

# RHODE ISLAND HISTORY

SUMMER / FALL 2016 VOLUME 74, NUMBER 2









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*On the cover:*

Ira Magaziner in the midst of discussion outside University Hall.  
Courtesy: Brown University Archives.

## An Interview with Anthony Calandrelli

by Michelle Johnson

During 2016, the Rhode Island Historical Society has been developing programming for the theme, “Fashioning Rhode Island.” We have been exploring Rhode Island’s rich history of industry and ingenuity, including jewelry-making in Providence and beyond. The exhibit, “Brains and Beauty: Rhode Island’s Jewelry Industry,” debuted at the Aldrich House this past spring, and the Society is offering walking tours of the jewelry district. To develop these tours, RIHS staff has relied on the expertise of Peter DiCristofaro of the Providence Jewelry Museum as well as primary sources, including materials at the Mary Elizabeth Robinson Research Center. One of the fascinating stories we have recently discovered centers on the American Ring Company, whose president, Anthony Calandrelli, serves as a trustee of the Rhode Island Historical Society. RIHS intern Michelle Johnson interviewed Mr. Calandrelli and his employees about the history of his family’s company, which is located on Grosvenor Street in East Providence. An excerpt of the interview follows:

**MJ** Can you say something about the history of the company?

**AC** Let’s go back to 1972 when American Ring was incorporated. My father, Renato Calandrelli, his brother, my Uncle Gino, and two other partners started out renting space in a factory in Johnston, Rhode Island, and they stayed there, I believe, about a year, and then moved here to East Providence.

They were manufacturers; jewelry was what they knew. Now, my father and his brother made

rings, but they made rings using die struck, which means you had to make a hub and a die and have a big press. They would put a sheet of metal in between it, and it would come down and strike it. They would make one ring at a time. So, they made the tools for that, and then my father decided that wasn’t the way to go. The way to go was lost wax casting. So, they threw everything away that they had done all year, and they went into lost wax casting. And that was a better way to make rings. Keld Olson [one of the partners] was the master model maker, so he would make the first model. He’d get a block of silver and carve out that model, and from that you would make the production models.

My father was the president and my uncle was the vice president. My uncle took care of production. And I got out of school in 1978. I majored in finance and accounting and joined the company. At the time we were manufacturing quite a few rings. We got it up to 150,000 rings a week that we were producing here.

And, of course, there are so many things that happened in the period because we lived through a time of going from completely manual to computers. To the fax machine. To the calculator. Which to you seems incredible, but I remember when I graduated high school my parents bought me a calculator. It was almost three hundred dollars. For a simple calculator. Cutting edge, Texas Instruments. I think I still have it.

|| Photograph taken at the American Ring Company. Courtesy of Anthony Calandrelli.





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You may see it in an antique store one day. But, you know, it was going from a manual system to a computer system and all the headaches that came with that.

**MJ** *How would you describe your employees? How long have some of them been here?*

**AC** We have roughly fifty employees. It ranges from fifty to seventy-five depending on the season. And a lot of those employees have been here a long, long time. Over thirty years, some of them. It becomes a home for some people.

**MJ** *Can you talk about the neighborhood where the factory is located?*

**AC** It hasn't changed that much. It's a nice family neighborhood. The reason the factory was built here was so all the people could walk to work. I know when we were really rocking and rolling with a lot of people, people would just walk here.

The factory was not on Grosvenor Avenue when it was built. It was Williams Street. This factory was built on Williams Street by Mr. Grosvenor who, as it turned out, went to Brown. His father owned two textile mills in Connecticut in what is now Grosvenordale, which is right near Putnam. They had two or three buildings there, and this was the fourth building, I think. And the reason he came here is because he negotiated with the city of East Providence not to pay taxes if he would employ people in the community. That's why he built here, otherwise he would have been in Connecticut. That's all I've found on my own. But we're still doing research

on that part of it because it's so fascinating, these questions of why was this building put here? What was made here? I know at one point they made handkerchiefs when it was a textile mill.

**MJ** *Are there any anecdotes or stories you can share about working here? Any good stories?*

**AC** I have a lot of good stories. My father's plan was to build the company to a certain amount, certain level and then sell it. Well, I screwed that up. Because he wanted me to be a doctor. I didn't want to be a doctor. You have to have a passion for what you want to do, and I wanted to be in the family business.

So, I left pre-med, and I went to the School of Management at Boston College and studied finance and accounting. I graduated in '78. And I'll never forget my first day [working at the factory] my father said to me, 'How much do kids make nowadays when they graduate from college?' And I said, 'Between 18 and 21K a year.' And he said, 'Alright, I'll start you off at 14.' Right off the bat, I knew this was going to be an uphill battle. He said, 'I want you to work in every department for about a month and that way you learn how to make rings.' I said, 'Okay.' Ten years later I was still in the factory. I paid my dues. Then he had a heart attack, so I moved into the office, and I stayed in the office and then eventually ran the company for him.

*[Mr. Calandrelli invites longtime employee Ellen Pelletier to join the conversation.]*



**EP** Years and years ago there was no air conditioner. And this building holds the heat and holds the cold. And I was a wrapper. We had to inspect the rings and the size of that little card there was a little piece of paper. 120 degrees in here. And you're sitting at the bench inspecting the paper, and you get the paper and try to fold it over, but your hands are soaking wet.

**AC** It was tissue paper.

**EP** And then the fans would just blow. All of the papers would be blown all over.

**AC** It was hot. And because he had, and we still have, a tar roof, the tar would drip down on us. It was so hot. If you went up the steps, you would see the pieces of tar on the steps. It would get to 120 degrees.

And Gino [*Calandrelli*] wouldn't shut the factory down. The blizzard of '78, they shut the factory at 4 o'clock. Now, the blizzard started in the morning. Just incredible. They would work all the time. You made it home?

|| Photograph taken at the American Ring Company. Courtesy of Anthony Calandrelli.

*[He asks Ellen, who nods.]*

Gino didn't. And I worked til 4:30. Ellen stayed until the very end. Gino never made it home. He got stuck in Fox Point. ♣

*This interview has been edited and condensed.*

G. I. S. P.

ED



G. I. S. P.

EDUCATION

REGISTRATION  
HERE





# Making Brown University's “New Curriculum” in 1969: The Importance of Context and Contingency

LUTHER SPOEHR

DURING BROWN UNIVERSITY'S FIRST TWO CENTURIES, its curriculum—with one notable, unsuccessful exception in the mid-nineteenth century—stayed firmly in the established mainstream of American higher education. The curriculum did change and evolve over the years, but change usually tiptoed in, always keeping a weather eye out for what the competition was doing—even at the beginning, when there was very little competition to watch. Then in the late 1960s, an unpredicted—indeed, unpredictable—confluence of factors outside and inside the institution made dramatic deviation possible. The result was a curriculum that no individual reformer or group had expected or sought. This essay, after considering why a standard curriculum prevailed for so long, and why its first curricular revolution failed in the middle of the nineteenth century, examines why Brown suddenly, dramatically, and successfully departed from the norm in the late 1960s. ¶

Founded in 1764, Brown was the seventh college to be established in Great Britain's North American colonies. By then many collegiate precedents and expectations, generally imported from Britain, were already in place in older institutions such as Harvard, Yale, and Princeton. That meant that if Brown was to carry out the charge of its charter and produce graduates who would lead "lives of usefulness and reputation," the institution had to establish itself as useful and reputable by established standards. Brown's first president, James Manning, was a graduate of the College of New Jersey (now Princeton), and was strongly influenced by the educational ideas of its president, John Witherspoon. Manning was also professor of languages, "and other branches of learning." Professors were what we would call "generalists" because colleges had few students, few classes, and fewer instructors—some of the latter were "tutors," usually recent graduates. Even as enrollment grew to over one hundred in 1827, Brown still employed only a handful of professors.<sup>1</sup>

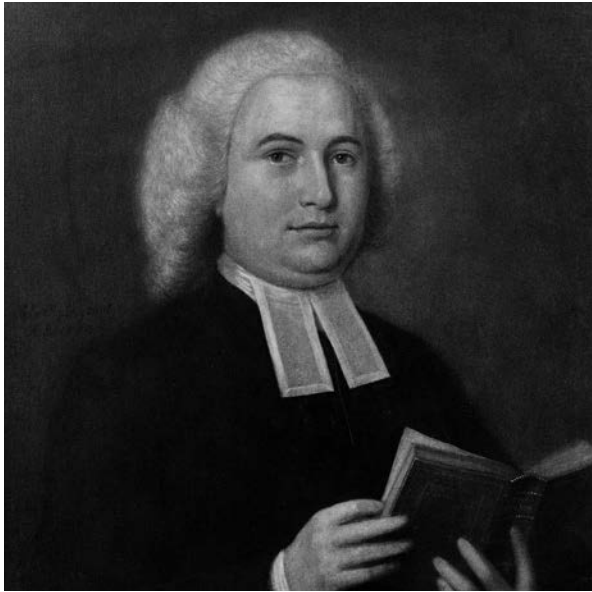
The curriculum emphasized the ancient classics (read in Latin and Greek), the Bible, and moral philosophy (including more modern writers such as John Locke). Classroom activities required recitation, not discussion; outside it, the emphasis was on writing and oratory, the skills needed by men in the ministry, the law, and politics. Students gave frequent speeches on historical controversies and current events, most publicly at commencement with, in historian

Walter Bronson's words, "English, Latin, and Greek jostling one another."<sup>2</sup>

While the curriculum did become more differentiated and more secular, what strikes the modern observer is not the change, but the continuity. Even in the early 1840s one could still find plenty of classes in Latin and Greek (although English was now the language of the campus), geometry and algebra, navigation and astronomy. Well into the nineteenth century, American colleges, including Brown, treated teaching as the passing on of received, ancient truths and the reconciliation of apparently contradictory spheres. The English clergyman William Paley's *Evidences of Christianity*, published in 1794, claimed to reconcile Enlightenment science with Christianity. It was still being used to instruct Brown undergraduates more than half a century later.<sup>3</sup> The capstone of the curriculum was still the president's moral philosophy course.

When the classical curriculum was challenged by Thomas Jefferson's more utilitarian University of Virginia, which was avowedly secular and allowed students to choose their course of study, traditionalists fired back, most notably in the Yale Report of 1828, which accommodated some of the new (especially in the sciences), but firmly rejected the idea that college was the place for specialized professional study: "The two great points to be gained in intellectual culture," it said, in its most famous formulation, "are the *discipline* and the *furniture*





James Manning, the first President of Brown University, served from 1764 until his death in 1791. The classical curriculum he brought to Brown closely resembled those at other late-eighteenth-century American colleges—especially Princeton. Portrait by Cosimo Alexander, 1770, Brown University Portrait Collection.

The College Edifice (later called University Hall) and the President's House. The College Edifice at the College of Rhode Island (later, Brown University) was both a dormitory and a classroom building. From an engraving by David Augustus Leonard, c. 1795. Courtesy: Brown University Archives.



of the mind; expanding its powers, and storing it with knowledge.” The many colleges that sprang up before the Civil War generally chose to establish their legitimacy by adopting the traditional model.<sup>4</sup>

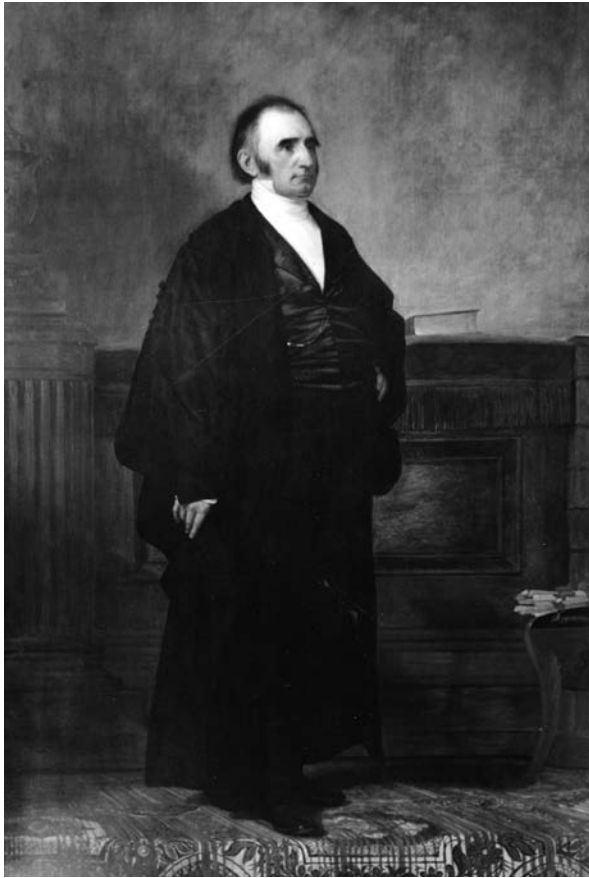
So in 1850 President Francis Wayland of Brown was taking a chance when, after twenty years of tinkering, he told the Brown Corporation that he would resign if they did not fund his New System. His disdain for the traditional curriculum was palpable. “We have produced an article for which the demand is diminishing,” he said. “We sell it at less than cost, and the deficiency is made up by charity. We give it away and still the demand diminishes.” The Corporation yielded, raised the \$125,000 Wayland deemed necessary to support his reforms, and Brown plunged ahead, implementing his famous 1850 Report to the Corporation.<sup>5</sup>

Wayland was convinced that changing times—expanding population in a modernizing nation—called for a new way. He wanted a utilitarian education for businessmen, industrialists,

even farmers, so his New System included agricultural chemistry and civil engineering, all available in a wide array of electives. His New System led to new degrees. Three tracks led to a Bachelor of Arts degree; they required, among other things, different mixtures of ancient and modern languages. Requirements for a Bachelor of Philosophy included no modern languages, but many electives. These were three-year programs. The Master of Arts became an undergraduate degree, to be earned in four years.<sup>6</sup>

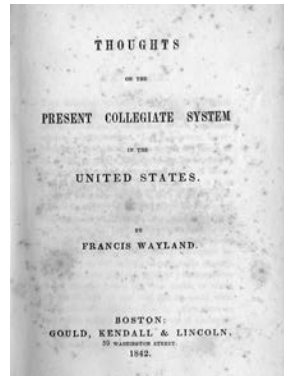
It was all very ambitious. But the need for new resources—instructors, facilities, and the rest—far outran Brown’s ability to provide them. After growing to 193, enrollment slumped back to where it had been: about 170 students.<sup>7</sup> And Brown’s reputation suffered. In 1855, Wayland resigned. His successor, Barnas Sears, lamented:

the character and reputation of the University are injuriously affected by the low standard of scholarship required for the degrees of A.M. and A.B.... We are now literally receiving the refuse of other colleges. Students who cannot go through a complete course, entitling them the degree of A.B. in other colleges, look upon this college as a kind of convenient establishment where they can soon build up a broken-down reputation... We are in danger of becoming an institution rather for conferring degrees upon the unfortunate than for educating a sterling class of men.<sup>8</sup>



Francis Wayland, Brown's fourth president, served from 1827 to 1855. His controversial curriculum reforms were reversed after his retirement. Portrait by George P. A. Healy, 1846, Brown University Portrait Collection.

President Wayland had been criticizing American higher education, most famously in this essay, long before implementing his reforms in 1850. Courtesy: Brown University Archives.



Brown returned to a tried-and-true curricular formula, and for the next century it evolved as its peer institutions did. As the United States rushed headlong into industrialization and urbanization, the economy demanded more specialized skills, and members of the middle and upper-middle classes sought ways to improve or protect their status. Higher education increasingly provided both. “Utility” surged in curricular importance after the Morrill Act, providing for land grant colleges, was passed in 1862. Educators increasingly recognized that a prescribed curriculum would not work for all students. In the late 1860s, both venerable Harvard and newly-hatched Cornell went all-in for electives. Brown and fellow institutions did not go quite so far (and Harvard backtracked after President Charles Eliot was replaced by Abbott Lawrence Lowell in 1909), but eventually even Yale expanded its curricular options.

Perhaps the most important on-campus driver of curricular change was the emergence of a highly educated, newly specialized, professionalized professoriate, focused on research and credentialed with the Ph.D. Schools scrambled to keep up with pioneering Johns Hopkins University, founded in 1876. Brown made it possible to study for a M.A. or Ph.D. in 1887, but the program remained small. During E. Benjamin Andrews’s presidency (1889–1897) only fifteen Ph.D. degrees were awarded. But it was a start.<sup>10</sup>

Specialization and differentiation had momentous consequences for the curriculum. The day of the president/professor who was a jack-of-all-trades, assisted by lightly-educated “tutors” ended. Growing institutions could hire more faculty, establish discipline-based

Soon the new M.A. was discontinued, and the A.B. required a four-year program.

In short, Wayland’s experiment failed. Perhaps he was just ahead of his time—but the Yale Report had warned what would happen when a college “has lost its hold on the public confidence[:]...we may expect that it will be deserted by that class of persons who have hitherto been drawn here by high expectations and purposes.”<sup>9</sup> In the marketing parlance of the early twenty-first century, Wayland was trying to change Brown’s “brand.” Nearly a century old, Brown had a long-established public identity, and the public had developed a clear idea of what it was. By engineering an abrupt shift from “liberal culture” to “utility,” Wayland seriously, almost disastrously, misread Brown’s place in the context of the times.





