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Threats to the Rule of Law: The Shame of Domestic Terror

Then

by Caitlin Bumar, Esq.

The United States Code defines domestic terrorism as unlawful and violent activities which “appear to be intended to intimidate or coerce a civilian population, to influence the policy of a government by intimidation or coercion or to affect the conduct of a government by mass destruction, assassination, or kidnapping.”¹ Even as the insurrection of January 6, 2021, has brought domestic terrorism to the forefront of the American consciousness, ideological extremism breeding violence is an unfortunate pattern throughout our country’s often politically turbulent history. Although the seditious siege of the Capitol may strike many as unprecedented, an examination of historical domestic terrorist organizations can illuminate the patterns of extremism that have been consistently enmeshed in our society.

THE KU KLUX KLAN

Perhaps the most notorious and lethal domestic terror organization in American history, the Ku Klux Klan (KKK) was founded in 1865

¹ 18 U.S.C. § 2381(5).



in response to the South’s post-Civil War Reconstruction era. Six former Confederate veterans met in Pulaski, Tennessee, forming what initially seemed like a frivolous “secret society.” Wearing their now-infamous white-hooded robes and riding horses around town, the men quickly found perverse enjoyment in terrorizing their black neighbors while doing so. Soon realizing the power these seemingly bizarre actions held, the group gained members throughout the southern states.

In its new, more formal iteration, the KKK directly opposed Reconstruction policies which aimed to establish

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Now

by Emily Shaffer, Esq.

Editor’s note: We have elected not to mention any specific extremist groups by name, but rather to focus this article on summarizing the methods, beliefs, and actions of the overarching types of domestic terrorist threats in the United States today.

While many may think of domestic terrorist groups or “hate groups” throughout history being fueled by hatred of a particular race or religion, the modern terrorist groups can be divided fairly easily into two factions based on political ideologies, including far-left extremists and far-right extremists. The popularity of these groups has been spurred by social media and nurtured by the perfect storm of events in 2020, including the presidential election, coronavirus pandemic, and emerging conspiracy theories on social media.

In a report published by the Center for Strategic and International Studies (CSIS) in October 2020, far-right terrorism is defined as “the use or threat of

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civic and economic equality for newly enfranchised black Americans. As membership grew, so did the extraordinary violence, with Klan members using the anonymity of their costume to commit all manner of assaults, arsons, robberies, rapes, and lynchings of black Americans and sympathetic white persons.

Absorbing other white supremacist groups, such as the Knights of the

White Camellia and the White Brotherhood, the Klan amassed so much power in the 1860s that it essentially operated as a *de facto* government in many southern states, often with the full support of the elected officials. Facing pushback from the federal government, the Klan officially disbanded as of 1969, however, it did not remain that way.

In the late 1910s, the Klan experienced an alarming resurgence, spurred by increased immigration and fear of communism coming to the United States. The new iteration of the Klan focused not only on hatred for black Americans, but also Jewish Americans and Catholics. Under the guise of “defending American morals” and in reaction to pushback from the federal government and the mass media, membership in the Klan soared. At its height in the 1920s, the KKK reached a membership of approximately four million Americans.

As its membership grew, so did its reprehensible acts of violence, including floggings, shootings, and lynchings of anyone members considered “immoral.” Klan members also were elected to hold office in record numbers, managing to hold twelve governorships and countless congressional seats. The Klan waned in the late 1920s, however, as full knowledge of the atrocities committed came to light. By the 1950s, the KKK was at its least influential, however, it reemerged during the civil rights era, conducting bombings, church arsons, and lynchings in response to the further enfranchisement of black Americans. By the mid-sixties, the federal government conducted an investigation into the group, and it seemingly faded back out of power. The KKK continues to persist, however, in various enclaves and iterations, and it has been the general model for all white supremacist groups which have come after.²

ALEXANDER BERKMAN AND LATE 19TH CENTURY ANARCHISM

Turning to the opposite end of the political spectrum, the late twentieth century saw a significant increase in adherents of Anarchism, an ideology

² “Ku Klux Klan: A History of Racism.” Southern Poverty Law Center. Retrieved 22 Jan. 2021.



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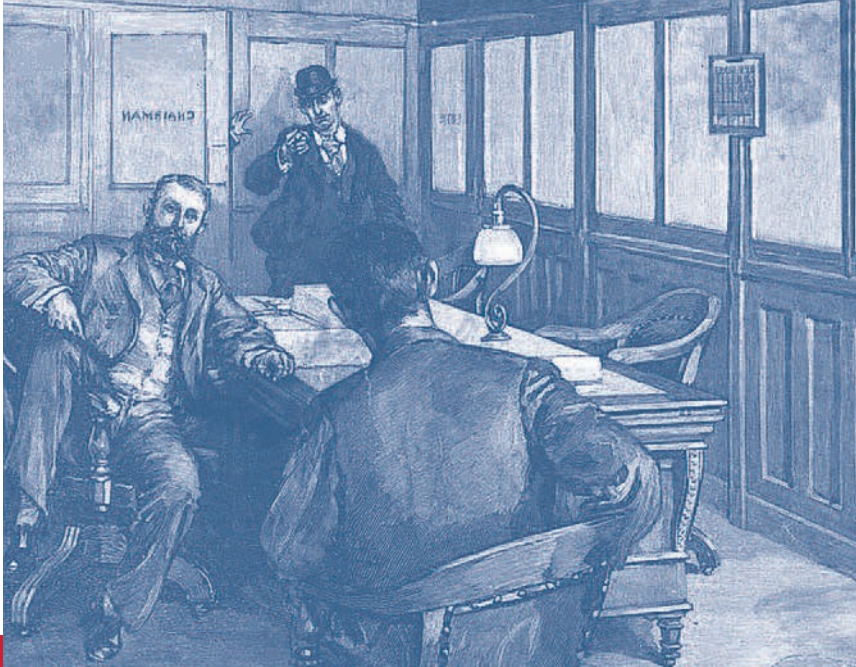
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Alexander Berkman's attempt to assassinate Henry Clay Frick, as illustrated by W. P. Snyder in 1892, originally published in Harper's Weekly.

