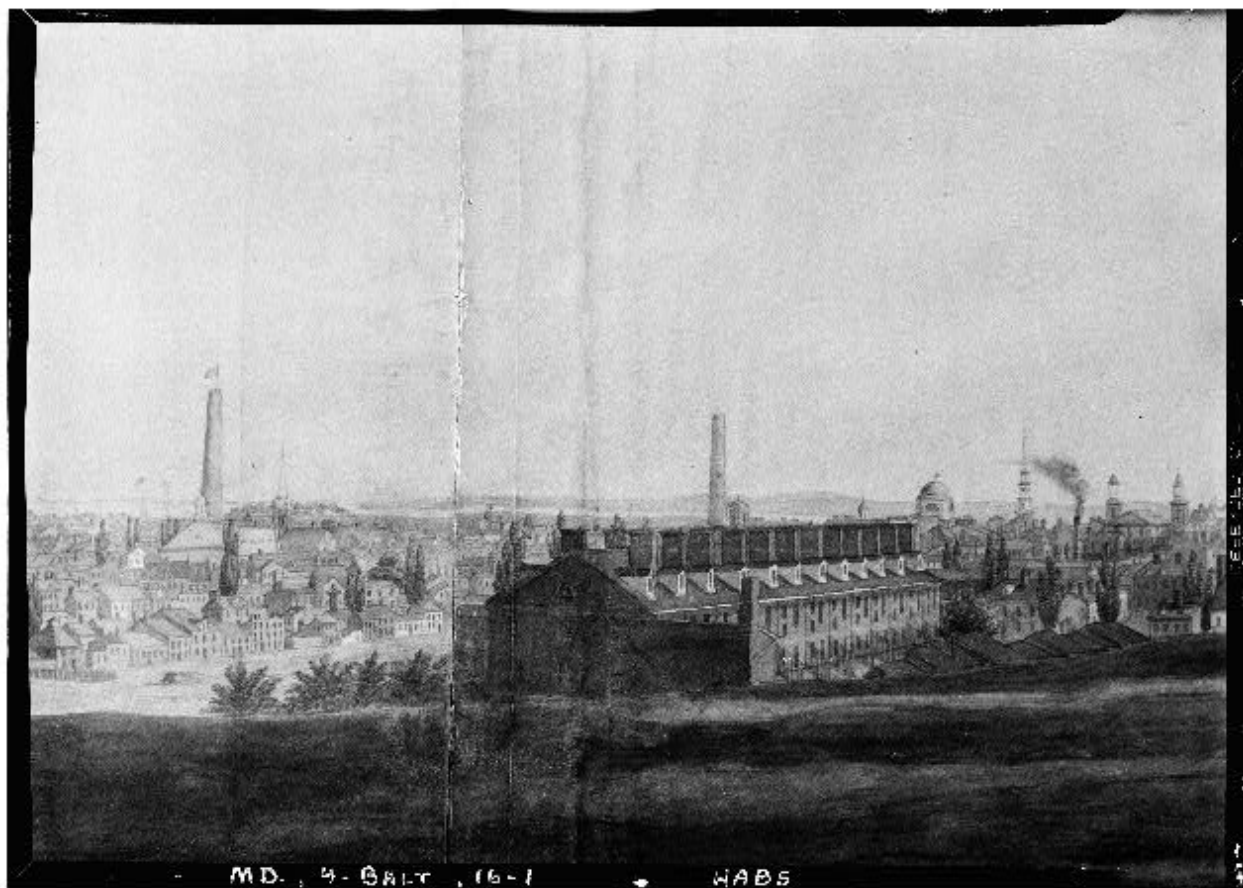


BALTIMORE AFTER THE WAR OF 1812
WHERE ROBERT MILLS MET HIS WATERLOO
AND
WHEN JAMES A. BUCHANAN BROKE THE BANK



GARRETT POWER*

* Professor Emeritus, University of Maryland Francis King Carey School of Law. For outstanding support I thank: Pamela Bluh and Bill Sleeman of the Thurgood Marshall Library for research assistance; Owen Lourie of the Maryland State Archives for locating archival material; Alice Johnson, Research Fellow of the Thurgood Marshall Law Library for editorial assistance; and Suzann Langrall of the University of Maryland Francis King Carey School of Law for administrative support. And I thank the staff of the Maryland Historical Society for the research support afforded me as a Lord Baltimore Fellow.

TABLE OF CONTENTS

INTRODUCTION	3
I. ESTABLISHMENT OF BALTIMORE TOWN: 1729-1752	6
II. GROWTH OF BALTIMORE TOWN: 1752-1776	8
<i>A. Currency of Exchange</i>	8
<i>B. Sale of Building Lots</i>	9
<i>C. Ground Rent System of Real Estate Finance</i>	11
<i>D. The Port of Baltimore</i>	13
<i>E. The Jones Falls</i>	15
<i>F. Grist Mills</i>	15
III. REVOLUTIONARY WAR AND ITS AFTERMATH: 1776-1796	17
<i>A. War Heroes</i>	17
<i>B. Post-War Boom</i>	19
IV. BALTIMORE CITY: 1796-1815	21
<i>A. The Jones Falls</i>	22
<i>B. Grist Mills</i>	23
<i>C. Water Supply</i>	25
<i>D. Banking</i>	27
V. THE BEST OF TIMES: 1815-1817	29
<i>A. Robert Mills</i>	29
<i>B. James A. Buchanan</i>	40
VI. THE WORST OF TIMES: 1818-1822	44
<i>A. Calvert Street Building Company</i>	45
<i>B. The Baltimore Branch of the Bank of the United States</i>	51
<i>C. Robert Mills</i>	55
<i>D. James A. Buchanan</i>	58
VII. AFTER THE FALL: 1822-1840	62
<i>A. Robert Mills</i>	62
<i>B. James A. Buchanan</i>	69
VIII. MILLS AGONISTES: 1840-1855	72
<i>A. Success</i>	72
<i>B. Discredit and Disrespect</i>	74
<i>C. Death</i>	75
CODA	76
<i>A. Waterloo Row</i>	76
<i>B. The Baltimore Washington Monument</i>	80
<i>C. Washington City</i>	83
<i>D. Robert Mills</i>	85
<i>E. James A. Buchanan</i>	85

INTRODUCTION

On July 4, 1815 twenty-five thousand people rallied atop Howard's Hill in Baltimore, Maryland. They came to witness the laying of the cornerstone for the erection of the new nation's first monument to General George Washington. Following martial music and a thirty-nine gun salute (representing the number of years since Independence) the stone was set in a "true and trusty" manner. James A. Buchanan, President of the Monument's Board of Managers, presented a square, a plumb, and a level to Robert Mills, the monument's designer.¹

The site on Howard's Hill was on high ground overlooking the Patapsco Harbor basin a mile to the south. It had been donated by Colonel John Eager Howard, a Revolutionary War hero and sometime U.S. Senator and Maryland Governor who was the largest and wealthiest real estate developer in town.²



View from Howard's Hill

The Monument Board was a committee of twenty-four gentlemen with authority from the Maryland Assembly to conduct a lottery, the proceeds from which would be used to erect a monument memorializing the first President. James A. Buchanan, the Board's President, was a partner in the House of S. Smith & Buchanan, which was considered by John Quincy Adams to

¹ See, e.g., JOHN M. BRYAN, ROBERT MILLS 118-19 (2001); 1 J. THOMAS SCHARF, HISTORY OF BALTIMORE CITY AND COUNTY FROM THE EARLIEST PERIOD TO THE PRESENT DAY 265 (photo. reprint 1971) (1881).

² See, e.g., 1 J. THOMAS SCHARF, HISTORY OF BALTIMORE CITY AND COUNTY FROM THE EARLIEST PERIOD TO THE PRESENT DAY 265 (photo. reprint 1971) (1881); 5 DICTIONARY OF AMERICAN BIOGRAPHY 279 (Dumas Malone ed., 1961); *An Old Baltimore Mansion*, 12 APPELTONS' J. 801, 801-02 (1874).

be “one of the greatest commercial establishments in the United States.” His senior partner, Samuel Smith, was both a U.S. Senator and General in the Maryland militia.³

Robert Mills had been the surprise winner when the Board of Managers held a competition to select the Monument’s architect. He was only thirty-two years of age and then working in private practice in Philadelphia.⁴



Robert Mills⁵

The monument would be Mills’ first significant public project. His preceptor, Benjamin Henry Latrobe (who was well known to Baltimoreans as the designer of the Roman Catholic Cathedral), considered Mills “a wretched designer.” Latrobe had decided not to compete out of deference to Maximilian Godefroy, Baltimore’s best established architect. Godefroy referred to Mills as “Bob the Small.”⁶ But the Board thought otherwise. It awarded the \$500 design prize to Mills’ plan for a 178 foot column with an interior of 220 spiral steps leading to a statue of Washington on the top. The Board brushed aside fears that the “monument might prove top heavy and toppl[e] over” and commissioned Mills to supervise construction.⁷

³ See, e.g., JOHN DORSEY & JAMES D. DILTS, A GUIDE TO BALTIMORE ARCHITECTURE 115-16 (3d ed. 1997); H.M. PIERCE GALLAGHER, ROBERT MILLS: ARCHITECT OF THE WASHINGTON MONUMENT 103-07 (1966); BRAY HAMMOND, BANKS AND POLITICS IN AMERICA FROM THE REVOLUTION TO THE CIVIL WAR 261 (1957); I J. THOMAS SCHARF, HISTORY OF BALTIMORE CITY AND COUNTY FROM THE EARLIEST PERIOD TO THE PRESENT DAY 265-66 (photo. reprint 1971) (1881); 2 J. THOMAS SCHARF, THE CHRONICLES OF BALTIMORE 375-78 (photo. reprint 1989) (1874); *Smith, Samuel*, BIOGRAPHICAL DIRECTORY U.S. CONGRESS, <http://bioguide.congress.gov/scripts/biodisplay.pl?index=S000609> (last visited June 8, 2012).

⁴ JOHN M. BRYAN, ROBERT MILLS 3, 115-16 (2001). Mills was born on August 12, 1781, and his design was selected on May 2, 1814.

⁵ H.M. PIERCE GALLAGHER, ROBERT MILLS: ARCHITECT OF THE WASHINGTON MONUMENT, at frontispiece (1966).

⁶ JOHN M. BRYAN, ROBERT MILLS 110, 115 (2001); RHODRI WINDSOR LISCOMBE, ALTOGETHER AMERICAN: ROBERT MILLS, ARCHITECT AND ENGINEER, 1781-1855, at 67 (1994).

⁷ See, e.g., JOHN M. BRYAN, ROBERT MILLS 115 (2001); H.M. PIERCE GALLAGHER, ROBERT MILLS: ARCHITECT OF THE WASHINGTON MONUMENT 104-06 (1966); RHODRI WINDSOR LISCOMBE, ALTOGETHER AMERICAN: ROBERT MILLS, ARCHITECT AND ENGINEER, 1781-1855, at 67 (1994); WASHINGTON MONUMENT, BALTIMORE: ACCOUNT OF LAYING THE CORNER-STONE, RAISING THE STATUE, DESCRIPTION, &C. &C., at 13, 41 (Balt., 1849), available at <http://www.archive.org/details/washingtonmonume00balt> (stating that the “ascent to the top of the monument is by a flight of 220 marble steps”). A number of sources state that the monument has 228 spiral steps to the top. See, e.g.,



1815 Depiction of Mills' Design⁸

When Baltimore's civic leaders came together on Howard's Hill to celebrate George Washington they were also celebrating Baltimore. In the years since its establishment the town had mushroomed from a population of 200 in 1752; 6,700 in 1776; 13,500 in 1790; to 26,500 in 1800. Its port was the second in the Nation with respect to export trade. And in 1814 the city's militiamen (commanded by General Samuel Smith) had repulsed the British sea invasion and presaged an end to the War of 1812. Napoleon's defeat at Waterloo in 1815 (just two weeks before the Monument celebration) signaled an end to European wars. Freedom of the seas had been restored. The Baltimore "Clipper" was the best sailing ship on the ocean. Baltimore looked to become the Nation's leading exporter of grain, flour, and tobacco.⁹ Speculators euphorically boomed a bull market. The city's prospects seemed bright.

Washington Monument and Museum at Mount Vernon Place, GREATER BALT. HIST. ALLIANCE, <http://www.baltimoremuseums.org/visit/museums/washmonument.shtml> (last visited June 8, 2012).

⁸ H.M. PIERCE GALLAGHER, ROBERT MILLS: ARCHITECT OF THE WASHINGTON MONUMENT 111 (1966) (Engraving of a drawing by H. Warren).

⁹ *See, e.g.*, ALFRED COOKMAN BRYAN, HISTORY OF STATE BANKING IN MARYLAND 12-13 (Balt., Johns Hopkins Press 1899); FRANK A. CASSELL, MERCHANT CONGRESSMAN IN THE YOUNG REPUBLIC: SAMUEL SMITH OF MARYLAND, 1752-1839, at 179-97 (1971); CHARLES G. STEFFEN, THE MECHANICS OF BALTIMORE 3-8 (1984) ("As late as 1752 Baltimore had only a few hundred inhabitants and they clustered in two dozen houses along the [Patapsco] river."); U.S. Bureau of Census, Population of Baltimore City: 1790-1990 (available at the Maryland State Archives).

On this day the celebrants could not have foreseen that their personal future was dark. Within four short years the European peace allowed England and France to reassert dominance in their colonial trades and to flood American markets.¹⁰ The resulting economic depression would lead to the Panic of 1819 and the failure of the Second National Bank of the United States. The Washington Monument would be left half-built.

But there is more to the story. It shows how land tenure shaped the cityscape. It dramatizes the pitfalls of nineteenth century venture capitalism—boom, bubble and bust, panic, inflation, insider trading, and cost overruns. It documents the meltdown of financial markets, and of a bank that was too big to fail. And it depicts the timeless weaknesses in the human condition—hubris, greed, selfishness, speculation, and conspiracy. In the aftermath of their disgrace these two men took very different life journeys.

I. ESTABLISHMENT OF BALTIMORE TOWN: 1729-1752

Baltimore Town was established in 1729 by the Maryland Assembly on land provided by Charles Carroll of Annapolis from his Cole's Harbor patent. The 550 acre patent, which lay on the north shore of a basin in the tidewater Patapsco River, was divided by a twisting and turning freshwater stream—Jones Falls—named after David Jones who had taken up residency in 1661.¹¹ Carroll subdivided a sixty acre parcel into sixty building lots and offered them for sale at a price of forty shillings each.¹²

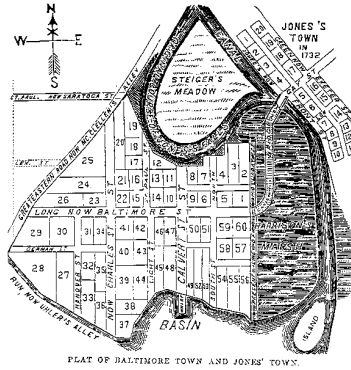
A rival settlement soon came on the scene. An act of the Assembly of 1732 established Jones Town on ten acres of land “convenient to the water” at the mouth of the Jones Falls on its east bank. The successors in title to 135 acres that James Todd had conveyed to John Hurst in 1701 subdivided “twenty equal lots” on ten acres, thereby creating lots one half the size of those in neighboring Baltimore Town. Lots were for sale for 300 pounds of tobacco each.¹³

¹⁰ JOHN M. BRYAN, ROBERT MILLS 121 (2001).

¹¹ An Act for Erecting a Town on the North Side of Patapsco, ch. XII (1729), *reprinted in* 36 ARCHIVES OF MARYLAND: PROCEEDINGS AND ACTS OF THE GENERAL ASSEMBLY OF MARYLAND: JULY, 1727-AUGUST, 1729, at 464, 464 (Bernard Christian Steiner ed., 1916), *available at* <http://aomol.net/megafile/msa/speccol/sc2900/sc2908/000001/000036/pdf/am36--464.pdf>; *see also* 1 CLAYTON COLMAN HALL, BALTIMORE: ITS HISTORY AND ITS PEOPLE 15 (1912); Garrett Power, *Parceling Out Land in Baltimore: 1632-1796*, 87 MD. HIST. MAG. 453, 460-61 (1992).

¹² 1 J. THOMAS SCHARF, HISTORY OF BALTIMORE CITY AND COUNTY FROM THE EARLIEST PERIOD TO THE PRESENT DAY 50-52 (photo. reprint 1971) (1881); FIRST RECORDS OF BALTIMORE TOWN AND JONES' TOWN 1729-1797, at 1-10 (1905).

¹³ *See, e.g.*, 1 CLAYTON COLMAN HALL, BALTIMORE: ITS HISTORY AND ITS PEOPLE 14-15 (1912); 1 J. THOMAS SCHARF, HISTORY OF BALTIMORE CITY AND COUNTY FROM THE EARLIEST PERIOD TO THE PRESENT DAY 54-56 (photo. reprint 1971) (1881) (“Old or ‘Jones’ Town,” as it was designated by the act, was called after David Jones, who is said to have been the first actual settler, and who took up lands on the line of the Falls as early as June 15, 1661.”); FIRST RECORDS OF BALTIMORE TOWN AND JONES' TOWN 1729-1797, at 11-17 (1905); Garrett Power, *Parceling Out Land in Baltimore: 1632-1796*, 88 MD. HIST. MAG. 151, 151 (1993).



Plat of Baltimore Town (1729) and Jones Town (1732)¹⁴

Jones Town was separated physically from the original settlement by a twenty-eight acre marsh and the Jones Falls, but a causeway and bridge soon permitted people and goods to move back and forth. The two settlements were consolidated into a single Baltimore Town in 1745.¹⁵

The creation of eighty building lots created a flurry of speculation, but while many of the lots were “taken up,” few were purchased and fewer still houses built. By 1752 Baltimore Town consisted of nothing more than 200 people, a church, a brewery, a tobacco inspection house, and perhaps two dozen houses.¹⁶ The new town of Baltimore had proven a bust.

¹⁴ 1 J. THOMAS SCHARF, HISTORY OF BALTIMORE CITY AND COUNTY FROM THE EARLIEST PERIOD TO THE PRESENT DAY 52 (photo. reprint 1971) (1881).

¹⁵ A Supplementary and Additional Act to the Act for Erecting a Town on the North Side of Patapsco, ch. IX (1745), reprinted in 44 ARCHIVES OF MARYLAND: PROCEEDINGS AND ACTS OF THE GENERAL ASSEMBLY OF MARYLAND: 1745-1747, at 214, 214 (Bernard Christian Steiner ed., 1925), available at <http://www.msa.md.gov/megafile/msa/speccol/sc2900/sc2908/000001/000044/pdf/am44--214.pdf>; see also 1 J. THOMAS SCHARF, HISTORY OF BALTIMORE CITY AND COUNTY FROM THE EARLIEST PERIOD TO THE PRESENT DAY 52-56 (photo. reprint 1971) (1881); FIRST RECORDS OF BALTIMORE TOWN AND JONES' TOWN 1729-1797, at 17 (1905).

¹⁶ See, e.g., 1 J. THOMAS SCHARF, HISTORY OF BALTIMORE CITY AND COUNTY FROM THE EARLIEST PERIOD TO THE PRESENT DAY 58 (photo. reprint 1971) (1881); CHARLES G. STEFFEN, THE MECHANICS OF BALTIMORE 4 (1984); FIRST RECORDS OF BALTIMORE TOWN AND JONES' TOWN 1729-1797, at 1-17 (1905).



Baltimore 1752¹⁷

II. GROWTH OF BALTIMORE TOWN: 1752-1776

Mid-eighteenth century Baltimore Town had great potential. The port was close to the western wheat fields. The Jones Falls offered water power to grind the wheat to flour for the export trade. The tidewater basin in the Patapsco River provided a haven in which ships could load and unload their cargoes. But growth was stymied by obstacles, both fiscal and physical.

A. Currency of Exchange

Business in colonial Baltimore suffered from a shortage of money. Britain used its American colonies as a source of raw materials and as a market for its manufactured goods. Its policies discouraged colonial economic development and placed strict limitations on manufacturing. Exportation of gold and silver to the colonies was prohibited. Since the colonial demand for English goods and services far exceeded the value of exports, currency circulating in the colonies returned to Britain, perpetuating the unfavorable balance of trade.¹⁸

Although prices were generally stated in terms of English pounds sterling (1,718.7 grains of fine silver), there were typically few coins and little specie to be had.¹⁹ The Maryland General Assembly and other colonial governments issued paper bills with a nominal par value stated in terms of English pounds, but the bills rapidly depreciated and were often only accepted at a discount far below their nominal value. Canny creditors drafted agreements that rejected payment in local money and demanded repayment in specie as measured in terms of the English pounds sterling; and when no hard money was to be had, creditors could mandate the rate of

¹⁷ THE ARCHITECTURE OF BALTIMORE 4 (Mary Ellen Hayward & Frank R. Shivers, Jr. eds., 2004) (Drawing by John Moale, Maryland Historical Society Collection).

¹⁸ See Stuart R. Bruchey & Eleanor S. Bruchey, *A Brief History of Commercial Banking in the Old Line State, in MONEY AND BANKING IN MARYLAND* 3, 3-5 (1996).

¹⁹ Various coins circulated according to weight: "Johannes, half-johannes, moldores, English guineas, French guineas, doubloons, Spanish pistols, French milled pistols, Arabian chequins, English milled crowns, other English milled silver, French silver crowns, Spanish milled pieces of eight, and other Spanish, French, German and Portuguese gold and silver coins." ALFRED COOKMAN BRYAN, *HISTORY OF STATE BANKING IN MARYLAND* 12 n.1 (Balt., Johns Hopkins Press 1899).

exchange for substitute payments by way of barter, commodities (e.g. tobacco), or private paper (e.g. bills of exchange, warehouse receipts, promissory notes).²⁰

This informal currency system served buyers and sellers well enough in their day-to-day transactions. Missing, however, was a medium of exchange for the purchase of capital assets. No banks or other lending institutions were on the scene to finance major transactions. Even the landed aristocrats and elite merchants found themselves short of the currency necessary to make major outlays needed for the purchase of land or for the construction of improvements.²¹

B. Sale of Building Lots

Native Marylanders may have been short on hard money, but English land speculator Thomas Harrison was not. Soon after he arrived in 1742 he ventured his capital in the acquisition of 14,000 acres in the region surrounding Baltimore, Anne Arundel, and Harford counties.²² In 1745 Harrison became one of Baltimore Town's seven town commissioners and began buying building lots. He first purchased lots No. 52 and 53 (which were improved by a house) from Dr. George Walker, a Scottish born physician.²³

The year 1747 presented Thomas Harrison with another business opportunity. The consolidation of Baltimore Town and Jones Town had left, in between, a large parcel of land along the bank of the Jones Falls stream valley. Harrison purchased the twenty-eight acres lying on the west side of the stream from Charles Carroll of Annapolis for £140 sterling, and the land became known as Harrison's Marsh. In July of that year the Maryland General Assembly passed an act that added the eighteen highest and driest of these acres as an enlargement to Baltimore Town. Harrison set

²⁰ See Stuart R. Bruchey & Eleanor S. Bruchey, *A Brief History of Commercial Banking in the Old Line State*, in *MONEY AND BANKING IN MARYLAND* 3, 3-10 (1996).

²¹ See KATHRYN L. BEHRENS, *PAPER MONEY IN MARYLAND: 1727-1789*, at 12-45 (1923) (discussing paper currency); STUART WEEMS BRUCHEY, *ROBERT OLIVER: MERCHANT OF BALTIMORE, 1783-1819*, at 43-51 (1956); CLARENCE P. GOULD, *MONEY AND TRANSPORTATION IN MARYLAND: 1720-1765*, at 113-14 (1915).

²² 1 J. THOMAS SCHARF, *HISTORY OF BALTIMORE CITY AND COUNTY FROM THE EARLIEST PERIOD TO THE PRESENT DAY* 57 (photo. reprint 1971) (1881); 1 *A BIOGRAPHICAL DICTIONARY OF THE MARYLAND LEGISLATURE, 1635-1789*, at 419 (Edward C. Papenfuss et al. eds., 1979); *see also* Indenture from Robert Gordon to Thomas Harrison (Apr. 22, 1746), *reprinted in* 700 *ARCHIVES OF MARYLAND: PROVINCIAL COURT (LAND RECORDS)* 204 (2005), available at <http://aomol.net/000001/000700/pdf/am700--204.pdf> (Lot 55); Grant from George Walker to Thomas Harrison (1742) (available in Baltimore County Court Land Records, Grantee Index, 1655-1769, page 152) (Lot 53).

²³ *See, e.g.*, JOHN R. QUINAN, *MEDICAL ANNALS OF BALTIMORE FROM 1608 TO 1880*, at 11 (Balt., Isaac Friedenwald 1884); 1 J. THOMAS SCHARF, *HISTORY OF BALTIMORE CITY AND COUNTY FROM THE EARLIEST PERIOD TO THE PRESENT DAY* 50-53, 56 (photo. reprint 1971) (1881); *FIRST RECORDS OF BALTIMORE TOWN AND JONES' TOWN 1729-1797*, at 2, 4 (1905); *see also* Indenture from Robert Gordon to Thomas Harrison (Apr. 22, 1746), *reprinted in* 700 *ARCHIVES OF MARYLAND: PROVINCIAL COURT (LAND RECORDS)* 204 (2005), available at <http://aomol.net/000001/000700/pdf/am700--204.pdf> (Lot 55); Grant from George Walker to Thomas Harrison (1742) (available in Baltimore County Court Land Records, Grantee Index, 1655-1769, page 152) (Lot 53).

about subdividing his parcel into fifty-four building lots, some as small as one-quarter acre, which he hoped to market as the cheapest in town.²⁴

Building Lots in Baltimore, 1747



Plan of Baltimore in 1747²⁵

Even after almost two hundred and fifty years, the difficulties which Thomas Harrison faced when trying to sell his building lots are apparent. The market was already glutted with unsold lots, and would-be buyers faced difficulty in finding a medium of exchange with which to pay the price. Barter transactions were impractical and hard money was scarce. Moreover, there were no individual or institutional lenders to lend would-be buyers the purchase money.²⁶

²⁴ See, e.g., 1 J. THOMAS SCHARF, THE CHRONICLES OF BALTIMORE 36-37 (photo. reprint 1989) (1874) (stating price of £160 sterling); 1 J. THOMAS SCHARF, HISTORY OF BALTIMORE CITY AND COUNTY FROM THE EARLIEST PERIOD TO THE PRESENT DAY 57 (photo. reprint 1971) (1881); FIRST RECORDS OF BALTIMORE TOWN AND JONES' TOWN 1729-1797, at 22 (1905); Indenture from Charles Carroll to Thomas Harrison (May 21, 1747), reprinted in 700 ARCHIVES OF MARYLAND: PROVINCIAL COURT (LAND RECORDS) 293-95 (2005), available at <http://www.msa.md.gov/megafile/msa/speccol/sc2900/sc2908/000001/000700/html/am700--293.html>.

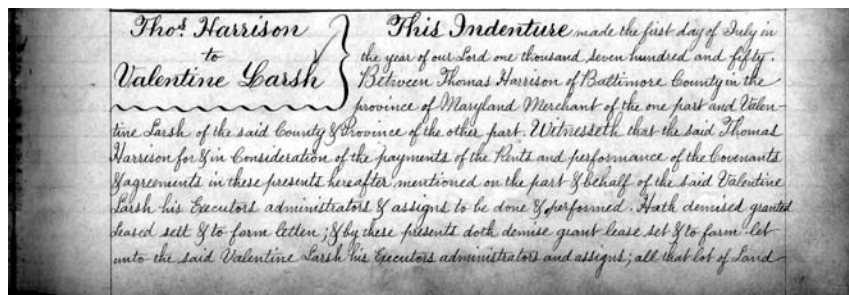
²⁵ JOHN W. REPS, TIDEWATER TOWNS 286 (1972) (Survey by Nicholas Ruxton Gay).

²⁶ The one exception was Charles Carroll of Annapolis. By 1750 he had virtually ceased investing in new land and was diversifying his holdings by becoming Maryland's primary lender. He put tens of thousands of pounds sterling out at interest in the form of bonds or mortgages. As a lender he was frustrated by his inability to charge all of the interest the money market would bear. A usury law passed by the Maryland General Assembly limited the interest rate to 6%. See Edward C. Papenfuse, *Charles Carroll of Carrollton: English Aristocrat in an American Setting*, in "ANYWHERE SO LONG AS THERE BE FREEDOM": CHARLES CARROLL OF CARROLLTON, HIS FAMILY & HIS MARYLAND 43, 44-45, 48 (Ann C. Van Devanter ed., 1975); see also An Act Against Excessive Usury (1692), reprinted in 13 ARCHIVES OF MARYLAND: PROCEEDINGS AND ACTS OF THE GENERAL ASSEMBLY OF MARYLAND: APRIL, 1684-JUNE, 1692, at 540, 540 (William Hand Browne ed., Balt., Md. Hist. Soc'y 1894), available at <http://www.msa.md.gov/megafile/msa/speccol/sc2900/sc2908/000001/000013/pdf/am13--540.pdf>.

C. Ground Rent System of Real Estate Finance

Thomas Harrison made his building lots more affordable by providing “no down payment” financing. Harrison offered purchasers the option either of buying a lot in freehold (in “fee simple”) and paying cash, or of acquiring a long-term leasehold interest and paying an annual ground rent.²⁷

The proffered leases were for ninety-nine years, renewable forever. For example, in 1750 Harrison sold the newly platted lot number 70. The conveyance from Harrison to Larsh took a novel form—it was a long-term lease rather than an outright grant. The indenture provided that Valentine Larsh and “his Executors administrators and assigns” might enjoy the property for “the full term of ninety-nine years . . . paying therefore yearly . . . the sum of three pounds sterling money.” The lease further provided that “Thomas Harrison his heirs or assigns . . . shall . . . at the reasonable request . . . of Valentine Larsh his Executors administrators or assigns . . . make a new lease . . . for the full term of ninety-nine years then next to come . . . under the same rent” This was Baltimore’s first ground rent.²⁸



Ninety-Nine Year Lease from Thomas Harrison to Valentine Larsh²⁹

No down payment need be made at the time of purchase. The stream of income from the annual rents could be calibrated so as to amount to the fair value of the lot when capitalized according to the prevailing 6% interest rate. Using this formulation the annual £3 ground rent paid by Larsh was the economic equivalent of a £50 purchase price. Because the leases were renewable in perpetuity, there need be no discount in price.³⁰

From Larsh’s point of view the leasehold was akin to a purchase money mortgage. From Harrison’s point of view the stream of income from the ground rents provided an investment

²⁷ Compare Thomas Harrison Sales (available in Baltimore County Court Land Records, liber BB no. 1, pp. 65, 245, 622, 629), with Thomas Harrison leases (available in Baltimore County Court Land Records, liber BB no. 1, p. 263; liber B no. H, pp. 76, 107, 156, 179, 460; liber B no. L, p. 253).

