is not even past."

A Dragon in the Den of the Bear: A History of the UAB Football Team

Donald C. Campbell

O N A WINTER'S DAY IN early 1893, two college football teams met at Lakeview Park on the south side of Birmingham, Alabama. After a spirited game of football, the team from Auburn University walked away with a 32-22 victory over the team from the University of Alabama. Yearly meetings between the two schools on the gridiron were plagued by setbacks, including a debate over which season to claim this game in. Auburn claimed it was the first win of the 1893 season, while Alabama believed it to be the last loss of the 1892 season. Despite such issues, which were not completely resolved until the state legislature intervened in 1948, this game helped set the stage for the modern Iron Bowl, perhaps the most intense college football rivalry in the United States.[1] While other schools in Alabama began fielding football teams, such as Troy University and the University of North Alabama, almost everyone in the state today claims either the Crimson Tide or the Tigers as their own. In 1991, a newcomer to football in Alabama stepped onto the collegiate stage, ready to assert itself as a worthy in-state competitor of Alabama and Auburn. Drawing on the energy of charismatic athletic director, Gene Bartow, the Blazers managed to withstand the uphill battle created by the "gods of football" at the University of Alabama, among others, and stand firm as the so-called "third school's team" in the Heart of Dixie. Through the use of newspaper clippings from the mid-1980s onward as well as documents from presidential files collected by the UAB Archives, evidence shows that the

fight for a UAB football team was an up and down battle off the field of play. The conflict over the team's creation stretched beyond simply Tuscaloosa and Birmingham, raging across the state with several rather predictable opponents and a few unexpected allies. Despite these many clashes and hardships, the football team representing the University of Alabama at Birmingham has managed to weather the storm and remain a solid candidate for the title of "Birmingham's Team." Not only have the Blazers weathered these storms, but the team has managed to do so while not forcing the university to lose sight of its top priority, that of being a world class academic institution and medical research facility.

Alabama Football before UAB: Two Giants Emerge

College football in the state of Alabama began in the early 1890s, when the sport was introduced to the students of Auburn University. After the first Alabama-Auburn game in early 1893, little outside notice was paid to football played in the southeastern United States. Football teams from the Northeast, Midwest, and West Coast were believed by many sportswriters, fans, and college coaches of the time to be the best football teams in the country, while southern teams played an inferior brand of football. All that changed in the mid-1920s, when Alabama accepted a bid to the 1926 Rose Bowl in Pasadena, California, to play the University of Washington Huskies. The Crimson Tide upset the Huskies 20-19, winning the national championship, proving that southern football was equal to that of the rest of the country.[2] The team returned to the Rose Bowl the following year, giving newspapers

like the *Anniston Star* reason to exclaim that "the game 'gave this state advertising that is of incalculable value.'"[3] These victories became the first two of twelve national championships won by the Crimson Tide in the twentieth century, half of which came under the tenure of perhaps the most celebrated coach in college football history, Paul William "Bear" Bryant. Alabama's winning ways began to falter after Gene Stallings led the team to a victory over the University of Miami Hurricanes in the 1993 Sugar Bowl. However, current coach Nick Saban guided the team to three national titles in four years, 2009, 2011, and 2012, jump-starting a resurgence in the national prominence of the Crimson Tide.[4]

On the other side of the state, Auburn University sat in the shadows of Alabama for most of the twentieth century. Despite besting Alabama in their first meeting, the Tigers soon began a downward spiral that lasted throughout much of the first half of the 1900s, only recovering some under the leadership of coach Ralph "Shug" Jordan. With Jordan leading the team, Auburn won the 1957 national championship, even though the Tigers had been denied access to the postseason.[5] This turned out to be the only national championship awarded to the Plains until quarterback Cam Newton led the Tigers to an unbeaten 2010 season, capped off with a 22-19 win over the University of Oregon Ducks in the BCS National Championship Game.

With a combined seventeen national championships, thirty-one Southeastern Conference championships, and multiple bowl game victories, it is little wonder why Alabama and Auburn have followers not only throughout the state of Alabama, but across America and around the

world. However, that is not to say that the path the Crimson Tide and the Tigers have followed has always been the high road. Problems plagued both teams throughout much of the twentieth century, such as the fight for integrated teams in Tuscaloosa and Auburn. For example, Tuscaloosa did not cave to the pressure until an African-American running back for the University of Southern California Trojans almost single-handedly demolished the Crimson Tide defense during a game in Birmingham. Both teams have been accused of NCAA violations, and both have found themselves on probation. One round of probation, stemming from accusations that Auburn boosters and coaches paid players or awarded them other financial benefits in addition to the standard football scholarship, kept the undefeated 1993 Tigers from a bowl game and possible national championship.[6] Despite all of this, or perhaps because of it, the rivalry remains as strong as ever. On Iron Bowl Saturday, the entire state of Alabama comes to a standstill, as all eyes become glued to the nearest big-screen television, waiting to see if victory will wear orange and blue or crimson and white. Virtually no other college football team in the state of Alabama receives as much support outside of current students and alumni as Alabama and Auburn do.

The Opening Kickoff: Initial Debate over a UAB Team and the Club Years

Prior to the formation of a UAB Blazer football team, the only college team to rely on Legion Field as a regular home stadium was the Alabama Crimson Tide, who preferred the massive stadium to the relatively small confines of Bryant-Denny Stadium. It was not until the University of Alabama poured large amounts of money into renovating and expanding Bryant-Denny in the 1990s and 2000s that Legion Field finally fell out of favor with the Crimson Tide. The last game Alabama ever played at

1 Richard Ernsberger, Jr., *Bragging Rights: A Season Inside the SEC, College Football's Toughest Conference*, (New York: M. Evans and Co., 2000), 229-230.

2 Wayne Flint, *Alabama in the Twentieth Century*, (Tuscaloosa, AL: University of Alabama Press, 2004), 418.

3 Andrew Doyle, "Turning the Tide: College Football and Southern Progressivism," in *The Sporting World of the Modern South*, ed. Patrick B. Miller, (Urbana, IL: University of Illinois Press, 2002), 117.
4 Geoffrey Norman, "Alabama," in *ESPN College Football Encyclopedia: The Complete History of the Game*, ed. Michael MacCambridge, (New York: ESPN Books, 2004), 76-84.
5 Ibid., 127.

6 Flint, 425-431.

Legion Field was against the University of South Florida Bulls on August 30th, 2003.[7] Despite the Crimson Tide remaining at the stadium up until the early 2000s, it was clear to Birmingham officials that Alabama would no longer be interested in playing at Legion Field once the expansion of Bryant-Denny was complete. With their departure, the bleachers on Graymont Avenue would be left completely empty. This would become even more obvious in the mid-1980s, when the United States Football League folded, taking with it the Birmingham Stallions, who had also called Legion Field home.[8] Desperate to keep the stadium alive and the revenue coming in, city officials looked far and wide for a tenant who would be willing to play all its home games at Legion Field, and would be willing to stay there, no matter what. Professional teams came to town on more than one occasion after the departure of the Stallions. These teams included a franchise from the World League of American Football and one from the Canadian Football League, which experimented with teams in the United States playing football the Canadian way in 1995. Neither team lasted, keeping the fears alive that Legion Field might truly become an empty shell.[9]

Around this time, on the south side of Birmingham, UAB Athletic Director Gene Bartow began a quest which he had not originally planned on taking during his tenure with the Blazers. His mission: start up a football team for UAB, placing it squarely in the Division I-A (now FBS, or Football Bowl Subdivision) realm, the highest level of college football in the land. To begin, UAB hired the consulting firm Creative Sports Marketing from Charlotte, North Carolina, to perform a feasibility study and cost analysis

"Why does UAB need a football team?"

on fielding and maintaining a Division I football team. In 1988, the firm returned with its findings, which were reported on by newspapers around the state. According to an article from the *Huntsville Times*, the analysts at Creative Sports Marketing found that it would cost the university approximately $7 million to start up and maintain a respectable team at the Division I level. In the article, UAB President Charles McCallum was quoted as stating, "'I believe that figure is too low. . . . That figure doesn't include things like practice fields, dormitories, training facilities, and the band.'"[10] While Coach Bartow did not comment on the study, McCallum would remind the readers of his firm stance that "'Our priorities are academics.'"[11]

Before Creative Sports Marketing undertook the study, Alabamians had been debating the need for a team at UAB. After articles like the one in the *Huntsville Times* were published, the number of voices giving their opinions on the subject multiplied rapidly. A number of letters to the editor appeared in Birmingham newspapers, either supporting the idea or decrying it. One author penned that "another football factory is not needed in this area, or in any other part of Alabama. What is needed is a total turn-around and an overhaul of the present educational system."[12] Another believed "If alumni of a university base their donations on the status of a football team, rather than on educational values, they must not have gotten a good education. . . . Good football teams won't bring jobs. A Confederate flag over the state capitol won't bring jobs. Well educated citizens will bring jobs."[13] A third letter to

the editor thought "attempting to start football at UAB is the most ridiculous thing I have ever heard. People who have dreams of competing with Auburn and Alabama in a few years are dead wrong."[14] The author of this letter then stated that he had undergone heart bypass surgery at UAB Hospital in 1987, and was happy that the professors in Birmingham were researching better methods for performing such a surgery "instead of how to run off-tackle."[15]

Other letters were more supportive, such as one writer from Tuscaloosa, who stated that "UAB should field a football team. . . . I think UAB football would be good for the state. How about UAB vs. Georgia Tech or UAB vs. Florida State? I live in Tuscaloosa, but I still hope this comes to pass."[16] One letter came from a UAB student, who began by arguing that a football team for UAB was needed. He also decried one member of the Board of Trustees for the University of Alabama system for informing the press that UAB's sole mission was to be the best medical school that it could be in his letter.[17] A third supporter claimed that not only had bringing basketball to UAB improved the quality of the sport at Alabama and Auburn and asked why football could not do the same, but also called out many of those rejecting the idea of a UAB football team. He noted that a good number of those against Blazer football did not use a financial argument, but instead threw out "slurs regarding Gene Bartow's 'ego' and the 'intelligence' of UAB officials."[18]

Joining in with other Alabamians, the head coaches

at Alabama and Auburn spoke up, giving their opinions on football at UAB. Pat Dye, the coach of the Tigers, stated to the press that if UAB was to form a team, "'I can see no way a football program in Birmingham could hurt Auburn football. There must have been a couple of teams of outstanding football players who left the state last week (on football signing day), plenty for another football team in the state.'"[19] Dye would then go on to explain that if UAB was to field a football team, he saw nothing standing in the way of regular season meetings between the Blazers and the Tigers, much like the two universities had been doing in basketball. In Tuscaloosa, Alabama, head coach Bill Curry happened to be the exact opposite of Dye, vehemently against the idea of a Blazer football team. In the article, the press quoted Curry's explanation that "'Not only would we not play them, we don't understand why they are talking about bringing another football team into the University of Alabama system. . . . I'm the only [football] coach in the University of Alabama system. We don't need another football team at one of our other campuses.'"[20]

Even though the University of Alabama at Birmingham did not field an NCAA sanctioned team in the 1980s, a Blazer football team was not out of the question. Talk of the possible formation of a team had sparked interest in UAB football throughout campus, and a number of students banded together to try and make it happen. While they were not playing top flight football, these students laid the foundation for the future of the sport at the university. In 1989, the UAB Football Club officially formed, with senior Rick Segers as club president. The *Birmingham Post-Herald* reported that this first club season had a tentative schedule of five games, including a pair of games against both the Marion Military Institute and the junior varsity squad from Miles College. According to a statement from

7 Norman, "Alabama,". 83.
8 Richard E. Dewberry, letter to the editor, *Birmingham News*, December 11, 1986.
9 William C. Singleton III. "Add CFL to City's Pile of Football Initials," *Birmingham Post-Herald*, January 12, 1995.

10 Associated Press, "Study Found Football too Costly for UAB," *Huntsville Times*, February 23, 1988.
11 Ibid.
12 W.W. McCarthy, letter to the editor, *Birmingham News*, January 26, 1989.
13 Patricia M. Shannon, letter to the editor, *Birmingham Post-Her-*

ald, March 9, 1988.
14 Earl O. Webb, letter to the editor, *Birmingham Post-Herald*, January 18, 1991.
15 Ibid.
16 Johnnie Deavers, letter to the editor, *Birmingham News*, November 19, 1986.
17 Tim Herring, letter to the editor, *Birmingham Post-Herald*, December 3, 1986.
18 Ronald O'Neill Durham, letter to the editor, *Birmingham Post-Herald*, November 19, 1986.

19 Wayne Martin, "Dye Would Play Blazers, but Curry Says No Way," *Birmingham News*, February 12, 1989.
20 Ibid.

Segers, the formation of a club football team at UAB hopefully put the Blazers on the road to playing at the Division I level. He also compared the club team's beginnings to the way that football at both Alabama and Auburn had gotten started in the late 19th century.[21] Another hopeful, Dr. George Munchus, professor of marketing, stated his hopes that the club team would not only show the level of support for the sport on campus, but also demonstrate to Dr. McCallum "that the program is financially feasible."[22]

The Opening Drive: UAB Football, 1991-1995

After two years of playing college football at the club level, the Blazers were ready to become more than just a group of students playing football for "fun." The time had come for the team to begin climbing the ladder of college football, and head coach Dr. Jim Hilyer stood ready to guide the Blazers into more uncharted territory. On March 14, 1991, the Birmingham Post-Herald proudly announced to its readers that "The rumor has become reality. UAB is going Division III….UAB finally has announced it will form a non-scholarship Division III football team to begin play this fall."[23] The first NCAA game the Blazers played in was a 28-0 loss to Millsaps College in Jackson, Mississippi, but the team concluded its first four seasons of existence with a record of twenty-seven wins, twelve losses, and two ties.[24] During these first four years, UAB played the 1991 and 1992 seasons at the Division III level. The Blazers then climbed up to Divison I-AA (now FCS, or Football Championship Series) for 1993 and 1994, after a

Figure 1. "Money: Breakfast of Champions" *Birmingham News.* August 30, 1994.

1992 NCAA mandate required all schools playing Division I basketball to move all other sports to the Division I level by 1993.[25] After 1994's 7-4 season, Dr. Hilyer resigned from his position as head football coach, just as the team was prepared to jump from I-AA to I-A.[26] Two months later, Watson Brown was hired as UAB's second head coach, a younger face to guide the team through the transition to the top flight of college football.[27]

Two major issues that the team faced prior to the 1991 season were finding suitable practice facilities and securing a home field for the Blazers on Saturday afternoons. When discussing the subject of a home stadium for the Blazers, there were three main options for UAB on the table: Legion Field (still occupied on several fall weekends by the Alabama Crimson Tide), the Hoover Metropolitan Stadium (home field of the Birmingham Barons baseball team), and Lawson Field (used primarily for high school

football games) on the Birmingham-Irondale city limits line. While UAB officials talked little of using Lawson Field during these discussions, much was said about using Legion Field or the Hoover Met.

One opinion came from Clint Bruess, the Dean of the School of Education. Bruess advised Coach Bartow, "I hope we <u>do not</u> play our football games at Legion Field even though I realize there may be political or practical reasons for doing so [emphasis his]."[28] He went on to explain that the location and size of Legion Field would not

Figure 2. "Wenonah High School Athletic Field." *Birmingham Post-Herald.* November 22, 1994.

be conducive to a successful atmosphere for UAB, since he believed the crowds would be relatively small, making the stadium appear almost empty with thousands of vacant seats during games. After hearing rumors about the Blazers playing at the Hoover Met, he believed that "If that can be set up for football, great! It would have

none of the problems associated with Legion Field. If that doesn't work let's use a good high school or other field that would work just fine."[29] Seeing the potential to have his input heard, Frank Skinner, Jr., the Mayor of Hoover, mailed a letter to President McCallum, informing him that "The City Council and I want you to know that we would be honored, and count it a privilege, to have UAB football at the Met. We originally designed the Met to be a multi-purpose facility. . . . We would welcome the opportunity to host UAB football."[30] In response to this letter, President McCallum asked Coach Bartow for his comments on Skinner's letter as well as a cost analysis for both the Hoover Met and Legion Field, as Skinner had never detailed the cost of UAB playing their games at the Met.[31]

Not long after Skinner's letter inviting the Blazers to make their new home in Hoover, a letter from Birmingham mayor Richard Arrington arrived on President McCallum's desk, informing him that a contractor had been lined up to design and construct new office spaces for the UAB coaching staff at Legion Field as soon as the team committed to playing its games there.[32] This elicited a response from President McCallum, stating that "unless something unusual has developed, of which I am unaware, I would like to indicate that it is our intent to play our football games at Legion Field. . . . Your willingness to provide the appropriate facilities to accommodate our football program is deeply

21 Cary Estes, "UAB Football Club to Play Five Games," *Birmingham Post-Herald*, August 31, 1989.

22 Associated Press, "Club Football for UAB?," *Opelika-Auburn News*, June 2, 1989.

23 Cary Estes, "Football is Coming to UAB," *Birmingham Post-Herald*, March 14, 1991.

24 Kevin Gleason, "UAB," in *ESPN College Football Encyclopedia*, ed. Michael MacCambridge, 904.

25 Cary Estes, "UAB Football Hopes I-AAA Level is Established," *Birmingham Post-Herald*, January 6, 1992.

26 Cary Estes, "Hilyer Out on His Own," *Birmingham Post-Herald*, December 14, 1994.

27 Cary Estes, "UAB's Players Meet New Family Member," *Birmingham Post-Herald*, January 6, 1995.

28 Clint E. Bruess, Birmingham, to Gene Bartow, Birmingham, March 18, 1991, Series A02-05, UAB Archives, University of Alabama at Birmingham, Birmingham.

29 Ibid.

30 Frank S. Skinner, Jr., Hoover, to Charles A. McCallum, Birmingham, April 12, 1991, Series A02-05, UAB Archives.

31 Charles A. McCallum, Birmingham, to Gene Bartow, Birmingham, April 18, 1991, Series A02-05, UAB Archives.

32 Richard Arrington, Jr., Birmingham, to Charles A. McCallum, Birmingham, April 30, 1991, Series A02-05, UAB Archives.

appreciated."[33] After this communication, the debate over UAB's home field concluded with the Blazers agreeing to sign on to play their home football games at Legion Field. While this would lead to a different set of problems, namely finding weekends when the Crimson Tide would be away from Birmingham, the main point of the conflict had been settled, with the Blazers having "The Football Capitol of the South" as their "permanent" residence.

While UAB officials were searching for an answer to the stadium dilemma, they were also dealing with the problem of finding the Blazers a suitable practice facility. President McCallum initially believed that the team would utilize the area around Legion Field for practices and a portion of the Ullman Building complex as locker rooms. As such, he was practically blindsided by a memo from Coach Bartow, who had other ideas.[34] In his message, Coach Bartow stated that "I think it is very important that the entire football operation be put in a central location where the coaches, locker rooms, and practice field are close together."[35] To that end, Bartow suggested setting the team up in the 7-11 Building on 11th Street South, and placing the practice field on the same block, suggesting that if this was to be done, the field would have to be sodded by mid-May for practice in August. [36] Despite McCallum's concerns "that the football program is going to be more of an expense to get started than I had been led to believe,"[37] the Blazer football team was able to obtain their new practice field on the block between 11th and 12th Streets South, giving UAB a dedicated facility for football practice.

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33 Charles A. McCallum, Birmingham, to Richard Arrington, Jr., Birmingham, May 8, 1991, Series A02-05, UAB Archives.
34 McCallum to Bartow, April 18, 1991, Series A02-05, UAB Archives.
35 Gene Bartow, Birmingham, to Charles A. McCallum, Birmingham, April 16, 1991, Series A02-05, UAB Archives.
36 Ibid.
37 McCallum to Bartow, April 18, 1991, Series A02-05, UAB Archives.

Bowls and Polls…: UAB Football, 1996-2004

In 1996, the UAB Blazers completed their climb and became a member of Division I-A football, placing them on the same level as Alabama and Auburn. In fact, the 1996 season began with the Blazers in Auburn facing off against the Tigers, who defeated UAB 29-0.[38] During the 1996 season, along with the 1997 and 1998 seasons, UAB played as an independent team, waiting to gain admission to a conference. Even though the Blazers were independent for their first three years, the *Birmingham News* reported in November 1996 that Conference USA, the conference in which all other UAB sports competed in, had agreed to admit UAB as a football playing member beginning with the 1999 season, over the protests of teams like Louisville and Southern Mississippi.[39]

UAB got off to a relatively fast start, posting winning records in two of its first three seasons in the conference and coming within one win of capturing at least a share of the conference championship in 2001. In 2000, what was perhaps the biggest upset in Blazer history occurred, as the team went into Baton Rouge to be the homecoming opponents of the LSU Tigers, and walked away with a 13-10 victory. The 2002 and 2003 seasons did not bode so well for the team, as both years ended with a 5-7 record. The team bounced back from these two seasons and, with Roddy White as the go-to receiver, posted a 7-4 regular season record in 2004. This showing gave the Blazers their first (and so far only) bowl game appearance, a 59-40 loss on Christmas Eve to the University of Hawaii in the Hawaii Bowl.[40] 2004 marked another first in UAB football history, as the Blazers held a BCS (Bowl Championship Series, the controversial computer ranking

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38 Gleason, 907.
39 Wayne Martin, "Blazers Football Gets League OK for '99," *Birmingham News*, November 15, 1996.
40 Gleason, 904-907.

Figure 3. "UAB Football Team at Practice." *Birmingham News*, August 29, 1996.

system which helps determine matchups in the National Championship game, as well as the Rose, Sugar, Orange, and Fiesta Bowls) ranking for the first time ever, coming in at number 24.[41]

In order to make the jump from I-AA to I-A football in 1996, the Blazers had to meet specific requirements put forth by the NCAA. Trying to help the team meet these requirements, the Birmingham City Council stepped in and approved a financial aid package for the UAB football team, worth approximately $2.2 million. While the UAB athletic department smiled brightly on this decision, a number of critics came forward to oppose the deal. One of the first was City Councilwoman Linda Coleman, who "abstained from the 6-0 vote after saying she was still not convinced of the UAB's commitment to improve its record

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41 "2004 Bowl Championship Series Standings (Games Through Oct. 16, 2004)," The National Football Foundation and College Hall of Fame, http://secure.footballfoundation.org/pdf/101804.pdf (accessed April 9, 2013).

helping the minority community."[42] More specifically, her complaint revolved around the fact that UAB did not hand out construction contracts to African-American firms as frequently as it did to white-owned companies.

Local activist Ron Jackson came forth as another vocal critic of the financial aid package. His letter to the editor of the *Birmingham Post-Herald* decried the money given to UAB's football team by the city during a secret meeting between Mayor Arrington and university officials. He also attacked Mayor Arrington for his comments during a meeting with the parents of West End High School students, in which "the mayor told West End parents wanting more money in the city's budget for city schools that 'the city is not responsible for funding schools. The school board has its own budget.'"[43] Later that year, Jackson emerged again, this time on the CNBC talk show *America's Talking*. On the program, he debated the city's financial assistance to the UAB football team with Alabama Congressman Spencer Bachus, who believed that the money would be of no real concern when the Blazers jumped to I-A and the city was bringing in enough from the games to even out this payment of funds. Jackson, on the other hand, once again cried out about how this money could instead have gone to the city school system, fixing up schools in desperate need of funding. For example, one of Jackson's main talking points was that "'Birmingham has 18 campuses with trailers in the back where children go to learn. . . . That's one reason why the state is at the bottom when it comes to education.'"[44]

Taking sides with Jackson in defense of Birmingham's city schools were several football coaches from Birmingham high schools. The *Birmingham Post-Herald*

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42 Val Walton, "Council Supporting UAB Football, but Coleman Says She's Skeptical," *Birmingham News*, August 10, 1994.
43 Ronald E. Jackson, letter to the editor, *Birmingham Post-Herald*, August 25, 1994.
44 Zelda Oliver-Miles, "UAB's Football Move a Hot Topic," *Birmingham News*, December 27, 1994.

reported the results of a survey it had taken of the nine high school football head coaches in Birmingham on November 22, 1994, which detailed how these coaches viewed their respective programs. According to the survey, a majority of Birmingham's coaches stated that they were forced to take the field with inadequate coaching staffs, practice on mediocre fields, and try to field respectable teams on a below average coaching supplement. Needless to say, when their opinions were asked about the city allocating athletic funds to UAB without doing the same for Birmingham's high schools, seven of the nine coaches responded with disapproval. While several spoke out against such a move, perhaps the best example of their discontent came from Phillips High School's coach, Nathaniel Kelly, who stated that "'UAB is a state institution and should be funded through the state. What the City Council did was a sham. . . .To give that money to UAB when the high schools are deteriorating at a rapid rate is sad. It's just a slap in the face.'"[45]

…And Shattered Souls: UAB Football, 2005-2012

After the successful 2004 season, many fans and sportswriters had high hopes for the team, who managed to only eke out a five win season in 2005. Things continued to get worse for the Blazers, as UAB only managed to piece together a record of twenty four wins and sixty losses between 2006 and 2012.[46] After the 2006 season, UAB replaced Watson Brown with former University of Georgia offensive coordinator Neil Callaway, who guided the team through several more mediocre seasons until his removal after the 2011 season.[47] After firing Callaway, the

Blazers Athletic Department managed to hire the then offensive coordinator of the Arkansas Razorbacks, Garrick McGee, to become the fourth head coach in the history of the UAB Blazer football team.[48]

By the end of the 2000s, the main debate regarding the UAB football team was not about money, nor primarily about the team's existence, but instead revolved around a new home field for the Blazers. Even though the city of Birmingham did its best in maintaining Legion Field, the historic stadium had long since started to show its age. Built in 1927, it had been hosting college football for over sixty years when the Blazers played their first Division III game. With Legion Field on the verge of crumbling to the ground, UAB began looking for a replacement stadium for football. After lining up potential donors for the project of building a new, on-campus football stadium, university officials requested that the issue be brought up at a meeting of the Board of Trustees of the University of Alabama System. During a meeting in late 2011, "Plans for the UAB on-campus football stadium were tabled 'as presented' by the University of Alabama System Board of Trustees."[49] In response to the growing support for such a stadium among students and faculty, Trustee Finis St. John wrote an open letter explaining his disagreement with the stadium plans. His main points of contention were that pledged donor money had not actually been raised, the stadium would cost more to construct than original estimates had indicated, and that the money spent would, in essence, be money wasted by UAB.[50] In response to this, the grassroots move-

ment to bring an on-campus stadium expanded into a larger movement, "Free UAB," which advocated removing UAB from the control of the Board of Trustees in Tuscaloosa.[51]

In the Valley of the Hospitals: UAB and Her Nationally Recognized Medical Facilities

In 1936, the University of Alabama created an extension center in Birmingham, located in a house on the corner of Sixth Avenue North and Twenty-Second Street. The first classes offered consisted of pre-law, pre-engineering, business, and general education courses, allowing Birmingham residents who were unable to afford to go to Tuscaloosa to stay at home yet pursue a college degree from Alabama. In 1945, the university moved its medical education programs to Birmingham, expanding the role of the extension center. Working closely with several already established hospitals in Birmingham, the new dean of the Medical College, Roy Kracke, managed to establish sixteen medical departments with 172 faculty members by the fall of 1945. More good news for the fledgling Medical College came soon after, when Kracke struck a deal with the Veterans' Administration for the construction of a new VA hospital in Birmingham, which was completed in 1953.[52]

The next major step came in 1954, when the university took over Jefferson-Hillman Hospital, renaming it the University of Alabama Hospital and Hillman Clinic, commonly referred to as University Hospital. From this structure towering over the south side of Birmingham, the Medical College of the University of Alabama continued to grow throughout the latter half of the twentieth century. Along with the VA hospital, the Medical College added

the Lyons-Harrison Research Building, the Cardiovascular Research and Training Center, the Alabama Transplant Center, Children's Hospital, and the Lister Hill Library for the Health Sciences throughout the 1950s, 1960s, and early 1970s. Due to the rapid growth of the college, University Hospital appeared on the list of "America's Ten Best Hospitals" in the February 1967 edition of *Ladies Home Journal*, and was ranked second among Southern medical schools behind Duke University, with specific regards to progress and research, in the *Journal of the American Medical Association's* October 1967 issue.[53]

Even after the University of Alabama at Birmingham formed its first NCAA sanctioned football team in 1991, the university's medical facilities continued to expand and thrive. In late 1991, President McCallum opened the West Pavilion of University Hospital. The Center for Psychiatric Medicine followed in March 1992, along with the Bevill Biomedical Sciences Building. These buildings were designed to house classes and provide space for conducting medical research in order to keep UAB on the cutting edge of medicine into the twenty-first century. Even with all of these buildings being constructed on the growing UAB campus, what became perhaps the crowning achievement for McCallum was opening the Kirklin Clinic in June 1992, a $125 million hospital facility on Sixth Avenue South.[54] In more recent years, the hospitals have continued to grow, including the addition of a new building for Children's Hospital and a new Women and Infants Center.[55]

As the hospital facilities at UAB continued to grow, so did the accolades awarded to the university's hospitals, as well as to the medical school. In 1991, *U.S. News & World Report* ranked UAB as the number one "Up

45 Rubin E. Grant, "Football Gridirons, Literally," *Birmingham Post-Herald*, November 22, 1994.
46 "UAB Blazers Schedule," ESPN, http://espn.go.com/college-football/team/schedule/_/id/5/uab-blazers (accessed December 10, 2012).
47 Mark Schlabach, "UAB Fires Coach Neil Callaway," ESPN,

http://espn.go.com/college-football/story/_/id/7287425/uab-fires-coach-neil-callaway-fifth-losing-year (accessed November 7, 2012).
48 Joe Schad, "Source: Garrick McGee to be UAB Coach," ESPN, http://espn.go.com/college-football/story/_/id/7309851/source-uab-blazers-hire-garrick-mcgee-arkansas-razorbacks-football-coach (accessed November 7, 2012).
49 Eric Roberts, "'FREE UAB,'" *Kaleidoscope*, November 8, 2011.
50 Eric White, "UAB Stadium: The Counter Argument," *Kaleidoscope*, November 29, 2011.

51 Eric Roberts, "'#FreeUAB' Protests Unequal Support for UA System Campuses," *Kaleidoscope*, February 7, 2012.
52 Tennant S. McWilliams, *New Lights in the Valley*, (Tuscaloosa, AL: University of Alabama Press, 2007), 24-61.

53 Ibid., 106, 181-187.
54 Ibid., 344-345.
55 UAB Medicine, "Women and Infants Center | Birmingham, AL," http://www.uabmedicine.org/location/women-infant-center (accessed December 11, 2012).

and Coming in Medicine" school in the country, ahead of Emory University in Atlanta, the University of Pittsburgh, and the University of North Carolina at Chapel Hill.[56] By 1996, the UAB medical school was ranked twenty-fifth in the United States,[57] while the UAB Hospital facilities were ranked eighteenth in the country in cardiology, thirty-first in gastroenterology, twenty-sixth in geriatrics, and eighth in rheumatology.[58] In 2001, when *U.S. News & World Report* released their latest hospital rankings, UAB Hospital received top fifty rankings in rheumatology, respiratory disorders, orthopedics, kidney disease, hormonal disorders, heart conditions, gynecology, and cancer,[59] while the medical school placed twenty-seventh in research institutions and forty-first in primary care.[60] Most recently, in the 2012-2013 hospital rankings, UAB Hospital was nationally ranked in four categories (gynecology, rheumatology, nephrology, urology), rated high-performing in another ten areas (cancer, diabetes and endocrinology, gastroenterology, neurology and neurosurgery, orthopedics, cardiology and heart surgery, geriatrics, ophthalmology, pulmonology, and ear, nose and throat), while also attaining the position of being the number one hospital in the state of Alabama.[61]

UAB: Football Factory, or Alabama's Top Medical College?

The question of the necessity of college football teams is as old as the sport itself. In 1894, J. William White and Horatio C. Wood published an article, "Intercollegiate Football," in the *North American Review*. While they conceded that the game of football, as they knew it, was a violent sport where severe injuries were common, there were positive aspects to colleges having football teams. According to the two, football exercised the body in ways that no other sport could, and also garnered more interest from students than other sports did. Also, the gate receipts from football games helped to fund not only the football team, but also assisted in providing funding for other college athletics, causing White and Wood to argue that "if these athletics be useful, the fact that they are largely supported by football is an argument for, and not against, the continuance of the game."[62] Even a century later, the words of White and Wood ring true, as they condoned excessive violence in the sport but explained that college football teams benefitted other college athletics by bringing in money that all sports could use. While the game of football today has become a far safer sport than that which White and Wood would have been spectators to, the money argument has never dissipated, remaining one of the main points of contention over the existence of college football teams in the modern United States. Following in the example set by many of the early Ivy League football schools and praised by White and Wood, universities all across the country, including UAB, used some of their football revenue to help pay for other athletic programs on their respective campuses.[63]

In 1952, Georgia professor Van Cleave Morris penned the article "Football and the University," which appeared in the *Bulletin of the American Association of Uni-*

versity Professors. In it, he argued that big-time college athletics could not coexist with the world of academia at American universities. He realized that the creation of college sports teams in the nineteenth century had a positive impact on college students, as it gave them opportunities for physical exercise that did not exist within the classroom, but that athletics had grown into an insatiable monster overshadowing the learning side of colleges and universities. While not disagreeing with White and Wood's analysis that football revenue could help fund other college sports, Morris believed that "claims of approaching inflationary bankruptcy coming from coaches and athletic directors would suggest that this situation is passing."[64] In part of his article, Morris proposed a possible solution, where college athletics would begin distancing themselves further and further away from the rest of the university, becoming virtually a professional entity funded predominantly by alumni that would maintain the university's name and allow for players to attend college during the off-season.[65] Noble though Morris's ideas were, no such plans were ever implemented, and in fact, it would appear that college athletics have become even more closely wedded, each relying more and more on the monies raised by the other. This relationship, in the context of UAB, became clearer after the *Birmingham News* published an article in 1995, detailing the results of a study conducted on the athletic departments of Alabama's smaller universities. Through their research,

> The University of Alabama at Birmingham has scored a major victory, one that cannot be measured in won-loss records or in national championship titles.

they determined that, during the 1994 season, UAB spent approximately $5.4 million on athletics, while raking in revenue of around only $2.5 million, leaving the university to deal with a deficit of almost $3 million.[66] With all of this money being spent and lost on Blazer athletics, the question, "Why does UAB need a football team?" became a relevant topic to discuss once again.

Perhaps the answer could be found when applying the results of a case study performed on the University of Notre Dame to the University of Alabama at Birmingham. In the late 1970s, Allen L. Sack and Robert Thiel conducted a survey of former Notre Dame players, as well as former Notre Dame students, which was published in the journal *Sociology of Education*. Through their inquiries, Sack and Thiel found out that non-football playing students at Notre Dame had come from more affluent backgrounds, while over half of the football players had come from families in lower income brackets. They also discovered that after graduation, relatively similar numbers of both football playing and non-football playing Notre Dame students had gone on to rather successful careers, with a large number of the football players having climbed out of the situations that they grew up in and gone on to build better lives for themselves. While there were issues with Sack and Thiel's study, such as the knowledge that many Notre Dame football players had gone into "simpler" majors, rather than more exhausting ones like engineering, their research demonstrated that, without a football scholarship to the University of Notre Dame, many of the athletes that attended college in South Bend would not have been able to attend college, leaving

56 "Top 15 Medical Schools," *U.S. News & World Report*, April 29, 1991, 88.

57 "The Top 25 Medical Schools," *U.S. News & World Report*, March 18, 1996, 96.

58 "America's Best Hospitals," *U.S. News & World Report*, August 12, 1996, 71-84.

59 "America's Best Hospitals," *U.S. News & World Report*, July 23, 2001, 72-101.

60 "Schools of Medicine," *U.S. News & World Report*, April 9, 2001, 88-90.

61 "University of Alabama Hospital at Birmingham," *U.S. News & World Report* online, 2012, under "Best Hospitals 2013," http://health.usnews.com/best-hospitals/area/al/-university-of-alabama-hospital-at-birmingham-6530304 (accessed December 6, 2012).

62 J. William White and Horatio C. Wood, "Intercollegiate Football," *North American Review* 158, no. 446 (January 1894), 105, http://www.jstor.org.fetch.mhsl.uab.edu/stable/25103265 (accessed December 10, 2012).

63 Ibid., 100-107.

64 Van Cleave Morris, "Football and the University," *Bulletin of the American Association of University Professors* 38, no. 3 (Autumn 1952), 467, http://www.jstor.org.fetch.mhsl.uab.edu/stable/40220909 (accessed December 10, 2012).