*Clockwise from top left:* Henry Wriston, Brown's eleventh president, was the first who was not an ordained Baptist minister; he served from 1937 to 1955. Wriston revamped the curriculum and energized the institution in many other ways. Courtesy: Brown University Archives.

Juan Lopez-Morillas, Professor of Spanish and Italian and founder of the Comparative Literature program, was an enthusiastic proponent of interdisciplinary studies (he first taught "The Functions of Literature" as a University course in 1959–60) and was an advocate for small seminars. Courtesy: Brown University Archives.

University Professor George Morgan, polymath and interdisciplinary pioneer, was an influential mentor for students devising the New Curriculum. In 1958, he proposed a course on "Modes of Experience: Science, History, Philosophy, and the Arts" which led to the establishment of University courses that were open mainly to juniors and seniors. Courtesy: Brown University Archives.

Wriston's successor, Barnaby Keeney, was known for his drive, hands-on management, and biting wit. He retired in 1966, just before the student-led push for the New Curriculum. Courtesy: Brown University Archives.

departments, and specify precise curricular requirements while still offering electives. As Laurence Veysey argues in his classic study, when universities competed in this period, "they became more standardized, less original, less fluid. Thus a university now nearly always attempted to offer a 'complete' course of study, in as many fields as possible, so that it could not be outdone."<sup>11</sup> Institutions did not always proceed at exactly the same pace, but similarities far outweighed the differences.

That imitation and standardization were becoming the rule was further revealed when colleges replaced their own admissions tests with one provided by the newly established College Entrance Examinations Board. Brown adopted the CEEB exam in 1905. To strike a balance between electives and requirements, colleges began to require a "major" or "concentration" in a particular discipline; Brown added this practice in 1919.<sup>12</sup>

By the 1920s the curriculum—indeed, the college experience in general—had taken on characteristics thoroughly recognizable today. Moreover, it was becoming more common: while only about four percent of eligible graduates had gone on to college in 1900, the attendance rate approximately doubled every fifteen years thereafter. By 1960, it was forty percent. A college education was becoming a standard part of the middle-class experience.

From the 1930s into the 1960s, Brown tinkered endlessly around the edges of its curriculum. In 1937, a "New Curriculum" aimed particularly at freshmen redefined distribution requirements, but Brown's new president, Henry Wriston, was not satisfied. In 1939, Brown reduced the required course load to four per semester. After World War II, Wriston, becoming well-known as a spokesman for liberal education, got another "New Curriculum" in 1947. Again, Brown was riding a national wave, this one heralded by Harvard's famous 1946 "Red Book" reforms calling for "general education" in the liberal arts.<sup>13</sup>

As undergraduate enrollment inched above three thousand in the 1950s, Brown's faculty worried about engaging students in their courses, preferably in small, discussion-based classes. In 1953, thanks to a Carnegie Corporation grant, the "Identification and Criticism of Ideas" (quickly shortened to "I.C.") curriculum was created, offering small seminars focused on a single "great book" or idea to freshmen and sophomores. (At first restricted to higher-ranking students, in 1958 it was opened to all of them.) Speaking of the new demands the seminars placed on instructors, Prof. Juan Lopez-Morillas wrote that the experience amounted to a "Socratic shakedown." And he liked it: "The better student is willing to learn but balks at being indoctrinated," he said.

“[T]he best class hour by far is one beset by doubts and perplexities, for they alone bring into play the student’s imagination and inventiveness.”<sup>14</sup>

One can see the ground being prepared, all unwittingly, for the curricular revolution of 1969. In 1958, Wriston’s protégé and successor, Barnaby Keeney, authorized a new kind of seminar, the “University Course in Interdisciplinary Studies.” Professor George Morgan’s was called, expansively, “Modes of Experience: Science, History, Philosophy and the Arts.” Prof. Bruce Lindsay offered “The Role of Science in Civilization.” More Carnegie money followed, as did several additional courses, including one taught by Professor Lopez-Morillas. Distribution requirements were further loosened in 1963. Given what was soon to follow, it is worth pointing out that it was known as “The Permissive Curriculum.”<sup>15</sup>

The campus context at Brown was already hospitable to curricular experimentation, but the coming of the next “New Curriculum” was hardly inevitable. Contingencies had to fall into place—and from the largest to the smallest, they did. Nationally, post-World War II prosperity and the population explosion gave higher education the biggest boost it had ever had, as colleges and universities moved to the center of American life. New jobs in an increasingly service-oriented economy demanded skills that higher education could provide, and college enrollments skyrocketed. In 1947, 2.3 million students were enrolled in colleges; by 1970 the number had almost quadrupled, to 8.5 million. Louis Menand crunches the numbers this way:

Between 1945 and 1975, the number of American undergraduates increased by almost 500 percent and the number of graduate students increased by nearly 900 percent. In the 1960s alone enrollments more than doubled, from 3.5 million to just under 8 million; the number of doctorates awarded annually tripled; and more faculty were hired than had been hired in the entire 325-year history of American higher education to that point.<sup>16</sup>

New emphasis on college preparation in the public schools expanded the pool of college applicants, and colleges that before had been merely “exclusive” could also be more and more “selective.”

Henry Wriston had caught the wave early. Because until the late 1940s students had to list their school choices on their College Board forms, Wriston required that only students who listed Brown as their first choice would be admitted. As Brown historian Jan Phillips points out, “Brown acquired a reputation for being hard to get into, and both the number and quality of applicants increased.”<sup>17</sup>

Then came the baby boomers. Throughout the 1950s, they surged through the schools. More and more middle-class children, reared amid unprecedented prosperity, aimed for college. In 1964, the first of them, their learning accelerated by new Advanced Placement courses (the program began in 1955) and curricular reforms such as the “New Math,” ignited by the post-Sputnik panic that led to the National Defense Education Act of 1958, arrived on campus. They were confident that they were well prepared—not least because everyone told them they were the best-educated generation America had ever produced. And they had record SAT scores to prove it.

Elliot Maxwell and Ira Magaziner, crucial players in Brown’s curricular revolution, were products of this new, high-powered college preparation. Maxwell—class valedictorian and National Merit Scholar at his Port Chester, New York public high school—arrived in the fall of 1964, thinking of becoming a lawyer. Magaziner—valedictorian, veteran of Advanced Placement courses at Lawrence High School on Long Island—came to campus in the fall of 1965.

The other freshmen men and women (they were not yet called “first-years”) arriving at Brown in the fall of 1964 and the fall of 1965 came from all over the country. To Wriston and Keeney, “diversity,” if they used the term at all, meant geographical variety, achieved by admitting excellent students from strong public high





schools all around the nation. By the 1968–69 school year, students came from forty-four states. The largest group, 625, came from New York. Perhaps surprisingly, from today’s perspective, 590 were Rhode Islanders. There were seventy-six international students.<sup>18</sup>

In many ways, it was a homogeneous group that arrived in the mid-sixties, mainly upper-middle-class white students whose college preparation was both high-powered and virtually identical to everyone else’s. Everyone seemed to have read *The Scarlet Letter*, *Adventures of Huckleberry Finn*, and *The Great Gatsby*. Virtually all of them had taken a survey in American history (not called “United States history” then). The “Pepsi Generation” had grown up as consumers in a national market: they had watched the same TV shows and danced to the same Top 40’s hits. In short, in ways trivial and important, they arrived with a shared frame of reference—a fact that made it much easier to organize them when some of their number decided to reform the curriculum.

The Brown University that greeted them was larger than it had been before, but much smaller than today. There were fewer than four thousand undergraduates, and the Graduate School consisted solely of programs attached to

Elliot Maxwell (left) and Ira Magaziner (right) in the midst of discussion outside University Hall. Courtesy: Brown University Archives.

academic departments.<sup>19</sup> There was no medical school, engineering school, or school of public health. Henry Wriston liked to describe Brown as a “university-college,” but the undergraduate program clearly had pride of place.

What we now think of as “The Sixties” had not yet begun at Brown in the middle of the 1960s—or anywhere else. The Civil Rights Movement was still unified in its integrationist phase—the term “Black Power” had not yet been coined. The Tonkin Gulf Resolution passed Congress with hardly a murmur against it in August 1964, and the anti-war movement was virtually invisible. Protests had a very different tone from what they would have in just a few years. Members of the Berkeley Free Speech Movement, a coalition that spanned the political spectrum from Young Socialists to Youth for Goldwater, wore coats and ties, skirts and blouses, when they marched through Sather Gate in the fall of 1964. In the 1960 presidential election, most Brown students had supported Richard Nixon over John F. Kennedy.



Administration saw the boomers coming, and many of them worried. Pembroke's Dean Rosemary Pierrel (considered—rightly—by Pembrokers to be a staunch conservative on social rules and parietals) was not an academic conservative: she thought the 1963 curriculum was not “permissive” enough and feared that high-flying students accustomed to AP seminars, discussion, and rigor would be bored by the large introductory lecture courses that dominated the freshman year. Dean of the College Robert Schulze told the *Brown Daily Herald* in the fall of 1965, “Student criticism and positive discontent can be a driving force behind academic and administrative reform,” and welcomed the prospect of student initiative. Others in the administration, including Dean of the University Merton Stoltz (recently described by *Magaziner* as “the unsung hero” of the movement), also supported change. If students wanted to take that initiative, unexpectedly sympathetic ears were ready to hear.<sup>20</sup>

Maxwell and then *Magaziner* felt let down by their first two years of college. Maxwell says he was “sleep-walking for my first two years at Brown”; *Magaziner*, that he “wasn't getting [what he had hoped to get] out of college.”<sup>21</sup> They undertook individual study projects on education, then gathered like-minded students into a Group Independent Study Project (GISP) to think about the possibilities. Around them, “The

Rosemary Pierrel, Dean of Pembroke College from 1961 to 1971, and a tenured member of the Psychology Department, favored curfews and other parietals, but also wanted to cut back sharply on academic distribution requirements. Courtesy: Brown University Archives.

Sixties” were happening. City dwellers had come to expect “long hot summers,” as race riots broke out with appalling regularity—predictably and symbolically, the most devastating came after the assassination of Martin Luther King, Jr., the apostle of nonviolence, in April 1968. Relatively polite protest gave way to rowdy confrontation on and off campus, ignited partly by demands for student rights, partly by dissatisfaction with the pace of change in civil rights, and, increasingly, by anger over the draft and the war in Vietnam. The prototypical example, the Columbia rebellion of 1968, started with takeovers of university buildings and ended with the thump of policemen's nightsticks on students' heads. Other schools, from San Francisco State to Harvard, supplied their own variations on violent themes.

A more restrained version of the zeitgeist enveloped Brown. There were harsh words about the presence of ROTC, but no buildings burned. In December 1968, sixty-five of Brown's eighty-five black students “walked out” to a local church to call attention to their demands for more African-American students and faculty. Although there was substantial anti-war activity on campus, rapidly radicalizing national leaders





Ira Magaziner (left) and Brown President Ray Heffner.  
Courtesy: Brown University Archives.

of Students for a Democratic Society (SDS) thought Brown activists insufficiently militant. But there always was the possibility that things could escalate.

While the GISP worked away, starting in the fall of 1966, potential obstacles to their program were quietly disappearing. President Barnaby Keeney, tough-minded and imposing heir to Henry Wriston, retired in 1966. Elliot Maxwell said later that if Keeney had remained president, the New Curriculum “doesn’t happen.”<sup>22</sup> Keeney’s successor, Elizabethan literature scholar Ray Heffner, at first sounded stern: “The University is not a participatory democracy and never will be,” he said in an early speech. The use of “participatory democracy,” a phrase associated with SDS’s “Port Huron Statement,” was undoubtedly intentional.<sup>23</sup>

But Heffner proved to be much more pliable when the atmosphere heated up. The faculty also proved sympathetic, a good thing considering that they had to be persuaded to vote for the new program. Looking back, Maxwell thought that the “most striking thing” about the whole New Curriculum movement was the “lack of a coherent defense of the status quo.”<sup>24</sup>

It is unclear just when the GISP finally decided to go for wholesale curricular change: it “just evolved,” Maxwell says. The evolution that began with seventy students and faculty advisors ended with a report, written primarily by

Magaziner and edited mainly by Maxwell. The modestly titled “Draft of a Working Paper for Education at Brown University,” four-hundred pages long, was a term paper on steroids, an earnest brief for dramatic curricular changes. Citing educational philosophers from Alfred North Whitehead to Robert Maynard Hutchins, the report called for a “student-centered” University, with a curriculum that would rely on student interest, curiosity, and motivation, rather than requirements or grades.<sup>25</sup>

Two chapters containing, “Proposals for Curriculum,” and seven more on related topics, such as “Testing” and “Grading,” occupied nearly 120 pages of the “Draft.” Specifics eventually considered by the faculty included introducing “Modes of Thought” courses: a number of small, interdisciplinary seminars for freshmen and sophomores, intended to replace large introductory lecture courses, would be required. Independent Concentrations already existed, but even more students were expected to step outside traditional majors and set up their own programs of study. There was to be no limit on the number of courses that could be taken “pass/fail” (or “Satisfactory/No Credit”), and reformers hoped that students would use S/NC more than traditional letter grades. GISPs,

like the one that led to the “Draft of a Working Paper,” were encouraged as ways to individualize education without requiring that faculty create entirely new courses. Perhaps most radical, distribution requirements, except for four semesters of Modes of Thought courses, were to be abolished.<sup>26</sup>

The Report also contained a few statements that were sufficiently naïve to provoke some eye-rolling from their authors many years later—and probably from faculty at the time. For instance, fearing that Brown was becoming a large, impersonal institution dominated by research (the Report sometimes echoes the 1964 Berkeley protest, “I am a human being. Do not fold, spindle, or mutilate”), it argued that “while universities might encourage their professors to do research, they should not compel them to publish.”<sup>27</sup> Still, its twenty-four chapters, examining everything from the history of American higher education to procedures for implementing the new curriculum, this remarkable student performance gave the movement credibility. Even Harvard took note: sociologist David Riesman, who had just co-authored *The Academic Revolution*, thought it “a Herculean effort, an impressive document.”<sup>28</sup>

The curriculum debate dominated the 1968–69 school year. The intellectual heavy lifting had been done; next came the organizational challenge. Although Maxwell was gone (having graduated, he was teaching school in the Bronx), Magaziner was elected president of the Class of 1969 for the fourth year and also elected (without opposition) to head the student government. As he noted in a recent essay, “the grassroots process that we implemented was also crucial to the success and sustainability of those reforms.” He set up a committee of twenty to “mobilize the student body and lobby the faculty.” They worked in shifts to mimeograph a thousand copies of each page of the Report; they set up four hundred chairs—one chair per page—in Sayles Hall for a “Collation Dance” that put together hundreds of copies. Dorm discussions grew and grew; teams of three students talked to virtually every faculty member (and rated their

supportiveness on a 1-to-4 scale). Like a political machine, they built a network, held rallies, and got signatures (eventually from well over half of the student body) on their petition asking the faculty to consider the proposal.<sup>29</sup>

Meanwhile, President Heffner and faculty leaders put the wheels of policy in motion and steered the proposal through bureaucratic channels. Between early October and early December, it bounced from the Curriculum Committee to various subcommittees and back again, before finally ending up in the hands of a Special Committee on Curricular Philosophy, chaired by widely respected associate provost Paul Maeder, where it stayed until again being sent to the Curriculum Committee and then on to the entire faculty. Nothing curricular could happen without their consent.<sup>30</sup>

A sympathetic article by Douglas Riggs in the February 1969 issue of the *Brown Alumni Monthly* surveyed the whole landscape of student causes at Brown and compared Heffner favorably to President Grayson Kirk of Columbia, who (in remarks that helped to provoke the notorious Columbia strike of April 1968) had publicly denounced students’ “nihilism,” adding that “I know of no time in our history when the gap between the generations has been wider or more potentially dangerous.” Heffner, on the other hand, had clearly set aside at least some of his doubts about “participatory democracy,” saying in his first report to the Corporation that, on the basis of his experience,

I would conclude that student initiative is well developed on this campus and that students here show an extraordinary capacity, not only for thoughtful suggestions, but for hard work to achieve desired objectives. I would conclude, also, that the advertised gap between the generations has been much exaggerated.”