which endorses the complete abolition of the state. Some of these Anarchists believed fully in pacifistic means of accomplishing their goals, while others were more radical. The latter group included a small community of Anarchists in the Northeast looking to find an event momentous enough to bring their dramatic ideas into the public consciousness.

This event occurred in May 1892, in Allegheny County. The infamous Homestead steelworkers strike was in full swing at the Carnegie Steel Company, with the union workers locked out and the Pinkertons sent in to break up the picket lines. The factory was under the direction of Henry Clay Frick, known widely for his anti-union stance. During a conflict on July 6, 1892, nine steelworkers and seven guards were killed in a protracted gun fight. The incident made national headlines.

Meanwhile, in Worcester, Massachusetts, the aforementioned small community of Anarchists—running an ice cream parlor at the time—took notice of the happenings in Western Pennsylvania. Leader Alexander Berkman and the rest of his cadre subscribed to a theory of Anarchism which advocated the use of propaganda of the deed—generally a violent or illegal attack aimed at the ruling class, intended to serve as a catalyst for the masses to be inspired to revolution.

On July 14, 1892, Alexander Berkman arrived in Pittsburgh with two of his associates, with the express intention of assassinating Henry Clay Frick and inciting the working class masses to revolution against the capitalist system. On July 23, 1892, Berkman burst into Frick's office carrying a gun and a dagger. Berkman managed to shoot at Frick twice and stab him three times before he was

subdued by factory workers and arrested. Frick survived the attack.

Instead of the masses becoming inspired to revolution, the factory workers largely condemned his actions, opining that it had only hurt their cause. Many pacifistic Anarchists, including Berkman's mentor, Johann Most, also condemned the assassination attempt. After attempting to defend himself *pro se*, Berkman was convicted of felonious assault with the attempt to kill and spent fourteen years in prison. Upon release, Berkman's convictions did not waver, however, and he was involved in several sporadic bombings before eventually being deported to Russia.³

THE WEATHER UNDERGROUND

In a similar vein to the radical Anarchists at the turn of the twentieth century, a new and more cohesive left-wing organization came about in the late 1960s which devoted itself to the attempted overthrow of the United States government. Basing its aims on an opposition to the country's military involvement in Vietnam as well as systemic racism in the United States, a group of students at the University of Michigan started a group known as the Weathermen in 1969.

The Weathermen emerged into public view during what they termed the "Days of Rage" in Chicago in October 1969. For several days, peaceful protests against the conflict in Vietnam were mixed with riots conducted by hundreds of individuals which were quickly suppressed by an even larger number of law enforcement officers.

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³ Avrich, Paul; Avrich, Karen. "Sasha and Emma: The Anarchist Odyssey of Alexander Berkman and Emma Goldman." Cambridge, Mass.: Harvard University Press, 2012.

the sidebar

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Not to be discouraged, the Weathermen, now the Weather Underground, decided to pursue a different course, namely guerrilla warfare against the American government. Over the next several years, the group conducted bombings of high-profile government locations, including the NYPD headquarters, the Pentagon, and the United States Capitol Building, though no casualties occurred. These bombings led to leaders of the group becoming high priority targets for the FBI, even landing them on the FBI's Ten Most Wanted List.

Eventually, most serious charges against group members were dropped, and most of its members split off into several less militant and more mainstream leftist factions. The guerrilla warfare tactics of the Weather Underground failed to garner significant support from even the most radical

amongst its political peer groups simply due to its advocacy of violent and terroristic means. While a few members planned further sporadic bombings throughout the 1970s, a violent robbery of an armored Brinks truck ending in three casualties spelled the end of the Weather Underground, and most members remerged into civil society.⁴

THE SILENT BROTHERHOOD

Though many political ideologies have waxed and waned in the United States, the insidious undercurrent of white supremacy has consistently flowed through our history. It resurfaced in one notable iteration in the mid-1980s in the Silent Brotherhood, or the Order. The relatively small group was only active for approximately two years, but in that time it was responsible for numerous violent attacks and killings,

⁴ "The Weather Underground. The Movement." PBS. Independent Lens. Retrieved 22 Jan. 2021.

and it still serves as a model for many modern white supremacist groups today.

