

REVERDY JOHNSON

(THIS IS THE SECOND INSTALLMENT IN A SERIES OF BIOGRAPHIES OF THE EARLY REPORTERS OF MARYLAND BY EDWARD N. ("NED") DeRUSSY)

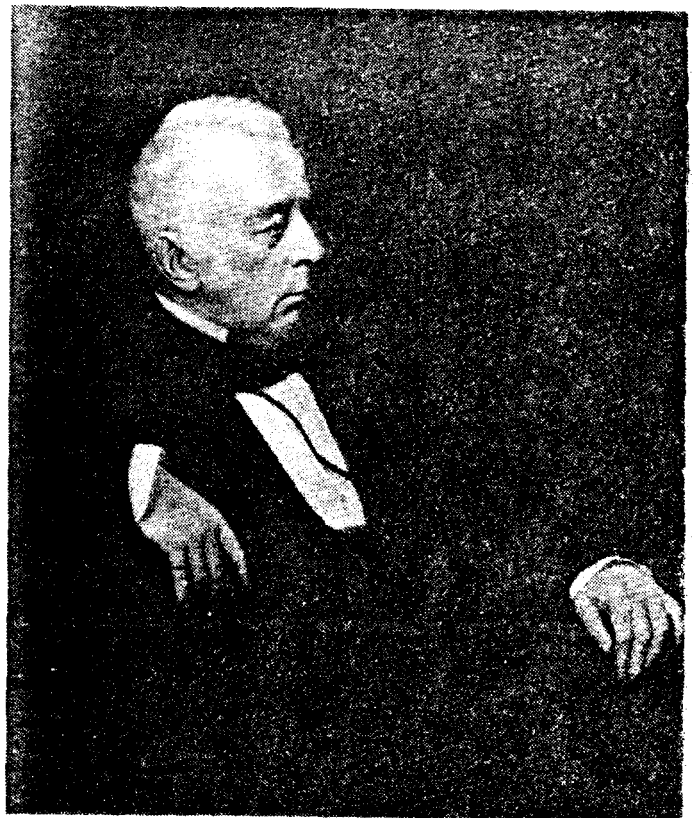
As indicated in a previous article, after John McHenry withdrew from the reporting project with Thomas Harris upon the completion of volume four of Harris & McHenry's reports, Harris' new collaborator was Reverdy Johnson. For anyone who is at all familiar with the history of the Bar of Maryland, Reverdy Johnson needs no introduction. He was one of the all-time luminaries of the Maryland Bar—a veritable giant! His father, John Johnson, Sr. was Chancellor of Maryland and his brother, John Johnson, Jr., of whom more later, was the last to hold that office.

He was born in Annapolis, May 21, 1796 and grew up there. After leaving St. John's College at the age of 16, he read law in his father's office and was admitted to the bar in 1816 at the age of 20. Like John McHenry, he too served in the militia as a private during the British invasion of Maryland in the War of 1812.

In such a short sketch as this it is only possible to point up the highlights of his career, and what a career it was! He started practice in Upper Marlboro and was appointed a Deputy for his district by the Attorney General of Maryland a little over a year after he started to practice. In 1819 he moved his practice to Baltimore and in 1821 became Harris' associate in reporting Maryland cases. They produced seven volumes altogether, the last of which, as indicated in the earlier sketch on Harris, was published in 1827. With Johnson's assistance, the reports which were 18 years behind were brought almost up to date.

To give some idea of Johnson's stature at the Bar at the time of the appearance of the last volume of Harris & Johnson's Reports in 1827, he was one of the lawyers for the state in the famous case of *Brown v. Maryland* in the U.S. Supreme Court wherein the "Original Package Doctrine" was enunciated and the first case in which the Supreme Court discussed the "Police Power". He appeared as co-counsel with his good friend, Roger B. Taney, later Chief Justice of the United States.

Johnson was badly wounded in a freak accident early in the 1830's. A Mr. Stanley of North Carolina became involved in an argument with a Mr. Wise of Virginia over some details of a horse race they were judging. The horses were owned by Andrew Jackson, then President of the United States and Gabriel Duvall of Maryland, who, at the time, was a member of the U. S. Supreme Court. A challenge to a duel arose out of this argument and Johnson became Stanley's second. He and Stanley were practicing with a pistol to be used in the duel and on one of the shots Johnson fired the ball hit a hickory sapling, struck Johnson in the eye and blinded that eye. Subsequently, through sympathetic action, he became almost blind in the other eye. This disability was not as great a misfortune as it might have been as he rarely cited



BLAKESLEE LANE.