Riggs argued that Brown’s student movements (to enroll more black students, ban ROTC, abolish parietals, end investment in South Africa, and change the curriculum) combined tactical pragmatism with deep moral commitment



and argued that Heffner, often criticized both for giving in too much or not enough, was an effective leader.<sup>31</sup>

Certainly Magaziner believed these causes were all of a piece, and he had a hand in nearly all of them, a fact which gave him great credibility when bringing factions together to support a new curriculum and then urging patience as it wound its way to final consideration. He knew that Brown officials wanted to avoid violent scenes like the ones at Columbia and other universities—including in April 1969, Harvard—and visited student groups, organizations, and athletic teams, making the case that rallies and personal lobbying would ultimately be more effective than taking over University Hall. As one member of the Cammarian Club (the student government) said, “We want student representation, not student power. We expect that the faculty will support us.”<sup>32</sup>

Then, in Sayles Hall in early May, the faculty held, in Professor Jerome Grieder’s words, “certainly the longest, and [probably] the largest, faculty meeting in the history of the University,” three days of “sustained and often spirited debate.” Loudspeakers carried the proceedings to the Main Green, where, Magaziner estimates, “80 percent of the student body gathered” to cheer or boo what they heard.<sup>33</sup> Faculty turnout was substantial, too: Thomas Banchoff, then an assistant professor in the Mathematics Department, remembers it as “by far the largest

Ira Magaziner speaking to a crowd of students, ca. spring 1969. Students collated the Maxwell-Magaziner Report, lobbied professors, petitioned the faculty, and rallied by the hundreds on the Main Green. Courtesy: Brown University Archives.

number of faculty present that I have seen at any one time,” and adds that “the spirit was not at all confrontational, even though there were many opinions represented.” When the issue of eliminating distribution requirements was discussed, some wondered if the Math Department would be willing to give up the math requirement. Banchoff recalls that a colleague “got up to give the only speech I ever heard him give at a University faculty meeting (and the only time he attended one as far as I know). He gave a short statement, ‘Nobody wants to teach mathematics to people who don’t want to learn it.’ Then he sat down.”<sup>34</sup>

The faculty voted to eliminate existing distribution requirements, to allow students to set up Independent Concentrations, and to take as many courses as they wanted for “Satisfactory/No Credit” (S/NC) rather than traditional grades. They reduced the number of courses required for graduation from 32 to 28. So the reformers got most of what they wanted. But the final outcome regarding requirements was a case study in unintended consequences. The students’ proposal had called for requiring undergraduates to take a set of Modes of Thought seminars. Then the faculty did the math and realized that if they offered enough of them





*“80 percent of the student body gathered to cheer or boo what they heard.”*

Students rally on the Main Green in support of the “New Curriculum” proposal. Courtesy: Brown University Archives.

for everyone, they would not be able to teach much else. So those small courses were made voluntary for faculty and students alike. In other words, without anyone specifically proposing such a dramatic step, now, except for concentration requirements, Brown had no distribution requirements at all.

The most hotly debated item for the faculty was the final statement declaring that the undergraduate program “has for its purposes the fostering of the intellectual and personal growth of the individual student.” (What about advancing knowledge through scholarship, some asked.) Once that was approved, Brown’s curricular revolution was complete. And it had been accomplished without the unrest and violence that accompanied so many student movements in the late 1960s. Grieder’s article in the July 1969 *Brown Alumni Monthly* was titled “Peaceful Reform.” One can almost hear the sigh of relief.<sup>35</sup>

The next day, May 9, President Heffner resigned. The *Brown Daily Herald*, which headlined its story "The RLH Years: Caution, Crisis, Committees," reported surprised, respectful, even affectionate comments by students, faculty, and Corporation members about the departing executive, who said that his decision had nothing to do with the debate over the curriculum: "I have simply reached the conclusion that I do not enjoy being a university president." Given what he had faced in the previous three years, it is not hard to understand why.<sup>36</sup>

With the New Curriculum approved and the president on his way out, a significant chapter in Brown's history and, indeed, in the history of the 1960s, was concluded. Replete with unpredictable twists, turns, and unanticipated outcomes, over the years the story was incorporated into the institution's master narrative as the simple tale of an inspiring student leader who had a vision and led fellow students on a mission to transform the University. As with many master narratives, there is an element of truth to it. Without Ira Magaziner, the New Curriculum does not happen. His role—and the GISP's—was necessary, but far from sufficient.

Other contingencies, accidents and coincidences of time and place mattered just as much. The national context was unique and indispensable. Half a century later, it is difficult to recapture the sense of optimism that suffused the country, particularly in the first half of the 1960s. A prosperous nation was going to go to the moon, to win the war on poverty, to stamp out racism, to bring democracy to Vietnam, and then to go on to even greater triumphs, propelled by the best-prepared generation of young people in history. Although that optimism was beginning to fray at the edges as the sixties went on, it was still widespread enough, not least among young people themselves, to provide a spur to action. Even—perhaps especially—dissenters thought they could move mountains.

Universities were expected to be at the center of the action. Clark Kerr's widely read *Uses of the University* (1963) argued that higher education would do for late twentieth-century America

what the railroads had done for late nineteenth-century America. By 1970, half of American high school graduates would be enrolling in college. And for the first and only time, when polled about what they hoped to get from their college experience, more students said they wanted to "develop a meaningful philosophy of life" than talked about getting a well-paying job or other goals.<sup>37</sup>

Of course, the spirit of the age did not spawn movements for an open curriculum at every university. But "free universities" and "experimental colleges" had sprung up elsewhere, including, naturally, Berkeley. For a while, Magaziner and Maxwell had thought that might be the outcome of their efforts.<sup>38</sup> A few undergraduate institutions such as Hampshire College set up open curricula. However, Brown became (and remains) the only research university to have one.

The open curriculum came to Brown because of Brown's specific character and characteristics at that time. Magaziner and his cohorts were entering an environment that was ready to hear them. As noted, both faculty and deans believed this bright new generation should be trusted with more responsibility for its own education before Maxwell and Magaziner ever set foot on campus. The 1963 "permissive curriculum" was only the latest in a series of liberalized courses of study. The trend was set, even though it was not always noticed.

By 1968, Henry Wriston and Barnaby Keeney, presidents jealous of their own prerogatives, were gone, replaced by a far less forceful executive. Ray Heffner could come on strong ("If anyone or any group tries to shut this university down, I must and will do all in my power to see it remains open," he said during one tense moment), but his most powerful instinct was to discuss and negotiate.<sup>39</sup> In the end, that made possible many changes besides the New Curriculum: parietals were eliminated, ROTC was soon banned, more minority students and faculty appeared on campus.

The road to Brown's New Curriculum was littered with contingencies. What if Maxwell



Ira Magaziner (left) and Associate Provost Paul Maeder, who chaired the Special Committee on Curricular Philosophy. Paul Maeder's support was crucial for getting the proposal to the faculty for a vote. Courtesy: Brown University Archives.

Professor Jerome Grieder, political scientist and member of the Special Committee on Academic Principles at Brown, wrote a sympathetic summary of events leading to the New Curriculum for the *Brown Alumni Monthly* in the summer of 1969. Courtesy: Brown University Archives.

had gotten off the Wait List at Harvard and gone there? What if Magaziner had been accepted at Harvard?<sup>40</sup> What if activists lost patience and seized a building or two? It was happening—frequently—on other campuses, as Brown's administration knew only too well. In the end, Magaziner's restraint paid off, and the administration's worries worked for the students. But there had been no guarantee that more impulsive followers would not outrun their leader.

Magaziner was also fortunate that Brown was still small enough to let him and his organization stay in touch with every student group on campus, and to contact virtually every faculty member. It is impossible to imagine sustaining a similar movement at one of Clark Kerr's enormous "multiversities." The Brown students knew the faculty, and the faculty knew them: political scientist Newell Stultz, who chaired a subcommittee that vetted the proposal, remembered years later: "Our brief report basically said that this was a serious effort by students who had raised some very important questions. We thought they should be given respectful consideration by the University."<sup>41</sup>

While chance and circumstance conspired to help make the New Curriculum possible, there was no guarantee that it would work as



its creators had hoped. But the question of how “successful” it turned out to be is more difficult to answer than may appear at first glance. (For one thing, it is important to remember that the faculty never implemented the original proposal: Modes of Thought courses were never required of all students.) Nevertheless, at first the whole program that was put into place seemed to be embraced enthusiastically. In the fall of 1969, forty percent of all students took all of their courses S/NC and eighty-nine percent took at least one, leaving only eleven percent of students taking all their courses for letter grades. Eighty-six courses, including thirty-seven new Modes of Thought courses, mandated that students take them S/NC.<sup>42</sup>

Even Harvard, not typically noted for seeing something to envy at any other school, made approving noises about Brown's new direction. Still reeling from its own upheaval in early 1969, the *Crimson* published a two-part series in January 1970 about the coming of the New Curriculum, particularly highlighting Magaziner's leadership. While the writer couldn't resist mentioning that Magaziner had not been accepted at Harvard, he conceded that “there are impressive signs of undergraduate intellectual ferment in Providence,” before sniffing, “Obviously, some parts of Brown's ‘reformed’ curriculum are already established practice here.” But the article admitted that Brown had accomplished two things that Harvard so far had not: it had defined the purpose of undergraduate education as fostering “the intellectual and personal growth of the individual student,” and students had driven the change.<sup>43</sup>

There were, however, contrary straws in the wind: in the fall of 1969, only twenty-eight percent of juniors and seniors took all of their courses S/NC, and seventeen percent took all courses for letter grades. As one “student observer” commented to the *Brown Alumni Monthly*, freshmen were “less under the noses of the graduate schools.”<sup>44</sup> Moreover, the national context was changing dramatically as the ‘60s gave way to the ‘70s: political unrest was joined by a soured economy, with accompanying loss

of optimism. Students in what came to be called the “Me Decade” understandably worried about how to make their undergraduate work position them for life after college.

In February 1974, a *New York Times* article was headlined “At Brown, Trend is Back to Grades and Tradition.” Dean of Academic Affairs Jacquelyn Mattfeld noted that Brown, under considerable financial stress, lacked resources to implement an ambitious new program: “We are being asked to produce a Cadillac educational experience on a Volkswagen chassis,” she said. Only forty-three Modes of Thought courses were offered, the percentage of courses being taken S/NC had dropped from sixty-three percent in 1970 to thirty-six percent in 1973, and students generally seemed engaged (in the *Times*'s words) in a “desperate scramble to get into graduate schools.” One junior, a member of the Educational Policy Committee, even said, “I am in favor of admitting we are conservative and not attracting students like me who should be at Bennington or Haverford.”<sup>45</sup>

The Magaziner-Maxwell Report clearly expected Brown students to seek “self-fulfillment” and inveighed repeatedly against pre-professional training. In that regard, it seems both a product of “the Sixties” and a continuation of the ancient, always tenuous, but durable liberal arts tradition, found even in the Yale Report of 1828. Sociologist Dietrich Rueschemeyer, chair of the Faculty Policy Group, noted in 1971 that,

the basic idea of the reform is really very conservative. It's a reaffirmation of the ideas of liberal education, of general education. What is possibly radical are certain ways of implementing it. As to whether it is a success or not, we don't know yet, although we are in the middle of it... The new program is definitely a success in that it gives the chance of exercising individual autonomy in one's studies.

Brown activist Susie Friedman '70 agreed: “We achieved radical ends, but we did it through orderly and established processes.” Indeed, that combination of tradition and innovation may



have helped persuade some dubious faculty to support it. Along the same line, although the Sixties made “relevance” a mantra for curricular critics, the Magaziner-Maxwell Report brushed the term aside: the “university should not be training social workers or political activists,” it said, “and should not give credit for such work.”<sup>46</sup>

Times and society changed. Throughout the seventies and eighties and beyond, polls showed that American students had a fundamentally instrumental view of higher education, with purposes such as “to be able to get a better job,” and “making more money” topping their list of priorities. In 1990 “The Brown Curriculum Twenty Years Later,” an official Report to the President by Dean of the College, Sheila Blumstein, noted that Modes of Thought courses had virtually disappeared: in 1988–89, there were only four, with a total enrollment of sixty-seven. Only about twenty percent of course grades were S/NC. And Independent Concentrations constituted barely one percent of the total. Nevertheless, Blumstein pronounced the New Curriculum a “resounding success, both for [Brown’s] students and its faculty,” because of its “rigor” and “flexibility.”<sup>47</sup>

While perhaps exaggerated, the claim had substance. The lack of Independent Concentrations was due partly to the fact that the number of “official” concentrations had more than

A cheerful Brown University Chancellor Charles Tillinghast (left) and an equally cheerful President Ray Heffner announce his resignation on May 9, 1969. Heffner remarked: “I have simply reached the conclusion that I do not enjoy being a university president.” Courtesy: Brown University Archives.

doubled. The grading system that had eliminated plus and minus grades, leaving just A, B, C, and NC, was still in place. The centerpiece of the reform was eliminating distribution requirements; students, in consultation with their advisors, would presumably have to think harder about their own courses of study, and would “own” the choices they made more fully than if they were merely “meeting a requirement.” The Blumstein Report argued that this was indeed happening—and added survey data showing that Brown students typically took a range of courses that corresponded closely to those taken by students at other Ivy schools, the ones with requirements. In other words, students generally avoided premature specialization and were seeking a liberal education.

The New Curriculum also succeeded in a way not envisioned by its creators: it was a triumph of “branding.” In 1969, the *Ivy League Guidebook*, supposedly an “insider’s guide,” had sneered that “Brown is scarcely known west of the Mississippi or south of Philadelphia. Hardly one of the more prominent Ivies.”<sup>48</sup> By the time Blumstein



Jacquelyn Mattfield, Dean of Academic Affairs, worried in 1974 that the New Curriculum meant that Brown was “being asked to produce a Cadillac educational experience on a Volkswagen chassis.” She moved on to become President of Barnard College in 1976. Courtesy: Brown University Archives.

reported, Brown was a “hot school,” with more applicants than it knew what to do with, and the New Curriculum, if admissions literature and student response to polls about what drew them to Brown are to be believed, showed unequivocally that New Curriculum was the magnet.<sup>49</sup> Certainly its longevity confounded one injunction from the Report that created it, that “Every new curriculum should be born with its own death warrant written into it.”<sup>50</sup>

The New Curriculum succeeded where Francis Wayland’s New System had failed, not least because it fit neatly into the emerging American culture, which emphasized consumer choice above virtually everything else. That emphasis has only grown stronger over the years. In addition, although the abolition of distribution requirements was dramatic, it did not shake up the educational structure nearly as much as Wayland’s changes did. The New Curriculum preserved the four-year path to the bachelor’s degree, credits, courses, departments, and grades, and a declared mission of a liberal education, among other familiar elements.

Although the number of courses required for graduation was lowered from thirty to twenty-eight, it was soon bumped back up, and while pluses and minuses were no longer attached to letter grades, the familiar A-B-C distinctions remained. Few seemed to believe that these minor shifts mattered.

Maxwell and Magaziner were not utopians; “we were reformist, rather than radical,” Maxwell says. Some students, they realized, might drift, or in other ways not be up to the challenge. But that, they say, would be true anywhere. Their goal, in Maxwell’s words, was “to make it easier for students who are there for the right reasons to do the right thing.”<sup>51</sup> Subsequently—and consequently—the New Curriculum has arguably evolved in ways that give this 250-year-old institution reason to expect that its graduates will indeed lead “lives of usefulness and reputation,” even though the circumstances that gave it birth will surely never appear again. ♦