²⁸ Ninety-Nine Year Lease from Thomas Harrison to Valentine Larsh (July 1, 1750) (available in Baltimore County Court Land Records, liber BB no. 1, pp. 263-65) (Lot No.70).

²⁹ Ninety-Nine Year Lease from Thomas Harrison to Valentine Larsh (July 1, 1750) (available in Baltimore County Court Land Records, liber BB no. 1, pp. 263-65) (Lot No.70).

³⁰ £3 ÷ .06 =£50.

akin to a 6% bond. Between 1752 and 1769 Harrison sold eighty odd building lots in Baltimore Town—more than half of the transfers were on the ground rent plan.³¹

Other large land owners on the outskirts of Baltimore copied Harrison's ground rent plan. The Fell family owned a 343 acre parcel called Fell's Point a mile to the east.³² In 1763 Edward Fell laid out 216 building lots, ranging in size from ¼ acre to ½ acre, many suitable for wharves, warehouses, and shipyards as well as houses. Edward Fell died in 1766 leaving the task of marketing the lots to his wife and executrix Ann Fell.³³



Building Lots in Fell's Point

The Fell ground leases placed additional responsibilities on the lessee. Covenants to make improvements became standard provisions in the Fell leases. For example, in a lease from 1772, the lessee covenanted to “build and erect . . . a good and sufficient house to cover four hundred square feet, covered with jointed cypress shingles”³⁴ If the leaseholder built the house, it would be a fixture that the ground rent holder could look to for security if the rent was unpaid; if the leaseholder did not build the house the ground rent holder could recover possession of the

³¹ Harrison Sales (available in Baltimore County Court Land Records, Grantor Index, 1655-1769, pp. 157-63).

³² William Fell Island Point (1734) (available in Baltimore County Court Land Records, liber 56, p. 203); *see also* Casey's Lessee v. Inloes, 1 Gill 430, 453-55, 460-64 (Md. 1844) (reviewing historic Fells' patents in an action for ejectment); NORMAN G. RUKERT, THE FELLO POINT STORY 11-12 (1976) (“By 1745, [William Fell] owned about 1,100 acres in the Fells Point area.”).

³³ THOMAS W. GRIFFITH, ANNALS OF BALTIMORE 38-40 (Balt., William Woody 1833); NORMAN G. RUKERT, THE FELLO POINT STORY 14-15 (1976); 1 J. THOMAS SCHARF, THE CHRONICLES OF BALTIMORE 56-58 (photo reprint 1989) (1874).

³⁴ Banks v. Haskie, 45 Md. 207, 214 (1876) (emphasis omitted).

improved premises (both ground and house) for breach of covenant. Payment of the leaseholder's obligation was well-secured and development of the neighborhood was promoted.

To the west of the original Baltimore Town, Cornelius Howard had begun to subdivide Lunn's Lot. Entitlement to Lunn's Lot had come into Howard's hands by a circuitous route. Edward Lunn had received a patent to the lots from Lord Baltimore in 1673. In 1678 Lunn transferred the rights to the patent to George Eager. Lunn's Lot was then passed down through the family to George's grandson, also a George. Young George's sister, Ruth, married Cornelius Howard. When George went to sea, he gave over his power of attorney to his brother-in-law, Cornelius Howard. George was never heard from again. Cornelius Howard took title in 1763 in his own name.³⁵

That same year Cornelius had Lunn's Lot enlarged to include contiguous vacant ground. At 414 acres it was more than double the size of the original holding. He laid out approximately forty one-half acre building lots along a gridiron of streets on the southwest waterfront, which he offered to developers. He copied from his contemporary Harrison the use of ground rents.³⁶

Baltimore boomed. Thomas Harrison, Ann Fell and Cornelius Howard sold hundreds of building lots and most of the sales were on the ground rent plan. Both land buyer and seller benefited. The buyer of the leasehold received what amounted to a purchase money mortgage. The seller of the leasehold took her profit in the form of an investment security providing a guaranteed stream of income much like a bond. Houses were built and by the time of the American Revolution the Town's population swelled to 5,000 and then to 6,000.³⁷

D. The Port of Baltimore

If Baltimore was to succeed as a port of call, a physical impediment needed to be overcome. The harbor basin's silt-ridden waters were only five to six feet deep and too shallow to accommodate the deeper drafts demanded by the oceangoing 300 ton ships of the era.³⁸

Merchants adapted. In 1755 John Smith, a prosperous storekeeper, and his brother-in-law, William Buchanan, relocated their families from Carlisle, Pennsylvania. With funds raised from the sale of their Pennsylvania properties they established the shipping firm of Smith & Buchanan. In 1759 Thomas Harrison sold the partners three lots in Harrison's Marsh on the Patapsco waterfront. Lot numbers 65 and 66 were leased to Buchanan for ninety-nine years

³⁵ George Eager's Power of Attorney to Cornelius Howard (available in Baltimore County Court Land Records, liber TB no. C, p. 674); Cornelius Howard: Lunn's Lott Enlarged (1763) (available in Baltimore County Court Land Records, liber BC&GS no. 18, p. 28).

³⁶ See, e.g., Indenture Between Cornelius Howard to Conrad Smith (1770) (available from Maryland Historical Society, Howard Papers, MS 469, Manuscript Division).

³⁷ 1 J. THOMAS SCHARF, HISTORY OF BALTIMORE CITY AND COUNTY FROM THE EARLIEST PERIOD TO THE PRESENT DAY 185 (photo. reprint 1971) (1881).

³⁸ GARY LAWSON BROWNE, BALTIMORE IN THE NATION, 1789-1861, at 4 (1980).

subject to an annual ground rent of £10. Buchanan and Smith together purchased outright the adjacent lot 96 for £40. Slave labor built two wharves 1000 feet out into deeper waters in the Patapsco basin.³⁹

Smith & Buchanan shipped wheat and flour to the West Indies, Europe, and South America. In 1766 John Smith's fourteen year-old son, Samuel, joined the firm as a clerk. After Samuel completed his eight year apprenticeship he joined the firm as partner in 1774.⁴⁰

Other merchants docked at deeper-draft wharves on Fell's Point, a mile to the east, where Ann Fell's waterfront lots had proved suitable for wharves, warehouses, and shipyards as well as houses.⁴¹ Fell's Point soon rivaled Baltimore Town as the preferred place for ships to dock and for newcomers to settle.⁴² The Point's waterfront flourished but periodic outbreaks of yellow fever prompted the town's elite citizens to live on the higher ground in old Baltimore Town.⁴³

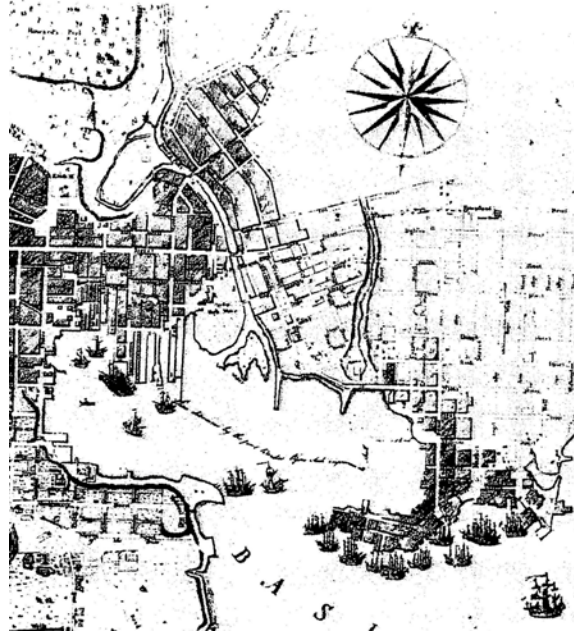
³⁹ See, e.g., GARY LAWSON BROWNE, *BALTIMORE IN THE NATION, 1789-1861*, at 4 (1980); FRANK A. CASSELL, *MERCHANT CONGRESSMAN IN THE YOUNG REPUBLIC: SAMUEL SMITH OF MARYLAND, 1752-1839*, at 3-6 (1971) ("The new firm invested heavily in slaves and ships. The slaves were used to build several wharves in Baltimore harbor, one of them reputed to have been a thousand feet long. Since the wharves were the only ones in the town that reached as far as the ship channel, Smith & Buchanan enjoyed a definite advantage."); 1 J. THOMAS SCHARF, *HISTORY OF BALTIMORE CITY AND COUNTY FROM THE EARLIEST PERIOD TO THE PRESENT DAY* 59 (photo. reprint 1971) (1881); 1 J. THOMAS SCHARF, *THE CHRONICLES OF BALTIMORE* 52 (photo. reprint 1989) (1874) ("John Smith and William Buchanan . . . [built] two wharves of pine cord wood about one thousand feet long each, to the channel of the river."); see also Lease from Thomas Harrison to William Buchanan (1759) (available in Baltimore County Court Land Records, liber BH, p. 11) (Lots 65 & 66); Deed from Thomas Harrison to William Buchanan and John Smith (1759) (available in Baltimore County Court Land Records, liber BH, p. 13) (Lot 965).

⁴⁰ FRANK A. CASSELL, *MERCHANT CONGRESSMAN IN THE YOUNG REPUBLIC: SAMUEL SMITH OF MARYLAND, 1752-1839*, at 4-6, 10-12 (1971). Since Buchanan's Wharf continued to be titled in William Buchanan's name it is assumed that he remained active in the firm's business.

⁴¹ See generally NORMAN G. RUKERT, *THE FELLOWS POINT STORY* 11-17 (1976); see also THOMAS W. GRIFFITH, *ANNALS OF BALTIMORE* 38-40 (Balt., William Woody 1833); SHERRY H. OLSON, *BALTIMORE: THE BUILDING OF AN AMERICAN CITY* 12 (1980); 1 J. THOMAS SCHARF, *THE CHRONICLES OF BALTIMORE* 56-58 (photo. reprint 1989) (1874).

⁴² See NORMAN G. RUKERT, *THE FELLOWS POINT STORY* 14-15 (1976); SHERRY H. OLSON, *BALTIMORE: THE BUILDING OF AN AMERICAN CITY* 12 (1980); 1 J. THOMAS SCHARF, *THE CHRONICLES OF BALTIMORE* 56-57 (photo. reprint 1989) (1874).

⁴³ See SHERRY H. OLSON, *BALTIMORE: THE BUILDING OF AN AMERICAN CITY* 12-13 (1980); 1 J. THOMAS SCHARF, *HISTORY OF BALTIMORE CITY AND COUNTY FROM THE EARLIEST PERIOD TO THE PRESENT DAY* 59-60 (photo. reprint 1971) (1881); see also Census of Deptford Hundred or Fell's Point, 1776 (Dec. 26, 1775), *reprinted in* 25 MD. HIST. MAG. 271 (1930).



Plan of the Town of Baltimore and It's Environs⁴⁴

E. The Jones Falls

Historically the Jones Falls had served as the lifeblood of Baltimore Town. Its cascading freshwaters quenched the town's thirst for drinking water and provided power to turn the grist mills. The tidewaters at its mouth provided a haven for ships and water-borne transport up the fall line. But the Falls also was troublesome. A horseshoe bend in its winding watercourse blocked the extension of Calvert Street to the north where prime land awaited development. And recurrent freshets periodically overflowed its banks and deluged houses, stores, bridges, wharves, and mills.⁴⁵

F. Grist Mills

According to eighteenth century sources, "[o]n Jone's falls are ten mills, built within about two miles and an half of the city . . ."⁴⁶ Although these grist mills were important economic engines they also created problems of their own. The Maryland Mill Acts of 1669, 1692, 1694, 1699 and

⁴⁴ *Cator Print 158*, ENOCH PRATT FREE LIBR., <http://epfl.mdch.org/cdm/singleitem/collection/cator/id/174/rec/12> (last visited June 8, 2012) (Engraving by James Poupard from drawing by A.P. Folie of plan of Baltimore around 1792).

⁴⁵ THOMAS W. GRIFFITH, *ANNALS OF BALTIMORE* 116-17 (Balt., William Woody 1833); 1 J. THOMAS SCHARF, *THE CHRONICLES OF BALTIMORE* 50 (photo. reprint 1989) (1874).

⁴⁶ 4 JOHN PAYNE, *NEW AND COMPLETE SYSTEM OF UNIVERSAL GEOGRAPHY* 377, 378 n.* (N.Y., John Low 1799), reprinted in *State of Maryland in 1798: Situation, Extent, Boundaries, &c.*, 31 MD. HIST. MAG. 247, 251 (1936).

1704—albeit well-intentioned—were the complicating factor.⁴⁷ As first enacted in the Maryland General Assembly, “An Act for Encouragement of Such Persons as Will Undertake to Build Watermills” explained:

[F]or the most part the places fitt for Setting up watermills are already in the hands of persons under age or unable to be att the Charge of building a watermill or else of such as are wilfully obstinate in for bidding and hindring such persons as would purchase the said places fitt for building watermills and sett them up to the Encrease of our trade and Navigacon much to the Publick damage of the Province .

. . .⁴⁸

The “encouragement” given by the Acts took the form of the ancient writ *ad quod damnum*, which provided a condemnation procedure through which a would be millwright might take an eighty year lease from an owner holding a fee simple title in a “Runn of Water within this Province . . . to sett a Watermill”⁴⁹ The leases included water rights and ten acres of land on either side of the water way. The annual rent due from the millwright to the fee simple land owner was according to “true value” as measured by an empanelled jury of twelve men. A further provision in the 1704 Act cautioned that if a watermill was “broke or gone to decay” and the millwright failed to repair it within two years, the owner of the land might reenter and retake possession.⁵⁰

The Mill Acts procedures had the unintended consequence of confounding the entitlement to the land and water rights along the Jones Falls. Because the Maryland land registration act only required recordation of fee simple deeds, there was no public record of the *ad quod damnum* leases taken by millwrights.⁵¹ After eighty years the legitimate holder of the fee simple reversion was sometimes forgotten or unknown. When recurrent flooding rendered watermills “broke or gone to decay,” there was no reliable public record of whether the fee simple owner had

⁴⁷ See generally John F. Hart, *The Maryland Mill Act, 1669-1766: Economic Policy and the Confiscatory Redistribution of Private Property*, 39 AM. J. LEGAL HIST. 1 (1995).

⁴⁸ An Act for Encouragement of Such Persons as Will Undertake to Build Watermills (1669), reprinted in 2 ARCHIVES OF MARYLAND: PROCEEDINGS AND ACTS OF THE GENERAL ASSEMBLY OF MARYLAND: APRIL 1666-JUNE 1676, at 211, 211-12 (William Hand Browne ed., Balt., Md. Hist. Soc’y 1884), available at <http://www.msa.md.gov/megafile/msa/speccol/sc2900/sc2908/000001/000002/pdf/am2--211.pdf>.

⁴⁹ An Act for the Encouragement of Such Persons as Will Undertake to Build Watermills (1704), reprinted in 26 ARCHIVES OF MARYLAND: PROCEEDINGS AND ACTS OF THE GENERAL ASSEMBLY OF MARYLAND: SEPTEMBER, 1704-APRIL, 1706, at 228, 228 (William Hand Browne ed., 1906), available at <http://aomol.net/000001/000026/pdf/am26--228.pdf>.

⁵⁰ An Act for the Encouragement of Such Persons as Will Undertake to Build Watermills (1704), reprinted in 26 ARCHIVES OF MARYLAND: PROCEEDINGS AND ACTS OF THE GENERAL ASSEMBLY OF MARYLAND: SEPTEMBER, 1704-APRIL, 1706, at 228, 230 (William Hand Browne ed., 1906), available at <http://aomol.net/000001/000026/pdf/am26--230.pdf>.

⁵¹ An Act for Quietting Possessions Enrolling Conveyances and Secureing the Estates of Purchasers (1715), reprinted in 30 ARCHIVES OF MARYLAND: PROCEEDINGS AND ACTS OF THE GENERAL ASSEMBLY OF MARYLAND: APRIL, 1715-AUGUST, 1716, at 311, 311-16 (William Hand Browne ed., 1910), available at <http://aomol.net/000001/000030/pdf/am30--311.pdf>.

reentered and retaken possession. The Mill Acts left entitlement to the water rights in the Jones beclouded and bemuddled.

III. REVOLUTIONARY WAR AND ITS AFTERMATH: 1776-1796

The War of American Independence signaled opportunity and spurred growth for Baltimore Town. Commercial shipping firms ran the English blockade to export flour and import arms from the West Indies. The scarcity of European goods and higher prices drove profits upward. Smith & Buchanan and other shippers became quasi-privateers, capturing prize goods from the enemy. Baltimore became the central trading depot for the war effort, supplying food and clothing, and its population increased by one-third to 8,000 residents.⁵²

Although no significant battles of the American Revolution were fought on Baltimore's soil, the best and brightest Marylanders served the cause of independence. Legend has it that General George Washington was so impressed with the valor of the "Maryland Line" in the Continental Army that he dubbed Maryland the "Old Line State."⁵³ And the historic record documents the battlefield heroism of two young Baltimoreans.

A. War Heroes

Young Sam Smith had been the junior partner in the commercial house of Smith & Buchanan since 1774. As soon as the war broke out he joined the Maryland militia and entered the fray. He served valiantly as a battlefield commander and rose through the ranks to Lieutenant Colonel. He spent the winter with George Washington at Valley Forge before declining the General's request that he serve as an aide-de-camp. In 1779 he resigned his commission and returned to Baltimore to attend to the family business of supplying the Continental Army.⁵⁴

⁵² GARY LAWSON BROWNE, *BALTIMORE IN THE NATION, 1789-1861*, at 9-10 (1980); 1 J. THOMAS SCHARF, *HISTORY OF BALTIMORE CITY AND COUNTY FROM THE EARLIEST PERIOD TO THE PRESENT DAY 185* (photo. reprint 1971) (1881).

⁵³ *History of Maryland*, WIKIPEDIA, http://en.wikipedia.org/wiki/History_of_Maryland#The_Revolutionary_period (last visited June 8, 2012).

⁵⁴ See generally FRANK A. CASSELL, *MERCHANT CONGRESSMAN IN THE YOUNG REPUBLIC: SAMUEL SMITH OF MARYLAND, 1752-1839*, at 13-36 (1971).



Lieutenant Colonel Samuel Smith⁵⁵

John Eager Howard, the son of Cornelius Howard (the holder of Lunn’s Lot on the west-side), also served in the Revolution. He began as a captain in the “Flying Camp,” fighting the British in battles from Virginia to South Carolina. As a field officer he led bayonet charges at the Battle of Cowpens. In 1778 at age twenty-five he was promoted to lieutenant-colonel. Only after he was wounded at the Battle of Eutaw in 1781 did he return to Baltimore.⁵⁶ This, of course, is the same John Eager Howard who twenty-five years later would donate the site for Baltimore’s Washington Monument.



Captain John Eager Howard⁵⁷

⁵⁵ *Smith, Samuel*, MD. DIGITAL CULTURAL HERITAGE, <http://collections.mdch.org/cdm/singleitem/collection/mhwe/id/20/rec/1> (last visited June 8, 2012) (Painted by William Edward West, Maryland Historical Society Collection).

⁵⁶ *See* 5 *DICTIONARY OF AMERICAN BIOGRAPHY* 279 (Dumas Malone ed., 1961).

⁵⁷ *John Eager Howard*, NAT’L PARK SERV. MUSEUM COLLECTIONS, http://www.nps.gov/museum/exhibits/revwar/image_gal/indeimg/howard.html (last visited June 8, 2012) (Painted by Charles Willson Peale, Independence National Historical Park Collection).

B. Post-War Boom

After the War, Samuel Smith and John Eager Howard became rich and powerful. When Samuel Smith returned to Baltimore in 1779 he found that Smith & Buchanan, which had been the city's leading mercantile houses before the war, was nearly out of business. Trade restrictions and currency depreciation had left the firm deeply in debt. Twenty-seven year old Samuel took over active management and brought the firm back to life. A dozen of his privateering ships captured prizes, while Smith—as the procurement agent for the State of Maryland— took a 5% commission on the purchase of military supplies. He poured the immense profits back into the firm.⁵⁸

In 1790, having revitalized the business, Smith invited his cousin James A. Buchanan to join him in a partnership to be renamed S. Smith & Buchanan. The twenty-two year old James—the son of William Buchanan (John Smith's original partner)—accepted. When faced with French and English blockades and trade restrictions in the endless European Wars, the partners resorted to bribery, false manifests, and disguised cargoes in order to continue to do business with the West Indies, France, Spain, and Italy. Notwithstanding the occasional seizure of their vessels, S. Smith & Buchanan found business profitable.⁵⁹ The firm grew rich with the profits from privateering; blockade running; slave trading; and shipping bullion, wheat, and tobacco to foreign ports of call.⁶⁰ Notable among its worldwide undertakings was the importation of merchandise from Canton and Calcutta⁶¹ and the exportation of “specie to India by the half million at a time.”⁶²

The two partners worked out a division of their tasks: Smith dealt with politics at the national level; Buchanan became a local civic leader. From 1793 until 1833 Samuel Smith held a seat in either the U.S. House of Representatives or the U.S. Senate, logging forty continuous years in Congress.⁶³ James Buchanan became active in city affairs. In 1792 he captained the Baltimore

⁵⁸ FRANK A. CASSELL, *MERCHANT CONGRESSMAN IN THE YOUNG REPUBLIC: SAMUEL SMITH OF MARYLAND, 1752-1839*, at 38-40 (1971) (“Privateering, or legal piracy, was the rock upon which Samuel Smith and many other American businessmen rebuilt their fortunes.”).

⁵⁹ See GARY LAWSON BROWNE, *BALTIMORE IN THE NATION, 1789-1861*, at 25-29 (1980); FRANK A. CASSELL, *MERCHANT CONGRESSMAN IN THE YOUNG REPUBLIC: SAMUEL SMITH OF MARYLAND, 1752-1839*, at 44 (1971).

⁶⁰ FRANK A. CASSELL, *MERCHANT CONGRESSMAN IN THE YOUNG REPUBLIC: SAMUEL SMITH OF MARYLAND, 1752-1839*, at 44, 56, 107, 122-23 (1971); SHERRY H. OLSON, *BALTIMORE: THE BUILDING OF AN AMERICAN CITY* 14, 17 (1980).

⁶¹ See *Meredith v. United States*, 38 U.S. 486 (1839).

⁶² BRAY HAMMOND, *BANKS AND POLITICS IN AMERICA FROM THE REVOLUTION TO THE CIVIL WAR* 261 (1957) (quoting John Quincy Adams).

⁶³ *Samuel Smith*, *ENCYCLOPÆDIA BRITANNICA*, <http://www.britannica.com/EBchecked/topic/549862/Samuel-Smith> (last visited June 8, 2012).

1793-1803 United States Congressman (Md.)

1803-1815 United States Senator (Md.)

1816- 1822 United States Congressman (Md.)

1822-1833 United States Senator (Md.)

1835-1838 Mayor of Baltimore

Sans Culottes, a Continental Army military company;⁶⁴ in 1797 he was elected as a councilman in the newly incorporated Baltimore Town.⁶⁵

When John Eager Howard returned from the War he inherited the family's 414 Lunn's Lot parcel on what was destined to become Baltimore's prosperous west side. The Colonel found himself an anomalous "planter"—one who owned a large parcel of land but no plantation. He determined to continue conversion of his unplanted estate into profitable urban building lots.⁶⁶ He laid out streets, alleys, and lots (from ¼ acre to ½ acres in size) that were dubbed "Howard's Addition." He persuaded the General Assembly to bring it all within the city's limits. He took one hundred thirty-five acres and laid out approximately three hundred fifty lots along a grid from Warren Street up to Saratoga Street with the new Howard Street as the north/south axis. Howard's Addition was the largest single addition in the history of Baltimore Town.⁶⁷

For his personal domain he reserved two hundred and fifty acres atop Howard's Hill. There on a bluff overlooking the city he began to build his Belvidere mansion in 1783. The site he later provided for the monument was an open space, 200 feet square, next to the mansion.⁶⁸

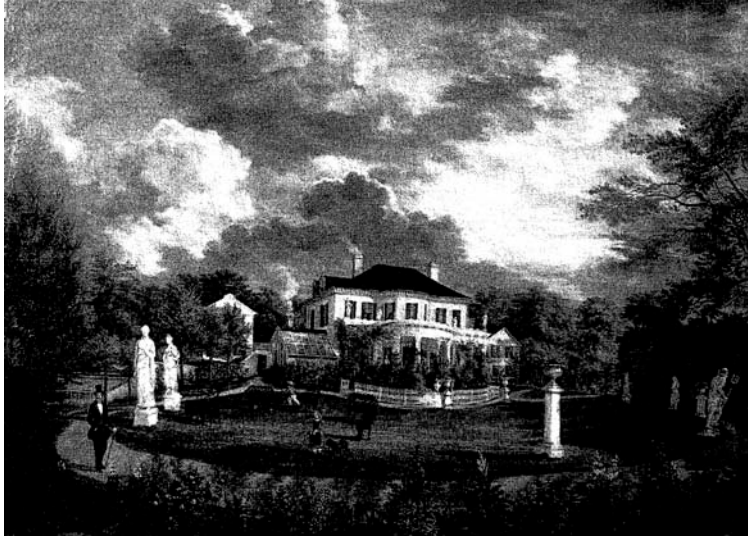
⁶⁴ 1 J. THOMAS SCHARF, THE CHRONICLES OF BALTIMORE 247 (photo. reprint 1989) (1874). "The [Baltimore Sans Culottes] company . . . became so atrocious for its barbarities [that it] changed its name to the Independent Blues, and was a famous company . . . being notable for its natty dress and excellent drill." 1 J. THOMAS SCHARF, HISTORY OF BALTIMORE CITY AND COUNTY FROM THE EARLIEST PERIOD TO THE PRESENT DAY 668 (photo. reprint 1971) (1881).

⁶⁵ 1 J. THOMAS SCHARF, THE CHRONICLES OF BALTIMORE 281 (photo. reprint 1989) (1874).

⁶⁶ See 5 DICTIONARY OF AMERICAN BIOGRAPHY 279 (Dumas Malone ed., 1961); Garrett Power, *Parceling Out Land in Baltimore: 1632-1796*, 88 MD. HIST. MAG. 151, 165 (1993).

⁶⁷ An Act for an Addition to Baltimore-Town, in Baltimore County, ch. II (1782), *reprinted in* 203 ARCHIVES OF MARYLAND: HANSON'S LAWS OF MARYLAND: 1763-1784, at 305, 305 (photo. reprint 2000) (1787), *available at* <http://aomol.net/000001/000203/pdf/am203--305.pdf>; THOMAS SCHARF, THE CHRONICLES OF BALTIMORE 201 (photo. reprint 1989) (1874); Garrett Power, *Parceling Out Land in Baltimore: 1632-1796*, 88 MD. HIST. MAG. 151, 165 (1993); John Eager Howard's Return of Ground Rents in Baltimore Town (Mar. 1793) (available from Maryland Historical Society, Howard Papers, MS 469, Box 2).

⁶⁸ THOMAS W. GRIFFITH, ANNALS OF BALTIMORE 106 (Balt., William Wooddy 1833); 1 J. THOMAS SCHARF, THE CHRONICLES OF BALTIMORE 209 (photo. reprint 1989) (1874); *An Old Baltimore Mansion*, 12 APPELTONS' J. 801, 802 (1874). As a public official Howard was once elected to the Continental Congress (1787-1788), twice to the U.S. Senate (1796-1803), and served as the Maryland governor from 1788-1791. In 1816 he would run unsuccessfully as the Federalist candidate for Vice President. See 5 DICTIONARY OF AMERICAN BIOGRAPHY 279 (Dumas Malone ed., 1961).



Belvidere Mansion⁶⁹

During the 1780's John Eager Howard's real estate business boomed. He sold approximately two hundred lots on the leasehold plan and was collecting the ground rent thereon. Perhaps as many as one hundred houses were constructed in his west side developments.⁷⁰ Howard was also active as a politician. Between 1780 and 1803 he served from time to time as a member of the Continental Congress, Governor of Maryland, State Senator, and United States Senator. In 1790 President George Washington awarded John Eager Howard a medal struck by the Congress in commemoration of his heroism at the battle of Cowpens.

IV. BALTIMORE CITY: 1796-1815

By 1796 the Mayor and City Council of the newly incorporated city of Baltimore faced the task of meeting the service demands of more than 20,000 residents.⁷¹

⁶⁹ THE ARCHITECTURE OF BALTIMORE 34 (Mary Ellen Hayward & Frank R. Shivers, Jr. eds., 2004) (Oil painting by Augustus Weidenbach, Maryland Historical Society Collection).

⁷⁰ John Eager Howard's Return of Ground Rents in Baltimore Town (Mar. 1793) (available from Maryland Historical Society, Howard Papers, MS 469, Box 2).

⁷¹ See GARY LAWSON BROWNE, BALTIMORE IN THE NATION, 1789-1861, at 37 (1980); 1 J. THOMAS SCHARF, HISTORY OF BALTIMORE CITY AND COUNTY FROM THE EARLIEST PERIOD TO THE PRESENT DAY 185 (photo. reprint 1971) (1881).



Plan of the City and Environs of Baltimore 1797⁷²

A. The Jones Falls

Some of the Jones Falls’ nagging problems had been solved. A horseshoe bend in the winding watercourse of the Jones Falls—which blocked the extension of Calvert Street to the north—had been straightened out. In 1786 Englehart Eiser (with the consent of the proprietors of the adjacent land) cut a canal diverting the Jones Falls from its old horseshoe curve into a due southeast course. Once the Falls’ course had been redirected the bluff was naturally washed and artificially pushed into the precipice, thereby allowing new development.⁷³

But no answer had been found for the “freshets” that periodically overflowed the banks of the Falls and deluged houses, stores, bridges, grist mills, warehouses, and wharves. Floods were reported in 1754, 1786, and 1788. The *Maryland Gazette* from October 10, 1786 spoke of the “devastation made by the dreadful swelling of the rivers and runs . . . in that part of this town near Jones’s Falls . . .” Estimates place the damages at £100,000. Better bridges and mightier mill-dams might be built, but eighteenth century engineering lacked the capacity to control the waters.⁷⁴

⁷² JOHN W. REPS, *TIDEWATER TOWNS* 291 (1972) (Engraved by Francis Shallus, Peabody Institute Library Collection).

⁷³ See *Browne v. Kennedy*, 5 H. & J. 195, 197-98 (Md. 1821); 1 J. THOMAS SCHARF, *HISTORY OF BALTIMORE CITY AND COUNTY FROM THE EARLIEST PERIOD TO THE PRESENT DAY* 61 (photo. reprint 1971) (1881). Scharf dates the diversion of the Jones Falls to 1781 but the 1786 date taken from *Browne v. Kennedy* seems more reliable.

⁷⁴ THOMAS W. GRIFFITH, *ANNALS OF BALTIMORE* 116-17 (Balt., William Woody 1833); 1 J. THOMAS SCHARF, *THE CHRONICLES OF BALTIMORE* 43, 50, 244, 286 (photo. reprint 1989) (1874) (quoting *Maryland Gazette*).