65 Morris, 460-468.

66 Dave Parks, "Playing in the Red," *Birmingham News*, October 8, 1995.

them without the possibility of escaping the situation that they had spent their entire lives in.[67]

Examining how the formation of a UAB football team impacted the rest of the university, evidence suggests that, despite the financial loss that the athletic department suffered, the academic portions of the university managed to come out quite well off. In December 1991, a study of UAB students was conducted by several faculty members. The study determined that, when the tuition of Blazer football players and students who came to the university because of an interest in UAB football was combined with other fees paid by students, the university had increased its income approximately $300,000.[68] As the football team moved up to Division I, and football scholarships could be offered by the university, more potential students were now able to attend UAB in search of a degree while playing football. Many of these new student-athletes chose majors in the medical field, possibly hoping for a career in medicine after graduation. In the 1996 Football Media Guide, twenty-three players on the Blazers' roster had declared their majors in a number of medical fields, including pre-occupational therapy, psychology, physical education, exercise science, nursing, and biology, a major sought by many at UAB desiring to enter medical school after their undergraduate courses.[69] Thirteen years later, the 2009 Media Guide stated that fourteen members of the football team had come to UAB and declared majors in the medical sector, which again included biology, psychology, physical education, as well as health education and health information management.[70]

Conclusion

In the end, one thing is clear: UAB did not fall into the trap that many detractors felt would happen. The University of Alabama at Birmingham formed a football team, which quickly moved up the ranks of college football to compete at the highest level of the sport. At the same time, the university continued to expand its hospital facilities, which continued to be recognized as one of the best hospitals in the United States by one of the top hospital rating services in America. Even though the formation of the football team expanded the university's athletic budget by thousands of dollars, UAB officials managed to find the money to keep the football team competitive, while not skimping on funding to keep the University Hospital system the best in the state of Alabama. While the team has fallen on harder times over the past several years, the Blazers managed to keep many of their losses competitive games until the very end, maintaining a cloak of respectability around UAB football. In a state dominated by a pair of giants in Tuscaloosa and Auburn, the football team representing the University of Alabama at Birmingham has staved off all attacks against it, from those who felt that football would be counter-productive to the university's mission of top quality medicine, to those who wanted to see the state of Alabama improve itself in ways other than college football. Despite an overall losing record, the University of Alabama at Birmingham Blazers football team has stood strong and held its head high, giving the city of Birmingham and the students of UAB the entertainment they have come to expect on autumn Saturday afternoons.

At the same time, the University Hospital system has remained dedicated to improving the quality of health care for its patients while researching the latest in medical science, giving the future a bright hope for those afflicted with serious illnesses. UAB has maintained the high level of quality health care that the university has become known for, yet has managed to put a competitive team on the turf of Legion Field, all while keeping the team from becoming the university's main focus point. As such, the University of Alabama at Birmingham has scored a major victory, one that cannot be measured in won-loss records or in national championship titles.

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67 Allen L. Sack and Robert Thiel, "College Football and Social Mobility: A Case Study of Notre Dame Football Players," *Sociology of Education* 52, no. 1 (January 1979), 60-66, http://http://www.jstor.org.fetch.mhsl.uab.edu/stable/2112594 (accessed December 11, 2012).

68 Charles A. McCallum, Birmingham, to Linda Flaherty-Goldsmith, Birmingham, December 2, 1991, Series A02-05, UAB Archives.

69 UAB Football-Media Relations Office, *1996 UAB Football Media Guide* (Birmingham, AL: UAB Sports Information Office, 1996), 18-40.

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70 UAB Football-Media Relations Office, *2009 UAB Football Media Guide* (Birmingham, AL: UAB Sports Information Office, 2009), 56-84.

The Blood Sacrifice: The Katyn Massacre and Allied Cover-up

T. Gerald Archer

And he shall take the two goats, and present them before the LORD at the door of the tabernacle of the congregation. And Aaron shall bring the goat upon which the LORD's lot fell, and offer him for a sin offering. But the goat, on which the lot fell to be the scapegoat, shall be presented alive before the LORD, to make an atonement with him, and to let him go for a scapegoat into the wilderness. (Leviticus 16: 7-10 KJV)

A FEW MILES WEST OF SMOLENSK, Russia, just 60 miles from the current Belarusian border sits a pine forest surrounding the small village of Katyn. Inside this forest is a sandy hill known to the locals as the "Hill of Goats," a place made infamous during the Revolutionary years as a site for executing czarist loyalist hindering the Bolshevik movement. Years later on the same hill the Soviet secret police, the Peoples Commissariat for Internal Affairs or NKVD, established a wooded retreat there.[1] Yet, in 1940, this "Hill of Goats" would take on a whole new meaning symbolically as the Soviet Union robbed Poland of 14,000 of its best and brightest military officers. Although the site was the place of execution for only 4000 of the 14,000 missing officers, the Katyn Massacre became the official name for the Soviet murders as a whole.[2] The lion-share of the Polish military leadership was obliterated, men that the country would need if it had any chance to rebuild itself after the war. It was a crime of mass murder

committed by the Soviets with a coldness described as "the insouciance of a monkey cracking walnuts."[3] The bodies of the men were stacked like cord wood in trenches and covered with sandy soil. In an effort to further conceal their crime, saplings were planted above the corpses in the hope that, in time, as the roots of the trees slowly wound their way around the dead men's bones, their heinous acts would be permanently hidden from history. However, the gruesome task of the trees was never to be completed, because time was not on the Soviet's side. A little over a year after the executions the area would be overrun by the Nazis and the graves would be discovered. After the mass graves were unearthed, the Soviet Union attempted to place blame on the Third Reich. The British and American governments had substantial evidence that pointed to Soviet guilt, but the two governments became complicit in the cover-up in the name of maintaining Allied unity.

As Adolf Hitler unleashed his Nazi juggernaut on Europe, neighboring countries found themselves ill prepared to resist the German Army. The two largest powers, Great Britain and France, scrambled frantically to prepare for the anticipated Blitzkrieg. France fell in June 1940 and the only saving grace for Great Britain was the English Channel which provided a natural buffer zone against the Germans. The United States was still in the grips of isolationism that would not come to an end until the Japanese attack on Pearl Harbor in December 1941. Although the US Congress and American public were not ready for war,

Franklin Roosevelt knew it was coming and paid close attention to the events taking place in Europe. Roosevelt and Churchill stayed in frequent contact, developing strategies to stop the Germans. The two knew that the best way to prevent the fall of Great Britain was to open a second front in the war, thereby distracting the Germans and dividing their forces. Thus the courtship of the Soviet Union and its leader Joseph Stalin began.

During the interwar period, Stalin had been a staunch anti-fascist but, as the Nazis regime grew in power in the West and Japan's imperialistic ambitions threatened in the East, Stalin looked to ease those threats. Fearing the growing power of the Nazis, Great Britain and France had entered into treaty negotiations with the Soviet Union but, unbeknownst to them, the Soviets were also holding talks with Germany.[4] Both Hitler and Stalin desired territory in Poland, and despite the animosity the two had for each other, they felt that aggression between them would not be in their best interest. Both had more to gain from an alliance, and so on August 23, 1939, Germany and the Soviet Union signed the Molotov-Ribbentrop Pact. On the outside it was an economic and non-aggression pact, but it contained a secret "spheres of influence" protocol that would divide parts of Romania, Poland, Lithuania, Latvia, Estonia, and Finland between the two nations.[5] This paved the way for Germany and the Soviet Union to divide up Poland and crush its independent government.

The relationship between Poland and the Soviet Union had always been a tenuous one. Years of territorial conflict involving parts of Ukraine and Belarus led to Russian hatred of the Poles, a hatred that would carry over from Imperialist Russia to the Bolsheviks. After World War I, this border dispute between the two led to the Pol-

ish-Soviet War (1919-1921), and Poland, taking advantage of the Russian Civil War, seized territory in Lithuania, Belarus and Ukraine. Lenin and the Bolsheviks had believed in a coming worldwide communist revolution and wanted

It was a crime of mass murder . . . .

to push through Poland and link up with revolutionary groups in Germany, as well as other parts of Europe.[6] The Bolsheviks were able to push the Poles back but were unable to defeat them or garner support for the Red Army in order to bring about an internal revolution. With hopes of a pan-European communist revolution fading, the Soviets and Poles signed the Treaty of Riga on March 18, 1921, creating an uneasy peace that would last until 1939.[7]

Nine days after signing the Molotov- Ribbentrop Pact, Hitler invaded Poland on September 1, 1939. The Soviets delayed their own Polish invasion for sixteen days while they finalized the Molotov-Togo agreement ending the aggression with Japan in the East over border disputes. The Poles tried to defend against the German invasion but when the Soviet Union came, they knew that they could not fight on two fronts. The government went into exile.

Yet, at the very onset of the Soviet invasion, confusion existed as to whether the advancing Red Army was coming as an invasion force or to help the Poles fight the Nazis. For instance, the Polish Army was ordered not to fire on the Soviets unless they attacked first or tried to disarm them.[8] Consequently, as the Polish Army was pushed back, many fled to Romania to eventually regroup in France. By the time Poland had determined that the Soviets were invading to conquer, the Romanian route had been closed, and a large part of the Polish Army was captured

1 Allen Paul, *Katyń: The Untold Story of Stalin's Polish Massacre* (New York: C. Scribner's Sons, 1991), 112.
2 Laurence Rees, *World War II Behind Closed Doors: Stalin, the Nazis and the West* (New York: Pantheon Books, 2008), 52.

3 Winston Churchill, "Message to President Franklin D. Roosevelt from Winston Churchill, 08/13/1943" (6851129) [Textual Record]; Great Britain - Churchill, Winston S., 1943 - 1943; Diplomatic Correspondence, compiled 1933 - 1945; Collection FDR-FDRPSF: President's Secretary's File (Franklin D. Roosevelt Administration), 1933 - 1945 ; Franklin D. Roosevelt Library (NLFDR), 4079 Albany Post Road, Hyde Park, NY, 12538-1999, 5.

4 Paul, 16.
5 Ibid., 20.

6 Anna M. Cienciala, N. S. Lebedeva, and Wojciech Materski, *Katyn: A Crime Without Punishment* (New Haven: Yale University Press, 2007), 8.
7 Paul, 53-56.
8 Rees, 24.

and taken prisoner. An estimated 180,000 Polish troops were imprisoned in one of three Soviet prison camps in Kozelsk, Ostashkov, and Starobelsk.[9] Many of the enlisted men were eventually released but most of the officers and some civilians were kept in the camps. The Polish soldiers were not considered prisoners-of-war because no declaration of war had been made. nstead of POWs the men were considered "counter-revolutionaries."[10]

Now with Poland being divided between the Nazis and the Soviets, the two conquerors started reshaping their part of Poland into their own image. Firmly in control of two-thirds of Polish territory, the Soviets started the political, economic, and cultural annexation of the new territory. Staged elections were held, the currency was changed to rubles, and private and state-owned property was collectivized.[11] The goal was to crush ideas of nationalism and Sovietize eastern Poland in order to consolidate control of the region. As the Soviets encountered resistance among the Polish people, they arrested civilians, including police officers, priests, landowners, and members of the intelligentsia.[12] These new prisoners were also sent to Soviet camps that already housed the Polish soldiers captured during the invasion. At first, they were allowed to correspond with their families during their interment, but in the spring of 1940 all correspondence ceased.[13]

Starting in April of that year, groups of Polish officers that came from Kozelsk, were transported to the train station called Gniezdovo. After arriving at Gniezdovo, the prisoners were loaded on trucks and taken to a clearing on the "Hill of Goats." Those who had not realized their fate, after seeing the trenches and bodies, soon realized that they would never see their families again. It was here that the NKVD executioners began what was known as their mokraya rabota (literally "wet work"). With his hands tied behind his back, the prisoner was taken to the side of a trench, his head pushed back into his chest, and with a single shot to the base of the skull, his lifeless body would fall into the trench. The whole process took six weeks but in time all but a scant few of the officers lay dead in the forest.[14]

The Molotov-Ribbentrop Pact, which had been a fragile agreement from the start, was continually plagued with disputes and anger over unauthorized actions. It was finally broken when Hitler launched an invasion of the Soviet Union, named Operation Barbarossa, on June 22, 1941.[15] Stalin had ignored warnings that the German invasion was imminent and was not prepared. He thought that Nazi troop build-up along the border was posturing by the Germans to prevent a Soviet attack. He believed that because the Germans where still dealing with the British in the West, Hitler would be foolish to attack the Soviet Union.Stalin greatly underestimated Hitler's hubris and did not realize that the Nazis were running out of resources, particularly gasoline, and desired the oil fields in the Caucuses. Facing the German Blitzkrieg, the Red Army had to fall back deep into Russia before the Germans could be slowed. Stalin immediately turned to Great Britain for an alliance and the two signed the Anglo-Soviet Agreement on July 12.[16]

Now, in 1941, with the Soviet Union becoming a member of the Allies, preparations for defeating the Nazis began. The Soviets released a large number of Polish soldiers they had been holding in Russia since the 1939 invasion and these troops began to form units in order to rejoin the fight. These units needed leaders and the Polish government-in-exile started to inquire about their officers. What they encountered in their dealings with Soviet officials can only be described as obstructive vagueness. One of the first Polish officials to approach the Soviets was the Polish ambassador to the Soviet Union, Stanislaw Kot. The ambassador met with Andrei Vayshinsky who was, at the time, the Vice-Commissar for Foreign Affairs. The Soviet government was itself in turmoil due to the fact that it was in the process of relocating 550 miles to the east to the town of Kuybyshev in order to remove them from a potential war zone. Despite the chaos, Kot pressed Vayshinsky on the fate of the Polish officers. When Vayshinsky argued that during war many people disappear, Kot replied that, "People are not like steam. They cannot evaporate."[17] As the Polish officials pressed the question more, they were assured that the officers in question had been released and where they had gone was unknown to the Soviets. In December 1941, the Polish prime minister in exile, General Wladyslaw Sikorski, visited Moscow to personally seek his missing officers. What he encountered was vague replies and a general sense of evasiveness. Sikorski was given a variety of unlikely, if not impossible, excuses for the disappearances. The Poles received replies from the Soviets stating that the prisoners had been released before the Nazi invasion began and, at other times, were told that the prisoners were held in Soviet prisons when the Germans invaded. Thus, the Russian officials said that the

Polish officers could be in Germany by now.[18] The Soviet ministers, and even Stalin himself, claimed that the order had been given to release the men and if they had not released them, then it was that lower level commanders had not carried out those orders.[19] Of course, all of the replies could not be true, and such uncertainty among the Soviets seemed uncharacteristic because the NKVD had a reputation for keeping meticulous records. The impossibility of any of those scenarios was further backed by the fact that if the officers had been released or taken by the Germans, it would be likely that some would find a way to contact the Polish government or their families.[20] However the ominous silence continued which led to the conclusion that the men were no longer alive. Stalin had even suggested to Sikorski that perhaps the officers, after their release had escaped over the border into Manchuria, but no reasoning was given for the fact that not one single prisoner had tried to contact his family (or anyone else).

The evasiveness continued for more than a year with the Polish leaders receiving no satisfactory results. The Poles held out hopes that the Soviets were still holding the officers in Siberian labor camps and were reluctant to admit this fact to the Allies. Eventually though, their worst fears were realized. When the Nazis invaded the Soviet Union, they pushed the Soviets past the area of the Katyn Forest, just west of the Russian town of Smolensk. In the fall of 1942, the Germans began to receive word concerning the discovery of mass graves in the region. They announced to the world on April 13, 1943 that they found the bodies of the missing Polish officers and that the officers had been killed by the Soviets some time before the German invasion.[21] German Minister of Propaganda, Joseph Goebbels wrote in his diary on April 14, 1943 that

9 Benjamin B. Fischer, "The Katyn Controversy: Stalin's Killing Field," Studies in Intelligence (CIA) (Winter). Central Intelligence Agency." cia.gov. Archived from the original on 16 January 2010. Retrieved 12 October 2012.
10 Rees, 53.
11 Ibid., 38-41.
12 Pavel Sudoplatov, Anatoliĭ Pavlovich Sudoplatov, Jerrold L. Schecter, and Leona Schecter, *Special Tasks: The Memoirs of an Unwanted Witness, a Soviet Spymaster* (Boston: Little, Brown, 1994), 476.
13 Anthony J. Drexel Biddle, Jr., "Outgoing Telegram, Polish Series No. 19 from Anthony J. Drexel Biddle, Jr. to the Secretary of State Regarding the Katyn Forest Massacre: 04/23/1943" ARC Identifier 6850531 / MLR Number / MLR Number UD 3110 National Archives

- Washington, DC - Archives II Textual Reference (Civilian), College Park, MD Item from Record Group 84: Records of the Foreign Service Posts of the Department of State, 1788 - ca. 199, 3.
14 Ibid.
15 Cienciala, 208.

16 Ibid., 211.
17 Paul, 170.

18 Ibid.
19 Churchill, "Message to President Franklin D. Roosevelt from Winston Churchill, 08/13/1943," 3.
20 Ibid., 2.
21 Rees, 52.

We are now using the discovery of 12,000 Polish officers, murdered by the GPU, for anti-Bolshevik propaganda on a grand style. We sent neutral journalists and Polish intellectuals to the spot where they were found. Their reports now reaching us from ahead are gruesome. The Führer has also given permission for us to hand out a drastic news item to the German press. I gave instructions to make the widest possible use of the propaganda material. We shall be able to live on it for a couple weeks.[22]

Some historians believe that Goebbels held the information in order to exploit a time when he perceived the alliance with the Soviet Union was at its weakest but, the most reasonable explanation was that it would be spring before the ground thawed and only then could the bodies be exhumed.

The Nazis brought in the German Red Cross and forensic scientists as well as a group of allied POWs to observe the exhumation of the mass graves. Among these observers were two Americans, Army Lieutenant Colonel John Van Vliet Jr. (the highest ranking U.S. officer at the prison camp Oflag IX A/Z in Rotenburg, Germany) and Captain Donald B. Stewart, chosen by Van Vliet to accompany him. The Germans informed Van Vliet that he and the others would be traveling to Katyn, and on May 10, 1943 the group departed for the site of the mass graves.[23]

There were several key observations that seemed to exonerate the Germans. Van Vliet recalled that as the bodies were removed and examined, their personal belongings were removed from their pockets. Of all the diaries and letters that were found, none bore any dates later that April, 1940. The American observers knew that it was possible that the Germans removed any material dated after 1940 before the group arrived, but Van Vliet and Stewart found

the bodies packed tightly and almost fused together, convincing them that the Nazis could not have conducted a prior search. The state of the dead officers clothing also pointed to Soviet guilt. Officials in Moscow claimed that the Polish officers had been employed constructing roads between the time of their capture and the German invasion. Van Vliet and Stewart noticed that the boots on the bodies were in good condition and should have severe signs of wear if the Soviet account was true. The other indication was that the dead men wore heavy winter coats at the time of their execution. The Soviets had claimed that the Polish officers were captured and executed in late summer of 1941. The heavy coats supported the idea that the Soviets killed them in the cold month of April 1940, rather than the Russian assertion that the Germans murdered them in the warm weather of late summer 1941. No matter how much the men wanted to blame the detestable Germans, no matter how much they wanted to call the investigation of Katyn a hoax perpetrated for propaganda reasons, neither man could come to any other conclusion but that the crime was actually committed by the Russians. When the war ended, Van Vliet went to the highest ranking American officer he could find and gave him a limited version of what he knew. However, the report that Van Vliet filed with the Pentagon was quickly hidden away and he was ordered by American officials not to discuss his experience at Katyn with anyone.[24]

Even though the Germans failed to get the question of Soviet guilt addressed by the American and British governments, their investigation did finally solve the mystery of what happened to the missing officers. The bodies found in the shallow graves were those of the missing Polish officers. Families and friends could begin to grieve for their lost loved ones and a mixture of sadness and anger welled up inside the Polish people. Polish newspapers around the world began to decry the murders, vilifying and blaming

the Soviets. This caused uproar among the Allied governments. The Soviets claimed it was in fact the Germans that killed the Polish officers and the Germans were now attempting to blame the Soviets' in order to disrupt Allied unity. Although the Germans had never proven themselves to be trustworthy, the Polish government had reason to believe the German account due to the Soviet avoidance they had recently experienced.[25]

On April 16, 1943, General Sikorski called for the International Red Cross in Geneva Switzerland to conduct an independent investigation. This was met with protest from the Soviets who complained that any investigation would be "a fraud and its conclusions reached by terrorism."[26] Stalin threatened to break diplomatic ties with the Polish government-in-exile if the push for the investigation continued. Roosevelt and Churchill moved immediately to try and prevent the diplomatic split. Stalin sent a telegram on April 21 stating his intentions to break relations with the Polish government. Churchill responded on April 25 asking him to reconsider. He told Stalin that General Sikorski had been pressed to withdraw his request to the International Red Cross and every effort would be made to tone down the rhetoric of Polish newspapers. Churchill even goes as far to say he would make an effort to suppress Polish newspapers in England. He warns Stalin that a break with the Poles could have dire repercussions on American public opinion due to the large amount Poles residing there.[27] Churchill's pleas went un-

> "People are not like steam. They cannot evaporate."

heeded. The prime minister received a telegram the same day from Stalin informing him that the matter was already decided. Stalin argued that he also had to be concerned with the public opinion in the Soviet Union, which perceived that the attacks by the Polish press were evidence of "the ingratitude and treachery of the Polish Government."[28] This breaking of ties was exactly what Stalin wanted since he had no intentions of giving up the Polish territory gained in 1939. By breaking ties with the Polish government, this left him free to deny Polish legitimacy in post-war Europe and allow him to fulfill his plan to bring Poland under the Soviet sphere of influence.[29]

Obviously the British and Americans wished that this diplomatic nightmare would disappear.[30] Churchill was certain that without the Russians maintaining a second front in the East, Great Britain would be at risk of a German invasion, which could potentially result in grave Allied losses. The Americans were already committed to the alliance with the Soviets through the Lend-Lease program, which permitted the United States to loan the Soviets a substantial amount of military hardware. Allowing the Soviets to be openly accused of mass murder was seen as being counterproductive to the Allied cause. The relationships that Churchill and Roosevelt had with Stalin were already strained. The Russian leader was taking heavy losses on the eastern front and angry that the others had delayed opening up the western front to give the Russians some relief from Hitler.[31]

In the summer of 1943 Churchill received a copy of a memorandum, dated the previous May, from Sir Owen

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22 Joseph Goebbels, and Louis Paul Lochner. *The Goebbels Diaries, 1942-1943* (Garden City, N.Y.: Doubleday, 1948), 328.
23 Paul, 308-11.

24 Ibid.

25 Rees, 183.
26 Winston Chirchill, "Message to President Franklin D. Roosevelt from Winston Chirchill: 04/25/1943" ARC Identifier 6851134 Franklin D. Roosevelt Library, Hyde Park, NY Item from Collection FDR-FDRMRP: Map Room Papers (Roosevelt Administration), 1942 – 1945, 1.
27 Ibid., 1-2.

28 Winston Chirchill, "Message to President Franklin D. Roosevelt from Winston Chirchill: 04/25/1943," 4.
29 Rees, 184-85.
30 Ibid., 191-92.
31 Ibid., 192.

O'Malley the English ambassador to the Polish government-in-exile. O'Malley was a career diplomat who had a reputation for being independent minded.[32] In the memo, O'Malley presents the circumstantial evidence gathered by the Poles pointing to Soviet guilt for the massacre. His report was circulated among the British cabinet and a copy was eventually sent to Roosevelt. Like Van Vliet and Stewart, O'Malley points to the fact that none of the bodies contained any documents dated past April 1940. He further indicates that officer executions were inconsistent with the modus operandi of the Nazis. Although the Nazis were capable of acts of unspeakable cruelty, Hitler had a skewed code of honor as to the warrior class. The Nazis would exterminate millions of ethnic civilians but it was not their practice to execute enemy officers. It was hard to believe that they would choose to do so only in the case of the Polish officers. It was, however, seen as consistent with what they knew about the Soviets. Since the Bolshevik Revolution, Lenin and Stalin and the other leaders had shown the belief that executions were necessary to protect the "Revolution."

The attempt at concealment was another action that did not correspond with the idea that the Germans were the perpetrators. The age of the saplings trees made it improbable that they were planted after July 1941. Even if the case could be made that they were planted after the German invasion, it seems preposterous that an army conducting a Blitzkrieg invasion would take the time to plant trees during its rapid advance.[33]

Yet, O'Malley avoided making an emphatic direct conclusion. He stated that, in the face of the circumstances, anyone who had looked at the evidence had to be "more than half convinced," but as a diplomat he was trained not to deal in certainties. It is clear, though, that he was more than "half-convinced" and it is very likely that British of-

ficials understood this. O'Malley's report on Katyn, while a brilliant work, was not well received among the British government. When Churchill forwarded a copy of the memo to Roosevelt, the prime minister commented that the memo was well written but "perhaps a little too well written."[34] He seemed to be implying that the case made by O'Malley presented them with an inconvenient truth that would leave both governments in a moral quandary. O'Malley never achieved great success in his career. When he asked colleagues why this was the case, he was told he "had been too often too right too soon."[35]

To justify this moral lapse, O'Malley contends in his memo that, as science and technology improved, nations had to think more globally when it came to the decision making process. In the realm of international politics moral judgment, he thought, ought to be based on what was good for all of the nations involved and not just the individual. With this global mindset, one would see realignment of moral standards (or, in some cases, the dropping of moral standards altogether). O'Malley quoted Mr. Headlam Morley, writing, "what in the international sphere is morally indefensible generally turns out in the long run to have been politically inept."[36] Regardless of this justification, O'Malley seems concerned with the moral toll these judgments would take on Great Britain. He feared that British officials have "used the good name of England like the murderers used the little conifers to cover up a massacre."[37]

It was not until 1992 that documents were released providing physical evidence that not only had the Soviets been responsible but several high ranking officials, including Stalin, had signed off on the order in their own

hand.[38] Lavrentiy Beria, the head of the NKVD, sent a memorandum to The Central Committee branding the Polish officers as "counter revolutionaries" and saying they were "hardened and uncompromising enemies of Soviet authority."[39] He argued that the Polish men were too nationalistic and clung to their Catholic religion to the extent that the promise of them adopting communism seemed unlikely. Beria believed that extermination was the only solution and asked the Central Committee for permission to kill the officers. Stalin agreed as he had no intention of returning the territory he had seized in Poland.[40]

The question remains though. Did Churchill, Roosevelt, and their administrations make the right choice in turning a blind eye to the massacre? Stanislaw Mikolajczyk, the then prime minister of the exiled Polish government, expressed his frustration when he wrote:

> Appeasement of Russia grew by the hour both in London and Washington….We turned from Churchill to Roosevelt, then back to Churchill. They both were uniformly sympathetic but continued to impose silence upon us, as they were reluctant to inject anything into their relations with Stalin that might displease him . . . . We had thereafter to reckon with the Roosevelt administration's definite appeasement of Russia.[41]

It could be said that the two leaders were practicing what is known as utilitarianism, the philosophical idea, developed by John Stewart Mill that all moral choices are to be made while considering what would bring about happiness for the larger amount of humans. That is, one should ask,

before any action, what would contribute the most to the "the greater good"?[42] No one can say that it was an easy choice. If Stalin had been sufficiently provoked, he could have gone back to the negotiation table with the Germans, thereby possibly changing the outcome of the D-Day invasion and in turn World War II.

Nonetheless, the Polish officers were to be sacrificed on the "Hill of Goats," and, as in the book of Leviticus, they became a sin offering for the Allies' disregarding moral standards when they allowed the murderers to go unpunished. The Germans were guilty of a multitude of sins that would chill the soul, but making them the scapegoat for the Russian crime at Katyn could hardly be justified when the Soviet Union was treated with impunity. The Allies had entered the war on the grounds that the Germans were carrying out an immoral war. Yet, with the Soviet Union entering the alliance after the Katyn massacre and its ongoing attempted cover-up, the Allies, arguably, no longer held the moral high ground. This idea was best expressed by O'Malley at the end of his memo when he wrote:

> If, then, morals have become involved with international politics, if it be the case that a monstrous crime has been committed by a foreign Government—albeit a friendly one—and that we, for however valid reasons, have been obliged to behave as if the deed was not theirs, may it not be that we now stand in danger of bemusing not only others but ourselves: of falling, as Mr. Winant said recently at Birmingham, under St. Paul's curse on those who can see cruelty "and burn not"? If so, and since no remedy can be found in an early alteration of our public attitude towards The Katyn affair, we ought, maybe, to ask ourselves how, consistently with the necessities of our relations with

32 Ibid., 186-87.
33 Ibid., 3-5.

34 Churchill, "Message to President Franklin D. Roosevelt from Winston Churchill, 08/13/1943," 1.
35 Rees, 187.
36 Churchill, "Message to President Franklin D. Roosevelt from Winston Churchill, 08/13/1943," 6.
37 Ibid.

38 Sudoplatov, 277.
39 RFL/RL Research Report, vol 2, no.4 (January 22, 1993) in Sudoplatov, 476.
40 Rees, 53-54.
41 Hoover, Herbert, and George H. Nash, *Freedom Betrayed: Herbert Hoover's Secret History of the Second World War and Its Aftermath* (Stanford, California: Hoover Institution Press, Stanford University, 2011), 620.

42 John Stuart Mill, *Utilitarianism, Liberty, and Representative Government* (London: Dent, 1910), 10.

the Soviet Government, the voice of our political conscience is to be kept up to concert pitch. It may be that the answer lies, for the moment, only in something to be done inside our hearts and minds where we are masters. Her at any rate we can make a compensatory contribution—a reaffirmation of our allegiance to the truth and justice and compassion. If we do this we shall at least be predisposing ourselves to the exercise of a right judgment on all those half political, half moral, questions (such as the fate of Polish deportees now in Russia) which will confront us both elsewhere and more particularly in respect to Polish-Russian relations as the war pursues its course and draws to its end; and so, if the facts about the Katyn massacre turn out to be as most of us incline to think, shall we vindicate the spirit of these brave unlucky men and justify the living to the dead.[43]

If the Allies had pressed the Russians about the murders, maybe Germany would still have been defeated. After the horrific events that had transpired between the Germans and Russians during the war, it seems very unlikely that Stalin would have ever returned to the bargaining table with Hitler. If the Soviets had been held accountable for the deaths, and the crimes had been brought to light, public opinion could have prevented the territorial concessions made to the Soviets by the British and Americans. Much of Eastern Europe could have possibly been spared the tyranny and terror that it suffered under Soviet domination in the second half of the twentieth century. However, in the discipline of history, dwelling on the "what ifs" can lead one down a myriad of useless paths. The fact is, that Great Britain and the United States took actions during the duress of war that in hindsight appears to be a moral failure on their part, but to them, at the time, seemed the only logi-

cal course. As the popular saying goes, "Do not mourn the dead, mourn the living!" Perhaps it was believed that since nothing could be done to change the fate of the dead officers, allowing the Soviet crime to go unpunished could result in a stronger Allied alliance, the ending of World War II, and the potential achievement of the "greater good."

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43 Churchill, "Message to President Franklin D. Roosevelt from Winston Churchill, 08/13/1943," 8.

Dominated, Denied, and Debauched: The Lives and Roles of Women in Classical Athens

Marialeen Ellis

IN HIS LOST PLAY *TEREUS*, Sophocles speaks through a fictional woman about the woes of female's lives and the trauma of marriage for girls. He writes, "How frequently I've thought of women's nature in this very regard, how we are nothing. When we are young, still in our fathers homes, I think we live the sweetest life there is; for ignorance, alas, breeds happiness."[1] Sophocles' description of a woman's life can thus be summed up in a single word: *nothing*. Indeed, a woman's very existence was deprived. Females living in classical Athens were completely subjected to the domination by and control of an overbearing, misogynistic male population. They had no legal citizenship or human rights and, despite their necessary and important roles in society, they were continually disregarded as being inadequate and sub-human.

Through the research and analysis of the personal experiences of the average citizen-class Athenian woman, focusing on her birth, the rules of guardianship, marriage, and domesticity, we will be able to gain a clear understanding of what life was like for such women living in classical Athens. We will examine the levels of her political and social roles as they pertain to the functioning of the Athenian *polis* and, finally, her multifaceted positions found within the religious realm of the state. Although we might find many contradictions and complexities, the lives of Athenian women were fundamentally impacted by her depraved treatment and denied status.

Let us begin at the heart of the Greek civilization with the *oikos*, or family. Above all a patriarchal institution, the head of the household, *kyrios*, was a man who held his entire family under his sole guardianship. While this guardianship lapsed for boys once they came of age, Athenian daughters spent their entire lives under the legal control of a male guardian—her father, husband, son, brother, or next-of-kin.[2] Women gave birth at home with the assistance of a midwife and possibly a few female friends or neighbors.[3] As for the baby girls who survived the many fatalities associated with infancy long enough to make it to their name-giving ceremonies (typically on the tenth day), data indicates that they were likely to be given a name derived from their father's family, skipping a generation, with the first daughter being named after her paternal grandmother. Thus, girls were immediately linked with the males under whose guardianship they were to spend the first half of their lives.[4] Further, the birth of a child was announced to the community at large by pinning the appropriate boy or girl symbol onto the door of the home: an olive crown indicated a baby boy while girls were again immediately associated with the life expected of them via a tuft of wool or a spindle.[5]

Already high infant mortality rates were further heightened by the practice in ancient Greece known as exposure. Once a baby was born, it was up to the father to decide whether the child would be raised or exposed. In mak-

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1 Sophocles, *Tereus,* in Sarah B. Pomeroy, et al., *Ancient Greece: A Political, Social, and Cultural History*, 3rd edition (New York: Oxford University Press, 2012), 263.

2 Sue Blundell, *Women in Ancient Greece* (Cambridge: Harvard University Press, 1995), 67.
3 Ibid., 111.
4 Pomeroy, 260.
5 Blundell, *Women in Ancient Greece*, 111; Jenifer Neils, *Women in the Ancient World* (London: British Museum Press, 2011), 77.

ing his decision, he most likely evaluated the newborn's health, the financial feasibility of raising another child, and, of course, the baby's gender.[6] While most sons were raised, as well as the firstborn child regardless of sex, less value was placed on girls. Girls would lack earning power, would cost the family an additional dowry, and would bear children who would belong to another family. One playwright, Posidippus, later observed, "A poor man brings up a son, but even a rich man exposes a daughter."[7]

The custom in Athens was to put the infant into a crockery pot and abandon it on a roadside usually not far from home.[8] According to Pomeroy, it has been estimated that as many as twenty percent of newborn Athenian girls were left deserted, if not in the streets, in places like the local garbage dump.[9] Though some were found and raised by slave dealers, the majority of these infants quickly died and exposure became infanticide, "without the stigma or pollution attaching to murder."[10] Another practice that was forbidden by a law attributed to Solon was that of fathers selling their daughters into slavery for fear that they would otherwise die unmarried virgins, which was ultimate failure for a woman.[11]

While modern readers might find these practices horrifying, all classes in classical Attica practiced these customs. Thus, from the moment of birth, girls in Athens were immediately vulnerable and subjected to a life of control by and fear of men. Scholars have calculated that the average Athenian woman would give birth to 4.3 children; however, only 2.7 of these would survive infancy. It is unsurprising then, given the hazardous factors surrounding childbirth and infancy, that the death ratio for Athenian

babies was 500 per 1,000 adults or half of those born.[12]

Even those children who were not subjected to exposure were still not completely relieved from the psychological impact that the custom so often presented for both themselves and their mothers. We can only guess as to the ramifications felt by siblings when their mothers' pregnancies ended with the disappearance of newborn babies. Those children born to wealthy families may have been raised by and may have spent a great amount of time under the supervision of slave nurses and nannies while those from poorer backgrounds were likely to begin helping with the family work at a very young age.[13]

Though we do not know everyday details surrounding a child's life in classic Athens, it is understood that they participated in the religious activities of the family and that they passed the time playing with various types of toys, in addition to games similar to those still played by young children.[14] Babies' rattles and bells have been discovered, vases have been found showing boys and girls accompanied by various pets, and it is known that girls played with dolls per the customary ritual in which she dedicated these things to Artemis prior to her marriage, leaving her childish ways behind and marking her transition into adulthood.[15] These girls were trained at a young age to perform domestic tasks, but it seems that before the Hellenistic period, women were seldom taught to read or write, and there existed no formal schools or methods of education for girls.[16]

In regards to their physical health, the philosopher and natural scientist Aristotle was on par with his understanding of the functions of the female body. While some writers had bizarre interpretations of puberty and menstruation, Aristotle wrote in his *History of Animals* that girl's

breasts began to swell, and they began to menstruate after they turned thirteen years old.[17] It should be understood that Athenians had somewhat of an obsession with these health-related issues as they pertained to females because, as Sue Blundell points out, "in the Classical age, a woman's chief value was seen as her ability to bear children," thus making all things related matters of much importance.[18]

One condition of peculiarity, known as the "wandering womb," was believed to be a malady in which the womb was not anchored in place due to the lack of sex or pregnancy and traveled to different areas of the body causing problems as it went. Naturally, it was believed that this was only curable through intercourse, providing us with the most obvious example of an ideological misinterpretation of such female-specific illnesses. Blundell's argument that "the restlessness of the womb is suggestive of a basic psychological instability to which a woman inevitably falls victim [to] unless a man intervenes in her life," shows us again the susceptibility of girls to the mercy of men.[19]

Greek girls were commonly married off quite young and often to men who were at least double their age. Typically, brides were about fifteen and the grooms were about thirty. One reason behind this custom could originate from the advice of the author of a treatise titled *On Virgins*. The author writes that prior to sexual intercourse the womb was not yet fully opened, which caused blood to rush up to the heart and lungs and led girls to become feverish and "suicidally insane." His prescription for this states "when virgins have this trouble, they should marry as soon as possible. If they become pregnant, they will be cured."[20] Therefore, his advice is in sound accord with the social norms for the appropriate marital age of girls.

Occasionally, physical attraction might have also

been an incentive for marriage, as is described in Herodotus' *Histories* about Periander of Corinth, a seventh-century tyrant. He is said to have fallen for his future wife, Melissa, upon seeing her in a field wearing a simple tunic and pouring wine for some workmen. However, Melissa's own feelings do not appear to be taken into account. Their relationship was ill-fated as the crazed man later murdered her and proceeded to sleep with her dead corpse.[21] While this example represents a slightly different time and place, it nonetheless still gives us some insight into the possibilities related to marital relationships in ancient Greece.