The Order was founded in 1983 in Washington state by a group of three Aryan Nations members. The goal of the group was to unify the diverse white supremacist groups in the United States in a cohesive attempt to bring about a race war and to create a white ethnostate in the Pacific Northwest. At its largest, the group totaled approximately 24 members, but all members were fully devoted to its aims, which included assassination plots and plans to overthrow the United States government.

After a very short stint of legally attempting to obtain funds through difficult manual labor, the leaders of the Order decided to pursue easier means of financing. The Order utilized armed robbery in its fundraising efforts, beginning with the 1983



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robbery of an adult bookstore and culminating in the robbery of a Brinks armored vehicle in 1984, netting the group over three million dollars. The Order also participated in counterfeiting money, the crime that would ultimately land the majority of its members lengthy federal sentences.

The most notorious crime committed by the Order was the 1984 murder of talk radio host Alan Berg. The Order maintained a hit list of public figures they would attempt to assassinate, and Berg was on that list. Alan Berg was an outspoken Jewish talk show host living in Denver, Colorado, and he often clashed with right-wing extremists on air. On June 18, 1984, three Order members ambushed Berg in his driveway and shot him twelve times. Two of the assailants were given sentences in excess of 100 years in connection with the murder, and the third was killed in a shootout with federal agents before he could be brought to justice.

The brief existence of the Order was brought to an end by a member who turned on the group, exposing their counterfeiting scheme to the FBI. All members were eventually charged with and convicted of crimes ranging from racketeering to sedition. Although the group is now defunct, many within the current white supremacist movement look on the Order—and especially those who participated in the murder of Alan Berg—as role models and martyrs.⁵

Looking generally at the historical attempts of domestic terror groups to influence American politics and society through terroristic acts, it appears that they rarely succeed and are roundly condemned by history; however, it is certainly worth studying these groups and their actions in order to understand the recurring historical themes and the threats presented by modern domestic terror organizations. ■

⁵ Flynn, Kevin J.; Gerhardt, Gary. "The Silent Brotherhood: Inside America's Racist Underground." 1990.

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violence by subnational or non-state entities whose goals may include racial or ethnic supremacy; opposition to government authority, anger at women, including from the involuntary celibate movement; belief in certain conspiracy theories ...; and outrage against certain policies, such as abortion." In the alternative, far-left terrorism "involves the use or threat of violence by subnational or non-state entities that oppose capitalism, imperialism, and colonialism; advocate black nationalism; pursue environmental or animal rights issues; espouse pro-communist or pro-socialist beliefs; or support a decentralized social and political system such as anarchism."¹

The report goes on to mention a third group, Other, which "involves the use or threat of violence by subnational or non-state entities that do not neatly fit into any of the above categories, such as the anti-government movements ..., whose adherents aim to start a civil war in the United States." These extremists generally target law enforcement and take advantage of large protest crowds to conduct violence against officers, government officials, and counter-protestors.²

The CSIS notes that although there is a desire among academics to focus on all-encompassing terrorist "groups" and "organizations,"

¹ Jones, Seth G.; Dooxsee, Catrina; Harrington, Nicholas. "The War Comes Home: The Evolution of Domestic Terrorism in the United States." Center for Strategic and International Studies, 22 Oct. 2020, Web.

² Department of Homeland Security 2020 Homeland Threat Assessment, p. 18, 6 Oct. 2020, Web.

most domestic terrorists are highly decentralized and inspired by the thought of a "leaderless resistance." Accordingly, the CSIS explains that violence, if any, is more likely achieved by an individual or network of individuals rather than being attributed to an entire "group." This lack of hierarchical structure has led to a lower number of fatalities from domestic terrorist attacks than one might think. The CSIS reports that between January 2020 and August

2020, a time period that includes a majority of the Black Lives Matter protests, only five fatalities were attributed to domestic terrorism.³

Despite the lower fatality rate, more than 120 suspects were charged by the U.S. government for domestic terrorism

in the same time period, which is one of the highest numbers of arrests of this kind ever. And, due in part to the protests and rallies in 2020, the FBI had more than 1,000 domestic terrorism investigations underway nationwide as of September.⁴

The fatalities and arrests mentioned in the CSIS report do not take into consideration the violent mob that stormed the U.S. Capitol on January 6, 2021. Of the individuals present in the mob, dozens were watch-listed individuals on the national Terrorist Screening Database (TSDB), and suspected white supremacists, present to protest in solidarity with President

continued on page 6



³ *Id.*

⁴ Levine, Mike. "Domestic Terrorism and Hate Exploded in 2020. Here's What the Biden Administration Must Do." ABC News, 29 Dec. 2020, Web.

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Trump's allegations of a stolen presidency and rigged election process.⁵ This violent agenda was pushed via Internet discussions, calling for an attack on Congress, to "get violent ... go there ready for war."⁶ Even with this information having been known before the siege, the Capitol Police were left to defend their building and its occupants, despite the sizable militia present during the Black Lives Matters protests in D.C. just months earlier.