THE GREAT REVERDY JOHNSON OF MARYLAND — PORTRAIT BY JARED BRADLEY FLAGG OWNED BY THE BAR LIBRARY.

cases and was not regarded as a bookish lawyer, but won his cases through his solid grounding in general principles and his ability to forcefully argue from them.

The Maryland Legislature elected Johnson to the U. S. Senate and he was sworn into that body on March 4, 1845. He quickly became a leader there, which was no mean feat, since among his colleagues were Henry Clay, Daniel Webster and John C. Calhoun.

President Taylor appointed him Attorney General of the United States and he resigned from the U. S. Senate to assume that post in March of 1849, which he held until Taylor's death in the Summer of 1850.

Upon leaving the Attorney General's office he resumed the practice of law and was involved in many important cases in the Supreme Court of the United States. One of these concerned the patent to the McCormick Reaper in which his co-counsel was Thaddeus Stevens and in which they were successful in the securing the patent for the reaper.

In 1854 he went to London to argue a claim before the Joint English and American Commission established under the treaty of that year and was well received, his biographer says, by prominent lawyers and public figures there.

On returning to America, he became co-counsel for the slave owner in the *Dred Scott* Case, serving without remuneration, as did the attorneys for Scott. Justice Curtis of Massachusetts, who was one of the dissenting judges in that case later observed

that it was largely due to the forceful argument of Johnson in presenting the Southern view of Slavery in the States and Territories, which led to their success in the decision of that case.

Charles Warren in his "History of the American Bar" says that after Daniel Webster's death, Johnson was regarded as the leading American Lawyer. An article in 2 American Law Register 308, entitled "Supreme Court of the United States in 1853-54" says in part "Next to the Attorney General should be named one who has the largest practice in the Supreme Court and indeed richly deserves it by his matchless ability — Reverdy Johnson. Indeed we heard it asserted that he has a much larger practice than Pinckney in his best days".

In 1861 Johnson was elected to the Maryland House of Delegates and he argued there against secession. All though the war he remained a strong supporter of the Union. He was reelected to the U. S. Senate by the Maryland Legislature in 1862, but did not take his seat until December, 1863. He served there with distinction throughout the war and into the Reconstruction Period.

Though, when Lincoln was assassinated, he served as one of his pallbearers on behalf of the Senate, he appeared as one of the Counsel for Mrs. Surratt, who was charged by a military commission as an accomplice in the assassination. His argument in this case was that Mrs. Surratt should be tried by a civil court and not a military tribunal. As in the Dred Scott case, he served without remuneration. Johnson used similar arguments in the case of Ex Parte Milligan in the U. S. Supreme Court and won his case.

Johnson's Senate service continued during the Reconstruction period where he urged that Southern States be restored and amnesty granted to their citizens. In the Impeachment Proceedings against President Johnson, he played an important part and it was largely through his efforts that the President was not convicted.

In the Summer of 1868, he was appointed Ambassador to Great Britain. He was extremely popular with the British and conducted important negotiations with regard to claims arising out of the war, among others, the claims arising out of the Alabama case. He was villified by many in this country for taking what they thought to be a too pro-British stance and though the treaty he negotiated was turned down, it later became the basis for the treaty which was eventually approved to settle those claims.

In 1869 he returned to this country and resumed his practice in Baltimore. He tried cases in the local courts as well as the United States Supreme Court until 1876. In that year, after arguing a case in the Court of Appeals on February 11th, he went to a dinner at the Governor's Mansion as a guest of Governor Carroll. After dinner, because he did not like the smell of cigar smoke, he got up to go out on the porch on the first floor. At that time there was a deep well to let light into the basement level of the mansion. Because of

his near blindness, Johnson evidently mistook one of the french windows for the doorway, tripped over the lower sill and plunged to his death some twenty feet onto the paved areaway below. Such was the sad end of his distinguished Maryland lawyer.

For those who would care to read further about Reverdy Johnson, there is a full length biography by Bernard Steiner, late Librarian of the Enoch Pratt Free Library, published by the Norman Remington Co. of Baltimore in 1914 from which I have drawn heavily for this article. It has been long out of print, but can be obtained in most of the libraries in this area. However, to get the full flavor of the man as a lawyer, it is necessary to read a paper given by Judge J. Upshur Dennis at a Maryland State Bar Meeting in Hagerstown, Maryland. The article appears in Maryland State Bar Transactions for 1905 at page 85 and is entitled "Some Personal Recollections of a Quartet of Baltimore Lawyers". Judge Dennis knew Mr. Johnson in the later years of his life and had the opportunity of hearing him try many cases. His observations make fascinating reading.