It is conceivable that genuine affection between husbands and wives may have existed, as indicated within the works of Homer in which he acknowledges that a man's feelings for his wife might have formed a significant part of his motivations. This can be seen in *The Iliad* when Hector tells his wife, Andromache, that when he contemplates the capture of Troy, he is distressed not so much by the pain that will come to the Trojans, or by the suffering of his parents and brothers, but rather by the thought of his wife being dragged into captivity.[22] Blundell writes that Hector describes "an ascending scale of loyalties—city, kin, and wife—in which his wife stands at the pinnacle."[23]

While this romantic ideal is pleasant to consider, the reality remains that this fondness was not felt out of unadulterated love, but was likely closer to feelings one developed over time for a friend (although even then it would not compare, as a friend was likely one's equal while a wife was far from it), and so it surely would be tremendously rare for a couple to be in love prior to marriage. Additionally, though Homer does give us insight into the lives and relationships of spouses, we must also remember that his works were indeed romanticized fictions. Finally,

6 Pomeroy, 259.
7 Posidippus, in Eva Cantarella, *Pandora's Daughters* (Baltimore: John Hopkins University Press, 1987), 44.
8 Ibid.
9 Pomeroy, 259.
10 Ibid.
11 Cantarella, 44.

12 Pomeroy, 260.
13 Ibid.
14 Ibid.
15 Ibid., 262-263.
16 Neils, 93.

17 Aristotle, *Historia Animalium* vol. 11 (Cambridge: Harvard University Press, 1965), 135.
18 Blundell, 100.
19 Ibid., 101.
20 From *On Virgins* in Ibid., 99.

21 Herodotus, *The Histories* (Oxford: Oxford University Press, 1998), 5.92.
22 Homer, Jovanovich, trans., *The Iliad* in *Western Literature 1: The Ancient World* (New York: Harcourt Brace, 1971), 6.603-615.
23 Blundell, 71.

in the case of Periander of Corinth, his stimulus was derived out of lust rather than pure love, allowing for his wife to serve only as a means by which he can fulfill this desire and subjecting her to his ultimate control.

Upon a match being arranged, the father of the bride and the groom made a promise of marriage, or *eggue*, which was the legal step required to constitute a valid wedding and in which the terms of the marriage were settled.[24] The actual celebrations lasted a total of three days, included multiple events, and typically took place at night. As previously mentioned, among the first of these involved a ritual in which the bride would dedicate her dolls and childhood things to Artemis as she was making the transition into womanhood. The main occasion occurred on the second day of festivities and included a procession in which the bridegroom drove his wife in a chariot to her new home, followed by relatives and friends on foot bearing gifts.[25] Finally, the bride could be visited at her new home on the next day—a custom which may have helped to ease the dramatic change and brought her a sense of familiarity as she embarked on the tumultuous journey of married life and encountered new expectations suddenly placed upon her. Taking this into account, we find one lone case which considers the emotions and mental health of women, but that ultimately is a fleeting reflection.

Once married, women would be primarily concerned with conception and giving birth. While men naturally were meant to enjoy their sexual pursuits and society encouraged these endeavors, they did not approve of female sexual desire, at least as far as wives were concerned. Blundell explains, "According to Xenophon…sexual enjoyment was not the object of marriage; men acquired

> The lives of Athenian women were fundamentally impacted by her depraved treatment and denied status.

wives in order to raise a family, not to satisfy their lusts, which were amply catered for in the streets and brothels."[26] Although it was normal and acceptable for men to have affairs, a great contradiction remained in the case of women. If an Athenian woman was said to have committed adultery, something she could have been charged with regardless of its validity, she would have been banned by law from temples and religious festivals (two of the few places or events she was even allowed to venture to), and her husband would be obligated to divorce her.[27]

Additionally, it was considered in Athens "justifiable homicide for a man to kill not only the lover of his wife, but also any man who seduced or raped his mother, daughter, sister, or concubine."[28] This is perfectly evidenced in the speech written by the logographer Lysias, titled *On the Murder of Eratosthenes: Defense*, which he intended for Euphiletus, an Athenian who was charged with the murder of the known scholar and geographer Eratosthenes. In the oration, Euphiletus pleads his case claiming that his only motivation was to fulfill sanction of the law after catching Eratosthenes in bed with his wife. He accuses him of having seduced her and carrying on an affair in his own home while he was there, telling the criminal, "It is not I whom am going to kill you, but our city's law, which you have transgressed and regarded as of less account than your pleasures, choosing rather to commit this foul offence against my wife and my children than to obey the laws like a decent person."[29] This prime example shows us that even in the case of such affairs, men felt personally affronted more than they felt concern for the well-being and behav-

ior of their wives. Further, men regarded women as having been naively seduced, proving that they did not believe them capable of such desires and ploys.

By the beginning of the classical period, the giving of bride wealth (gifts from the groom to the bride's father to win his daughter's hand) had been replaced by the near-opposite. Fathers now paid a dowry—property allocated to the daughter upon her marriage and outlined within the *eggue*—to the husband, who managed it for his wife.[30] The dowry usually took the form of money or valuables, allowing the father to provide for his daughter even after she was married, while also giving him a greater stake in her marriage because if a divorce were to take place, the husband was obligated then to return the wealth.[31] On the other hand, the dowry might act as a reinforcement of reasonable behavior on the behalf of the husband. He would be less likely to seek a divorce for frivolous reasons and would live under the threat of divorce by his father-in-law, which might aid in preventing the maltreatment of his wife.

While the dowry relates primarily to the upper classes, we know much less about marriages within the lower classes. It is safe to assume that they were far less complex affairs, and a man's primary reason for marrying was in order to produce offspring to take care of him in his old age and to inherit his property so that it did not pass to distant relatives.[32] Hesiod is probably the best source for representing the preoccupations of the peasant class, advising men to marry when they are thirty and to choose a virgin in her fifth year of puberty who lives nearby.[33]

Yet, for those women who were directly affected by the custom of the dowry, this payment acted as somewhat of an agent of protection and, thus, the system could therefore be linked to the increasing stress being placed on

the protection of women within marriage. However, this perceived need for protection also implies the continued lowering of the status of women. Additionally, through this institution of marriage and the laws surrounding the giving of the dowry, a woman essentially became nothing more than a vessel for the transfer of property between men of equal wealth. Marriage can therefore be viewed as a business deal. Consequently, women are so closely associated with property that it is a wonder that the Athenians did not simply refer to them as such. While some might argue that the dowry helped give women somewhat of a higher status (because they were so closely associated with capital), the understanding that this union was nothing more than a means by which men could personally benefit and prosper shows us that, once again, women's status was further decreased and their lives manipulated.

A woman's work revolved around the home; social norms confined them to it for the majority of their lives. In Xenophon's Socratic dialogue, the *Oeconomicus*, the division of labor is described: "I think the god, from the very beginning, designed the nature of man for the outdoor work. . . . For the woman it is more honorable to remain indoors than to be outside."[34] Lysias writes, "The most excellent of wives" was a "clever, frugal housekeeper" who "kept everything in the nicest order."[35] Mostly, women worked steadily producing textiles, as is depicted in Homer's *The Odyssey*, one of the first documents to illustrate in detail the conditions of the lives of women. In one scene, Telemachus tells his mother, Penelope, to go back inside where she should "tend to [her] own work, the loom and the distaff, and keep the women working hard as well." Telemachus indicates that it was the wife who was in charge of overseeing the activities of any slaves or

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24 Cantarella, 45.
25 Pomeroy, 263.

26 Blundell, 102.
27 Neils, 64.
28 Ibid.
29 Lysias, *On the Murder of Eratosthenes: Defense* (Cambridge: Harvard University Press, 1930), 1.26.

30 Blundell, 68.
31 Ibid.
32 Ibid., 69.
33 Hesiod, *Works and Days*, (Ann Arbor: University of Michigan Press, 1959), 695-700.

34 Xenophon, *Oeconomicus* (Cambridge: Harvard University Press, 1923), 7.22-30.
35 Lysias, 1.7.

servants.[36]

Women performed these tasks mainly in their own rooms, which were spaces confined from the rest of the house, often on separate floors. Euphiletus describes his home as a "dwelling…on two floors, the upper being equal in space to the lower, with the women's quarters above and the men's below."[37] All socializing took place in the main area of the home, the men's space, and it was quite normal for visitors to never see nor speak of the women that lived there.[38] Additionally, though they were in charge of either preparing meals themselves, or ensuring that slaves did, women rarely dined together with men except during informal family dinners.[39] These citizen women seldom ventured far from home except to attend festivals and funerals,[40] special occasions that could even cause trouble as pointed out in regards to Euphiletus' wife, who was first seen by her seducer at the funeral of her mother-in-law.[41]

Two professions available to citizen-class women naturally revolved around a woman's most important role to society—midwives and wet-nurses. As described by the gynecologist and physician, Soranus, both of these occupations had high standards expected of them. He wrote that wet nurses should be between the ages of twenty and forty years old and should have had two to three babies themselves, whereas midwives were always in their postmenopausal years and possessed a great deal of knowledge about the birthing process, having previously apprenticed under an older expert.[42]

We have again come full circle in this analysis of certain key dominant aspects of the lives of women in clas-

sical Athens. We have learned so far that she was subjected to living her entire life under the guardianship of men, that the mere fact of being born female was detrimental to her survival, that her entire life course was out of her control, that she was often treated as a piece of property that could be bought and sold, and that even within the comfort of her own home, she was forced into seclusion and stripped of almost all social opportunities. Through all of this, it was ingrained within society that women should always return to what was seen as their single, primary purpose of existing: to mother the future citizens of the state, which as we shall soon discover, brings about another great contradiction.

Roger Just suggests the idea that women's positions were worse during the democracy than in earlier periods, and worse in Athens than in any other *polis*. This argument holds at least some truth.[43] The laws and constitutions of the democracy in Athens reveal that women within this state possessed no active political rights. They could neither speak nor vote in the *ekklesia*, a citizen assembly, nor could they attend its meetings. Further, they were unable to hold any administrative or executive positions within the secular organization of the state. Just says it best, writing, "In the Greek sense of the word, they were not citizens."[44]

Being a citizen in Athens meant that one was a free adult male of recognized Athenian parentage, a group that actually could have only accounted for a small proportion of the total population.[45] As Aristotle wrote in *Politics*, "It must be admitted that we cannot consider all those to be citizens who are necessary to the existence of the state."[46] Those whose presence was necessary for the existence of the state, or *polis*, but who were excluded from its gov-

ernance and who were not considered citizens (*politai*), included all women and children in addition to resident aliens (*metics*), freedmen, and, of course, slaves.[47]

The primary reason it was so crucial for one to be considered a citizen was because only then did a person have the right to own land and houses in Attica (the equivalent of wealth). It is possible that the laws on citizenship were meant to minimize the population of those who were considered citizens, thereby centralizing the wealth of the *polis* into a smaller, more easily controlled upper class. While it was essentially a democracy, it was far from the ideal republic of equality and justice for all. Another law proposed by Pericles in 451 or 450 BCE placed even more limitations on citizenship by ordaining that a citizen had to be of Athenian parentage on both his father's and his mother's sides.[48] Further, in the fourth century BCE, it became illegal for a non-Athenian to marry an Athenian, and the penalties for transgression were severe. Indeed, the fact that the very definition of being a citizen in democratic Athens involved being born to pure Athenian parents.

All of this considered, a person's parentage and kinship clearly defined his or her political, social, and religious status. Being a citizen not only had a political connotation, as in the modern sense of the word, but also meant being a member of a *polis*, which was just as much a social and religious entity. A person's social existence derived from his situation within a network of kinship connections that supplied him with his personal identity in life.[49] But even though this realm was only opened to the perceived

> The average woman living in classical Athens lived in a world in which her very existence was regarded as being next to nothing.

dominant gender, it was equally, if not entirely, dependent on the other.

While there is nothing to suggest any sort of inclusion of women into the political life of the *polis*, it is ironic that a feminine form of the word "citizen" does occur (*politis*), but it was generally only used to distinguish the mother, wife, or daughter of an Athenian citizen from another woman.[50] Although these Athenian women were distinguished from non-Athenian females living in Athens, and the difference in being free and being a slave was just as radical for women as it was for men, it remained that these females were placed in a group of outsiders (like *metics*) who were always subject to being ruled rather than ever being capable of becoming rulers themselves (like slaves).

This clearly affected the male idea of women in a number of contexts since "the Athenian *polis* was both a 'citizen's club' and a 'men's club,'" which women fell outside of by definition.[51] Here, we are again presented with a contradiction in the position of women in classical Athens: on the one hand, we have the *polis*, which excluded women, yet on the other, we have a closed community bound together by the above-mentioned ties of kinship and religion, which most certainly included women as channels through which all rights were passed down and transferred between men.

However, there is always an exception to the general rule, and even this strict political system was not entirely exempt from a little female influence. Just is quite right in his statement that, "In narrowly oligarchic, aristocratic, or monarchic states, women who belonged to the elite have

36 Homer, Jovanovich, trans., *The Odyssey* in *Western Literature I: The Ancient World* (New York: Harcourt Brace, 1971), 21.350-53.

37 Lysias, 1.9.

38 Pomeroy, 267.

39 Neils, 97.

40 Pomeroy, 267-268.

41 Lysias, 1.8.

42 Neils, 100.

43 Roger Just, *Women in Athenian Law and Life* (New York: Routledge, 1989), 22.

44 Ibid., 13.

45 Ibid., 15.

46 Aristotle, *Politics* (New York: Random House, 1943), 3.2.

47 Just, 14.

48 Ibid., 17.

49 Ibid., 20.

50 Ibid., 21.

51 Ibid., 23.

often wielded considerable power, even if illegitimately. . . . But in the Athenian democracy there were no thrones behind which women could rule."[52] While Just is correct, he does not mean that all women were completely ignorant of the happenings of the state. Some at least were aware of public issues thanks to the probable fact that men, in the privacy of their homes, might have discussed what had taken place in the courts or assembly or other general political news with their wives and daughters. It is also conceivable that some women may have even influenced their husbands' political decisions and actions. For example, Aspasia of Miletus, who was the mistress of the fifth-century Athenian politician and general, Pericles, was portrayed in Plutarch's later written biography of the public figure as an influential, though immoral, intellectual.[53] However, this instance of a courtesan having such political influence caused quite the scandal amongst classical Athenian socialites and politicians, proving that women who pushed the boundaries to become involved in public life were both rare and highly frowned upon.

Although there was this exception, the average Athenian woman, as previously stated, held little to no political influence, and she was not granted legal rights as a citizen nor was she capable of exercising her free will within the realm of the *polis*. However, there still remained one major aspect of Grecian life in which she was granted just as many, if not more, freedoms and liberties as her male counterparts—in the realm of religion. The participation of females was vital to the religious life of the city. They took part in the rites and cults within individual households (*oikoi*) and within the various divisions of the state or *polis* itself.[54] For example, while it was a citizen selected each year to act as *Archon Basileus* (King Archon) to preside over all ancestral festivals, his wife, titled *Basilissa*, presided with him over these ceremonies, and even represented the wife of the god in the annual ritual celebrating the marriage of Dionysus.[55] Also important to note, in the religious sphere, the wives of Athenian citizens formed just as exclusive a group as their husbands; they alone were able to participate in certain festivals and ceremonies from which female slaves and the wives of *metics*, foreigners, concubines, and courtesans were excluded.

One such celebration honoring Demeter, the festival of the Thesmorphia, was even more exclusive in that only married women married to Athenian citizens attended it. These wives were allowed to leave their homes and the guardianship of their husbands for the duration of the feast.[56] Another cult in which married women played a central role was that of Dionysus. Every other year, women from Athens, known as *Thyiades*, traveled to Delphi to join the women there in celebration of the rites of Dionysus on the slopes of Mount Parnassus, performing dances at fixed points along their routes.[57]

Even though women were granted much more freedom through this major cultural facet, the beliefs of the ancient Greeks were fostered by one of the most contradictory and misogynistic religions. In Hesiod's *Theogeny*, which describes the creation myth for the Greek gods and subsequently that of man and woman, the human race is punished for the acquisition of fire when the craftsman god Hephaestus, acting under instructions from Zeus, molds from the earth the image of a virgin.[58] In another of his poems, *Works and Days*, the author adds to the myth that a number of deities contributed to the ornamentation of the woman and her accomplishments: Athena teaches her to weave and outfits her in splendid clothes, Aphrodite provides charm and "painful, strong desire," and Hermes gives her "sly manners, and the morals of a bitch."[59] Then, the "beauteous evil" is handed over to an assembly of mortals, for whom she becomes a "hopeless trap, deadly to men."[60]

This first woman is named Pandora, meaning "all gifts," because she is presented as a gift by the gods to man (though she was intended to be their downfall).[61] Here we can gain insight into Hesiod's view. He believed that, while women help to sustain life, they are also potentially damaging.[62] He further describes Pandora as being a very ambiguous creature. Though she is "evil," she can bring "delight," and though she is the "ruin," she can be loved by men.[63] As Blundell points out, Hesiod believes her beauty "conceals a worthless interior…her belly is always taking," but men must be subject to this "if they want what her belly can also give, the children whom they need in order to survive."[64]

Further, regarding the Greek deities, the Olympian goddesses present a major contradiction as it relates to their being role models for their worshippers. Of the six goddesses, three are dedicated virgins; one could be considered a semi-virgin since she is able to renew her virginity annually; and two are mothers who are known for showing a lack of devotion to their children.[65] Although Athenian girls could be inspired by the virginal divinities because it was of the utmost importance that they too be virgins until marriage, the similarity ends there. It was even more important that they should marry and give birth. Moreover, the goddesses continued to be poor paragons as four of them— Athena, Artemis, Hera, and Aphrodite— were very active outside of the home.[66] This in and of itself is a severe contradiction of the Greek ideal of the modest, submissive woman and the domestic lifestyle expected of her. Furthermore, while it can be argued that these deities were not bound by such expectations, it still remains that their worshippers looked to them for inspiration only to find poor examples, which was probably very confusing and difficult for the average woman to understand.

Because the worship of these Olympic deities, and religion as a whole, was very much a major aspect in all Athenians' lives, the teaching and learning of ritual practices cannot be separated from the female sphere. All girls of the "right" status—that is, of pedigree, wealth, health, and wholeness—were prepared for these cult responsibilities as a part of their informal educations for life in general.[67] These factors, pertaining to status, set the qualifications for priesthood among ancient Greek women.

The religious positions that girls and women held mirrored the various life stages and changes, thus rendering their jobs as "short term posts for maidens, both lifelong and temporary posts for married women, and offices requiring perpetual celibacy only for the oldest of women."[68] While some positions could be attained through allotment, election, appointment, or even via purchase, the most prestigious and time-honored priesthoods were passed down as an inheritance within some of the oldest and noblest family clans.[69] In Athens, the most privileged and honored priesthood was that of *Athena Polias*, which was claimed by the Eteoboutad clan, which was related to the king of Athens, and the position continued to be held by the family for some seven hundred years.

Athena Polias was one of the most distinguished

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52 Ibid., 22.
53 Plutarch, *Pericles* (Cambridge: Harvard University Press, 1916), 24.2-7.
54 Just, 23.

55 Ibid., 24.
56 Joan Breton Connelly, *Portrait of a Priestess: Women and Ritual in Ancient Greece* (Princeton: Princeton University Press, 2007), 42.
57 Ibid.
58 Hesiod, *Theogeny* (Ann Arbor: University of Michigan Press, 1959), 565-570.

59 Hesiod, *Works and Days*, 66-68.
60 Hesiod, *Theogeny*, 585, 589.
61 Hesiod, *Works and Days*, 81-82.
62 Blundell, p. 23.
63 Hesiod, *Works and Days*. 57-58.
64 Blundell, 24.
65 Ibid., 25.

66 Ibid.
67 Connelly, 29.
68 Ibid.
69 Ibid., 47.

offices in the ancient Greek world. These priestesses held the position for life, possibly making them the most powerful women in Attica.[70] One Athenian priestess, Chrysis, was granted rights by Delphi that surpassed being mere honorary privileges and included "freedom from taxes, the right to own property, priority of access to the Delphic oracle, guaranteed personal safety, and a front-row seat in all competitions."[71] This placed her not only in a position superior to that of the average woman, but, more importantly, superior to that of the average man. Moreover, many priestesses held such authoritative and influential offices that they were able to sign and affix their seals to documents, argue cases of sanctuary law before the Council and Assembly, appoint sacred officials, give advice, and enforce the laws of the sanctuaries in which they served.[72] In this way, such priestesses exercised power. Although it originated from the religious sphere, it stemmed into the political realm more and more with the passing of time. It is safe to say that some of these women held just as much, if not greater, power than their political male counterparts. Connelly writes, women "function[ed] as legitimate politicians within the *polis* bureaucracy."[73] In addition, history has sometimes portrayed them as "valued colleagues and confidants of male philosophers."[74]

Their sacred authority was so embedded in political authority that Plato writes in *Laws,* "No sensible person will try to change whatever Delphi of Dodona or Ammon or some ancient tradition has authorized in any manner… on the strength of which people have established sacrifices and rituals."[75] The female agents who oversaw these rituals were indeed endowed with an authority that "no sensible person" would question. With this in mind, it is interesting to consider that, while all of the positions held by women within the religious sect were very important and vital to the well-being of the *polis*, and while these women were praised as being the most worthy of the honor in all of Athens, it remains that they were still women. They were still second-class beings, scorned forever as being unworthy of citizenship.

In classical Athens, as in all of Greece, religion, though not entirely connected, was still also not completely separated from the functions of the political state. It formed the most central part of Athenians' lives; it held within it the roots of their social morals, values, and norms; it was interwoven into their daily activities. We must therefore consider this question: if men were the only ones entitled to individual freedoms and citizenship, why were women found at the center of all things religious? Further, why was it seen as acceptable (in the eyes of men) for women to be held in such esteemed and powerful positions if they were the weaker and lesser sex? While there is no definite answer to these questions, we might find insight by considering that, although this somewhat seemingly redeeming quality afforded to women was of high regard, power only pertained to an extreme minority of the female population. Priestesses were already members of the most elite groups of society and, therefore, the connection with the average woman is limited.

As we have seen, the average woman living in classical Athens lived in a world in which her very existence was regarded as being next to nothing. From the moment of her birth, she was immediately vulnerable to the will of the misogynistic males under whose guardianship and control she would live out her days. They deemed her as a means by which they might financially, politically, or socially prosper. The very existence of the Athenian *polis* was dependent on her, yet men granted her no legal or human rights of her own. Finally, while she was a present component in the religious sector of their lives, her mere mythical creation came as a punishment to man; the female goddesses that were idolized presented a major contradiction in comparison with the expectations of their worshippers, and the sole redeeming facet associated with her life, the roles played within the spiritual realm, only pertained to a small percentage of the overall female population. It is undeniable that these ancient women suffered tremendously at the hands of their male counterparts. However, we might be left to wonder whether these women were conscious of their depraved treatment and desolate status or, rather, were content to carry on unaware of any fundamental deprivations, for as Sophocles wrote, "ignorance… breeds happiness."

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70 Ibid., 59.
71 Ibid., 197.
72 Ibid.
73 Ibid., 220.
74 Ibid.
75 Ibid., 221; Plato, *Laws*, 5.73 8B.

The Great Alteration: The Motivation behind the Rebellion Following the Imposition of the 1637 Scottish Book of Common Prayer

Ashley Vee Foster

Introduction

At the beginning of 1638, a group of men congregated at the Greyfriars Church in Edinburgh, Scotland to mark their names on a contract which would become legendary in following centuries as a turning point in Scottish history.[1] Ministers, nobles, and laypeople came together to endorse a national document which promised to "stand...in the defence and preservation of the foresaid true Religion, Liberties, and Lawes of the Kindgome." [2] These signatories pledged to preserve the religious and political rights of their native land by declaring "if any such dangerous & divisive motion be made to us by Word or Writ, We and every one of us, shall either suppresse it, or...it may be timeously obviated." [3] Offensive political and religious motions will be furiously revoked for "neither do we fear the foul aspersions of rebellion, combination, or what else our adversaries from their craft and malice would put upon us" in protecting the "true Religion, Liberties, and Lawes" of Scotland.[4] Thus, the National Covenant of 1638 promised to defend Scottish liberties in politics and religion to the point of armed rebellion

if needed. A year later in February 1639, that need for open armed rebellion took hold of Scotland as the first of two Bishop Wars pitted the Covenanters against the reigning Stuart, Charles I.[5] Roughly three years later, Charles raised the standard of his second kingdom to announce the start of the English Civil War against the Parliamentarians, men who had been greatly influenced by the success of their northern brethren in opposing their king.

The fervent nature of this National Covenant, which spearheaded royal revolt in Scotland, stemmed in part from an incident which happened a year before its inception at Greyfriars Church. On 23 July 1637, the Scottish royal Crown enforced the reading of a new Book of Common Prayer and Administration of Sacraments in Edinburgh kirks. This reading spawned an extensive national opposition as the imposition of the new prayer book conflicted with two chief principles mentioned in the National Covenant, religion and liberties. This new liturgical innovation was the conclusive straw in a long and complex history between inhabitants of Charles's northern kingdom and the Crown. Charles's enforcement of the book ultimately led to a national revolt in defence of not only the institution of the Scottish Kirk but the entire political kingdom of Scotland as well. While Scottish animosity certainly derived from the religious nature of the 1637 Book of Common Prayer and its conflict with Scottish Calvinism, it also originated, perhaps even more significantly, from Charles's complete disregard for the institutions and liberties of Scotland. He entirely bypassed the Scottish Kirk and parliament to introduce his book into the kingdom. To illustrate the king's lack of concern for these Scottish principles, a detailed analysis of the incompatible religious

ideologies inhabiting the British Isles in the seventeenth century precedes a description of the Scottish Kirk as a rallying institution for Scottish Lowland nobility and laymen. Specific acts in the decades prior to 1637 will depict the rationality behind the fierce and far-reaching reactions of that year. All of this, in turn, will attempt to explain the Scottish (Lowlanders' in particular) stress and actions over their king's indifference towards their Scottish liberties.

The Riot of 1637

On a Sunday in late July 1637, the regular congregation of the High Kirk at St. Giles in Edinburgh was visited by a prominent entourage of national importance. This group was composed of not only the two archbishops of Scotland along with eight of his bishops, but also members of the king's own privy council and the majority of the Scottish judicial body, the Lords of the Sessions. They came to the church previously ministered by John Knox himself to attend the first service conducted according to the new Book of Common Prayer and Administration of Sacraments. However, unimpressed with the prestige of their fellow guests, the congregants of St. Giles openly and almost immediately expressed their hostility towards the new royally approved proceedings. When the dean began reading aloud, a substantial number of Scots simply walked out while remaining others began shouting abuses at him.[6] John Leslie, the sixth Earl of Rothes, recalled the reading "made sum out of zeall, sum out of griefe, and sum from astonishment at such a change, vent their words and cryes" while further "provok[ing] a number of the Commons...to cry out, and, it is alledged, to throw stones at the Bischops." [7] Legend even mentions a stool being hurled in

the direction of the dean's own pulpit. After such a public outcry, the dean retreated from his podium, but people continued to demonstrate not only outside the High Kirk of St Giles but also outside three other Edinburgh churches which had practiced the new liturgy that Sunday. Fleeing the capital dissenters, the bishop of Edinburgh's coach was stoned as he travelled to Holyroodhouse Palace, one of Charles's royal residences in the capital city.[8] Rothes attributed the demonstrations to "these people, formalie patient under all uther new devyces that wer brought in by degrees, [who] were unable to bear at ane instant so great a change as appeired, in the mater, to those of best understanding, and, in the manner and forme, to the weakest...to change the whole externall frame of Gods publict worschip formerlie practised."[9] The open hostility towards the new liturgy led the Scottish royal council to abandon the book on 29 July, less than a week after its implementation. Yet, still the dissidence did not cease. Scots flooded the privy council with over sixty-eight petitions and supplications against the prayer book. These petitions extended from Fife to Dumfriesshire and were a result of collaboration between over a hundred ministers and a third of the nobility who worked alongside burgesses and gentry men.[10] By October, the privy council no longer felt safe in Edinburgh and moved to Linlithgow, literally abandoning the capital to nonconformists and dissidents.[11] Citizens of Edinburgh were demanding the hanging of those involved.[12] By November, the established four Tables of Scotland representing the four main political groups of the kingdom, the no-

1 Michael Lynch, *Scotland: A New History* (London: Pimlico, 1992), 264.
2 "National Covenant," 1638, in *Scottish Historical Documents*, Ed. Gordon Donaldson (Edinburgh: Scottish Academic Press Ltd, 1970), 200.
3 Ibid, 201.
4 Ibid 200-201.

5 Lynch, 265.

6 Ibid., 263.
7 John Leslie, 6th Earl of Rothes, *A Relation of proceedings concerning the affairs of the Kirk of Scotland from August 1637 to July 1638,* (Edinburgh, 1830), 3.

8 Lynch, 263.
9 Rothes, 2.
10 Allan I. Macinnes, *Charles I and the Making of the Covenanting Movement, 1625-1641* (Edinburgh: John Donald Publishers Ltd, 1991), 160.
11 Lynch, 263.
12 Allen B Bircher, "Archbishop John Spottiswoode: Chancellor of Scotland, 1635-1638," *Church History*, vol 39 no. 3 (Sept 1970), 324, www.jstor.org/stable/3163467 (accessed February 2010).

bility, ministers, burgesses, and lairds, began to organise themselves so that in three months time they could spawn the National Covenant.[13]

The Desired Union of Two Clashing Churches

Charles I had wanted a new Scottish liturgy in 1637 to bring the Scottish Kirk in closer alignment with his Anglican church to the south. As king of both Scotland and England, Charles sought the amalgamation of the national churches of his two kingdoms. His father, James VI of Scotland, had inherited the English throne following the death of Elizabeth I and so combined the two royal thrones in 1603. Yet to James's frustration, the Union of the Crowns did not immediately lead to a union of the kingdoms as he desired. His successor, Charles, hoped creating one comprehensive British Church would help consolidate his power as the sole ruler of the British Isles.[14] However, the union of the Scottish Kirk and the Anglican Church would never occur as he desperately wished and planned for. They were just too different. The two kingdoms were both Protestant in declaration by the 1630s, but both histories and the forms of Protestantism differed significantly. England, which had become Protestant as the result of a royal decision was Anglican and Episcopalian, while the realm of Scotland, where the Reformation had been a grass-roots effort, which had not included the monarch, was Calvinist and Presbyterian. This meant England's church followed more in line with the Roman Catholic Church in form of ritual and governmental hierarchy than the Scottish Kirk with its system of austere doctrine and governmental assemblies. Furthermore, England's Protestant Reformation owes its foundation and success to the firm tenacity and resolve of the English Crown in the form of Henry VIII and his daughter Elizabeth I to see it wi-

dely practiced by Englishmen. Thus, the English Crown played a direct role in the personal religion of its subjects. Scotland's Protestant Reformation, on the other hand, was born during a time in which it directly countered a Catholic monarch, Mary, Queen of Scots. The Scottish Crown played hardly any role in the inception of Scottish Protestantism. Its Protestantism grew from a gradual burgh-to-burgh spreading, not royal decree.[15] Conversion of the majority made Scotland Protestant, not the conversion of one king or queen. It would be this difference which would generate two different churches, who on the surface both declared to be of the same Christian branch. However, in both doctrine and structure, these churches conflicted markedly.

Scottish Religious Opposition to the 'Popish' Service Book

Religious opposition arose from a variety of complaints specific to Scottish Presbyterian beliefs. The very existence of the prayer book originated from Charles instructing Scottish bishops in the early 1630s to draft a new liturgy using the English Common Prayer Book as a basis for the new Scottish one. Further, any draft or amendment had to be approved by himself in advisement with the Archbishop of Canterbury William Laud, William Juxon, bishop of London, and Matthew Wren, bishop of Norwich, all ironically men of the Anglican Church.[16] Thus, Scottish bishops overseen by English residents produced a book in which Scottish Presbyterians saw the Crown attempting to adulterate their national church with Anglican practices. For instance during compiling, Scottish advisors warned against reproducing the full English Prayer Book Kalender in the Scottish equivalent. The Kirk had long condemned

saint and holy days as popish customs. Charles, however, refused to exempt such days, and thus, the book possessed the observance of twenty-nine saint days, or two more than the English version. Scots also disagreed with the book's instruction to stand at the reading of the Gospels, the Gloria Patri, and the Creeds. They believed standing implied a particular passage of Scripture was more important than another. The communion table was also called to be specifically placed at the uppermost part of the church, which would put it in an eastward position. The minister then would be placed at the table's north end. According to the opponents of the book, this would not only give an elevated appearance to the table and the minister but also mimic a sacrifice.[17] The book's passages of the Apocrypha also contradicted with traditional doctrine of the Scottish Kirk who denied any usage of it.[18] Private baptisms, responses, ornament rubrics, and fixed vestments upheld in the service book were additionally rejected. The use of wafer bread was even attacked because it represented Charles trying to impose high Anglican tendencies on the Kirk.[19] Much of Scotland would not accept the 1637 prayer book because they saw it as an English attempt to corrupt the pristine Scottish Kirk with popish doctrine.

The Incompatible Ideologies of Episcopalianism and Presbyterianism

While there were specific doctrinal and liturgical religious differences, one must not overlook the differing governmental ideologies of the two national churches which caused tension among Scottish subjects. James and Charles were especially favourable to Episcopacy and its structure of hierarchy, specifically the hierarchical system

supported under the Church of England. Anglican doctrine allowed bishops to have a prestigious and important function in ecclesiastical affairs. In turn, the monarchs also viewed them as essential figures in parliament to represent royal interests.[20] The Scottish Kirk possessed a different opinion of the existence and/or role of bishops. As early as 1578, the Scottish Kirk's Second Book of Discipline stated that in the church the name bishop was "not a name of superioritie and lordship, bot of office and watching."[21] In the 1570s, while there might be an actual bishopric office in the Kirk, the existence of such an office did not necessarily mean that one minister was superior or inferior to another. Such a thing in their mind was not scripturally based for "it agries not with the Word of God that bischops sould be pastors of pastors."[22] Yet even though the Book of Discipline supported the actual presence of bishops in the Kirk's ranks, it did not shy away from mentioning the abuses of this particular church office. The authors clearly declare "the corruption of the kirk" has allowed "this name (as uthers) [to] have bene abusit, and yit is lykelie to be."[23]

The dispute centred on who was allowed the final say on ecclesiastical affairs. This would have political and religious implications in the future. The Stuarts believed Scottish ecclesiastical authority should reside with the king and bishops as it did in England. This would give Charles, with his absolutist attitude, the royal prerogative in all final ecclesiastical decisions.[24] However, the actual government of the Scottish Kirk has been described by Scottish historian Allan Macinnes as "conciliar and anti-erastian," meaning the church was not subjected to the authority of the state and   the Anglican system of hierarchical courts

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13 Lynch, 263.
14 Ibid., 269.

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15 David Mathew, *Scotland under Charles I* (London: Eyre & Spottiswoode, 1955), x.
16 Macinnes, 145-146.

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17 Gordon Donaldson, *The Making of the Scottish Prayer Book of 1637* (Edinburgh: The Edinburgh University Press, 1954), 74-78.
18 Mathew, 249.
19 Donaldson, 73, 77-78.