In addition to the political unrest in the nation, some believe the coronavirus pandemic has also aggravated extremists by creating an environment that makes individuals more apt to take part in targeted violence. Social distancing can lead to feelings of isolation, while potential unemployment also leads to heightened emotions and willingness to engage in acts or threats of violence.⁷ Extremists from both sides exploit public fears associated with the pandemic through social media efforts as well as inciting violence during otherwise peaceful protests.⁸

Social media is another factor contributing toward recent violence. One thing held in common by modern-day domestic terrorist groups is that they all utilize the Internet, including social media websites, to further their agendas and to spread fear in the effort to incite violence. Extremists will reinforce their ideologies by citing conspiracy theories and controversial commentary, and social media lends a convenient platform for those individuals to network with

like-minded extremists.⁹ Accordingly, some social media sites have recently taken action, banning President Trump and certain conspiracy theorist individuals and content from their platforms, which has sparked a nationwide debate on First Amendment rights for online forums.

While there have been violent and non-violent uprisings and attacks from both far-left and far-right extremists recently, most reports agree that the more violent threats come from far-right extremists, specifically white supremacists, who have conducted more lethal attacks in the United States than any other domestic extremist group since 2018.¹⁰

On a local level, far-right ideologies seem to be more popular, with Allegheny County and surrounding counties being labeled a "hot zone" for far-right extremist groups. John Pulcastro, a supervisory analyst at the Pittsburgh FBI noted at a domestic terrorism symposium that extremist groups are not only active in our region but are holding events and recruiting in an effort to grow. He warns that these groups are heavily armed and attributes their size to their recruitment efforts on social media. Pulcastro noted at the symposium that the group ideologies are aimed at making America a white-only country.¹¹

With the growing tensions and domestic threats in our country, and unfortunately, our own backyards, it is certain that things will not immediately change with the inauguration of a new U.S. President. However, even before the inauguration, the Biden administration had reportedly met with the Anti-Defamation League (ADL) in an effort to entertain recommendations for combating domestic terrorism. ADL chief

Jonathan Greenblatt reports that a change in tone is of the utmost importance during this transition of power, and should include a condemnation of hate and bigotry. He noted that bad behavior by extremists will grow when they're not made to feel ashamed of that behavior.¹²

Not shying away from these issues, President Joe Biden directly spoke to the domestic terrorism problem in his inaugural address on January 20, 2021, stating:

Few periods in our nation's history have been more challenging or difficult than the one we're in now. A once-in-a-century virus silently stalks the country ... A cry for racial justice some 400 years in the making moves us. The dream of justice for all will be deferred no longer. A cry for survival comes from the planet itself ... And now, a rise in political extremism, white supremacy, domestic terrorism that we must confront and we will defeat. To overcome these challenges—to restore the soul and to secure the future of America—requires more than words. It requires the most elusive of things in a democracy: Unity.

It will be interesting to see in the coming months whether President Biden's message of unity and his actions moving forward will calm the threat of domestic terrorism from extremist groups. The recent developments toward heightened social media censorship are just beginning and may assist in stunting the growth of extremist groups using such platforms to grow and spread their hateful messages. With 2020 being such a tumultuous year, it is still early enough in the New Year that we can hope for more peaceful days to come. ■

⁵ Barrett, Devlin. "Dozens of People on FBI Terrorist Watch List Came to D.C. the Day of Capitol Riot." *The Washington Post*. 14 Jan. 2021.

⁶ *Id.*

⁷ Department of Homeland Security 2020 Homeland Threat Assessment, p. 17.

⁸ *Id.*

⁹ *Id.* at pp. 17-18.

¹⁰ Jones, et al., *supra*.

¹¹ Ove, Torsten. "Pittsburgh a 'Hub' for White Supremacy, FBI Analysts Say." *Pittsburgh Post-Gazette*. 12 Nov. 2020.

¹² Levine, *supra*.

First Person

The Homecoming

by Daniel J. Ackerman

Tom Tridico, chief of our county detectives, entered courtroom number 4, stood quietly by the wall for a minute taking in the proceeding that was underway, and then pointing his finger, first at himself and then toward me, indicated he wished to see me. Interrupting the testimony, I motioned him toward the bench where he simply said, “I better speak to you in chambers.” I called a short recess and Tom and I retired to the privacy of my office.

There, in his direct and professional manner he told me that my house had been burglarized—a shock to be sure—but what he said next nudged my stomach over a precipice. “We can’t account for your wife. According to your daughter, the car left in your garage is her mother’s—and your boy hasn’t turned up yet.” In that terrible

moment I was unable to answer the questions implied by his disclosure. It was just a weekday like any other in 1984. Wouldn’t David be in school like his 14-year-old younger sister, Diane, and wouldn’t my wife, Becky, be at home or shopping, or doing some of the many underappreciated tasks that wives do, after their husbands leave for “work?” Few thoughts are fraught with terror more than those where one imagines that loved ones may have been abducted.

In my half-hour drive from Greensburg to Murrysville, I envisioned one improbable scenario after another. At our house, the driveway and the rural road in front of it were filled with police cars. It looked like the starting point for a cross-country rally of law enforcement vehicles. But in the house, giving rise to a sigh of relief, there was

Becky! A frazzled and worn Becky, to be sure, but nonetheless, she was there, in context, in our home, which was now more torn up and messy than our two children could possibly create in a concerted effort. She was there amidst busy officers dusting for fingerprints and looking for footprints outside and in, even on the counter top around the kitchen sink, since it appeared that entry was through the kitchen window above the counter to the rear of the house.