B. Grist Mills



**View of a Grist Mills
Jones Falls, Looking Upstream (1804)⁷⁵**

This frequent flooding had left many of the mill dams and water mills “broke or gone to decay.”⁷⁶ In 1797 John Eager Howard undertook to restore one of the derelict grist mills that lay at the foot of Howard’s Hill below his Belvidere mansion.⁷⁷ The thirty-one acre tract of land called Hanson’s Improvement, which straddled the Jones Falls, had been established as Baltimore Town’s first mill site in 1711 when “Charles Carroll of Ann. Ann Arundel County Gent.” granted the thirty-one acre tract to “Jonathan Hanson of Balto. Cty millwright” in return for consideration of £15.⁷⁸ By 1760 a beclouded chain of title had passed the property to Edward Fell.⁷⁹ Doubts persisted as to whether Fell held as the fee simple owner or as a tenant under an eighty year *ad quod damnum* lease.

⁷⁵ RAPHAEL SEMMES, *BALTIMORE AS SEEN BY VISITORS: 1783-1860*, at frontispiece (1953) (Painted by Francis Guy, Peabody Institute Collection).

⁷⁶ An Act for the Encouragement of Such Persons as Will Undertake to Build Watermills (1704), *reprinted in* 26 *ARCHIVES OF MARYLAND: PROCEEDINGS AND ACTS OF THE GENERAL ASSEMBLY OF MARYLAND: SEPTEMBER, 1704-APRIL, 1706*, at 228, 230 (William Hand Browne ed., 1906), *available at* <http://aomol.net/000001/000026/pdf/am26--230.pdf>.

⁷⁷ *See* Deed Claim for Hansons Improvement (available from Maryland Historical Society, Howard Papers, MS 469, Box 1) (Edward Fell water mill property); Proposed Terms for Erecting a New Mill by J.E. Howard, Josias Pennington, and James Ogleby (available from Maryland Historical Society, Howard Papers, MS 469, Box 2).

⁷⁸ Deed from Charles Carroll to Jonathan Hanson (1711) (available in Baltimore County Court Land Records, liber TR no. A, p. 138).

⁷⁹ *See* Deed Claim for Hansons Improvement (available from Maryland Historical Society, Howard Papers, MS 469, Box 1) (Edward Fell water mill property).

In 1761 William Moore, an Irish-born miller, acquired whatever right, title, and interest Fell had in the site and constructed a dwelling house and two grist mills.⁸⁰ By 1785 Moore had fallen on hard times. The mills' dam had been damaged by floods, and Moore was indebted to Richard Curson in the sum of "nine thousand nine hundred and ninety five pounds four shillings and three pence, current money in species together with interest thereon." The debt was foreclosed, and Curson succeeded to all of Moore's right, title, and interest. In 1797 Curson auctioned the property off in satisfaction of the debt.⁸¹

John Eager Howard entered into a partnership with Josias Pennington and James Ogleby and together they made the highest bid of £1,400. Curson transferred all of his right, title, and interest in Hanson's Improvement to the three partners, each of whom had a special interest.⁸²

Pennington owned and operated the next mill upstream, Pennington's Mill. Through the partnership he could assure compatible operation. Moreover, a provision in the 1704 Mill Act provided that if a watermill was damaged and the millwright failed to repair it within two years, the fee simple owner of the land might reenter and retake possession.⁸³ If perchance Moore's title had been forfeited, Pennington was the heir of his deceased wife Jemena, who was the daughter of Jonathan Hanson, the grantee in 1711. Since Pennington might hold the reversionary interest in the parcel, his participation had the salutary effect of quieting any inconsistent title claims held by the Hanson clan.⁸⁴ James Ogleby was a millwright, and under the terms of the partnership he could rebuild and take a profit from a bigger and better merchant's mill. Howard had the locational advantage of an operating grist mill next door to his Belvidere estate.⁸⁵

Besides, Howard may have had inside information on the thirty-one acre parcel's special value.⁸⁶

⁸⁰ THOMAS GRIFFITH, *ANNALS OF BALTIMORE* 39 (Balt., William Woody 1833); *see also* Indenture from Richard Curson to John Eager Howard and Other (1797) (available in Baltimore County Court Land Records, liber KK, p. 483).

⁸¹ Indenture from Richard Curson to John Eager Howard and Other (1797) (available in Baltimore County Court Land Records, liber KK, p. 483).

⁸² Indenture from Richard Curson to John Eager Howard and Other (1797) (available in Baltimore County Court Land Records, liber KK, p. 483).

⁸³ An Act for the Encouragement of Such Persons as Will Undertake to Build Watermills (1704), *reprinted in* 26 ARCHIVES OF MARYLAND: PROCEEDINGS AND ACTS OF THE GENERAL ASSEMBLY OF MARYLAND: SEPTEMBER, 1704-APRIL, 1706, at 228, 230-31 (William Hand Browne ed., 1906), *available at* <http://aomol.net/000001/000026/pdf/am26--230.pdf>.

⁸⁴ *See* Indenture from John Eager Howard & Others Deed to John McKim & Others (1804) (available in Baltimore County Court Land Records, liber WG no. 84, p. 584); Proposed Terms for Erecting a New Mill by J.E. Howard, Josias Pennington, and James Ogleby (available from Maryland Historical Society, Howard Papers, MS 469, Box 2).

⁸⁵ Proposed Terms for Erecting a New Mill by J.E. Howard, Josias Pennington, and James Ogleby (available from Maryland Historical Society, Howard Papers, MS 469, Box 2).

⁸⁶ *See* Indenture from John Eager Howard & Others Deed to John McKim & Others (1804) (available in Baltimore County Court Land Records, liber WG no. 84, p. 584); Proposed Terms for Erecting a New Mill by J.E. Howard, Josias Pennington, and James Ogleby (available from Maryland Historical Society, Howard Papers, MS 469, Box 2).

C. Water Supply

In 1797 the newly created City Council considered the contamination of the old water sources. It sponsored an effort to “view the springs and streams in the neighborhood of Baltimore, and to report on the practicability of conveying the same into the city.” John Eager Howard was one of the civic leaders charged with the task of making plans to convey into the city by pipes the waters of the Jones Falls. Alas, the Yellow Fever epidemic of 1800 intervened and no public works were undertaken.⁸⁷

By 1804, with the “city having . . . practically confessed its inability to . . . introduc[e] a copious and permanent supply of water into the city,” the task was “thrown . . . upon the enterprise of public-spirited citizens.”⁸⁸ Senator Samuel Smith, Baltimore’s soldier, merchant, congressman, and leader chaired the effort.⁸⁹

A private Baltimore Water Company was proposed, articles of association adopted, and books opened to receive subscriptions to the shares. Initially the subscribers were slow in coming. There was a good reason for the hesitation. The Water Company was a partnership, not a corporation. Absent a legislative charter based upon a showing of public necessity which had not yet been obtained, each subscribing partner ran the risk of unlimited liability for any of the Association’s lawfully contracted debts. In times of economic downturn this could prove a risky proposition. Baltimore’s merchants were still in recovery from the financial “panic” of 1798-99, which had left many of the prominent mercantile houses insolvent.⁹⁰

Only after the renewal of the war between France and Great Britain had revived Baltimore’s shipping trade did enough merchants, insurance companies, and other companies come forward and subscribe. By May of 1804 all of the shares of the association were taken up, and the Water Company was in operation. The Board of Directors included James A. Buchanan and others.⁹¹

The directors decided to acquire water rights along the Jones Falls (“the most permanent stream in this part of the country”) and to use them to form a large reservoir for the supply of the city

⁸⁷ See 1 J. THOMAS SCHARF, HISTORY OF BALTIMORE CITY AND COUNTY FROM THE EARLIEST PERIOD TO THE PRESENT DAY 213-15 (photo. reprint 1971) (1881).

⁸⁸ 1 J. THOMAS SCHARF, HISTORY OF BALTIMORE CITY AND COUNTY FROM THE EARLIEST PERIOD TO THE PRESENT DAY 215 (photo. reprint 1971) (1881).

⁸⁹ 1 J. THOMAS SCHARF, HISTORY OF BALTIMORE CITY AND COUNTY FROM THE EARLIEST PERIOD TO THE PRESENT DAY 215 (photo. reprint 1971) (1881); see generally *Smith, Samuel*, BIOGRAPHICAL DIRECTORY U.S. CONGRESS, <http://bioguide.congress.gov/scripts/biodisplay.pl?index=S000609> (last visited June 8, 2012).

⁹⁰ GARY LAWSON BROWNE, BALTIMORE IN THE NATION, 1789-1861, at 29-31 (1980) (discussing Baltimore’s first financial panic); 1 J. THOMAS SCHARF, HISTORY OF BALTIMORE CITY AND COUNTY FROM THE EARLIEST PERIOD TO THE PRESENT DAY 215 (photo. reprint 1971) (1881).

⁹¹ 1 J. THOMAS SCHARF, HISTORY OF BALTIMORE CITY AND COUNTY FROM THE EARLIEST PERIOD TO THE PRESENT DAY 215 (photo. reprint 1971) (1881). The complete Board in 1804 was: John McKim, President; James Buchanan, Solomon Etting, William Cooke, James Mosher, John Donnell, and Jonathan Ellicott, Directors.

while using any surplus for milling purposes.⁹² They selected Hanson's Improvement as the best location. In December of 1804 John Eager Howard, Josias Pennington, and James Ogleby transferred all their right, title, and interest in both the lands and waters on the tract to the named directors in trust for the benefit of the Baltimore Water Company (since the company was a partnership and not a corporation it could not take title under its corporate name). Much of the thirty-one acre parcel bordered the west bank of the Jones Falls, between Centre and John (now Monument) Streets. The price was \$36,000.⁹³

Howard, Pennington and Ogleby turned a handsome profit. They had purchased the parcel in 1797 for £400. By selling the parcel in 1804 for \$36,000 (which according to 1804 exchange rates was equivalent to about £7,900) they had increased their investment almost twenty times over.⁹⁴

The Water Company went about its business. Under the direction of water engineer John Davis⁹⁵ it constructed a storage reservoir at the terminus of Centre Street and filled it with water from the Jones Falls. Water was pumped from this reservoir by waterwheel to an elevated reservoir on Howard's Hill and thence into the city. Excess water was used to power an adjoining "City Mill." By 1807 the waterworks was in operation.⁹⁶

Efforts by the Baltimore Water Company's shareholders to achieve limited liability took a little longer. The Maryland General Assembly had passed acts of incorporation chartering the Water Company as a joint stock company in 1805 and 1806, but the directors rejected the charters as objectionable. It was not until 1808 that the Company accepted a charter with a capital stock of \$250,000 consisting of 5000 shares of fifty dollars each.⁹⁷ The stockholders' liability was limited to the value of their stock. Limitation of liability may have been the impetus for a bubble in the stocks' value, which for a time traded in the secondary market for as much as nine times above par. By 1811 the Company was realizing about \$9,000 per year in water fees.⁹⁸

⁹² 1 J. THOMAS SCHARF, HISTORY OF BALTIMORE CITY AND COUNTY FROM THE EARLIEST PERIOD TO THE PRESENT DAY 215 (photo. reprint 1971) (1881).

⁹³ Indenture from John Eager Howard & Others Deed to John McKim & Others (1804) (available in Baltimore County Court Land Records, liber WG no. 84, p. 584).

⁹⁴ See *Exchange Rates Between the United States Dollar and Forty-One Currencies*, MEASURING WORTH, www.measuringworth.com/datasets/exchangeglobal/result.php?year_source=1804&year_result=1804&countryE%5B%5D=United+Kingdom (last visited June 8, 2012).

⁹⁵ See generally *Autobiography of John Davis, 1770-1864*, 30 MD. HIST. MAG. 11 (1935).

⁹⁶ 1 J. THOMAS SCHARF, HISTORY OF BALTIMORE CITY AND COUNTY FROM THE EARLIEST PERIOD TO THE PRESENT DAY 215-16 (photo. reprint 1971) (1881); 1 J. THOMAS SCHARF, THE CHRONICLES OF BALTIMORE 295-96 (photo. reprint 1989) (1874).

⁹⁷ An Act to Incorporate the President and Directors of the Baltimore Water Company, ch. LXXIX (1808), *reprinted in* 597 ARCHIVES OF MARYLAND: LAWS OF MARYLAND, at 38, 38 (photo. reprint 2003) (1808), *available at* <http://aomol.net/000001/000597/pdf/am597--38.pdf>.

⁹⁸ 1 J. THOMAS SCHARF, HISTORY OF BALTIMORE CITY AND COUNTY FROM THE EARLIEST PERIOD TO THE PRESENT DAY 216 (photo. reprint 1971) (1881).

D. Banking

The emergence of post-Revolution Baltimore as the Nation's leading exporter of grain, flour, and tobacco had left the town's venture capitalists with a need for banking institutions providing the fiscal functions of "discount, deposit and issue." Deposits were to be made by private parties in specie (gold or silver or coins). Discounts were bank loans to be made by the bank to private parties with the interest deducted in advance. The issuance of bank notes to private parties monetized their credit.⁹⁹

Between 1790 and 1812 eleven Baltimore-based banks would be created under state law. Baltimore's first bank was the Bank of Maryland chartered by the legislature in 1790. A companion Bank of Baltimore was chartered in 1795. Six had started out as private partnerships with few if any state regulation. The partners were at risk since their personal estates were jointly and severally liable for the partnership debts. By 1817 Maryland law required that all banks be chartered by the State.¹⁰⁰

State chartered banks were organized as legislatively chartered joint stock companies. Typically, prominent merchants pooled their capital, obtained a charter, and then sat as the Board Directors. They then gained additional capital by selling stock subscriptions paid in "legal money" (gold, silver, or notes on specie-paying banks). Usually they required that one-fourth of their nominal capital be in hand before they began operations. The policy of the banks was to try to "maintain . . . cash on hand equal to one-third of their circulation." A stockholder's responsibility for the banks' debts only extended to the value of his stock.¹⁰¹

The business of Maryland's chartered banks was restricted to banking operations only—discount and deposit and issue. The banks "monetized" credit by making discount loans in the form of bank notes or paper money. Land speculation and commercial operations were forbidden. The maximum rate of interest lawful for banks to charge on loans was fixed at six percent per annum.¹⁰²

Maryland's banks also had a competitor. In 1791 Congress established the First Bank of the United States. A brainchild of Federalist Alexander Hamilton, the national bank was chartered

⁹⁹ GARY LAWSON BROWNE, *BALTIMORE IN THE NATION, 1789-1861*, at 24 (1980); ALFRED COOKMAN BRYAN, *HISTORY OF STATE BANKING IN MARYLAND* 10, 12, 34 (Balt., Johns Hopkins Press 1899). For example, assume a loan transaction where the borrower is intent on borrowing \$1,000 for one year at 6% interest rate. In an interest loan transaction the lender would advance \$1,000 and the borrower would repay \$1,060 on the due date. In a discount loan transaction the lender would advance the discounted amount of \$940 and the borrower would repay \$1,000 on the due date.

¹⁰⁰ See ALFRED COOKMAN BRYAN, *HISTORY OF STATE BANKING IN MARYLAND* 19-20, 25-26, 31 (Balt., Johns Hopkins Press 1899).

¹⁰¹ GARY LAWSON BROWNE, *BALTIMORE IN THE NATION, 1789-1861*, at 24 (1980); ALFRED COOKMAN BRYAN, *HISTORY OF STATE BANKING IN MARYLAND* 29, 32, 39 (Balt., Johns Hopkins Press 1899).

¹⁰² GARY LAWSON BROWNE, *BALTIMORE IN THE NATION, 1789-1861*, at 24 (1980); ALFRED COOKMAN BRYAN, *HISTORY OF STATE BANKING IN MARYLAND* 28, 32-33 (Balt., Johns Hopkins Press 1899).

for twenty years and based in Philadelphia. The bank was a private company with a capitalization of \$10 million in stock. In the largest initial public offering the country had ever known, \$8 million dollars worth of stock was sold to private investors with a \$2 million share being retained by the national government. The bank functioned as a commercial bank making loans to individuals and companies. When making a loan the bank gave the borrowers its “banknotes, redeemable in specie.” In 1792 branches were opened in Boston, New York, Baltimore, and Charleston. The Baltimore Branch was allocated a working capital of \$500,000.¹⁰³

The national bank was unpopular with Thomas Jefferson and other state’s rights Republicans as a symbol of the evils of federalism—centralization of power. When the Bank’s charter came up for its twenty year renewal in 1811, Maryland’s Republican U.S. Senator Samuel Smith joined the opposition. As a shipping merchant he was aware that banks were essential to commerce, but Smith had long been associated with Maryland’s state chartered banks. He served on the Board of Directors of the Bank of Baltimore and the Bank of Maryland and held stock in other state banks. During its years of operation the Baltimore Branch of the Bank of the United States had undertaken to restrict as far as possible state bank circulation through the frequent “cashing out” of the Maryland Bank notes received over its counters. After a hard fought political battle, the re-chartering suffered a narrow defeat in Congress, and the First Bank of the United States was eliminated.¹⁰⁴

After the War of 1812 the U.S. found itself heavily in debt. Without a national bank the federal government could not manage its revenues or readily borrow money. President Madison reluctantly supported the creation of a Second Bank of the United States.¹⁰⁵ In January of 1815 a select five man committee of the U.S. Senate—of which Maryland Senator Samuel Smith was a member—reported favorably on a “[b]ill to incorporate the subscribers to the Bank of the United States of America” with the capital stock of which was to be thirty million dollars to be divided into 300,000 shares at one hundred dollars per share. “James A. Buchanan”—“at Baltimore”—was named in the preamble of the Act as one of the seventy-one commissioners. The bill passed both House and Senate. President Madison vetoed the law, but made clear that he would subsequently approve it with minor amendments. A February 1815 version of the Act named

¹⁰³ ALFRED COOKMAN BRYAN, HISTORY OF STATE BANKING IN MARYLAND 20 (Balt., Johns Hopkins Press 1899); FED. RESERVE BANK OF PHILA., THE FIRST BANK OF THE UNITED STATES: A CHAPTER IN THE HISTORY OF CENTRAL BANKING 1-20 (2009) (quoting historian David Cowen), *available at* <http://www.philadelphiafed.org/publications/economic-education/first-bank.pdf>.

¹⁰⁴ ALFRED COOKMAN BRYAN, HISTORY OF STATE BANKING IN MARYLAND 35 (Balt., Johns Hopkins Press 1899); FRANK A. CASSELL, MERCHANT CONGRESSMAN IN THE YOUNG REPUBLIC: SAMUEL SMITH OF MARYLAND, 1752-1839, at 165-70 (1971).

¹⁰⁵ FED. RESERVE BANK OF PHILA., THE SECOND BANK OF THE UNITED STATE: A CHAPTER IN THE HISTORY OF CENTRAL BANKING 3-5 (2010), *available at* <http://www.philadelphiafed.org/publications/economic-education/second-bank.pdf>.

James A. Buchanan as one of the twenty-five directors of the bank¹⁰⁶ but when enacted in 1816 the law named no names.¹⁰⁷ It appeared, however, that Buchanan (with the sponsorship of his business partner Senator Samuel Smith) was assured a directorship of the Baltimore Branch and perhaps the presidency.

V. THE BEST OF TIMES: 1815-1817

A. Robert Mills

When Robert Mills came to Baltimore to supervise construction of his Washington Monument in 1815, he and James A. Buchanan, the President of the Washington Monument Board of Managers, established a close working relationship.¹⁰⁸ Buchanan provided aid and counsel as Mills began preparation for the erection of the tower. Mills drafted specifications and let contracts for excavation, site preparation, and materials. The 178 foot column would be constructed of white marble from nearby Cockeysville. A competition would be held to select a sculptor who would carve from marble a seventeen foot tall standing figure of George Washington. Mills managed the construction, kept the accounts, and acted as a paymaster ever mindful of the \$100,000 budget.¹⁰⁹

Robert Mills billed himself as the “first native American who directed his studies to architecture as a profession”¹¹⁰ In 1800, at the age of twenty, he had left his Charleston, South Carolina hometown to work as a draftsman on the Nation’s Capitol. After striking up a friendship with President Thomas Jefferson, Mills moved to Monticello where he spent two years as an apprentice architect. Thereafter Mills looked upon Jefferson as his father figure and mentor. Mills next ventured to Philadelphia where he obtained a junior position with architect Benjamin Henry Latrobe. In 1808 he had struck out on his own. Mills undertook to act both as a designer and building engineer.¹¹¹

¹⁰⁶ LEGISLATIVE AND DOCUMENTARY HISTORY OF THE BANK OF THE UNITED STATES 580-604 (M. St. Clair Clarke & D. A. Hall eds., Wash., Gales & Seaton 1832). Isaac McKim, who was also named as a Maryland Director, had been Smith’s military aid during the Revolution. FRANK A. CASSELL, *MERCHANT CONGRESSMAN IN THE YOUNG REPUBLIC: SAMUEL SMITH OF MARYLAND, 1752-1839*, at 71 (1971).

¹⁰⁷ An Act to Incorporate the Subscribers to the Bank of the United States, ch. 44, 3 Stat. 266 (1816).

¹⁰⁸ JOHN M. BRYAN, *ROBERT MILLS* 118-19 (2001).

¹⁰⁹ See, e.g., JOHN M. BRYAN, *ROBERT MILLS* 118-19, 124 (2001); JOHN DORSEY & JAMES D. DILTS, *A GUIDE TO BALTIMORE ARCHITECTURE* 115-16 (3d ed. 1997); H.M. PIERCE GALLAGHER, *ROBERT MILLS: ARCHITECT OF THE WASHINGTON MONUMENT* 106-09 (1966); RHODRI WINDSOR LISCOMBE, *ALTOGETHER AMERICAN: ROBERT MILLS, ARCHITECT AND ENGINEER, 1781-1855*, at 70-71 (1994); 1 J. THOMAS SCHARF, *HISTORY OF BALTIMORE CITY AND COUNTY FROM THE EARLIEST PERIOD TO THE PRESENT DAY* 265 (photo. reprint 1971) (1881); see also *Journal of Robert Mills* (1816), in Richard Xavier Evans (ed.), *The Daily Journal of Robert Mills, Baltimore, 1816*, 30 MD. HIST. MAG. 257 (1935).

¹¹⁰ Robert Mills, *The Architectural Works of Robert Mills* (unfinished), in H.M. PIERCE GALLAGHER, *ROBERT MILLS: ARCHITECT OF THE WASHINGTON MONUMENT* 168, 168 (1966).

¹¹¹ JOHN M. BRYAN, *ROBERT MILLS* 11-63 (2001).

His seven years of private practice in Philadelphia (1808-1815) proved bittersweet. He scrambled for commissions and his executed works included Baptist and Unitarian churches and an elegant group of eleven houses called Franklin Row.¹¹² But his professional practices provoked hard feelings among his clients and competitors. For example, in 1810 he constructed a private house for Benjamin Chew Jr.—who rejected the bill. Chew wrote that the \$160 bill was “very widely differing from my own sentiments and expectations” and avowed that he had never requested such an elaborate plan. From Chew’s point of view Mills had not followed directions and was grossly over- budget. The bill was finally settled for \$100.55.¹¹³

In 1811 Mills lost a competition with engineer Lewis Wernwag for a commission to design a bridge across Philadelphia’s Schuylkill River. After the bridge was more or less completed Wernwag found work elsewhere, and the bridge authority contracted with Mills to supervise its completion. Mills finished the job, and when subsequent publicity listed him as the architect he did nothing to correct the popular misunderstanding. Critics accused Mills of taking credit for the work of others.¹¹⁴

In 1812 Mills’ former preceptor Benjamin Henry Latrobe thought that he had been selected by a Richmond, Virginia committee of citizens as the architect for a church to be erected as a memorial to the victims of a tragic theatre fire. Latrobe was finishing his plans and had hired a builder when he discovered that Mills, unbeknownst to him, had approached the committee with plans of his own. Latrobe felt that Mills had used inside influence to “steal” both the commission and elements of Latrobe’s design. Latrobe withdrew and Mills was awarded the work along with a design prize of \$500. Latrobe and fellow architects found Mills’ wheeling and dealing unprofessional.¹¹⁵

Notwithstanding the hard work and hard feelings resulting from his Philadelphia practice, Mills found himself hard-pressed to support his wife Eliza and their three children. In Eliza’s words the “cash [was] too little . . . to meet demand.” In 1816 Mills could look forward to a new start in Baltimore.¹¹⁶

¹¹² See Kenneth Ames, *Robert Mills and the Philadelphia Row House*, 27 *J. SOC’Y ARCHITECTURAL HISTORIANS* 140 (1948).

¹¹³ JOHN M. BRYAN, *ROBERT MILLS* 79-81 (2001).

¹¹⁴ JOHN M. BRYAN, *ROBERT MILLS* 90-93 (2001); RHODRI WINDSOR LISCOMBE, *ALTOGETHER AMERICAN: ROBERT MILLS, ARCHITECT AND ENGINEER, 1781-1855*, at 47-50 (1994).

¹¹⁵ JOHN M. BRYAN, *ROBERT MILLS* 97-105 (2001); RHODRI WINDSOR LISCOMBE, *ALTOGETHER AMERICAN: ROBERT MILLS, ARCHITECT AND ENGINEER, 1781-1855*, at 51-54 (1994); H.M. PIERCE GALLAGHER, *ROBERT MILLS: ARCHITECT OF THE WASHINGTON MONUMENT* 111-113 (1966)

¹¹⁶ RHODRI WINDSOR LISCOMBE, *ALTOGETHER AMERICAN: ROBERT MILLS, ARCHITECT AND ENGINEER, 1781-1855*, at 57-58 (1994).

When Mills arrived in Baltimore he was informed that the \$500 prize would be deducted from his annual salary of \$1500 and that he would be denied a salary advance because of the insufficiency of funds on hand.¹¹⁷ Mills turned to James A. Buchanan to find additional work. Buchanan lived in a spacious town house in the city's most fashionable neighborhood. It was located one half of a mile south of the Washington Monument on a square formed along Calvert Street between Fayette and Lexington across from the Court House.¹¹⁸

The square had originally been intended as the site for the Washington Monument, but it had been moved because of a concern that Mills' 178 foot column might topple to the ground. The site had been used instead for Maximilian Godefroy's more diminutive Battle Monument built in the memory of Baltimoreans who fell in the 1814 British attack.¹¹⁹

During 1816 Mills built a furnace and added a portico to the Buchanan house.¹²⁰ Buchanan also commissioned Mills to build a Buchanan-Calhoun family burial crypt in the fashionable Westminster Cemetery.¹²¹

More than likely Buchanan, as a Director of the Baltimore Water Company, used his influence to arrange another job for Mills. Water engineer John Davis had resigned his position as President of the Water Company.¹²² Mills was hired to replace him at an annual salary of \$1,500.¹²³

In 1816 Robert Mills found himself comfortably fixed with two salaried positions (\$1,500 as construction manager of the Monument and \$1,500 as President of the Water Company¹²⁴), and when he received a commission from the Baptist congregation of Baltimore to build a substantial

¹¹⁷ See, e.g., JOHN M. BRYAN, ROBERT MILLS 115-16, 124 (2001); WILLIAM VOSS ELDER, ROBERT MILLS' WATERLOO ROW: BALTIMORE 1816, at 2 (1971); H.M. PIERCE GALLAGHER, ROBERT MILLS: ARCHITECT OF THE WASHINGTON MONUMENT 17, 103-07 (1966); 1 J. THOMAS SCHARF, HISTORY OF BALTIMORE CITY AND COUNTY FROM THE EARLIEST PERIOD TO THE PRESENT DAY 265-66 (photo. reprint 1971) (1881); 2 J. THOMAS SCHARF, THE CHRONICLES OF BALTIMORE 375-78 (photo. reprint 1989) (1874).

¹¹⁸ THE ARCHITECTURE OF BALTIMORE 80 (Mary Ellen Hayward & Frank R. Shivers, Jr. eds., 2004).

¹¹⁹ THE ARCHITECTURE OF BALTIMORE 4 (Mary Ellen Hayward & Frank R. Shivers, Jr. eds., 2004); JOHN DORSEY & JAMES D. DILTS, A GUIDE TO BALTIMORE ARCHITECTURE 6 (3d ed. 1997).

¹²⁰ See, e.g., *Robert Mills: A List of Works, Projects, and Writings*, in ROBERT MILLS: ARCHITECT 179, 180 (John M. Bryan ed., 1989); Journal of Robert Mills (1816), in Richard Xavier Evans (ed.), *The Daily Journal of Robert Mills, Baltimore, 1816*, 30 MD. HIST. MAG. 257, 268 (1935).

¹²¹ MARY ELLEN HAYWARD & R. KENT LANCASTER, BALTIMORE'S WESTMINSTER CEMETERY & WESTMINSTER PRESBYTERIAN CHURCH: A GUIDE TO THE MARKERS AND BURIALS, 1775-1943, at 20 (1984). Buchanan's wife had been Elizabeth Calhoun, the daughter of James Calhoun, the first Mayor of Baltimore. He died in 1816 and may have been one of the first internees in the vault.

¹²² *Autobiography of John Davis, 1770-1864*, 30 MD. HIST. MAG. 11, 36 (1935).

¹²³ JOHN M. BRYAN, ROBERT MILLS 120-21, 124 (2001); Journal of Robert Mills (1816), in Richard Xavier Evans (ed.), *The Daily Journal of Robert Mills, Baltimore, 1816*, 30 MD. HIST. MAG. 257, 266 (1935).

¹²⁴ According to an inflation calculator, \$3000 in 1815 dollars would have an equivalent buying power as \$35,230 in 2010 dollars. *The Inflation Calculator*, WESTEGG.COM, <http://www.westegg.com/inflation/> (last visited June 10, 2012).

church he found himself well-heeled—in addition to his \$3,000 in annual income, his account book showed that he could expect to receive an additional \$5,000 in fees by the end of 1816.¹²⁵



First Baptist Church¹²⁶

Robert Mills immediately took steps to provide his family with a Baltimore home. Joshua Fort, a “carpenter and a joiner,” was the owner of a house at 225 St. Paul Lane just two blocks away from the Monument site. He assigned the property to Mills who paid no money down, taking title on the ground rent plan and promising to pay Joshua Fort, the grantor, \$186.50 each and every year.¹²⁷ He expanded the house and paid for the improvement with \$2,500 he borrowed from his mentor James A. Buchanan. Mills assigned to Buchanan a mortgage on his leasehold interest to secure the loan.¹²⁸ Tax records for 1816 list his domestic holdings as including the St. Paul Lane house, furniture, a cow, and two slaves, Peter and Eliza, all with an assessed value of \$1,264.¹²⁹

Mills then looked for opportunities to invest in a half dozen building lots nearby to the proposed Washington Monument.¹³⁰ For example, he purchased the ninety-nine year leasehold in a lot at the corner of Calvert and Centre Streets from Dennis A. Smith at a price of \$1,000 and assumed the \$153 per year ground rent that Smith owed the Baltimore Water Company.¹³¹ Mills paid Smith the purchase price with a promissory note secured by a mortgage.¹³² Mills leveraged this and other transactions at little out-of-pocket cost.