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20 Macinnes, 17.
21 "Second Book of Discipline," 1578, in *Scottish Historical Documents*, 148.
22 Mathew, 43; "Second Book of Discipline," 148.
23 "Second Book of Discipline," 148.
24 Lynch, 269.

and councils.[25] Presbyterian Scots, also referred to as Mel-villeans after the zealous Scottish pastor Andrew Melville, sought a national church based upon a presbyterian system of courts, beginning at the local kirk sessions and advancing to the district presbyteries and regional synods concluding at the national assembly with representatives from kirks around Protestant Scotland. In these egalitarian courts composed of elected elders would ecclesiastical matters be decided.[26] The Act authorising Presbyterian Government itself was ratified in 1592, over thirty years before Charles came to power and eight years before he was born. Presbyterianism was not a new dissenting factor in the 1630s sprung up to try to curb Charles's royal power. Long before his coronation, Scotland's parliament "declairis that it salbe lauchfull to the kirk...to hald and keip generall assemblies" along with "sinodall and provinciall assemblies to be haldin by the said kirk...[and] presbiteries and particulare sessions."[27] In these assemblies,

> God hes gevin to the spirituall office berari in the kirk concerning headis of religioun, materis of heresie, excommunication, collatioun or deprivatioun of ministeris or ony sic essentiall censouris speciall groundit and havand warrand of the Word of God... with full power to thame to giff collationis thairupoun and to put ordour to all materis and caussis ecclesiasticall winthin thair boundis.[28]

According to the act, ecclesiastical authority rested in the hands of ruling bodies of religiously equal men who decided together as a group on religious matters which fell under the church's jurisdiction. Such a system could be accomplished because of the 'nonexistent' hierarchal system of pastoral offices in the Scottish Kirk. One's word did not weigh more than another's just because of his title. The-

re existed an idea of parity among believers and pastors who all were subjects to the same absolute sovereignty of God.[29]

Yet, still James and Charles embraced the idea of the Crown controlling religious power in Scotland. David Mathew attributes this desire for royal absolute religious control as an attempt by the Stuarts to curb political Calvinism. Therefore, Kirk presbyterian representation in parliament was highly frowned upon and the Stuarts tried to crowd the seats in the legislative body with bishops who would owe their allegiance to the king and thus would prevent the political ascendancy of Kirk presbyterian leaders. Mathew emphasises James's decisions as being completely motivated by justifications of policy and administrative conveniences. James saw the elevation of bishops in his reign as a symbol of his political victory and thus a realisation of his political hegemony. It was not a religious conversion that made him Episcopalian. It was the political advantages to royal sovereignty that Episcopalianism offered.[30]

Calvinism offered little if no political benefit to an absolutist royal monarch. In fact,, seventeenth-century Scottish Calvinism seemed to directly work against such royal hegemony. The Second Book of Discipline clearly proclaims the reformed church's perspective on ecclesiastical and civil disciplines. In the 1578 document, the Kirk has been granted special power from God in which "this power and policie ecclesiasticall is different and distinct in the awin nature from that power and policie quhilk is callit civill power."[31] According to the Presbyterians, this authority stemmed "immediatlie from God and the Mediator Jesus Christ, and is spirituall, not having a temporall heid on earth, bot onlie Christ, the onlie spirituall King and

Governour of his kirk."[32] In turn, civil officers are censured by "the kirk spiritually and in ecclesiasticalll government. And the exercise of both these jurisdictiones cannot stand in one person ordinarlie."[33] Thus, there is a belief in a boundary between the civil and religious states. Religion was under the jurisdiction of the Kirk and political power was under the duty of the state. Kirk ministers were not to practice any other profession but the ministry. If there was any overlap in the two separate spheres, it would be the religious state exercising moral influence over the political nation and not the political nation influencing the religious one. The Kirk had the ability and the obligation to exercise moral supervision over the civic state. Calvinism even taught that if civic leaders were tyrannical, then men had the duty to rebel against their ungodly monarch, even to the point of armament.[34]

But in reality, such division in theory was not practiced, and political and religious offices were thoroughly intertwined. The power of bishops in governmental affairs was staggering even when one just notes the methods used to compile a parliamentary committee. For example, the Lords of Articles was established to compose the agenda for upcoming parliamentary sessions. Under James and Charles, the members were chosen by a process which guaranteed royal dominance in the committee. Eight nobles were chosen by Kirk bishops. Most of the selected nobility were royal courtiers and none possessed nonconformist ties. In turn, these eight nobles picked eight bishops. Then, these sixteen men together chose eight shire and eight burgh commissioners. These hand-selected gentry predominantly possessed a history of royal patronage. As a result, the Stuarts could with some assurance determine the agenda of a parliamentary session. This was a way Episcopalianism benefited the royal political agenda

and thus was a reason why Melvilleans wanted the two spheres separate.[35]

The Scottish Kirk Becoming the Scottish Glue[36]

While Charles was using bishops for governmental gain, he was also simultaneously alienating himself further from his subjects. This miscalculation by the absentee monarch Charles had a shattering effect on Scottish identity. In a 1638 pamphlet issued after the revolt of the service book and the formation of the Covenant, the protesters stressed that Charles had spent too much time away from his original kingdom. Out of the many grievances the writers had against the service book and the process to attain it, they still mention the length of "His Majesties absence from his native kingdome."[37] They find time to specifically designate this particular injustice, ironically in the very first paragraph. They never forgot or forgave Charles's

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25 Macinnes, 16.
26 Ibid, 17.
27 "Act authorising Presbyterian Government," 1592, in *Scottish Historical Documents*, 160.
28 Ibid, 161.

29 Mathew, 43.
30 Ibid., 80-83.
31 "Second Book of Discipline," 144.

32 Ibid.
33 Ibid.
34 Macinnes, 16-17.

35 Ibid, 87.
36 When I am referring to the Scottish Kirk becoming the Scottish glue/adhesive, binding Scots together to sharing a common identity, I am referring mostly to Scottish Lowlanders. The majority of Scots inhabiting the Highlands and Northern Isles remain Catholic (except for the south-western Earl of Argyll). Thus, this next section (and in fact this paper) deals mainly with the rise of the Scottish Kirk in the eyes of Lowlanders, who were chiefly Protestant and, hence, were concerned with a royally imposed liturgy book corrupting their version of Protestantism. One could certainly argue that if considered from a Highlander perspective, the notion of the Scottish Kirk becoming synonymous with the Scottish identity would fall apart. I am taking this viewpoint of the Scottish Kirk as one of identity because, in this paper, I am interested in the political/religious identity and beliefs of the Protestant nation that revolted against the Book of Common Prayer and published pamphlets (and soon the National Covenant) emphasising their view of Scottish religion and liberties. As far as I know, the majority of Gaelic lords did not take part in the riots of 1637.
37 "The Protestation of the Noblemen, Barons, Gentlemen, Borrowes, Ministers, and Commons." 28 June 1638, in Microfilm 21903. (Ann Arbor, Michigan: University Microfilm, 1970), 1.

physical absence from Scotland. This absenteeism or abandonment felt by the Scots began with James VI when he packed his bags in Edinburgh and permanently relocated to London in 1603. He returned to his homeland only once in his remaining twenty-two years of reign. His successor, Charles, was born in Scotland in 1600 but soon left as a three year old with the royal family. He did not return until his coronation in 1633.

Hence from 1603 and onwards, Scotland's king did not reside in the royal capital but in a city four hundred miles away. Its king also had to be shared

> All felt that the process in which the Book of Common Prayer was introduced infringed upon their liberties.

with a more populous and wealthier nation to the south, which ironically was Scotland's traditional enemy. As the years progressed, the Crown lost its validity in being the protector and thus symbol of Scottish independence simply because the monarch was much more concerned with the affairs of England than with those of his native land.[38] During his reign, Charles increasingly exhibited favouritism to Englishmen over Scotsmen. After the Duke of Buckingham's rise in the king's favour, court and governmental positions were restricted from Scots. The nobility soon lacked any chances to advance themselves in the eyes of the royal court.[39] As a result, the nobility felt alienated from their king as his own administration became progressively less responsive to the expectations of the noble-led political nation. In turn, these men grew more apprehensive in dealing with instructions from Court and less devout in their desire to preserve Charles's monarchial position in Scotland on their own. His monarchial influence in Edinburgh was fading.[40]

In the wake of this power void in Scotland, the Scottish Kirk rose in the hearts and minds of its people to supersede the royal Crown. The Kirk became the emerging symbol of Scottish identity and not the Stuart king since he was no longer the quintessential Scot. The welfare and prosperity of the Scottish kingdom ceased to rest in the hands of the monarch. Instead, it rested in the hands of the Kirk, in the hands of the ministers who created it and the nobles who led it. The Kirk would have such an effect on the mindset of contemporary Scots and their identity that the eighteenth-century Scottish historian David Hume could correlate an attack on presbyterian polity as an attack on Scotland itself.[41] Scottish Presbyterianism became heavily intertwined with Scottish patriotism. The Kirk was seen as a liberating force which freed Scotland from the chains of Rome and of heresy. It was also what separated the country from its southern neighbour and the Scots firmly believed it was what made their kingdom distinctive and nonpareil.[42]

However, it is vital not to forget that the uniting factor of the Kirk was its doctrine and its preaching of the Word to Scots. It was the Kirk's doctrine and emphasis on preaching that allowed it to survive the turbulent sixteenth century. It was the governmental structure, discipline, and organisation that paved the way for the church's success in the beginning of the seventeenth. What the institution offered was stability and pride in religion and local life which fuelled a hope for stability and pride on a national scale.[43] It was created for Scots, by Scots, and served Scots. In this way, Scots believed their Kirk would preserve their beliefs not only in the private but in the public sphere as well.

Calvinism allowed both spheres to be in their hands if the situation required. The Calvinist Kirk allowed them direct access to their religion and an access to politics through the preservation of their faith. The Reformed Church allowed Scots to be Scots and not Anglicans, Roman Catholics, or any other faith associated with an allegiance to a foreigner. Thus, protecting the Kirk became synonymous with protecting Scotland.

The Scottish kingdom and its Kirk became inseparable and soon in many accounts identical because of what the Kirk offered to the state of Scotland. Jenny Wormald attributes the success of the Kirk to its self-confidence and its absolute refusal to compromise. Scots admired these qualities in a time when they were facing a national identity crisis following the Union of 1603. In the mid to late sixteenth century, the fledging Kirk possessed hardly any finances or ministers. Yet, it openly criticised the king and demanded merchants stop trading with Catholic countries. These demands could be very detrimental in securing its long term stability, yet the church was adamant in creating a society it felt reflected the words of God even if it affected its chances for survival.[44] Thus when a Stuart king imposed an unwelcome doctrine, edict, or ruling, Scots knew the Kirk would be the best institution to invoke because it was the institution that historically had shown itself to be the most unwilling to compromise.

The Kirk also offered the chance for the Lowland aristocracy to fulfil their "military ethos."[45] They were no longer nobles of a relatively weak and poor northern European kingdom. Under the Kirk, the nobility became inspiring Christians fighting for the establishment of the universal Church. Their duty played upon the still existing feudal atmosphere and called upon them to be defenders of the true faith. The Reformed Church finally allowed lairds, a term for Scottish gentry, to have an opinion in the national scene through the positions of elders. The structure of the Kirk court systems ranging from local sessions to the national general assembly allowed for close relationships to spring up between shires and central government and consequently provide a link for the gentry to have a national voice. Furthermore, since Melvilleans believed ministers should only be involved in their religious calling, the gentry no longer had to compete with the clergy for professions in law or business. Lay education was stressed because the ministers, who had to be highly educated themselves, needed a scholarly congregation who could constantly read Scripture and decipher the symbolism of the Old Testament. Lairds would use this new push for mass education to their advantage in pursuit of legal training.[46]

The Feud between Power-seeking Nobles and Absolutistic Kings

Thus while Charles was trying to wrestle power away from his nobles and into the hands of the bishops, his peers became more resolved to protect the power their forefathers possessed. Historically, the Scottish nobility exerted a significant influence over their ruler. Scotland had evolved as a kingdom by a coalescing of military chiefs and lords. Thus to increase their power and wealth, they either conquered each other or formed alliances which resulted in the creation of a structured system of differing hierarchal positions. Jealousy and conflict between differing clans and families vying for power were rampant, allowing for a flexible system in which families could rise and fall from power and still return to prominence decades later. This system could be sustained because their kingship was relatively weak, forcing the ruler to govern as an instrument fulfilling the will of his peers. [47] There was

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38 Lynch, 243.
39 Mathew, 30.
40 Macinnes, 37-41.

41 Lynch, 243.
42 Mathew, 17, 47.
43 Ibid.

44 Jenny Wormald, *Court, Kirk, and Community: Scotland 1470-1625* (Edinburgh: Edinburgh University Press, 1981), 134.
45 Ibid., 138.

46 Ibid., 138-139; Mathew, 44.
47 Mathew, 17, 25.

a precedent for the nobility to exercise control over the monarch, not the monarch over the nobility as James and Charles wished it to be. Scotland also had a precedent for the kidnapping of kings by power-hungry nobles.

One could argue the noble-led revolt occurred because James began and Charles expanded upon the idea of an absolutist king in an environment where noble-led revolts traditionally dominated and influenced national politics. When England suddenly experienced a rise in aristocratic governmental involvement, Scotland witnessed a drastic reverse of participation that went against centuries of tradition. These men had been virtually abandoned by their monarch for another country's peerage and crown. They suddenly had little to no opportunity under Charles to advance in court culture and government simply because they were Scottish. None of Charles's closest advisors were Scots.   Furthermore, the economic turmoil of the mid 1630s with its bad harvests and plummeting trade caused nobles to feel increasing strain on their pocketbooks. In turn, they fought for a place on the payroll in terms of pensions and governmental offices. When they received none, they readily blamed bishops for their nonsuccess. Bishops were a facile target for massive noble resentment because they were known as the group Charles and James heavily relied on to control their nobility inside and outside parliamentary sessions. For instance, the number of bishops sitting in the privy council rose from six in 1625 to nine in 1637. Hence, with no governmental positions available to the nobility, they suddenly acquired too much time on their hands with nothing to do. They had nothing to do except examine the royal government who had shut them out.[48]

Seven weeks into his reign as an absentee monarch, Charles I initiated a royal program which showcased the extent of his belief in his own royal prerogative. This program would only further infuriate his nobles against

him since it struck at the very element which separated them from the common Scot, land. Spanning from 1625 to 1633, his Act of Revocation in the beginning called for former crown lands and revenues dating from the 1540s onward to be returned to the royal family. Soon however, there appeared to be no time limit to how far back in years the Crown could go to demand its former lands. Opponents criticised the fact that technically the act allowed for the right of revocation to be exercised as far back as 501 with the first king of Dalriada, Fergus macErc. After five years, the Court of Sessions finally decided the act could only revoke at the most revenue and land originating from 1455 and onwards, still though a span of one hundred and seventy-five years. After such a drastic land act, the majority of Scottish nobles suddenly felt their familial lands were now threatened by Charles and the newly imposed legislation. Many new peers created by Charles's own father had received lands carved out from former abbeys alongside the traditional nobility. These lands were part of a massive secularisation of church lands, teinds, abbey lands, and heritable jurisdictions which occurred during the Scottish Reformation and now were being recalled. They also worried the legislation allowed Charles's successors to repeal any land grant ever given by the reigning Stuart himself, for that was simply what Charles was doing now in relation to his father's grants. Therefore, the security of heirs and their inheritances would never be assured since Charles and his descendants alone would be the judges on which grants could be revoked based on its pernicious effects to the Crown. Charles used the revocation scheme to provide a constitutional basis to give him the right to annexe as much of the acquisitions of the Pre-Reformation Church as he could. Many noblemen such as the 2nd Earl of Dunfermline, the son of the king's own chancellor, would join the Covenant in part because of the drastic changes the act could create. Essentially, the entire order of landowners could have been undermined by Charles's new scheme. If taken to the extreme, the revocation sche-

me could have created an economic disaster in Scotland which would have mimicked a national economy suffering from a sudden collapse in property values. Scotland's economy would have been almost nonexistent.[49] Almost as nonexistent would be the nobility's faith in their king who wanted to claim their land.

The Revocation Act would never be fully implemented by Charles, yet the political damage done by his resolve to see it through based solely upon his royal prerogative was great. The Commission for Surrenders and Teind, founded to oversee the project, remained a hated shadow over Scottish politics until July 1637. The scheme managed to even alienate bishops from Charles, though they were initially seen to greatly benefit from it. However, they were the ones urging him not to exhibit such an insatiable appetite for land and money for it would only isolate the Church from Scotland. Covenanters would even mention the Revocation Scheme in the 1640s. Charles's greatest failure in the scheme was his lack of understanding the tenacity of his noble subjects in protecting their land and subsequently their class privilege.[50]

A Coronation Eight Years Too Late

Charles would face the zealousness of his subjects when he eventually returned to Scotland in 1633. His return was the first in thirty years and the first as ruler. His coronation in Edinburgh took place on 8 June 1633, eight years after he ascended the Scottish throne with the passing of his father in March 1625. He had been crowned in England on 2 February 1626. Originally descended from a Scottish royal dynasty, Charles waited eight years, or more technically ninety-nine months to return to his homeland and be officially crowned. He waited only eleven months for the official coronation in England. Yet those eight ye-

ars between his succession and his coronation in Scotland were an especially trying time for his subjects and played into the fear of being a used and abandoned nation by their now seemingly foreign king. After 1627, the economy took a hit as grain prices rose and overseas trade drastically declined. Simultaneously, Scots were experiencing an unprecedented rise in taxes. They had suffered tax increases under James VI but those increases paled in comparison to those his son would impose. Michael Lynch points out the fact that the city of Edinburgh paid more in taxes during Charles's first two years as king than the capital had paid in the last twenty-two years of James's reign.[51]

Balmerino's Supplication

The nobility's grievances confronted the king in 1634 with the public leaking of Haig's Supplication. This document is probably more commonly known, however, by the name Balmerino Supplication, after Second Lord John Elphinstone Balmerino, who, as a nobleman in 1634, had much to lose with the new monarchical direction. As a second generation son of James's new nobility and thus a beneficiary from the previous Stuart creating lordships out of former church lands, Balmerino and his family were heavily indebted to the Crown for their title and land, which in turn were liable to abrupt seizure by Charles's Revocation scheme.[52] He would become an outspoken leader for the dissident faction and what made him so was his involvement with William Haig's supplication. Because of his participation with this piece of writing, Balmerino would find himself on trial for treason which in the words of Macinnes would lead to "the single most important event transforming the disaffected element from a political faction into a national movement."[53] Lynch quotes histori-

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48 Lynch, 248, 268-270.

49 Ibid., 266-267; Macinnes 53.
50 Lynch, 266; Macinnes, 71-72.

51 Lynch, 267.
52 Ibid., 248.
53 Macinnes, 138.

an M. Lee in describing the Balmerino trial as the Scottish version of the infamous English ship money case.[54]

Haig's Supplication appeared a year after Charles's Coronation Parliament. Critics of the king had been unsuccessful in blocking much of Charles's legislation during his first Scottish parliament a year before in 1633. The king's belief in the span of his royal prerogative, created grievances, which were only mounting To address these, the authors penned a supplication to their monarch. They blatantly admit opposing James's and Charles's parliamentary acts ratifying a controversial religious legislation entitled the Five Articles of Perth, for they believe "that experience hath shewed how much these articles of Perth have troubled the peace of this church and occasioned innumerable evils and distractions in it."[55] They claim these acts are "importing a servitude upon this church unpractised before," since they see these articles as a sole attempt by a king to corrupt their Kirk with Anglican doctrine.[56] These Scots continue to inform Charles they are caught in an unprecedented predicament. Either they must vote "undutifully in the sacred point of prerogative or unconscionably in church novations, which blessed King James would never have confounded."[57] The writers further conclude these grievances have been "altogether slighted in this your first parliament" and they finish their supplication critiquing the formation of the Lords of Articles, the body used by the

Stuarts to control parliamentary agenda.[58] They criticise Charles for denying his "nobility their freedom by authority to meet with the Lords of the Articles, [which] may seem against the constitution of a free parliament...which before the parliament held in anno 1609 did always elect and chuse the Lords of the Articles from among them of their own rank and quality."[59] They even claim a precedent of "there having been no parliamentary bishops from the reformation of religion till then, nor were they such as now do cull and single out such noblemen either popishly affected in religion or of little experience in our laws, as having had their breeding abroad, and so none of the ablest to be upon our Articles but fittest only for the clergy's mystical ends."[60] While the editor Gordon Donaldson points out the falsehoods lying in these last two claims (that the election for the Lords of Articles had differed throughout history and parliament had always sat bishops) the nobility felt in 1634 that they could make these statements, they believed they were in a supportive enough atmosphere in Scotland where they thought such liberal measures could be stated even if there was no precedent. Perhaps they wanted these false claims asserted in hopes these procedures would eventually happen, allowing these writers a voice in the Scottish parliament and thus Scottish politics. In the end, Haig's Supplication concludes with the thought,

> therefore we are confident that your majesty finding such a harmony in our affections to your service in preserving our religion and liberties, will be unwilling...to introduce upon the doctrine or discipline of this your Mother-Church anything not compatible with your majesty's honour, your good people's consciences, or that hath been rejected by acts and public practice of this Reformed Church.[61]

Because the authors end their document with two named specific ideas, they choose to define their grievances and, in turn the grievances of their nation, with the two concepts of liberty and religion, the exact ones evoked in the National Covenant. They believe Charles's decisions of endorsing the Five Articles, approving legislation supporting his own royal prerogative, and drastically increasing taxation and reliance on bishops were damning to Scottish religion and liberty. In doing so, Charles has attacked both Scottish religion and political liberties. Hence, these two concepts become Scottish essentials to rally behind to preserve their Church and in turn their kingdom from Charles. Furthermore, it is important to note that the Scottish religion and liberties at stake here are not determined by the king or his privy council alone. They are also directed by "the people's consciences" and the acts of the Kirk. The writers declare the king's prerogative is not the only thing which governs Scotland. The public practice of the Kirk has a significant influence in the direction of 'their' religion and liberties. Therefore, they argue the people of the Kirk have a decisive say in the practices and policies their government should introduce and perform. The conscience of the nation has the right to influence and, if need be, negate what is happening on a national scale and what is affecting a national institution such as the church. Scotland is not a kingdom to be run by one man alone.

Because of his involvement with William Haig's Supplication, the Scottish crown tried Lord Balmerino for treason. This treasonous involvement consisted of Balmerino receiving two copies of the written document and showing them to the Earl of Rothes and a Mr. John Dunmore, a notary from Dundee. He overwrote three phrases to help moderate the tone and sent one copy back to Haig. Unfortunately for Balmerino, three pirated copies surfaced, two from his household and one from Dunmore. It was the copy from Dunmore's house which found its way to the royal court and provoked a trial which ironically focused solely on Balmerino and never on William Haig,

the actual author. The outcome of the trial from December 1634 to March 1635 was a guilty verdict on just one of his initial four charges by an eight to seven vote. His punishment would have been execution if he had not been eventually pardoned by Charles. [62]

Even though Balmerino walked away in the end, the damage to Charles's reputation along with his bishops who supervised the affair was unsalvageable. Scottish Archbishop of St. Andrews John Spottiswood, the chancellor of Scotland who ascended to the position during the trial, along with other prominent church bishops were heavily involved in collecting information and interrogating witnesses.[63] Spottiswood's push for Balmerino to be charged with treason alienated many people of the Scottish administration and more importantly nobles and gentrymen who had not beforehand sided with the dissident Scottish faction. The use of bishops as investigators only sparked fury at the Episcopal administration that was increasingly seen as the main implementation of Charles's will. Mr. William Drummond from Hawthornden, a conservative supporter of the church's hierarchical society, made a comment declaring the bishops who were so determined to punish Balmerino to the fullest were just as erring as libellers themselves. Arguably, Balmerino's trial caused more alienation from the Crown then what was actually written in the document itself. The indictment provided yet another rallying point as the disaffected claimed Charles was now trying to halt an individual's freedom to oppose the policies of the Crown and using the Episcopal system to secure its stoppage. The public clearly sided with Balmerino, whom they felt had been targeted by Charles. Edinburgh magistrates had to provide an armed escort not only for the prisoner but for the judicial commission as well when they passed through the streets of the capital. Prayer meetings for Balmerino, both public and private, alongside petitions

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54 Lynch, 268. The ship money case is generally referred to as one of the grievances leading to the English Civil War. In 1635, Charles wanted to levy ship money (taxes used for coastal defences) on all English counties, not just coastal counties, which had been the precedent beforehand. Furthermore, this writ was authorised without the consent of the English Parliament in the name of defence and foreign policy. One Sir John Hampden refused to pay and a resulting court case ruled in favour of the king (7-5). Now, a precedent has been set in favour of power stemming from the monarch and not Parliament.
55 'Balmerino' Supplication, 1634, in *Scottish Historical Documents*, 192-193.
56 Ibid., 193.
57 Ibid.

58 Ibid.
59 Ibid.
60 Ibid.
61 Ibid., 194.

62 Macinnes, 138-139; Bircher, 321.
63 Bircher, 321.

and political agitation, illustrated the distance growing between Charles and his subjects. The outcome of the trial depicted to the dissident faction the lack of control Charles had in Scotland. He lacked the ability to prevent such a public outcry and to prevent such a close ruling even if its outcome was in his favour. The disaffected learned he lacked the ability to use coercion and coaxing to his advantage even with his loyal bishops.[64]

Simultaneously even as the Balmerino trial was progressing, Charles was pressing for the composition of the Scottish liturgy book which would bring the Kirk in closer alignment to the Anglican Church. There had already been three Scottish publications of the English Book of Common Prayer between his coronation and October 1634. The new book, as mentioned before, had been compiled by bishops with Anglican priests as overseers and then ordered by royal decree to be read in the churches of Edinburgh. That fateful Sunday of 23 July 1637 was not the first day, however, to witness a ruler trying to impose his agenda on the Kirk. It was the first day, however, where he met fierce opposition and revolt. To discover the reason behind the Scottish revolt of 1637, it is important to understand how the 1637 Book of Common Prayer differed from three major religious innovations of the early seventeenth century, the restoration of the Episcopacy, the Five Articles of Perth, and the assertion of Charles's royal prerogative in church affairs. For instance, as previously quoted, the Earl of Rothes had mentioned that the Scottish people were "formalie patient under all uther new devyces that wer brought in by degrees."[65] All these innovations were hated by Presbyterian Scots, yet it was the last one in 1637 which caused them to revolt simply because the king never allowed the service book to be ratified by any Scottish degree.

The Restoration of the Episcopacy

With the passage of the 1592 Act authorising Presbyterian Government, the Scottish Kirk's Presbyterian government was flourishing, giving power to a series of local church courts made up of ordinary men. Twelve years beforehand, the General Assembly actually had affirmed Episcopacy unscriptural.[66] However, this system did not please James in the least who had fought furiously against giving up so much power so easily. So while Presbyterianism was established in 1592, the general assemblies' decisions were still licensed by parliament. The king retained the right to determine the time and place of general assemblies. Lay commissioners who were drawn from the political estates and not regional synods or presbyteries were additionally allowed to sit in these national assemblies. Consequently, James at the turn of the seventeenth century could effectively manipulate these meetings. In this environment where titular bishops continued also to sit in parliament, James could influence his way to restoring more Episcopalian beliefs in Scotland. By royal decree in July 1607, every synod had to now elect a bishop as the moderator of their local meetings. The full spiritual restoration and reconsecration of the Episcopate took place just three years later in 1610 alongside the creation of the English inspired High Court of Commission which dealt out civil penalties to match ecclesiastical reprimands.[67]

To realise the success James had in restoring an Erastian form on the Kirk, one just needs to look at the acts accepted by the General Assembly of Glasgow in 1610. In one piece of legislation passed, it called for "no sentence of excommunicatioun or absolutioun therfra, be pronouncit against or in favours of any person without the knowledge and approbation of the Bsichop of the Dyocie."[68]

Ironically, the 1592 Act authorising Presbyterian Government also talked about who had the power to excommunicate. However, it never specifically named that only a bishop held that special power. It referred to those men with such a high ecclesiastical power to perform such a severe religious censure as those "spirtuall office berabis in the kirk."[69] The writer could have written 'bishops of the kirk,' but he did not. In a pure Presbyterian form, bishops would not possess a more sacred and prestigious opinion and authority than other ministers simply based on title alone. The idea that "bishops salbe Moderatours in every Diocesian Synod" was also passed by this Assembly in 1610.[70] It seems odd that a Scottish Assembly which had just passed the 1592 act supporting Presbyterianism is now passing not twenty years later such conservative Episcopal legislation. These acts declare "all presentatiouns be direct heirafter to the Bischop" for inquires and judgement into the ministry while allowing only "the visitatioun of ilk dyoice is to be done be the Bischop himself."[71] There is a significant amount of power given just to the bishopric office in a nation where many subjects wanted a pure Presbyterian form. The Scottish desire for a pristine Presbyterian functioning church did not suddenly disappear with the restoration of the Episcopate. Melvilleans simply became more alienated from the Stuart government over the direction of their national church and religion. The Episcopalian direction no longer seemed to support their Presbyterian dream. However, the Melvilleans allowed cooperation with the Crown in 1610, yet soon events would lead them to the direct opposite in 1637. One of the first events which catalysed the opposition came in 1618 with the Five Articles of Perth.

James's Five Articles of Perth

The Five Articles of Perth were part of James's dream to bring together a "reunited Christendom" where he would be remembered as the Constantine who envisioned it all.[72] With the passage of his royal agenda at Perth, James hoped to bring the Kirk and the Anglican church closer together in alignment. The first introduction of the Five Articles, however, was vehemently rejected by the General Assembly in St. Andrews during November 1617. Nonetheless, by royal decree, the privy council decided to push on and implement parts of the Articles that following January. Their second attempt in August 1618 during the General Assembly at Perth resulted finally in success. James attained the ratification of the Five Articles by only allowing the General Assembly to vote on all the articles together and not separately. This method would also be used to pass the articles in the Parliament of 1621. Yet to even pass with his method, James had to promise his subjects he would no longer attempt to introduce any new measures on the religious front. The articles, though, still only passed by only a twenty-seven vote, eighty-six to fifty-nine.[73]

The doctrine approved at Perth hit upon very specific ideals that countered the Calvinistic religion flourishing in many places of Lowland Scotland. The first point of the legislation required "everie minister...[to] have the commemoration of the inestimable benefites received from God by and through our Lord and Saviour Jesus Christ his birth, Passion, Resurrection, Ascension, and sending doun of the Holie Ghost, upon the days appointed for that use."[74] Hence, observance of holy days, including Christmas, Good Friday, Easter, Ascension Day, and Whitsun-

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64 Macinnes, 138-141.
65 Rothes, 2.

66 Lynch, 202.
67 Macinnes, 17, 81.
68 "Acts of General Assembly at Glasgow," 1610, in *Scottish Histo-*

rical Documents, 176.
69 "Act authorising Presbyterian Government," 1592, 161.
70 "Acts of General Assembly at Glasgow," 1610, 176.
71 Ibid.

72 Lynch, 242.
73 Ibid., Macinnes, 39-40.
74 "Five Articles of Perth, 1618," in *Scottish Historical Documents*, 184.

day, should be specially recognised in Kirk congregations with "pertinent texts of Scripture."[75] The next two articles sanctioned private baptisms and communion. "The catechizing of young children of eight yeers of age and presenting them to the bishop to lay hands upon them" entitled bishops, and bishops alone, to perform confirmation.[76] Finally, the last point made "the blessed sacrament of the Holie Communion of the bodie and blood of our Lord and Saviour Jesus Christ be celebrate to the people humblie and reverentlie kneeling upon their knees."[77] Although Calvinistic doctrine disagreed with all first four articles stated, it would be the concluding one which would cause the greatest turmoil in contemporary Scotland. Ironically, it was also this fifth final act that James was so determined to see obeyed.[78]

The monarch's determination to see the articles implemented proved to be a daunting task even with his successful history of restoring the Episcopate to a prestigious position in Scotland. To assure his liturgical innovations were followed, the Crown pursued and coerced ministers for years. Privy councillors were employed to document the number of those who took communion and in which position they received it in. The magistrates of the capital burgh alone had to personally vouch for the compliance of kneeling for all 12,000 churchmen living within city boundaries. Nonetheless, many Scots still did not bend at communion. Many just ignored the newly inspired Anglican doctrine and continued to take communion as they had always done. A considerable part of congregations from Edinburgh and Fife simply abandoned the practice of communion by 1625.[79] Soon, the main form of Presbyterian dissidence in Scotland became the outright refusal to bend one's knees at communion. It would be this

resistance which would create a common thread for a majority of dissidents and would allow them to rally together against a shared cause. In the Parliament of 1621, opposition arose from all ranks, from the nobility to the shire and burgh. High ranking nobles openly criticised and opposed the king's endorsed Five Articles in governmental parliamentary sessions. The hostility felt towards the articles becomes even clearer when one realises the passing of them was the first issue, excluding taxation, on which Scottish MPs openly opposed James in parliament.[80]

Four years after the Articles of Perth were ratified by a discontented parliament, Charles I inherited a Scotland where conflicting doctrine between the established Scottish church and the growing Presbyterian faction already had a heated coexistence. Consequently by his coronation date in 1625, Charles would have known of the dissidence created by the Five Articles of Perth and the tarnishing effect it had on his father's reign. Thus in 1637, a Scot must have been perplexed to read in the new Book of Common Prayer some of the same articles which were also stated in the Five Articles of Perth. These ranged from sanctioning private baptisms to observance of holy days to the demand of performing a specific religious act in a particular required posture. On the other hand however, Charles's own Coronation Parliament of 1633 ratified the Articles a second time, to the dismay of the Melvilleans who were hoping this parliament would revoke them.[81] Even so, there was never a widespread public rebellion in 1618 or 1633 to take it off the rolls.

The Assertion of Charles's Royal Prerogative in Church Affairs

During that same Coronation Parliament of 1633, the members passed a piece of legislation which illustra-

ted Charles's view of his power as unlimited. In the first sentence of the act of the king's prerogative and apparel of churchmen," the king declares all four estates of the Scottish parliament recognise "his Majesties soveraigne authoritie, princelie power, royall prerogative and priviledge of his crowne over all estaites, persones and caues quhatsumevir within this kingdome."[82] Charles's own royal hegemony was approved and ratified by parliament. Furthermore the act justified that since "quhat order soever his Majesties father of blissed memorie sould prescryve for the apparell of kirkmen" was followed, "the same power sall remaine with the persone of oure soverane lord" now in 1633.[83] In essence, MPs were giving Charles the power to choose the fashion of Kirk ministers. Haig's Supplication rebuked Charles for lengthening what was considered a petty concession to James to illustrate Charles's prerogative as king. The 1609 act which allowed James to determine the fashion of religious wear was a reward for the king after almost forty-two years of reign. It was not given to him to depict his dominance in state and religious affairs.[84] On the other hand, by using this legislation, Charles was asserting that the Crown possessed the power to regulate such a mundane thing as church apparel. He was contending the decision was inherently bestowed to the Crown. Thus, refusing to wear the royally approved "gownes with standing capes...and cassocks" became synonymous with defying Charles's royal prerogative.[85] Constitutionally, this particular act sanctioned Charles's absolutist thinking. It allowed him to believe as king he could do anything, as king he was immune to any restrictions.[86] Religiously, the 1633 ruling again clashed with popular nonconformist views. Having a parliamentarian sanctioned document

claim there are "inferiour clergie" does not coexist easily with a group of people who wish for parity among believers.[87] The act also highlights a custom reeking in their opinion of popery. A specific wardrobe for a specific occasion based on the type of occasion was hardly scripturally based. Interestingly, the clerical garments described in this act mimic the ones worn by their equivalents to the south in England.[88] Thus, the act concerning apparel was seen as another Anglican imposed custom on the Kirk sanctioned by prerogative alone. Yet still, the kingdom of Scotland and its Kirk continued without a call to arms.

The Pamphlets

This atmosphere, while heavily discontented with the direction of the national Kirk, was still relatively peaceful until the introduction of the 1637 Book of Common Prayer and Administration of Sacraments. The contemporary publications of 1637-1638 offer an insight into why in that year of Scottish history such a turbulent atmosphere was created and why the Scottish privy council feared for the safety of their government. While the religious grievances were mentioned, all the publications also mentioned the new element of liberties. All felt that the process in which the Book of Common Prayer was introduced infringed upon their liberties as Lowland Scotsmen by ignoring legitimate Scottish institutions established to protect the Scottish voice.

The Earl of Rothes' *A Relation of proceedings concerning the affairs of the Kirk of Scotland from August 1637 to July 1638* illustrates in detail the events mentioned above after the introduction of the liturgy book. For example, the earl tells of 23 August where ministers appeared before the Lord of Council appealing,

because this said book wanted the warrand of the

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75 Ibid.
76 Ibid.
77 Ibid., 185.
78 Lynch, 242.
79 Ibid., 242-243; Mathew, 83-84.

80 Lynch, 242.
81 Macinnes, 88.

82 "The King's Prerogative and Apparel of Churchmen," 1633, in *Scottish Historical Documents*, 189.
83 Ibid.
84 Macinnes, 136.
85 "The King's Prerogative and Apparel of Churchmen," 1633, 189.
86 Macinnes, 136.

87 "The King's Prerogative and Apparel of Churchmen," 189.
88 Macinnes, 136-137.

Generall Assemblie, the representative Kirk of this kingdome, which hath onlie power, and was ever in use to give directione in maters of Gods worship; and wanted the warrand of Parliament, which hath bein ever thoght necessar in such caices; becaus the liberties of the Kirk of Scotland, and forme of worschip receaved at the Reformatione, ar established in General Assemblies and ratified in Parliament.[89]

Throughout his writing, this idea is repeated frequently that the book infringed upon the liberties of the general assembly and parliament, which should have sanctioned it before the book's imposition. However, neither institution approved, consented, nor ratified it. He claims the general assembly is the only body which has the power and the position to make such changes to religious affairs because the general assembly is simply the only national representative of the Scottish Kirk. The assembly is composed of the very men who establish and maintain the local Kirks. Furthermore, Rothes declares that historically parliament has a precedent in being involved as well because parliament gives the decisions of the general assembly legal reinforcement. It is as if the general assembly and parliament work together to achieve and preserve Scottish liberties on the political and religious front. This would make sense since the Kirk of Scotland was becoming synonymous with the kingdom itself as the years of the seventeenth century progressed. If one took the general assembly and parliament away, as Charles did when he decided not to involve the two before the reading on 23 July, it is as if Charles took away the liberties enjoyed by Scotland. He took away the Scots's ability to represent themselves, their opinions, and their beliefs since these institutions allow them to have a voice in the religion and in the political activities of their kingdom. If the assembly and parliament are ignored, Scots have no voice, no sort of ability to decide anything

for themselves. Furthermore, Rothes continues to write

> that [the] small number of the Counsell to add their authorite to the book, who had no more power to authorize, then the bischops to frame it;...[is] a work onlie for a nationall assemblie, and that could proceid onlie from the Parliament, to whom the Counsell is subaltern, and by whom, for this, is censurable.[90]

While again reiterating the method which should have been followed, Rothes makes the statement that the privy council is inferior and subordinate to parliament. This idea depicts the Scottish perception of their liberties in the late 1630s. They now believed they could make such a claim and it would not be disputed. They firmly regarded the general assembly and parliament as the final voice in national government, not the king's own council. Rothes takes it even one step further and proclaims by literally penning the word "subaltern" that Charles's privy council is inferior to the institution of parliament.[91] In turn, one could translate his statement as meaning that in part Charles's governmental instruction is subordinate and answerable to parliament since the privy council's goal, at this time, was to aid in the king's governmental wishes. Because they were under the dominion of parliament and the assembly, the privy council had no power to authorise such a book.