Earlier that day, my mother had called Becky on the spur of the moment, saying she felt that my dad *continued on page 8*



Daniel J. Ackerman



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needed to be checked in the emergency room and asked if they could pick her up along the way so she could go with them. Realizing she might not get back by the time Diane got home from school (Becky was apparently the only one who remembered that David would be at cross-country practice after school), she placed a call to the mother of one of Diane's friends in the neighborhood asking if it was all right if Diane got off at the bus stop near the

neighbor's home and remain with them until Becky returned. That plan, to which the neighbor promptly agreed, was duly conveyed to the school secretary, who, unfortunately, in the course of the school day, forgot to convey it to Diane. So it was Diane who discovered the crime scene after getting off the school bus at her regular stop.

Just like any other school day, Diane walked into the house alone, saw the television set was gone, noted tattered

wallpaper on the wall where the set had been, and perhaps most surprising, found her ceramic piggy bank on its side in the center of the living room floor. In the master bedroom, dresser drawers had been yanked out, their contents strewn about, along with clothing that had hung in the closet. This was definitely not reflective of how her mother kept the house, so she did the adult thing, and with shaking hands, called the police, telling them what she had seen in our tattered home, and that her mother and brother were missing.

Two officers arrived, and Diane breathlessly watched as one drew his sidearm and slowly preceded down the stairs to the cellar. With the house secured, the officers took her out onto the driveway to the police car, and told her to wait in the car while they continued to inspect the house and its perimeter. They then drove her to the police station to await the arrival of one of her parents, which eventually proved to be her mother. Soon everyone was accounted for, extinguishing the fear that had seized us, and we were left with the task of putting our home back in order and trying to figure out what inconsequential property was currently in the possession of someone else.

How did it happen? This heist in broad daylight. Who would have thought that our modest one-story aluminum-sided home, tucked on a hillside in a rural area would be a target? And don't burglaries usually take place under the cover of darkness? We would learn that it was all in a day's work, and our home was simply one of many which were scheduled for similar treatment sooner or later on a sort of criminal unassembly line operated by three young men from Pittsburgh who drove out almost every morning with a single prop: an empty gas can. Choosing a different rural area each day, they would park their vehicle in the vicinity of a few scattered homes

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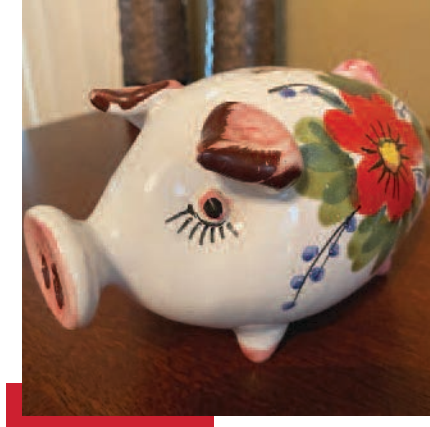
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that were within walking distance. If a knock on the door brought a response they would simply inquire how far it was to the nearest gas station (which they knew wasn't very far away). This is what happened with our neighbors who lived up the road. With a word of thanks, the unfortunate wayfarers would take their leave and move on to the next house, that was out of view of the first. Eventually, when they found one where nobody was at home, they broke in.

It makes for a much better story if things end well, and they did. The miscreants were caught, brought to justice, and punished, just like in the movies. Their undoing was showing contempt for Diane's china piggy bank and leaving it behind. I can imagine one of them carrying it out of Diane's room to the living room, saying, "What about this?" and getting a sharp rejoinder, "Forget about that—and help me get this TV out the door." For you see, on the back and flanks of the discarded and disrespected pig there were now picture perfect markings of four fingers and a thumb, with part of a palm thrown in for good measure. And, as chance would have it, reproductions of the same would soon surface in a government-owned file.

My wife and I were called to testify at the defendants' preliminary hearing, and her jaw quickly dropped when the accused were brought in—they were in chains—she apparently didn't expect that. Our purpose at the hearing was to describe what items had been taken and testify to their value. Their loot included a few rifles and shotguns (they missed only two which were and are packed away in an obscure place), a television set, and a bulky Thiel College class ring, meant to remind me of my 1961 graduation date. You might note that they were all mine. Except for her legal half interest in the television, the burglars found nothing of my wife's worthy of stealing, a deficit she has since consistently and successfully worked to cure. I testified that the value of the lost items amounted to around \$2,000. Years later, the defense lawyer told me that when I gave that figure, one of the defendants whispered in his ear, "That's a crock, we got at least \$10,000 out of that house if we got a dime." It seems that even felons take pride in their work and take offense when it is belittled.

Fortunately, we didn't have to testify after that, for the defendants subsequently entered pleas of guilty before Judge Charles H. Loughran, whom you will recall, was a no-nonsense and even-handed judge. Apparently the presentence investigation showed a certain proclivity and repetition toward the subject matter at hand, so at sentencing, the judge told these fellows about the foolishness of their wayward acts; reminded them of what a disappointment they must be to their families and friends;



Piggy

and just why they should be more sensitive to the rights of ownership and the feelings of others. He then imposed the sentence. It was a long time ago and I can't be sure of the exact numbers, but it was somewhere in the neighborhood of 800 years to life. Whatever it was, the verb "coddle" didn't leap into anyone's mind.