¹²⁵ Journal of Robert Mills (1816), in Richard Xavier Evans (ed.), *The Daily Journal of Robert Mills, Baltimore, 1816*, 30 MD. HIST. MAG. 257, 269-70 (1935).

¹²⁶ *Historic American Buildings Survey*, LIBR. CONGRESS, <http://www.loc.gov/pictures/resource/hhh.md0082.photos.086719p/?co=hh> (last visited June 10, 2012) (Sharp & Lombard Streets, Baltimore).

¹²⁷ Joshua Fort Assignment to Robert Mills (1816) (available in Baltimore County Court Land Records, WG 134/646, MSA CE 66-184). Assuming a prevailing 6% interest rate, Fort’s ground rent had a capitalized value of \$3,108 ($186.50 / .06 = 3,108.33$).

¹²⁸ Robert Mills Assignment of Mortgage to James A. Buchanan (1817) (available in Baltimore County Court Land Records, WG 145/603, MSA CE 66-195).

¹²⁹ JOHN M. BRYAN, ROBERT MILLS 73 (2001).

¹³⁰ See Baltimore County Court Land Records, Grantee Index, 1814-1818, MSA CE 32; Baltimore County Court Land Records, Grantor Index, 1814-1818, MSA CE 33-7.

¹³¹ Dennis A. Smith Assignment to Robert Mills (1817) (available in Baltimore County Court Land Records, WG 143/378, MSA CE 66-193).

¹³² Robert Mills Mortgage to Dennis A. Smith (1817) (available in Baltimore County Court Land Records, WG 143/304, MSA CE 66-193).

Mills also built a block row of houses “on speculation” in a joint venture with fellow South Carolinian Robert Goodloe Harper and Robert Oliver. Harper was a South Carolinian lawyer and politician who had relocated to Maryland when he married Charles Carroll of Carrollton’s daughter Catherine in 1800. He served as an officer in the War of 1812 and as a State and U.S. Senator.¹³³ Oliver was a “millionaire merchant” who had made his fortune in the import-export trade.¹³⁴ In 1817 Mills laid out five building lots on a Courtland Street parcel owned by Harper and Oliver.¹³⁵

With the purchase money borrowed from Harper and Oliver, upon promissory notes, Mills acquired the parcel in fee simple and erected five houses on the lots, which he then assigned to five persons on the ground rent plan for \$120 per year each. He then secured his indebtedness to Harper and Oliver with mortgages.¹³⁶ Mills’ financial “house of cards” guaranteed a \$600 per year stream of income. If all went well he would be able to pay off his notes and take a handsome profit.



Courtland Street Houses¹³⁷

Robert Mills also speculated in the purchase of 24,000 acres of western land in the Blue Ridge Mountains of Bath County, Virginia at a price of \$2,280.¹³⁸ The tract was described as

¹³³ See Harper, Robert Goodloe, BIOGRAPHICAL DIRECTORY U.S. CONGRESS, <http://bioguide.congress.gov/scripts/biodisplay.pl?index=H000225> (last visited June 10, 2012); Robert Goodloe Harper, WIKIPEDIA, http://en.wikipedia.org/wiki/Robert_Goodloe_Harper (last visited June 10, 2012).

¹³⁴ See generally STUART WEEMS BRUCHEY, ROBERT OLIVER: MERCHANT OF BALTIMORE, 1783-1819 (1956).

¹³⁵ See Robert Mills Mortgage to Robert G. Harper (1818) (available in Baltimore County Court Land Records, WG 145/464, MSA CE 66-195).

¹³⁶ Robert Goodloe Harper & Robert Oliver Deed to Robert Mills (1818) (available in Baltimore County Court Land Records, WG 145/530, MSA CE 66-195); Robert Mills Mortgage to Robert G. Harper (1818) (available in Baltimore County Court Land Records, WG 145/464, MSA CE 66-195); Robert Mills Mortgage to Robert Oliver & John Oliver (1819) (available in Baltimore County Court Land Records, WG 151/172, MSA CE 66-201).

¹³⁷ *Historic American Buildings Survey*, LIBR. CONGRESS, <http://www.loc.gov/pictures/item/md0086.photos.086699p/resource/> (last visited June 10, 2012) (Between Franklin and Center Streets, Baltimore).

¹³⁸ Caleb Kirk, by His attorney Eli Kirk, Deed to Robert Mills (1817) (available in Baltimore County Court Land Records, WG 146/334, MSA CE 66-196). Presumably this deed also appeared in the Virginia Land Records. Its

“altogether mountain land, no one living on it”¹³⁹ The medicinal quality of the Warm Springs in the County had made it a favorite bathing place for Thomas Jefferson.¹⁴⁰ Perhaps Mills aimed to build on his mountaintop and to emulate Jefferson’s mastery of a Monticello.

A review of Mills’ daily journal from 1816 suggests that Mills as President of the Water Company served as more of a consulting engineer than a chief executive officer. His predecessor, John Davis, was an English-born hydraulic engineer. From 1802-1805 Davis had directed, managed, and executed “the works for watering the City of Philadelphia.” He then removed to Baltimore where he took on similar civil engineering tasks. Once the Baltimore works was up and running Davis delegated operational responsibility to others and took on a less demanding part-time advisory job as President of the Company, at a reduced compensation.¹⁴¹ This was the job to which Robert Mills succeeded. He made occasional reports to and consulted with the directors, but he was not saddled with the day-to-day operation of the water works.¹⁴²

Although Robert Mills had two salaried positions, he still found himself with professional time on his hands.¹⁴³ Work on the Monument was periodically interrupted by the shortage of funds¹⁴⁴ and work at the Water Company was not demanding. His drawings for the proposed Baltimore Merchants Exchange, the town’s most significant commission, were rejected in favor of those of his old preceptor Benjamin Latrobe.¹⁴⁵

Mills, however, had grand plans to be the developer of what would be the biggest and best residential project in Baltimore’s history. In December of 1816 he prepared the first drawings for a range of twelve houses to be built on Water Company lands.¹⁴⁶ The design for the houses was copied from Mills’ plans circa 1809 for Franklin Row in Philadelphia.¹⁴⁷

inclusion in the Maryland land records stands as an anomaly. It is likely that Mills filed it in the Maryland records so as to have handy proof of his ownership.

¹³⁹ RHODRI WINDSOR LISCOMBE, *ALTOGETHER AMERICAN: ROBERT MILLS, ARCHITECT AND ENGINEER, 1781-1855*, at 81 (1994) (quoting on the scene observation by Charles Francisco to John Morris, a local surveyor).

¹⁴⁰ *Bathing*, THE JEFFERSON MONTICELLO, <http://www.monticello.org/site/jefferson/bathing> (last visited May 14, 2012).

¹⁴¹ *Autobiography of John Davis, 1770-1864*, 30 MD. HIST. MAG. 11, 12-24 (1935).

¹⁴² See *Journal of Robert Mills (1816)*, in Richard Xavier Evans (ed.), *The Daily Journal of Robert Mills, Baltimore, 1816*, 30 MD. HIST. MAG. 257, 266-69 (1935).

¹⁴³ According to an inflation calculator \$3000 in 1815 dollars would have an equivalent buying power as \$35,230 in 2010 dollars. *The Inflation Calculator*, WESTEGG.COM, <http://www.westegg.com/inflation/> (last visited June 10, 2012).

¹⁴⁴ H.M. PIERCE GALLAGHER, *ROBERT MILLS: ARCHITECT OF THE WASHINGTON MONUMENT* 108 (1966).

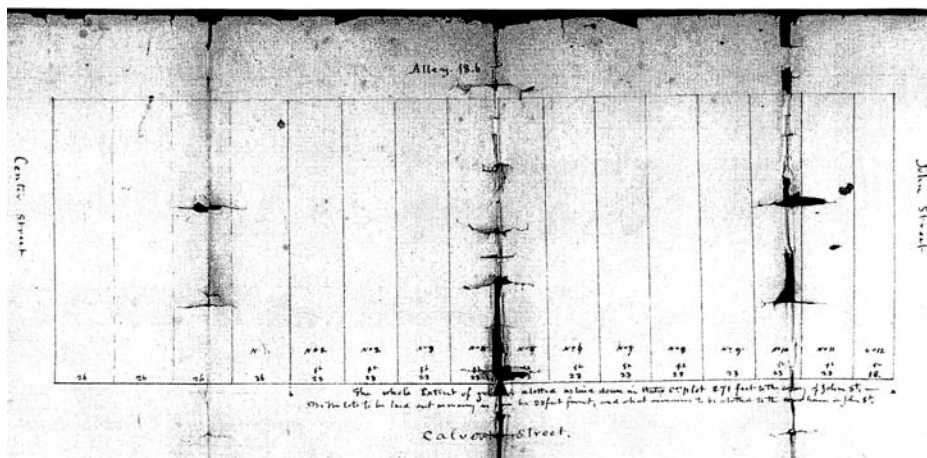
¹⁴⁵ JOHN M. BRYAN, *ROBERT MILLS 122-24* (2001); *Journal of Robert Mills (1816)*, in Richard Xavier Evans (ed.), *The Daily Journal of Robert Mills, Baltimore, 1816*, 30 MD. HIST. MAG. 257, 258 (1935).

¹⁴⁶ JOHN M. BRYAN, *ROBERT MILLS 142* (2001); *Journal of Robert Mills (1816)*, in Richard Xavier Evans (ed.), *The Daily Journal of Robert Mills, Baltimore, 1816*, 30 MD. HIST. MAG. 257, 269 (1935).

¹⁴⁷ JOHN M. BRYAN, *ROBERT MILLS 142-43* (2001); WILLIAM VOSS ELDER, *ROBERT MILLS’ WATERLOO ROW: BALTIMORE 1816*, at 4, 10 (1971).

The Water Company held fee simple title to a ten acre parcel of land on the west side of the Jones Falls at the foot of Howard's Hill just outside the city limits. It was a part of the original Hanson's Improvement patent that John Eager Howard, Josias Pennington, and James Ogleby had sold to the trustees of the Water Company in 1804. It was not being used as part of the water works. If Calvert Street was extended, and if the city limits were expanded, the location was prime ripe for first class residential development.

The Mills' plans called for a block row of twelve houses to be built on the west side of the Calvert Street extension between Centre Street and John Street. The lots were twenty-three feet wide and ninety feet deep.¹⁴⁸



Robert Mills' Plat for Calvert Street Houses¹⁴⁹

Each house spanned the width of the lot with a depth of forty feet and a height of three and one-half stories with “two rooms and a passage on each floor.” A stable and a privy were located at the rear of each lot. The arched entry door way was “approached by a flight of six marble steps with an iron railing.” On the front façade he aligned vertical tripartite windows on all three floors with a central dormer.¹⁵⁰

¹⁴⁸ WILLIAM VOSS ELDER, *ROBERT MILLS' WATERLOO ROW: BALTIMORE 1816*, at 6-10 (1971). John Street was renamed Monument Street after the completion of the Washington Monument.

¹⁴⁹ Articles of Ass'n of the Calvert Street Building Co., *Balt. Water Co. v. Neilson* (Md. Ch. 1821) (No. 6178), available at http://www.msa.md.gov/megafile/msa/speccol/sc5300/sc5339/000034/000000/000014/restricted/msa_sc5458_51_4_764_1.pdf.

¹⁵⁰ JOHN M. BRYAN, *ROBERT MILLS 142-44* (2001); WILLIAM VOSS ELDER, *ROBERT MILLS' WATERLOO ROW: BALTIMORE 1816*, at 10-13 (1971); RHODRI WINDSOR LISCOMBE, *ALTOGETHER AMERICAN: ROBERT MILLS, ARCHITECT AND ENGINEER, 1781-1855*, at 81-82 (1994) (“The row was fairly described as ‘handsome’ by T. W. Griffiths in the *Annals of Baltimore* . . . None of the houses now remains to demonstrate how gracious high-density row housing can be.”).



606-628 North Calvert Street¹⁵¹

Financing for such a large scale real estate development would be hard to come by. According to Mills' rough estimate, each of the twelve houses would cost approximately \$6,500 to complete, for a total construction cost of \$78,000. The improved three-fourth of an acre of land upon which the houses would sit was valued at \$22,000 more-or-less, for a total project cost of \$100,000.¹⁵²

Banks were prohibited from financing construction projects. The Water Company had a capitalization of \$250,000, but under the corporate law of the day it would have been *ultra vires* (beyond the powers) to engage in development of residential property. The company might dispose of surplus land but could not actively engage in an undertaking so unrelated to its corporate purpose. And the mechanics and building tradesmen who were doing the construction would need progress payments.

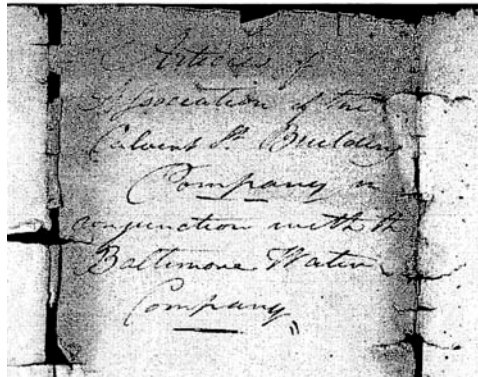
Robert Mills conceived of a co-partnership that would make the construction project possible. On January 22 of 1817 articles of association were drawn with the preamble providing:

Whereas the Baltimore Water Company have laid out on the west side of Calvert Street, between Centre & John Streets. Twelve lots for the purposes of improvement, and have agreed to lease the said lots at the rate of six Dollars per foot front on Calvert per annum, running back 124 feet to an alley, and further to

¹⁵¹ *Historic American Buildings Survey*, LIBR. CONGRESS, <http://www.loc.gov/pictures/resource/hhh.md0109.sheet.00001a/?co=hh> (last visited June 10, 2012) (Waterloo Row, Baltimore).

¹⁵² Mr. Mills Communications & Calculations (Dec. 6, 1817), *Balt. Water Co. v. Neilson* (Md. Ch. 1821) (No. 6178), available at http://www.msa.md.gov/megafile/msa/speccol/sc5300/sc5339/000034/000000/000014/restricted/msa_sc5458_51_4_764_1.pdf (calculating in the aggregate \$78,000 for twelve houses). The \$20,000 value of the land is estimated by capitalizing at 8% the proposed ground rent of \$6 per front foot times the 276 foot frontage in the block. The \$100,000 capital cost would be equivalent to \$1,266,813 in 2010 dollars. *The Inflation Calculator*, WESTEGG.COM, <http://www.westegg.com/inflation/> (last visited June 12, 2012); see also *Articles of Ass'n of the Calvert Street Building Co., Balt. Water Co. v. Neilson* (Md. Ch. 1821) (No. 6178), available at http://www.msa.md.gov/megafile/msa/speccol/sc5300/sc5339/000034/000000/000014/restricted/msa_sc5458_51_4_764_1.pdf.

join any Company of Gentlemen to build upon said lots erecting at their expense two Houses two houses out of the twelve & giving the privilege of Building their houses to the Gentlemen comprising said [Calvert Street Building Company].¹⁵³



Articles of Association of the Calvert Street Building Co.¹⁵⁴

The Gentlemen mechanics comprising the Calvert Street Building Company were two carpenters; a stone mason; a bricklayer; a lumber merchant; a hardware merchant; a brickmaker and painters; glazers; plasterers; and the architect (Mills). They agreed to join together in the construction of the exterior of twelve houses according to the design of Robert Mills. Instead of being paid for their efforts, ten of the houses were to be allocated among the ten individual partners, each of whom would take a ninety-nine year leasehold title to one of the improved houses. If the value of one of the mechanics' contribution was more than \$6,500, he would receive the difference from a common fund; if the value of one of the mechanics' contribution

¹⁵³ Articles of Ass'n of the Calvert Street Building Co., Balt. Water Co. v. Neilson (Md. Ch. 1821) (No. 6178), available at http://www.msa.md.gov/megafile/msa/speccol/sc5300/sc5339/000034/000000/000014/restricted/msa_sc5458_51_4764_1.pdf. The mechanics originally signing the 1817 Articles of Association of the Calvert Street Building Association were: 1 house: James C. Neilson (hardware merchant); 1 house: James Hindes (house-bricklayer); 1 house: Thomas Towson (stone cutter—Towson share was bought out by stone cutter William Steuart later in 1817); 1 house: Moses Hand (painter and glazer); 1 house: Charles Constable & Co. (lumber merchant); 1 house: James Ready (carpenter); 1 house: Peter Mason (carpenter); 1 house: John H. Rogers (brickmaker); 1 house: Robert Mills (architect); ½ house: Charles Hamill (plasterer); ¼ house: Dew & Grimes & Barnard Williams Co. (merchant); ¼ house: Hugh Bonner (coppersmith—did not sign). WILLIAM VOSS ELDER, ROBERT MILLS' WATERLOO ROW: BALTIMORE 1816, at 23 n.21 (1971).

¹⁵⁴ Articles of Ass'n of the Calvert Street Building Co., Balt. Water Co. v. Neilson (Md. Ch. 1821) (No. 6178), available at http://www.msa.md.gov/megafile/msa/speccol/sc5300/sc5339/000034/000000/000014/restricted/msa_sc5458_51_4764_1.pdf.

was less than \$6,500, he would contribute the difference to a common fund. All agreed to “finish the Houses with all dispatch.”¹⁵⁵

The Water Company agreed to provide the three-fourth of an acre of land required for the twelve houses without any up-front price, keeping instead two of the completed houses in partial compensation. In addition, each of the other ten householders would pay the company an annual ground rent of \$6 per front foot (\$138 per year) for ninety-nine years. The Water Company also agreed to contribute \$13,500 as start-up capital for two houses it would retain title to, and to loan such additional funds as necessary for the completion of the project. A managing partner (“[a] Director & Treasurer of the works”) was to be appointed with the job of managing construction, paying bills, making contracts, and keeping accounts.¹⁵⁶

During 1817 things went according to plan. City limits had been expanded to include the construction site the year before. Robert Mills was appointed as the Director and Treasurer of the works.¹⁵⁷ The city extended Calvert Street, providing street frontage for the houses.¹⁵⁸ By year’s end the block row was “under roof” and twelve houses were divided. The Water Company took the houses on lots four and six, and Robert Mills took the house on lot twelve (the prime end-of-group house at the north end of the block bordering John Street). The other houses were allocated among the other co-partners.¹⁵⁹

¹⁵⁵ See Articles of Ass’n of the Calvert Street Building Co., Balt. Water Co. v. Neilson (Md. Ch. 1821) (No. 6178), available at

http://www.msa.md.gov/megafile/msa/speccol/sc5300/sc5339/000034/000000/000014/restricted/msa_sc5458_51_4_764_1.pdf; Mr. Mills Communications & Calculations (Dec. 6, 1817), Balt. Water Co. v. Neilson (Md. Ch. 1821) (No. 6178), available at http://www.msa.md.gov/megafile/msa/speccol/sc5300/sc5339/000034/000000/000014/restricted/msa_sc5458_51_4_764_1.pdf.

¹⁵⁶ See Articles of Ass’n of the Calvert Street Building Co., Balt. Water Co. v. Neilson (Md. Ch. 1821) (No. 6178), available at

http://www.msa.md.gov/megafile/msa/speccol/sc5300/sc5339/000034/000000/000014/restricted/msa_sc5458_51_4_764_1.pdf; Mr. Mills Communications & Calculations (Dec. 6, 1817), Balt. Water Co. v. Neilson (Md. Ch. 1821) (No. 6178), available at http://www.msa.md.gov/megafile/msa/speccol/sc5300/sc5339/000034/000000/000014/restricted/msa_sc5458_51_4_764_1.pdf.

¹⁵⁷ Articles of Ass’n of the Calvert Street Building Co., Balt. Water Co. v. Neilson (Md. Ch. 1821) (No. 6178), available at

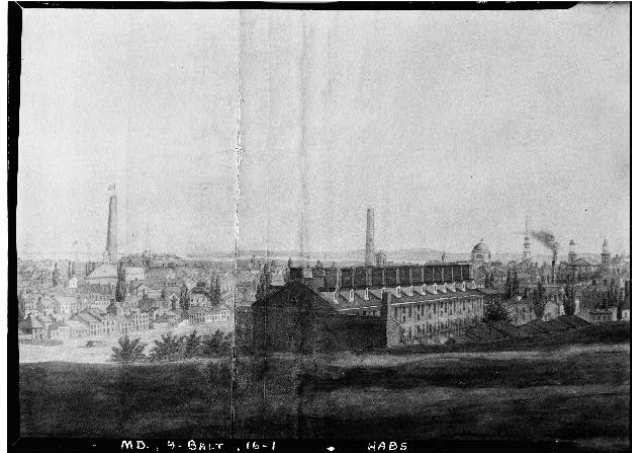
http://www.msa.md.gov/megafile/msa/speccol/sc5300/sc5339/000034/000000/000014/restricted/msa_sc5458_51_4_764_1.pdf.

¹⁵⁸ See 1 J. THOMAS SCHARF, HISTORY OF BALTIMORE CITY AND COUNTY FROM THE EARLIEST PERIOD TO THE PRESENT DAY 62 (photo. reprint 1971) (1881).

¹⁵⁹ Some of the original partnership shares had changed hands so that the division of houses was as follows:

- #1. William Steuart, marble stone cutter (Steuart had purchased the share originally in the name of Thomas Towson);
- #2. James Hindes (bricklayer);
- #3. Mason & Ready (carpenters);
- #4. Baltimore Water Co.;

The ten partners took out separate insurance policies, but the Water Company continued to hold legal title to the whole block.¹⁶⁰ Ten leasehold deeds would be granted after the houses were completed and the accounts were settled. Mills predicted that “by the early part of the Spring [1818] the houses will be ready to be tenanted.”¹⁶¹



Waterloo Row¹⁶²

-
- #5. Charles H. Constable (lumber);
 - #6. Baltimore Water Co.;
 - #7. John H. Rogers (brickmaker);
 - #8. Mason & Ready (carpenters);
 - #9. J.C. Neilson (hardware);
 - #10. Moses Hand (painter and glazer);
 - #11 Dew (merchant), Hammell (plasterer), and Bonner (coppersmith);
 - #12. Robert Mills (architect, accountant, superintendent of the works).

Mr. Mills Communications & Calculations (Dec. 6, 1817), Balt. Water Co. v. Neilson (Md. Ch. 1821) (No. 6178), available at

http://www.msa.md.gov/megafile/msa/speccol/sc5300/sc5339/000034/000000/000014/restricted/msa_sc5458_51_4_764_1.pdf. Hugh Bonner later proved that he had never signed the partnership agreement and was therefore not a partner. See Decree (Oct. 26, 1821), Balt. Water Co. v. Neilson (Md. Ch. 1821) (No. 6178), available at http://www.msa.md.gov/megafile/msa/speccol/sc5300/sc5339/000034/000000/000014/restricted/msa_sc5458_51_4_764_1.pdf.

¹⁶⁰ Baltimore Equitable Insurance Policies #5901-#5903, #5905, #5907-#5912 (June 1819) (available from Maryland Historical Society, Baltimore Equitable Society Collection, MS 3020, Series 1, Box 3, Record of Policies E 1/1/1819-8/1/1825).

¹⁶¹ Letter from Robert Mills to the President & Directors of the Baltimore Water Co. (Dec. 3, 1817), Balt. Water Co. v. Neilson (Md. Ch. 1821) (No. 6178), available at http://www.msa.md.gov/megafile/msa/speccol/sc5300/sc5339/000034/000000/000014/restricted/msa_sc5458_51_4_764_1.pdf (informing of the division and urging a loan).

¹⁶² *Historic American Buildings Survey*, LIBR. CONGRESS, <http://www.loc.gov/pictures/collection/hh/item/md0109.photos.086383p/resource/> (last visited June 10, 2012) (Photographed by E.H. Pickering from a watercolor painted in 1831, Enoch Pratt Free Library Cater Collection).

Although the construction of the Washington Monument on Howard's Hill had been slowed by the shortage of funds,¹⁶³ and the Water Company's operation had been devastated by the great flood of 1817, Mills had conceived and executed a plan for financing and constructing twelve first-class dwellings on Calvert Street. It looked to be the biggest and best residential construction project in Baltimore history.

Mills continued to prepare plans to control the periodic freshets and to replace the sweep-away bridges on the Jones Falls. When making proposals to the Mayor and City Council he worked with Lewis Wernwag, the same engineer he had been "unfortunately acquainted" with six years before in Philadelphia and who seemed willing to forgive and forget Mills' false claim to have been the designer of Wernwag's Schuylkill River Bridge.¹⁶⁴ Baltimore City never accepted their \$125,000 plan to straighten the Falls, but the Maryland legislature did commission Mills to construct a sixty foot bridge (according to Wernwag's design) spanning the Falls on Belvidere Street and connecting the Monument site to the York Turnpike.¹⁶⁵ Wernwag was to later complain that Mills took both the fee and the credit.¹⁶⁶

From Mills' point of view Wernwag's hard feelings were just a part of hard-nosed practice. As the idiom goes: "Fool me once, shame on you; fool me twice, shame on me." On New Year's Day in 1818 he had much to celebrate. With a prize design, two salaried jobs, a busy architectural practice, and a highly leveraged portfolio of real estate, Mills had become a successful professional and an urban capitalist. One day, with the erection of a mountain-top manor in Bath County, he might join the ranks of the landed aristocracy.

B. James A. Buchanan

In 1815 James A. Buchanan, Robert Mills' Baltimore mentor, was a wealthy and powerful civic leader. He was a widower with five living children. His recently deceased wife, nee Elizabeth Calhoun, had been the daughter of James Calhoun who was the first mayor of Baltimore having served from 1797 to 1804. When Calhoun died in 1816 he was interred next to his daughter in the Calhoun-Buchanan burial vault that Robert Mills had designed in the shape of a pyramid.¹⁶⁷

¹⁶³ See H.M. PIERCE GALLAGHER, *ROBERT MILLS: ARCHITECT OF THE WASHINGTON MONUMENT* 108 (1966).

¹⁶⁴ RHODRI WINDSOR LISCOMBE, *ALTOGETHER AMERICAN: ROBERT MILLS, ARCHITECT AND ENGINEER, 1781-1855*, at 87-89 (1994). The characterization of acquaintanceship as "unfortunate" is Wernwag's.

¹⁶⁵ Robert Mills, *Autobiography* (unfinished), in H.M. PIERCE GALLAGHER, *ROBERT MILLS: ARCHITECT OF THE WASHINGTON MONUMENT* 159, 160 (1966).

¹⁶⁶ RHODRI WINDSOR LISCOMBE, *ALTOGETHER AMERICAN: ROBERT MILLS, ARCHITECT AND ENGINEER, 1781-1855*, at 89 n.90 (1994).

¹⁶⁷ MARY ELLEN HAYWARD & R. KENT LANCASTER, *BALTIMORE'S WESTMINSTER CEMETERY & WESTMINSTER PRESBYTERIAN CHURCH: A GUIDE TO THE MARKERS AND BURIALS, 1775-1943*, at 35 (1984); Robert Barnes, *James Calhoun: Mayor of Baltimore, 1797-1804*, *ARCHIVISTS' BULLDOG* (Md. State Archives, Annapolis, Md.), Mar. 22, 1999, at 1, available at <http://www.msa.md.gov/msa/refserv/bulldog/bull99/bull13-6/html/bull13-6.html>.



Calhoun-Buchanan Vault¹⁶⁸

Buchanan was President of the Monument Board of Managers and a Director of the Baltimore Water Company. And he was the managing partner of “[t]he House of Smith and Buchanan . . . one of the greatest commercial establishments in the United States.”¹⁶⁹ The firm had grown rich with the profits from privateering; blockade running; slave trading; and shipping bullion, wheat, and tobacco to foreign ports of call.¹⁷⁰ Meanwhile General Smith was a perpetual member of Congress (moving back and forth from House to Senate) and a Washington “insider” who could look for the firm’s national and international trading interests.

And then in 1817 Buchanan was named the President of the Baltimore Branch of the Baltimore Office of Discount and Deposit (as the branches were officially named) of the Second National Bank of the United States.¹⁷¹ Under the indulgent rules of the day he was in a position whereby he might use bank funds as an unlimited line of credit without any real collateral or accounting to the Philadelphia parent bank directors.¹⁷²

¹⁶⁸ Westminster Cemetery (Photograph by author, 2012).

¹⁶⁹ FRANK A. CASSELL, *MERCHANT CONGRESSMAN IN THE YOUNG REPUBLIC: SAMUEL SMITH OF MARYLAND, 1752-1839*, at 223 (1971) (quoting 4 *MEMOIRS OF JOHN QUINCY ADAMS* 382 (Charles Francis Adams ed., Phila., J. B. Lippincott & Co. 1875)).

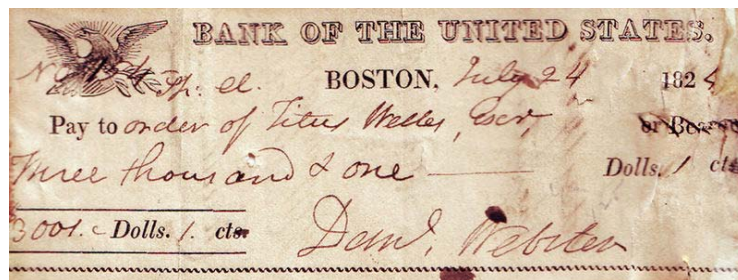
¹⁷⁰ FRANK A. CASSELL, *MERCHANT CONGRESSMAN IN THE YOUNG REPUBLIC: SAMUEL SMITH OF MARYLAND, 1752-1839*, at 44, 56, 107, 122-23 (1971); SHERRY H. OLSON, *BALTIMORE: THE BUILDING OF AN AMERICAN CITY* 14, 17 (1980).

¹⁷¹ *See, e.g.*, GARY LAWSON BROWNE, *BALTIMORE IN THE NATION, 1789-1861*, at 74 (1980); JOHN M. BRYAN, *ROBERT MILLS* 118 (2001); 1 J. THOMAS SCHARF, *HISTORY OF BALTIMORE CITY AND COUNTY FROM THE EARLIEST PERIOD TO THE PRESENT DAY* 215 (photo. reprint 1971) (1881); *A REPORT OF THE CONSPIRACY CASES, LATELY DECIDED AT BELLE AIR* 3 (Robert Goodloe Harper ed., Balt., Thomas Murphy 1823); *see generally* FED. RESERVE BANK OF PHILA., *THE SECOND BANK OF THE UNITED STATES: A CHAPTER IN THE HISTORY OF CENTRAL BANKING* 1-8 (2010), available at <http://www.philadelphiafed.org/publications/economic-education/second-bank.pdf>.

¹⁷² *See* BRAY HAMMOND, *BANKS AND POLITICS IN AMERICA FROM THE REVOLUTION TO THE CIVIL WAR* 261 (1957).

The creation of the Second National Bank of the United States¹⁷³ presented Buchanan with a unique opportunity. Buchanan might use his position as President of the Baltimore Branch of the Bank of the United States to engage in a million dollar speculation of bank stock and government bonds on behalf of the House of S. Smith & Buchanan, with funds borrowed from the Baltimore Branch.