The earl also mentions the Supplication of Noblemen on 18 October 1637 when he discusses that the "introduceing of the Book of Canons and Common Prayer, and such other novations as wer hurtfull [to his kirk and commonewealth...[and would] overthrow the liberties of the subjects."[92] The wrong religion could and, in Rothes' mind, did impede upon the political privileges of Scotsmen. Remember, Calvinism offered many political advantages to Scotsmen such as the obligatory duty to superse-

de royal authority if needed. By referring to the Earl of Loudons' speech before the Council at Dalkeith on 21 December 1637, the "illegal introductione" of the book and its content directly hindered upon the kingdom's religion and laws which meant it directly hindered upon "the conditione of lyff, libertie, and fortune heir, and their happiness heirefter."[93] The means of introducing solely by the king's will and desire not only affected the direction of religion in Scotland and the direction of the liberties but also now the direction of one's own future and happiness. This "illegal introductione" became personal to the nobles.[94] They felt as if their very life's purpose was at stake and the life of their heirs. By having no voice in such a drastic national change and thus no voice in the direction of their country, they hardly had any control in a system which as nobles could bestow or deny them everything. They felt powerless and feared their heirs would be as powerless as well. He even reiterates the fact Scots "had muche patience to bear many former grievous burdeings, bot not to be altogither smothered; for these their last novations extinguished the very lyfe of religione and policie."[95] They had allowed grievances before but the means to introduce the last set of grievances in 1637 went too far in smothering their liberties.

Another example would be the pamphlet from 28 June 1638 entitled 'The Protestation of the Noblemen, Barrons, Gentlemen, Borrowes, Ministers, and Commons, Subscribers of the Confession of Faith and Covenant' which was read at the Mercate Cross of Edinburgh on the fourth of July. In the document, the authors proclaim Charles's "diverse innovations, which both in themselves,

and in the way wherein they have beene urged doe manifestly tend to the prejudice of the Kings honour, and of our religion, lawes, and liberties."[96] They stress that the manner in which these innovations were introduced had a direct correlation with why the Scots protested against them. The method used to attain these changes were not just a hindrance to the stability of their religion but also to their political stability as well. The procedure of the service book's introduction went against the consent of their political consciousness, or more importantly their perceived political independence from the crown. Throughout the writing, the authors accentuate the idea Charles infringed upon these Scottish political liberties for "establish[ing] lawes and service bookes, without consent of the Assemblie and Parliament...is contrare to the maine ground of all our Supplications, against the manner of that introduction."[97] The protestors specifically state that the lack of involvement on the side of the assembly and parliament is one of their main grievances against the liturgy book. Again, this writing illustrates the depth of resentment the Scottish felt against the crown for not seeking their approval. This fact offended them deeply and their pamphlet was not shy in letting Charles know it.

The writers of the protestation did not stop there. They now targeted the High Commission, mimicking the reasons why they opposed the service book. The High Court of Commission needed to be rectified since the establishment of such an institution "without consent of the three estates conveened in Parliament, [is] contrary to the fundamentall and expresse lawes."[98] Now that they were

Calvinism offered many political advantages to Scotsmen . . . .

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89 Rothes, 5.

90 Ibid., 15-16.
91 Ibid., 16.
92 Ibid.

93 Ibid., 38-39.
94 Ibid.
95 Ibid., 16-17.

96 "The Protestation of the Noblemen, Barons, Gentlemen, Borrowes, Ministers, and Commons," 1.
97 Ibid.
98 Ibid., 8.

making their complaints known to the crown, the authors were attacking the institutions which denied them of their rights as Scotsmen to have a say in national activities through the general assembly and parliament. They saw the High Commission's existence as an infringement of their liberty just as much as the saw the imposition of the service book as an infringement. Both shut the protesters, who saw themselves as ordinary Scotsman, out of national power and influence. It is important to remember that the writers of this pamphlet were composed of noblemen and ministers who were used to having a direct influence in the transactions of their kingdom. Yet now progressively during James's and Charles's reign, the atmosphere seemed as if they had none. "The supreme judicatories of this church and kingdome" are stated to be "the only proper judges to nationall causes and proceedings" and not Charles, his privy council, or the Court of High Commission.[99] These men even suggest "a free Assemblie and Parliament, As the only remedies of our evils, and means to prevent" more "popish superstition" from infiltrating their kingdom and church.[100] This would allow the Scottish nobility and ministers to have a say in national government since it was parliament and the general assembly which were composed of a mixture of subjects from around the kingdom. These two institutions were the ones in the seventeenth century that came as closely as possible to wide national representation. While they certainly fell short of what is expected as wide national representation in the twenty-first century, these institutions were all that Scots had in the 1600s. The call for such a free parliament and assembly was mentioned at least seven times in a roughly twelve page pamphlet. While the book was full of Melvillean religious contradictions, the unlawful "manners of introduction, without consent of the three estates of Parliament" caused the writers to believe the 1637 situation

"cannot bee any wayes rectifie," but must be "absolutely discharged."[101] Since the liturgical book was introduced through royal decree, it was harmful "to the Lawes and liberties of this church and kingdome, and destructive of other lawfull judicatories."[102] The introduction completely invalidated the laws and liberties of Scotsmen and, thus to preserve these privileges, the book would have to be recalled. The political independence of Scotland was too important for Charles to ignore. These nobles, burgesses, ministers, and lairds, men from various ranks of society, were adamant for the Stuart to realise this book infringed upon that by his decisions to not have any Scottish institution consent to it.

Lastly, George Gillespie's pamphlet 'Reasons for which the Service Booke, urged upon Scotland out to be refused' also gives from a candid political standpoint the causes of the 1637 revolt. In the very first sentence, he writes the book "conteineth divers points and directions, which would breed a change in some Articles that doctrine and discipline of the Church of the said Kingdome, which is both warranted in Scripture and approved by Parlament."[103] Again, there is this correlation between Scottish religion and Scottish politics and how a national political institution such as parliament has the only position to support religious consensus. While Gillespie's particular document depicts a more detailed reasoning for the religious animosity towards the introduced liturgy book than the former pamphlet (such as the before mentioned twenty-nine holy days, bishop confirmation, and the standing at the Gloria patri and Creeds), he ends not on a religious note but on a political one. He chooses his last words to be remembered as ones centring on the illegal infringement on Scottish privileges and not religious objections. Gillespie argues

that "if a new one ought to be imposed, then it ought to come in by a lawfull manner: by a generall Assemblie."[104] This idea has been reiterated again and again. The general assembly would have been the first institution to have sanctioned such a service book. It was a religious liturgy and as the highest court and collection of religious leaders in the Presbyterian ranking of the Kirk, the general assembly had the right and duty to oversee religious innovations. They were the highest religious representation in Scotland and a liturgy book by nature fell under their jurisdiction. Presbyterian Calvinism gave them that power. He goes on to declare the book should not have been "urged by Antichristian Prelates upon Gods people, without consent of any Generall Assembly or Parlament, against the will of all men."[105] Going against the consent of parliament and the general assembly is now linked with going against the consent of "the will of all men."[106] This statement supports ideas floating in previous documents in terms of how the assembly and parliament represented the national subjects on a certain scale. As formerly mentioned, these institutions were outlets to protect and further the interests of Scots, religiously and politically. So if something went without the consent of these two institutions, it went without the consent of the Scottish subjects. The fact that the liturgy book was not sanctioned by parliament nor the general assembly was not overlooked by Scotsmen for the countless religious variances contradicting Scottish Calvinism. Both pamphlets along with Rothes' writing stress this fact relentlessly. The complaint is not solely religious, political issues are also extremely crucial.

Scottish Stress on Scottish Liberties

Scottish dissidents were determined that the king

and his government would not forget that the 1637 service book was passed by neither the general assembly nor parliament. They reworked this sentiment, harked back to it in countless publications. There was no allowance for public discussion surrounding the possibility of its introduction in Scotland. The ministers and laypeople of the Scottish Kirk had no say in the matter whatsoever. The composition and implementation were handled through bishops, who already had a precarious position in the church, and Englishmen. Charles's determination to impose his book in his native kingdom fed into the Scottish fear of his arbitrary ways. Unpopular liturgical innovations had been imposed on the Scots before, but had at least been approved by Scottish institutions. The Episcopal agenda from Glasgow 1610 confirming power of bishops was approved by the General Assembly. Aspects of Episcopalianism were legally embedded into the Scottish Kirk, accomplished by government consensus. James's Five Articles of Perth were widely disliked for its perceived Anglican impositions on the Calvinistic Scottish Kirk, but no one revolted. They were approved by the General Assembly in 1618 and Parliaments of 1621 and 1633. No one rioted because Charles decided to initiate an act declaring he could choose ministerial apparel simply because he was king. Even though it demonstrated his belief in his own prerogative, it was approved by the Parliament of 1633. Not religiously based but still despised, Charles's Revocation Act was approved by parliament. Thirteen enactments of the Renovation Act were not only sanctioned but prolonged in the Coronation Parliament of 1633.[107] Because the book was never ratified, perhaps Scots felt as if their privileges as Scotsmen were being completely eroded by a king who simply cared less for his northern kingdom. The publications voice the concern that Charles viewed their parliament and national assembly as worthless and meaningless since he did not need their consent to do his wishes in Scotland. So they

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99 Ibid., 9.
100 Ibid., 5.

101 Ibid., 8-9.
102 Ibid., 8.
103 Gillespie, George. "Reasons For which the Service Booke, urged upon Scotland out to be refused," 1638, in Microfilm 21903 (Ann Arbor, Michigan: University Microfilm, 1970), 1.

104 Ibid., 4.
105 Ibid.
106 Ibid.

107 Macinnes, 88.

abandoned his liturgy because in their mind, Charles abandoned their liberties.

Conclusion

The 1637 Scottish Book of Common Prayer and Administration of Sacraments intruded upon every single Scotsmen who attended any Scottish Presbyterian church. Its implementation would have affected every Presbyterian Scot in Scotland. Particularly in Lowland Scotland where the capital city resided, almost no one would have been left unaffected in their religious values by the execution of Charles's book. However, the majority those people who traditionally possessed a voice in the governing of the country no longer had a say in its establishment.The liturgy book was not handled through members of parliament, the nobility, or the majority of ministers. With one royal proclamation establishing its usage, these men were rendered powerless in their own country. The only way they could regain their autonomy would be by challenging Charles, his privy council, and his bishops. Charles introduced his prayer book during a time when the king was being superseded by the Kirk in prestige, influence, and power among ordinary Lowland Scottish subjects. The Kirk was now looked upon as the true Scottish glue in a country which had no other substance to band it together. The king who had for centuries embodied the identity and hope of Scotland abandoned the Scots in 1603. The Scottish Kirk filled that void in the hearts of its congregations. Perhaps the nobility knew that to win their liberties back, their national voice, they needed the help of an institution which could mobilise the masses to revolt. Perhaps the Scottish political nation knew it needed the Scottish religious nation to aid in preserving the perceived liberties of the political kingdom. They needed the religious grievances to make sure their political ones were heard as well. Thus when Charles attacked the Scottish Kirk, Charles in essence attacked the

kingdom of Scotland. He attacked the Kirk's liberties and therefore attacked the Scotsman's liberties as well.

Perhaps that is why the reigning Stuart in 1707, Queen Anne, decided to leave the Scottish Kirk to the Scots when writing the Articles of Union which gave birth to the United Kingdom. She knew the Scots would never abandon their religious consciousness as Scots since it seemed to be essentially tied to their political consciousness as Scots. The revolt of 1637 and the following two Bishop Wars of Scotland depict explicitly the lengths to which Scotsmen would go to defend the established institutions of the Scottish general assemblies and parliament. These organizations allowed the Scots to protect and further their own interests and opinions in religion and politics. In the early seventeenth century, parliament and the general assemblies were the embodiment of Scottish representation in national affairs. Balermino's Supplication supports that the nonexistence of these two institutions would have nullified the Scottish voice in the daily governing of the northern kingdom. The introduction of the 1637 service book tried to void Scottish representation in national affairs by ignoring the representativeness of the general assemblies and parliament. By initiating "a great alteratione on the publict worship of God, without warrand in law and consent of the church...to impose so many and hudge novatons upon frie subjects, in custom to be ruled by the lawes," Charles spawned a war fueled by Scottish determination to preserve and increase political liberties sanctified in the Scottish institutions of parliament and Kirk assemblies.[108]

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108 Rothes, 41.

The Collapse of the Soviet Union and Its Repercussions: A Literature Review

Matthew G. Guerdat

I AM A CHILD OF THE post-Cold War world. I was born in 1986, and the earliest memories I have are all of events that occurred in the early 1990s. By the time I first heard an adult talk about something called the "Cold War," it had already been over for at least half a decade. Even as I learned more about this strangely named war that had apparently never actually happened, it didn't seem terribly relevant; after all, it had ended years ago. So this big, evil country called the Union of Soviet Socialist Republics (U.S.S.R.) was around for a while and then collapsed in the early nineties. Why should that matter in the modern world?

Yet many aspects of the world as it exists today were shaped, either directly or indirectly, by the collapse of the Soviet Union. Governments rose and fell with its demise. Decades-old globes and maps of the world suddenly became obsolete as whole nations split and fragmented nations reunited. Theories that had been the topics of heated political, economic, and social discourse for almost a century lost their legitimacy overnight. The very paradigms through which people in the West evaluated their own species shifted as the looming threat of nuclear Armageddon that had hung ever present over the lives of an entire generation suddenly vanished into thin air. Everything had changed with the fall of the Soviet Union, and the course of everything that was to come had been irrevocably altered.

But what caused the Soviet Union to collapse in the first place? And for that matter, how exactly has its collapse affected life in the present day? The answers to

these questions vary considerably depending on who is asked. In the years since its collapse, countless historians, political scientists, and economists have struggled to piece together the chain of events that ultimately doomed the Soviet Union, and countless others have sought to understand the repercussions of its demise, both in terms of its immediate effects in the years thereafter and in the long-term picture of human civilization. So vast is the body of literature on these subjects that a comprehensive examination of each of them is unfeasible. Thus, the following discussion will focus on the relevant information provided in five different books: *The Cold War: A New History*, by John Lewis Gaddis; *The World Transformed: 1945 to the Present*, by Michael H. Hunt; *The Clash of Civilizations and the Remaking of World Order*, by Samuel P. Huntington; *The Return of Depression Economics and the Crisis of 2008*, by Paul Krugman; and *The Return of History and the End of Dreams*, by Robert Kagan. Through an analysis of these authors' writings, and through a comparison of their conclusions, we will seek to understand the underlying reasons behind the Soviet Union's collapse and the event's lasting effects, both within Russia and in the world in general.

Before we delve too deeply into the larger reasons for the Soviet Union's demise, a more basic question begs asking: was its collapse inevitable? Most authors seem to be in agreement that, yes, the Soviet Union's self-destruction was bound to happen sooner or later. Krugman and Gaddis both make this assertion in their respective books; Krugman describes the Soviet Union as "a sort of ramshackle affair, doomed to eventual failure,"[1] while Gaddis

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1 Paul Krugman, *The Return of Depression Economics and the Crisis of 2008* (New York: Norton, 2009), 11.

denounces not only the Soviet Union itself, but the very ideology upon which it was founded as "a sandpile ready-to-slide."[2] Looking back on the events leading up to its demise, and armed with the knowledge gifted to us by the countless authors, political scientists, and others who have painstakingly pieced together the events of the U.S.S.R.'s last days, one can come to the conclusion that its death was only a matter of time. However, as both authors also take care to point out, our modern day perception of the Soviet Union's collapse as an inevitability is possible only because we have the benefit of hindsight. At the time, the event came as a tremendous shock to virtually everyone on the Western side of the Iron Curtain. Gaddis recounts the fumbling, uncertain efforts of a dumbstruck Bush administration to rework their own policies and perspectives in the wake of what was obviously a wholly unexpected turn of events. At a summit in Malta in 1989, Bush admitted to Mikhail Gorbachev that his administration had been "shaken by the rapidity of the unfolding changes" in Eastern Europe, and that he had been forced to reverse his own position "by 180 degrees"; now his only goal was "to do nothing which would lead to undermining [Gorbachev's] position."[3]

What were the factors, so obvious to the modern scholar but completely unnoticed by scholars and politicians at the time, which led to the Soviet Union's collapse? As an economist, Krugman offers explanations grounded primarily in the U.S.S.R.'s economic woes in the last years of its existence: the hideously expensive and unproductive war in Afghanistan and the tremendous burden placed on Soviet industry by the attempts to keep up with Reagan's arms buildup. However, he also delves into some of the more psychological elements of life in the late Soviet years. He speculates that perhaps it was simply that

"revolutionary fervor, above all the willingness to murder your opponents in the name of the greater good, cannot last more than a couple of generations," and wonders whether "the stubborn refusal of capitalism to display the proper degree of decadence" and "the rise of Asia's capitalist economies" gradually undermined faith in the effectiveness of the Soviet system.[4] Gaddis also focuses on psychological state of the people of the Soviet Union, attributing its fall to such things as frustration over the temporary divisions of countries that had become permanent in the decades since the Second World War, the continuing fear of nuclear war, and a building resentment over the failure of the Soviet government to raise living standards. However, Gaddis also significantly includes factors such as a gradual shifting of power from the government to the people, and a growing sense that it was now possible to establish standards for making moral judgments that were independent of the Soviet authority's official positions.[5] These last two factors are important because they show that while the decline of the Soviet Union might be attributable to failures within the government-run national economy, its actual breakup was a result of action by the people. Soviet policy decisions made in the late 1980s and early 1990s gave people living in the Soviet satellite states a degree of freedom that they had not experienced since their countries had been incorporated into the U.S.S.R. at the end of World War II. Occurring as it did in the midst of the existing economic hardships and widespread disillusionment with the Soviet system, these policies essentially opened the floodgates of public discontent; if the implosion of the Soviet Union was indeed inevitable, then the Soviet leadership's loss of control over the masses was the final nail in the coffin. Once the disgruntled citizens of the U.S.S.R. realized they could now protest their situation without consequences, there was no turning back.

What were these new policy decisions, introduced by the Soviet government in the late 1980s, which ultimately doomed the Soviet Union to destruction? And who was to blame for these disastrous new policies? On the second point, the literature is unanimous: responsibility for the ultimate collapse of the Soviet Union lies with Mikhail Gorbachev. During his time as General Secretary of the Communist Party of the Soviet Union from 1985 to 1991, Gorbachev made it his personal mission to correct the many problems that he saw within the Soviet system. In the process, he inadvertently set in motion events that would ultimately destroy the Soviet Union from within.

In terms of the general idea that Gorbachev's actions as Politburo chief were to blame for the Soviet Union's collapse, the literature is in agreement. However, the authors disagree on what exactly it was that Gorbachev did that ultimately doomed the Soviet Union. In *The World Transformed*, Hunt emphasizes the role of one of Gorbachev's best-known reforms: *glasnost*. Literally meaning "openness," *glasnost* encouraged Soviet citizens to openly discuss the problems with the Soviet system and seek solutions. According to Hunt, the ultimate goal of *glasnost* was to promote the free flow of ideas between the U.S.S.R. and the outside world, especially in the realms of science, technology, and culture.[6] Gorbachev believed that the Soviet people would use their newfound freedom of expression to calmly and rationally examine the problems plaguing the Soviet Union and search for possible solutions. However, he was only halfway right in his prediction. While the Soviet people were more than happy to use their new freedom to talk about the problems with the Soviet system, and they readily proposed a common solution, the discussions were not calm and rational, and the ultimate solution they agreed upon was to break away from the Soviet Union one country at a time. With the benefit of

hindsight, it seems that Gorbachev's primary miscalculation in his *glasnost* initiative was a fundamental underestimation of the sheer level of disgust that had developed for the Soviet system, especially within the satellite nations. While crippling economic problems resulted in suffering for people throughout the U.S.S.R., the people within the satellite states had been burdened with these problems by a foreign entity that had forcibly incorporated them into its own sphere of influence at the end of the Second World War. While Gorbachev might very well have been right in believing that the *Russian* citizens of the Soviet Union would desire to fix the problems within their mighty empire rather than watch it crumble, the majority of people in the Eastern European nations of the Soviet bloc simply wanted their own countries back. Thus, by giving the people of these regions the freedom to express their displeasure and voice their desires openly, Gorbachev essentially gave them a free pass to revolt against the Soviet regime.

While the importance of Gorbachev's *glasnost* reform cannot be overlooked, Gaddis takes an altogether different approach when examining Gorbachev's actions. Rather than looking at the specific policies that caused the cascading failure of the Soviet system, Gaddis highlights Gorbachev's *inactions* as being the critical piece of the puzzle. As he puts it, the revolution against the Soviet system succeeded "chiefly because Mikhail Gorbachev chose not to act, but to be acted upon."[7] Gaddis provides numerous examples of incidents when Gorbachev, through his own inaction, allowed people within the Soviet bloc to gradually reclaim power from the authoritarian central government. Gorbachev's lack of objection and censorship when the Hungarian government, while reviewing an uprising within their country in 1956 that Khrushchev had violently suppressed, concluded that the rebellion had been a "popular uprising against an oligarchic system of power

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2 John Lewis Gaddis, *The Cold War: A New History* (New York: Penguin, 2005), 238.
3 Gaddis, 248.

4 Krugman, 11-12.
5 Gaddis, 238.

6 Michael H. Hunt, *The World Transformed: 1945 to the Present* (Boston: Bedford/St. Martin's, 2004), 320.

7 Gaddis, 239.

which had humiliated the nation."[8] When it became clear that Gorbachev did not intend to object to the report, the Hungarian government organized a ceremonial reburial of the leader of the failed uprising, whom Khrushchev had ordered executed.[9] In an equally shocking development in Poland in 1989, Lech Wałęsa, the leader of Solidarity, a banned non-communist party-controlled labor union, was invited along with the rest of Solidarity's representatives to participate in a national election for a new bicameral legislature. To everyone's surprise, Wałęsa and the other members of Solidarity won by a landslide—apparently, there had been no attempt made by the Soviet authorities to rig the vote in their favor. Even more surprising, when officials in Moscow asked Gorbachev what should be done about the situation, one of Gorbachev's top aides informed them that "this is entirely a matter to be decided by Poland." Thus, Wałęsa's election stood, and the first non-communist government in Eastern Europe since the end of the Second World War came to power without incident.[10]

Given the events that took place under his watch, it is not difficult to make the argument that Gorbachev had a tremendous impact on the course of the Soviet Union during his time as Politburo chief. Additionally, given the repercussions of his actions, it could easily be argued that Gorbachev's actions as Politburo chief finally sent the ailing U.S.S.R. spiraling into the abyss. A more difficult question to address is how history should judge Gorbachev's decisions. Granted, his actions resulted in the destruction of the Soviet Union, and as individuals who have grown up in a democratic, capitalist Western society, it is extremely tempting to automatically assume that this was the best thing that could have happened to the people of the U.S.S.R. Gaddis certainly believes so. His descriptions of Gorbachev practically glow with admiration for the man,

whom he describes as "the most deserving recipient ever of the Nobel Peace Prize."[11] To be fair, there are plenty of aspects of Gorbachev's actions that deserve admiration. According to the information we have about the man, he was committed to the idea of reforming the Soviet system from the day he took office. Gaddis and Hunt both recount the story of how, on the night of his appointment as Politburo chief, Gorbachev lamented the state of the Soviet Union to his wife, saying, "We can't go on living like this."[12] Given the near-absolute power that came with Gorbachev's new position, it would have been a simple matter for him to sit back and enjoy the fruits of his success. Instead, he strove to solve many of the problems that he saw plaguing the Soviet Union. His efforts to bring free speech and self-determination to the Soviet people made him extremely popular in the Soviet satellite states (though he was reviled at home), and the fact that he encouraged these kinds of reforms when so many of his predecessors had violently suppressed them is truly remarkable. But his methods for achieving these reforms left much to be desired.

> Everywhere, impossible dreams were suddenly becoming reality.

While Gorbachev's intentions may have been good, the fact of the matter is that his methods for enacting the reforms he desired ultimately left the country under his care in a state of utter chaos. The problem was that, with the exception of rather broad, general policies like *glasnost*, Gorbachev was usually content to simply sit back and allow the Soviet people to change society on their own. This was catastrophic for the Soviet system. Gorbachev's "reform through inaction" approach meant that the central

government in Moscow quickly lost control over the extent and direction of these reforms. For instance, a vague statement about a border crossing being opened, muttered by a poorly informed party aide at a televised press conference, could quickly turn into a mass exodus and a frenzied (and highly televised) attempt by the people of East Germany to tear down a decades-old symbol of Soviet authority and control. In a society that had been built on the idea that the government controlled every aspect of the people's lives, simply opening the floodgates of public expression—or more accurately, neglecting the floodgates to the point that they collapsed on their own—was a recipe for total anarchy. Viewed in comparison with the many revolutions that have occurred thus far in the twenty-first century, it is a wonder that the toppling of the Soviet Union was accomplished with so little violence and bloodshed. However, as we will see, the fact that the revolution was relatively bloodless does not mean that it was not without negative consequences for the people of Russia, Eastern Europe, and the world as a whole.

How exactly the fall of the Soviet Union changed the world is a difficult question to answer with any degree of certainty, largely because the answer tends to change dramatically depending on who you ask. Even when addressing the much simpler question, "How much did the fall of the Soviet Union change things?," authors' opinions seem to run the full gamut, ranging from "completely" to "not at all."

Krugman and Kagan, for example, express widely different views on the lasting effects of the Soviet Union's collapse in their respective books. In *The Return of Depression Economics*, Krugman depicts the fall of the Soviet Union as a paradigm-shifting event that completely and utterly destroyed the legitimacy of the principles upon which the Soviet Union had been founded. As he sees it, the "humiliating failure of the Soviet Union" did not merely bring an end to the oldest and most powerful of the world's communist nations, it "destroyed the socialist

dream" itself.[13]

While Karl Marx's ideas on socialism had not actually originated in Russia, it was nonetheless the first country to officially integrate them into (what, at least from the outside, appeared to be) an effective national system. The (apparent) success of socialism in Russia inspired countless disgruntled intellectuals around the world who had become disillusioned with the capitalist system. The fact that this system not only survived the Second World War, but actually increased in power and size with the addition of the Soviet Bloc countries until it stood toe-to-toe with the very capitalist nations it opposed, was a beacon of hope to anyone who sought to overthrow the bourgeois capitalist rulers of their own countries and establish a new, socialist system in its place.

When the Soviet Union collapsed, the communist movements around the world that it had supported collapsed with it. Krugman lists several examples. Cuba, that tiny island nation a stone's throw from American shores, had been regarded by supporters of communism as "a heroic nation, standing alone with clenched fist confronting the United States." Once the Soviet Union fell, however, and the island home of Fidel Castro's glorious communist revolution began to fall into disrepair, it became obvious to everyone that "the heroic stance of the past" had only been possible thanks to enormous subsidies that had been funneled into Cuba by Castro's supporters in Moscow. Another, though less romantic, example is North Korea, which, "for all its ghastliness, held a certain mystique for radicals, particularly among South Korean students." With the loss of aid from Moscow in the wake of the U.S.S.R.'s collapse, however, and the resulting widespread starvation in the North Korean countryside, the "thrill" once provided by South Korea's communist northern neighbors is now a thing of the past.[14]

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8 Ibid., 240-241.
9 Ibid.
10 Ibid., 241-242.

11 Ibid., 257.
12 Gaddis, 229; Hunt, 320.

13 Krugman, 13.
14 Ibid.

As Krugman sees it, the destruction of the Soviet Union destroyed the credibility of communism itself because it destroyed the main ideological and financial backer of the entire movement. Even if advocates of communism had been able to write off the Soviet Union's collapse as a fluke, or discredit the country's system itself as not representing "true socialism," the dramatic degeneration of so many of the communist nations that had been the U.S.S.R.'s greatest success stories made it painfully obvious to people around the world that communism was not the pinnacle of human societal development that its proponents had claimed it to be. With the loss of their movement's greatest champion, the vast majority of those who had held socialist ideals in high esteem shifted their own views in favor of capitalism and democracy. The grand socialist experiment, so many decades in the making, had ultimately failed, and democracy rose triumphant as the uncontested champion of world politics. As far as Krugman is concerned, that's where the story ends.

Kagan begs to differ. Where Krugman ends his discussion with the disgrace of the socialist system and the championing of democracy around the world, Kagan continues to trace the course of world events after the collapse of the Soviet Union, and as a result he comes to a conclusion that is the polar opposite of Krugman's. Whereas Krugman believe that the numbers of people who embrace the values represented by the U.S.S.R. have been on a rapid, continuous decline since its collapse, Kagan sees not a decline, but a *return* to these values.

In Kagan's view, Krugman's worldwide paradigm shift at the end of the Cold War did indeed occur, but in the long run it has proved to be mere wishful thinking. As he puts it:

> The years immediately following the end of the Cold War offered a tantalizing glimpse of a new kind of international order, with nation-states growing together or disappearing, ideological conflicts melting away, cultures intermingling, and

increasingly free commerce and communications. The modern democratic world wanted to believe that the end of the Cold War did not just end one strategic and ideological conflict but all strategic and ideological conflicts. People and their leaders longed for "a world transformed."[15]

The emphasis in this statement is on the phrase *"wanted to believe."* By Kagan's estimation, the pro-democracy, pro-unity, and pro-peace rhetoric that was repeated so widely in the years immediately after the fall of the Soviet Union was not so much excitement over the changes that had already happened as it was excitement over what was *expected* to happen as a result of the Cold War's end.

Given the context of the time, it is easy to see why so many people were optimistic about the future. On the Eastern side of the Iron Curtain, people were optimistic because they had finally managed to regain control of their own countries after decades of foreign rule and social oppression. On the Western side, they were excited because the country that had loomed like a dark cloud on the horizon for half a century had evaporated seemingly overnight, and, for the first time in a generation, there was no threat of a nuclear war erupting at any moment. Perhaps most significant for people on both sides of the Iron Curtain was the realization that these changes had been brought about *by the people*; they were brought about by the average person in Hungary who voted for the non-communist candidate in a national election, then watched in astonishment as he was sworn into office; and by the East German citizens who had picked up sledgehammers and *personally* dismantled the Berlin Wall with their own two hands. Everywhere, impossible dreams were suddenly becoming reality. Why should other equally impossible dreams like universal freedom and peace on Earth be off the table? In a world where the Soviet Union could be dismantled by the

15 Robert Kagan, *The Return of History and the End of Dreams* (New York: Knopf, 2008), 3.

very people it oppressed, the whole of human aspirations seemed to be up for grabs.

But what caused the lofty ideals of the immediate post-Cold War years to be lost? A major factor was the realization that the economic hardships that the former Soviet states had endured under the old regime were not going to simply disappear with that government's demise. Krugman recounts how Russia's economy remained stagnant for years after the Soviet Union's collapse, and how its leaders were unable to establish a new, functional market system from the ashes of the old, centrally organized Soviet system. In a humiliating turn of events, the nation that had once used its tremendous wealth to fund communist movements around the world was forced to turn to the United States for financial help. Playing on fears in the U.S. that Russia's colossal stockpile of nuclear weapons might be sold to interested buyers if the economic situation became serious enough, Russia's leaders managed to convince the United States to pressure the International Monetary Fund into lending Russia enough money to stabilize their economy until a new economic plan could be implemented—notwithstanding the fact that such a plan did not yet exist. For a time, the plan worked. Russia's economy was still teetering on the brink of collapse, but its apparent ability to use its Cold War nuclear stockpile to acquire international aid was enough to encourage high-rolling investors to risk putting money into Russia. This was all fine and good, until the Russian government actually *did* try to implement an economic plan. Their solution—devaluing the ruble—quickly cascaded out of control, with the ruble becoming essentially worthless overnight. At that point, Russia's western backers threw up their hands in disgust, refusing to throw any more money into Russia's economy.[16] Even the threat of nuclear terrorism could only coerce so much funding out of a nation's leaders.

If you found it odd that the preceding story of how

16 Krugman, 132-133.

the economic misery of pre-collapse Soviet Russia persisted for years after the U.S.S.R.'s dissolution was recounted by the very same author who had earlier excitedly expounded upon the many ways in which the Soviet Union's collapse had changed the world so entirely, then you are not alone in your confusion. At first glance, Krugman's assertions early in the book about capitalism emerging triumphant from the ashes of the Cold War seem to be directly undermined by his own story of how Russia's economy continued to falter even after its conversion to capitalism. It is important to remember that Krugman is writing about the collapse of the Soviet Union from the perspective of an economist. As such, *The Return of Depression Economics* has a much stronger emphasis on the economic factors that were at play in the post-Soviet years than on the ideological shifts that were occurring at the same time. Be that as it may, Krugman nonetheless addresses the contradiction between ideology and economic reality in post-Soviet Eastern Europe. In one section he writes:

> Several hundred million people who had lived under Marxist regimes suddenly became citizens of states prepared to give markets a chance. Somewhat surprisingly, however, this has in some ways turned out to be the least important consequence of the Soviet collapse. Contrary to what most people expected, the "transition economies" of Eastern Europe did not quickly become a major force in the world market…only now, almost two decades after the fall of Communism, are a few countries… starting to look like success stories.[17]

As an economist, Krugman readily acknowledges that the fall of Communism did not suddenly bring financial order and stability to Eastern Europe. He simply disagrees with Kagan's assertion that the fall of communism ultimately did *nothing* to change the world. Rather, Krugman sees the collapse of the Soviet Union as a dramatic first step

17 Ibid., 12.

on a long, difficult journey. As Krugman views it, capitalism did indeed defeat communism, communism is indeed dead and gone, and the majority of the world's intellectuals have already discarded its once revolutionary ideas on economy building in favor of the more conventional, but historically much more effective, ideas of capitalism. It might take time for Russia and the other nations of Eastern Europe to adjust to their new capitalist systems; the road will likely be long and difficult, but Krugman believes that capitalism is nonetheless there to stay.

In some places, the success of these new capitalist systems is already being seen. The collapse of the Soviet Union may have resulted in economic hardships for its former member states in the years immediately following, but Russia at least seems to have returned with a vengeance. According to Kagan, the Russian economy has been growing steadily by seven percent every year since 2003, while real income per capita grew by 64 percent and the national poverty rate was reduced by half between 1998 and 2006.[18]

Russia's economy has also benefited greatly from its newfound trade connections with the Western world. Russia's abundant natural resources have made it an invaluable trading partner for energy-starved Europe," which now imports more of its energy from Russia than it does from the Middle East. Russia has further increased its connections to the European energy market by buying up strategic energy-producing assets across the continent, further strengthening its position within the European economy.[19]

You would think that the nations of the Western world would consider Russia's newfound involvement in the global economic system to be a good thing. After all, isn't unity and interconnectedness through capitalism exactly what everyone was hoping for in the aftermath of the Soviet Union's collapse? The problem, as Kagan and Huntington see it, is that Russia's new capitalist system may

have connected it with Europe, but the country is no more *united* with Europe than it was during the Cold War. Kagan, for example notes that rather than striving for greater cooperation with its European trade partners, Russia has used its newfound leverage within Europe's energy industry to pressure the nations of Europe into acquiescing to its demands, thereby manipulating European politics and playing individual nations against one another (and dividing the European Union against itself in the process).[20]

Huntington takes a different approach, examining instead Russia's attempts in recent years to re-establish its economic and political connections with its former Soviet member states. Given the enthusiasm with which the people of these countries strove for independence from Russian control during the *glasnost* years, and the jubilation that ensued once that independence was finally achieved, one would expect that these countries would be the last places that Russia would be able to find allies in the years thereafter. However, that does not seem to have been the case. Huntington recounts how, one by one, many of the former Soviet satellite states begrudgingly turned to Russia for help once times got hard. In Moldova, for example, people had initially been excited at the end of the Cold War over the prospect of finally being reintegrated into Romania. Yet the Soviet Union's collapse brought economic hardships to both countries and enthusiasm for reunification quickly waned. Eventually, the economic situation became so bad that Moldova finally yielded to pressure from Russia and joined the Commonwealth of Independent States (CIS), greatly expanding trade with Russia in the process. In the years thereafter, Moldovan economic ties with Russia increased, and in the 1994 parliamentary elections in Moldova, pro-Russian candidates were elected by an overwhelming majority.[21]

The re-emergence of Russian control was much more dramatically accomplished in Georgia. When the Soviet Union collapsed, Georgia declared independence, and they replaced their Soviet government with a new Georgian one. But this government soon became as repressive as the old Soviet government it had replaced and it was violently overthrown. A new leader was elected, but he in turn was challenged by a separatist movement in the region of Abkhazia (a movement which, incidentally, was directly financed by Russia). Unable to defeat the separatist movement on its own, the new Georgian government was finally forced to ask Russia for military assistance. Russia agreed, on the condition that they would be allowed to establish three military bases in Georgia and to maintain these bases indefinitely. In this way, Russia thus managed to effectively conquer and occupy Georgia without a word of protest from the Georgian government.[22]

Clearly, then, after languishing economically and politically in the last years of the Soviet Union and in the years immediately following its collapse, Russia is once again on the rise, but what implications does this have for the rest of the world? Should the West be worried about a return to the Cold War? Again, the answer seems to depend on whom you ask.