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1. On Witherspoon's influence, see George Marsden, "The Old Learning, the New Light, and the Enlightenment: Contexts for Education ca. 1764" (1764 Lecture, October 21, 2014). Available online at <https://www.youtube.com/watch?v=2OwluiBp7c8>. [Accessed February 28, 2016]. On Brown's early curriculum before the arrival of Francis Wayland, see Walter C. Bronson, *The History of Brown University, 1764–1914* (Providence: Brown University, 1914), 34–129, passim; Janet M. Phillips, *Brown University: A Short History* (Providence: Office of Public Affairs and University Relations, Brown University, 2000), 11–15, 33–36.
2. Bronson, *History*, 104–105, 138.
3. Bronson, *History*, 217. For a brief, witty description of just how typical Brown's curriculum was in the first half of the nineteenth century, see Herman Eschenbacher, "When Brown Was Less Than a University But Hope Was More Than a College," in *Brown Alumni Monthly* (Feb. 1980): 26–32.
4. "Report on the Course of Instruction in Yale College; By a Committee of the Corporation, and the Academical Faculty" (Hezekiah Howe, 1828), 7. Online at [http://www.yale.edu/sites/default/files/files/1828\\_curriculum.pdf](http://www.yale.edu/sites/default/files/files/1828_curriculum.pdf). [Accessed February 28, 2016] On the University of Virginia's curriculum, see Frederick Rudolph, *Curriculum: A History of the American Undergraduate Course of Study Since 1636* (San Francisco: Jossey-Bass, 1993), 81–83. Rudolph also notes that Union College (Francis Wayland's alma mater) had the most varied curriculum at the time, albeit with less intellectual fanfare. Rudolph, *Curriculum*, 85–87.
5. Francis Wayland, *Report to the Corporation of Brown University on Changes in the System of Collegiate Education* (Providence: George H. Whitney, 1850), 34.
6. Janet M. Phillips, *Brown University: A Short History*, 39–41, 43–44, 46–47; Bronson, *History*, 204–316, esp. 258–316.
7. "Historical Student Enrollment at Brown" (Brown University, Office of Institutional Research), <http://www.brown.edu/about/administration/institutional-research/> [Accessed February 28, 2016].
8. Barnas Sears, *Report to the Corporation of Brown University* (1856), quoted in Martha Mitchell, *Encyclopedia Brunoniana* (Providence: Brown University Library, 1993), 170.
9. "Yale Report," 26
10. Mitchell, *Encyclopedia Brunoniana*, 260–261. A Graduate Department was established in 1903, the Graduate School in 1927.
11. Laurence Veysey, *The Emergence of the American University* (Chicago: University of Chicago Press, 1965), 330–331.
12. Mitchell, *Encyclopedia Brunoniana*, 170–171.
13. Mitchell, *Encyclopedia Brunoniana*, 171–172. For discussion of the trend towards general education at this time, see Haskell M. Block, "The Humanities and General Education," *Journal of Higher Education* 25 (December 1954): 468–474, 502.
14. Mitchell, *Encyclopedia Brunoniana*, 172.
15. Mitchell, *Encyclopedia Brunoniana*, 172–73.
16. Louis Menand, "College: The End of the Golden Age," *New York Review of Books* (October 18, 2001): 44–47.
17. Phillips, *Brown University*, 73.
18. "Summary of Enrollment," Bulletin of Brown University, 1968–69 (Providence: Brown University, 1968), 351–53.
19. "Historical Student Enrollment at Brown" (Brown University, Office of Institutional Research; <http://www.brown.edu/about/administration/institutional-research/>). [Accessed February 28, 2016].
20. "Schulze sees 'good' in Berkeley disorder," in *Brown Daily Herald*, Sept. 20, 1965; Curriculum Committee Minutes, 1963–64, Brown University Archives, John Hay Library, Brown University; Luther Spoehr, interview with Ira Magaziner, August 30, 2014.
21. Luther Spoehr, interview with Elliot Maxwell, August 7, 2014; Spoehr, interview with Ira Magaziner.
22. Spoehr, interview with Elliot Maxwell.
23. "The President's Frank Talk" in *Brown Alumni Monthly* (February 1967): 10.
24. Heffner quoted in Mitchell, *Encyclopedia Brunoniana*, 275; Spoehr, interview with Elliot Maxwell.
25. The original "Draft of a Working Paper for Education at Brown University" (1968) has been published as *The Magaziner-Maxwell Report: The Seed of a Curricular Revolution at Brown* (Providence: Open Jar Foundation, 2011).
26. *Magaziner-Maxwell Report*, 159–277; Jerome B. Grieder, "Peaceful Reform: The New Curriculum," *Brown Alumni Monthly* (July 1969): 24–28.
27. *Magaziner-Maxwell Report*, 46.
28. Mitchell S. Fishman, "Curriculum Reform at Brown: Part I," *Harvard Crimson*, January 14, 1970.
29. Ira Magaziner, "Talking 'Bout My Generation," Judy Sternlight, ed., *The Brown Reader: 50 Writers Remember College Hill* (New York: Simon & Schuster, 2014), 227–231.
30. Magaziner termed Maeder "unasailable." Spoehr, interview with Ira Magaziner.
31. Douglas R. Riggs, "The Quiet Revolution," *Brown Alumni Monthly* (Feb. 1969): 10.
32. Jim Morgan, "Cam Club Proposal: Student Vote, Urgent Action," *Brown Daily Herald*, November 15, 1968.
33. Grieder, "Peaceful Reform: The New Curriculum," 23; Magaziner, "Talking 'Bout My Generation," 232.
34. Thomas Banchoff, e-mail to Luther Spoehr, January 20, 2016. Edward Ahearn, then a junior professor of comparative literature, remembers faculty support as "overwhelming." Luther Spoehr, interview with Edward Ahearn, March 29, 2016.

35. Beverly J. Hodgson, "Faculty Adopts Aims of Education to Back Up Curriculum Changes," *Brown Daily Herald*, May 9, 1969; Grieder, "Peaceful Reform: The New Curriculum," 23.
36. *Brown Daily Herald*, Special Issue, May 9, 1969.
37. Clark Kerr, *The Uses of the University* (Cambridge: Harvard University Press, 1963), 66; for summary of the UCLA polls from 1971 through 2014, see "Backgrounds and Beliefs of College Freshmen," *Chronicle of Higher Education* (February 5, 2015) at <http://chronicle.com/article/BackgroundsBeliefs-of/145125/>. [Accessed February 28, 2016].
38. Spoehr, interviews with Elliot Maxwell and Ira Magaziner.
39. Frederic Lieber, "Heffner Hits Confrontation: I will not tolerate obstruction," *Brown Daily Herald*, Sept. 17, 1968.
40. Spoehr, interview with Ira Magaziner. Magaziner says he learned later that he had been denied admission at Harvard because, as a high school student, he had been arrested at civil rights demonstrations.
41. Caleb Hurst-Hiller, interview with Newell Stultz, March 14, 2003, quoted in Hurst-Hiller, "Campus Activism in an Era of Upheaval: Deconstructing Institutional Reform at Brown, 1966–1969," History Honors Thesis, Brown University, 2003.
42. "Students opt for no grades," *Brown Alumni Monthly* (September 1969): 4.
43. Fishman, "Curriculum Reform at Brown: Part I," *Harvard Crimson*, January 4, 1970; Mitchell S. Fishman, "Curriculum Reform at Brown: Part II," *Harvard Crimson*, January 17, 1970.
44. "Students opt for no grades," *Brown Alumni Monthly* (September 1969): 4.
45. Robert Reinhold, "At Brown, Trend Is Back to Grades and Tradition," *New York Times*, Feb. 24, 1974.
46. Quote from Dietrich Rueschemeyer in "Q: Is the new curriculum working? A: We don't really know yet." *Brown Alumni Monthly* (March 1971): 8; Friedman quoted in Fishman, "Curriculum Reform at Brown: Part II"; Magaziner-Maxwell Report, 182.
47. Sheila Blumstein, *The Brown Curriculum Twenty Years Later: A Review of the Past and a Working Agenda for the Future* (Providence: Brown University, Report to the President, 1990), 37, 48, 51, 63.
48. Quoted in "How Well Do You Know Ivy League Lore?" in *Chronicle of Higher Education* (September 5, 2014), found at [http://chronicle.com/article/How-Well-Do-You-Know-Ivy/148649/?cid=at&utm\\_source=at&utm\\_medium=en](http://chronicle.com/article/How-Well-Do-You-Know-Ivy/148649/?cid=at&utm_source=at&utm_medium=en). [Accessed February 28, 2016].
49. For a somewhat cynical view of Brown's "hotness," see "The Fame Factor: Celebrity Children at Brown," in Daniel Golden, *The Price of Admission: How America's Ruling Class Buys Its Way into Elite Colleges—and Who Gets Left Outside the Gates* (New York: Random House, 2006), 83–114.
50. *Magaziner-Maxwell Report*, 91.
51. Spoehr, interview with Elliot Maxwell.





# Slaver Captain and Son of Newport: Philip Morse Topham and Jeffersonian Justice

CRAIG A. LANDY

AMONG THE SHIPS SAILING OUT OF NEWPORT HARBOR ON January 28, 1800, were the brig *Peggy* and the sloop *Fanny*. Both vessels had been cleared for Africa by the custom house the previous day. Both ships' captains were native Rhode Islanders and veterans of the commercial maritime routes up and down the Eastern Seaboard and beyond, and both were embarking on their first, and, as it would turn out, their only slave voyages. Both captains would later earn the dubious distinctions of being the only Rhode Islanders imprisoned for violating the federal slave trade laws and the only slaver captains pardoned by President Thomas Jefferson. The voyage of the sloop *Fanny* under the direction of Nathaniel Ingraham, a Bristol captain who was imprisoned for two years for violating the federal Slave Trade Act of 1794 and subsequently pardoned, is well documented. The voyage of the brig *Peggy* under the command of Philip Morse Topham, who came from a long-established Newport family, has yet to be fully explored by historians.<sup>1</sup> ¶

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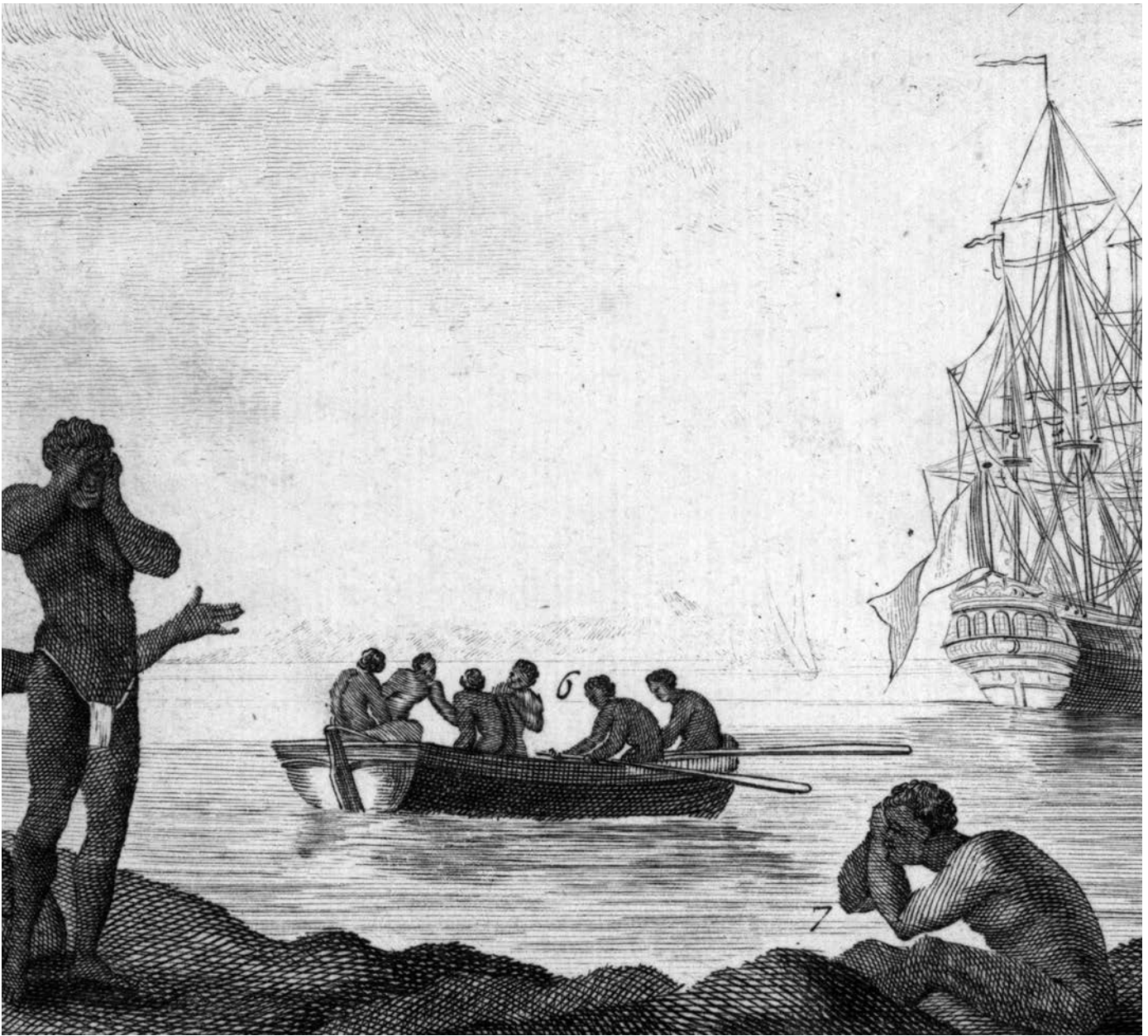
*Joseph Story, 1779–1845. Associate Justice of the United States Supreme Court, 1811–1845 and Acting Chief Justice, 1835–1836, 1844. Among his official duties, Story presided over trials in the federal circuit court sitting in alternate years in Providence or Newport. Photography by Mathew B. Brady, c. 1844, from the Library of Congress, Prints and Photographs Division. LC-USZ62-110196.*

Despite extensive study of the Newport slave trade, there has been little mention of the brig *Peggy* or the subsequent federal case brought against Philip M. Topham for his participation in the *Peggy*'s slave venture. The *Topham* case is virtually unknown and is not mentioned in otherwise comprehensive standard works about the early enforcement of the slave trade acts in Rhode Island, which is hardly surprising because the case took place in New York City and was brought by a New York antislavery society. A recent publication aside, the *Topham* case has evaded the attention of students of Rhode Island's turn-of-the-nineteenth-century African commerce, but offers a window into a Newport comfortably insulated from antislavery forces at home, yet exposed to the enemies of slaving beyond its borders. The *Topham* case also illustrates the considerable political capital that Newporters were willing to expend to free one of their own from the grasp of antislavery forces in the early 1800s.<sup>2</sup>

Rhode Island was an important participant in the North American transatlantic slave trade. From 1709 to 1807, well over nine-hundred vessels left Rhode Island for the coast of Africa to transport over 100,000 enslaved Africans. Most of these Rhode Island voyages followed the conventional triangular pattern, with many exceptions reflecting the complexity of the slave trade. Rhode Island had distilleries

where molasses was made into rum, which was exchanged in West Africa for slaves, who were in turn carried to the West Indies or other market ports and exchanged for cash, letters of credit, or goods, such as molasses. Molasses or other goods were shipped back to Rhode Island, where its merchants sold them or in the case of molasses, made rum.<sup>3</sup>

Before the Revolutionary War, Newport was Rhode Island's largest city and the leader in the state's slaving activity. However, the British occupation of Newport from December 1776 to October 1779 interfered with Newport's profit-making ventures, including its commerce in slaves. Newport's post-war recovery depended on reviving its maritime industry, which meant restarting that traffic. While never resuming the volume of the transatlantic slave trade it had before the Revolutionary War, Newport was only slightly behind Bristol in importance in Rhode Island's African ventures during the early years of the nineteenth century. Old-fashioned pressures of supply, demand, return on investment and tightening federal regulations drove the expansion and contraction of Newport's slaving during the early 1800s. Yet, the single most important catalyst to the rebirth of that business was the reopening of Charleston to the importation of African slaves in 1804, which played directly to Newport's maritime strengths and its merchants took full advantage of this



Marche' d'esclaves. Detail from M. Chambon, *Traité général du commerce de l'Amérique*, Tome II (Amsterdam, 1783), depicting the transfer of newly purchased slaves to the transport ship. A group laments their departure. John Carter Brown Library, accession no. 33506. Courtesy of the John Carter Brown Library at Brown University



**Topham, Boss, and Newman,**  
 Have for SALE at their STORE,  
 Near the Point Ferry,  
**JAMAICA Spirits, New-Eng-**  
 land Rum—Sugar—Molasses—superfine &  
 common Flour—best Philadelphia Bar-Iron  
 —Salt.—Also a few Barrels of Tar, &c. at  
 the lowest Rate for Cash.  
 Country Produce will be taken in Part  
 Pay.  
 Newport, January 9, 1784.

27|30 36|W. SW. | Cloudy. Do.  
**CUSTOM-HOUSE,**  
 District of NEWPORT, Jan. 27.  
**ENTERED,** From  
 Brig Polly, Pitman, Demarara  
 Sloop Concord, Justin, New-York  
 Polly, Kelly, Richmond  
 Eagle, Greene, St. Augustine  
 Betfy, Lincoln, St. Thomas's  
**CLEARED,** For  
 Brig Maria, Wood, Africa  
 Peggy, Topham, Ditto  
 Sloop Fanny, Ingraham, Ditto  
 Ranger, Wolf, Havanna  
 Sea-flower, Read, Washington  
 Lively, Irifh, New-York  
 Rover, Read, Edenton

window of opportunity.<sup>4</sup> From 1804 to 1807, Newport traders sent out from Newport or other Rhode Island ports, thirty-four slavers delivering to Charleston over four thousand of the roughly 39,000 enslaved Africans who flooded Charleston during that period. One historian described this influx as “probably the strongest surge in the history of the global slave trade.”<sup>5</sup> This was the Newport where the story of Philip Topham and the voyage of the *Peggy* unfolded.

By Philip Morse Topham’s birth in about 1777, his family had fled the British occupation of Newport to Warren, Rhode Island.<sup>6</sup> After the British departed from Newport, Philip’s family returned to Newport where he was baptized by the Reverend Ezra Stiles at the Second Congregational Church on Clarke Street on May 29, 1780—only the second day that baptisms resumed in the meeting house since November 17, 1776; it had been used during the war as a barracks and hospital by the British and then the French.<sup>7</sup> Philip was the fourth son of John Topham (1742–1793) and his wife Ann Tew (1747–1824). The Tews were an established Newport family with roots in the town dating back to the mid-1600s. Ann’s maternal grandmother, Ann Arnold Tew (1715–1805), was an aunt of Benedict Arnold, the Revolutionary War traitor.

John Topham, Philip’s father, was born in Newport in 1742 to Ann and John Topham and was among the earliest patriots of the Revolutionary War. As a captain, he marched with Colonel Benedict Arnold’s expedition against Quebec and was taken prisoner. Released, he

John Topham’s firm, Topham, Boss and Newman, was an active retailer of goods and participated in at least two slaving ventures during the late 1780s. The mercantile store was located near the Point Ferry in Newport, not far from John Topham’s house at the southeast corner of Marsh and Washington Streets. This ad appeared in the *Newport Mercury*, February 21, 1784, p.4. From the Collection of the Rhode Island Historical Society. RHI X17 2412.