The Bank's function was to act as a fiscal agent of the U.S. It would accept deposits and make loans to the public. It was empowered to "deal and trade in bills of exchange, gold and silver bullion; and to take at the rate of 6 per. cent. per annum for upon its loans or discounts, and to issue bills or notes"¹⁷⁴



Bank Draft Signed by Daniel Webster¹⁷⁵

The Second Bank of the United States was located in Philadelphia. Notwithstanding the federal involvement, the Bank was operated as a private joint stock corporation. Its Board consisted of twenty-five directors, only five of whom were to be appointed by the President of the United States. Capitalization was to be \$35 million. Twenty percent of the stock (\$7 million) was to be held by the federal government with 80% (\$28 million) to be raised through stock subscriptions from private investors. Twenty directors were to be elected by a vote of the private stockholders—one share one vote—with the charter allowing no stockholder more than thirty votes. The directors elected the Board's President and set policy. John Jacob Astor had nominated James A. Buchanan for the job of President but the Board elected Philadelphian William Jones instead.¹⁷⁶

¹⁷³ See generally FED. RESERVE BANK OF PHILA., THE SECOND BANK OF THE UNITED STATES: A CHAPTER IN THE HISTORY OF CENTRAL BANKING 1-8 (2010), available at <http://www.philadelphiafed.org/publications/economic-education/second-bank.pdf>.

¹⁷⁴ A REPORT OF THE CONSPIRACY CASES, LATELY DECIDED AT BELLE AIR 2 (Robert Goodloe Harper ed., Balt., Thomas Murphy 1823).

¹⁷⁵ Daniel Webster 1824 Signature, WIKIPEDIA, http://en.wikipedia.org/wiki/File:Daniel_Webster_1824_Signature.jpg (last visited June 10, 2012) (Dated July 24, 1824, Cooper Collection of Historical US Documents).

¹⁷⁶ See, e.g., An Act to Incorporate the Subscribers to the Bank of the United States, ch. 44, 3 Stat. 266 (1816); GARY LAWSON BROWNE, BALTIMORE IN THE NATION, 1789-1861, at 74 (1980); BRAY HAMMOND, BANKS AND POLITICS IN AMERICA FROM THE REVOLUTION TO THE CIVIL WAR 251-59 (1957); A REPORT OF THE CONSPIRACY 42

The Second Bank created eighteen branch offices around the country. The Baltimore Office of Discount and Deposit was among the most influential (perhaps because of the sway of Maryland's Senator/Congressman Samuel Smith). Buchanan was named as the President of the Baltimore Branch in 1817. His close associate, Baltimore merchant George Williams, was elected as a Director of both at the Baltimore Branch and parent bank in Philadelphia. James W. McCulloh, an employee of Williams, was appointed Cashier of the Baltimore Branch.¹⁷⁷

In the initial public offering subscriptions were sold for \$100 per share. Subscription sales were divided between twenty cities. When it came to payment for the stock, the Bank accepted subscriptions paid for with the subscriber's promissory notes and with the very same stock they were buying (valued at a premium of 25%) serving as collateral. In Baltimore nearly 16,000 people subscribed to 40,000 shares, investing a total of \$4 million. George Williams alone bought 1,172 shares of stock, which he registered under 1,172 different names with himself as the designated agent for all, thereby commanding 1,172 votes.¹⁷⁸

The Second Bank of the United States opened for business during an economic boomlet. In 1817 mercantile trade was active and prices were rising. Post-war recovery, new foreign trade, opening of new territory, and the Industrial Revolution fostered an optimistic mood. As the repository of all federal funds the bank had a built-in advantage over Maryland state banks. Bank of the United States' stock was being bought and sold on secondary markets and the price was on the rise. The records of stock trader Roswell L. Colt fixed the inflated price of a share of Second Bank stock on December 30, 1817 at \$158, fifty percent above par.¹⁷⁹

On December 31, 1817 James A. Buchanan found himself in a position that was too good to be true. Under the indulgent rules of the day, insiders borrowed the purchase price for stocks and bonds with no collateral other than the stocks and bonds themselves.¹⁸⁰ During 1817, Buchanan had used the borrowed funds to invest (on behalf of his firm S. Smith & Buchanan) in U.S. 6%

CASES, LATELY DECIDED AT BELLE AIR 3 (Robert Goodloe Harper ed., Balt., Thomas Murphy 1823); FED. RESERVE BANK OF PHILA., THE SECOND BANK OF THE UNITED STATES: A CHAPTER IN THE HISTORY OF CENTRAL BANKING 5-8 (2010), available at <http://www.philadelphiafed.org/publications/economic-education/second-bank.pdf>.

¹⁷⁷ See, e.g., GARY LAWSON BROWNE, BALTIMORE IN THE NATION, 1789-1861, at 74-75 (1980); A REPORT OF THE CONSPIRACY CASES, LATELY DECIDED AT BELLE AIR 2 (Robert Goodloe Harper ed., Balt., Thomas Murphy 1823); FED. RESERVE BANK OF PHILA., THE SECOND BANK OF THE UNITED STATES: A CHAPTER IN THE HISTORY OF CENTRAL BANKING 5 (2010), available at <http://www.philadelphiafed.org/publications/economic-education/second-bank.pdf>.

¹⁷⁸ See, e.g., THOMAS W. GRIFFITH, ANNALS OF BALTIMORE 217 (Balt., William Wooddy 1833); BRAY HAMMOND, BANKS AND POLITICS IN AMERICA FROM THE REVOLUTION TO THE CIVIL WAR 253-54, 257 (1957); FED. RESERVE BANK OF PHILA., THE SECOND BANK OF THE UNITED STATES: A CHAPTER IN THE HISTORY OF CENTRAL BANKING 5-8 (2010), available at <http://www.philadelphiafed.org/publications/economic-education/second-bank.pdf>.

¹⁷⁹ See BRAY HAMMOND, BANKS AND POLITICS IN AMERICA FROM THE REVOLUTION TO THE CIVIL WAR 257 (1957); A REPORT OF THE CONSPIRACY CASES, LATELY DECIDED AT BELLE AIR 96-97 (Robert Goodloe Harper ed., Balt., Thomas Murphy 1823).

¹⁸⁰ See BRAY HAMMOND, BANKS AND POLITICS IN AMERICA FROM THE REVOLUTION TO THE CIVIL WAR 261 (1957).

bonds and in the stock of the Second Bank of the United States. A post-war recovery occurred, and the 6% bonds sold up 16-28 points¹⁸¹ while the U.S. bank stock increased in market value by one-half.¹⁸² Buchanan employed his unlimited leverage to invest three million dollars in the rising market at no out-of-pocket cost to himself or his firm.¹⁸³

Buchanan was not the only speculator. Baltimore Branch Cashier James McCulloh, a young man of no independent means, lent himself \$500,000 for investment purposes, while Director George Williams borrowed \$170,000 on his own account. In the final analysis S. Smith & Buchanan, Williams, and McCulloh would have a joint debt arising out of stock note transactions of \$1,540,000.¹⁸⁴ Moreover, according to a detailed study by historian Gary Lawson Browne, these three were members of a “Club” of stock speculators that included directors discounting profusely on their own accounts in branch banks as far away as Boston and Providence. James A. Buchanan was probably the “Club’s” leader, and certainly as the year 1817 came to an end he was a paper millionaire.¹⁸⁵

On January 1, 1818 the House of S. Smith and Buchanan marked its past and future successes by adding a new member. William B. Buchanan (James A. Buchanan’s son) joined the firm as a full partner.¹⁸⁶ This was to prove a mistake.

VI. THE WORST OF TIMES: 1818-1822

In 1818 Robert Mills and James Buchanan could count their successes. They had worked in tandem to separate achievements. Mills had brought the city’s largest residential housing development to near completion. Buchanan had become the millionaire President of the Baltimore Branch of the Second Bank of the United States.

But bad times lay ahead. Construction on the Calvert Street houses was behind schedule and over-budget. And by 1819 peace would rear its ugly head. England and France would retake control over international shipping markets. Baltimore’s domestic market between country growers and seaport sellers would be over-supplied and under-financed. Maryland banks would

¹⁸¹ BRAY HAMMOND, *BANKS AND POLITICS IN AMERICA FROM THE REVOLUTION TO THE CIVIL WAR* 261-62 (1957); SIDNEY HOMER, *A HISTORY OF INTEREST RATES* 300 (1963); *see generally* A REPORT OF THE CONSPIRACY CASES, LATELY DECIDED AT BELLE AIR (Robert Goodloe Harper ed., Balt., Thomas Murphy 1823).

¹⁸² *See* A REPORT OF THE CONSPIRACY CASES, LATELY DECIDED AT BELLE AIR 96-97 (Robert Goodloe Harper ed., Balt., Thomas Murphy 1823).

¹⁸³ BRAY HAMMOND, *BANKS AND POLITICS IN AMERICA FROM THE REVOLUTION TO THE CIVIL WAR* 261-62 (1957) (“[Buchanan, Williams, and McCulloh’s] dealings began as speculations, grew into frauds, and involved about 3,000,000 when the affair burst open.”).

¹⁸⁴ BRAY HAMMOND, *BANKS AND POLITICS IN AMERICA FROM THE REVOLUTION TO THE CIVIL WAR* 261 (1957); A REPORT OF THE CONSPIRACY CASES, LATELY DECIDED AT BELLE AIR 36-39 (Robert Goodloe Harper ed., Balt., Thomas Murphy 1823); David S. Bogen, *The Scandal of Smith and Buchanan: The Skeletons in the McCulloch vs. Maryland Closet*, 9 MD. L.F. 125, 126 (1985).

¹⁸⁵ *See* GARY LAWSON BROWNE, *BALTIMORE IN THE NATION, 1789-1861*, at 74 (1980).

¹⁸⁶ *See* Buchanan v. Patterson, 190 U.S. 353 (1903).

fail. The full-fledged financial panic of 1819 that soon would come would profoundly affect the Calvert Street Building Company, the Monument to George Washington, and the Second National Bank of the United States—and the fortunes of Robert Mills and James A. Buchanan.¹⁸⁷

A. Calvert Street Building Company

In his end of the year 1817 accounting, Robert Mills reported that \$75,000 in work and materials had already been expended on the Calvert Street houses but that much remained to be done. He had originally estimated the cost of the twelve houses at \$6,500 each for a total of \$78,000, but unexpected difficulties had been encountered at the start of construction.¹⁸⁸ As Mills later reported:

[A] great deception in the ground upon which the buildings were to be built—as was manifest when we began to look for foundations for our walls. What we took for the natural soil proved afterwards to be made ground. This unfortunately compelled us to much considerable more expense of labor and materials to secure the permanency of our buildings. In addition to this difficulty we had to encounter springs of water and to provide the requisite drains to lead them away¹⁸⁹

His 1817 estimate of total cost would be \$91,500. The work was already \$13,500 over budget.¹⁹⁰

Mills had responded to the drainage problem by hiring Thomas McCoy to grade and fill the foundation site and to lay down a drainage field of stone and sand.¹⁹¹ McCoy raised the grade of the cellar floors and furnished the stone necessary for the foundation and cellar walls. McCoy obtained a large quantity of fill material by “cutting down John Street” (soon to be renamed

¹⁸⁷ GARY LAWSON BROWNE, *BALTIMORE IN THE NATION, 1789-1861*, at 70-75 (1980); JOHN M. BRYAN, *ROBERT MILLS* 121 (2001) (“The recession and Buchanan’s trial (and his resignation as President of the Board of Managers of the Washington Monument) halted virtually all construction, including work on the monument. Mills went bankrupt and was forced to seek work elsewhere in 1819.”).

¹⁸⁸ Mr. Mills Communications & Calculations (Dec. 6, 1817), *Balt. Water Co. v. Neilson* (Md. Ch. 1821) (No. 6178), *available at* http://www.msa.md.gov/megafile/msa/speccol/sc5300/sc5339/000034/000000/000014/restricted/msa_sc5458_51_4764_1.pdf.

¹⁸⁹ Letter from Robert Mills to the President & Directors of the Baltimore Water Co. (Apr. 6, 1819), *Balt. Water Co. v. Neilson* (Md. Ch. 1821) (No. 6178), *available at* http://www.msa.md.gov/megafile/msa/speccol/sc5300/sc5339/000034/000000/000014/restricted/msa_sc5458_51_4764_1.pdf.

¹⁹⁰ Mr. Mills Communications & Calculations (Dec. 6, 1817), *Balt. Water Co. v. Neilson* (Md. Ch. 1821) (No. 6178), *available at* http://www.msa.md.gov/megafile/msa/speccol/sc5300/sc5339/000034/000000/000014/restricted/msa_sc5458_51_4764_1.pdf.

¹⁹¹ See Articles of Agreement Between Robert Mills & Thomas McCoy (June 3, 1817), *McCoy v. Pres. & Dirs. Balt. Water Co.* (Md. Ch. 1824) (No. 3646) (available from Maryland State Archives).

Monument Street), which bounded the block of houses on the north.¹⁹² As it happened Mills had been allocated the “end of group” house that bordered John Street. Some partners later expressed doubts as to whether McCoy’s excavation work “cutting down John Street” was for the benefit of the whole Building Company or just for Mills’ house alone.¹⁹³

If work was to continue many of the Calvert Street Company mechanics and suppliers needed to borrow additional funds from the Baltimore Water Company. Mills made inquiry as to a loan on behalf of himself and his co-partners.¹⁹⁴ The co-partners faced a significant risk. Since Calvert Street Building Association was not incorporated, each partner was jointly and severally liable for all the debts incurred by all and any of the other partners in the course of partnership business. Moreover, the partners had not received legal title to the house allocated to them. If the Water Company failed to advance the needed funds and the Building Company failed to complete its task, the Water Company might take all the unfinished buildings by way of forfeiture without giving any recompense for work and materials.

Moreover, Robert Mills also found himself facing a serious conflict of interests. For the first nine months of 1817, when the unbudgeted for expenses and cost overruns occurred, Mills had been both the superintendent of the works on Calvert Street and the President of the Water Company. He had tried to serve two masters. In October of 1817 Mills had resigned his post as Water Company President but not before he had let the Water Company down by failing to control costs.¹⁹⁵

John Campbell White replaced Mills as President of the Water Company. White had immigrated to the United States from Ireland in 1798. After initially practicing as a medical doctor he founded the distillery J. C. White & Sons, the extensive premises of which were located on the Jones Falls adjacent to the Water Company parcel. It became his job to clean-up the financially messy Calvert Street situation.¹⁹⁶

In a letter of February 27, 1818 the Calvert Street partners re-estimated the overall cost of the project at \$105,200 and requested an additional advance of nearly \$15,000 as the amount

¹⁹² See Decree in Chancery (Feb. 14, 1824), McCoy v. Pres. & Dirs. Balt. Water Co. (Md. Ch. 1824) (No. 3646) (citing Complaint and Answer by Charles Constable and others) (available from Maryland State Archives).

¹⁹³ See Decree in Chancery (Feb. 14, 1824), McCoy v. Pres. & Dirs. Balt. Water Co. (Md. Ch. 1824) (No. 3646) (citing Complaint and Answer by Charles Constable and Others) (available from Maryland State Archives).

¹⁹⁴ See Letter from Robert Mills to the President & Directors of the Baltimore Water Co. (Dec. 3, 1817), Balt. Water Co. v. Neilson (Md. Ch. 1821) (No. 6178), available at http://www.msa.md.gov/megafile/msa/speccol/sc5300/sc5339/000034/000000/000014/restricted/msa_sc5458_51_4_764_1.pdf.

¹⁹⁵ See JOHN M. BRYAN, ROBERT MILLS 124, 131-32 (2001).

¹⁹⁶ See MATCHETT’S BALTIMORE DIRECTOR 390 (Balt., R.J. Matchett 1831), available at <http://archive.org/stream/matchettsbaltimo1831balt#page/390/mode/2up/search/White>; Biographical Sketch (available from Maryland Historical Society, John Campbell White Papers, 1798-1926, MS 1005).

“indispensably necessary for the ultimate completion of the [houses]”¹⁹⁷ White, on behalf of the Water Company, reluctantly agreed to loan the co-partners an additional \$12,400 upon stated conditions: all of the ten houses in which the partners had an interest would be answerable for a total \$24,000 debt; the Water Company would have nothing to do with any settlement of accounts between the partners; and if the loans were not repaid by January 1, 1819, with interest, the Water Company would sell all ten houses at auction. On March 9, 1818 the ten co-partners agreed to the conditions.¹⁹⁸

On April 6, 1819, a year later and three months past the agreed upon deadline, Robert Mills informally notified the Baltimore Water Company that an announcement of the completion of the Calvert Street houses was to be forthcoming. While Mills’ original estimate of the cost of construction had been \$78,000, the final expenditures were \$105,000—25% over budget. He used his letter to “state to the Board what ha[d] occasioned the extraordinary increase of cost of the houses, above what originally was contemplated.”¹⁹⁹ After detailing the various reasons for the cost over-run²⁰⁰ he rested his case:

What I have stated I trust will suffice to remove in some degree the blame that might attach to me for allowing such increase of expense but as before observed, the rule of the majority governed, and as I had equally the interests of the Water Co. to consult with the building Company, I was sensible that whatever

¹⁹⁷ Letter from Wm. Steuart, Charles Constable, Peter Mason, John Ready, Charles Hammell, Jas. Hindes, John H. Rogers, Moses Hand, Robert Mills, Jas. Dew to President and Directors of the Baltimore Water Co. (Feb. 27, 1818), Balt. Water Co. v. Neilson (Md. Ch. 1821) (No. 6178), *available at* http://www.msa.md.gov/megafile/msa/speccol/sc5300/sc5339/000034/000000/000014/restricted/msa_sc5458_51_4764_1.pdf.

¹⁹⁸ *See* Letter from John Campbell White, President, Balt. Water Co., to William Steuart, Charles Constable, Peter Mason, John Ready, Charles Hammell, Jas. Hindes, John H. Rogers, Moses Hand, Robert Mills, Jas. Dew (Mar. 5, 1818), Balt. Water Co. v. Neilson (Md. Ch. 1821) (No. 6178), *available at* http://www.msa.md.gov/megafile/msa/speccol/sc5300/sc5339/000034/000000/000014/restricted/msa_sc5458_51_4764_1.pdf; Letter from Wm. Steuart, Charles Constable, Peter Mason, John Ready, Charles Hammell, Jas. Hindes, John H. Rogers, Moses Hand, Robert Mills, Jas. Dew to President and Directors of the Baltimore Water Co. (Mar. 9, 1818), Balt. Water Co. v. Neilson (Md. Ch. 1821) (No. 6178), *available at* http://www.msa.md.gov/megafile/msa/speccol/sc5300/sc5339/000034/000000/000014/restricted/msa_sc5458_51_4764_1.pdf.

¹⁹⁹ Letter from Robert Mills to President & Directors of the Baltimore Water Co. (Apr. 6, 1819), Balt. Water Co. v. Neilson (Md. Ch. 1821) (No. 6178), *available at* http://www.msa.md.gov/megafile/msa/speccol/sc5300/sc5339/000034/000000/000014/restricted/msa_sc5458_51_4764_1.pdf.

²⁰⁰ In the first place. There was a great deception in the ground upon which the buildings were to be built—as was manifest when we began to look for foundations for our walls. What we took for the natural soil proved afterwards to be made ground. This unfortunately compelled us to resort to considerable more expense of labor and materials to secure the permanency of our buildings. In addition to this difficulty we had to encounter springs of water, and to provide the requisite drains to lead them away. These circumstances in the first onset led us into double expenses.

improvements or additions the latter were willing to make, it was to the interests of the former to accede to, as in proportion to the respectability of these houses will be the increase in value of the adjoining property.²⁰¹

On April 29, 1819 the Calvert Street Building partners formally announced completion. They requested that the “Water Company should become responsible for all debts due upon the houses as well as to the proprietors, as others, and that they [the Water company] hold those

2dly The original plan never calculated that there should be brick walls between the ground and therefore the filling in of the great cavity behind the buildings went on. When a majority of the company concluded that brick walls would be the most expedient and proper to such houses, we had to encounter all the expense of not only building these walls but of searching for foundations though all the depth of made ground lately filled in. The quantity of stone and labor of digging, which these foundations took is a proof of the serious expenses which we incurred.

3d Marble steps in front of the houses and freestone steps behind were never estimated because not intended in the first plan, but the company decided that it was best to have them in place of wood, and you may judge that this additional expense was no trifling matter. As the exterior of the houses was to be finished all alike, and the majority of the company being in favor of these additions, they were continued into the stone steps led to more hand nails.

4th In regard to the interior, there were many particulars of expense additional incurred voluntarily. As material one are the marble mantles, joists and soapstone to the fireplaces. Another is where it was originally intended to countercut the principal floor only, all the floors are countercut (or inclined between the joists as it is commonly termed). The principal floor was also only to be second nailed, but all of the floors were second nailed. Plain open newel stairs were laid down at first to be executed and after the carriages went up, an entire change was made to a circular well-hole, continued hand-nail, mahogany and maple balusters and these all the way up to the garret. Additions were also made to the foundation stair building for pantry closets and all the cellars were paved with brick, not usual in such houses as were contemplated.

5th After the ground and alley were filled up to a grade to throw the water into the Center St., the plan was proposed to open an alley along the South end of the buildings, which occasioned an alteration of the original grade, and we had to go to the additional expense of removing much earth away.

6th In the original estimate we did not include the paving of the street and alley. They however are charged against the buildings.

Letter from Robert Mills to President & Directors of the Baltimore Water Co. (Apr. 6, 1819), Balt. Water Co. v. Neilson (Md. Ch. 1821) (No. 6178), *available at* http://www.msa.md.gov/megafile/msa/speccol/sc5300/sc5339/000034/000000/000014/restricted/msa_sc5458_51_4764_1.pdf.

²⁰¹ Letter from Robert Mills to President & Directors of the Baltimore Water Co. (Apr. 6, 1819), Balt. Water Co. v. Neilson (Md. Ch. 1821) (No. 6178), *available at* http://www.msa.md.gov/megafile/msa/speccol/sc5300/sc5339/000034/000000/000014/restricted/msa_sc5458_51_4764_1.pdf.

houses that are in arrears, responsible to them for the repayment of such claims as the Water company may settle either by note or otherwise.” In essence the partners were asking the Water Company to assume the role of the collection agency and to recover the excess from “those of the company who have received more than their work or materials amt.” and to pay it to “those of the Company whose work and materials & money have exceeded the cost of their houses.” As a part of this accounting the Baltimore Water Company would receive the cash advances it had made over and above its agreed upon contribution of \$13,000. This amount was disputed, but it was later decreed to be \$22,355.51 plus interest from May 1819.²⁰² The Baltimore Water Company was also asked to be the transfer agent dividing the remainder of the funds it collected among those “whose work and materials & money have exceeded the cost of their houses.”²⁰³

The Baltimore Water Company’s President John Campbell White refused to accept the offer of the Calvert Street partners. The Company continued to hold fee simple title to the whole block; it was unwilling to convey the ten, separate ninety-nine year leasehold estates (subject to the \$138 per year ground rents) for each of the houses, unless and until the total amount due to the company and the other creditor was paid. Those holding the partnership shares were in possession of their respective houses, but they held no documents of title. They were unable to repay their total \$22,000 debt.

During 1819 fire insurance policies for all twelve houses were taken with the Baltimore Equitable Society.²⁰⁴ The Baltimore Water Company purchased insurance on the houses on lots number four and six, which were originally assigned to it, and the other policies were in the names of those still holding partnership interests, with one exception. The policy on Robert Mill’s house on lot number twelve was taken out in the name of the Water Company.²⁰⁵ Apparently Mills had given up the ghost of any entitlement to number twelve because of his past miscalculations.

During the recession of 1819 the houses stood forlorn and mostly empty with the interiors in various states of completion.²⁰⁶ Eight of the remaining nine nominal householders were unwilling or unable to pay-off the whole debt to clear title to their single houses, but one of the

²⁰² Award in Chancery (July 23, 1821), *Balt. Water Co. v. Neilson* (Md. Ch. 1821) (No. 6178), available at http://www.msa.md.gov/megafile/msa/speccol/sc5300/sc5339/000034/000000/000014/restricted/msa_sc5458_51_4764_1.pdf.

²⁰³ Statement of the Calvert Street Company (attached to the Letter from Robert Mills to President & Directors of the Baltimore Water Co. (Apr. 6, 1819)), *Balt. Water Co. v. Neilson* (Md. Ch. 1821) (No. 6178), available at http://www.msa.md.gov/megafile/msa/speccol/sc5300/sc5339/000034/000000/000014/restricted/msa_sc5458_51_4764_1.pdf.

²⁰⁴ The Baltimore Equitable Society for Insuring of Houses from Loss by Fire was incorporated by the Maryland Legislature in 1794. See *A Taste of Baltimore Equitable History*, BALT. EQUITABLE INS., <http://www.1794insurance.com/1794/history/history.html> (last visited June 12, 2012).

²⁰⁵ Baltimore Equitable Insurance Policy #5912 (June 1819) (available from Maryland Historical Society, Baltimore Equitable Society Collection, MS 3020, Series 1, Box 3, Record of Policies E 1/1/1819-8/1/1825).

²⁰⁶ JOHN M. BRYAN, ROBERT MILLS 145 (2001).

partners did work out a separate settlement with the Water Company. William Steuart, who was providing the marble for both the Monument and the Calvert Street Houses (he had bought out Thomas Towson's original partnership share), was a substantial citizen.²⁰⁷ He held the rights to the house on lot number one and had agreed to buy the neighboring house on lot number two from James Hindes. Steuart—at a cost of \$3,450—bought from the Water Company the annuities on lots number one and two (46 front feet on Calvert Street @ \$6/ft capitalized at 8%). He further promised to pay one-sixth of the losses suffered by the Building Association, not to exceed \$500. As a result of this agreement the Water Company agreed to transfer to Steuart fee simple deeds to lots one and two, free and clear of partnership debts.²⁰⁸

The 1819 stalemate left Robert Mills financially embarrassed. He had lost his job as President of the Water Company, the Calvert Street Building Association was insolvent, and Mills had forfeited any entitlement to the house on lot number twelve. John Campbell White, President of the Baltimore Water Company, was left to pick up the pieces.²⁰⁹

In October of 1820 Robert Mills looked to the income from his job as superintendant of the construction of the Monument to George Washington for sustenance. The Monument was partially complete. Its column was built to the base of the capital (140 feet above the street), but the interior staircase remained undone, and the huge statue of George Washington was not yet carved.²¹⁰

But in these times of economic depression the lottery had failed to yield the anticipated revenues. And the cost of construction was running grossly over budget—\$96,000 of the estimated \$100,000 total cost had already been expended and cornice, parapet, and statue were still unbuilt. In a letter to the Board of Managers Mills begged for a salary advance, but they rejected his plea

²⁰⁷ William Steuart . . . was a wealthy planter. . . . He was a lieutenant colonel in the United States Army during the War of 1812, and saw service during the Battle of Baltimore . . . during which the American forces prevailed against the British bombardment of Fort McHenry After the war of 1812, Steuart was elected as a delegate to the Maryland Assembly, and later became Mayor of Baltimore from 1831 to 1832.

William Steuart (Mayor of Baltimore), WIKIPEDIA, [http://en.wikipedia.org/wiki/William_Steuart_\(Mayor_of_Baltimore\)](http://en.wikipedia.org/wiki/William_Steuart_(Mayor_of_Baltimore)) (last visited June 10, 2012).

²⁰⁸ William Steuart Proposition to Purchase His Annuities on Calvert Street to President & Directors of the Baltimore Water Co. (Sept. 6, 1819), *Balt. Water Co. v. Neilson* (Md. Ch. 1821) (No. 6178), *available at* http://www.msa.md.gov/megafile/msa/speccol/sc5300/sc5339/000034/000000/000014/restricted/msa_sc5458_51_4764_1.pdf; W. Steuart Acknowledgement for \$300 to President & Directors of the Baltimore Water Co. (Nov. 1, 1819), *Balt. Water Co. v. Neilson* (Md. Ch. 1821) (No. 6178), *available at* http://www.msa.md.gov/megafile/msa/speccol/sc5300/sc5339/000034/000000/000014/restricted/msa_sc5458_51_4764_1.pdf.

²⁰⁹ White remained as President of the Baltimore Water Company until May of 1821. *Compare* President & Directors of the Baltimore Water Company Release to Solomon Etting (May 1, 1821) (available in Baltimore County Court Land Records, WG 159/639), *with* President & Directors of the Baltimore Water Company Grant to Mayor and City Council of Baltimore (June 7, 1821) (available in Baltimore County Court Land Records, WG 161/20).

²¹⁰ JOHN M. BRYAN, ROBERT MILLS 146 (2001).

and instead, shut the project down. Work on the Monument came to a standstill and Mills was out of work in Baltimore.²¹¹ In December of 1820 Mills left town with his mortgages and promissory notes unpaid. He relocated to his hometown of Charlestown where he was appointed the Acting Commissioner for Public Buildings in South Carolina as well as Acting Commissioner on the Board of Public Works. He later sent for his wife and children to join him.²¹²

B. The Baltimore Branch of the Bank of the United States

Even during the prosperous years Maryland state banks had been unhappy with the competition posed by the 1817 creation of the Baltimore Office of Discount and Deposit of the National Bank of the United States. In 1818 the state banking lobby prevailed upon the Maryland General Assembly to pass “an act to impose a tax on all Banks, or branches thereof, in the State of Maryland, *not chartered by the legislature.*” The amount of the tax was a draconian 2% of the face value of each banking transaction of the Baltimore Branch. The intent of the tax was to put the federally chartered bank at a huge competitive disadvantage.²¹³

James A. Buchanan, President of the Baltimore Branch, directed Cashier James W. McCulloch not to pay the tax. The Baltimore Branch argued that the tax was an unconstitutional effort by an inferior state government to tax the supreme federal government. Luther Martin, Maryland’s Attorney General, answered that, on the contrary, it was the Bank of the United States that was unconstitutional because its establishment was not expressly authorized by the U.S. Constitution.²¹⁴

On appeal the U.S. Supreme Court in March of 1819 decided in McCulloch’s favor—the establishment of a federally chartered bank was a “necessary and proper” aspect of national sovereignty, and national government’s supremacy prevents states from taxing federal establishments. James W. McCulloch is famously misremembered as the winning plaintiff in the landmark Supreme Court case of *McCulloch v. Maryland*²¹⁵—the Court spelled his name wrong.

James W. McCulloch’s other problem with the law proved more serious. During 1817 McCulloch and his Baltimore Branch bosses—James A. Buchanan and George Williams—had heavily speculated in Bank of the United States stock and in U.S. 6% Bonds. Rather than paying for their purchases with currency or specie they had used loan funds “discounted” from the Bank of the

²¹¹ See JOHN M. BRYAN, ROBERT MILLS 146 (2001).