Huntington views the situation as a sign of Russia's continuing feeling of being isolated from the West, primarily by cultural differences. As he views it, Russia has re-established its Cold War connections with the Eastern European nations largely because it has historically had more in common with these nations than it has with

> Everything had changed with the fall of the Soviet Union, and the course of everything that was to come had been irrevocably altered.

the rest of Europe. According to Huntington, the primary factor linking these nations (economic and military dependencies notwithstanding) is their common Orthodox heritage. The prevalence of an Orthodox belief structure in Russia and in the countries of Eastern Europe leads them to side with one another, rather than with Western Europe, when there is a need to do so. This is a reasonably plausible answer. A similar explanation could be offered for the United States' support of Israel over the course of its existence. On a cultural level, the United States feel compelled to defend Israel because of its status as a tiny bastion of (mostly) Western civilization in a region otherwise filled entirely with Muslim nations. Of course, the Israel analogy also applies in another context: it is an invaluable strategic ally in a region where military support for Western operations would otherwise be uncertain at best. From this perspective, by expanding its influence into its neighboring countries, Russia is "creating a bloc with an Orthodox heartland under its leadership and a surrounding buffer of relatively weak Islamic states."[23] If the map of Russia's expanding sphere of influence bears an uncanny resemblance to its old Soviet holdings, Huntington says that this is because many of the countries in proximity to Russia also have a long history of cultural and political ties with Russia, in much the same way that the nations of Europe (once they grew tired of killing each other) decided to form a union of the various nations in the region that shared a common general culture. Russia's new ties with its neighbors, as Huntington sees it, is not a prelude to a second Cold War, but more of an effort by Russia to re-establish—in its own, distinctively Russian way—its own little clique of like-minded friends.

Kagan is not convinced, however. He sees the

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18 Kagan, 13.
19 Ibid., 14.

20 Ibid.
21 Samuel P. Huntington, *The Clash of Civilizations and the Remaking of World Order,* (New York: Touchstone, 1996), 165.

22 Ibid.

23 Ibid., 164.

return in Russia of centralized power under figures like Vladimir Putin, and his public reminiscing on the "good old days" of the Soviet Union, as a sign that Russia intends to reclaim the status as a world superpower that it lost at the end of the Cold War. Where Huntington sees nations with similar cultures forming ties as a result of their common beliefs and practices, Kagan sees the same events and concludes that "the old competition between liberalism and autocracy has also reemerged, with the world's great powers increasingly lining up according to the nature of their regimes."[24]

However, it is vital to note that Kagan uses the word "autocracy" in the context of the modern Russian government, despite Russia's current status as a democracy. In the context of recent, high-publicity accusations of corruption within the Russian democratic system, Kagan asserts that at some point since the end of the Cold War, the Russian "turn toward liberalism at home stalled and then reversed, and so has its foreign policy." Instead, "great power nationalism has returned to Russia, and with it traditional great power calculations and ambitions."[25]

Note again Kagan's choice of words. If the nations of the Western world are getting nervous about Russia's increasing power in the region, it is not because they are worried about modern Russian power calculations. They are worried about a return of *traditional* Russian power calculations. In other words, a return to the old days of the Cold War, when powerful, outspoken Russian leaders like Stalin and Khrushchev had people in the Western world convinced that a Soviet invasion was just around the corner, and that "commie" spies were hiding under every bed waiting for the order to strike. This, ultimately, is what Kagan is afraid Russia is trying to resurrect: the old Soviet ways of power, expansion, and, above all, intimidation of the Western powers.

I believe this fear of a return to the Cold War is based on a fundamental misunderstanding of what the Russian people want. Russia has always been a proud, independent nation—not truly European, but not Asian either—and it has never been more successful than it was during the years of the Soviet Union. Granted, the Soviet years brought a great deal of hardship and oppression to the Russian people, but hardship and oppression have always been a part of Russian life, and Russians pride themselves on their ability to endure what other peoples could not. The Soviet Union was by no means a perfect system, but in terms of national prestige, there has never been a greater era in Russian history. That this greatness came at the expense of individual freedoms was an unfortunate side effect of the Soviet system. It is doubtful that any Russian who was alive during the Soviet years would want a return to totalitarianism, but some aspects of the old Soviet system—standing toe-to-toe with the arrogant nations of the West, for example—are nonetheless quite appealing. If the elements of the Soviet system that made Russia powerful and respected could be replicated in the modern system, without a return to the totalitarianism of the old days, then that would be ideal. This, I believe, is what modern Russians actually want: not to return to the Soviet way of life, but to regain the international respect they lost those many years ago, when the Soviet Union fell.

The "Legalist-Confucian Amalgam": The Impact of Philosophy on Early Imperial China

Jennifer E. Stitt

Introduction

A STATE-SPONSORED SYNCRETISM OF LEGALIST AND Confucian philosophies began in China during the Han dynasty (202 BCE – 220 CE) and culminated under Emperor Wu's reign (141 – 87 BCE). China's increasingly centralized, bureaucratic, and expansionist state exploited the culturally unifying force of Confucian moralism (which revolved around the ideals of mutual respect, clemency, proper conduct, diligence, and humaneness) and a Daoist view of man's place within nature. At the same time, the state maintained strict order by exercising the Legalist ideals of material punishments and rewards. The ruler's authority, then, was founded on moral reverence and backed by the threat of physical force.[1]

The synthesis of Legalist-Confucian philosophies was extraordinarily effective political policy, especially considering the geographic, ethnic, cultural, and economic heterogeneity of China's empire. The legacy of the successful Qin and Han dynasties remains even today: the people call themselves "people of the Han," and they are known in the West as "Chinese" in honor of the Qin dynasty.[2] Michael Loewe argues, "Later dynasties were to look back to the Han period as a time of Chinese strength and resolution; and as the Han was regarded as the first of China's successful dynasties, the political forms and intellectual conclusions of the time have exercised a formative influence on succeeding dynasties."[3] The political success of the Han dynasty promulgated cultural identity and homogeneity, and inspired future generations.

However, Han political success was not enough to create a shared Chinese identity—that is, political success alone could not have generated an entire shared culture. John Fairbank has argued that the early Chinese lacked a shared creation myth; they had "no creator-lawgiver out of this world, no first cause, not even a Big Bang. . . . This view contrasts with the inveterate tendency elsewhere in the world to assume a supernatural deity. Westerners looking at China have continually imposed their own preconceptions on the Chinese scene, not least because the Chinese, though they generally regarded Heaven as the supreme cosmic power, saw it as immanent in nature, not as transcendent."[4] Lacking a shared creation myth, Han scholars built upon philosophical ideas embedded in earlier classical texts: "the concept of mankind as part of nature" and "the special relationship between the ruler and his ancestors."[5] Han scholars built their own philosophical creation myth, which would heavily influence and unite subsequent generations of Chinese peoples; it was based on transcendent Confucian virtue, political success inspired by the Legalist school, correlative thinking, and

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1 John King Fairbank and Merle Goldman, *China: A New History* (Cambridge: Belknap Press, 2006), 62-63.
2 Harold M. Tanner, *China: A History (Volume 1) from Neolithic Cultures through the Great Qing Empire 10,000 BCE — 1799 CE* (Indianapolis: Hackett, 2010), 83.

3 Michael Loewe, *Everyday Life in Early Imperial China: During the Han Period 202 BC — AD 220* (New York: Dorset Press, 1988), 27.
4 Fairbank, 63.
5 Ibid.

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a Daoist view of man's place within nature.[6]

Confucian Virtue

Kongzi (551 – 479 BCE), known in the West as Confucius, developed a comprehensive system of ethics, a philosophy that influenced—at least to some extent—all subsequent Chinese thinkers. Quintessential Confucian texts, such as the *Five Classics* and the *Analects*, have been rewritten, amended, and augmented over time, not only by ensuing scholars who built and expanded upon Confucian ideas, but also by government influences.

The Qin dynasty's (221 – 207 BCE) emphasis on imperial standardization established a long-lasting legacy. Everything from weights, measurements, currencies, roads, and, most importantly, the written language were simplified and standardized. The newly standardized writing system instituted a single, state-sponsored system of Chinese characters for the entire empire.[7] That standardization allowed scholars access to many more documents and texts; it also allowed scholars to more easily disseminate their own writings. Yet, in order to prevent philosophical fragmentation and political dissidence, the First Emperor heavily regulated what was written. He protected and preserved Legalist texts, as well as histories of the feudal Qin state, but he destroyed most other his-

tories, as well as most philosophical writings (including important Confucian works). Practical books, covering useful topics such as medicine, agriculture, and divination were spared from destruction.[8] Despite widespread annihilation, scholars managed to restore many of the classic texts in the later Han period. Harold Tanner points out that:

> one of the fundamental cultural acts of the Han dynasty was to reconstruct the classical texts of the Zhou period. . . . During the Western Han, scholars wrote down the classics as recited from memory by older scholars. These versions came to be referred to as the "New Text" versions of the classics because they were written in the style of Chinese character current during the Han. In the late Western Han, alternative versions of a number of the classics appeared. These versions, said to have been discovered hidden in the walls of houses (including the walls of Confucius' old home in Shandong province), were written in the archaic Chinese characters of the late Zhou, and thus were called the "Old Text" versions. There were significant discrepancies between the New Text and Old Text versions of the Zhou classical texts, as well as differences between alternative New Text versions of the same classic.[9]

During the Eastern Han dynasty, the government would attempt to resolve textual (and philosophical) discrepancies by commissioning and adopting a single New Text version. Although the Han state would not destroy documents wholesale, it would significantly alter them in order to consolidate competing ideas into a comprehensive philosophy.

Despite such discrepancies, basic Confucian moralism (or the core Confucian virtues) remained more or

less consistent, revolving around several basic virtues, which, taken together, made up the much higher and much broader (perhaps supreme) ideal of Goodness. Even scholars who appeared to fundamentally break with Kongzi over the inherent goodness or wickedness of human nature, the effectiveness of ethical education, or the reciprocal role of cosmology and human activity (i.e., the development of correlative thinking) retained most of the traditional Confucian virtues.[10]

Bryan Van Norden identifies seven main virtues present in classic Confucian texts: the "lesser" virtues of righteousness, dutifulness, trustworthiness, courage, humility, and wisdom, along with the "higher" virtue of goodness. In order to be considered "Good," one must possess the lesser virtues. Yet, no one virtue is alone sufficient to render a person "Good."[11] Kongzi posits such questions as "(1) What is it to live well? (2) What traits of character (virtues) does one need to live well? (3) What is human nature like (such that one can live well and have the virtues)? (4) How can one cultivate the virtues (given what human nature is like)?" This idea of Confucian virtue "emphasizes what a person ought to *be*," rather than "what a person ought to *do*"—the very foundation of a comprehensive system of virtue ethics.[12]

For Kongzi, living well meant deriving happiness and simple pleasures from daily life.[13] He was concerned

> *Han scholars built their own philosophical creation myth, which would heavily influence and unite subsequent generations of Chinese peoples . . . .*

with the physical world rather than with a spiritual afterlife. This focus on life rather than death is illustrated in the following passage from the *Analects*: "Tzu-lu asked how one should serve ghosts and spirits. The Master said, Till you have learnt to serve men, how can you serve ghosts? Tzu-lu then ventured upon a question about the dead. The Master said, Till you know about the living, how are you to know about the dead?"[14]

Further, living well meant possessing several virtues, which together constructed a good or "gentlemanly" character. Kongzi's primary virtue, *rén*, in fact translates as "goodness" or "humaneness," and it manifests itself primarily in one's compassion for other people.[15] Wisdom is another important virtue, and falls just below goodness. Van Norden explains, "One must be Good, which entails caring about the well-being of others, but caring is not enough. One must also be wise, which involves being able to recognize who is upright and who is corrupt. Without Goodness, one lacks the proper motivation; without wisdom, one lacks the skill to achieve one's goal."[16] Humility is necessary in order to avoid being overly critical; if one is humble, one is able to admit when one is wrong.[17] Other important virtues include an appreciation of ritual or proper conduct (*lǐ*); trustworthiness (*xìn*); loyalty or dutifulness (*zhōng*); filial piety (*xiào*); sincerity or honesty (*yán*); and righteousness (*yì*).[18]

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6 David Christian argues that the creation myth can be thought of as a "coherent story about the past." Further, "creation myths provide universal coordinates within which people can imagine their own existence and find a role in the larger scheme of things. Creation myths are powerful because they speak to our deep spiritual, psychic, and social need for a sense of place and a sense of belonging." It is with this in mind—Christian's idea of the creation myth as a unifying story which satiates the need for a sense of place within the world—that the term "creation myth" is used here. See David Christian, *Maps of Time: An Introduction to Big History* (Berkeley: University of California Press, 2005), 2-3.

7 Tanner, 89.

8 Ibid., 89-90.

9 Ibid., 126-127.

10 Xunzi, Mencius, and Dong Zongshu, respectively, differed from Kongzi on these very issues while simultaneously defending Confucian virtue.

11 Bryan W. Van Norden, *Introduction to Classical Chinese Philosophy* (Indianapolis: Hackett, 2011), 38-43.

12 Ibid., 36.

13 Confucius, *The Analects of Confucius,* Arthur Waley, trans. (New

York: Vintage, 1989), 83, 159-160, 205.

14 Confucius, Waley, trans., 155. See also Van Norden, *Introduction to Classical Chinese Philosophy*, 21-22, 38-39.

15 Van Norden, 39-40.

16 Ibid., 40.

17 Ibid., 41.

18 Ibid., 25, 42, 265-271.

Expounded mainly in the *Analects*, Confucian virtue became sacred. Young students and "all educated people" began to memorize passages from the *Analects* in an attempt to learn how to live the Good life. Many of those passages became proverbial sayings, unconsciously memorized and repeated by illiterate peasants. Confucian virtues, then, became culturally ingrained ethical mores that cut across every social class, and guided the values and thoughts of the Chinese people for hundreds of years.[19]

> This moral system filled a profound need for a shared social, cultural, and political story in the wake of so much fragmentation.

Qin and Han government attempts to destroy, alter, recompose, or otherwise regulate classic, philosophical, religious, and political texts were political and cultural efforts to completely quell (or, at the very least, control) dissent. It was also an attempt to establish and exercise authority within a burgeoning centralized bureaucracy. Perhaps most importantly, it was an attempt to influence the development of the Chinese creation myth. Questions about living well, virtues, human nature, and human action (or inaction) are questions that every creation myth has attempted to answer. Confucian virtue established a tradition of transcendent values and inherent goodness versus the pull of acquired wickedness. Although Confucianism was by no means itself a religion, it did provide a comprehensive system of virtue ethics, which made the philosophy similarly influential on a similarly personal level.

Legalist-Confucian Amalgam

The state of Qin comprised lands repossessed from nomadic Rong invaders, lands that united to form a state.

A major source of strength was the heart of the state in the Wei Valley, protected by nearly impenetrable mountain ranges.[20] These natural geographic defenses, combined with the advantages of an efficiently run Legalist government, an economically viable system of sustained agriculture, and a technologically advanced army, allowed Qin to "sweep aside" her neighbors within as little as twenty-five years.[21]

The Legalist school exercised near-total political power during the Qin dynasty. The Confucian idea of instilling virtue through education was thoroughly rejected. Although it was acknowledged that ethical education was not impossible, it was seen as improbable; Legalists argued that, because humans cared little for virtue and even less for the public good (as humans were seen as being primarily self-interested), the government must compel rulers and citizens alike to act for the public good. Legalists emphasized the potency of a centralized bureaucracy, governed by a coherently written legal code. They believed that rulers must manipulate the "two handles of government" (i.e., rewards and punishments) in order to bring about and maintain stability and peace.[22]

Han historians tended to emphasize Qin punishments (perhaps still bitter about Qin censorship), a tradition which many present-day Western historians have continued. In addition to the previously mentioned book burnings and the targeting of scholars, Qin punishments included penal servitude, banishment, mutilation (frequently, the amputation of one's left foot or of one's nose),

castration, or execution.[23] By emphasizing Qin brutality, Han historians cast "the first emperor of the Qin dynasty as a villain and the founding emperor of Han as a moral exemplar in the mode of Confucius," which "resolved the moral dilemma of the forceful foundation of the Chinese imperial state" and justified the Han takeover of China, echoing the actions of the evanescent Shang and Zhou dynasties.[24]

The image of an excessively brutal Qin regime quickly entered into the common Chinese culture. Such mythic brutality even made its way into modern Western literature. Annie Dillard's wonderfully disturbing passage about Qin cruelty demonstrates the importance of the wide-reaching effects of this myth:

> Emperor Qin declared himself the first emperor of China 2,220 years ago. He built the clay army and buried its thousands of men to guard his afterlife. In this century, he was Mao's hero. The emperor longed, his advisor confided at the time, to swallow the world. He conquered all the neighboring kings and unified China. . . . He was forty-five years old when he buried 260 real Confucian scholars alive. Some accounts say he buried 460 Confucian scholars alive. It scarcely matters—two hundred here or there. Whatever they and their wives, children, and parents suffered has vanished, too, whether he buried alive 260 scholars or 460. The emperor ordered his soldiers to plant some of them in pits up to their necks. Then the soldiers beheaded the sproutlike heads with axes; they bent their knees to swing low to slice. Soldiers buried the other living scholars deep, and those died whole.[25]

Dillard's tale is not, in fact, a true historical account, but

instead a literary exaggeration. Despite this, its very presence in the Western canon bears witness to the power of the overarching myth.

In the transition from Qin rule to Han imperial power, the Han government retained many of the Qin Legalist policies, superimposing Confucian virtue and ritual. This philosophical amalgamation differed greatly from the unadulterated works of classical scholars, notably Kongzi and Mencius. But by creating a Legalist-Confucian amalgam, the state established a comprehensive philosophy that entered people's daily lives.[26]

Dong Zongshu (179 – 104 BCE) was the father of the Legalist-Confucian amalgam and an important advisor to the imperial state. He argued for a "moral restoration based on the teachings of Confucius," but combined Confucian virtue with "the laws and bureaucratic management techniques" of the Legalists (and with Daoist correlative thinking).[27] The emperor's ability to coerce government officials, as well as his citizens, prevailed; "but he could not rule by force [i.e., coercion] alone and so needed the Confucianists' help in showing his constant moral concern for benevolent and proper conduct."[28] By tempering coercion with a Confucian code of ethics, the state could expand both politically and culturally.

In the Legalist-Confucian amalgam of the Han dynasty, Confucian virtue applied, like the legal code, "to all under heaven." G. E. R. Lloyd points out that "the dedication to the welfare of 'all under heaven' [is] remarkable. It is true that some stood to gain more, some less, from good government if it could be achieved. But all agreed on the importance of that, and all shared the conviction that it implicated everyone in the kingdom or the Empire. The ideal was to that extent not a personal, egocentric one but one

19 Patricia Buckley-Ebrey, ed., *Chinese Civilization: A Sourcebook (Second Edition)* (New York: Free Press, 1993), 17.
20 Tanner, 84.
21 Ibid., 84-87.
22 Van Norden, 187-189.

23 Tanner, 90-91; Buckley-Ebrey, 51-53.
24 Tanner, 84.
25 Annie Dillard, *For the Time Being* (New York: Random House, 1999), 55-56.

26 Fairbank, 62.
27 Tanner, 99-101.
28 Fairbank, 62.

that affected all echelons of society."[29] It is this inclination toward philosophical, social, and cultural cohesion that is so astonishing—especially in the face of pronounced geographic, ethnic, and economic diversity. Even after the disintegration of the Han dynasty, there appeared to be an "inveterate Chinese impulse…toward political reunification," perhaps reflecting not only the desire for peace and stability, but also a desire for storied cultural cohesion.[30]

Correlative Thinking

There was a Daoist strain of correlative thinking embedded in the Legalist-Confucian amalgam, which still survives in China's philosophical creation myth. Dong Zongshu believed "the virtues and vices of the ruler would be reflected in the natural realm," most often negatively manifested in the form of a tsunami, flood, drought, or earthquake.[31] In *Heaven, Earth, and Man*, Dong Zongshu wrote, "If Heaven produces plants and animals in the right season, then the year will be one of abundance, but if at the wrong time, then the year will be a bad one. Similarly, if the ruler expresses his emotions in accord with moral principles, then the world will be well governed, but if not, the age will be chaotic."[32] Positive omens therefore justified the emperor's actions while negative omens required reform or penance. Of course, correlative signs or omens would require interpretation, preferably by scholars.[33] But there were multiple "methods of divination, or of consulting an oracle," and most methods "were available both at popular and official levels." Some scholars devoted their careers to officially interpreting these omens or signs of

nature for the state, while innovative merchants peddled their analyses to ordinary men and women. Methods of interpretation ranged from reading lines, to divining signs from calendars or almanacs, to inferring courses of action from astrological movements.[34]

Correlative thinking maintained that human action was intertwined with heaven (and, for Chinese thinkers, "heaven" meant "nature"); this idea was reflected in a ghost-like view of the afterlife. That is, instead of viewing the afterlife as transcendent or otherworldly, Chinese thinkers tended to place both life and death within the same realm. Archaeological excavations of Han-era tombs have revealed objects buried with the dead which were often of practical, rather than spiritual, use: "musical instruments to be played for entertainment; equipment that might be needed to maintain a livelihood or ward off enemies; jars that held consumable supplies of food and drink; cases of raiment; and a supply of coins."[35] These very real physical objects reflect Kongzi's view that the dead were ancestral "ghosts" with whom the living could interact and vice versa.[36]

Philosophical Daoism, along with Confucian virtue, became the metaphysical bases for later religious movements and influences. The Yellow Turbans (circa 170 – 180 CE), for example, were part of a Daoist healers' cult.[37] The advent of 18th century Muslim "harmonization" or syncretism, culminating in the *Han Kitāb*, is also telling: Chinese Islamic scholars created a "harmonization" or syncretism of Confucian virtue, Daoist mysticism, and Buddhist concepts within the Islamic religion.[38] Trade

routes, important to the economic and political life of Han period China, provided a catalyst for the spread of religious ideas. David Christian observes, "A powerful indication of the growing links between different parts of Afro-Eurasia was the way…religions traveled along trade routes, with Buddhism traveling to China, along the Silk Roads, as well as Manichaeism and Nestorian Christianity. Islam benefited from its control of the Mesopotamian hub region, and it eventually spread even more widely: westward to Spain, south to East Africa, east to central Asia and North China, and eventually east and south to India and large areas of Southeast Asia."[39] The promulgation of major religions (e.g., Buddhism, Islam, and Christianity) along China's major trade routes felt the considerable influence of Confucian virtue, as well as Daoist mysticism, beginning during the Han dynasty.

Conclusion

Confucian virtue, the Legalist-Confucian amalgam, and Daoist correlative thinking combined to form a powerful political philosophy, which was founded on moral reverence and backed by the threat of force. Han dynasty emperors were vested in future generations: their common desire to consolidate power was also a desire for immortality, manifested in the attempt to "offer practical moral instruction to the rulers and ministers of present and future generations."[40] But beneath the political philosophy lurked a comprehensive system of virtue ethics; this moral system filled a profound need for a shared social, cultural, and political story in the wake of so much fragmentation.

These philosophical ideals came together to form

> *Political success alone could not have generated an entire shared culture.*

a Chinese creation myth, which China had previously lacked. According to Michael Loewe, "there are indeed cases in which an ethnic or a national pride has prompted the creation of a broadly acclaimed myth that accounts for a people's origin; in other instances, the overt practices, policies and behavior of a people disclose beyond any doubt either a conscious sense of mission or an unconscious basis for self-confidence."[41] The development of China's philosophical creation myth is the latter.

By providing a sense of orientation within time and space, this new Chinese creation myth attempted to answer age-old questions, such as: "Where do we come from? What are we? Where are we going?"[42] Because creation myths "provide so fundamental a sense of orientation, they are often integrated into religious thinking at the deepest levels."[43] Han period scholars built a philosophical creation myth based not on religion, but instead on transcendent Confucian virtue, political policy (the Legalist-Confucian amalgam), and Daoist correlative thinking.

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29 G. E. R. Lloyd, *The Delusions of Invulnerability: Wisdom and Morality in Ancient Greece, China and Today* (London: Duckworth, 2005), 26.
30 Fairbank, 47.
31 Van Norden, 205.
32 Buckley-Ebrey, 59.
33 Van Norden, 205.

34 Michael Loewe, *Divination, Mythology and Monarchy in Han China* (Cambridge: Cambridge University Press, 1994), 18-19.
35 Ibid., 9, 32-35.
36 Confucius, Waley, trans., 155. See also Van Norden, 21-22, 38-39.
37 Tanner, 123.
38 For a discussion of 18th century Islamic syncretism, see James D. Frankel, "Uncontrived Concord: The Eclectic Sources and Syncretic Theories of Liu Zhi, a Chinese Muslim Scholar," *The Journal of*

Islamic Studies 20:1 (2009), 46-54.
39 Christian, 319.
40 Tanner, 118.

41 Michael Loewe, "China's Sense of Unity As Seen in the Early Empires," *T'oung Pao* LXXX (1994), 6.
42 Paul Gauguin, "Where Do We Come From? What Are We? Where Are We Going?," circa 1897-1898.
43 Christian, 2.

Help! Help! I'm Being Repressed: A Comparative Look at the Rural and Urban Peasant Rebellion of 1381

Nicole Watkins

The English Rising of 1381

REBELLIONS ARE NOT ALWAYS RADICAL, and a rising is not necessarily a riot. The Peasant Rebellion of 1381 was such an event. The peasants who rebelled in the fourteenth century would not have seen themselves as radicals and most were not a gang of rampaging looters on a random crime spree. Most rebels were men invested in the success of society with prominent positions in their communities and were not merely groups of would-be thieves with nothing left to lose taking advantage of a deteriorating political situation. The risings in 1381 took place in both rural and urban settings, and while the characteristics of each share some key differences, both sets of rebels were frustrated with the restrictions placed upon them by a specific group of social superiors. However, the motives behind the rebellion go beyond mere class warfare and actually indicate a desire on the part of the rebels to return to an older, more traditional method of English community government. The new class of peasants felt they deserved a voice in England, and the risings of 1381 are about those people finding that voice.

The Rural Rebellion

The risings in 1381 took place among both rural and urban populations all over England, but it has come to be known as the "Peasant Rebellion" for a reason. The events that took place in the countryside are in many ways easier for historians to explain and have been studied in greater detail than the urban revolt. The records of the rural revolt are more intact, and we know more about the people who staged that part of the rebellion. The most interesting part is the difference between what we know now and the ideas and prejudices we have about what a "peasant" might have been. Even the name "peasant" tends to give us the impression of poor, simple-minded farmers (or serfs) trying to wring a life for themselves out of an unforgiving countryside. However, these "peasants" were not so simple, and in fact, many of them can hardly be called peasants at all. When we study the history behind the events of 1381, we can learn significantly more about why these rebels felt they were repressed, who was doing the repressing, and the nature of the rebels themselves.

The rebellion in 1381 was the spark and a culmination of discontent, but the level of instability in English society had been trending upward for some time before the first outbreaks of revolt were ever reported. The social landscape of the fourteenth century was evolving rapidly in a world where the medieval economy and legal system simply could not (or would not) keep up. In 1348 when the Black Death came to England and decimated such a significant portion of the population, the very nature of society changed. Though death tolls vary from source to source and place to place, rough estimates suggest that the amount of deaths in the countryside was roughly one-third of the population. Death tolls like these, though not as great as those in urban areas, would have created enormous vacuums in society. The new vacancies in positions offered an unprecedented demand for labor, and the moneyed, landowning class found themselves in a situation in which they were uncomfortable. Since the population had been so reduced, a demand for workers meant that those workers could afford to demand higher wages. This, in turn, could create economic opportunities for peasants where there had been none before. A worker could grow rich and rise above his station, thereby gradually making his way toward becoming gentry. Social mobility took on a whole new meaning.

The Landlords

The fear of the landlord class is reflected in the 1351 Statute of Laborers. This statute is an attempt by the landholding class to fix wages to a pre-plague rate:

> Because a great part of the people and especially of the workmen and servants has now died in that pestilence, some, seeing the straights of the masters and the scarcity of the servants, are not willing to serve unless they receive excessive wages, and others, rather than through labour to gain their living, prefer to beg in idleness: We, considering the grave inconveniences which might come from the lack especially of ploughmen and such labourers, have held deliberation and treaty concerning this with the prelates and nobles and other learned men sitting by us...we have seen fit to ordain: that every man and woman of our kingdom of England... whether bond or free...shall be bound to serve him who has seen fit so to seek after him; and he shall take only the wages liveries, meed or salary which, in the places where he sought to serve, were accustomed to be paid in the twentieth year of our reign in England, or the five or six common years next preceding.[1]

The Parliament-men (or, more specifically, those putting forth this statute) were part of the landholding class as holding property was a requirement in order to sit in Parliament. As a member of the House of Commons, he would have been required to front his own travel expenses and was required to live off a certain amount of generated income since the position offered no pay. The House of Commons was not exactly "common" in the present-day sense. It is important to recognize that these Parliament-men were not the same men as the future rebels; they were their enemies. The men in Parliament represented an increasing attempt at a more centralized and less localized government - a government many of the rebels saw as an interference. The Statute of Laborers was an economic attempt to control the new class of workers that had risen up after the "pestilence." The landholding class saw these workers as men attempting to upset the natural order of things with their demand for higher wages. The old medieval economy was shifting, and landlords were naturally trying to do what they could to hold to an older, more traditional (and more profitable for them) economy.

The Sumptuary Laws of 1363 were similar in intention.[2] These laws sought to prescribe certain types of dress and prohibit others depending on social class. We can glean from the existence of these laws as well that significant instances of upward social mobility were taking place. Those who previously could not afford expensive clothes were now able to because they could afford to carve out a new place for themselves in a society with a low population and a new demand for labor. The landlords and magnates felt threatened enough by these new social developments to make legal and aesthetic distinctions between what constituted a nobleman and what constituted a peasant. The class-based tensions would continue to get worse in the years leading up to the Rebellion.

The Serfs

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1 The Avalon Project, "The Statute of Laborers; 1351: Statutes of the Realm, vol. i., 307," Accessed April 2nd, 2012, http://avalon.law.yale.edu/medieval/statlab.asp

2 PROME, 1363 October, nos 25-32; Ruffhead (ed.), Statues, I, 315-16 in Ian Mortimer, *The Time Traveller's Guide to Medieval England* (New York: Simon & Shuster, 2008), 217.

The lower classes in the second half of the fourteenth century were getting richer. Peasants had more ready cash available to them and were able to purchase land, flocks, and cattle. As this new class of workers gradually gained more independence through financial gain and the need for labor, the landholding classes and magnates attempted to slow their progress and did what they could to hold on to their serfs. Throughout the fourteenth century, tensions between serf and landlord continued to grow as the economy unrelentingly moved forward.[3] As the price of food decreased dramatically after the Black Death due to the stark loss in population, the landlords found themselves desperately wanting their serfs back. Serfdom would have been preferable to the rising cost of wage labor. Landlords began to attempt to impose a sort of "second serfdom" by allowing their serfs to leave the manor, but ordering them to return each year to serve the lord in order to help with the harvest.[4] Serfs would soon discover that they would have even less avenues for economic improvement open to them in this period as their landlords attempted to extract every bit of revenue that they could manage. The landholding class and the magnates attempted to impose marriage fines on their serfs, attempted to control their acquisition of free land, and forced them to pay extra rents and hold the land on customary tenure.[5] Throughout the period leading up to the rebellion, there are

> *The Rebellion was a violent, targeted declaration that the government had gone too far . . . .*

many examples illustrating serfs' attempts to assert their freedom. In 1360 in Suffolk, John Clench and John Soule claimed to be free. The manor court found them to be serfs, they were placed in the stocks, and a tenant who had supported the two men lost his lands until he paid a fine to the local lord.[6] In 1378 in Essex, Joan Lyon, a daughter of a serf, married without permission. According to the records, two servile tenants "conspired among themselves at Chelmsford to swear and give verdict at the next court at Great Leighs" that Joan was free. The two tenants were fined 13s. 4d. and 20s. 0d.[7] If an income of £1 was considered moving up through peasant society at this point, these would have been enormous fines.[8] We can see from the rather disturbingly large sum that the tenants were fined in this case that the debacle was at least in part an attempt to extract some financial gain out of what the landlords were increasingly viewing as a desperate situation. Cases like these were on the rise all over England during this period, with serfs attempting to assert their freedom in a variety of ways. The manorial courts looking into cases that pitted serfs against their landlords were caught in a bind. On the one hand, they were expected to present cases and reveal crimes in order to provide revenue for the local landlords and magnates that these powerful men saw as necessary income. On the other hand, they were also expected to provide justice to the local population. Injustice in court would become a major issue for the rebels in 1381, and the fact that King's Bench (an English court of common law) continued to enforce the 1351 Statute of Laborers (which

3 It is worth noting that there were differences in each county and the way the laws worked. For example, tenants had more privileges in Essex, were treated harshly in Norfolk, and in Kent, there were no serfs and manorial courts did not have as much power as other counties.

4 Christopher Dyer, "Social and Economic Background to the Revolt of 1381," in *The English Rising of 1381*, eds. R. H. Hilton and T. H. Aston (Cambridge: Cambridge University Press, 1984), 25.

5 Ibid., 24.

6 S.R.O.I., HA12/C2/14., in Dyer, "Social and Economic Background to the Revolt of 1381," 31

7 P.R.O., L.R.3/18/3., in Ibid., 31.

8 Prior to 1971, there were 12 pence in a shilling and twenty shillings in a pound. Income estimates found in Dyer, "Social and Economic Background to the Revolt of 1381," 21,35.

prevented many workers from rising further in society and making an income that was adjusted appropriately to the demand for their labor and the changing economy) did not do anything to improve an already tense situation.

The Great Rumour of 1377

The servile population continued to try to assert its independence, and in 1377, the "Great Rumour" swept across England. This rumor refers primarily to the Petition Against Rebellious Villeins presented to Parliament by the House of Commons in 1377. The petition was primarily centered on certain peasants seeking exemplifications from Domesday Book concerning "those manors and vills where these villeins and tenants live."[9] Domesday Book was completed in 1086 and provided a detailed account of English landownership for the new Norman monarchs that arrived in 1066. It was, in effect, the first official census. The peasants appealing to Domesday were hoping to establish certain privileges they would not have had otherwise. The writers of the petition in the House of Commons were the landholding class and primarily concerned with a potential peasant revolt. Thus, the petition notes that "These men have refused to allow the officials of the lords to distrain them for the said customs and services; and have made confederation and alliance together to resist the lords and their officials by force, so that each will aid the other whenever they are distrained for any reason." The petition goes on to clarify that "To sustain their errors and rebellions they have collected large sums of money among themselves to meet their costs and expenses; and many of them have now come to court to secure assistance in their designs."[10] Considering the future events of 1381, it would be unfair to call the House entirely paranoid, but even if

it were, the important thing to note about the "Great Rumour" of 1377 is that the servile population was organized, intelligent, and wealthy enough to garner the attention and panic of Parliament. Those seeking the exemplifications were bright enough and literate enough to understand what Domesday Book was, how to procure the exemplifications, and what they thought the exemplifications could do to better their lives. Furthermore, it is clear from the petition that those seeking the exemplifications were able to collect the appropriate funds in order to provide for their court costs and legal fees, which were by no means inexpensive. Traditionally, servile tenants are thought of as poor men who can barely scrape by, but that is not the case with these men. Also of note is the fact that those appealing to Domesday would have needed to understand the finer legal reasoning involved. They were aware of the potential privileges they felt could be gained by establishing that their land was held by the ancient demesne of the Crown. Appealing for the exemplifications under Domesday meant that the appellants would not technically be free, but they would not be obliged to attend the hundred and county courts, to pay geld or toll, or contribute to the murdrum fine.[11] Those appealing to Domesday Book for these exemplifications would not be able to bring action against his lord in public court, but would have rights in manorial court or before royal justices on eyre.[12] Furthermore, considering that appealing to Domesday had the potential to allow servile tenants rights before royal justices, they would have all the more ability to voice whatever grievances they had against their local lords. Given the common mistreatment of lords toward their tenants, injustice in manorial courts, excessive fines, and the "second serfdom," by 1381 those grievances were many. It is easy to see why

9 Commons' Petition Against Rebellious Villeins, 1377, Rot. Parl., III 21-2, in *The Peasants' Revolt of 1381*, ed. R. B. Dobson (London: The MacMillan Press, LTD, 1970), 76.

10 Ibid., 76-7.

11 The murdrum fine was an Anglo-Norman law that stated that if a Norman were killed and the killer was not apprehended within 5 days, the hundred in which the crime was committed was liable for a collective penalty.

12 Rosamond Faith, "The 'Great Rumour' of 1377 and Peasant Ideology," in *The English Rising of 1381*, eds. Hilton and Aston, 48.

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the landholding class would not have been eager to grant these exemplifications, and it is worth noting that after the Commons' Petition in 1377, no further exemplifications on royal patent rolls are recorded between 1377 and 1381.[13] The goal of the petition in denying these exemplifications was accomplished, but the resistance to it may have helped to contribute to furthering frustrations on the part of those who were appealing to Domesday.

The Free Englishman

Serfs were a factor in the Rising of 1381. Like the rest of the peasant class, many were chafing at the bit of their social limitations. However, most of the rebels that participated in the rural part of the Rebellion in 1381 were not serfs. In fact, in Kent, perhaps the most famous staging area of the rising, there were no serfs.[14] While local mistreatment and injustice in part explain servile grievances that were crucial elements in the events of 1381, what were the specific criticisms of the free Englishman?