District of Newport Custom House listing in the *Newport Mercury*, January, 28, 1800, p.3, showing the brig *Peggy*, Captain Philip M. Topham, and the sloop *Fanny*, Captain Nathaniel Ingraham, cleared for Africa. From the Collection of the Rhode Island Historical Society. RHI X17 2413.

rose to the rank of colonel in the Rhode Island military and led troops as part of the Battle of Rhode Island in 1778. After the British abandoned their occupation of Newport in October 1779, Topham and his state regiment were discharged. Following his discharge, he was elected in May 1780 as a deputy representing Newport in the Rhode Island General Assembly and reelected nearly each term until his death in 1793.<sup>8</sup> Before and after the war, John Topham lived in a two-story gambrel-roof building on the southeast corner of Marsh and Washington Streets in the Point section of Newport.<sup>9</sup> He was a successful and influential merchant whose firm, Topham, Boss and Newman, situated near the Point Ferry, was heavily invested in shipping interests, trading in rum, molasses, tar and sugars. The firm participated in at least two slaving ventures during the late 1780s.<sup>10</sup> John Topham owned five slaves, one of whom apparently fled to the safety of the British lines at the beginning of hostilities, a loss which John Topham unsuccessfully tried to recover.<sup>11</sup>

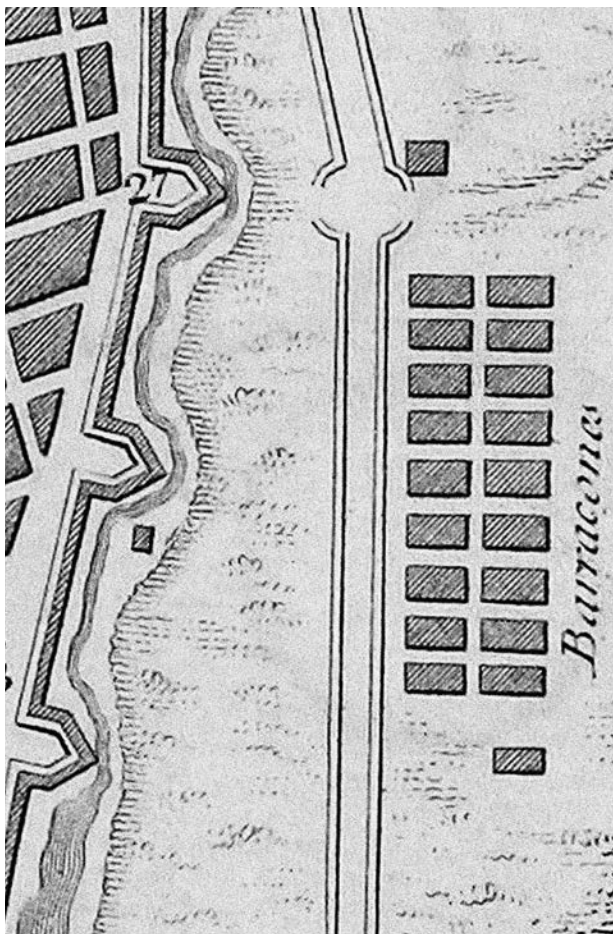
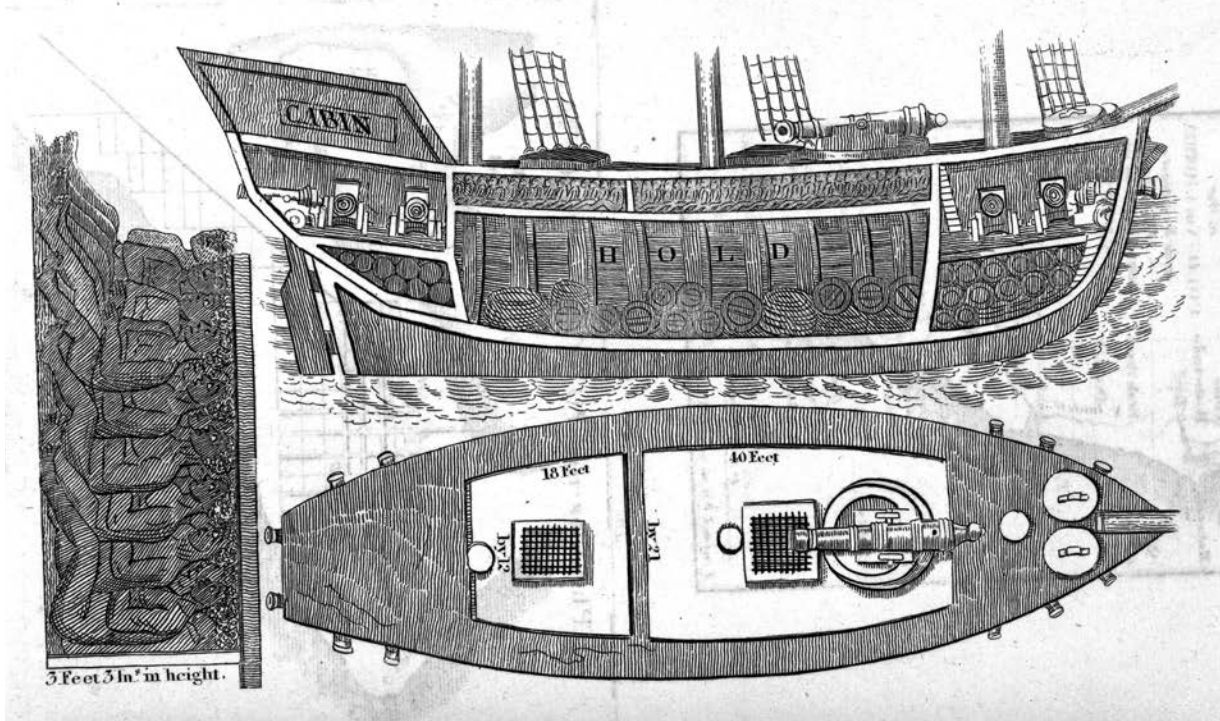


*“Guided by youthful ambition, Topham’s life irreversibly changed when his path crossed that of fellow Newporter Captain Freeman Mayberry.”*

Col. John Topham’s house, then located at 10 Marsh Street in the Point section of Newport. In 1970 the house was purchased by Operation Clapboard and subsequently relocated to 70 Bridge Street, Newport where it was attached to the John Townsend house and renovated. From the Photograph by Jonas Bergner, before 1936, Colonial Dames Architectural Scrapbooks, Volume M, Newport Historical Society.



SECTION OF A SLAVE SHIP.



“Section of a Slave Ship. From Walsh’s Notes of Brazil.”  
From *Letters on the Colonization Society*, Mathew Cary, 1832 located in the Manuscripts, Archives and Rare Books Division, Schomburg Center for Research in Black Culture, The New York Public Library, Astor, Lenox and Tilden Foundations.

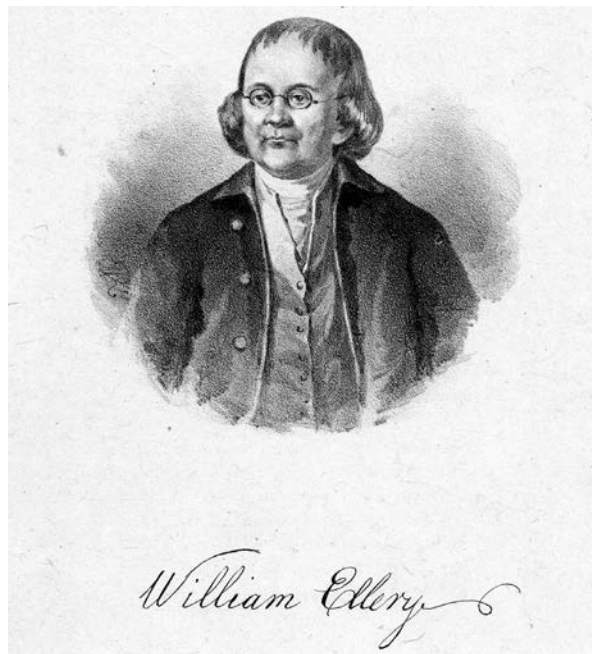
The *barracones*, or slave markets, were holding pens where newly arrived enslaved Africans were kept until sold. This detail on a 1798 map of Havana located the *barracones* just beyond the city walls. In the 1810s, a visiting physician, J.L.F. de Madrid, observed with horror “a number of dying blacks naked and spread out on wooden planks, many of them reduced to skin and bones, and inhaling an intolerable stench.” Plan of city and port of Havana, 1798. From the John Carter Brown Map Collection, accession no. C-7818. Courtesy of John Carter Brown Library at Brown University.



Philip Topham's childhood and early adulthood coincided with an era during which Newporters attempted to repair the enormous damage to the town caused by the British occupation.<sup>12</sup> Restoration of the physical devastation included rebuilding some of the estimated six hundred homes destroyed during the occupation. Many homes had been demolished by the British for firewood during two harsh winters. Restoration of the economy became a matter of the town's survival. Following Rhode Island's ratification of the U.S. Constitution, a letter published in the *Newport Herald* and signed by "Philanthropos" delivered a call to action to all Newporters: "Rome was not built in a day. By industry, commerce and economy alone can we expect to emerge, and disengage ourselves from our present embarrassments, and by them, under the auspices of the New Government, and the smiles of Heaven, we may not only gradually recover, but rise superior to our former situation."<sup>13</sup>

Taking his place in Newport's age of restoration and hope, Philip Topham turned to the sea, following his father's shipping interests and his older brothers' careers as sea captains. By the first three months of 1799, he had already mastered the coastal trade between New York and Charleston; he was about twenty-two years old. Later that spring, Philip Topham added the West Indies to his ports of call. Between January and August 1799, Philip made five trips ferrying passengers, sugar, Sea Island cotton and rum on the sloop *Two Sisters* between New York, Charleston and Havana. Guided by youthful ambition, Topham's life irreversibly changed when his path crossed that of fellow Newporter Captain Freeman Mayberry.<sup>14</sup>

Captain Mayberry (c. 1764–1819), a veteran sea captain with at least one slave venture prior to 1800, arrived in Havana in May 1799 following an eventful middle passage. On December 16, 1798, he had sailed the brig *Orange* from Newport to Îles de Los off the coast of Guinea. A month later he took on board one-hundred-and-twenty enslaved Africans and proceeded to Havana. On March 26, 1799, off the Bahama

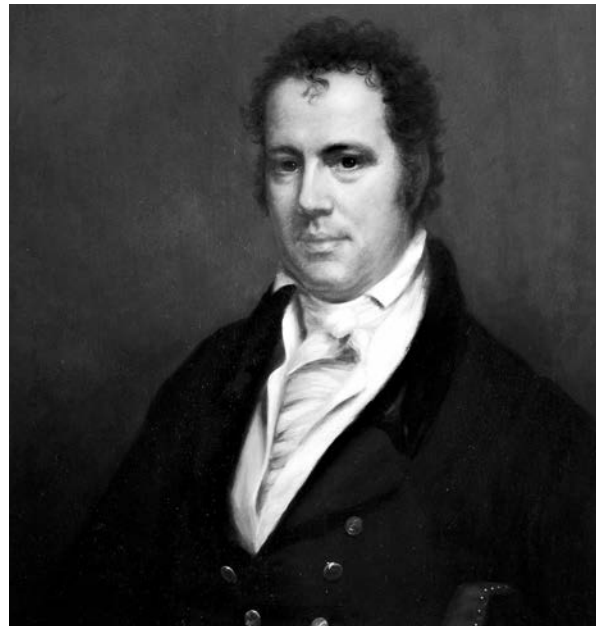


William Ellery, 1727–1820, born in Newport, one of two Rhode Island signers of the Declaration of Independence, first U.S. Customs Collector for the Port of Newport, abolitionist and activist in the antislavery movement in Rhode Island. From the Print Collection, Miriam and Ira D. Wallach Division of Art, Prints and Photographs, The New York Public Library, Astor, Lenox and Tilden Foundations.

Islands, the *Orange* struck a reef sustaining major damage. Following repairs in Nassau, the *Orange* sailed to Havana where the slaves were sold. Captain Mayberry remained in Havana until late May, returning with the *Orange* to Newport on June 4, 1799.<sup>15</sup>

Meanwhile, Captain Topham arrived in Havana from New York on May 11, 1799, with the *Two Sisters* and stayed there until late May before returning to New York on June 12th. While there is no record of Mayberry and Topham meeting in Havana, records show they were both in Havana at the same time and both were scheduled to sail for Newport within five days of one another. It would be difficult to imagine that they did not meet during this time in view of subsequent events; six months after leaving Havana, Philip Topham sailed out of Newport Harbor in command of the brig *Peggy*, a willing pawn in an illegal slave venture orchestrated by Captain Mayberry and his partners.<sup>16</sup>

The voyage of the *Peggy* presents an interesting study of Newport's participation in the Atlantic slave trade in the early nineteenth



century. The *Peggy* was typical of vessels used as Newport slavers. The 134-ton brig was built at a shipyard on the North River in Massachusetts in 1792 and had two decks, which could be modified to accommodate human cargo. She was sixty-eight-feet and eleven inches long; her breadth was twenty-one feet and four inches; and depth, ten feet and eight inches. She had a squared stern and two masts. There is no evidence that the *Peggy* was involved in a slave venture prior to 1800; the vessel mainly sailed the West Indies trade routes.<sup>17</sup>

On January 21, 1800, Philip Topham registered the *Peggy* in Newport in his own name, as sole owner and captain. But he was not the true owner. The false registration was part of a larger scheme to shield Mayberry and his two partners from prosecution for violating the slave trade law. Mayberry's partners were Boston merchants Samuel Fales and George Athearn, who jointly owned the *Peggy* with Mayberry.<sup>18</sup> As part of the enterprise, Topham sailed the *Peggy* from Boston to Newport in late December 1799, where roughly six thousand gallons of rum and 360 gallons of gin were loaded on board.<sup>19</sup> After leaving Newport, Topham sailed the *Peggy* south to Savannah where he picked up Mayberry, who served as co-captain, or supercargo, in charge of the purchase, safekeeping and sale of the human freight.<sup>20</sup> The *Peggy* then proceeded to Africa.

Off the coast of Africa, Captains Topham and Mayberry purchased and took on board one

Thomas Addis Emmet, 1764–1827, Irish patriot, distinguished Irish-American attorney at law, counsel in *Gibbons v. Ogden* in the U.S. Supreme Court and Attorney General of the State of New York. From the Print Collection, Miriam and Ira D. Wallach Division of Art, Prints and Photographs, The New York Public Library, Astor, Lenox and Tilden Foundations.

William Hunter, 1774–1849, born in Newport, was a Federalist lawyer, diplomat, member of the State General Assembly and U.S. Senate and namesake of the Hunter House Museum in Newport. Portrait of William Hunter, oil on wood (American, 1824), by Charles Bird King. Courtesy of The Preservation Society of Newport County.

hundred and fifty Africans, then sailed to the West Indies. Approximately one-half of the human cargo was lost under unknown circumstances by the time the *Peggy* reached St. Bartholomews in November 1800.<sup>21</sup> Once on that island, the captains sold seventeen of the enslaved people for approximately one-hundred-and-fifty-dollars per person. The brig *Peggy* was also sold in St. Bartholomews as part of the original scheme, to avoid possible forfeiture upon returning to Newport for having participated in the slave voyage. In hopes of finding higher market prices in Cuba for the remaining slaves, Mayberry and Topham transported thirty-seven of the captives to Havana in February 1801, where they were sold at prices double those obtained in St. Bartholomews. Mayberry's partnership cleared roughly \$6,500 on the voyage of the *Peggy*, representing a seventy-three-percent profit over and above expenditures.<sup>22</sup> Despite the unfathomable loss of life, the rate of return on investment in

the *Peggy's* single voyage shows the occasional large profits that tempted Newport's otherwise prudent merchants.