²¹² See JOHN M. BRYAN, ROBERT MILLS 149-52 (2001); see also Robert Mills, Autobiography (unfinished), in H.M. PIERCE GALLAGHER, ROBERT MILLS: ARCHITECT OF THE WASHINGTON MONUMENT 159, 161 (1966).

²¹³ *McCulloch v. Maryland*, 17 U.S. (44 Wheat.) 316, 317-18 (1819); see generally David S. Bogen, *The Scandal of Smith and Buchanan: The Skeletons in the McCulloch vs. Maryland Closet*, 9 Md. L.F. 125 (1985).

²¹⁴ See BRAY HAMMOND, BANKS AND POLITICS IN AMERICA FROM THE REVOLUTION TO THE CIVIL WAR 263-66 (1957); David S. Bogen, *The Scandal of Smith and Buchanan: The Skeletons in the McCulloch vs. Maryland Closet*, 9 Md. L.F. 125, 129-30 (1985).

²¹⁵ 17 U.S. (44 Wheat.) 316 (1819).

United States. The only security for these loans was the very stock and bonds they had purchased. In today's financial terms they might be said to have made their purchases "on margin."²¹⁶

At the end of 1818 the market crashed. Stocks and bonds lost fifty percent of their value.²¹⁷ The partnership of S. Smith & Buchanan defaulted on over \$1,000,000 of the loans they had borrowed from the Baltimore Branch.²¹⁸

A major financial crisis swept across the country. A congressional inquiry into the Bank of the United States found it financially unsound. William Jones (the President of the parent bank in Philadelphia) had permitted all the branches to make large loans with little collateral. Taking into account all eighteen branch offices, the Bank's outstanding liabilities were ten times greater than their reserve of specie. And after the U.S. Treasury withdrew \$2 million in specie to pay for the Louisiana Purchase, the vaults of the Bank of the United States were all but empty.²¹⁹

The Panic of 1819—which had brought down the Calvert Street Building Association—now threatened the Bank of the United States with collapse as well. The Bank of the United States was a private joint stock company, and it was in a state of insolvency. But William H. Crawford, Secretary of the Treasury, determined that it was "too big to fail." He responded to the crisis with the "full faith and credit of the United States." The talk on the street was that "the Bank was saved and the people were ruined."²²⁰

Crawford's first step in January of 1819 was to secure the resignation of William Jones, the President of the parent bank, and to replace him with Langdon Cheves, of Charleston, South

²¹⁶ See, e.g., BRAY HAMMOND, *BANKS AND POLITICS IN AMERICA FROM THE REVOLUTION TO THE CIVIL WAR* 260-62 (1957); FRANK A. CASSELL, *MERCHANT CONGRESSMAN IN THE YOUNG REPUBLIC: SAMUEL SMITH OF MARYLAND, 1752-1839*, at 222-23 (1971) ("Caught up in the post-war speculative fever and unchecked by the incompetent president of the bank, William Jones, Buchanan had engaged in a veritable orgy of financial mismanagement."); A REPORT OF THE CONSPIRACY CASES, LATELY DECIDED AT BELLE AIR 29 (Robert Goodloe Harper ed., Balt., Thomas Murphy 1823).

²¹⁷ See A REPORT OF THE CONSPIRACY CASES, LATELY DECIDED AT BELLE AIR 97-98 (Robert Goodloe Harper ed., Balt., Thomas Murphy 1823).

²¹⁸ BRAY HAMMOND, *BANKS AND POLITICS IN AMERICA FROM THE REVOLUTION TO THE CIVIL WAR* 260-62 (1957) ("The net loss in the end exceeded \$1,500,000."); A REPORT OF THE CONSPIRACY CASES, LATELY DECIDED AT BELLE AIR 3 (Robert Goodloe Harper ed., Balt., Thomas Murphy 1823) ("[Buchanan, Williams, and McCulloh] did wickedly, falsely, fraudulently and unlawfully, conspire, combine, confederate and agree together, by wrongful and indirect means to cheat, defraud and impoverish the said President, Directors and Company of the Bank of the United States . . . of the amount and value of \$1,500,000 . . ." (citing July 1819 indictment by Attorney General Luther Martin)).

²¹⁹ See, e.g., GARY LAWSON BROWNE, *BALTIMORE IN THE NATION, 1789-1861*, at 73-76 (1980); FRANK A. CASSELL, *MERCHANT CONGRESSMAN IN THE YOUNG REPUBLIC: SAMUEL SMITH OF MARYLAND, 1752-1839*, at 222-23 (1971); BRAY HAMMOND, *BANKS AND POLITICS IN AMERICA FROM THE REVOLUTION TO THE CIVIL WAR* 257-59 (1957).

²²⁰ RALPH CHARLES HENRY CATTERALL, *THE SECOND BANK OF THE UNITED STATES* 60 (1902).

Carolina. Cheves undertook to curtail discounts and to exercise closer supervision over the branches.²²¹

Cheves reduced salaries and expenses. He procured the appointment of fiscally conservative directors and officers at the eighteen branches. He redirected the investment of bank funds into government securities and prevailed upon the federal government to be patient in its withdrawal of funds. He borrowed \$2 million (taken in specie) from Baring Brothers in England. And he investigated past misdeeds.²²²

Cheves soon became aware of the huge losses that had been suffered by the Baltimore Branch. In May of 1819 James A. McCulloh was replaced as Cashier of the Baltimore Branch by the junior John White (son and namesake of the one-time President of the Water Company).²²³ White, who had served faithfully (although perhaps inattentively), as a Director of the Baltimore Branch since 1817²²⁴ was now called upon by Cheves in a letter of June of 1819 to confidentially look into all the dealings that the partnership of S. Smith & Buchanan may have had with the Baltimore Branch. The inquiry was ticklish because one of the partners, James A. Buchanan, remained President of the Baltimore Branch, and all of his speculation had been in the firm's name. White was to be Cheves's spy.²²⁵

On July 2, 1819 (presumably based upon information provided by White) the President and directors of the Bank of the United States passed the following resolution:

Whereas the Board of Directors of this Bank, on receiving information of the misconduct of James A. Buchanan, President, and James W. M'Culloh, Cashier of the Office of Discount and Deposit at Baltimore, did immediately and unanimously dismiss from their service the said James W. M'Culloh, and would immediately and unanimously have dismissed the said James A. Buchanan had not doubts existed as to the extent of their powers over that officer.

And whereas, by the official reports recently received from the Office at Baltimore it appears that the said James A. Buchanan and James W. M'Culloh have committed acts of fraud and delinquency exceeding all the anticipations of this

²²¹ See BRAY HAMMOND, *BANKS AND POLITICS IN AMERICA FROM THE REVOLUTION TO THE CIVIL WAR* 259, 262-63 (1957).

²²² BRAY HAMMOND, *BANKS AND POLITICS IN AMERICA FROM THE REVOLUTION TO THE CIVIL WAR* 263 (1957).

²²³ Letter from L. Cheves, President, Bank of the U.S., to John White, Esquire (May 18, 1819) (available from Maryland Historical Society, John Campbell White Papers, 1798-1926, MS 1005, Box 1) (“[Y]ou have been unanimously appointed [to the office of Cashier].”). The full name of the younger White was also John Campbell White but for the most part he styled himself John White in order to avoid confusion with his father. This paper follows that practice.

²²⁴ Letter from J.A. Buchanan, President, Balt. Office of Discount & Deposit of the Bank of the U.S., to John White, Esquire (Nov. 29, 1817) (available from Maryland Historical Society, John Campbell White Papers, 1798-1926, MS 1005, Box 1) (appointing White as Director).

²²⁵ See Letter from L. Cheves, President, Bank of the U.S., to John White, Cashier, Balt. Office of Discount & Deposit of the Bank of the U.S. (June 9, 1819) (available from Maryland Historical Society, John Campbell White Papers, 1798-1926, MS 1005, Box 1).

Board—that, violating the confidence and betraying the trust reposed in them, they have, without authority from this Board and without the knowledge of the Directors in Baltimore secretly distributed among themselves and their connexions, in the form of loans totally insecure, a most undue proportion of the funds of the Institution—that they have in the same manner lavished upon favourites or dependents or partizans the means destined to assist and encourage meritorious industry, and have consummated this career of faithlessness by fraudulently appropriating to themselves a large portion of the property confided to their care, which every moral obligation should have rendered sacred, and which their oaths of office solemnly bound them to protect and preserve. . . .

. . . .
Resolved—That, as soon as in the opinion of the President the interests of the bank will permit, James W. M’Culloh be arrested and held to bail in a suit against him for the sums which he has taken by overdraft from the Office at Baltimore. And that a suit be also instituted against Messrs. Smith & Buchanan for the sums taken by them on overdrafts from that Office, in which suit Jas. A. Buchanan alone shall be arrested and held to bail.²²⁶

Later that month the State of Maryland by a bill of indictment drafted by Luther Martin, Attorney General of Maryland, charged James A. Buchanan and James W. McCulloh with conspiracy to defraud the Bank of the United States. The indictment alleged that Buchanan and McCulloh did “falsely, wickedly, fraudulently, wrongfully and unlawfully impoverish, cheat and defraud the said President Directors and Company of the Bank of the United States . . . to the evil example of all others in like manner offending, and against the peace, government and dignity of the State of Maryland, &c.”²²⁷

The criminal case would take years to untangle, but by the end of 1819 one thing was certain. The House of S. Smith & Buchanan was bankrupt. Buchanan had used his position as an insider to buy millions of dollars of stocks and bonds with money borrowed from the Baltimore Branch. When the investments went down in value by 50%, partners Samuel Smith and James A. Buchanan remained jointly and severally liable to repay the loans; when they were unable to do so, the House of Smith and Buchanan, “one of the greatest commercial establishments in the United States . . . [fell] with a crash which staggered the whole city of Baltimore.”²²⁸

Ironies and coincidences abound. James W. McCulloh—who in March of 1819 had been the winning plaintiff in a Supreme Court suit to save the existence of the Bank of the United States—was fired in April of 1819 for having defrauded the Bank he had just saved. Maryland

²²⁶ AN EXHIBIT OF THE LOSSES SUSTAINED AT THE OFFICE OF DISCOUNT AND DEPOSIT BALTIMORE, UNDER THE ADMINISTRATION OF JAMES A. BUCHANAN, PRESIDENT, AND JAMES W. MCCULLOH, CASHIER 3-4 (Balt., Thomas Murphy 1823).

²²⁷ A REPORT OF THE CONSPIRACY CASES, LATELY DECIDED AT BELLE AIR 9 (Robert Goodloe Harper ed., Balt., Thomas Murphy 1823).

²²⁸ BRAY HAMMOND, BANKS AND POLITICS IN AMERICA FROM THE REVOLUTION TO THE CIVIL WAR 261-62 (1957) (quoting 4 MEMOIRS OF JOHN QUINCY ADAMS 382 (Charles Francis Adams ed., Phila., J.B. Lippincott & Co. 1875)).

Attorney General Luther Martin—who asserted a claim against McCulloh in March of 1819 intending to eliminate the Bank—five months later filed charges to make McCulloh repay the Bank the \$50,000 he had borrowed. John White—who as the President of the Baltimore Water Company was called upon to clean-up the financial mess created by Robert Mills on Calvert Street at the end of 1819—was the father of the junior John White who as the Cashier at the Baltimore Branch of the Bank of the United States was tasked with cleaning up the financial mess created by James Buchanan at the end of 1819.

C. Robert Mills

On March 15, 1820 the Baltimore Water Company filed a bill of complaint with William Kilty, Chancellor of Maryland, against the Calvert Street co-partners. It alleged that they were in violation of their March 9, 1818 agreement requesting an accounting for the Water Company's claim in the amount of their advances over and above their agreed contribution, plus the amount necessary to settle all outstanding Calvert Street Building Association debts.

The Chancellor submitted the dispute to arbitration, and on July 19, 1821 the three arbitrators issued their award. The original Calvert Street co-partners (including William Steuart who purchased Thomas Towson's share but excluding Hugh Bonner who never signed the partnership agreement) were found to be indebted to the Baltimore Water Company in the amount of \$22,355.51 with interest and costs. If that sum was not paid in full by October 29, 1821 then the ten houses and lots would be sold at a public auction.²²⁹ The houses and lots were to be sold as leasehold interests for the term of ninety-nine years renewable forever. As such, each of the twenty-three feet wide lots was subject to an annuity or ground rent of \$6 per front foot or \$138 per year. Chancellor John W. Johnson accepted the arbitrators' ruling and issued it as a decree on October 26, 1821.²³⁰

Not subject to the debt were the houses on lots numbered four and six (already owned by the Water Company) and the houses on lots numbered one and two (previously sold by the Water Company to William Steuart, free and clear of the debt).²³¹ The remaining eight lots sold at

²²⁹ Award in Chancery (July 23, 1821), Balt. Water Co. v. Neilson (Md. Ch. 1821) (No. 6178), *available at* http://www.msa.md.gov/megafile/msa/speccol/sc5300/sc5339/000034/000000/000014/restricted/msa_sc5458_51_4_764_1.pdf.

²³⁰ Decree in Chancery (Oct. 26, 1821), Balt. Water Co. v. Neilson (Md. Ch. 1821) (No. 6178), *available at* http://www.msa.md.gov/megafile/msa/speccol/sc5300/sc5339/000034/000000/000014/restricted/msa_sc5458_51_4_764_1.pdf.

²³¹ W. Steuart Acknowledgement for \$300 to President & Directors of the Baltimore Water Co. (Nov. 1, 1819), Balt. Water Co. v. Neilson (Md. Ch. 1821) (No. 6178), *available at* http://www.msa.md.gov/megafile/msa/speccol/sc5300/sc5339/000034/000000/000014/restricted/msa_sc5458_51_4_764_1.pdf ("My proposition of the 6th Sept. 1819 to your boards having been accepted, and a Deed for the property about to be executed . . .").

auction on November 12, 1821. Proceeds from the sale totaled \$27,650, an amount in excess of the arbitrators' award, so the debt owed to the Water Company was satisfied.²³²

The development conceived and superintended by Robert Mills on Water Company land at 606-620 Calvert Street had proved a failure. Hardworking mechanics and tradesmen forfeited the value of their hard work, labor, and materials.

Robert Mills found himself unable to pay his mortgage indebtedness and promissory notes. He applied for "the benefit of the laws for relief of insolvent debtors."²³³ The Maryland law enacted in 1816 permitted a debtor to be discharged from his Maryland debts by executing to a court-appointed trustee a deed of conveyance of "all property, estate and effects, books, papers, accounts, bonds, notes, and evidences of debts."²³⁴ The trustee was directed to sell the assets and to distribute the proceeds in satisfaction of the mortgages, judgments, and liens according to their priority.²³⁵ Mills transferred ownership of his Maryland real estate portfolio to the trustee.²³⁶ He had lost all of his real estate holdings except for the Virginia mountains lands that were beyond the jurisdiction of the Maryland equity courts.

On the other side of the Atlantic Ocean in June of 1815, the French Emperor with high hopes and great expectations boldly undertook to vanquish the combined Anglo-Prussian forces in

²³² Trustees Report of Sales (Dec. 12, 1821), *Balt. Water Co. v. Neilson* (Md. Ch. 1821) (No. 6178), available at http://www.msa.md.gov/megafile/msa/speccol/sc5300/sc5339/000034/000000/000014/restricted/msa_sc5458_51_4764_1.pdf. Robert Mills' #12 was sold for \$3,000 to Talbot Jones; J. C. Neilson's #9 was sold for \$4,000 to George Earnest; J. H. Rogers' #7 was sold for \$3,500 to Talbot Jones; Moses Hand's #10 was sold for \$3,200 to Williams Edwards; Charles Hammell's # 11 was sold for \$3,500 to Charles Hammell (who then assigned the right of purchase to the Baltimore Water Company); John Ready's #3 was sold for \$3,600 to the Baltimore Water Company (by the bid of John Ready, one of the defendants); Samuel Sterrett's (under the name and style of Charles Constable Co.) #5 was sold for \$3,350 to the Baltimore Water Company (by the bid of John McKim Jr.); Peter Mason's #8 was sold for \$3,500 to the Baltimore Water Company.

²³³ FED. GAZETTE & BALT. DAILY ADVERTISER, Apr. 2, 1821. Under a Maryland insolvency law enacted in 1816, a debtor, by permitting a trustee to take possession for the benefit of his creditors "all property, estate and effects, books, papers, accounts, bonds, notes, and evidences of debts," could discharge the debts. An Act Relating to Insolvent Debtors in the City and County of Baltimore, ch. 221 (1816), reprinted in 635 ARCHIVES OF MARYLAND: LAWS MADE AND PASSED BY THE GENERAL ASSEMBLY OF THE STATE OF MARYLAND, AT A SESSION BEGUN AND HELD AT THE CITY OF ANNAPOLIS, ON MONDAY THE SECOND DAY OF DECEMBER, EIGHTEEN HUNDRED AND SIXTEEN, at 174, 174 (Annapolis, Md., Jonas Green 1817), available at <http://aomol.net/megafile/msa/speccol/sc2900/sc2908/000001/000635/pdf/am635--174.pdf>.

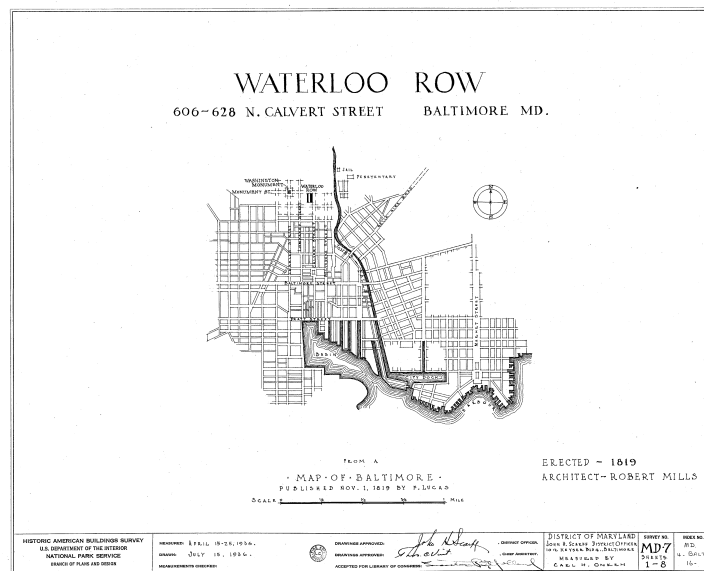
²³⁴ An Act Relating to Insolvent Debtors in the City and County of Baltimore, ch. 221 (1816), reprinted in 635 ARCHIVES OF MARYLAND: LAWS MADE AND PASSED BY THE GENERAL ASSEMBLY OF THE STATE OF MARYLAND, AT A SESSION BEGUN AND HELD AT THE CITY OF ANNAPOLIS, ON MONDAY THE SECOND DAY OF DECEMBER, EIGHTEEN HUNDRED AND SIXTEEN, at 174, 174 (Annapolis, Md., Jonas Green 1817), available at <http://aomol.net/megafile/msa/speccol/sc2900/sc2908/000001/000635/pdf/am635--174.pdf>.

²³⁵ See *Carter v. Dennison*, 7 Gill 157, 170 (Md. 1848), for a description on insolvency proceedings.

²³⁶ Secondary sources avow that Mills thereby transferred all of his Baltimore real estate. The author however has not been able to find the deed after a diligent search in the Land Records of Maryland. See *A Digital Image Retrieval System for Land Records in Maryland*, MDLANDREC.NET, <http://www.mdlandrec.net/msa/stagser/s1700/s1741/cfm/index.cfm?CFID=47263514&CFTOKEN=50272711> (last visited June 10, 2012).

Waterloo, Belgium. Napoleon Bonaparte’s overreaching and miscalculations led to a crushing military defeat. Exile to Saint Helena marked the end of Napoleon Bonaparte’s military and political career. English slang came to call any great defeat, after a string of victories, a “Waterloo.”²³⁷

Baltimoreans, observing that the ambitious project for twelve houses on Water Company land had gone bankrupt, mischievously dubbed 606-620 Calvert Street “Waterloo Row.” The Baltimore Water Company took the joke and accepted the Waterloo Row appellation as its own. The five 1822 insurance policies issued by the Baltimore Equitable Society to the Baltimore Water Company described the Calvert Street houses as Waterloo Row.²³⁸



Waterloo Row²³⁹

Robert Mills had designed and built the biggest and best residential development in Baltimore’s history. But he had tried to serve two masters—the Baltimore Water Company and the Calvert Street Building Association—and had failed them both. His gross miscalculation and failure to control cost had doomed the project to failure. “Napoleon Bonaparte had met his Waterloo in Belgium” and “Robert Mills had met his Waterloo in Baltimore.”

²³⁷ *Battle of Waterloo*, WIKIPEDIA, http://en.wikipedia.org/wiki/Battle_of_Waterloo (last visited June 10, 2012).

²³⁸ Baltimore Equitable Insurance Policies #6934-#6938 (Jan. 1, 1822) (available from Maryland Historical Society, Baltimore Equitable Society Collection, MS 3020, Series 1, Box 3, Record of Policies E 1/1/1819-8/1/1825).

²³⁹ *Historic American Buildings Survey*, LIBR. CONGRESS, <http://www.loc.gov/pictures/collection/hh/item/md0109.sheet.00000a/> (last visited June 10, 2012) (606-628 North Calvert Street, Baltimore).

D. James A. Buchanan

James A. Buchanan had borrowed \$3,000,000 from the Baltimore Branch of the Bank of the United States on the account of the House of S. Smith & Buchanan. During the financial Panic of 1819 this speculation in bank stock and government bonds lost half its value, leaving the firm \$1.5 million dollars in debt. The partnership was rendered bankrupt, and the partners were liable for the firm's debts.²⁴⁰ William B. Buchanan, who had only joined the partnership the year before, found himself jointly and severally liable along with the senior partners, Samuel Smith, and his father, James A. Buchanan. The three partners sought the protection of the Maryland Insolvency Law.²⁴¹ In 1820 they transferred "all their estate and property" to trustees Thomas Ellicott and Jonathan Meredith to be held for the benefit of their creditors in return for a discharge from their partnership indebtedness.²⁴² Samuel Smith and James A. Buchanan—who had been millionaires in 1819—were (on paper at least) now destitute.

The Insolvency Act may have discharged them from their civil liability to Maryland creditors but their criminal responsibility remained an open question. In July of 1819 Luther Martin, the Attorney General of Maryland, filed a criminal bill of complaint against Buchanan, George Williams, and James McCulloh in Baltimore City court. He charged them with an "unlawful, false, and wicked conspiracy and confederacy, combination and agreement . . . by indirect, subtle and wrongful, fraudulent and unlawful means and by divers artful and dishonest devices and practices . . . to embezzle large amounts of money and promissory notes . . . from their Office of Discount and deposit in the city of Baltimore . . . to wit. the amount and value of \$1,500,000 current money of the United States" Robert Goodloe Harper (Robert Mills' one-time partner in a joint venture building a block row of houses on Courtland Street) was the chief counsel for the prosecution.²⁴³

Surprisingly, Samuel Smith was not indicted as a co-conspirator. It seems implausible that senior partner Smith would have been unaware of the \$3,000,000 loan that Buchanan had taken out in the firm's name. Attorney General Martin, who drew the bill of indictment against Buchanan,

²⁴⁰ See AN EXHIBIT OF THE LOSSES SUSTAINED AT THE OFFICE OF DISCOUNT AND DEPOSIT BALTIMORE, UNDER THE ADMINISTRATION OF JAMES A. BUCHANAN, PRESIDENT, AND JAMES W. MCCULLOH, CASHIER (Balt., Thomas Murphy 1823).

²⁴¹ An Act Relating to Insolvent Debtors in the City and County of Baltimore, ch. 221 (1816), *reprinted in* 635 ARCHIVES OF MARYLAND: LAWS MADE AND PASSED BY THE GENERAL ASSEMBLY OF THE STATE OF MARYLAND, AT A SESSION BEGUN AND HELD AT THE CITY OF ANNAPOLIS, ON MONDAY THE SECOND DAY OF DECEMBER, EIGHTEEN HUNDRED AND SIXTEEN, at 174, 174 (Annapolis, Md., Jonas Green 1817), *available at* <http://aomol.net/megafile/msa/speccol/sc2900/sc2908/000001/000635/pdf/am635--174.pdf>.

²⁴² Samuel Smith, James A. Buchanan & William B. Buchanan, Deed of Trust to Thomas Ellicott & Jonathan Meredith (1820) (available in Baltimore County Court Land Records, WG 157/351, MSA CE 66-207). The author has been unsuccessful in his search for the Chancery Court Records of this insolvency proceeding. See *Chancery Court (Chancery Papers)*, MD. STATE ARCHIVES, <http://www.msa.md.gov/msa/stagser/s500/s512/html/ssf0512.html> (last visited June 10, 2012).

²⁴³ A REPORT OF THE CONSPIRACY CASES, LATELY DECIDED AT BELLE AIR 3-4 (Robert Goodloe Harper ed., Balt., Thomas Murphy 1823).

and prosecutor Harper were both ardent Federalists. Samuel Smith, a leading Republican, had been demonized in the federal press as the corrupt and profligate ““monster in Baltimore.””²⁴⁴ But the opinion at the time of the indictment, and the view of historians since, seems to uncritically accept the notion that Buchanan acted without Smith’s knowledge and consent.²⁴⁵

Smith does appear to have been honestly intent upon making good the firm’s losses. He separately conveyed to the trustees for the benefit of his creditors over 500,000 acres of western lands in Ohio, New York, Kentucky, Georgia, and Virginia²⁴⁶ that might otherwise have been beyond their reach. He was ““reported to have gone distracted and to be confined dangerously ill in bed””²⁴⁷ but he was not ““arrested and held to bail.””²⁴⁸

Uncontradicted evidence proved that Buchanan, President of the Baltimore Branch, had along with George Williams (a Director of the Baltimore Branch) and James McCulloh (the fired Cashier of the Baltimore Branch) secretly lent themselves \$3 million in bank notes, without collateral and without notifying the other Baltimore Bank directors or the directors of the parent Bank of the United States in Philadelphia. There was little doubt that the conspirators were civilly liable to the Bank of the United States and its shareholders for breach of their fiduciary duty. Now their criminal responsibility was in question.

In 1820 in order to assure a fair and impartial proceeding the criminal trial was removed from the Baltimore City court to Belle Air in Harford County. The defendants requested a trial before a three judge panel rather than a trial by jury.²⁴⁹ Buchanan, Williams and McCulloh did not dispute the gist of the charge against them that as officers of the Bank of Baltimore they had conspired to defraud the Bank. Instead they demurred on the technical legal ground that the charge did not amount to an indictable offense because private fraud (embezzlement) had not been made a criminal offense by the Maryland General Assembly.²⁵⁰ Judges Charles W. Hanson and William H. Ward agreed, but Judge Thomas B. Dorsey dissented on the ground that conspiracies to cheat were “highly criminal” under the common law of England, which Maryland had adopted after its independence.²⁵¹

²⁴⁴ DONALD R. HICKEY, *THE WAR OF 1812*, at 57 (Bicentennial ed. 2012) (quoting *FEDERAL REPUBLICAN* (Washington, D.C.), July 27, 1812).

²⁴⁵ *See, e.g.*, FRANK A. CASSELL, *MERCHANT CONGRESSMAN IN THE YOUNG REPUBLIC: SAMUEL SMITH OF MARYLAND, 1752-1839*, at 222-24 (1971).

²⁴⁶ Samuel Smith, Deed of Trust to Thomas Ellicott & Jonathan Meredith (1820) (available in Baltimore County Court Land Records, WG 157/356, MSA CE 66-207).

²⁴⁷ BRAY HAMMOND, *BANKS AND POLITICS IN AMERICA FROM THE REVOLUTION TO THE CIVIL WAR* 262 (1957) (quoting John Quincy Adams).

²⁴⁸ *A REPORT OF THE CONSPIRACY CASES, LATELY DECIDED AT BELLE AIR* 4 (Robert Goodloe Harper ed., Balt., Thomas Murphy 1823).

²⁴⁹ *State v. Buchanan*, 5 H. & J. 317, 318 (Md. 1821).

²⁵⁰ *A REPORT OF THE CONSPIRACY CASES, LATELY DECIDED AT BELLE AIR* app. 1 (Robert Goodloe Harper ed., Balt., Thomas Murphy 1823).

²⁵¹ *A REPORT OF THE CONSPIRACY CASES, LATELY DECIDED AT BELLE AIR* app. 2 (Robert Goodloe Harper ed., Balt., Thomas Murphy 1823).

On appeal in 1821 the Maryland Court of Appeals sided with Judge Dorsey holding that: “It seems . . . to be perfectly clear, both on principle and authority, that the matter charged in . . . the indictment, constitutes a punishable conspiracy at common law, and that that portion of the common law is in force in this State.”²⁵²

The judgment was reversed and the Harford County court was directed to proceed to a new trial.²⁵³ James A. Buchanan could be criminally prosecuted and convicted of having undertaken to “empoverish, cheat and defraud the . . . Bank of the United States.”²⁵⁴

The retrial of James A. Buchanan, James McCulloh, and George Williams was docketed in the Harford County court for 1823. George Williams was sick and opted to be tried separately. Buchanan and McCulloh again “put themselves on the Court for trial instead of the jury” and pleaded not guilty. Their choice of a bench trial was not surprising. The panel would once again consist of Judges Hanson, Ward, and Dorsey—two of whom were already on record as being inclined to dismiss the charges against the bankers. After examining a number of witnesses and hearing the arguments of counsel a majority of the court (Hanson and Ward) held the accused not guilty in law or fact and entered a judgment of acquittal. Judge Dorsey dissented.²⁵⁵

There is no official report of the Harford County court’s proceedings, but in its aftermath prosecutor Robert Goodloe Harper published *A Report of the Conspiracy Cases, Lately Decided in Belle Air* based upon the written evidence and his own notes.²⁵⁶ Therein he recounted the winning argument of defense lawyer William H. Winder. Winder admitted that the conduct of Buchanan and McCulloh was “indiscreet” and that they had “relied too strongly upon the hopes and calculations in which the whole community indulged” But he then argued that:

[T]he failure of their stock speculations was rather to be pitied as a misfortune, than condemned as a crime. . . .

. . . .

. . . Adverse circumstances had depressed stock, when, if it had risen, the defendants would have been looked upon as nobles, as the architects of their fortunes, by the very men who now prosecuted them, and lauded to the skies as possessing spirits fraught with enterpri[s]e.²⁵⁷

²⁵² State v. Buchanan, 5 H. & J. 317, 360 (Md. 1821).

²⁵³ State v. Buchanan, 5 H. & J. 317, 368 (Md. 1821).

²⁵⁴ A REPORT OF THE CONSPIRACY CASES, LATELY DECIDED AT BELLE AIR 5 (Robert Goodloe Harper ed., Balt., Thomas Murphy 1823).

²⁵⁵ State v. Buchanan, 5 H. & J. 317, 500 (Md. 1821) (Note).

²⁵⁶ A REPORT OF THE CONSPIRACY CASES, LATELY DECIDED AT BELLE AIR (Robert Goodloe Harper ed., Balt., Thomas Murphy 1823).