Looking again at constrictive legislation like the 1351 Statute of Laborers, one can see the economic position of the rural peasantry (free and unfree) was improving significantly before 1381. Some of these men were actually on the fringe of the gentry. Many of the southern rebels had an income between £1 and £5, were professionals like brewers, drapers, and other artisans, and even some tenants in the south were known to own flocks numbering greater than twenty-five sheep.[15] In Suffolk, John Philip of Brandon acquired at least five separate holdings of land in the 1370s and rose from warrener to bailiff in the local lord's service.[16] In the 1370s, Robert Wryghte of Foxearth increased the number of animals he owned and his wife became the chief brewer in the village. This same Wryghte was later charged extraordinarily large sums through the manor court for offenses like trespassing on the demesne and his wife was forced to pay substantial brewing fines. Together, the couple paid 7s. 8d. in 1378 and 13s. 0d. in 1379, including a brewing fine of 10s. 0d.[17] The local lords felt the peasants could afford them, and the peasants likewise felt the fines to be unjust. This also gave free peasants who worded a reason to be disgusted with the justice system - a system they increasingly felt was treating them with unfairness. That same Robert Wryghte took this mistreatment so to heart that during the rebellion, he plundered the property of the Chief Justice of King's Bench.[18]

This new class of peasants that was poised to take its place in the rural risings was not composed of men on the fringes of society. It is clear from later proceedings that most of the participants were comfortably wealthy peasants and not the very poor. Furthermore, those who did take part in the rebellion often had held position in local government or prominent positions in their social hierarchy. John Philip of Suffolk from the earlier example managed to do so and he is merely one case of many. The men who would be rebels were not desperate hopefuls with nothing left to lose. They possessed a significant amount of income, position, and influence. When 1381 arrived, this meant that the rebels would choose their targets very carefully and specifically. Robert Wryghte was intelligent enough to understand that he needed to take his fight all the way to King's Bench, and he knew to specifically target Chief Justice Sir John Cavendish during the rebellion. Other rebels like Wryghte burned court rolls and magnates' manors, but it was because they were expressing specific grievances against King's Bench or the magnates for what they perceived as injustices done to them by the courts and local lords. They did not merely engage in a riotous crime spree. The grievances declared by the rural rebels were expressed by prominent, literate, intelligent men and were very specific in nature.

The Poll Tax of 1381

In September of 1380, rebellion broke out in Salisbury. By 1381, the rising had spread throughout England. As we can see, the tension between peasants and landlords had been building for some time. The Poll Tax of 1381 is commonly cited as the primary grievance of the rebels during the Rising, but the poll tax was only a catalyst for underlying social issues. The real problem with the poll tax was that it was a flat tax; everyone had to pay it, and poorer people were disproportionately affected. Furthermore, taxes in England had to be levied. Taxation was not an accepted part of the common, shared experience the way it is in the present day. Taxes were meant to be levied for the defense of the realm, and the biggest problem with the poll tax in the eyes of the peasantry was not necessarily that it was expensive, but that the realm was not being properly defended. Throughout most of the fourteenth century and well into the fifteenth, England was engaged in the Hundred Years' War with France. Wars were, to say the least, expensive. If taxes were for defense, the peasantry was uncomfortable at best and extremely agitated at worst at the idea of paying for the Black Prince to wage war in France while the coast of England itself was not secure from French pirates. The fact that many peasants were unwilling to pay the poll tax aggravated the already tense situation with the landlords and the House of Commons. Given the fact that the peasants were using their newfound wealth to hire lawyers to argue for their rights in court and buy enough expensive new clothes that new legislation was deemed necessary, these same landlords felt the peasantry could afford to pay a poll tax. It is a valid argument on the part of the Commons, and it is worth noting that the fight against the poll tax was not really about the money. For the first time in English history, the peasants and serfs had money. Those who were the most vocal against the government during the rebellion were drawn from the wealthier peasants, not the poorest. These men wanted their say. It was about what the government was doing, or rather not doing, with the money. The Rebellion was a violent, targeted declaration that the government had gone too far in their pecuniary extraction without living up to contemporary definitions of responsible government.

Wat Tyler and the Rebels' Demands

On June 14th, 1381, Wat Tyler presented the demands of the rebels to King Richard II. He required "There should henceforth be no law except the law of Winchester."[19] The desire for the return to this law is significant, because among other things, it stated:

> that every man have in his house arms for keeping the peace in accordance with the ancient assize;...
> that every man between fifteen years and sixty be assessed and sworn to arms according the amount of his lands and chattels...and in each hundred and liberty let two constables be chosen to make the view of arms: and the aforesaid constables shall, when the justices assigned to this come to the district, present before them the defaults they have found in arms, in watch-keeping, and in highways...
> And the justices assigned shall present again to the king in each parliament and the king will provide a remedy therefor.[20]

13 *The Peasants' Revolt of 1381*, ed. R. B. Dobson (London: The MacMillan Press, LTD, 1970), 76.
14 See Dyer, "Social and Economic Background to the Revolt of 1381."
15 Ibid., 21, 35.
16 S.R.O.B., J529/1-2; P.R.O., S.C.6/1304/31-36., in Dyer, "Social

and Economic Background to the Revolt of 1381," 35.
17 Ibid., 36.
18 Ibid., 38.

19 Wat Tyler, "Wat Tyler's Demands," 1381, in "Readings for January 19th: Peasant's Revolt of 1381," HY 654, University of Alabama at Birmingham, Spring 2012, Dr. Conley.
20 Statutes of the Realm (1101-1713), ed. A. Luders et al., 11 vols. (Record Commission, London, 1810-28), 96. in Alan Harding, "The Revolt against the Justices," in *The English Rising of 1381*, eds. Hilton and Aston, 166.

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When Wat Tyler, as the leader of the rebels, demanded a return to this Winchester law, he was suggesting was that what was laid out in the statute should be all the interaction any community should have with the royal government. The rebels would have found the idea of a return to a community-based system extremely appealing after years of what they saw as unnecessary government interference through excessive fines by local lords, injustices in the court system, and the poll tax. The statute would have meant that the community only called upon the national government when the justices toured the districts and to supply the local communities with what they lacked in weapons, men, and highways. Most tellingly, these touring justices would be beholden specifically to the king. Wat Tyler goes on to demand: "no lord shall have lordship but that there should be proportion between all people, saving only the lordship of the king."[21] The rebels were done with what they saw as landlord and magnate corruption, both on the manor and in the justice system.

The fourteenth century has been called the era of fur-collared crime by historian Barbara Hanawalt, implying a time when common people were often strong-armed by local nobility and landlords.[22] Justice could not properly be carried out, since members of juries were often intimidated, and people were particularly unwilling to testify against local powerful players in society for fear of the consequences. The peasants expressed hatred against this injustice when they burned court rolls and targeted members of King's Bench and local landlords during the Rebellion. Through the demand for proportion among all save the monarch, Tyler's rebels sought to bypass the lords completely and move straight for the king. The King in England should be the fount of all justice; the demand for

the return to the law of Winchester is part and parcel of a demand for a return to justice. According to Thomas Walsingham, Wat Tyler wanted a commission from the king to behead all lawyers, writing, "Now, above all things, Tyler desired to obtain a commission for himself and his men to execute all lawyers, escheators and others who had been trained in the law or dealt in the law because of their office. He believed that once all those learned in the law had been killed, all things would henceforward be regulated by the decrees of the common people."[23] Watching the uprising from London, Thomas Walsingham was certainly against the rebels. However, considering Tyler's other demands, we can see that there may be some truth to these words, and that a request for a commission like this might not have been out of the realm of possibility; the rebels were demanding English justice, and that meant a just king. Tyler also demanded that "Holy Church ought not to be in the hands of men of religion, or parsons, or vicars, or others of Holy church but these should have their sustenance easily and the rest of the goods be divided between the parishioners; and that there should be no bishop in England but one."[24] While referring to Canterbury as the singular bishopric, this demand also implies that there were similar injustices in the ecclesiastical courts. Church courts were said to be more oppressive than lay courts, which was an issue that went back farther than the Constitutions of Clarendon and the reign of Henry II.[25] The demand for equality is part of a greater demand for justice.

Wat Tyler demanded for "all to be free and of one condition."[26] While serfs participated in the rural rebellion

and certainly desired their freedom from local landlords, being free also had an alternate meaning. The rebels wanted their own independence and the ability to pursue their own livelihood without undue interference from a distant royal government. This was freedom in the most traditional English sense. Rural English rebels wanted the national government to intervene in local affairs only if the locality was suffering from an economic deficit or if its justice system needed to be rectified. They were not interested in being constricted by the Statute of Laborers or the Sumptuary Laws, and they were certainly not interested in the poll tax. The demands made by Wat Tyler on behalf of the rebels, though radical at first glance, actually show that the Rising was conservative and traditional in nature. The rebels wanted a return to the old, community-based system upon which the Statute of Winchester was based. The demands specified a return to the old ways, which were perceived as better. The idea of returning to an older golden age would become the blueprint for nearly all future English "revolutions." The rural rebels resented the government's intrusion into their lives and what they perceived as an abuse of power, and their specific choice of targets represent this hostile sentiment. The urban rebellion is different in some ways; the lower classes in the cities did not share precisely the same economic issues regarding landlords, the price of food, wage labor, and land-based serfdom. However, we will see that the mentality of the rebels in the city and the countryside share some common characteristics. Both sets of rebels were moderately wealthy, moving up in society, and knowledgeable. Neither set of rebels was composed of a random mob. Both came to resent a very specific oligarchy that they felt were intruding on their lives.

The Urban Rebellion

> These "peasants" were not so simple, and in fact, many of them can hardly be called peasants at all.

The introduction of Dobson's edited volume suggests that the rebels in urban society only took advantage of the rural rising to further their own particular aims, but that is not the case. Like in rural England, there had been significant demographic change in the urban centers during the post-plague years. The mortality rate was significantly higher in the cities (estimates put the death toll closer to 50% in urban areas an even higher in some cases) and so the towns had to deal with replacements for positions, changes in rent, services, and a new demand for labor just as the countryside did.[27] The Black Death had created the same vacuum in the cities as it did in the countryside and just as many new opportunities for the lower classes to rise through the ranks, thereby creating a new class of wealthier commoners who were gradually becoming frustrated with their overlords. The main difference in the cities was the existence of a wealthy merchant oligarchy as opposed to rich landlords or magnates, but in some ways the social struggle was similar. Furthermore, there was not as much of a disconnect between urban centers and the rural countryside as many historians have often assumed.

Those who initially study medieval English history often assume that individual communities were extremely isolated. While laws, customs, and treatment often varied, and while it is true that a person at this time tended to identify with their own community rather than the concept of "England," there was actually a great deal of interaction between townspeople and rural citizens. People would come into the towns to trade, visit fairs, and to stay in inns. Rural artisans would also apprentice their children to urban craftsmen. Townspeople often invested in rural

21 Wat Tyler, "Wat Tyler's Demands," 1381, in "Readings for January 19th: Peasant's Revolt of 1381," HY 654, University of Alabama at Birmingham, Spring 2012, Dr. Conley.
22 Barbara A. Hanawalt, "Fur-Collar Crime: The Pattern of Crime among the Fourteenth-Century English Nobility," *Journal of Social History* Vol. 8, No. 4 (Summer, 1975), 1-17.

23 Thomas Walsingham, Historia Anglicana, in *The Peasants' Revolt of 1381*, ed. Dobson, 177.
24 Wat Tyler, "Wat Tyler's Demands," 1381, in "Readings for January 19th: Peasant's Revolt of 1381," HY 654, University of Alabama at Birmingham, Spring 2012, Dr. Conley.
25 The Avalon Project, "Constitutions of Clarendon; 1164: Stubbs' "Charters," 135.," Accessed April 2nd, 2012, http://avalon.law.yale.edu/medieval/constcla.asp
26 Ibid.

27 A. F. Butcher, "English Urban Society and the Revolt of 1381," in *The English Rising of 1381*, eds. Hilton and Aston, 86.

holdings.[28] All of these ventures required interaction and conversation between different groups of people, and it makes sense that they would have talked politics. If we remember that most of the men who fought in the rebellion were moderately well-off and at least somewhat educated for the period, we can comfortably assume that the state of affairs of the realm would have at least occasionally entered common discussion. After all, war affects trade, and trade and money were what motivated many of these men to travel to the towns from the countryside and vice versa in the first place. Furthermore, the unpopular taxes levied by the Crown in this period were the great equalizer among the urban and rural population. The servants of the Crown were often considered a common enemy. The Great Rumour of 1377 is a good example of the potential interaction between rural and urban; rural tenants would have needed to acquire royal writs and patents under the Great Seal and hire lawyers, and they would have needed to travel to do so. We must remember that this Rumour was so widespread that there was petition regarding the trouble in the House of Commons. The news would have easily travelled the kingdom.

We know that the rebels living in the urban centers would have learned of and understood the complaints of the rural rebels, but what about their own grievances? The evidence that is left to historians for understanding the causes of the urban rising is much more difficult to decipher. Much of it is left by chroniclers like Thomas Walsingham, and as we have seen, his testimony must be treated as somewhat suspect because of his contemptuous view of the rebels. Most of the remaining documents that have survived come from indictments from local jurors copied by royal clerks after the rebellion took place, and are thus also suspicious due to the allegiance of the clerks. In order to attempt to discover some of the motives behind the urban rebels' actions, this section will look at two centers of urban activity during the Rising of 1381.

York

King Richard II considered the northern boroughs dangerous, and perhaps rightfully so. After Wat Tyler's death, the king sent letters patent instructing the boroughs to prohibit illegal assembly of any sort.[29] In an appeal for restraint to burgesses in Beverley in 1382, Richard wrote, "From the uncertainty of good government, many insolences are committed among the inhabitants and commons of cities and towns, evils arise as well as scandals; and peaceful rule is badly hindered by the excitement of divers kind of dangers."[30] York was an enormous urban center with a large population during this period, and in many ways the London of the north. Historians have written before that if there were ever any possibility of transferring the political capital, it would have been to York.[31] After the Revolt, York became the third borough in the kingdom to receive county status. According to R. B. Dobson, editor of the Peasants' Revolt of 1381, the city became increasingly autonomous throughout the fourteenth century and maintained a legal authority to manage the affairs of the city. In the period leading up to the Revolt, urban populations everywhere were gradually becoming frustrated by a controlling oligarchy that was increasingly tampering with their livelihood, and York was no exception.

When we look at one of the major documents from the Rebellion in York, it can almost read as merely a band of armed men looting the local Guildhall. However, this outbreak of violent resistance was, just like the rural rebellion, targeted one very specific individual. According to a Parliamentary Petition in November-December of 1380,

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29 Cal. Pat. Rolls, 1381-5, p. 69., in R. B. Dobson, "The Risings in York, Beverley, and Scarborough, 1380-1381," in *The English Rising of 1381*, eds. Hilton and Aston, 116.

30 Beverley corporation Archives, Town Cartulary, fo.17, in Dobson,112.

31 J.H. Harvey, "Richard II and York," in F. R. H. Du Boulay and C. Barron (eds.), *The Reign of Richard II* (London, 1971), 203; Ibid., 118.

men chased the elected mayor, John de Gysburn, from the city and "forcibly broke down by means of their axes and other arms the doors and windows of their Guildhall, entered it and made a certain Simon de Quixlay swear to be their mayor - against his will and that of the good men of the city."[32] The petition writes that these events took place against Quixlay's will and that of the "good men of the city," but given who is presenting the petition and the position we know the House of Commons has traditionally taken against the rebels, this statement is suspect. It is worth noting that the rebels who forced their way into the Guildhall on the 26th of November did not engage in a riotous, looting rampage of the city, but very specifically targeted the former mayor, de Gysburn. We also must consider the state of affairs in urban centers during the risings in 1381. Many people in York were frustrated with the wealthy merchant oligarchy, and the deposed mayor would have been part of that group. His forcible deposition speaks to the mentality of the rising as a whole.

Of further interest is the fact that part of the petition includes a request for a writ demanding that the bailiffs of York respect the previous, original mayor, John de Gysburn, under a penalty:

> Item, another writ should be sent to the bailiffs, good men and all the commonalty of the said city, commanding them to respect the said John, their mayor, as the person who represents the state of our lord king in the said city, under penalty of forfeiting their goods, chattels, and everything else. And the king wills that a proclamation to this effect should be made within the city so that no one can excuse himself by ignorance, etc.[33]

This section of the petition informs us of two things. Primarily, it could easily indicate that the bailiffs of York were,

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32 According to a Parliamentary Petition, November-December 1380, Rot. Parl., III, 96-97, in *The Peasants' Revolt of 1381*, ed. Dobson, 285.

33 Ibid., 287.

in fact, supporting Quixlay, and had to be ordered to support the original, elected mayor. Again, this speaks to the nature of the Rising as a whole. The people participating were not the common rabble, but rather prominent, often elected officials taking part in an overthrow of social superiors that they saw as corrupt. Furthermore, the petition requests that a writ be sent to "all the commonalty of the said city," implying that more were interested in replacing de Gysburn than the petition had initially implied when it suggested that Quixlay was put in place against the will of the "good men of the city." The wording of the request for a writ indicates that the attack on the Guildhall may have had widespread support, and this is supported by the fact that even though he was ordered to step down, Quixlay was elected mayor of York the following year.[34]

Scarborough

While significantly smaller than York, the northern port town of Scarborough still had a role to play in the Rising of 1381. According to King's Bench records, the news of the rebellion in the south inspired the rising in Scarborough. Robert Galoun was designated the leader of the local rebels, which numbered at least 500. Like the other prominent rebels all over England, Galoun was wealthy - he had enough money to found a perpetual chantry in the local parish church the year before.[35] The rebel leader's

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34 R. B. Dobson, "The Riots at York: Elsewhere in England," in *The Peasants' Revolt of 1381*, ed. Dobson, 284. Quixlay had support from the lesser craftsmen of the city, and was elected mayor in February of 1381. The nature of his support further reinforces the argument that the previous mayor, de Gysburn, had not attracted the support of the up-and-coming lower classes. In 1381, de Gysburn and his followers attacked Bootham Bar and attempted to reassert political power. De Gysburn's men were accused of murder and in November of 1382, the city was required to pay a fine of 1,000 marks for a general pardon.

35 Fasti Parochiales III (Yorkshire Archaeological Society, Record Series, 1967), 110-11, in R. B. Dobson, "The Riots at Scarborough:

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28 Ibid., 91.

donation shows that he was a man of standing and some notoriety in the local community before the revolt, and not a person with nothing to lose. Again, this is a typical profile of a rebel in 1381.

Henry Percy, the Earl of Northumberland, was charged with the duty of trying the rebels after the Rising along with 12 jurors of Scarborough. They were to try the rebels for what they had done on June 23rd, 1381, when according to the Coram Rege Roll of King's Bench, they "besieged many liegemen of the King...later they led the said liegemen to prison and kept them there until they swore they would be faithful to the said accused and the commons of all England."[36] The rebels in Scarborough targeted the king's men specifically for injustices they felt were done to them. The rebels felt that the king's servants were not doing their jobs, and they were increasingly agitated by rumors from the south. It is important to recognize that they did not kill the king's liegemen, but instead imprisoned them and required an oath of loyalty to the commons of England. The rebels in Scarborough felt they shared a common bond with the rest of the realm. Despite whatever differences existed among all of the communities and between urban centers and the countryside, the rebels were all loosely committed to the idea that the king's men were not doing their sworn duty to protect the realm and administer justice. The Rolls go on to declare that the Scarborough rebels "feloniously took and carried off various possessions of the said liegemen, namely £10 belonging to John Stokwyth and a hauberk worth forty shillings from John de Aclom."[37] This was not random looting or a crime spree, but a specifically targeted

> *Social mobility took on a whole new meaning.*

attack against the king's liegemen. The rebels were taking back what they felt they were owed by the king's own servants. They were not common criminals, and they would not have seen themselves as robbers. They attacked and imprisoned those officials they felt had done them specific injustices.

York and Scarborough are only two urban centers in a sea of townships scattered throughout England, but they are similar in the sense that both sets of rebels were very organized, both had enormous amounts of support that came from the better-off, and both went after very specific targets. Though York was certainly larger than Scarborough, the rising took place on smaller scales as well. The York revolt also had elements of local political disputes in a way that the Scarborough rising did not, but the social tensions that continued to split York after the rebellion proved that there was more to the rebellion there than a mere mayoral power grab. The nervous tone of the Parliamentary Petition of 1380 indicates how afraid the members of the House of Commons were of the rebels and that they were unsure of local support in York. The Scarborough rising shows us that the rebels there felt solidarity with other rebels throughout England and proves that even in the medieval period there was some expression of a bond between the "commons." What is clear in both cases presented here is that the rebels in York and Scarborough were expressing their displeasure with government officials that they felt were not performing their duties properly.

How the Rebellion Shaped English Political Philosophy

The Peasant Rebellion of 1381 tells us some important things about the mind of the politically active medieval Englishman. Almost all that participated in the rebel-

lion were a new class of moderately wealthy, intelligent, politically active peasants that did not live on the fringe of society with nothing to lose. We see here that even if a rebel was a rural serf, he was gradually gaining the opportunity to be wealthy after the Black Death. Rebels from both urban centers and the countryside often felt they shared a common bond. Rural peasants had to contend with a somewhat different situation with local landlords and magnates regarding food prices and a land-based economy, but both free and unfree were frustrated with the constraints placed upon them by their social superiors in the rural and urban settings. As peasants all over England found themselves capable of gaining wealth in ways that had not been open to them before the plague decimated the population, landlords and the urban wealthy were in a panic to cling to their traditional roles. The entire structure of society threatened to shift in the mid-fourteenth century, and legislation like the Statute of Laborers and the Sumptuary Laws proved that the men who made the laws were trying their hardest to make sure nothing changed.

The backlash against government imposition is the real essence of the risings in 1381. The government attempted to legislate peasants' livelihoods in parliament, and the courts were attempting to take away the incomes of workers and serfs through what most viewed as unjust and unnecessary fines. The hated Poll Tax of 1831 was merely the last straw levied by a government that most felt could not properly fight the war in France, let alone defend its own coast. Whether or not the peasants could afford the tax was not the primary issue in the mind of the rebels (though it may have been in the minds of the Parliamentmen) but rather that the government was not performing its duties. When Wat Tyler demanded a return to community law in his demands to Richard II, the rebels were critiquing everything that had gone wrong with big government in the fourteenth century. During the Rising, those who were not a part of Parliament, the courts, or the government announced that they had a say in dictating what the

country did with its money. The new class of peasants had the very English notion that because they were a part of the new economy, they had the right to a political voice, and that philosophy did not die when the Rebellion ended. The theme of "no taxation without representation" and a strong desire for a government that does not interfere with the local community has underwritten an enormous part of English history and should be familiar to American students in particular. Present-day Anglo-American notions of political liberty are not so far removed from the demands of English peasants in the fourteenth century.

Elsewhere in England," in *The Peasants' Revolt of 1381*, ed. Dobson, 290.

36 Coram Rege Roll, Easter 9 Richard II [KB, 27/500], Rex, membs. 12, 12v; partly printed in Reville, 253-6, in *The Peasants' Revolt of 1381*, ed. Dobson, 291.

37 Ibid., 291.

A Broad and Sweeping Federal Power: Birmingham Barbecue and Southern Culture in the Crosshairs of the Commerce Clause

Nicholas C. Hosford

Introduction: The Culture Targeted for Change

OLLIE'S BARBECUE, A LOCAL, FAMILY owned restaurant in Birmingham, Alabama, experienced a year of firsts in 1964. That year marked the first time that a black person entered Ollie's Barbecue and demanded service. Before this happened, Ollie's Barbecue never had an occasion to explicitly refuse service to anyone based on their race. It did so in this case, however, and the restaurant's seemingly law-abiding owners found themselves in open violation of federal law.

Ollie McClung and his son, Ollie McClung, Jr., soon began contemplating a lawsuit that eventually led to the acceptance of desegregation as an irreversible reality in the American mind. Until the U.S. Supreme Court ended that lawsuit in December 1964 with its decision Katzenbach v. McClung, desegregation remained an uncertain struggle.[1]

Ollie's Barbecue opened in 1926, and for thirty-eight years, Ollie McClung never served blacks inside of his restaurant. Although McClung offered blacks a carry-out service, he prohibited these blacks from eating on the premises.[2] Ollie McClung never planned to change this policy, having confirmed his position with all of his employees - white and black - during a meeting in 1964, which took place in anticipation of the new, imminent civil rights law. At the meeting, none of the employees expressed any dissent.[3]

Perhaps nobody thought the matter would materialize into a larger issue. Blacks had many objections about segregation generally, but in reality these grievances never developed into a situation that involved Ollie's Barbecue. This reality changed, however, on July 3, 1964.[4] The day after President Lyndon Johnson signed the 1964 Civil Rights Act, of which Title II sought to prevent discrimination in places of public accommodation, several blacks entered Ollie's Barbecue and demanded service. Upon refusal of service, these blacks immediately recited a "spiel" about how the new civil rights law compelled the restaurant to serve them.[5]

Title II specifically targeted private businesses such as Ollie's. This section of the law provided for injunctive relief against instances of discrimination (based on race, color, religion, or national origin) in places of public accommodation that "affect commerce."[6] The commerce provision implicitly asserted that the Commerce Clause of the U.S. Constitution gave Congress the authority to regulate discrimination in the private sector. Ollie's Barbecue, a private business that participated in commerce, held its

Figure 1. Ollie's Barbecue Restaurant as Located on 902 7th Avenue South, 1959.
Source: © Birmingham, Alabama Public Library Archives.

facilities open to the public, operated in the South, and discriminated based on race. Everyone understood the Civil Rights Act of 1964 to address this specific type of racial discrimination in the South.[7]

The first blacks who entered Ollie's to test Title II no doubt thought that the restaurant amounted to an appropriate target. Situated on the corner of Seventh Avenue South and Ninth Street, Ollie's maintained a patently seg-regated premises in a predominately black neighborhood, which featured three black schools as well as several industrial businesses that employed many blacks. Many black schoolchildren passed by Ollie's on a daily basis.[8]

These facts lend themselves to the notable irony that, when he testified in the U.S. District Court, Ollie McClung actually argued that his business would decline by "75 or 80 percent" if the court forced him to desegregate.[9]

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3 Michael Durham, "Ollie McClung's Big Decision." *Life* 57, no. 15, October 9, 1964, 31.
4 Richard C. Cortner, *Civil Rights and Public Accommodations: The Heart of Atlanta Motel and McClung Cases* (Lawrence, KS: University Press of Kansas, 2001), 66.
5 Ollie McClung, Jr. Interview, Birmingham Civil Rights Project, University of Alabama, Birmingham Mervyn H. Sterne Library Web site, MP3 audio file, http://oh.mhsl.uab.edu/om/ (accessed September 22, 2012). (See page 8 of transcript.)
6 Civil Rights Act of 1964, Public Law 88-352, 88th Cong., 2d sess. (July 2, 1964), U.S. Code 42 (2012), § 2000a.

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1 Katzenbach v. McClung, 379 U.S. 294 (1964).
2 Katzenbach v. McClung, 379 U.S. 294 (1964), Transcript of Record (No. 543), Complaint, 3-4.

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7 Katzenbach v. McClung, 1964 WL 72713 (U.S.) (Appellate Brief), *Brief of NAACP Legal Defense and Education Fund*, Inc. as Amicus Curiae, 1-4.

8 Katzenbach v. McClung, 379 U.S. 294 (1964), Transcript of Record (No. 543), Complaint, 4.
9 Katzenbach v. McClung, 379 U.S. 294 (1964), Transcript of Record

Plain intuition could have led him to conclude that catering to the majority of potential customers in the area would be good, not bad, for business. Yet McClung, as well as his employees who seemed to assent to his reasoning when he confirmed the policy with them, assumed otherwise. McClung's testimony here provides valuable insight into the culture of Birmingham, and the South, in 1964.

The McClungs believed business could not succeed in a mixed restaurant. McClung assumed that the vast majority of his customers would avoid his barbecue if he offered blacks the same level or type of service that he offered white customers. This assumption implied that many, if not most, whites would altogether avoid eating in any desegregated restaurant than eat in the company of blacks.

History proves that McClung overestimated the adverse economic effects. In 1975, Ollie McClung, Jr. conceded that they basically lost no business after the U.S. Supreme Court ordered him and his father to desegregate the restaurant in the case Katzenbach v. McClung. Ollie's maintained the same "pattern of customers" for at least another decade.[10] The restaurant stayed open for business for another 35 years in its original location.[11] The law technically forced McClung to desegregate his restaurant, but Ollie's nevertheless remained segregated, for the most part, because of the culture, at least initially.

This critical point helps to illustrate the process, and the limits, of cultural change. Katzenbach v. McClung gave new meaning to federal power. The decision effectively brought segregation to its knees. It constrained the ebbing intellectual and cultural legitimacy of segregation. At the same time, it further bolstered and liberated the swelling assent to desegregation. In this manner, the court's interpretation of the law, as an act of government, not only strengthened the government's reach into the economy, but also constituted an effective catalyst to the transformation of culture.

> People went from having, at best, a limited faith in the Civil Rights Act of 1964 to regarding further holdouts of segregation as futile.

Katzenbach v. McClung, an often overlooked case, could not change the hearts and minds of citizens, however. People are free to believe what they want to believe. Although government may force a person's hand, it cannot control the brain. Thus the Supreme Court successfully extinguished the cultural institution of segregation, but it could not change the cultural habit of segregation. By this we mean the practice still occurred naturally, without the aid of any explicit policies. We do not mean that McClung marked the complete end of segregation, and we certainly do not mean that it marked the end of the civil rights movement.[12] President Johnson, when signing the Civil Rights Act of 1964 on July 2, explained that "the reasons [for discrimination] are deeply imbedded in history

and tradition and the nature of man."[13] These three powerful concepts identified by Johnson define a culture. Government action can only go so far to affect cultural change.

By therefore crediting McClung (along with its sister case, Heart of Atlanta Motel v. United States) with ending segregation, we mean only that the Court's decision defeated the institution of segregation.[14] Over the years, continuous government inaction had legitimized this institution. By issuing the McClung decision, the Supreme Court carried out the final action needed to destroy the institution. This culminated in the government totally vanquishing any remnants of cultural faith left in the institution, at least any rational remnants, and in this manner we recognize McClung as a moment of significant cultural change.

July 1964: Before McClung

When blacks entered the restaurant and demanded service in July of 1964, Ollie McClung's son, Ollie McClung, Jr., refused to serve them. He believed that the Civil Rights Act of 1964 constituted an unjust law that amounted to "governmental tyranny." [15] He did not stand alone in this sentiment of an oppressive federal government. In the midst of his 1964 presidential campaign, Alabama Governor George Wallace determined what he felt added up to the "best deal" for the South: "a repealed or at least modified or amended" version of the Civil Rights Act of 1964 accompanied by an initiative for the South that "pledged better treatment from the federal government" than had been experienced "in recent years." In fact, achieving

these ends became the stated motivation behind Wallace's entire campaign.[16] At this point, between the Civil Rights Act of 1964 taking effect and the issuance of the McClung decision on December 14, 1964, many white Southerners did not yet believe in the permanence of the new law. For them, a legal or political opposition to the law could still bring about its demise.

These white Southerners only emphasized what many other people suspected as well. The overall response after the passing of the Civil Rights Act of 1964 indicated that Americans, and Southerners in particular, did not have much confidence that the law would affect any permanent, immediate change. This doubt spread quickly, penetrating the minds of many different Americans. The media, both Southern and national, and either intentionally or unintentionally, facilitated it.

The *Birmingham News*, the McClungs' local paper, described some provisions of the law in terms that could have easily aroused resentment among Southern whites. By describing the law as "unprecedented" and "far-reaching," the paper subtly reinforced the notion, held by Wallace and other like-minded Southerners, that the law promoted novelty or injustice.[17]

Some white leaders in the South attempted to foment doubt as to the law's legitimacy. During the Congressional debates over the bill, Senator Howard W. Smith of Virginia described the proposed law as a "heedless trampling upon the rights of citizens" and a "monstrous instrument of oppression."[18] The *Birmingham News* reported that Mississippi Governor Paul Johnson said that "operators of public accommodations should defy the law

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(No. 543), Proceedings of September 1, 1964, Testimony of Ollie McClung, Sr., Direct Examination, 79.

10 Ollie McClung, Jr. Interview, Birmingham Civil Rights Project, University of Alabama, Birmingham Mervyn H. Sterne Library Web site, MP3 audio file, http://oh.mhsl.uab.edu/om/ (accessed September 22, 2012). (See page 15 of transcript.)

11 Don Milazzo, "Basics Remain Unchanged at the New Ollie's," *Birmingham Business Journal* (June 27, 1999), http://www.bizjournals.com/birmingham/stories/1999/06/28/story7.html (accessed September 27, 2012). Don Milazzo, "Ollie's BBQ Closes, but the Sauce Will Live On," *Birmingham Business Journal* (September 23, 2001), http://www.bizjournals.com/birmingham/stories/2001/09/24/tidbits.

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html (accessed September 27, 2012).

12 Many civil rights leaders continued to campaign on issues concerning "housing, job opportunity and voting and less on public accommodations." See John Herbers. "Civil Rights: South Slowly Yields," *New York Times*, December 20, 1964, Section 4.

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13 "Johnson's Address on Civil Rights Bill," *New York Times*, July 3, 1964.

14 Heart of Atlanta Motel v. United States, 379 U.S. 241 (1964).

15 Ollie McClung, Jr. Interview, Birmingham Civil Rights Project, University of Alabama, Birmingham Mervyn H. Sterne Library Web site, MP3 audio file, http://oh.mhsl.uab.edu/om/ (accessed September 22, 2012). (See pages 8-9 of transcript.)

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16 Hugh Sparrow, "Wallace Says He's in Race to Aid South," *Birmingham News*, July 2, 1964.

17 Associated Press, "LBJ Decides Against Delay," *Birmingham News*, July 2, 1964.

18 E. W. Kenworthy, "President Signs Civil Rights Bill; Bids All Back It," *New York Times*, July 3, 1964.

so its constitutionality can be tested."[19] Under a headline that read "South's Leaders Hold Bill Illegal," the *New York Times* quoted Governor Johnson as saying that there would be "tremendous dangers in the enforcement" of the law.[20] When publicly addressing the federal government about the "implementation" of the law, Governor Wallace begrudgingly described it as "the so-called civil rights bill." He further remarked that it "should and will be tested in the courts on constitutional grounds."[21] Governor John J. McKeithen of Louisiana contended that the law would "hurt the racial situation."[22] These negative statements about the bill indicated that the bill had not yet fulfilled its objective to persuade the culture to accept desegregation. Furthermore, civil rights leaders had not yet accomplished their task of wearing down resistance to change.

Not all white leaders in the South made such emphatic statements, however. Mayor Albert Boutwell of Birmingham seemed more concerned with maintaining civility when he "asked Negroes testing compliance with the law to do so 'in an orderly and peaceable manner.'"[23] Mayor Ivan Allen, Jr. "urged Atlanta's Negroes 'to restrain from any overt acts, particularly in those places that have shown antagonisms to the Negro in the past, and to use these newly granted rights in the normal course of events and over a reasonable period of time."[24] Although these leaders did not share a focused, uniform message about the new law with their more acerbic colleagues such as John-

son and Wallace, all Southern white leaders anticipated there would be problems.

Revealing that opposition to the law extended beyond the confines of the South, New Hampshire Representative Louis G. Wyman also suggested that the bill stood on shaky ground and expressed his hope for the law's demise. The *New York Times* reported him as saying "he would have no fear 'if we had a Supreme Court worthy of the name,' because then the unconstitutional aspects of the bill 'would soon be struck down.'" These types of statements substantiated the sentimentality that the law could be nullified, or at least should be contested.

Other groups also recognized that the law opened the floodgates for dissent, if not outright hostilities. Only two paragraphs after a headline declared, "Long battle over rights ends today," the *Birmingham News* paradoxically predicted that prompt testing of the public accommodations provision would take place in the same spirit as the "sit-ins by Negro students in Southern lunch counters that helped launch the Negro drive for equality that contributed to passage of the bill."[25] The *New York Times* predicted this as well. It reported that Birmingham civil rights leader Fred L. Shuttlesworth's "organization would begin prompt testing of the new act."[26] The fact that they felt it necessary to test the law suggested that blacks, like whites, had a limited faith in the law's ability to end segregation. They had to see it to believe it.

Martin Luther King appeared to share in this limited faith. Black civil rights activists had more to do before they could declare victory over segregation. In the first few days after the passage of the Civil Rights Act of 1964, they had many reasons to be hopeful, having observed that "'White folks act like they intend to do right by this Civil Rights Bill.'"[27] It only took a couple of weeks, however,

before King acknowledged that a "record trail of violent setbacks and mixed results" clearly, and continuously, impeded the objectives of the civil rights legislation.[28] In his *Letter from Birmingham City Jail*, King argued that just laws represented "sameness."[29] However, the most apparent similarity that resulted from the Civil Rights Act of 1964 seemed to come not from its application, but from the reaction it brought about among whites and blacks. Both communities shared a common belief that segregation had not succumbed to the new law. In their minds, the "battle" had not ended.