Over the years I've been asked if we ever got any of our stuff back—a query that has been repeated annually by our local police department to this day. I once inquired why they call every year when the answer is always "no,"

and they say they are required to keep an ongoing record by law, apparently forever. The guns lost were for hunting and trap shooting and they haven't been replaced, perhaps because I really wasn't that good at either pastime. The casualty rate among woodland creatures and fowl has not fallen because of my absence, and the clay pigeons thrown up for me always broke, but far too often, only when they hit the ground.

We did, in a way, get one thing back; though really, it never was lost. The china piggy bank now resides with Diane and her husband, Glenn, in Florida, resting and enjoying its laurels as a crime fighter. ■

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underreview A Disturbing Mutiny

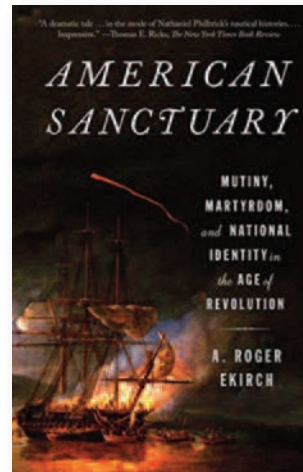
by Daniel J. Ackerman

American Sanctuary,
by A. Roger Ekirch
(Pantheon, 285
pages, 2017)

Twelve years ago, when Dr. Ekirch, a distinguished professor of history at Virginia Tech, began his research, it is unlikely he foresaw how topical his story of the 1797 uprising on board the *HMS Hermione* off the coast of Puerto Rico would be today. The little-known incident set in motion an outcry which contributed to the denial of a president's bid for a second term, a mentality which would be accepting of a declaration of war, and a

re-examination by the United States of the rights of immigrants.

The 32-gun British frigate, *Hermione*, which could accommodate a crew of 220, had in its service in 1797 nearly 70 sailors impressed from U.S. merchantmen. Many, but not all of those impressed seamen were Americans, mixed in with other nationalities, including British deserters who had fled their own navy for the better wages and the more relaxed discipline of the merchant marine. At the time, Britain once again was locked into a long war with France, a conflict in which the U.S. remained neutral.



On the night of September 21, the ship's captain, Hugh Pigot, a man of frequent unpredictability who was easily provoked into flogging his crew, would forfeit his life along with the lives of ten of his officers in a bloody uprising initiated by impressed sailors; it was the worst mutiny in the history of the British navy. After taking over the ship, the crew sailed to the Spanish colony of Venezuela—then a French ally—and from there dispersed to the four winds, many to America, which had the reputation as the “best poor man's country” in the world.

Most of the mutineers would never be found. Within a year, a British dragnet of the Caribbean produced 19 crewmembers,

all of whom were in custody, for under admiralty law any member of the crew who did not actively oppose a mutiny became part of it.

In February 1799, an American schooner arrived in the port of Charleston, South Carolina, where a member of its crew sought out the British consul to inform him that he had overheard one of his shipmates telling another that he had been on the *Hermione* at the time of the mutiny. Shortly thereafter, that shipmate was protesting from a Charleston jail cell that he was Jonathan Robbins, an American seaman from Connecticut, whom the British had impressed at sea from an American vessel and forced upon the *Hermione*. Nor did he partake in the massacre. Another member of *Hermione's* crew identified the accused as Thomas Nash, an Irishman, who was one of the mutineers who broke into Captain Pigot's cabin where the captain was grievously wounded and then dragged onto the deck where Nash ordered his cohorts to “throw the bugger overboard.”

Was the accused Nash or Robbins? Professor Ekirch addresses this question in the best tradition of a


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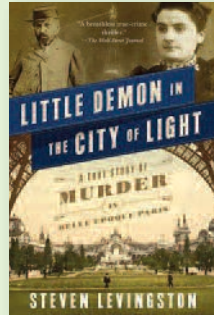
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mystery writer; so for this review, the less said the better. The legal issues raised during his narrative are many, including jurisdiction over crimes committed at sea; whether the citizenship of the accused was legally relevant; could impressed sailors claim the right of self defense against their captors; did the accused, if an alien, enjoy the right to counsel and trial by jury; and the power of the chief executive to extradite or expel aliens. Most of these sound like bar exam questions for certification as a proctor in admiralty.

If you yearn for mysteries and sea stories, or for a better understanding of current events, but would feel guilty for not reading the advance sheets (that is if they are still printed), this fine book may be for you. ■

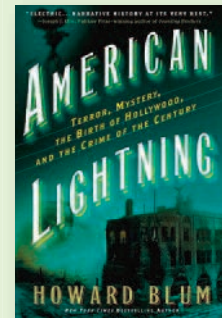
Two other works of non-fiction portray criminal trials celebrated in their day, both recounting massive manhunts, exacting work by detectives and forensic experts, and unexpected defense tactics.



In *Little Demon in the City of Light* (Doubleday, 333 pages), author Steven Levingston takes us to Paris during its 1889 Exposition, where the disappearance of a wealthy Parisian businessman sets in motion a massive manhunt which spanned the ocean to the Americas. It would lead to the trial of two suspects, Michel Eyraud, an audacious con man, and his perplexing mistress, Gabrielle Bompard, for the murder of the missing man. Adding flavor to this intriguing tale is Gabrielle's defense that she acted under hypnosis, and, from our perspective, the rather messy trial procedures employed by the French criminal justice system.