REVERDY JOHNSON'S HOUSE

by Jim Schneider

For nearly a century, a stately three-story brick mansion stood on the northwest corner of Calvert and Fayette Streets. Known during most of its later years as Reverdy Johnson's House, this was first the home of Colonel James A. Buchanan (1768-1840), wealthy merchant, banker, patriot and son-in-law of James Calhoun, Baltimore's first mayor. Built in 1799 by James Mosher and Jacob Small (the latter, himself a future mayor of the city), this handsome residence was quite large, its Calvert Street front measuring fifty-eight and one-half feet wide with a depth of one hundred sixty-seven feet extending due west up the hill toward St. Paul Street. Its main architectural feature was a classic marble portico which graced the east entrance on Calvert Street. Because of the size of its grand ballroom, the house was chosen as the site of a great public banquet given in honor of Lafayette's return to Baltimore in 1824.

Mr. Buchanan was the son of William Buchanan (1732-1804), who came here from Carlisle, Pennsylvania in 1759 and with one John Smith, founded the internationally famous mercantile firm of Smith and Buchanan. He and Smith turned the business into a family concern, each marrying the other's sister. James A. Buchanan and his cousin, General Sam Smith (1752-1839), succeeding their founding fathers, became partners in the firm whose ships plied the oceans of the world to bring to Baltimore the silks and spices of the Orient. During the War of 1812, Buchanan served as a leader of Baltimore's civilian defense while his business partner commanded her troops. Arms and provisions used by the militia were supplied by Mr. Buchanan. He was an honored guest at the

cornerstone laying of the Battle Monument on his very doorstep one year after the Battle of Baltimore, and was placed in charge of its construction. A leader of the movement to erect the first monument to George Washington, he served as president of its board of managers.

The landmark decision of the U.S. Supreme Court in *McCulloch v. Maryland*, 17 U.S. 316 was handed down in 1819 while Mr. Buchanan and James W. McCulloch served respectively as President and Cashier of the Baltimore branch of the Second Bank of the United States. The decision upheld the bank's constitutionality and prohibited the taxation of its operation as a federal instrumentality by the state in John Marshall's now-famous axiom: "That the power to tax involves the power to destroy."

Meanwhile, serious difficulties began to close in on Mr. Buchanan. The Panic of 1819 brought financial ruin to Smith and Buchanan, manifested in the bankruptcy of the company's Warren Cotton Mill located on the Big Gunpowder Falls. It was soon after discovered that Buchanan, McCulloch and George Williams, a bank director, had engaged in such a scheme of stock speculation as amounted to a conspiracy to defraud the Bank of the United States out of millions of dollars. By purchasing huge blocks of bank stock, then loaning themselves bank funds without security to buy more stock, the three malefactors succeeded in misappropriating considerable sums of monies without recompensing the bank, thus amounting to embezzlement. By manipulating the demand for stock, they contrived to artificially inflate its value. At the same time, the scheme was concealed from the board of directors by false declarations, juggled bank statements and out-and-out fraud. When the directors of the main bank in Philadelphia learned what was going on, principally because there was not enough money on hand to cover the conspirators' stock purchases, the three resigned. In July, 1819, they were indicted for conspiracy by the Baltimore Grand Jury. The cases were removed for trial to Harford County where the defendants' preliminary motion that the charges be dismissed for failure to allege an indictable offense was granted. It seems that in those days, there was no crime of embezzlement on the statute books in Maryland. The prosecution appealed the dismissal of its case.

The question on appeal was whether two could properly be indicated for conspiracy to do an act not illegal if done by one, but merely immoral or tending to prejudice the public. The decision of the Maryland Court of Appeals in the case of *State v. Buchanan et al.*, 5 Harris and Johnson 259 (1821) reversed the dismissal of the charges by the lower court, holding that the indictments charging conspiracy were valid under the common law, even though the intended act upon which the conspiracy was founded, is not illegal or immoral. The reason for this, the Court said, is that conspiracy is a common law crime and is a punishable offense even though nothing is done to execute the act.

Thereupon the cases were remanded to Harford County for trial where, after a lengthy hearing before a three-judge panel, Buchanan and McCulloch were acquitted in March, 1823. Williams, ill at the time and unable to be tried with his co-defendants, appeared for trial later and was automatically acquitted, because one person cannot be guilty of the crime of conspiracy under the common law.