²⁵⁷ A REPORT OF THE CONSPIRACY CASES, LATELY DECIDED AT BELLE AIR 113, 170 (Robert Goodloe Harper ed., Balt., Thomas Murphy 1823).

The two judge majority opinion of the Harford county court agreed. It stated that while the defendants were charged with taking money fraudulently it had not been proven that they had any intent to keep it and use it without paying interest:

That this intent . . . was a material part of the charge, and must be proved: That as they had charged themselves with the loans, in the books of the Bank, at the time when they were taken . . . it appeared that they did then intend to repay principal and interest . . . : That their subsequent disappointment, by the failure of their speculation, and their consequent ruin, could not convert that into a crime, which was not one at the time of doing it²⁵⁸

Judges Hanson and Ward considered Buchanan and McCulloh as victims of a burst bubble, not embezzlers.

Judge Dorsey, writing in dissent, did not agree. He opined:

A large sum of money has been taken from the funds of the Bank by the [Defendants], under false representations, and in violation of a sacred trust: and to conceal the fraud, the records of the Bank have been falsified, and the Directors deceived by false statements, made for the express purpose of deceiving. . . . [A] conspiracy to defraud is an indictable offense.²⁵⁹

Dorsey considered Buchanan and McCulloh to be co-conspirators in a fraudulent enterprise.

With Buchanan and McCulloh found not guilty, George Williams subsequently was acquitted as a matter of course “because one person cannot be guilty of a conspiracy and he alone remained under indictment.” *A Report of the Conspiracy Cases* later published by the Bank of the United States concluded that the evidence failed to show that Williams had any “agency in the transactions” and that it was “highly probable, that had he been put on his trial, he would have been acquitted on the merits of the case.”²⁶⁰

²⁵⁸ A REPORT OF THE CONSPIRACY CASES, LATELY DECIDED AT BELLE AIR 246 (Robert Goodloe Harper ed., Balt., Thomas Murphy 1823).

²⁵⁹ A REPORT OF THE CONSPIRACY CASES, LATELY DECIDED AT BELLE AIR 243-44 (Robert Goodloe Harper ed., Balt., Thomas Murphy 1823).

²⁶⁰ *State v. Buchanan*, 5 H. & J. 317, 500 (Md. 1821) (Note) (quoting A REPORT OF THE CONSPIRACY CASES, LATELY DECIDED AT BELLE AIR (Robert Goodloe Harper ed., Balt., Thomas Murphy 1823)).

VII. AFTER THE FALL: 1822-1840

Hubris, greed, risk-taking, false pretenses, and profligacy marked the downfall of both Robert Mills and James Buchanan. Yet they handled adversity very differently. Mills sought to redeem his career with grander works. Buchanan withdrew from the public sphere into the cocoon of his family.

A. Robert Mills

Bankrupt in Baltimore, Robert Mills returned home to Charleston. Speaking of himself in the third person in an unpublished autobiography Mills explained the move as follows:

Operations being suspended for the present on the Washington [Monument], and the author's native state, South Carolina, having given him an invitation to aid in perfecting her internal improvements, he accepted and in 1820 removed with his family to that State, receiving the appointment of Engineer and Architect of the State and a commissioned seat in the Board of Commissioners of Public Works.²⁶¹

At first things went well. Mills had a regular salary and a significant job. Ever an optimist he took out a mortgage and purchased a house. He designed a number of courthouses and jails and a lunatic asylum. He proposed certain inland improvements in his *Inland Navigation: Plan for a Great Canal Between Charleston and Columbia*.²⁶²

But financial security did not last for long. Internal works of improvement proved to cost more than they were worth, and the South Carolina legislature discontinued the program. Mills was summarily fired on December 31, 1823.²⁶³ Unable to pay the \$7,000 balance due, his mortgage was foreclosed and the house was lost in 1825.²⁶⁴

Between 1820 and 1827 Robert Mills had been regularly returning to Baltimore to work out settlements in satisfaction of his creditors. After losing his job in Charleston, he again looked to Baltimore for work finishing the Monument to George Washington. During his absence work had continued under the direction of William Steuart (the Monument's marble contractor) who had completed the interior staircase and finished the capital.²⁶⁵

²⁶¹ Robert Mills, Autobiography (unfinished), in H.M. PIERCE GALLAGHER, ROBERT MILLS: ARCHITECT OF THE WASHINGTON MONUMENT 159, 161 (1966).

²⁶² JOHN M. BRYAN, ROBERT MILLS 149-50, 152 (2001); Robert Mills, Autobiography (unfinished), in H.M. PIERCE GALLAGHER, ROBERT MILLS: ARCHITECT OF THE WASHINGTON MONUMENT 159, 161 (1966).

²⁶³ See JOHN M. BRYAN, ROBERT MILLS 149-50 (2001).

²⁶⁴ RHODRI WINDSOR LISCOMBE, ALTOGETHER AMERICAN: ROBERT MILLS, ARCHITECT AND ENGINEER, 1781-1855, at 104 (1994).

²⁶⁵ JOHN M. BRYAN, ROBERT MILLS 206-07 (2001). William Steuart had been a co-partner in the Calvert Street Building Company and in 1826 owned and occupied the house at 606 Calvert Street (Number 1 Waterloo Row). See

The Monument's 178 foot column awaited the erection of a 17 foot statue of George Washington. As of 1826 the sculptor had not been selected and the statue had not been carved. The Monument Board turned down Mills' request for salaried re-employment but agreed to pay his expenses if he helped to select the sculptor.²⁶⁶

In 1827 Mills solicited three proposals. The Board selected sculptor Enrico Causici's \$9,000 bid as the winner. Causici undertook to purchase the marble, carve the statue, and place it atop the column but subcontracted with Mills (for \$1,500) the task of hoisting the sixteen and one-half ton load up 160 feet in the air. Mills' engineering plan—with the help of sea captain John D. Woodside—consisted of a derrick, shears, cables, stirrups, chains, and a block and tackle.²⁶⁷ The task was accomplished without misadventure.

By 1829 Mills' Washington Monument in Baltimore was more-or-less complete. The original appropriation for the Monument was at \$100,000. The actual outlay was \$204,000—more than twice the budgeted amount. The balconies, ornamental trophies, friezes, banners, and shields that Mills had proposed to festoon the column and base and which he thought essential to the aesthetic and symbolic distinction of the monument²⁶⁸ had been omitted due to cost constraints. But the 17 foot statue of George Washington stood firmly erect atop the 178 foot column.²⁶⁹

Baltimore Equitable Insurance Policy #9148 (June 1826) (available from Maryland Historical Society, Baltimore Equitable Society Collection, MS 3020, Series 1a-Box 4, Record of Policies F 8/15/1825—1/1835).

²⁶⁶ See JOHN M. BRYAN, ROBERT MILLS 206-08 (2001); H.M. PIERCE GALLAGHER, ROBERT MILLS: ARCHITECT OF THE WASHINGTON MONUMENT 109 (1966); WASHINGTON MONUMENT, BALTIMORE: ACCOUNT OF LAYING THE CORNER-STONE, RAISING THE STATUE, DESCRIPTION, &C. &C., at 26-27 (Balt., 1849), available at <http://www.archive.org/details/washingtonmonume00baltd> (“In 1827 invitations were sent out by the Architect . . . to the most eminent artists of our own country to present models for the statue which was to surmount the column.”).

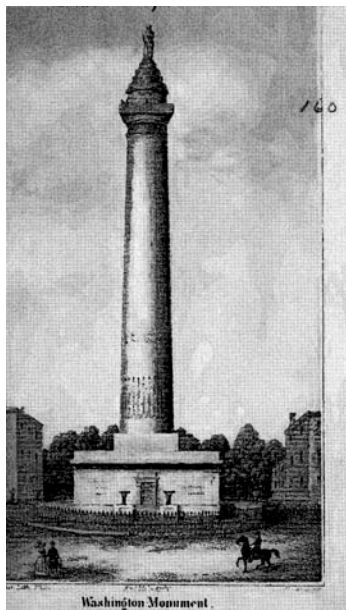
²⁶⁷ JOHN M. BRYAN, ROBERT MILLS 208, 210-12 (2001); H.M. PIERCE GALLAGHER, ROBERT MILLS: ARCHITECT OF THE WASHINGTON MONUMENT 100, 108-09 (1966); WASHINGTON MONUMENT, BALTIMORE: ACCOUNT OF LAYING THE CORNER-STONE, RAISING THE STATUE, DESCRIPTION, &C. &C., at 26-32 (Balt., 1849), available at <http://www.archive.org/details/washingtonmonume00baltd> (noting that “the statue stood forth in all its grandeur [at] 16 feet high, and weighing 35,000 lbs”).

²⁶⁸ RHODRI WINDSOR LISCOMBE, ALTOGETHER AMERICAN: ROBERT MILLS, ARCHITECT AND ENGINEER, 1781-1855, at 73 (1994).

²⁶⁹ See, e.g., JOHN M. BRYAN, ROBERT MILLS 207, 210-12 (2001); H.M. PIERCE GALLAGHER, ROBERT MILLS: ARCHITECT OF THE WASHINGTON MONUMENT 106-09 (1966); WASHINGTON MONUMENT, BALTIMORE: ACCOUNT OF LAYING THE CORNER-STONE, RAISING THE STATUE, DESCRIPTION, &C. &C., at 30-32 (Balt., 1849), available at <http://www.archive.org/details/washingtonmonume00baltd>.



**Mills' Design for the
Washington Monument (1814)²⁷⁰**



**Washington Monument,
Baltimore (1849)²⁷¹**

²⁷⁰ JOHN M. BRYAN, ROBERT MILLS 96 (2001).



Distant View of Washington Monument²⁷²

In 1830 Robert Mills and his family relocated to Washington City, the Nation's burgeoning capital, in search of work. With the sponsorship of Vice-President John Calhoun, a fellow South Carolinian and personal acquaintance, he soon found a federal job as a draftsman in the General Lands Office of the Treasury Bureau. His work permitted him to seek commissions for other federal building projects.²⁷³

Drawing on his Baltimore experiences Mills approached the House Committee on Public Buildings with recommendations for the erection of a monument to George Washington, as well as a system of pipes bringing water from the Potomac River. No funds were forthcoming, but Congress accepted his plans for privies and a fireproof vault under the Treasury building and for minor alterations to the Supreme Court. With the continuing support of Calhoun and President Andrew Jackson, he soon became the unofficial federal architect.²⁷⁴

Mills won the post of engineer to the Washington Canal Company and was elected to the board of what would become the Smithsonian Institute. In 1833 he was employed to design and supervise construction of four new federal customs houses in New England. And he still found

²⁷¹ WASHINGTON MONUMENT, BALTIMORE: ACCOUNT OF LAYING THE CORNER-STONE, RAISING THE STATUE, DESCRIPTION, &C. &C., at frontispiece (Balt., 1849), available at <http://www.archive.org/details/washingtonmonume00balt/>.

²⁷² *Historic American Buildings Survey*, LIBR. CONGRESS, <http://www.loc.gov/pictures/item/md0204.photos.086712p/resource/> (last visited June 8, 2012) (Reproduced from an old photo).

²⁷³ RHODRI WINDSOR LISCOMBE, *ALTOGETHER AMERICAN: ROBERT MILLS, ARCHITECT AND ENGINEER, 1781-1855*, at 155-59 (1994).

²⁷⁴ RHODRI WINDSOR LISCOMBE, *ALTOGETHER AMERICAN: ROBERT MILLS, ARCHITECT AND ENGINEER, 1781-1855*, at 155-59 (1994).

²⁷⁴ RHODRI WINDSOR LISCOMBE, *ALTOGETHER AMERICAN: ROBERT MILLS, ARCHITECT AND ENGINEER, 1781-1855*, at 160-64 (1994).

time to submit a grandiose proposal to the newly formed Washington National Monument Board.²⁷⁵

In 1834, flush with his success, Mills resigned from his position at the General Land Office. Relinquishment of regular salary may have seemed a foolhardy proposition. Experience had shown that the private practice of public architecture yielded an uncertain income. Mills had forfeited all his Baltimore assets in his 1821 Maryland insolvency, and he had lost his Charleston house when the mortgage was foreclosed in 1825. Taxes were owed on the 24,000 acres he still owned along Virginia's Blue Ridge. If they went unpaid he might forfeit his dream of following the footsteps of his first preceptor Thomas Jefferson and building a great house atop a mountain estate.²⁷⁶

Initially things went well. The economy boomed and the Nation was euphoric. Mills entered into competition with other architects for commissions to draw plans for the construction of new fireproof buildings for the Treasury Department and Patent Office. In order to fireproof the buildings it was necessary to eliminate the use of wooden joists under the floors. Rival plans called for the use of heavy cast iron beams supported by five feet wide masonry bearing walls; Mills remained committed to supporting the floors with hydraulic cement and brick arches of groin vault.²⁷⁷



Brick Arches of Groin Vault²⁷⁸

In an 1836 letter to President Jackson, Mills stretched the truth a bit and suggested that he had wide prior experience in fireproof construction. He requested official appointment “as architect to the public buildings.” Jackson made the appointment at a salary of \$1,800 per annum and

²⁷⁵ RHODRI WINDSOR LISCOMBE, *ALTOGETHER AMERICAN: ROBERT MILLS, ARCHITECT AND ENGINEER, 1781-1855*, at 165-72 (1994).

²⁷⁶ RHODRI WINDSOR LISCOMBE, *ALTOGETHER AMERICAN: ROBERT MILLS, ARCHITECT AND ENGINEER, 1781-1855*, at 164, 176 (1994).

²⁷⁷ See RHODRI WINDSOR LISCOMBE, *ALTOGETHER AMERICAN: ROBERT MILLS, ARCHITECT AND ENGINEER, 1781-1855*, at 174-75, 177-78, 182-83 (1994).

²⁷⁸ *Groin vault*, WIKIPEDIA, http://en.wikipedia.org/wiki/Groin_vault (last visited June 8, 2012).

called upon Mills to plan and to supervise the construction of the Treasury Building and Patent Office.²⁷⁹ Fortune had smiled.

Given an oral go ahead by President Jackson, Mills immediately undertook to design and let contracts for construction of granite, fireproof buildings for the Treasury. He forged ahead without expressed authorization from Congress or an appropriation of funds or detailed plans.²⁸⁰

Mills' design for the Treasury Building was shaped like a T with an East side and central wing. The most architecturally distinctive feature of its Greek Revival style was the east front colonnade running the length of the building along 15th Street.



**Treasury Building
East Front Colonnade²⁸¹**

Mills' Patent Office design was for a quadrangular building with an internal courtyard in a borrowed Neo-Greek scheme with a portico modeled on the Parthenon. No expense was spared in making the buildings grand and imposing.²⁸²

²⁷⁹ RHODRI WINDSOR LISCOMBE, *ALTOGETHER AMERICAN: ROBERT MILLS, ARCHITECT AND ENGINEER, 1781-1855*, at 171, 187-88 (1994).

²⁸⁰ JOHN M. BRYAN, *ROBERT MILLS 257-87* (2001); H.M. PIERCE GALLAGHER, *ROBERT MILLS: ARCHITECT OF THE WASHINGTON MONUMENT* 60 (1966).

²⁸¹ *History of the Treasury*, U.S. DEP'T TREASURY, http://www.treasury.gov/about/history/Pages/edu_history_brochure.aspx (last updated Dec. 1, 2010) (Circa 1865, Treasury Collection).

²⁸² RHODRI WINDSOR LISCOMBE, *ALTOGETHER AMERICAN: ROBERT MILLS, ARCHITECT AND ENGINEER, 1781-1855*, at 192-93 (1994).



Old Patent Building circa 1846²⁸³

By 1837, soon after Mills' longtime patron President Andrew Jackson had left office, the Nation was hit by another financial panic. Under a new Treasury Department policy only gold was accepted in payment for public land; credit contracted and banks failed.²⁸⁴

Construction of the Treasury Building and Patent Office had already begun, but in a time of retrenchment Congress had second thoughts. The House Committee on Public Buildings launched an investigation. It hired Thomas U. Walter, a lecturer on Architecture at the Franklin Institute in Philadelphia to prepare a report. Walter's report was damning in all respects: the site for the Treasury Building ruined the view of the Capitol from the President's house; the colonnade along 15th Street was monotonous; the groin vault support system was structurally unsound; the design was extravagant; and the cost excessive. Walter recommended that the half-built Treasury building be torn down and that the structure of the Patent Office be reinforced with cast iron beams.²⁸⁵

Mills forcefully responded, but the highly critical Congressional Report found against him in all respects.²⁸⁶ A bill was introduced requesting "the appropriation of money for destruction of the new Treasury building." After debate it failed passage.²⁸⁷ One Congressman who observed the debate quipped that "if we are to pull down the work of one architect, upon fault being found by another architect who may want a profitable job, there will be no end to putting up and pulling

²⁸³ *Old Patent Office Building*, WIKIPEDIA, http://en.wikipedia.org/wiki/Old_Patent_Office_Building (last visited June 8, 2012).

²⁸⁴ JOHN M. BRYAN, ROBERT MILLS 260 (2001).

²⁸⁵ RHODRI WINDSOR LISCOMBE, *ALTOGETHER AMERICAN: ROBERT MILLS, ARCHITECT AND ENGINEER, 1781-1855*, at 206-209 (1994); JOHN M. BRYAN, ROBERT MILLS 260-87 (2001); H.M. PIERCE GALLAGHER, ROBERT MILLS: ARCHITECT OF THE WASHINGTON MONUMENT 60-65 (1966).

²⁸⁶ H.R. REP. NO. 25-737 (Mar. 29, 1838).

²⁸⁷ For the speech of Mr. Lincoln of Massachusetts introducing the bill, see CONG. GLOBE, 25th Cong., 2d Sess. app. 336-41 (1838).

down of public works.”²⁸⁸ The Treasury Building and Patent Office were completed but Mills was fired from his job as Architect of Public Buildings.²⁸⁹

History had repeated itself. In the aftermath of the Panic of 1819 Mills was charged with exceeding his authority, failure to keep cost within the approved budgets, and extravagance; he lost his Baltimore jobs. In the aftermath of the Panic of 1837 he was subjected to the same bill of complaint and lost his Washington job. The Treasury Building budgeted at \$500,000 had cost \$600,000.²⁹⁰

B. James A. Buchanan

Thanks to the not guilty verdict of the Harford County Court in 1821 James A. Buchanan would serve no time in prison. And he had formally discharged his partnership debts by transferring all of his “property, estate, and effects, books, papers, accounts, bonds, notes and evidences of debts” to trustees for the benefit of his creditors.²⁹¹ He may have broken the Bank of Baltimore, but he was a free man and judgment-proof. Baltimore doyen Anna McHenry Boyd found “the most provoking parts of the business is, that these destroyers of widows, and orphans, affect to consider themselves as persecuted men.”²⁹²

Disappointed criminal prosecutor Robert Goodloe Harper had hopes that publication of a detailed historical account of profligate speculations, insider trades, and breaches of trust might cast a shadow of “infamy” upon the miscreants.²⁹³ But it was not to be. Buchanan’s partner Samuel Smith rallied from his depression and continued to serve in Congress until his retirement in 1832.²⁹⁴ Co-conspirator James McCulloch was elected to the House of Delegates in the 1820’s and served as Speaker of the House at the 1826 Session.²⁹⁵

And Buchanan himself, perhaps wary of the speculative risks he had taken, had proactively “mortgaged” many of his assets to friends and relatives before the “bubble burst.” Among the properties transferred were dozens of “lots, pieces and parcels of ground and tracts lying in the City and County of Baltimore,” including “Auchentorily,” “Wilson’s Lot,” “Priority,” part of

²⁸⁸ CONG. GLOBE, 25th Cong., 2d Sess. app. 263 (1838) (statement of Rep. Boon of Indiana).

²⁸⁹ JOHN M. BRYAN, ROBERT MILLS 260-87 (2001); H.M. PIERCE GALLAGHER, ROBERT MILLS: ARCHITECT OF THE WASHINGTON MONUMENT 60-70 (1966).

²⁹⁰ JOHN M. BRYAN, ROBERT MILLS 280 (2001).

²⁹¹ Samuel Smith, James A. Buchanan & William B. Buchanan, Deed of Trust to Thomas Ellicott & Jonathan Meredith (Nov. 9, 1820) (available in Baltimore County Court Land Records, WG 157/351, MSA CE 66-207).

²⁹² David S. Bogen, *The Scandal of Smith and Buchanan: The Skeletons in the McCulloch vs. Maryland Closet*, 9 MD. L.F. 125, 132 (1985) (quoting Letter from Anna Boyd to John McHenry (Aug. 6, 1819) (McHenry Papers manuscript, Maryland Historical Society)).

²⁹³ A REPORT OF THE CONSPIRACY CASES, LATELY DECIDED AT BELLE AIR, at title page (Robert Goodloe Harper ed., Balt., Thomas Murphy 1823) (quoting Roman historian Tacitus).

²⁹⁴ FRANK A. CASSELL, MERCHANT CONGRESSMAN IN THE YOUNG REPUBLIC: SAMUEL SMITH OF MARYLAND, 1752-1839, at 232-54 (1971).

²⁹⁵ David S. Bogen, *The Scandal of Smith and Buchanan: The Skeletons in the McCulloch vs. Maryland Closet*, 9 MD. L.F. 125, 132 (1985).

“Gist’s Inspection,” and “Buchanan’s Wharf.” Also conveyed was a one-fifth share of 5,000 acres in Wheeling County Virginia and a one-fifth share of 400 acres in Huntingdon, Pennsylvania.²⁹⁶

To the extent these transactions were bona fide and based upon full and adequate consideration, their grantees took title free and clear of Buchanan’s subsequent assignment of all of his assets to the trustees for the benefit of his creditors. Although the consideration for these mortgages appears dubious, there is no evidence that they were set aside as fraudulent, and the assets presumably remained among friends who were free to return the property to him free and clear of debts. He even managed to continue to live in his own grand townhouse, which he had transferred to his son James Calhoun Buchanan in 1820 so as to avoid its attachment by his creditors.²⁹⁷

Since the age of twenty-two James A. Buchanan had been a public figure. In 1790 he joined Samuel Smith in the firm of S. Smith and Buchanan, which would become “one of the greatest commercial establishments in the United States.”²⁹⁸ Thereafter he served on the Committee of Vigilance and Safety during the War of 1812, as a Colonel in the Maryland Militia, as a member of the Baltimore City Council, on the Board of Directors of the Baltimore Water Company, as President of the Washington Monument Board, and as President of the Baltimore Branch of the Second National Bank of the U.S.²⁹⁹

After Buchanan was tried and found not guilty of embezzlement in 1820 his end of life story becomes murky. Faced with disgrace and bankruptcy he likely was intent on keeping out of the public eye and the sights of his creditors. Only fragments of history touch his later years.

A historian of the textile industry reports that Smith & Buchanan had acquired in 1814 a substantial stockholding in the Warren Company, a north Baltimore county cotton milling concern. After the Company went bankrupt during the Panic of 1819, the story goes that “the concern came under the exclusive management of James A. Buchanan” who turned it into a

²⁹⁶ See, e.g., James A. Buchanan Mortgage to William Patterson, John Donnell & John Spear Smith (May 17, 1819) (available in Baltimore County Court Land Records, WG 151/425, MSA CE 66-201); Samuel Smith and James A. Buchanan Mortgage to William Patterson, John Donnell & John Spear Smith (May 21, 1819) (available in Baltimore County Court Land Records WG 151/433, MSA CE 66-201); James A. Buchanan Deed to James C. Buchanan (Sept. 19, 1820) (available in Baltimore County Court Land Records WG 158/137, MSA CE 66-208).

²⁹⁷ FRANK A. CASSELL, *MERCHANT CONGRESSMAN IN THE YOUNG REPUBLIC: SAMUEL SMITH OF MARYLAND, 1752-1839*, at 223-24 (1971); James A. Buchanan Deed to James C. Buchanan (Sept. 19, 1820) (available in Baltimore County Court Land Records WG 158/137, MSA CE 66-208); James A. Buchanan Deed to James C. Buchanan (Sept. 19, 1820) (available in Baltimore County Court Land Records, WG 158/137, MSA CE 66-208).

²⁹⁸ BRAY HAMMOND, *BANKS AND POLITICS IN AMERICA FROM THE REVOLUTION TO THE CIVIL WAR* 261(1957) (quoting John Quincy Adams).

²⁹⁹ See J. THOMAS SCHARF, *THE CHRONICLES OF BALTIMORE* 247, 281, 296, 303, 376 (photo. reprint 1989) (1874); William D. Hoyt, Jr., *Civilian Defense in Baltimore, 1814-1815*, 39 MD. HIST. MAG. 199, 199-224 (1944).

thriving success.³⁰⁰ Perhaps, but it remains unclear as to how Buchanan could have been active as a businessman while in the throes of personal bankruptcy.

Buchanan still maintained his townhouse in downtown Baltimore on the Court Square formed on Calvert Street between Fayette and Lexington. According to a reminiscence of his niece, its grand ballroom was the location of an 1824 banquet when her Uncle James hosted General Lafayette when he revisited Baltimore.³⁰¹

When General Samuel Smith, Buchanan's long time trading partner, died in 1839 there was pomp and circumstance:

“[S]hips in the Patapsco lowered their colors to half-mast for the merchant whose ships had known the ports of the world from Europe to China. And as the throng of citizens watched the hearse . . . the guns of Fort McHenry boomed a final salute.”³⁰²

President Van Buren, the Cabinet, and both Houses of Congress travelled to Baltimore for his funeral.³⁰³ Smith was buried in a vault in Westminster Cemetery.³⁰⁴

One year later in 1840 when James A. Buchanan died in his seventy-second year, almost no one noticed. The *Sun* paper ran a death notice but no obituary.³⁰⁵ The *Saturday Visitor* for March 11, 1840 simply described him as “for many years a respectable inhabitant of this city.”³⁰⁶ He was interred in the pyramidal vault for the Buchanan-Calhoun family that was designed twenty-five years before by Robert Mills. Buchanan was laid to rest in Westminster Cemetery just thirty odd feet away from the remains of Samuel Smith.³⁰⁷

³⁰⁰ Richard W. Griffin, *An Origin of the Industrial Revolution in Maryland: The Textile Industry, 1789-1826*, 61 MD. HIST. MAG. 24, 32-33 (1966). Griffin's reference to *Nile's Register*, XXIII (Sept. 7, 1822) does not mention Buchanan's involvement.

³⁰¹ *Buchanan Family Reminiscences*, 35 MD. HIST. MAG. 262, 266 (1940).

³⁰² JOHN S. PANCAKE, *SAMUEL SMITH AND THE POLITICS OF BUSINESS: 1752-1839*, at 198-99 (1972).

³⁰³ FRANK A. CASSELL, *MERCHANT CONGRESSMAN IN THE YOUNG REPUBLIC: SAMUEL SMITH OF MARYLAND, 1752-1839*, at 221 (1971).

³⁰⁴ MARY ELLEN HAYWARD & R. KENT LANCASTER, *BALTIMORE'S WESTMINSTER CEMETERY & WESTMINSTER PRESBYTERIAN CHURCH: A GUIDE TO THE MARKERS AND BURIALS, 1775-1943*, at 35 (1984).

³⁰⁵ BALT. SUN, Mar. 17, 1840.

³⁰⁶ *James A. Buchanan* (available from Maryland Historical Society, Dielman/Hayward File).

³⁰⁷ GARY LAWSON BROWNE, *BALTIMORE IN THE NATION, 1789-1861*, at 143 (1980); MARY ELLEN HAYWARD & R. KENT LANCASTER, *BALTIMORE'S WESTMINSTER CEMETERY & WESTMINSTER PRESBYTERIAN CHURCH: A GUIDE TO THE MARKERS AND BURIALS, 1775-1943*, at 20 (1984).



Buchanan's Burial Marker³⁰⁸

VIII. MILLS AGONISTES: 1840-1855³⁰⁹

In the 1840's Robert Mills found himself broke, once again, and scrambling for odd jobs. His son-in-law Alexander Dimitri purchased the Bath County lands and set up a trust for Mills' wife in order to protect them from his creditors.³¹⁰

A. Success

But then the long dormant Washington Monument Society revived its efforts to create a monument to the Nation's first president. Robert Mills was the perfect man for the job. He had the experience of having already constructed a monument to Washington in Baltimore and, having served as the Architect of Public Buildings, knew the capital city well. Mills' proposal was adopted in November of 1845.³¹¹

Mills' design matched the classical taste of the period: "Monumental in scope, it included a grand circular colonnaded pantheon 250 feet in diameter and 100 feet high. Above the roof of the pantheon, he proposed a huge obelisk."³¹²

³⁰⁸ Westminster Cemetery (Photograph by author, 2012).

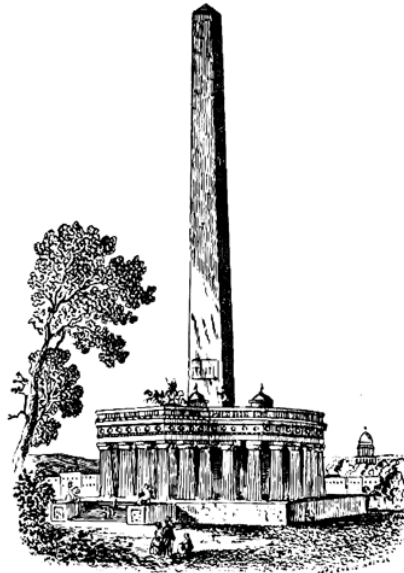
³⁰⁹ "The word Agonistes, found as an epithet following a person's name, means 'the struggler' or . . . a 'contestant in the public games.'" *Agonistes*, WEBSTER'S ONLINE DICTIONARY, <http://www.websters-online-dictionary.org/definitions/Agonistes> (last visited June 10, 2012).

³¹⁰ RHODRI WINDSOR LISCOMBE, *ALTOGETHER AMERICAN: ROBERT MILLS, ARCHITECT AND ENGINEER, 1781-1855*, at 255 (1994).

³¹¹ JOHN M. BRYAN, *ROBERT MILLS 287-92* (2001); FREDERICK LOVIAD HARVEY, *HISTORY OF THE WASHINGTON NATIONAL MONUMENT AND OF THE WASHINGTON NATIONAL MONUMENT SOCIETY* 10 (1902); LOUIS TORRES, "TO THE IMMORTAL NAME AND MEMORY OF GEORGE WASHINGTON": THE UNITED STATES ARMY CORPS OF ENGINEERS AND THE CONSTRUCTION OF THE WASHINGTON MONUMENT 9-14 (1984). Mills' proposal was originally submitted in 1836 but not formally accepted until 1845.

³¹² LOUIS TORRES, "TO THE IMMORTAL NAME AND MEMORY OF GEORGE WASHINGTON": THE UNITED STATES ARMY CORPS OF ENGINEERS AND THE CONSTRUCTION OF THE WASHINGTON MONUMENT 11 (1984).