A bomb planted in the Los Angeles Times Building exploded in 1910 killing a score of the Times employees. The Times had been an outspoken critic of labor unions, and immediately labor organizers became the prime suspects. So begins Howard Blum's deft recounting of an act of terrorism in *American Lightning* (Crown Publishers, 339 pages), which focuses upon three main characters—a nationally known detective, William "Billy" Burns (then known as the "Sherlock Holmes of America"), defense lawyer Clarence Darrow, and film pioneer D. W. Griffith. The trial was a cause célèbre, and was followed by Darrow being charged with jury tampering. ■



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 Master's degree in Electrical Engineering from Drexel University
 J.D. from Temple University
 Chemistry studies at University of Pittsburgh
 Registered Professional Engineer (Pennsylvania)
 Formerly Assistant Professor at Villanova University
 Formerly Doctoral Candidate in Mathematics at Bryn Mawr College

Westmoreland Revisited

Enforcing the Vaunted Majesty of the English Law

Editor's note: What follows is taken verbatim from Volume I of John N. Boucher's "Old and New Westmoreland," published in 1918 by the American Historical Society.

Shortly after the courts of the new county were opened at Hannastown, the trustees began the erection of a jail. It was made of logs, using only the largest trees. It was a square building of one story and one room. It was strong enough to hold the average prisoner, and those who were considered dangerous and likely to break jail were chained to the logs. Even in comparison to the number incarcerated, jail-breaking was not so common then as now. Nearby the jail was the whipping-post and pillory, for it must be remembered that our laws

then required these instruments of punishment and they were used in Hannastown as will be seen further on. The whipping-post was a section of a small tree, perhaps a foot in diameter, hewn flat on one side and firmly implanted in the ground. About six feet from the ground was a cross-piece five or six feet long and thoroughly fastened to the upright post. The whippings were always public performances. When the wrongdoer was about to be punished, his wrists were tied together and his hands drawn up and tied to the end of the cross-piece. The culprit was then ready to expiate his crime and afford a public illustration of the vaunted majesty of the English law, which Blackstone calls "The accumulated wisdom of all ages." The sheriff or his deputy did the whipping.

The pillory was made like large folding doors and fastened between two upright posts. In this door were three holes and through these holes the head and arms of the prisoner were passed and his arms tied together. In this position he was forced to stand for such a period as the sentence directed. By the English law, which was then in force in Hannastown, every person passing a prisoner in the pillory had the right to throw one stone at him, and we believe he had an equal right, if he chose to exercise it, to express his contempt for the sentence or his belief in the prisoner's innocence by giving him flowers, or otherwise contributing to his comfort. The pillory was erected in the open, where a passerby could exercise his time-honored common law right of stone casting. The court

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records show that this method of punishment was not by any means uncommon in Hannastown....

The first man to be whipped was James Brigland, who in October, 1773, pleaded guilty to a felony and was sentenced by Judge William Crawford to receive ten lashes on his back, well laid, on the next morning between the hours of eight and ten o'clock. But Brigland had been convicted of another crime and the sentence on the second case was that on the morning following his first whipping he was to receive twenty additional lashes ... John Smith was charged with stealing and pleaded guilty. His sentence reflects but little credit on our early courts, or rather on the English law then in force which authorized it. We doubt whether the court records of Western Pennsylvania can produce its equal in severity for the offence for which he was sentenced. He was to receive thirty-nine lashes on his bare back, well laid on, after which his ears were to be cut off and nailed to the pillory, and his sentence reads that he

should then stand one hour in the pillory. Fortunately our court history is not often disgraced with sentences as severe as this....

In October, 1775, Elizabeth Smith was sentenced to receive fifteen lashes on her back, well laid on. She had been an indentured servant of James Kinkaid, who had, therefore at the time, a right to her uninterrupted services. Four days after she was whipped, Kinkaid presented a petition to the courts setting forth that he had been unjustly deprived of her services while she was in prison and while

she was recovering from the effects of the sentence. He asked the court, therefore, to redress him for this loss. Justices Lochry, Sloan and Cavett were on the bench and they deliberately considered his request and directed that she, Elizabeth Smith, should serve Kinkaid for a period of two years after the expiration of her indenture. James McGill was found guilty of a felony in 1782 and sentenced to a public whipping, then to the pillory, after which his one ear was to be cut off and he was to be branded on the forehead with a red hot iron.


It is not pleasant to contemplate these atrocious sentences. They are matters of our court history and all of them were tried before the Westmoreland courts which had jurisdiction over all of Southwestern Pennsylvania. They are introduced here to preserve them and to give the reader a true picture of the age with which we are dealing and that he may realize how our courts have improved and advanced in their administration of justice in the past century. ■

LawSpeak


A riot is where three or more actually do an unlawful act of violence, either with or without a common cause or quarrel ... or even if they do a lawful act ... in a violent and tumultuous manner.

Blackstone's Commentaries on the Law of England

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To-Wit: Meeting Goldberg

by S. Sponte, Esq.