Contrasted with King, who surely felt somber over this shared belief, some white Southerners could have felt hopeful in light of the apparent anxious resistance to the law. Declining an offer from the Johnson administration to participate "in conferences concerning implementation of the civil rights law," Governor Wallace stated, "My position on this bill is well known." He expressed his belief that "the legislation is unconstitutional and if unchallenged will result in the destruction of individual liberty and freedom in this nation."[30] Legislators debating the bill made similar constitutional arguments.[31] Ollie McClung, Jr. actually used the term "close mindedness" to describe supporters of the civil rights law, at least in respect to the support for public accommodations.[32] Civil rights activists

considered their cause a "stride towards freedom," yet at the same time opponents of the civil rights legislation asserted that they were defending constitutional freedoms.[33]

Basing their opposition on a constitutional foundation, opponents of the Civil Rights Act of 1964 felt their cause beamed of righteousness. They likewise showed no shame in their resistance, and indications of such resistance crept up immediately after its passage. This further augmented the belief that the new law's future seemed uncertain, if not in jeopardy. Apparently, the government assumed and anticipated non-compliance with the law. "Officials charged with enforcing the law are hoping for widespread voluntary compliance," the *Birmingham News* reported. The paper then acknowledged, in the very next sentence, that "the government is preparing for courtroom battles and the Justice Department soon will ask Congress for more money to add more lawyers to its civil rights division."[34] Reporting under a headline that read "Rights Law Promptly Tested; Some Resistance Remains," an Associated Press article in the *Birmingham News* reported that Mississippi Governor Paul Johnson "expected some real trouble there when Negroes seek to desegregate public accommodations." The same article described the objections of an Atlanta restaurant operator who "said he would go to jail before he would serve Negro customers."[35] It seemed that everyone believed the country had not yet settled the issue. Both sides prepared to fight for their "rights" in the courts and on the streets.

One need not dig deep to find signs of anticipated resistance, however. The headlines said enough. "Rights law reaction ranges from praise to misgiving," claimed

19 Associated Press, "Comply, Public Is Urged," *Birmingham News*, July 3, 1964.

20 United Press International, "South's Leaders Hold Bill Illegal," *New York Times*, July 3, 1964.

21 News Rights Bureau, "Gov. Wallace Declines Bid to Rights Talks," *Birmingham News*, July 3, 1964.

22 United Press International, "South's Leaders Hold Bill Illegal," *New York Times*, July 3, 1964.

23 "Negroes Mix Restaurants, Theaters," *Birmingham News*, July 3, 1964.

24 United Press International, "South's Leaders Hold Bill Illegal," *New York Times*, July 3, 1964.

25 Ibid.

26 Ibid.

27 Andrew Young quoted in: Taylor Branch, *Pillar of Fire: America*

in the King Years 1963-65 (New York: Simon & Schuster, 1998), 389.

28 Ibid., 389-395.

29 Martin Luther King, Jr., "Letter from Birmingham Jail," found in Robert Diyanni, ed., *Twenty-Five Great Essays* (New York: Penguin Academics, 2002), 116.

30 United Press International, "South's Leaders Hold Bill Illegal," *New York Times*, July 3, 1964.

31 E. W. Kenworthy, "President Signs Civil Rights Bill; Bids All Back It," *New York Times*, July 3, 1964.

32 Ollie McClung, Jr. Interview, Birmingham Civil Rights Project, University of Alabama, Birmingham Mervyn H. Sterne Library Web site, MP3 audio file, http://oh.mhsl.uab.edu/om/ (accessed September 22, 2012). (See pages 12-13 of transcript.)

33 Martin Luther King, Jr., "Letter from Birmingham Jail," found in Robert Diyanni, ed., *Twenty-Five Great Essays* (New York: Penguin Academics, 2002), 117.

34 Associated Press, "Comply, Public Is Urged," *Birmingham News*, July 3, 1964.

35 Tom Chase, "Rights Law Promptly Tested; Some Resistance Remains," *Birmingham News,* July 3 1964.

the *Birmingham News* atop an Associated Press article.[36] "South's Leaders Hold Bill Illegal" and "Johnson Pleads for Compliance, but Vows Rights Enforcement" read two headlines in the *New York Times*.[37] A subheading in the New York Times described the Civil Rights Law of 1964 as an "Unfinished Task."[38] "Rights law now in effect; quick challenge indicated," declared the prominent front-page headline for the *Birmingham News* after President Johnson signed the bill.[39]

Indeed, the challenge did seem quite quick. "Barely was the President's signature dry," the *Birmingham News* reported, "before civil rights organizations announced plans to see if the law opens to Negroes the doors of motels, restaurants, [and] theaters that had been closed to them."[40] The newspaper also reported that Fred L. Shuttlesworth intended "to test the new law quickly."[41] The vulnerability of the law became apparent amid this very real sense of urgency to test its effectiveness.

James Farmer, the national director of the Congress of Racial Equality (CORE), gave perhaps the most direct insight into the widespread sentiment toward the susceptibility of the new civil rights legislation. The organization's annual convention happened to fall on the day Johnson signed the Civil Rights Act of 1964, which Farmer said was "'no magic carpet that's going to take us

to the promised land.'" He encouraged his listeners to recognize their "'responsibility (to see) that this law becomes more than a scrap of paper the 13th and 14th amendments have become.'"[42] This grave description of the new law highlighted the role the government had to play in order to affect real cultural change. Until the people saw the law as persuasive and imperishable, there remained the potential that it might never become truly effective.

Government Action: Policing the Economy

The distinction between ending the institution of segregation and the ending the habit of segregation helps us explore the tactic employed by the federal government to achieve its ends, necessary for identifying the specific way or ways in which government may influence culture. Discrimination by state action (in the public sector) generally ended with The Civil Rights Cases of 1883.[43] More than half a century later, Brown v. Board of Education became the most seminal case in the crusade to route discrimination completely out of the public sector. In arguing Brown on behalf of the NAACP, Thurgood Marshall persuaded the Supreme Court to overturn the "separate but equal" doctrine, which the Court originally proclaimed in the notorious 1896 decision Plessy v. Ferguson.[44] In formulating his argument, Marshall declared that there existed "a denial of equal protection of the laws, the legal phraseology of the clause in the Fourteenth Amendment."[45] By this he meant that state sponsored segregation in public schools fundamentally betrayed the notion of equal protec-

tion. The Court then further enhanced the protection of the Fourteenth Amendment in 1958 when it decided Cooper v. Aaron, which held that the Supremacy Clause, which holds the laws of the federal government higher than the laws of the individual states, required individual states to comply with the Court's desegregation decisions.[46] One of the pillars of segregation, state-sanctioned segregation, crumbled.

Segregation still existed, though, in public places owned by private businesses (places of public accommodation). To many, discrimination by the state, a republican government founded on principles of equality, seemed particularly inappropriate, if not detestable. However, proponents of desegregation could not apply this argument to the private sector so easily. America's traditions of liberty and laissez-faire economics advocated individual autonomy and abhorred government intervention, principles which generally loathed government regulation in the private sector. However, most social interactions occur in the private sector, with people working at their jobs, purchasing goods and services, and generally participating in the market economy. The country would therefore never come close to ending discrimination if it could not desegregate beyond the public sector. Congress needed either to circumvent or to suppress the values of the free market economy in order to completely desegregate the South.

When drafting the Civil Rights Act of 1964, Congress wrestled over whether to base its authority to regulate segregation in places of public accommodation on the Fourteenth Amendment, as was the traditional basis for racial legislation, or on the Commerce Clause, which granted Congress the authority to regulate "interstate

commerce."[47] The Commerce Clause could more likely succeed if challenged.[48] Robert Kennedy convinced Congress to accept the Commerce Clause as the better choice, and the bill it handed to President Johnson took immediate effect the moment he signed it (except for the employment and union membership provisions, which took effect a year later).[49] Federal law now prohibited discrimination in both the public and private sectors. With segregation having nowhere else to hide, the proponents of segregation looked for ways to oppose the new law.

The definition of "interstate commerce," the most apparent weakness in using the Commerce Clause to justify the new law, emerged as a pivotal issue. Although the blacks who entered Ollie's may not have realized it, the significance of the restaurant's location had little to do with the surrounding black neighborhood. Instead, the fact that Ollie's was located eleven blocks from the nearest Federal or Interstate Highway proved most revealing when the Supreme Court reiterated the limits of federal power.[50]

In the case at issue, Katzenbach v. McClung, when Justice Clark wrote that Congress's power to regulate commerce "is broad and sweeping," the Supreme Court upheld a long history of recognizing widespread federal power over commerce.[51] This apparently surprised Ollie McClung, Jr., despite the previous case history plainly

> ### Perhaps nobody thought the matter would materialize into a larger issue.

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36 Associated Press, "Rights Law Reaction Ranges from Praise to Misgiving," *Birmingham News*, July 3 1964.

37 United Press International, "South's Leaders Hold Bill Illegal," *New York Times*, July 3, 1964; and Cabbell Phillips, "Johnson Pleads for Compliance, but Vows Rights Enforcement," *New York Times*, July 3, 1964.

38 E. W. Kenworthy, "President Signs Civil Rights Bill; Bids All Back It," *New York Times*, July 3, 1964.

39 "Rights law now in effect; quick challenge indicated," *Birmingham News*, July 3 1964.

40 Associated Press, "Comply, Public Is Urged," *Birmingham News*, July 3, 1964.

41 Associated Press, "Rights Law Reaction Ranges from Praise to Misgiving," *Birmingham News*, July 3 1964.

42 Associated Press, "Rights Law Not 'Magic Carpet,' CORE Meet Told," *Birmingham News*, July 3, 1964.

43 The Civil Rights Cases, 109 U.S. 3 (1883).

44 Plessy v. Ferguson, 163 U.S. 537 (1896).

45 Brown v. Board of Education, 347 U.S. 483 (1954), Opening Argument of Thurgood Marshall, Esq., on Behalf of Appellants, http://www.lib.umich.edu/brown-versus-board-education/oral/Marshall&Davis.pdf (accessed October 1, 2012).

46 Cooper v. Aaron, 358 U.S. 1 (1958); U.S. Constitution, Art. 6, cl. 2.

47 Wickard v. Filburn, 317 U.S. 111 (1942).

48 Richard C. Cortner, *Civil Rights and Public Accommodations: The Heart of Atlanta Motel and McClung Cases* (Lawrence, KS: University Press of Kansas, 2001), 18.

49 Ibid., 24; and E. W. Kenworthy, "President Signs Civil Rights Bill; Bids All Back It," *New York Times*, July 3, 1964.

50 Katzenbach v. McClung, 379 U.S. 294 (1964), Transcript of Record (No. 543), Complaint, 2.

51 Katzenbach v. McClung, 379 U.S. 294 (1964), 305.

supporting the decision.[52] Dating all the way back to 1824, when Chief Justice Marshall issued the opinion for the very first Commerce Clause case, Gibbons v. Ogden, the Court almost never departed from the trend of affirming that the Commerce Clause meant more than it said.[53] The Constitution simply granted Congress the power "To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes."[54] In 1942, the Court greatly expanded this scope in the Wickard v. Filburn case, which held that even though a private person's "activity be local, and though it may not be regarded as commerce, it may still, whatever its nature, be reached by Congress."[55] Facing this precedent, Ollie McClung had little hope of turning the tide against desegregation by arguing that the Civil Rights Act of 1964 "applies only to conduct in isolation from articles or activities directly in commerce" and that such conduct "might 'affect' commerce indirectly [italics added] in a particular case."[56] Heeding this ever-expanding federal authority over the economy, and following the federal momentum to desegregate the South, the Supreme Court easily dismissed this argument. It found that racial discrimination in the marketplace was an economic issue, describing it as a "national commercial problem of the first magnitude."[57]

In this manner the government successfully en-

forced morality in the economy. It stood on firmly established precedent, which had bestowed great power on the federal government to regulate economic matters. The government then used this power over the economy to institute a social policy, now widely regarded as both effective and apposite, considering the great overlap between economic and social issues. Furthermore, the government arguably defended laissez-faire principles by promoting an indiscriminate market that removed social hindrances to market transactions.

This government action spawned a new way of thinking about racial segregation in both Southern and American culture. The public began to believe that the government not only had the authority, but also had the ability, to end racial discrimination in the marketplace. We owe this cultural change to the Supreme Court's expeditious December 1964 rulings, which firmly settled the purpose and power of the fledgling civil rights law.

December 1964: After McClung

In order to persuade citizens to respect the law, the government needed to show strong proactive enforcement. It needed to show that it meant what it said. Although some notable instances of compliance between July and December of 1964 could have encouraged civil rights leaders, a lurking doubt remained as to the effectiveness of the Civil Rights Act of 1964 so long as challenges to the law remained pending before the Supreme Court.[58] The consequences of the Court's decision (or, rather, decisions, since the McClung and Heart of Atlanta cases were essentially

homogenous) had several repercussions, not the least of which meant a confirmed end to the doubt and debate over whether the law would ever have full force and effect.

Opponents to the Civil Rights Act of 1964 based their opposition on principles of limited government. Ollie McClung, Jr. believed his lawsuit could have stopped "the spiraling growth of federal power."[59] When issuing its opinion on McClung's case on October 5, 1964, the federal district court found in his favor and held that, "If Congress has the naked power to do what it has attempted in title II [sic] of this act, there is no facet of human behavior which it may not control." The court further stated that "the rights of the individual to liberty and property are in dire peril."[60] Then, in the Supreme Court case, McClung's lawyers admitted to the Supreme Court that there exists "a conflict between the concept of human equality and individual rights under the Constitution." Although the Civil Rights Act of 1964 said that the former trumped the latter, this mere piece of legislation did not make it so. "[I]t has never been held," McClung's attorneys argued, "that Congress may by legislative fiat merely say that it is acting under granted power and thus foreclose judicial inquiry on the subject." For the opposition to the law, the Constitution preferred individual rights over racial equality, at least so long as the Court remained silent on the matter.

The Supreme Court's reasoning in McClung shattered this rationale. It left leaders such as George Wallace and shop owners such as Ollie McClung with no further hope of reversion after the nation's highest court vetted and rejected their main contentions. This provided the public with a sense of finality on the issue of segregation. As Roy Wilkins of the NAACP said, "This decision reinforces

public confidence in the orderly processes of the law."[61]

Reporting on the decisions in December of 1964, newspapers suggested an overall conclusion to the long battle for civil rights. Although initially the *Birmingham News* clung to the notion that many still doubted the law's effectiveness, on December 16, 1964, two days after the decision, the paper reported that the McClungs would comply with the decision after meeting with their attorney. The McClungs observed that "many of our nation's leaders have accepted this edict, which 'gives the federal government control over the life and behavior of every American'" and complained that the law "could well prove to be the most important and disastrous decision handed down by this court." However, they also said, "As law-abiding Americans we feel we must bow to this edict of the Supreme Court." In plain truth, they had little choice. If the McClungs had refused to desegregate, the restaurant may have been (more) forcibly desegregated by a court order.[62] Having "lost in an effort to have the high court uphold a lower court ruling that the law could not be constitutionally applied," the McClungs realized the battle had ended.

The fact that the court issued a unanimous decision surely put additional pressure on the McClungs and other opponents to relent. A *Birmingham News* editorial speculated, "Unanimity of the court as to the public accommodations section probably means there is no real prospect of judicial overturning of any other section of the new act." Robert McDavid Smith, one of the attorneys for McClung, admitted after reading the opinion that the only way around the new law was to "amend the Constitution," an unlikely event considering the law did not originate with judicial activism but rather in Congress.[63]

Some, but not all, political leaders remained head-

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52 Ollie McClung, Jr. Interview, Birmingham Civil Rights Project, University of Alabama, Birmingham Mervyn H. Sterne Library Web site, MP3 audio file, http://oh.mhsl.uab.edu/om/ (accessed September 22, 2012). (See page 13 of transcript.); and James Harwood, "Justices Also Vote, 5 to 4, To Vacate Pending Convictions for 'Sit-Ins,'" *Wall Street Journal*, December 15, 1964.
53 Gibbons v. Ogden 17 Johns. 488 (1820); and Randy E. Barnett, "The Original Meaning of the Commerce Clause," *University of Chicago Law Review* vol. 68 (Winter 2001): 102-104, 111-132.
54 U.S. Constitution, art. 1, sec. 8.
55 Wickard v. Filburn, 317 U.S. 111 (1942), 125.
56 Katzenbach v. McClung, 1964 WL 72710 (U.S.) (Appellate Brief), Supplemental Brief for Appellees, 37.
57 Katzenbach v. McClung, 379 U.S. 294 (1964), 305.

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58 United Press International, "St. Augustine Inns and Motels Are Ordered to Admit Negroes," *New York Times*, August 6, 1964; Associated Press, "Restaurants Desegregated Quietly in McComb, Miss.," New York Times, November 19, 1964; and Anthony Lewis, "Bench Unanimous: Ruling Clears the Way for Enforcing Law on Full Scale," *New York Times*, December 15, 1964.

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59 Ollie McClung, Jr. Interview, Birmingham Civil Rights Project, University of Alabama, Birmingham Mervyn H. Sterne Library Web site, MP3 audio file, http://oh.mhsl.uab.edu/om/ (accessed September 22, 2012). (See page 18 of transcript.)
60 McClung v. Katzenbach, 233 F. Supp. 815 (N.D. Ala. 1964), 825.

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61 "Reactions to Decision are divided," *Birmingham News*, December 15, 1964.
62 Ibid.
63 Ibid.

strong in their objections, but their reactions hinted at the desperation they experienced. Although he called for more resistance, Governor Wallace said the ruling dealt "a staggering blow to the free enterprise system and the rights of private property owners. Mayor Ivan Allen of Atlanta expressed his assent to the ruling. The *New York Times* reported that he believed "it was obvious the Congress had the full right to take steps to eliminate discrimination against individuals on an interstate basis." Mississippi Senator James Eastland said "the Constitution means only what the temporary membership of the Supreme Court says it means," implying either that his side could perhaps one day overturn the law or that he fought for a lost cause because the Constitution no longer mattered.[64]

Perhaps the most compelling evidence of the "battle" over segregation ending with McClung and Heart of Atlanta can be found in the December 20, 1964 issue of the *New York Times*. On this day, the Sunday after the decisions, the newspaper included a multi-page spread that chronicled the history of the civil rights struggle up until that date. With headlines such as "Civil Rights: Decade of Progress" and "Civil Rights: South Slowly Yields," the paper chronicled all the events leading up to the climatic decisions issued six days earlier. One of the articles declared, "That a corner has been turned is evident not only from this week's decisions but also from the actual racial situation in the country. Resistance to the law is no longer the basic consideration." This comprehensive piece, which the paper only printed after McClung, not simply after Johnson signed the Civil Rights Act of 1964, gave little indication that there would be any further hesitation to accept desegregation as lasting.[65] This marked the end of the issue of segregation in the minds of Americans.

Conclusion

McClung had an underrated influence on American culture. Martin Luther King believed that "the key to everything is federal commitment."[66] Full, true commitment necessarily consisted not only of the legislative process, but of judicial validation of civil rights laws as well. The McClung decision provided that judicial validation. It completed the process of government action needed to legitimize desegregation, both in the laws and, more importantly, in American culture. With the publication of this court decision, people went from having, at best, a limited faith in the Civil Rights Act of 1964 to regarding further holdouts of segregation as futile. Widespread and diverse facets of American culture, from civil rights activists to Southern white politicians, all shared in the changing tenor of thought. McClung therefore squashed resistance by unequivocally affirming the authority of the federal government to regulate economic matters.

The American federal government constitutes the most formidable state power in the country. Supreme Court interpretations of the Commerce Clause and Supremacy Clause have reinforced this power. The government did modify American culture by spawning a new way of thinking about desegregation. However, its authority over its citizens did not extend beyond regulating outward actions, such as racial discrimination in the transacting of business.

> The decision effectively brought segregation to its knees.

Nevertheless, because of this ability to manage interstate commerce, a broad and sweeping concept, on top of state action, as described in the 14th Amendment, the federal government curbed the institution of segregation in America. Public reactions to the Civil Rights Act of 1964 and McClung v. Katzenbach indicated that the government, by way of the Commerce Clause, had changed Ollie's Barbecue, and the rest of Southern culture, from that point forth.

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64 Ibid.

65 "Civil Rights: Decade of Progress," *New York Times*, December 20, 1964; and John Herbers, "Civil Rights: South Slowly Yields,"

New York Times, December 20, 1964.

66 Quoted in: David J. Garrow, *Bearing the Cross: Martin Luther King, Jr., and the Southern Christian Leadership Conference* (New York: William Morrow and Company, Inc., 1986), 228.

Book Review

Freedom Riders: 1961 and the Struggle for Racial Justice (Abridged Version).

By Raymond Arsenault. (Oxford: Oxford University Press, 2011. Pp 306. ISBN 978-0-19-975431-1)

Reviewed by Edward S. Savela

Freedom Riders' author Raymond Arsenault tells us about bold civil rights activists, determined to desegregate buses and bus facilities in America's South through nonviolent direct action. The 1954 United States Supreme Court decision, *Brown v. Board of Education* called for an end to separate but equal Jim Crow laws—separate dining and restroom facilities for "colored" and "white" people, for example—but in practice the law did not change much, especially in America's Deep South. Seven years after the landmark decision, interstate bus operators like Greyhound and Trailways, and the terminals that served them, still remained segregated.

In May 1961, the civil rights group, Congress of Racial Equality ("CORE") launched a direct action challenge to the status quo. Determined to employ a Gandhian-style, nonviolent method to change the system, CORE organized groups of volunteers to board Greyhound and Trailways buses and head southward. CORE deployed well-organized, well-trained, racially diverse teams, comprising black and white volunteer riders. Each team had a leader and a handful of journalists joined these initial rides. The first rides began in Washington D.C. destined for New Orleans, following a precarious route through Virginia, the Carolinas, Georgia, Alabama, Mississippi, and on to Louisiana.

The mission called for nonviolent direct challenges to desegregation of buses and facilities. Black riders would purposefully sit in the front of the bus—seats traditionally reserved for white passengers—while some whites would purposefully sit in the back. At rest stops and dining facilities the riders peacefully challenged the "whites only" and "colored only" signs. Often working in teams, white riders would use colored dining and restroom facilities while black riders ordered their meals at the whites-only counters.

The beginning of the rides met with some early resistance in Virginia, the Carolinas, and Georgia. But their cause exploded into violence and organized resistance once they faced-off with the extremism of the Deep South. The Deep South remained determined to maintain their "southern way of life" and deeply resented this invasion of activists. In Alabama and Mississippi, anti-segregation groups, the Ku Klux Klan, and compliant government officials and law enforcement agencies mounted massive resistance. The initial encounter demonstrating coordination occurred at the first stop in Alabama, at Anniston, a town already known for its racist culture. The bus came under siege by a large gathering of civilians who broke windows, hurled racial epithets, tried to tip the bus over, and ultimately set it on fire causing an immense explosion. All of the riders survived but most required medical attention. As the author informs us, law enforcement had promised the Anniston terrorists beforehand that they would be given ample time to do their thing before law enforcement would intervene. The buses encountered violent resistance by mobs in Birmingham and Montgomery, too.

The Kennedy Administration had only been in office since January, and the character of the administration was pragmatic and more internationally focused. Their concerns focused more on the communist threat than on domestic issues. Issues of desegregation and racial inequality had not yet taken root with John Kennedy or his brother, Attorney General Robert Kennedy. CORE's national director, Jim Farmer, later reflected that the Kennedys could never have predicted that a *domestic* crisis would shift their focus to a states' rights standoff in Alabama because of a group of determined civil rights activists; and that this crisis would force the federal government to enforce its own civil rights laws (7). But that is exactly what the CORE Freedom Riders brought about in Alabama.

The state governments of Alabama and Mississippi ignored federal law, rebuffed the Kennedy Administration, dismissed the Freedom Riders as interlopers, and stood steadfast in their determination to maintain their southern way of life. Alabama Governor John Patterson even refused to take telephone calls from President Kennedy and tapped telephone calls between Robert Kennedy and Federal Marshalls sent to Montgomery. By the time the riders had struggled their way through Alabama, Mississippi had already devised a creative legal strategy to thwart the movement. Upon arriving in Jackson, police immediately arrested the riders for "inciting to riot, breach of the peace, and failure to obey a police officer, not for violation of state or local segregation laws" (190). This legal maneuver kept the offense within the jurisdiction of state law. Each rider went directly to jail without even the chance to test Jim Crow at the lunch counter or restrooms.

Instead of thwarting the Freedom Riders, the violence in Alabama and the intransigence of the South's massive resistance emboldened the movement. Soon buses headed south on a regular basis with no shortage of volunteer riders. Nashville was the tactical nerve center of the movement under the direction of the driven young activist, Diane Nash, but other movements started at random. The riders represented much of American geography including California, the Northeast, and the Midwest, and the volunteers represented a diverse cross-section of American liberalism. Riders comprised black and white, with varying religious beliefs. Members of the clergy, teachers, and students, dominated; but many other professions could be counted among the volunteers. All shared a common bond of sacrifice and a determination to end racial discrimination for black bus riders through non-violent direct action.

Jackson became the end of the line for the "Freedom" of the riders as virtually all riders ended up in Mississippi jail cells. More than 400 riders participated in the rides in the summer of 1961. By August, CORE became financially strapped as legal costs mounted and the Mississippi judicial system, wanting to make a point, did little to expedite adjudication of the cases.

Handicapped by Mississippi's creative justice, and running short of money, CORE faced a bleak situation. But just as CORE considered its next move, victory emerged by way of a surprising ruling by the Interstate Commerce Commission (ICC). As the federal agency that regulates interstate business, including bus, railway, and air travel, Robert Kennedy had petitioned the ICC in late May for strong regulations regarding interstate travel that would neuter Jim Crow law in the South and effectually protect black bus passengers against discrimination. At the time, it was a long shot for Kennedy. The eleven member commission mainly consisted of conservative Republican appointees (and only one member had been appointed by President Kennedy). But on September 22, 1961, just as Jim Farmer and other movement leaders deliberated on the successes of the Freedom Riders and contemplated the movement's future, the "ICC issued a unanimous ruling

> The Deep South remained determined to maintain their "southern way of life" and deeply resented this invasion of activists.

prohibiting racial discrimination in interstate bus transit." Stating that, "beginning November 1, all interstate buses would be required to display a certificate that read: *Seating aboard this vehicle is without regard to race, color, creed, or national origin, by order of the Interstate Commerce Commission*" (271). Armed with a fairly comprehensive and timely ruling, CORE wasted no time in announcing that they would commence "test rides" beginning as soon as the new regulations went into effect.

Instead of thwarting the Freedom Riders, the violence in Alabama and the intransigence of the South's massive resistance emboldened the movement.

Initial success was neither universal, nor immediate, but the test rides revealed significant improvement in most of the South. It would take a couple of years before every vestige of Jim Crow vanished from the buses and their facilities. The author provides scant details connecting the dots between the Freedom Rides and the ICC ruling. How much did the Kennedys influence the ruling? Nevertheless, it is impossible to assume that the ICC would move so quickly to issue such commanding regulations, without the dramatic efforts, and the national and international enlightenment, brought about by the brave cadre of the Freedom Riders.

Author Raymond Arsenault's account is riveting. It is hard to put down. The author's portrayal of some of the actors provided this reader with much enlightenment. The Kennedys focused on international threats, the recent failure at the Bay of Pigs, and an upcoming meeting between JFK and Nikita Khrushchev. Arsenault intimates that neither Robert Kennedy nor the President wanted to be bothered by this domestic issue. One can sense Robert Kennedy's frustration on this point.

The interactions of civil rights groups like the NAACP and Martin Luther King's Southern Christian Leadership Conference (SCLC) as shown by Arsenault,

were far from monolithic in their respective strategies. As the Civil Rights Movement's backbone, the NAACP was gradualist and not disposed toward direct action. While CORE's leader, Jim Farmer, contemplated the cost of continued legal defense in September, however, NAACP legal counsel, Thurgood Marshall, offered to foot the bill. Farmer's first consideration was *at what cost to CORE and its disposition for direct action?* Moreover, after a violent standoff in Montgomery at which King was present (and contributed much in the way of leadership as well as celebrity), the riders asked him to join them on their next leg from Montgomery to Jackson. After much consideration, he declined. How this decision might have affected civil rights history is anyone's guess.

The author writes in clear and concise prose. He obviously has command of this story. The abridged version is without footnotes, sources, or even an index. But these academic shortcomings can be ignored for the moment in favor of strong story telling. *Freedom Riders* is not only an essential book for students of American history, but an essential book for every enlightened American.

FILM REVIEW

Three Veils.

2011, Zahra Pictures. Directed by Rolla Selbak. Written by Rolla Selbak. Total Run Time: 117 Minutes.

Reviewed by Farah Khan

> "If the heart is forced to do something against its will, it will go blind." — *Three Veils*

While growing up in a conservative Muslim society in the Middle East, writer-director Rolla Selbak often felt unable to freely discuss the injustices faced by women in her community. Her response to this former suppression of her voice was the 2011 film, *Three Veils*. The film quite literally "unveils" many controversial subjects that forever remain sealed in traditional Muslim societies.

The constructs of culture, race, gender, and religion often shape our identities before we can even begin to process our personal needs and desires. Selbak's film challenges this very premise in its presentation of the overlapping stories of three Arab American Muslim women. As the personal struggles endured by Leila (Mercedes Masöhn), Amira (Angela Zahra), and Nikki (Sheetal Sheth) slowly unfold, viewers experience an unraveling of their preconceived notions about controversial subjects such as race, gender, and religion; Leila, Amira, and Nikki face their own realities in the forms of sexual abuse, violence, substance abuse, and sexual identity struggles.

The film opens with Leila's story. The daughter of a well-to-do family in Southern California, Leila has always known that she will marry a boy of her parents' choosing. In her case, that boy is Ali (Sammy Sheik), who is from a good family, is very successful, and is also allegedly a very

devout and practicing Muslim. Despite his perfection on paper, even after their engagement, Leila never feels like Ali is ultimately "the one" for her. Rather, she finds herself inexplicably drawn to a waiter in her father's restaurant, who also happens to be Amira's brother (Jamal, played by Garen Boyajian). Nikki, Leila's best friend, watches as Leila continually ignores these signs of incompatibility for the sake of her family and society. Unfortunately, this rejection of her gut instincts culminates in tragedy for Leila.

Amira, an outsider enviously looking in on Leila and Nikki's friendship, enters the film as an unwilling outcast and involuntary loner. At a young age, Amira struggled with feelings of attraction towards her female playmates, and her mother immediately forced her to attend hours and hours of Islamic school on a daily basis in order to stamp out any residual homosexuality in her young daughter. In this manner, Amira learns to find solace and comfort in her faith and in her relationship with God until her long-repressed feelings are suddenly rekindled by Nikki's entrance into her life. Unable to ignore her growing attraction to Nikki's magnetic personality and desperate to help save Nikki from her self-destructive ways, Amira faces her most difficult challenge yet. Will she submit to her mother's perpetual push into an arranged marriage with a well-to-do Arab man or will she accept and acknowledge her feelings for Nikki?

By the time the film shifts its focus to Nikki's story, viewers will assume they already know enough about her character: her flirtatious nature, her questionable clothing, her drug problems, her difficult home situation, and her emotional dependence on Leila and Amira. Human nature leads viewers to inject their own brand of judgment on this allegedly wild Persian American Muslim girl. Yet, this very judgment will shame viewers once Nikki's tragic childhood experiences come to light. Her story brings the

entire film full-circle as the audience revisits earlier scenes from Nikki's perspective and learns that beneath her façade of indifference lies an incredibly fragile heart. Surprisingly though, with Nikki's discerning eyes as the final lens into the lives of Leila and Amira, *Three Veils* ends on a hopeful note.

> The constructs of culture, race, gender, and religion often shape our identities before we can even begin to process our personal needs and desires.

Selbak does an amazing job of fulfilling her director's mission statement, in which she aimed to present Leila, Amira, and Nikki as "humans first, women second, and their culture and religion as merely shells that dictate how much of their inner-self is revealed."[1] Selbak makes no attempt to make religious or cultural statements through these characters, and she gracefully portrays the individual struggles faced by each woman without misconstruing her overall message. Women in traditional Arab Muslim societies are expected to get married, have children, and live their lives accordingly as good wives and mothers; however, Selbak brilliantly showcases the hidden experiences that shape the characters and identities of these complex women.

Mercedes Masöhn as Leila easily fills the role of this formerly carefree girl who finds herself struggling with inner turmoil as her wedding date rapidly approaches. Her interactions with Garen Boyajian as Jamal often seem forced because of a lack of on-screen chemistry, but this does not take away from her overall performance. Sammy Sheik's performance as Ali does not stand out, likely due to the one-dimensional nature of his character. Angela Zahra gives a subtle yet powerful performance as Amira, both in her struggles with her feelings towards Nikki and in her deep conviction in God and Islam. Finally, Sheetal Sheth proves that she was born to play the role of Nikki. The audience will rejoice in the few moments when her character experiences happiness, and will similarly shed tears when she experiences tragic heartbreaks. Sheth stands out as one of the best actors in the entire film, and she capably holds the film together with her captivating and unforgettable performance.

Three Veils is by no means an easy film to watch. In fact, it can be downright depressing. Yet, one would expect no less from a film that tackles the subject matter at hand. Women's rights, sexual abuse, sexual orientation, substance abuse, and sexual violence have never been easy topics to openly discuss, but confronting these difficult subjects allows us to move one step closer towards breaking down the social barriers that perpetually cloud our judgment.

1 Zahra Pictures, LLC, "About: *Three Veils* Synopsis," http://www.threeveilsmovie.com/#/about/4537929206 (accessed May 20, 2013).

About the Authors & Editors

T. Gerald Archer
T. Gerald Archer completed his bachelor of arts degree in history last year and hopes to pursue a master's degree in history. His area of interest is World War II, specifically the medical history of the war. He also has an interest in the history of cinema and how the arts can change the way a people think.

Donald C. Campbell
Donald C. Campbell is currently in his final year as a history graduate student at UAB. When he isn't busy writing papers and studying, he spends his spare time pursuing a number of different interests. He loves watching Chicago Cubs, Atlanta Braves, and Birmingham Barons baseball, Penn State and New Orleans Saints football, and Philadelphia Flyers hockey. He enjoys video and board games, ghost hunting, and listening to *Coast to Coast AM* on the radio. With his degree, he hopes to either eventually obtain a doctorate in history, or get a job at the National Baseball of Hall of Fame and Museum, the Pro Football Hall of Fame, or the College Football Hall of Fame.

Marialeen Ellis
Marialeen Ellis is a senior majoring in history with a focus on classical studies at the University of Alabama at Birmingham. She was raised in the seaside town of Orange Beach, Alabama, and has always been drawn to coastal cultures existing both in modern and ancient times. At UAB she is very involved in extracurricular activities that range from being a New Student Orientation Leader to an active member in her sorority Alpha Gamma Delta. Following her research on women in classical Athens, she traveled to Greece where she is currently studying art and Greek on the beautiful Cycladic island of Paros. Upon graduating, she plans to continue her education in either Historic Preservation or Classical Archeology and hopes to someday move permanently back to her beloved Paros.

Ashley Vee Foster

Ashley Vee Foster is currently a graduate student pursuing a master's degree in history after completing her bachelor of arts degrees in history and German at UAB. Her area of concentration centers on the early modern time period, particularly that era within the context of the British Isles. She focuses on the intertwining of religion, society, and politics and, thereby, the effects and consequences of such interactions. She is interested in how those three were manipulated and modeled to strengthen each other from the transnational to the daily, personal level, all which still have resounding ramifications today in the twenty-first century.

Brittany Foust

Brittany Foust earned her M.A. in History from the University of Alabama in December of 2012. While obtaining her degree, she focused on women in the late 19th and early 20th centuries in the labor industry. She looked at the different factors that drove women into the sex industry (mainly prostitution) and the revolutionary changes for women that the industry brought forth. She continues to research this subject despite completion of her degree and continues to promote the importance of history and the ability to achieve a greater understanding of the past in order to continue to see the possibilities of the future.

Matthew G. Guerdat

Matthew Guerdat is a second-year graduate student in the UAB Department of History. He is currently nearing completion of a master's degree in history with a focus on Asian history, and modern Japanese history in particular. Matthew enjoys the study of history because of the breadth of scope, both geographically and temporally, that it provides, while simultaneously providing opportunities for in-depth study of highly specific times, places, and people within the larger context of human history. Matthew currently resides in Trussville, Alabama.

Nicholas C. Hosford

Nick Hosford is originally from New Orleans. He now lives in Birmingham with his wife and three children. He received a B.A. in Economics and Political Science from the University of Alaska Anchorage in 2005 and a J.D. from Birmingham School of Law in 2009. In 2013, Nick is 33% a student of history, 25% an attorney, 14% a political know-it-all, 10% an economics junkie, 18% a religious nut, and 100% a husband and father.

Farah Khan

Farah Khan was born in Birmingham and returned to the city she was raised in for medical school at UAB after completing her undergraduate degree in Boston at the Massachusetts Institute of Technology. After graduating from UAB in May 2013, she moved to Atlanta to pursue internal medicine residency at Emory University.

Corey Powell

Corey Powell is currently pursuing a master's degree in history at the University of Alabama at Birmingham. He received his bachelor of arts degree in history, with a minor in political science and literature, from UAB in 2012. His interest centers on the history of the southern United States, particularly southern labor history.

Edward S. Savela
Edward Savela is a successful entrepreneur, historian, published author and a progressive political activist. A former CPA and financial executive, Edward founded three companies, one of which became an Inc500 company. After downsizing his business interests, Edward returned to graduate school and earned an M.A. in History with a 4.0 GPA, the College of Arts and Sciences Dean's Award, and the History Department Chair's Award. He travels and continues to write. Edward is a U.S. Navy veteran. He and his family live in Vestavia Hills, Alabama.

Jennifer E. Stitt
Jennifer Stitt is a graduate student in the UAB Department of History. Her research interests include the intellectual, cultural, and political history of nineteenth and twentieth century America.

Nicole Watkins
Nicole Watkins is a graduate student at the University of Alabama at Birmingham. She is studying British history and is particularly interested in the medieval and early modern periods. She currently lives in Birmingham with her husband, dog, cat, and two rabbits.

Chi Omicron Chapter Initiates

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