Despite his vindication in the eyes of the law, Buchanan had little to cheer him. Bankrupt and disgraced, he lost his house on Monument Square to creditors to whom it was heavily mortgaged. He died on March 14, 1840 in the home of his aged sisters on Gay Street at the age of seventy-one. His obituary in the local press referred to him as a "respectable citizen."

The Chancery Court decreed that Mr. Buchanan's house should be sold at public auction to the highest bidder, but the apparent lack of interest in the property due to its high asking price led to its withdrawal from public sale. On April 1, 1833 it was sold by the trustee, William Gwynn, to Reverdy Johnson for \$25,000 in a private sale later ratified by the Chancellor.

Reverdy Johnson (1796-1876) was at that time one of the city's leading attorneys, later U.S. Senator, Attorney General and Ambassador to England. Like his predecessor, the new owner was also a man of financial affairs. Call it bad luck or coincidence, he too was drawn into the center of a major scandal that erupted in March, 1834 when the Bank of Maryland failed.

The popular impression was created that the debacle was caused by fraud and mismanagement on the part of the bank's directors. While holding the position of counsel to the directors, Mr. Johnson and a number of directors had bought up a controlling interest in bank stock. It was later charged that the price of these shares had been paid for by the bank itself by merely discounting the notes of the purchasers. The collapse of the bank was actually due to a policy of overinvestment and the financial panic which occurred during Jackson's War on the Bank of the United States. The ensuing scandal aroused public sentiment against the managers of the bank, who traded charges among themselves in a war of pamphlets. When more than a year passed with no payments to the bank's depositors, violence was the result.

The violent Bank Riot of 1835 began on Thursday, August 6, 1835 when a small group of agitators smashed the windows of Reverdy Johnson's house with stones. Because the city fathers' response to this lawlessness was not decisive and immediate, it grew worse and spread. Perhaps Mayor Jesse Hunt's timidity was due, in part, to the fact that he was one of the directors of the hated bank. In any event, law and order completely broke down in Baltimore over the next three days. After vandalizing the homes of other bank directors and counsel, the tumultuous mob returned to Monument Square on the evening of Sunday, August 9th and attacked Mr. Johnson's house with its full fury. Fortunately for him, the owner was not at home,

having taken his family and gone to Annapolis on business. The front facade and its fine marble portico were torn down. His furniture and a valuable law library were thrown into the square and burned. J. Thomas Scharf, Baltimore chronicler, reported:

It is said that a quantity of valuable articles had been concealed behind ranks of fire-wood, at the back of the cellar, while wine and furniture were left in front. The mob fell to drinking the wine and smashing the other articles, and probably would have retired had not a clock, which nobody had remembered to stop, struck the hour behind the ranks of wood. In an instant the wood was torn down, and the hidden treasures sent flying into the street.

Then the house itself was put to the torch. The fact that the mob ultimately dispersed and permitted firemen to extinguish the flames was probably due to a shared concern that adjoining buildings and the Battle Monument might suffer damage.

The next day witnessed such renewed lawlessness that the mayor resigned and a mass meeting of citizens convened at the Exchange to decide what to do. And then, the supreme irony of history — they chose as their leader, old General Sam Smith, the same General Smith who had been the business partner of the discredited James A. Buchanan. Under his direction, the city was virtually placed under martial law and a citizen militia put down the riot and restored the city to order.

This was not to be the end of the affair. Mr. Johnson and the other victims of mob violence petitioned the Maryland Legislature for damages sustained in the great riot. Roger B. Taney appeared on Mr. Johnson's behalf in Annapolis but withdrew in the midst of the debate when informed that he had been confirmed Chief Justice of the United States by the U.S. Senate. He was succeeded by John V. L. McMahon who followed the claim to its successful conclusion. On March 22, 1836, the Legislature enacted the indemnity bill into law, directing that three commissioners should determine the amount of damages to be paid to the claimants out of city funds. They arrived at a figure of \$102,552, of which Reverdy Johnson received the lion's share of \$40,632.

With this money, Mr. Johnson rebuilt and restored the mansion to its former glory. He restocked his library with books purchased from the estate of the late William Wirt. During his residency, which continued to the time of the War Between the States, he entertained some of the most important men in America, including Webster, Clay and Calhoun. Barnum's Hotel stood just across Fayette Street at that time, and many of its famous guests called upon Mr. Johnson to pay their respects.