Captain Topham returned from Havana stopping at New York City on February 25, 1801. Three days later he was arrested by the Federal Marshal of the District of New York for violating the 1794 Act on the complaint of the New-York Manumission Society, the most active anti-slavery group in New York. Unable to procure bail, Captain Topham was remanded to New York's Bridewell prison, located just west of today's City Hall in lower Manhattan.<sup>23</sup>

The first national act against the slave trade, and the law under which Philip Topham was arrested, originated from petitions to the United States Congress for a law against the transportation of slaves, including a petition from the Providence Society for Abolishing the Slave-Trade. The Slave Trade Act was passed by the Congress and signed by President George Washington in 1794. It prohibited the building, fitting, equipping or loading any vessel within American borders intended for slave trading in a foreign country.<sup>24</sup> The Act's penalties included condemnation and forfeiture of the ship and for individual violators, including the owner and sailing master (captain), a fine of two-thousand dollars plus two-hundred dollars for each person transported.<sup>25</sup> To encourage enforcement, all monetary penalties levied were to be shared fifty-fifty between the United States and the private individual who commenced the prosecution, in a legal proceeding known as *qui tam*.<sup>26</sup>

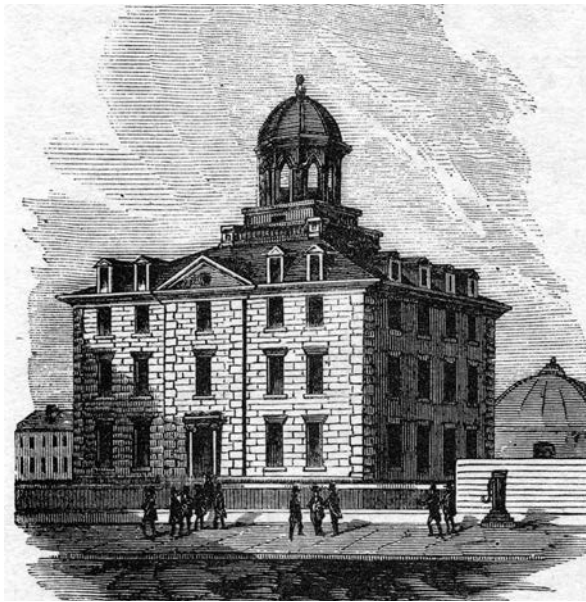
A series of lawsuits under the 1794 Act in Rhode Island courts against local slave ventures were brought with varying degrees of success by abolitionists and federal prosecutors with the assistance of William Ellery, the first United States Customs Collector at Newport.<sup>27</sup> Ellery and other antislavery advocates faced well-financed opponents who enjoyed a local advantage with juries sympathetic to slaving. With a new customs district at Bristol created in 1801 outside of Ellery's jurisdiction through the efforts of those supporting the African ventures, and the eventual appointment in 1804 of Bristol

customs officials sympathetic to the slavers, the effort to stop the slave trade in the Rhode Island courts came to an end. Without Ellery's interference, Bristol's African commerce might have been expected to expand at Newport's expense.<sup>28</sup> However, that was not the case. While Bristol's African activity increased after 1804, Newport also experienced a robust share of those enterprises until the close of 1807, a testament to the determination of Newport's merchants. From 1804 through 1807, Newport's share of Rhode Island's slave trade jumped to thirty-nine percent compared to Bristol's share of fifty-one percent, by one historian's reckoning.<sup>29</sup>

Following Topham's arrest in New York in February 1801, a *qui tam* suit against Captain Topham was commenced by James Robertson, a leader of the New-York Manumission Society, for monetary penalties under the 1794 Act in the United States Circuit Court for the District of New York, the first lawsuit of its kind for the New York antislavery society. Society members interviewed witnesses, including Cesar Mumford, a black seaman who had sailed from Rhode Island in the schooner *Chance* for the African coast and who reported to the Society that he saw Captains Topham and Mayberry on the West African coast with sixty-seven slaves on board the *Peggy*. John Fellows, the well-known New York City bookseller, publisher and close friend of Thomas Paine, recently returned from St. Bartholomews, described to Society members how he saw Captain Topham there with at least sixty, and as many as eighty enslaved Africans.<sup>30</sup> In August 1801, Captain Topham was released on \$20,000 bail posted by John Thurston, the Newport merchant whose family had been associated with the slave trade, and John Champlin, a Bristol slaver captain.<sup>31</sup> Following his return to Newport, Topham married Mary Richmond Peck, who came from a well-established Bristol family.<sup>32</sup>

It took the New-York Manumission Society four years to gather confidence and necessary evidence, including documents from Rhode Island, to move the case to trial.<sup>33</sup> In late March 1805, the Manumission Society engaged Thomas





Debtors' Prison or New Jail, New York City, built c. 1756, was located east of today's City Hall in lower Manhattan. Topham was imprisoned here after his conviction because he was unable to pay the fines levied upon him. From the Print Collection, Miriam and Ira D. Wallach Division of Art, Prints and Photographs, The New York Public Library, Astor, Lenox and Tilden Foundations.

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Addis Emmet as part of a team to prosecute the case. Emmet was an unlikely choice for such an important case because he had never tried a single matter in America. Imprisoned for over four years, disbarred and banished from Ireland for his revolutionary participation in the failed Irish uprising in 1798, Emmet had arrived in New York City only a few months before, in November 1804. Egbert Benson, New York State's first Attorney General, then in private practice, served as lead counsel. Rounding out the plaintiff's legal team was Rudolph Bunner, an active member of the Society.<sup>34</sup>

Following jury selection, Topham's trial began on April 3, 1805. The plaintiff called four witnesses—Benjamin A. Egbert, William T. Slocum, Archibald Whitney and John Fellows.<sup>35</sup> No record of their testimony was preserved but Slocum, a member of the Society's standing committee, likely testified to the role the Society played in Topham's arrest. Whitney was probably the noted New York City wholesale grocer and Egbert, the fine wine merchant. Both men had businesses located at the waterfront in Lower Manhattan where they apparently claimed to have overheard Topham in February

1801 recount the voyage of the *Peggy*. These merchants would have tipped off the Society to Topham's activities and his presence in New York City.<sup>36</sup> Fellows undoubtedly testified at trial that he saw Topham in St. Bartholomews, as he had previously reported to the Society.<sup>37</sup> The deposition of William Ellery, the anti-slavery advocate and Newport Collector, taken on March 20, 1805 before a Newport judge shortly before the trial, was read to the jury. The deposition was a crucial part of the plaintiff's case because it allowed into evidence copies of the *Peggy's* Certificate of Registry, which listed Philip M. Topham as the brig's master and sole owner and the *Peggy's* manifest, dated January 21, 1800, which described the *Peggy* as bound for Africa laden with thousands of gallons of rum and gin. Ellery's deposition, when coupled with the testimony of the four witnesses, amounted to strong evidence of Topham's violation of the 1794 Act. At the conclusion of the plaintiff's case, Topham's counsel, Cadwallader D. Colden and Peter W. Radcliff, two well-regarded trial lawyers, called no witnesses.<sup>38</sup>

On April 4 the jury returned a verdict for the plaintiff in the amount of \$16,000—one half owing to the Society and the other half to the United States. The *Topham* case resulted in what was the first monetary judgment under the 1794 Act in New York and the most dramatic and most difficult antislavery case prosecuted by the New-York Manumission Society during its sixty-five-year history.<sup>39</sup>

Following the trial, Topham returned to Newport on bail awaiting formal entry of judgment against him and certain imprisonment in debtors' prison—possibly for life if he could not pay the staggering judgment. An all-out campaign by Topham's supporters began immediately to obtain a pardon from President Thomas Jefferson and to protect the liberty of one of Newport's sons. On May 3, 1805, Topham requested the president to release him from that portion of the judgment owed to the United States. In his pardon petition, Topham blamed his involvement in the *Peggy* venture on his "early youth," his ignorance "of the consequences" and

his being “seduced by the interested persuasions of others.” He described his inability to work as a sea captain due to bail restrictions, which left him “entirely destitute” and he detailed the suffering of his “aged mother,” “beloved wife” and “infant family,” all of whom were solely dependent on him. He implored Jefferson to “save him and his helpless family from ruin and restore him to society, and the power of obliterating by future usefulness the unfortunate indiscretion of his youth.”<sup>40</sup>

On June 21, 1805, William Hunter, a well-respected Federalist lawyer and representative of Newport in Rhode Island’s General Assembly, and later United States senator, forwarded Topham’s petition to Gabriel Duval, the Comptroller of the Treasury in Washington, D.C., with the expectation that the petition would be forwarded to President Jefferson, writing:

This unfortunate young man has strong encouragement to believe that the private prosecutors will relinquish their portion of the heavy penalties to which he is subjected. And if the President of the United States should in his wisdom and mercy deem it expedient to remit the portion that will become the property of the United States, Capt. Topham instead of consuming away his life in prison, will be restored to Liberty and to usefulness ... The Petition is signed as you will observe by our highest officers of Government, and our most respectable Inhabitants, and its success would be highly gratifying to our Citizens at large.<sup>41</sup>

The one-hundred-and-sixty “highest officers of Government” and “most respectable Inhabitants” who signed the petition included Paul Mumford, Rhode Island’s Republican Lieutenant-Governor, Henry Sherburne, the state’s Federalist General-Treasurer, three Republican state senators, eight members of the state House of Representatives from both major parties, the Newport County Sheriff and several owners of the strongest mercantile houses in Newport, including Walter Channing and George Champlin.<sup>42</sup>

Each signatory,

beg[ged] leave respectfully to recommend the prayer of the within Petitioner, to the tender consideration of the President of the United States, being assured by satisfactory information, that the facts therein stated are correct and that the Petitioner is an object worthy of the President’s compassionate favor.

Topham’s supporters had every reason to believe that their request would be granted. Rhode Island had stood firmly with Thomas Jefferson in the 1804 election and in 1805 the Rhode Island legislature was solidly Republican. Yet that political dominance was beginning to erode. In the April 1805 elections, a third-party faction (the Quids) joined with the Federalists to achieve a few local successes for state House of Representatives, including in Newport and Portsmouth, which the *Newport Mercury*, the leading voice of the Federalist party, heralded as a “victory, to be sure,” signaling a shift in political loyalties within the state.<sup>43</sup> In May 1805, Joseph Stanton, Jr., the leading Republican member of the United States House of Representatives from Rhode Island, and one of the state’s first two United States senators, warned the president that while the Republicans held a majority in the Rhode Island House of Representatives and were unanimous in the state senate, the Federalists had added seven new representatives to the state legislature in the April election. In the same letter, Stanton alerted the president to the forthcoming pardon petition of Philip Topham, in what can only be read as an effort to persuade Jefferson not to take Rhode Island for granted.<sup>44</sup> Comptroller Duval forwarded Topham’s petition to the president on July 2, 1805.<sup>45</sup> When no answer was received and the start of Topham’s imprisonment loomed, Topham wrote to Stanton on December 29, 1805, imploring him to obtain the president’s response.<sup>46</sup> No record of Stanton’s communication to the president remains, but Jefferson’s reply followed shortly.

Placing principle over politics, Jefferson denied Topham’s petition in a letter to Stanton



prays the President of the United States that he would in his wisdom and discretion, extend to him the equity & mercy, which he is empowered by the constitution & Laws of the United States to exercise - and by pardoning your petitioner & releasing the claim of the United States against him, save him and his helpless family from ruin & restore him to society, & the power of obtaining by future usefulness the unfortunate indiscretion of his youth. - And he as in duty bound will we pray. -

Newport May 3<sup>d</sup> 1805

Philip M Topham



We whose names are undersigned citizens of the State of Rhode Island and holding the stations affixed to our names, beg leave respectfully to recommend the prayer of the within Petitioner, to the tender consideration of the President of the United States, being assured by satisfactory information, that the facts therein stated are correct & that the Petitioner is an object worthy of the President's compassionate favor. -

Paul Mumford Subpoena

Henry Smith, first Senator

John D. Wolf, first Senator  
Joseph Cundall seventh Senator

John Gardner town Council Member  
Robert Taylor Justice Peace

Wm L. Mumford Public Notary  
Amarius McCurry, Col. Militia  
J. H. Williams Council Treasurer  
Jacob Richardson) Clerk

Mr. William Dennis

Walter Channing

Geo. Chapman

Henry Jewell

David Gould

Joseph Moser

Wm Jew

David Weston

William Hunter

William Reynolds

Sydney Gavit

John Gorton

Loaowick W. Wick

James N. Dockray

Robert Weston

John Price Jr

Edw. Easton

David B. Chapman

Jose Lillibridge

Joseph Briggs

Thomas White

George Briggs

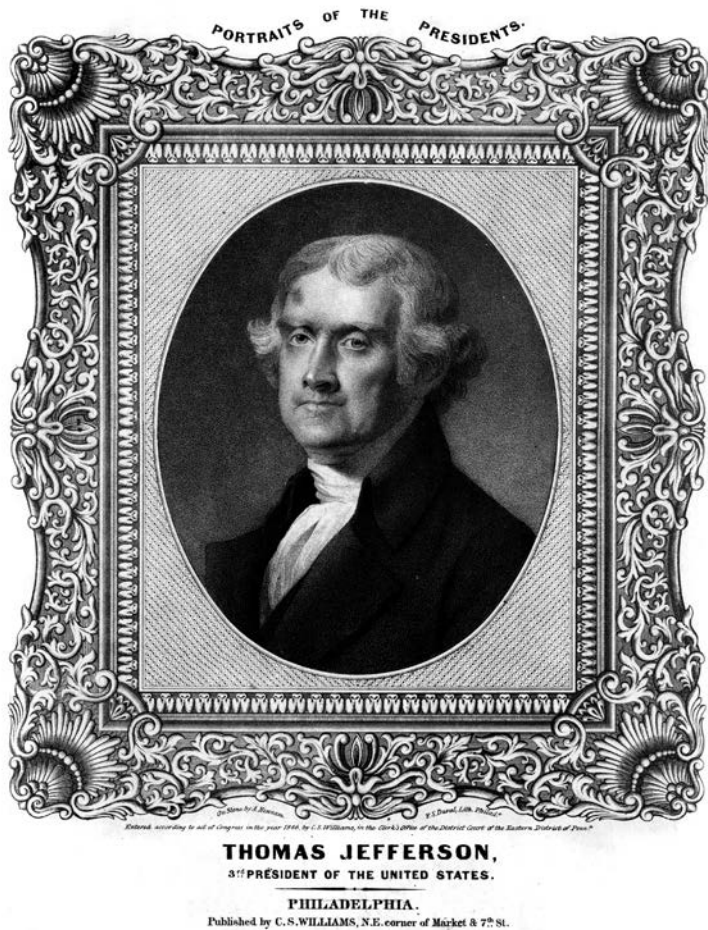
The Luxon Fan

William Gardner

Representatives of the State of Rhode Island

Detail of signatures of the one hundred and sixty of Rhode Island's "highest officers of Government" and "most respectable inhabitants," including the state's Lieutenant-Governor and General-Treasurer, and members of the state Senate and House of Representatives, who appealed to President Thomas Jefferson to pardon Captain Topham. Petition of Philip Topham, et al., p. 2, May 5, 1805, Collection of the Rhode Island Historical Society, Miscellaneous Manuscript Collection, MSS 9001-T Box 5. RHi X 17 2422B.





“The president did not respond to these petitions, which was no surprise.”

Thomas Jefferson, Third President of the United States. On stone by Albert Newsam (1809–1864); Peter S. Duval, lithographer; Calvin S. Williams, publisher, 1846. From the Portraits of the Presidents Series, Marian S. Carson Collection, Library of Congress, Prints and Photographs Division. LC-2009631979.

dated January 15, 1806, stating that since Topham was unable to pay the judgment obtained in New York, a pardon would result in him going “clear of all punishment,” which Jefferson refused to allow. The only substitute for payment of the judgment was “a due term of imprisonment.”<sup>47</sup> Jefferson was silent as to what a “due term of imprisonment” might be, but he must have had in mind Captain Nathaniel Ingraham’s case where Jefferson concluded that two years was the appropriate length of imprisonment for a violation of the 1794 Act. In April 1802, Captain Ingraham was imprisoned in Bristol for failure to pay a judgment of \$14,000 under the 1794 Act for his participation in the 1800 slave voyage of the sloop *Fanny*.<sup>48</sup>

In responding to Captain Ingraham’s pardon request two years before Topham’s petition, Jefferson noted that the 1794 Act inflicted monetary punishment only, without imprisonment and it was not until 1800 that Congress added imprisonment not exceeding two years for future slave trade cases. Jefferson reasoned that if the 1800 law’s

measure be just now, it would have been just then, and consequently shall act according to the views of the legislature, by restricting his imprisonment to their maximum of 2 years, instead of letting it be perpetual as the law of ’94, under which he was convicted, would make it, in his case of insolvency. He must remain therefore the 2 years in prison ... as a terror to others meditating the same crime.<sup>49</sup>

Jefferson’s sense of justice applied in denying Topham’s petition was not only consistent with his handling of Captain Ingraham’s request, but conformed to his long-standing philosophy that

it was the province of the legislature, rather than that of the judiciary or the executive branches, to determine the extent of criminal punishment. In 1776, he wrote:

Punishments I know are necessary, and I would provide them, strict and inflexible, but proportioned to the crime... Laws thus proportionate and mild should never be dispensed with. Let mercy be the character of the law-giver, but let the judge be a mere machine. The mercies of the law will be dispensed equally and impartially to every description of men; those of the judge or of executive power, will be the eccentric impulses of whimsical, capricious designing man.<sup>50</sup>

Stanton wasted no time after learning of the denial of Topham's petition, in conveying his profound disappointment to the president. On the same day he received Jefferson's letter—January 15, 1806—he wrote back: “an Opinion is prevailing in R[hode] Island among the Republicans that they have served the Republican Cause and the Administration faithfully; But in the Distribution of Favors, they have been forgotten. They have solicited in Vain.”<sup>51</sup>

In May 1806, a judgment was docketed against Topham for \$16,000 plus \$124.44 for costs of the suit.<sup>52</sup> Without means to pay the judgment, Topham was committed to New York City's debtors' prison, located just east of today's City Hall. An appeal was never taken due to the difficulty of procuring an appeal bond for so large a sum. Four months following his imprisonment, Philip's first son, William Henry Topham, was born. When the Manumission Society rejected Topham's pleas to be relieved from that portion of the judgment owed to the Society, Topham's supporters arranged for Topham to file for insolvency in New York, thereby extinguishing one-half of the judgment owed to the Manumission Society, and leaving a presidential pardon as Topham's only real hope of freedom. Topham renewed his petition to Jefferson for a pardon three times during 1807.<sup>53</sup> In his August 18, 1807 request, Topham revealed that his wife and infant child had become so destitute, having

exhausted the charity of family, that they were “now living in confinement with him” in New York City's debtors' prison.<sup>54</sup> The president did not respond to these petitions, which was no surprise. Topham might have expected that any attempt to play on Jefferson's heartstrings by citing his “helpless Family,” would fail. Almost three years earlier, Jefferson was unmoved by similar attempts to invoke Captain Ingraham's family hardship, and instead the president turned the tables, recalling the misery Ingraham had inflicted on the families of the slaves he carried away:

[Ingraham] petitions for a pardon, as does his wife on behalf of herself, her children and his mother. His situation, as far as respects himself, merits no commiseration: that of his wife, children and mother, suffering for want of his aid, does: so also does the condition of the unhappy human beings whom he forcibly brought away from their native country and whose wives, children and parents are now suffering for want of their aid and comfort. Between these two sets of suffering beings whom his crimes have placed in that condition, we are to apportion our commiseration.<sup>55</sup>

Renewed pressure was applied by Topham's supporters in early 1808 as Topham's period of incarceration neared the two-year mark and on February 28, 1808, Jefferson directed that “in consideration of the punishment already inflicted, and of the change in the state of the law on this subject, let a pardon issue.”<sup>56</sup> In citing a change in the state of the law, the president was referring to the maximum term of imprisonment of two years for violation of the 1800 Slave Trade Act.<sup>57</sup> On March 1, 1808, President Jefferson signed the pardon remitting the fines and costs against Philip Topham.<sup>58</sup> However, United States Supreme Court Justice Brockholst Livingston, sitting as a circuit judge in New York, rejected the pardon as improper, agreeing with the arguments of counsel for the Manumission Society and the Marshal for the District that the pardon warrant stated, incorrectly, that the prosecution of Topham was predicated on

the 1800 Act.<sup>59</sup> When this error was discovered, Topham's supporters once again appealed to the president for Topham's release.<sup>60</sup> A new pardon warrant was signed by the president on April 25 correctly predicated on the 1794 Act and Topham was released.<sup>61</sup> In a May 2, 1808 letter of thanks to the president, Philip Topham stated "may God forget me when I again trample on my Country's laws."<sup>62</sup> Following his release, Topham returned to Newport, raised his family and continued his livelihood as a sea captain. During the War of 1812, he served in the U.S. Navy from July 27, 1813 to 1815.<sup>63</sup> Shortly after his discharge, he died at sea on December 29, 1816, in the Caicos Islands.<sup>64</sup>

Of the major participants in the voyage of the *Peggy*, only Captain Mayberry profited. Mayberry was never held accountable at law for his role in the venture nor was he required to turn over the full portion of proceeds of the voyage that belonged to his partners. Supreme Court Justice Joseph Story, sitting as a circuit judge, ruled against Mayberry's partners in their suit filed in federal court in Providence in May 1803 against Mayberry for their share of the voyage's proceeds. In a sweeping condemnation of slaving and other illicit ventures, Justice Story was direct and to the point:

The traffic in slaves is a most odious and horrible traffic, contrary to the plainest principles of natural justice and humanity... The voyage was, in its very elements, infected with the deepest pollution of illegality; and the present action is brought between the very parties, who formed and executed this reprehensible enterprise... A party alleging his own turpitude shall not be heard in a court of justice to sustain an action found upon it; and, where the parties stand in *pari delecto*, the law leaves them, as it finds them, to reap the fruits of their dishonesty, as well as they may.<sup>65</sup>

The voyage of the *Peggy* marked the passage for Philip Topham from a life of youthful ambition as a novice mariner to a life under the restrictive shadow of heavy bail for four and

a half years and the grim reality of debtors' prison for another thirty months. By the time Philip was released from prison, he was about thirty-one years old, leaving him—as it turned out—only eight more years of life.

By skillful politics in creating Bristol as a separate customs district, coupled with the absence of an antislavery champion in Washington, the friends of the Rhode Island's African ventures had neutralized the enemies of the trade at home after 1804, just in time for the reopening of South Carolina's ports to the African ventures. By the early 1800s, Newport's slave trade was once again thriving. Reverend Samuel Hopkins, the renowned abolitionist and pastor of the First Congregational Church in Newport, offered a bleak assessment of Newport's participation in slaving and the central role that traffic played in Newport's economy, in a sermon preached in 1800 and published in 1803 shortly before his death. He lamented,

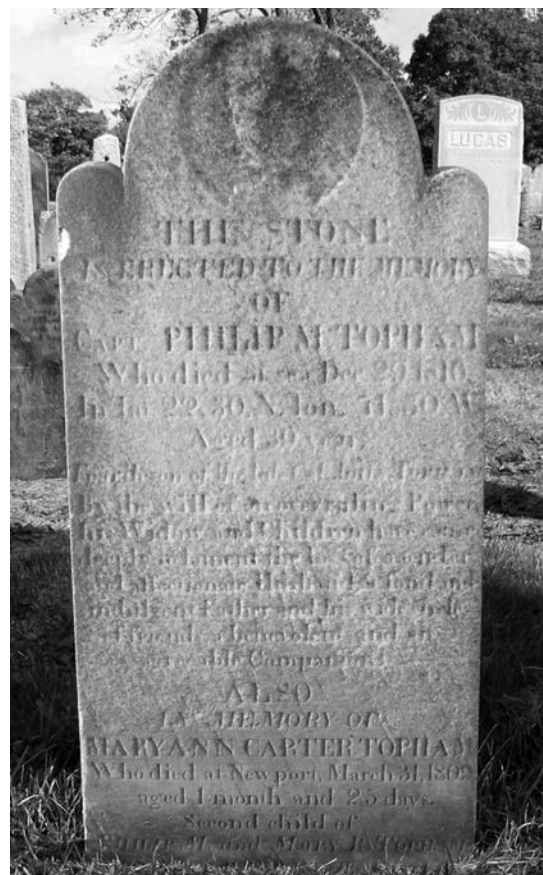
This inhuman trade has been the first and chief spring of all the trade and business by which this town has risen and flourished; which has, therefore, been built up, in a great measure, by the blood and unrighteous sufferings of the poor Africans. And this trade is yet carried on here, in the face of all the light and matter of conviction of the unrighteousness and aggravated iniquity of it, which has of late years been offered, and against the express laws of God and man. And there is no evidence that the citizens in general have a proper sense of the evil of this business, of the guilt which has been contracted by it, and of the displeasure of God for it, or that they have a just abhorrence of it; but there is much evidence of the contrary, and that there is little or no true repentance of it.<sup>66</sup>

Newport's merchants and captains, however, could not control the enemies of the slave trade beyond its borders. While there is no evidence that the *Topham* case curtailed Newport's slaving activity, Philip Topham's prolonged imprisonment and the president's obstinate refusal to issue a pardon until Topham had served a "due



term of imprisonment,” must have been nagging reminders to Newport’s businessmen of the legal risks of participation in the African ventures in the years leading up to January 1, 1808, when it became unlawful to deliver slaves into the United States. A few Rhode Island merchants are known to have continued in the illicit business after 1808, but traffic from the state wound down by 1820, when Congress made participation in the slave trade punishable by death as a crime of piracy.

The *Topham* case illustrates the complex interplay between slavery and the law at the turn of the nineteenth century and the obstacles encountered when the law was used to battle slavery. A successful attack on the slave trade required a committed and well-financed prosecution, cooperative witnesses, sufficient financial assets to commence and conclude the litigation, skilled counsel to advocate the cause, and a judge and jury willing to enforce the law. Even a successful prosecution could have been derailed by a pardon. In the *Topham* case, however, Jefferson chose to enforce the anti-slavery laws and to ignore the politically expedient early pardon. In the process, new light has been shed on the character of this complex founding father. ♡



This headstone was erected in memory of Captain Philip Topham in Newport’s Common Burying Ground. It records the date and geographic coordinates of his death at sea near the Caicos Islands in 1816. Courtesy of Letty Champion and the Rhode Island Historical Cemetery Commission.

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1. *Newport Mercury*, January 28, 1800, 3. The story of the *Fanny*, owned by slave trade magnate James DeWolf of Bristol, and the subsequent prosecutions and imprisonment of Captain Ingraham, can be found in Jay Coughtry, *The Notorious Triangle: Rhode Island and the African Slave Trade, 1700–1807* (Philadelphia: Temple University Press, 1981), 222–24; Charles Rappleye, *Sons of Providence, The Brown Brothers, the Slave Trade and the American Revolution* (New York: Simon & Schuster, 2006), 328–29; Slave Ship *Fanny* Collection, 1800–1801, Manuscripts and Archives Division, The New York Public Library, and Voyages Database, 2009, *Voyages: The Trans-Atlantic Slave Trade Database*, [www.slavevoyages.org/voyage/search](http://www.slavevoyages.org/voyage/search) (accessed February 22, 2016). “An Act to Prohibit the Carrying on the Slave Trade from the United States to any Foreign Place or Country,” March 22, 1794 is located in *The Public Statutes at Large of the United States of America*, 3rd Congr., 1st Sess., ed. Richard Peters (Boston: Little and Brown, 1845), 1:347 [hereafter cited as 1794 Act].
2. The *Topham* case does not appear to have been brought to Professor Coughtry’s attention because he wrote that Captain Ingraham was “the first and only Rhode Islander ever imprisoned for violating federal slave trade laws.” Coughtry, *Notorious Triangle*, 223. For a discussion of the *Topham* case, with a concentration on the role played in it by the celebrated Irish patriot, Thomas Addis Emmet (1764–1827), see Craig A. Landy, “Society of United Irishmen Revolutionary and New-York Manumission Society Lawyer: Thomas Addis Emmet and the Irish Contributions to the Antislavery Movement in New York,” *New York History* 95 (Spring 2014): 202–209. See also Mariam Touba, “Paine’s Antislavery Legacy: Some Additional Considerations” (paper presented at the International Conference on Thomas Paine Studies at Iona College, New Rochelle, N.Y. October 19–20, 2012) <http://thomaspaine.org/paines-anti-slavery-legacy.html> (accessed July 25, 2016).
3. Coughtry, *Notorious Triangle*, 5–7, 239; George F. Dow, *Slave Ships and Slaving* (Salem, Mass.: Marine Research Society, 1927), 255–265. For a recent contribution to the long-running discourse of the myth of the triangle trade, see Herbert S. Klein, *The Atlantic Slave Trade* (New York: Cambridge University Press, 1999), 97. For discussion of Europe’s far greater participation in the African ventures than the United States, see J. Stanley Lemons, “Rhode Island and the Slave Trade,” *Rhode Island History* 60 (Fall 2002): 95–104.
4. The resumption of the African trade into South Carolina has been tied to four key factors: increased cotton production—and corresponding increase in the state’s demand for slave labor—in South Carolina following the invention of a successful cotton gin; the state’s desire to end illegal slaving from the volatile Caribbean by seeking as an alternative a more docile supply of slaves from Africa; the westward expansion of slavery driven by the Louisiana Purchase and the highly anticipated Congressional ban on slaving altogether scheduled to take place in 1808. Jed Handelsman Shugerman, “The Louisiana Purchase and South Carolina’s Reopening of the Slave Trade in 1803,” *Journal of the Early Republic* 22 (Summer 2002): 263–65. Importation of slaves to America was constitutionally protected until 1808; the foreign slave trade was the target of antislavery advocates until then.
5. Shugerman, “Louisiana Purchase,” 264. The number of Newport slavers included both those registered in Newport, but leaving from other ports, as well as vessels departing Newport. The number of slaves disembarking in Charleston was derived from Coughtry, *Notorious Triangle*, 276–285. For the challenges in estimating the number of African slaves imported into South Carolina during this period, see James A. McMillin, *The Final Victims: Foreign Slave Trade to North America, 1783–1810* (Columbia, S.C.: University of South Carolina, 2004), 33–39.
6. A headstone in Philip Topham’s memory located in Newport’s Common Burying Ground establishes that he was born in about 1777. Database, Rhode Island Historical Cemetery Commission, <http://www.rihistoriccemeteries.org/newgravedetails.aspx?ID=145770> (accessed March 15, 2016). In 1777, John Topham and his family lived in Warren. *The Rhode Island 1777 Military Census*, Mildred M. Chamberlain, transcriber (Baltimore: Gen. Pub. Co., 1985), 112.
7. Ezra Stiles, *The Literary Diary of Ezra Stiles, D.D., L.L.D.*, Franklin Bowditch Dexter, ed. (New York: Charles Scribner’s Sons, 1901), 2:426–27. Rev. Ezra Stiles’ diary offers a first-hand account of Newport and its inhabitants from 1769 until he became president of Yale College in 1778 and occasionally thereafter.
8. *American Journal and General Advertiser* [Providence], May 10, 1780, 4; *Record Book of the Society of Sons of the Revolution in the State of Rhode Island* (Newport: Mercury Publishing Co., 1902), 2:57–60.
9. The Topham house was twice moved; first to 10 Marsh Street. Now it stands attached to the John Townsend House at 70 Bridge Street. “10 Marsh St. Sold; Owner To Move It,” *Newport Mercury*, March 13, 1970, 1.
10. For the Topham firm’s slave ventures as owners of the brig *Hannah*, see Coughtry, *Notorious Triangle*, 262–63; “Vessels Belonging to Newport, March 1st, 1788,” *Newport Historical Magazine* 2 (July 1881):24, and for the firm’s location, see *Newport Mercury*, February 21, 1784, 4.
11. Rev. Stiles baptized Jenny (wife of Pompey) and her three children (Pompey, Dinah and Violet Topham) into the Second Congregational Church on June 26, 1774. Stiles, *Literary Diary*, 1:441, 447; James N. Arnold, *Vital Record of Rhode Island, 1636–1850, Episcopal and Congregational* (Providence: Narragansett Hist. Pub. Co., 1896), 8:454 [hereafter cited as *Vital Record*]. The 1774 Census lists four blacks living in the John Topham household; the 1782 Census lists five blacks. John R. Bartlett, *Census of the Inhabitants of the Colony of Rhode Island and Providence Plantations, Taken By Order of the General Assembly in the Year 1774* (Providence: Knowles, Anthony & Co., 1858), 32; Jay Mack Holbrook, *Rhode Island 1782 Census* (Oxford, Mass.: Holbrook Research Inst., 1979), 126. Rev. Stiles noted in his diary for August 26, 1775, that Captain Topham “requested Gen. [Charles] Lee to retain Mr. [John] Banister [an alleged Tory] as a Hostage till Capt. [James] Wallace of the [HMS] *Rose Man o’ War* should deliver up Capt. Topham’s Negro.” Stiles, *Literary Diary*, 1:608. For a discussion of Captain Wallace’s withdrawal from Narragansett Bay in March 1776 when he transported