The Pantheon temple base was to be the major feature. Its façade would be festooned with friezes, trophies, inscriptions, medallions, and bas relief ornaments; its interior would serve as a repository of “patriotic icons.” Atop the temple a marble figure of George Washington would stand in a horse drawn chariot. Statues of thirty prominent Revolutionary War heroes would be inside the colonnade. The 500 foot shaft was a secondary design feature. Mills subsequently modified the design so as to sharpen the apex of the obelisk.³¹³ Mills estimated the cost of the entire monument at \$1,222,000 and the cost of the obelisk alone at \$552,000.³¹⁴



Washington National Monument³¹⁵

Simplicity was not the virtue of Mills’ design. In more artistic circles it was an object of derision. Critics called it an “ill-assorted blend of Greek, Babylonian, and Egyptian architecture.”³¹⁶

³¹³ JOHN M. BRYAN, ROBERT MILLS 289-90 (2001); FREDERICK LOVIAD HARVEY, HISTORY OF THE WASHINGTON NATIONAL MONUMENT AND OF THE WASHINGTON NATIONAL MONUMENT SOCIETY 10-12 (1902); *Washington Monument*, WIKIPEDIA, http://en.wikipedia.org/wiki/Washington_Monument (last visited June 8, 2012).

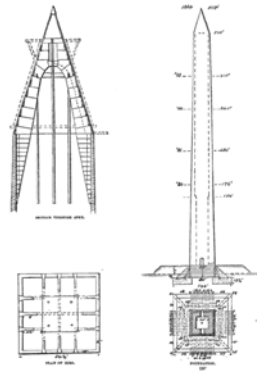
³¹⁴ LOUIS TORRES, “TO THE IMMORTAL NAME AND MEMORY OF GEORGE WASHINGTON”: THE UNITED STATES ARMY CORPS OF ENGINEERS AND THE CONSTRUCTION OF THE WASHINGTON MONUMENT 13 (1984).

³¹⁵ FREDERICK LOVIAD HARVEY, HISTORY OF THE WASHINGTON NATIONAL MONUMENT AND OF THE WASHINGTON NATIONAL MONUMENT SOCIETY, at frontispiece (1902).

³¹⁶ LOUIS TORRES, “TO THE IMMORTAL NAME AND MEMORY OF GEORGE WASHINGTON”: THE UNITED STATES ARMY CORPS OF ENGINEERS AND THE CONSTRUCTION OF THE WASHINGTON MONUMENT 13 (1984).

Doubts persisted as to the “stability of the material which had been employed in building the Monument and as to the sufficiency of its foundations to support the shaft”³¹⁷

A shortage of funds postponed the start of work, and the design was altered so as to make the project more affordable. Construction of the Pantheon temple was put off until a later time. The statue of George Washington in a horse drawn chariot was not included. When the cornerstone was laid in 1848, plans called for an unembellished obelisk to rise to the sky as the world’s tallest structure.³¹⁸



Monument Plans and Timeline of Construction³¹⁹

Work proceeded slowly as the Washington Monument Society struggled to raise funds. William Dougherty supervised day-to-day operations. The extent of Mills’ involvement is uncertain. He does not appear to have received a regular salary but may have periodically inspected the site to insure conformance with design specifications.³²⁰

B. Discredit and Disrespect

Still in the pursuit of other federal work, Mills falsely advertised himself as the “Architect of Public Buildings.” In 1850 he obtained piecemeal directing construction at the Patent Office he had designed. Anticipating a congressional appropriation, not yet approved, he hired contractors and laborers and started work. A subsequent Senate inquiry damned this use of deficit financing,

³¹⁷ FREDERICK LOVIAD HARVEY, HISTORY OF THE WASHINGTON NATIONAL MONUMENT AND OF THE WASHINGTON NATIONAL MONUMENT SOCIETY 75 (1902).

³¹⁸ JOHN M. BRYAN, ROBERT MILLS 290, 291, 300 (2001); LOUIS TORRES, “TO THE IMMORTAL NAME AND MEMORY OF GEORGE WASHINGTON”: THE UNITED STATES ARMY CORPS OF ENGINEERS AND THE CONSTRUCTION OF THE WASHINGTON MONUMENT 11, 14 (1984).

³¹⁹ *Washington Monument*, WIKIPEDIA, http://en.wikipedia.org/wiki/Washington_Monument (last visited May 17, 2012).

³²⁰ See JOHN M. BRYAN, ROBERT MILLS 290, 300, 317 (2001); FREDERICK LOVIAD HARVEY, HISTORY OF THE WASHINGTON NATIONAL MONUMENT AND OF THE WASHINGTON NATIONAL MONUMENT SOCIETY 28 (1902); LOUIS TORRES, “TO THE IMMORTAL NAME AND MEMORY OF GEORGE WASHINGTON”: THE UNITED STATES ARMY CORPS OF ENGINEERS AND THE CONSTRUCTION OF THE WASHINGTON MONUMENT 34-36 (1984).

and a competitor accused him of deception, fraud, and embezzlement. Eventually the appropriation was forthcoming and nothing came of the charges, but the adverse publicity effectively disqualified him in the competition for a major commission enlarging the U.S. Capitol.³²¹

Robert Mills at the age of seventy-one years found himself unable to make a living and with his designs in disrepute. In an 1853 letter to Jefferson Davis, then Secretary of War, he begged for work: “[I]f it be possible Sir to give me some professional employment at the Capitol I should be greatly obliged, for I am without the means of providing for the necessary wants of my family.”³²² His plea came to naught when Captain Montgomery Meigs, the Army Engineer in charge of Capitol construction, informed Davis that he had seen some of Mills’ working drawings and that “Mr. Mills was . . . not found qualified.”³²³

By 1854, after the obelisk had been raised to 153 feet, the Washington National Monument Society had exhausted all the available funds. Work stopped. There was little expectation that the obelisk would be finished, and there were no plans to revive the Pantheon temple base.³²⁴

C. Death

In 1855 Robert Mills died at home in his seventy-third year. He had had a remarkably productive professional career over one-half of a century. He had served as the President of the Baltimore Water Company, Acting Commissioner for Public Buildings in South Carolina and consultant to the State, and the Architect of Public Buildings in Washington City. His executed works included over sixty public buildings, forty-odd houses, ten monuments, and ten churches. He had engaged in countless projects and published more than forty writings, books, and reports.³²⁵

According to an obituary in the *National Intelligencer* “[f]rom the window of his chamber dying, he could look upon the . . . stupendous pile” of marble blocks that were to be the Monument.³²⁶

³²¹ JOHN M. BRYAN, ROBERT MILLS 302, 303 (2001).

³²² Letter from Robert Mills to Jefferson Davis (Sept. 12, 1853), *reprinted in* JOHN M. BRYAN, ROBERT MILLS 314, 314 (2001).

³²³ Letter from Montgomery Meigs to Jefferson Davis (Sept. 12, 1853), *reprinted in* JOHN M. BRYAN, ROBERT MILLS 314, 314 (2001).

³²⁴ JOHN M. BRYAN, ROBERT MILLS 317 (2001).

³²⁵ *Robert Mills: A List of Works, Projects, and Writings*, in ROBERT MILLS: ARCHITECT 179, 179-86 (John M. Bryan ed., 1989).

³²⁶ Obituary of Robert Mills, NAT’L INTELLIGENCER (D.C.), Mar. 7, 1855, *reprinted in* JOHN M. BRYAN, ROBERT MILLS 317, 319 (2001).



Washington Monument circa 1860³²⁷

A writer of a letter to the *New York Courier & Enquirer* opined that after Mills had been denied the superintendency of the erection of the national monument, “[t]he disappointment was too much for him [and] [h]e became deranged and died.”³²⁸

Napoleon Bonaparte’s storied life of military conquest ended with a crushing defeat on the plains of Belgium. “Napoleon met his Waterloo.” Robert Mills did Napoleon one better. He twice followed a competitive victory with a devastating failure and twice met his Waterloo. Mills’ first defeat came in 1815 in Baltimore where he parlayed a Washington Monument design prize into the creation of the biggest and best real estate development in town, only to lose everything—his job, his house, his reputation, and his assets. Thirty years later he came to Washington City where, after winning the coveted Monument prize, he found himself unemployed, his design scorned as grotesque, and his erection questioned as to its stability. He died in discredit, destitution, and despair.

CODA

A. Waterloo Row

The 1821 auction of Waterloo Row had left ten of the “twelve handsome buildings” as “unproductive expenditures” in the hands of the Water Company. William Steuart, the wealthy stonemason, had purchased the houses on lots numbered one and two outright but the others remained Company property. In his *Annals of Baltimore* Thomas W. Griffith discounted them as not commanding “rent nearly equal to common legal interest” because they were “too distant” from their workplaces of “men of business.”³²⁹

³²⁷ *Washington Monument Circa 1860*, WIKIPEDIA, http://en.wikipedia.org/wiki/File:Washington_Monument_circa_1860_-_Brady-Handy.jpg (last visited June 10, 2012) (Brady-Handy Photograph Collection, Library of Congress).

³²⁸ Letter to the Editor, *COURIER & ENQUIRER* (N.Y.), reprinted in JOHN M. BRYAN, *ROBERT MILLS* 320, 320 (2001).

³²⁹ THOMAS W. GRIFFITH, *ANNALS OF BALTIMORE* 250-51 (Balt., William Woody 1833).

But not for long. John Campbell White's gin distillery was located immediately to the south of Waterloo Row. Soon after White resigned from his position as President of the Baltimore Water Company in 1821 his son John moved into 8 Waterloo Row. Young White was still working for the family house of John C. White & Son along with his job as Cashier of the Baltimore Branch of the Bank of the United States.

By 1822 the houses were filling up with the best kind of people. Flour Merchant Francis Hollingsworth dwelt at 1 Waterloo Row; Gentleman Ralph Higenbotham resided at 4 Waterloo Row; Ex-Congressman Samuel Sterett (who was in partnership with ground rent developer Thomas Harrison) took up residence at 5 Waterloo Row; U.S. Navy Captain Henry E. Ballard lived at 6 Waterloo Row along with Customs official William B. Barney; and hardware merchant James Neilson (one of the original Calvert Street partners) had reclaimed 9 Waterloo Row.³³⁰

By 1824 Cashier John White had passed 8 Waterloo Row along to his brother Joseph who had taken charge of the family gin distillery. Joseph White married Isabella Pinkney, the daughter of William Pinkney, the celebrated diplomat, politician, and lawyer.³³¹

After domestic service in Congress and as the U.S. Attorney General and foreign service in London, Russia, and Naples, Pinkney had returned to practice law in Baltimore. In 1819 he had been the winning advocate for the United States in *McCulloch v. Maryland*, the Supreme Court case that upheld the constitutionality of the Second National Bank of the United States. Isabella was one of his ten children.³³²

After William Pinkney died in 1822 his widow Ann acquired 5 Waterloo from Samuel Sterett. When her daughter, Isabella, gave birth to a son, christened William Pinkney White, she was just three doors away. He had fond childhood memories of the times when Senator Martin Van Buren had come to visit his father Joseph at their Waterloo Row home. Young White subsequently changed his name to William Pinkney Whyte as a consequence of a family feud. Whyte went on to have a distinguished political career as a Maryland Governor and Senator and the Mayor of Baltimore City.³³³

³³⁰ C. KEENAN'S BALTIMORE DIRECTORY FOR 1822 & 1823, at 14, 18, 132, 137, 206, 262, 294 (Balt., R.J. Matchett 1822).

³³¹ *Pinkney, William*, BIOGRAPHICAL DIRECTORY U.S. CONGRESS, <http://bioguide.congress.gov/scripts/biodisplay.pl?index=p000362> (last visited June 8, 2012).

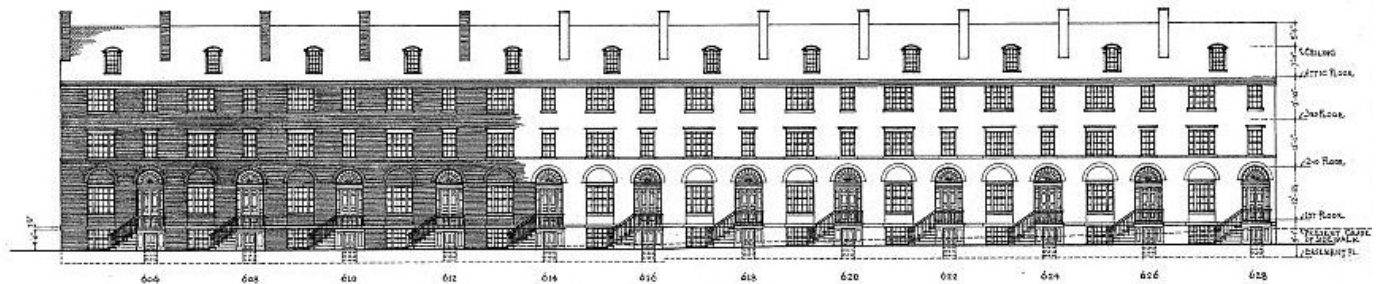
³³² 17 U.S. (44 Wheat.) 316 (1819).

³³³ See MATCHETT'S BALTIMORE DIRECTOR 297, 390 (Balt., R.J. Matchett 1831); *William Pinkney Whyte*, WIKIPEDIA, http://en.wikipedia.org/wiki/William_Pinkney_Whyte (last visited June 8, 2012); John H. Scarff, Hist. Am. Buildings Surv., Photographs, Written Historical and Descriptive Data 5 (n.d.), available at <http://lcweb2.loc.gov/pnp/habshaer/md/md0100/md0109/data/md0109data.pdf>.

By 1833 another child of William and Ann Pinkney had taken up residence on Waterloo Row. Son and namesake William Pinkney, who worked at the Customs House, took up residence at number 12, the house originally allocated to Robert Mills.³³⁴

Meanwhile, high on Howard's Hill, John Eager Howard had died at his Belvidere mansion in 1827. His executors capitalized on the Monument by selling the land surrounding it in lots rather than parcels. In 1831 they laid out four squares around the Washington Monument in the shape of a Greek Cross. Lots were placed around the perimeter and sold to well-to-do Baltimoreans who built Greek revival townhouses.³³⁵ The Waterloo Row parcel touched the east arm of the Cross.

Although Mills' houses were not mansions they did reflect another great architectural tradition. The row of houses was in the style of the London "terraces" found in Bedford Square and Regents Park. The block row created the appearance of a "grand town palace" and emphasized a "unity and monumentality" in design marked by "a giant classic order." The "elegant Palladian façade" introduced sufficient variety to avoid monotony.³³⁶ Waterloo Row was welcomed as a part of the greater neighborhood. By mid-nineteenth century this *Mount Vernon Place* was the home to Baltimore's social and political elite.³³⁷



Waterloo Row, 606-628 North Calvert Street, Baltimore, MD³³⁸

But people move and taste changes. By mid-twentieth century the well-to-do people had left for the suburbs. Waterloo Row residences had become places of business. The façade had lost its symmetry. Only one unit retained its original style.

³³⁴ MATCHETT'S BALTIMORE DIRECTOR 297 (Balt., R.J. Matchett 1831) (referring to the house as "cor Calvert and Monument," which according to a city map is 12 Waterloo Row).

³³⁵ Garrett Power, *High Society*, 79 MD. HIST. MAG. 197, 198 (1982); MARY ELLEN HAYWARD & CHARLES BELFOURE, *THE BALTIMORE ROWHOUSE* 36-37 (1999).

³³⁶ MARY ELLEN HAYWARD & CHARLES BELFOURE, *THE BALTIMORE ROWHOUSE* 10, 11 (1999).

³³⁷ See generally JOHN DORSEY, *MOUNT VERNON PLACE* (1983).

³³⁸ *Historic American Buildings Survey*, LIBR. CONGRESS, <http://www.loc.gov/pictures/resource/hhh.md0109.sheet.00001a/?co=hh> (last visited June 10, 2012). The Historic American Buildings Survey was a project of the Works Progress Administration in 1941.



Waterloo Row, 606-628 North Calvert Street³³⁹

And its architectural motif had fallen from fashion. Rowhouses were discounted as “merely a mundane vernacular building form.”³⁴⁰ Even Robert Mills’ hagiographer, H. M. Pierce Gallagher, dismissed Waterloo Row as “architecturally not especially worthy of comment.” He opined “[e]ither the architect made an artistic failure of his design . . . or, not improbably, . . . was forced to cut his garment according to his cloth.”³⁴¹ From today’s perspective Gallagher seems wrong on either count. Waterloo Row seems an aesthetic success, and we have seen that Mills gave it his best design effort and spared no expense in its execution.

In 1970 Waterloo Row was torn down as part of a Mount Vernon urban renewal plan for development of a 300 unit apartment plan to cost about \$5 million.³⁴² During the demolition elegant interior parts were salvaged and reconstructed in the Baltimore Museum of Art’s American Wing where they remain on view. The ceiling medallion depicted below was taken from the 12 Waterloo House that Robert Mills lost to his creditors. The renewal project was abandoned,³⁴³ and the parcel lay vacant for years to come.

³³⁹ *Historic American Buildings Survey*, LIBR. CONGRESS, <http://www.loc.gov/pictures/resource/hhh.md0109.photos.086384p/?co=hh> (last visited June 10, 2012) (View from Northeast, photographed by E.H. Pickering, 1936).

³⁴⁰ MARY ELLEN HAYWARD & CHARLES BELFOURE, *THE BALTIMORE ROWHOUSE 2* (1999).

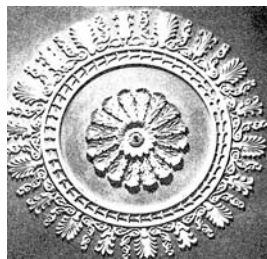
³⁴¹ H.M. PIERCE GALLAGHER, *ROBERT MILLS: ARCHITECT OF THE WASHINGTON MONUMENT* 96 (1966).

³⁴² ‘Waterloo Row’ Gone, *BALT. SUN*, Mar. 29, 1970.

³⁴³ *Builder Abandons Calvert Street Lot*, *BALT. SUN*, Oct. 4, 1970.



Entrance Hall Waterloo Row³⁴⁴



Ceiling Medallion from # 12 Waterloo Row³⁴⁵

B. The Baltimore Washington Monument

Biographer H.M. Pierce Gallagher ranks Mills' Baltimore Washington Monument as his "master memorial," "even more remarkable than the National Washington Monument."³⁴⁶ Perhaps the success can be attributed to two virtues—its setting and the simplicity. High on Howard's Hill 100 feet above sea level, the ground fell away to the south and the east providing a view of and a view from the port and City.³⁴⁷ The Monument sits at the center of Mount Vernon Place where the parks in four boulevard squares are filled with sculptures by Bayre, Dubois, and Rhinehart. The grand townhouses bordering the parks were designed by such architectural luminaries as Stanford White and John Russell Pope.³⁴⁸

³⁴⁴ WILLIAM VOSS ELDER, ROBERT MILLS' WATERLOO ROW: BALTIMORE 1816, at 16 (1971) (Baltimore Museum of Art).

³⁴⁵ WILLIAM VOSS ELDER, ROBERT MILLS' WATERLOO ROW: BALTIMORE 1816, at 19 (1971) (Baltimore Museum of Art).

³⁴⁶ H.M. PIERCE GALLAGHER, ROBERT MILLS: ARCHITECT OF THE WASHINGTON MONUMENT 104 (1966).

³⁴⁷ THE ARCHITECTURE OF BALTIMORE 83 (Mary Ellen Hayward & Frank R. Shivers, Jr. eds., 2004).

³⁴⁸ JOHN DORSEY, MOUNT VERNON PLACE *passim* (1983).



**Washington Monument
Bayre Sculpture in the Foreground³⁴⁹**



**Northward View from atop
Washington Monument³⁵⁰**

³⁴⁹ *Baltimore Washington Monument*, WIKIPEDIA,

http://en.wikipedia.org/wiki/File:Baltimore_Washington_Monument.jpg (last visited June 10, 2012).

³⁵⁰ *Baltimore from Top of Washington Monument*, TRAVELPOD, <http://blog.travelpod.com/travel-blog-entries/schiferl/baltimore-2005/1119279600/tpod.html#pbrowser/schiferl/baltimore-2005/1119279600/filename=cimg0391.jpg> (last visited June 10, 2012).



Garrett-Jacobs Mansion on Mount Vernon Place³⁵¹

The Monument itself is a giant free-standing column rising 178 feet into the sky. As originally designed by Robert Mills it was intended to have six iron balconies and extensive bronze trophies. To Mills' chagrin and disappointment these adornments were stripped away, leaving a naked shaft with a starkly silhouetted figure atop.³⁵² But architectural historians agree that the simple Monument better represents Washington's "republican ideals and stoical character."³⁵³ It stands today as an "enduring American symbol"³⁵⁴ and at the center of Baltimore's civic life.

³⁵¹ *Garrett-Jacobs Mansion*, GARRETT-JACOBS MANSION ENDOWMENT FUND, <http://ih.constantcontact.com/fs011/1101281677543/img/101.jpg?a=1107826213247> (last visited June 10, 2012) (Designed by Stanford White, expanded by John Russell Pope).

³⁵² THE ARCHITECTURE OF BALTIMORE 82-83 (Mary Ellen Hayward & Frank R. Shivers, Jr. eds., 2004).

³⁵³ RHODRI WINDSOR LISCOMBE, *ALTOGETHER AMERICAN: ROBERT MILLS, ARCHITECT AND ENGINEER, 1781-1855*, at 73 (1994); *see also* H.M. PIERCE GALLAGHER, *ROBERT MILLS: ARCHITECT OF THE WASHINGTON MONUMENT* 104 (1966); THE ARCHITECTURE OF BALTIMORE 80-83 (Mary Ellen Hayward & Frank R. Shivers, Jr. eds., 2004).

³⁵⁴ RHODRI WINDSOR LISCOMBE, *ALTOGETHER AMERICAN: ROBERT MILLS, ARCHITECT AND ENGINEER, 1781-1855*, at 73 (1994).



**40th Annual Fireworks Display
Christmas Lighting of the Baltimore Washington Monument³⁵⁵**

C. Washington City

The outbreak of the Civil War in 1861 left the National Washington Monument unfinished for two decades. In 1876 the U.S. Army Corps of Engineers was charged with completing construction. The stripped-down design which consisted of a 500 foot tall obelisk of classical Egyptian proportions was completed in 1885.³⁵⁶



Washington National Monument³⁵⁷

As it turned out the Washington National Monument came to be recognized as an icon of American Architecture. Cost constraints had eliminated the monstrous Pantheon and the absurd

³⁵⁵ *A Monumental Occasion*, BALTIMORE OFFICE PROMOTION ARTS (Dec. 1, 2011), <http://www.bop.org/index.cfm?page=events&id=14>.

³⁵⁶ LOUIS TORRES, "TO THE IMMORTAL NAME AND MEMORY OF GEORGE WASHINGTON": THE UNITED STATES ARMY CORPS OF ENGINEERS AND THE CONSTRUCTION OF THE WASHINGTON MONUMENT, at iii (1984).

³⁵⁷ FREDERICK LOVIAD HARVEY, HISTORY OF THE WASHINGTON NATIONAL MONUMENT AND OF THE WASHINGTON NATIONAL MONUMENT SOCIETY, at frontispiece (1902).

“statue of Washington in a ‘triumphal car’ flanked by ‘appropriate figures and trophies.’”³⁵⁸ All that was left was “[t]he vast obelisk . . . long the highest of human structures, [which] was [Mills’] conception, in which the simplicity and grandeur of the form [was] matched with the character of the subject.”³⁵⁹

The Washington City buildings designed by Robert Mills have also stood the test of time. The Treasury Building (which the Congress considered demolishing when it was half built) remains in active use today. In 1971 it was declared a National Historic Landmark, and its image is depicted on the back of a ten dollar bill. Mills’ distinctive Classic Greek Revival style colonnade has become the hallmark of grand Federal architecture.³⁶⁰



U.S. Treasury Building Colonnade³⁶¹

Robert Mills’ Patent Office Building has also received the National Historic Landmark designation. Its fireproof design spanned the interior space with masonry vaulting without wooden joists; the interior supporting columns that his critics had persuaded Congress to require had long been proven unnecessary.



**Old Patent Office
Model Room with Vaulted Ceiling³⁶²**

³⁵⁸ JOHN M. BRYAN, ROBERT MILLS 290 (2001) (quoting speech of George Watterson and the Board of Managers of the Washington National Monument Society to the American people).

³⁵⁹ Fiske Kimball, *Foreword* to H.M. PIERCE GALLAGHER, ROBERT MILLS: ARCHITECT OF THE WASHINGTON MONUMENT, at x (1966).

³⁶⁰ *Treasury Building (Washington, D.C.)*, WIKIPEDIA, http://en.wikipedia.org/wiki/Treasury_Building_%28Washington,_D.C.%29 (last visited June 10, 2012).

³⁶¹ Kelly Price, *The Ionic of the Erechtheum*, THE CLASSICIST BLOG (Jan. 3, 2011), http://blog.classicist.org/?attachment_id=1979.

Mills described its design as “exactly those of the Pantheon.” Today the structure that Walt Whitman described as “that noblest of Washington buildings” houses the National Portrait Gallery and the Smithsonian American Art Museum. It has been called “one of the seven wonders of the architecture world.”³⁶³

D. Robert Mills

History may have cast Robert Mills as a tragic Shakespearean character, but like Brutus, “the fault lay not in his stars . . . but in himself.”³⁶⁴ For fifty years he drew winning plans, erected tall sturdy towers, and built large buildings. But each success was soon followed by acrimony, rejection, and dispute. He was fired in Baltimore, Charleston, and Washington for exceeding budgets and going beyond his authority. The integrity of both his character and of structures was called into question. He breached fiduciary obligations, he claimed credit for the work of others, and he did not always tell the truth. His monumental designs were festooned with a mishmash of Greek and Egyptian motifs. His architectural peers feared that his erections might collapse.

But now comes the Shakespearean twist. Marcus Antonius said: “The evil that men do lives after them, the good is oft interred with their bones.”³⁶⁵ But in Robert Mills’ life story the opposite proved to be the case. His “evil” shortcomings—impetuosity, self-aggrandizement, extravagance, self-dealing, conflict of interest, and false pretense—have been interred with his bones, while the good he accomplished lived on after him in Waterloo Row;³⁶⁶ Baltimore’s Washington Monument; the National Washington Monument; and many other public buildings, churches, and houses throughout the country.³⁶⁷ On the two hundredth anniversary of his birth the United States Senate resolved that “Robert Mills was the first American born or trained architect establishing a tradition of outstanding American architecture.”³⁶⁸ Robert Mills twice “met his Waterloo” but history redeemed him.

E. James A. Buchanan

James A. Buchanan was born in 1768 and died in 1840. At the age of fifty he had had a remarkably successful life. He could count himself a civic leader, a successful war-time defender of Baltimore, and a merchant millionaire. According to John Quincy Adams: “The moral, political, and commercial character of this city of Baltimore ha[d] for twenty-five years been

³⁶² *Old Patent Office*, WIKIPEDIA, http://en.wikipedia.org/wiki/File:Old_Patent_Office_model_room_-_Washington,_D.C..jpg#filehistory (last visited June 10, 2012).

³⁶³ *Old Patent Building*, WIKIPEDIA, http://en.wikipedia.org/wiki/Old_Patent_Office_Building (last visited June 10, 2012).

³⁶⁴ WILLIAM SHAKESPEARE, JULIUS CAESAR act I, sc. 2 (140-41).

³⁶⁵ WILLIAM SHAKESPEARE, JULIUS CAESAR act 3, sc. 2 (74-77).

³⁶⁶ Waterloo Row was demolished in 1970 as a result of urban renewal. MARY ELLEN HAYWARD & CHARLES BELFOURE, *THE BALTIMORE ROWHOUSE* 31 (1999).

³⁶⁷ Robert Mills, *The Architectural Works of Robert Mills* (unpublished, projected work), in H.M. PIERCE GALLAGHER, *ROBERT MILLS: ARCHITECT OF THE WASHINGTON MONUMENT* 168, 168-71 (1966).

³⁶⁸ S. Res. 178, 97th Cong. (1981).

formed, controlled, and modified almost entirely by this house of Smith and Buchanan, their connections and dependents.”³⁶⁹

Buchanan had been nominated for the presidency of the Second National Bank of the United States by John Jacob Astor, and when that office went to William Jones he settled for the presidency of the dominant Baltimore Branch.³⁷⁰ In 1818 Buchanan was a renowned figure in the State and the Nation.

Then came the Panic of 1819. In gross violation of his fiduciary duties Buchanan had made massive use of bank funds to engage in a failed stock speculation that left him deeply in debt and the bank insolvent. Although found not guilty of criminal fraud, Robert Goodloe Harper, the losing prosecutor, publicly excoriated him for “conspiracy” and “infamy.”³⁷¹ After taking the protection of the Maryland Insolvency Law³⁷² Buchanan withdrew from public life.

Buchanan’s wish to keep out of the public eye perhaps resulted from a sense of shame or from a desire to hide left-over assets from creditors. But there were also extraneous forces at work that erased him from the historical memory.

“James Buchanan” was a common name in federal America. A Wikipedia disambiguation yields ten namesakes, but none of them are the Baltimore merchant.³⁷³ Among those prominently mentioned as sharing the name was a distant but contemporary cousin from Carlisle Pennsylvania—James Buchanan (1791-1868) who in 1857 became the fifteenth President of the United States.³⁷⁴ The President’s life was to overlap that of the Baltimorean’s for half a century, and the President’s national reputation would obscure the public recollection of the Baltimorean. No portrait has been found of his visage, and his death was marked by a death notice—not an obituary. James A. Buchanan “broke the Bank of Baltimore,” but he is now forgotten.

³⁶⁹ BRAY HAMMOND, *BANKS AND POLITICS IN AMERICA FROM THE REVOLUTION TO THE CIVIL WAR* 262 (1957).

³⁷⁰ GARY LAWSON BROWNE, *BALTIMORE IN THE NATION, 1789-1861*, at 74 (1980).

³⁷¹ *See A REPORT OF THE CONSPIRACY CASES, LATELY DECIDED AT BELLE AIR* (Robert Goodloe Harper ed., Balt., Thomas Murphy 1823).

³⁷² An Act Relating to Insolvent Debtors in the City and County of Baltimore, ch. 221 (1816), *reprinted in* 635 ARCHIVES OF MARYLAND: LAWS MADE AND PASSED BY THE GENERAL ASSEMBLY OF THE STATE OF MARYLAND, AT A SESSION BEGUN AND HELD AT THE CITY OF ANNAPOLIS, ON MONDAY THE SECOND DAY OF DECEMBER, EIGHTEEN HUNDRED AND SIXTEEN, at 174, 174 (Annapolis, Md., Jonas Green 1817), *available at* <http://aomol.net/megafile/msa/speccol/sc2900/sc2908/000001/000635/pdf/am635--174.pdf>.

³⁷³ *James Buchanan*, WIKIPEDIA, http://en.wikipedia.org/wiki/James_Buchanan (last visited May 14, 2012).

³⁷⁴ *James Buchanan*, WIKIPEDIA, http://en.wikipedia.org/wiki/James_Buchanan (last visited May 14, 2012).