In the Presidential campaign of 1844, Reverdy Johnson nominated Henry Clay at the Whig Convention held at Canton, just outside Baltimore. In the course of his address, in comparing the long



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and well-known public record of his candidate with that of the then-unknown Democratic nominee, he asked the rhetorical question: "My fellow citizens, who is James K. Polk?" It became the battle cry of the Whigs. But when the dark horse was elected over Mr. Clay, the words came back to haunt Reverdy Johnson. One evening a crowd gathered in front of his house chanting the phrase, "My fellow citizens, who is James K. Polk?" Mr. Johnson came out of his front door, hat in hand, bowed and replied to the then-quiet throng: "My fellow citizens, James K. Polk is the President-elect of the United States. Good night." He then went back into his house and the crowd withdrew.

When the Civil War broke out, the Union military took over the house and used it as their Maryland headquarters. After the war, it was rented by the city and used as the City Hall by the mayor and other municipal departments until the present City Hall was completed in 1875. After Reverdy Johnson moved out, the building ceased to be used as a residence. Rented out for office space to lawyers and business firms, it remained in the Johnson family until the early 1890's when it was purchased by the city from the heirs of Reverdy Johnson for \$160,000.

Contrary to modern misconception, the building was not demolished in 1895 to make way for the present Court House, but rather was torn down in the Spring of 1893 to permit the widening of Fayette Street. Its epitaph appeared in the *Baltimore American*:

The Reverdy Johnson House, with its entrance steps flanked with heavy marble scrolls, its domelike hallway and circular stairway, its connection with the bank riot of the 'thirties, when, with other buildings, it was sacked, will soon be but a memory of the past. One by one, the tenants, who have lately given an air of activity to the old mansion, have acted upon the notice to vacate the premises and have sought other and more modern quarters in which to carry on their business.

Now it stands empty but not alone. Across the way is the huge Equitable Building, beginning to teem with life as one by one its offices are filled with busy tenants, a striking example of youth and old age, the modern and the ancient . . .



THE BALTIMORE BAR JOURNAL

NEWSLETTER OF THE BAR ASSOCIATION OF BALTIMORE CITY

627 City Centre Building
Baltimore, Maryland 21202
366-5986

Vol. 1, No. 3

President: Theodore S. Miller
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Autumn, 1979



OUR NEW PRESIDENT JAMES H. LANGRALL

James H. Langrall assumed the office of President of the Bar Association of Baltimore City at our annual meeting at the Baltimore Hilton on June 5, 1979. Jim broke with tradition in not delivering a lengthy inaugural address, preferring instead to distribute a printed text of his proposals for the coming year, which is reprinted in this issue. As you will see from reading it for yourselves, it is an ambitious program, the success of which will require your generous support and participation. In this centennial year of the founding of our Bar Association, let us all do our part to help Jim Langrall turn his proposals into reality.

OCTOBER STATED MEETING

The first Stated Meeting of the 1979-1980 Association year will be held on October 16, 1979 at the Baltimore Hilton Hotel. The Continuing Legal Education Program entitled "Dealing With The

Grand Jury" will be presented by a panel consisting of Joseph M. Fairbanks, Weinberg & Green, Benjamin Lipsitz, Lipsitz & Lipsitz and Richard D. Bennett, Assistant U.S. Attorney. Benjamin Rosenberg is Chairman of the Continuing Legal Education Committee for the Association. Following the CLE Program a cocktail hour will be held to be followed immediately by a seated dinner. The Association plans to honor at this time the three Judges who have been nominated to serve on the Federal Judiciary from Baltimore City, the Honorable Francis D. Murnaghan, who has been confirmed by the Senate and has been sworn in as a Judge on the United States Court of Appeals for the Fourth Circuit, and the Honorable Shirley B. Jones and Joseph C. Howard, both who are presently serving as Judges of the Supreme Bench of Baltimore City and both of whom have been nominated by President Carter for the United States District Court for the District of Maryland. At the time of this writing the latter two Judges have not as yet been confirmed by the Senate.

THE BAR ASSOCIATION CELEBRATES ITS CENTENNIAL IN 1980

Preparations are being made to celebrate the 100th anniversary of the Bar Association of Baltimore City in 1980. President Langrall has appointed Theodore S. Miller and Joseph K. Pokempner as Co-Chairmen of the Centennial Committee, in charge of the preparations for this event. At the present time plans are being formulated to have a meeting and dinner in Baltimore's new Convention Center on April 18, 1980. This event will be held in conjunction with Preakness Week in Baltimore City. Invitations to attend have been extended to many notable dignitaries, including Chief Justice Warren E. Burger, Supreme Court

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