- thirty blacks, who later joined him in plundering raids in New York, see Benjamin Quarles, *The Negro in the American Revolution* (Chapel Hill, N.C.: University of North Carolina Press, 1996), 153. It is not known whether John Topham's former slave was among the thirty.
12. Rev. Stiles recorded in the same month of Philip's baptism, May 1780, that "The Town is in Ruins," but predicted that Newport "will be rebuilt & exceed its former splendor." Stiles, *Literary Diary*, 2:427.
  13. *Newport Herald*, June 17, 1790, 2.
  14. *Mercantile Advertiser* [New York], Jan. 16, 1799, 3; *New-York Gazette*, Feb. 2, 1799, 1; *Daily Advertiser* [New York], April 3, 1799, S2; *New-York Gazette*, May 11, 1799, 3.
  15. *Newport Mercury*, June 4, 1799, 3; Elizabeth Donnan, ed., *Documents Illustrative of the History of the Slave Trade to America* (Buffalo, N.Y.: William S. Hein & Co., 2002), 3:378, 380–81. For a discussion of the unsuccessful libel proceeding brought against the brig *Orange* in Newport after its return, see Coughtry, *Notorious Triangle*, 218–220.
  16. *New-York Gazette*, May 11, 1799, 3; [New York] *Mercantile Advertiser*, May 25, 1799, 3 and June 12, 1799, 3.
  17. James Robertson, *qui tam v. Philip M. Topham*, Law Case Files of the U.S. Circuit Court for the Southern District of New York, 1790–1846, Record Group 21, National Archives and Records Administration [hereinafter cited as NARA], M883, roll 38 [hereafter cited as *Topham Case File*]. In October 1798, the *Peggy* departed from Charleston for Turks Island on a non-slave voyage with Captain Nathaniel Small in command and was seized by a French privateer. Both the vessel and cargo were condemned, yet her owners subsequently regained possession. Greg H. Williams, *The French Assault on American Shipping, 1793–1813: A History and Comprehensive Record of Merchant Marine Losses* (Jefferson, N.C.: McFarland & Co., 2009), 279; U.S. House of Representatives, Brig "Peggy," 62nd Cong., 3d sess., 1912, H. Doc. 1139.
  18. During a prolonged legal battle and trial in Providence federal court over the proceeds of the 1800–1801 voyage of the *Peggy*, the *Peggy*'s true owners were revealed to be Mayberry, Fales and Athearn. *Fales and Athearn v. Mayberry*, 8 F. Cas. 970 (Case No. 4,622) (C.C.D.R.I. 1815) (Story, Cir. J.). The *Fales* decision established the fundamental legal principle that partners in an illicit transaction may not seek relief from the courts on any right to ill-gotten gains. *Fales & Athearn v. Mayberry*, Law Case Files, U.S. Circuit Court for the District of Rhode Island, Group 21, NARA, Waltham, Mass. [hereafter cited as *Fales Case File*].
  19. Manifest of *Peggy*, *Topham Case File*.
  20. *Russell's Gazette* [Boston], November 18, 1799, 4; *Newport Mercury*, December 31, 1799, 3; *Georgia Gazette* [Savannah], February 13, 1800, 3, and April 3, 1800, 2.
  21. *Records of the New-York Manumission Society, 1785–1849*, MS 1465, New-York Historical Society [hereafter cited as N-YMS], 7:184; 9:55. Such enormous and unexplained loss of life during the *Peggy*'s middle passage was roughly four times greater than the average loss of 11.9 percent of Africans embarking on ships across the Atlantic who did not survive. Trevor Graeme Burnard, "The Atlantic Slave Trade" in *The Routledge History of Slavery*, eds. Gad Heuman and Trevor Burnard (London and New York: Routledge, 2011), 88.
  22. See profit and loss summary for the joint venture in the *Fales Case File* and the *Peggy*'s manifest in the *Topham Case File*. Mayberry never accounted to his partners for twenty-eight of the eighty-two slaves who made it to St. Bartholomews. For a revealing study of the profits and losses of Rhode Island's slave ventures, see Coughtry, *Notorious Triangle*, 18–21. For an examination of the fluctuation in prices of the Cuban slave market, see Laird W. Bergad, Fe Inglesia Garcia and Maria del Carmen Barcia, *The Cuban Slave Market, 1790–1880* (New York: Cambridge University Press, 1995), 85–94.
  23. N-YMS, 7:184; 9:55. Memorial of Philip M. Topham to Thomas Jefferson, August 18, 1807, Pardon Case, No. 140, *Petitions For Pardons, 1789–1860*, Record Group 59, NARA, College Park, Md. [hereafter cited as *Petitions For Pardons*].
  24. W.E.B. Du Bois, *The Suppression of the African Slave-Trade to the United States of America, 1638–1870* (New York: Longmans, Green, and Co., 1896), 1:80–81.
  25. 1794 Act.
  26. In October 1787, Rhode Island outlawed participation in slave trading, terming the enterprise "inconsistent with justice, and the principles of humanity, as well as the laws of nature, and that more enlightened and civilized sense of freedom which has of late prevailed." *Records of the State of Rhode Island and Providence Plantations*, ed. John Russell Bartlett (Providence: Providence Press Company, 1865), 10:262; Arthur Zilversmit, *The First Emancipation: The Abolition of Slavery in the North* (Chicago: University of Chicago Press, 1967), 156–57. Enforcement, however, was largely ineffective. Newport's merchants continued to fit out ships for Africa, justifying their conduct by claiming that "it is the African trade that prolongs the existence of this declining town; and the poor of this place well-evinced who benefits them most, the African Trade, or the Abolition Man." *Newport Herald* (Sept. 2, 1790), 3.
  27. William Ellery (1727–1820) came from a prominent Newport family and was one of Rhode Island's two signers of the Declaration of Independence. See William M. Fowler, Jr., *William Ellery: A Rhode Island Politico and Lord of Admiralty* (Metuchen, N. J.: Scarecrow Press: 1973); William M. Fowler, Jr., "William Ellery: Making of a Rhode Island Politician," *Rhode Island History* 30 (November 1971): 125–135. For the limited early success of prosecutors against the slave trade in Rhode Island under the 1794 Act and the ultimate collapse of that effort by both the federal authorities and local abolitionists after 1804, see Coughtry, *Notorious Triangle*, 203–229; Rappleye, *Sons of Providence*, 301–339.
  28. For details on the creation of the separate district, see Coughtry, *Notorious Triangle*, 224–29; Rappleye, *Sons of Providence*, 316–18, 327–331. For Bristol's rise and Newport's decline, see Tommy Todd Hamm, *The American Slave Trade with Africa, 1620–1807* (Ph.D. diss., Indiana University, 1975), 90–94, 413–444, and Elaine Forman Crane, *A Dependent People: Newport, Rhode Island in the Revolutionary Era* (Bronx, N.Y.: Fordham University Press, 1992), 163–66. For the contrary position that Newport's economic well-being had been restored to its prewar prosperity by 1796, see Kenneth Walsh, *The Economic History of Newport Rhode Island: From the Colonial Era to*



- Beyond the War of 1812* (Bloomington, Ind.: Authorhouse, 2014), 85–87, 128–29.
29. Coughtry, *Notorious Triangle*, 38–42. My survey of the vessels clearing Newport for Africa from 1800 to 1807 confirms that Newport's share of the slave trade during this period was even slightly larger than previously understood. Where Professor Coughtry's catalog (*ibid.*, at 274–285) lists only home ports where Rhode Island's Africa-bound vessels were officially registered, but not the port of departure for Africa, my analysis calculated both departures from Newport, as well as from other Rhode Island ports for vessels calling Newport home (based on Rhode Island custom house records reported in the *Newport Mercury* and the Warren [R.I.] *Herald of the United States* and home ports of registry reflected in Coughtry's catalog). Eighty-one vessels left Newport for Africa and an additional eleven Newport-owned vessels cleared for Africa from the Rhode Island ports, resulting in a participation rate for Newport from 1800 to 1807 of over forty-six percent (46%) of the total 198 vessels clearing Rhode Island for the African coast. During the eight years studied, Newport led Rhode Island's slaving activity in 1800 when its merchants fitted out fifteen of nineteen vessels; in 1802, dispatching nine of seventeen vessels bound for Africa and again in 1805, when it sent out twenty-five of the forty-nine African ventures leaving Rhode Island. The number of Africa-bound vessels sent out by Newport merchants in the other years during this period were: 1801: 3 of 10; 1803: 5 of 11; 1804: 10 of 22; 1806: 17 of 47 and 1807: 8 of 23. Dr. Crane has shown that the number of slave voyages sponsored by Newporters remains a matter of conjecture due to the inconsistent nature of the supporting evidence and that generally there were more slave voyages than newspaper clearances might suggest. Crane, *Dependent People*, 18–21. While not every vessel bound for Africa was conclusively a slaver, there appears little doubt that the Newport-sponsored African trade was thriving during 1800–1807. Elizabeth Donnan, "The New England Slave Trade after the Revolution," *New England Quarterly* 3 (Apr. 1930): 256 n.4.
  30. *N-YMS*, 7:184, 189, 197; 9:55–56.
  31. *N-YMS*, 7:197, 9:66; Memorial of Philip M. Topham to Thomas Jefferson, August 18, 1807, *Petitions For Pardons*. For background on Champlin and Thurston, see Coughtry, *Notorious Triangle*, 45–49, 263, 269, 277, 279, 283; *Newport Mercury*, February 4, 1800, 4.
  32. *Vital Record*, 8:346 (December 11, 1803).
  33. In the early 1800s, the Manumission Society suffered a series of setbacks in court proceedings against the slave trade which contributed to reluctance to try the *Topham* case. For discussion, see Landy, "Society of United Irishmen," 204 n. 38. The *Topham* trial preparations included dispatching Society member John Duer from New York to Providence in early 1805 to obtain the deposition of Collector Ellery. Duer relied on the assistance of Thomas Arnold, a leader of the Providence Abolition Society, in obtaining the deposition. *N-YMS*, 7:307, 339.
  34. Minutes, Trial Notes and Rolls of Attorneys of the U.S. Circuit Court for the Southern District of New York, 1790–1841, in Records of the District Courts of the United States, Record Group 21, NARA, M854 roll 1 [hereafter cited as *Minutes*].
  35. *Ibid.* Cesar Mumford, the black seaman from Rhode Island, was apparently unavailable to testify at the trial in April 1805.
  36. S. Whitney Phoenix, *The Whitney Family of Connecticut* (New York: Bradstreet Press, 1878), 1:123; *Mercantile Advertiser* [New York], December 4, 1801, 3.
  37. *N-YMS*, 7:197; 9:66.
  38. Ellery's deposition was limited to authenticating the Peggy's January 1800 manifest and Certificate of Registry for the court. *Topham* Case File.
  39. *Minutes*; Thomas R. Moseley, *A History of the New-York Manumission Society, 1785–1849* (PhD diss., New York University, 1963), 39–40, 166–168.
  40. Petition of Philip M. Topham to Thomas Jefferson, May 3, 1805, Mary Elizabeth Robinson Research Center of the Rhode Island Historical Society [Hereafter, RIHS], Miscellaneous Manuscripts Collection, MSS 9001 – T Box 5. From his release from prison in 1801 until the start of the trial in April 1805, Topham was required to return to New York City every six months to appear before the court or forfeit bail. Consequently long voyages were out of the question for Topham. Topham's representation in his petition that the Manumission Society was "generously inclined" to forgive the one-half portion of the judgment owed to it, is contradicted by the Society's meeting minutes, where Topham's requests for such relief were flatly denied. *N-YMS*, 7:287, 289.
  41. Letter of William Hunter to Gabriel Duvall, June 21, 1805, *The Thomas Jefferson Papers*, Series 1, General Correspondence, 1651–1827 [hereafter cited as *Jefferson Papers*], [https://www.loc.gov/resource/mtj1.034\\_0022\\_0023/](https://www.loc.gov/resource/mtj1.034_0022_0023/) (accessed February 22, 2016). Hunter was Mayberry's lawyer in the *Fales* case and a confidant of the Bristol slave venturer James DeWolf. Coughtry, *Notorious Triangle*, 227, 334 n. 64.
  42. The petition was also signed by other Newport merchants and tradesmen, including many owners and sea captains who had participated in the slave trade.
  43. *Newport Mercury*, April 20, 1805, 3; August 31, 1805, 3; *Providence Phoenix*, April 20, 1805, 3; Marcus W. Jernegan, *The Tammany Societies of Rhode Island* (Providence: Preston and Rounds, 1897), 3.
  44. Letter of Joseph Stanton to Thomas Jefferson, May 9, 1805, *Jefferson Papers*, [https://www.loc.gov/resource/mtj1.033\\_0427\\_0430/](https://www.loc.gov/resource/mtj1.033_0427_0430/) (accessed February 22, 2016).
  45. Letter of Gabriel Duval to Thomas Jefferson, July 2, 1805, *Jefferson Papers*, [https://www.loc.gov/resource/mtj1.034\\_0020\\_0021/](https://www.loc.gov/resource/mtj1.034_0020_0021/) (accessed February 22, 2016).

46. Letter of Philip M. Topham to Joseph Stanton, December 29, 1805, RIHS, Miscellaneous Manuscript Collection, MSS 9001-T Box 5.
47. Thomas Jefferson to [Joseph] Staunton [sic], January 15, 1806, in *Thomas Jefferson Correspondence, Printed from the Originals in the Collections of William K. Bixby* (Boston: 1916), 127. Jefferson's opposition to the slave trade, including his championing legislation banning that trade to America after 1807, juxtaposed against his failure, as one writer observed, "to put his prestige, congressional majority, and popularity behind other antislavery reforms," including banning slavery in the Louisiana territory, is a paradox that has continued to confound historians. Paul Finkelman, *Slavery and the Founders: Race and Liberty in the Age of Jefferson* (Armonk, N.Y.: M.E. Sharpe, 2001), 151. See John C. Miller, *The Wolf by the Ears, Thomas Jefferson and Slavery* (New York: Free Press, 1977), 142–47. For Jefferson's recognition of the potential for development of the western territories of the Louisiana Purchase and the resulting reopening of slaving in South Carolina, see Shugerman, "Louisiana Purchase," 274–77, 289–290. Whether the cessation of antislavery prosecutions in Rhode Island after 1804 by the Jefferson Administration was tied to the reopening of Charleston to the African trade in 1804, is a subject for future exploration.
48. Petition of Nathaniel Ingraham, Jan. 27, 1803, *Jefferson Papers*, [https://www.loc.gov/resource/mtj1.026\\_0056\\_0061/](https://www.loc.gov/resource/mtj1.026_0056_0061/) (accessed February 22, 2016).
49. Thomas Jefferson to Christopher Ellery, May 19, 1803, in *The Works of Thomas Jefferson*, ed. Paul Leicester Ford (New York: G.P. Putnam's Sons, 1905), 9:466. "An Act in Addition to the act Intituled [sic] 'An Act to Prohibit the Carrying on the Slave Trade from the United States to any Foreign Place or Country,'" May 10, 1800, may be found at *The Public Statutes at Large of the United States of America*, 6th Congr., 1st Sess., ed. Richard Peters (Boston: Charles C. Little and James Brown, 1845), 2:70 [hereafter cited as 1800 Act].
50. Letter of Thomas Jefferson to Edmund Pendleton, Aug. 26, 1776, in *The Papers of Thomas Jefferson*, ed. Julian P. Boyd (Princeton: Princeton Univ. Press, 1950–), 1:503. Ten years later, Jefferson restated this philosophy: "Let the legislators be merciful, but the executors of the law inexorable." Letter of Thomas Jefferson to Jean-Nicolas Demeunier, Jan. 24, 1786, in *The Writings of Thomas Jefferson*, ed. H.A. Washington (New York: Derby & Jackson, 1859), 9:263.
51. Joseph Stanton to Thomas Jefferson, January 15, 1806, *Jefferson Papers*, [https://www.loc.gov/resource/mtj1.035\\_0271\\_0272/](https://www.loc.gov/resource/mtj1.035_0271_0272/) (accessed February 22, 2016).
52. *Minutes*; Pardon of Philip M. Topham, April 25, 1808, *Presidential Pardons and Remissions, 1794–1893*, Records Group 59, NARA, T967 roll 1, 148–49 [hereafter cited as *Pardons*].
53. *N-YMS*, 9:144, 156, 163, 173. Philip's older brother, George Washington Topham, a Newport sea captain, offered to pay the judgment in installments over three years in return for discharging Philip from jail. The Society declined the offer. *N-YMS*, 7:315–16.
54. Memorial of Philip M. Topham to Thomas Jefferson, August 18, 1807, *Petitions For Pardons*. In the early 1800s, it was common for wives and children of destitute debtors to live in New York City's debtors' prison with their husbands and fathers, relying on the charity of others for food, fuel and clothing. Jill Lepore, *The Story of America: Essays on Origins* (Princeton: Princeton University Press, 2012), 98.
55. Thomas Jefferson to Christopher Ellery, May 19, 1803, see n. 48 supra; Coughtry, *Notorious Triangle*, 222–23. Jefferson ultimately issued the pardon to Ingraham on February 24, 1804.
56. Order of Thomas Jefferson (February 28, 1808), *Petitions For Pardons*.
57. See Caesar A. Rodney to Thomas Jefferson, February 22, 1808, in *Jefferson Papers*, [https://www.loc.gov/resource/mtj1.040\\_1167\\_1168/](https://www.loc.gov/resource/mtj1.040_1167_1168/) (accessed February 22, 2016).
58. *Pardons*, 146.
59. Philip M. Topham to Thomas Jefferson, April 28, 1808, in Missouri History Museum Library, Thomas Jefferson Collection [hereafter cited as *Missouri*], Box 7, f. 25; James Main to James Madison, April 18, 1808, in *The James Madison Papers*, Series 1, General Correspondence and Related Items, 1723–1859, <http://memory.loc.gov/master/mss/mjm/10/0200/0232d.jpg> (accessed February 22, 2016).
60. James Main to Thomas Jefferson, April 9, 1808, *Jefferson Papers*, [https://www.loc.gov/resource/mtj1.041\\_0321\\_0322/](https://www.loc.gov/resource/mtj1.041_0321_0322/) (accessed February 22, 2016).
61. *Pardons*, 148–49.
62. Philip M. Topham to Thomas Jefferson, May 2, 1808, in *Missouri*, Box 7, f. 26.
63. Naval History and Command Center, *Officers of the Continental and U.S. Navy and Marine Corps., 1775–1900*, <http://www.history.navy.mil/browse-by-topic/organization-and-administration/historical-leadership/navy-and-marine-corps-officers-1775-1900/navy-officers-1798-1900-t.html> (accessed February 22, 2016). At least one report indicated Topham distinguished himself during the war. "Capture of British Privateer Dart," *Rhode-Island American* [Providence], October 8, 1813, 2.
64. Philip's headstone in the Newport Common Burying Ground records the date and the geographic coordinates of his death. A transcription of the headstone appears in *Newport Historical Magazine* 3 (Oct. 1882): 93, but incorrectly states his age at death as 36, instead of 39.
65. *Fales*, supra at 971. Mayberry subsequently participated as captain or owner, or both, in four more slave ventures between 1803 and 1806 and died in Newport in 1819. Coughtry, *Notorious Triangle*, 276–78, 282.
66. Samuel Hopkins, "The Author's Farewell to the World," in *Works of Samuel Hopkins* (Boston: Doctrinal Tract & Book Society, 1854), 3: 767.

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Below: Chester "Chet" Browning (?), "Family on Beach," Rhode Island Department of Economic Development. Rhode Island State Archives Catalog, n.d. <http://sos.ri.gov/archon/index.php?p=digitallibrary/digitalcontent&id=333>.

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*Rhode Island promotes itself as a tourist destination at the turn of the twentieth century; the story of Kingston Pease illuminates eighteenth-century racial discrimination at a Baptist church in Newport.*