What would you know about it," my angry client hissed at me across my desk, "you've never been discriminated against." That he had ignored the religious lineage clearly associated with my last name was obvious, but as he was already way beyond rationality, I thought the better of mentioning it. So, as I always do whenever a client plummets into psychosis, I gave my mind leave to drift off to sunnier climes.

Over many years, my practice had evolved into doing a fair amount of anti-discrimination work. In fact, I've handled pretty much every kind of discrimination case there is, color, religion, age, gender and sexual orientation. Varied though my experiences may be, I had a hunch that this case could be one of first

impression; who knew anyone hated the Swiss?

However much entitled to rage he might be, he was simply wrong about my never having experienced discrimination. Oh sure, I'd been called many of the slurs customarily flung at my religion when I was a kid, but mostly only by friends who were merely aping what they had learned from their parents, and then only when I had, as usual, bested them in one athletic endeavor or another. I didn't count that as discrimination so much.

But yes, when I went off to boarding school, I did encounter a lot of new and unfamiliar religiously themed invectives. The very first time it happened I thought to myself, "Now why in the world would anyone call me a 'kite?'"

It wasn't until just before my law school graduation, when I started interviewing for jobs, that I experienced

anything like that in the employment realm. My grades were such that I had received invitations to interview from a number of local law firms, including Northam, Olson, Johnson, Eberhart, Wilson and Smith, perhaps then the best law firm in town.

For that interview, I put on my spiffiest outfit and headed downtown. Okay, maybe my dark brown plaid suit and my polka-dotted lime green tie was not a particularly harmonious pairing, but I had to wear them together. They had been a combination gift from a somewhat garb-challenged wife whom I had no desire to insult until quite a few years later.

The building's security guard was at first reticent about letting me pass



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when he saw a name like mine on the daily guest list. “Are you sure about that?” he queried when I told him I had an appointment, but he called to confirm my *bona fides* and then showed me to the elevator. “Are you sure about that?” he said again as the doors closed, this time pointing at my tie.

The law firm’s receptionist led me to a conference room, brought me some coffee and napkins bearing the firm’s motto, “Sic Semper Pauperis.” When I asked for decaf, she nodded her head. “Are you sure about that?” she said as she exited, pointing to my suit.

Soon a middle-aged man came in, attired in a gray pinstripe suit and vest, with a smart rep tie and white button-down shirt. He introduced himself as Montgomery Buffington III, a senior partner and my interviewer.

“So just how do you pronounce your last name?” he asked. When I told him, he repeated it out loud a few times, rolling it around on his tongue, pronouncing it several different ways until, seemingly, it dawned on him. “Oh,” I see,” he said, eyebrows raised, “well, you’ll just have to meet Goldberg while you’re here, he’s one of our junior partners.”

After talking to me a bit, he took me to meet some other partners. The first one grasped the situation at once. “Have you met Goldberg yet?” he asked. It was the same with the second and third introductions. In fact, it was the same with all of them. “Have you met Goldberg yet?” “Has he met Goldberg yet?” “You just have to meet Goldberg.”

“Are you sure about that?”

I did not meet Goldberg during the interviews, so on my way out I stopped at his office. “Is Mr. Goldberg in?” I asked his secretary. “No, I’m sorry,” she replied, “Mr. Goldberg is tied up.” I left my name and number and asked that he call me.

Not hearing from him over the next few days, I called his office. “No, I’m sorry,” his secretary said again, “Mr. Goldberg is tied up.” I called several more times, but each time it was the same. Mr. Goldberg was still tied up.

I was so perturbed after my last unreturned call that I decided to pay Goldberg a spontaneous visit. I rode up in the service elevator and walked into his outer office. “He can’t be tied up every time I call,” I said to his secretary. “Why is he avoiding me?”

“No,” his secretary replied, “you don’t understand. The firm does not want any clients to know Mr. Goldberg works here. He’s an unChristian, you know. That’s why the managing partner has given explicit instructions that whenever Mr. Goldberg comes to work, he is to be tied up. If you really need to see him, he’s over there in the closet.”

I never did receive an offer from that firm, but I was not surprised; apparently one unChristian was their quota, and I thought it highly unlikely they would ever hire another.

As it turned out though, I was wrong. Some years later the local legal journal reported that the firm had just hired a young lawyer named Cohen. It was the same issue that also reported that Goldberg had recently passed away. ■

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New Member Sketches

NATHAN LLOYD GESS has been admitted as a participating member of the WBA. He earned both a bachelor’s degree in history and a master’s degree in IT from the University of Maryland. He followed that by earning his J.D. from the Mitchell Hamline School of Law in St. Paul, Minnesota. A Cyber Analyst for the US Army Corps of Engineers, Nathan has a part-time solo practice in Latrobe, with a focus on consumer protection concerns.

JAMES KANE was admitted as a participating member of the WBA. James received his bachelor’s degree in philosophy from Catholic University of America and his juris doctor degree from Duquesne. He is an associate with Sean Cassidy and Associates, P.C., in Greensburg.

KATHERINE LYNN POMERLEAU has been admitted as a participating member of the WBA. Katherine earned a bachelor’s degree in theology from Saint Vincent College and her J.D. from the University of Pittsburgh. She is in-house counsel with Elliott Company in Jeannette. ■

I N M E M O R I A M



Robert Key

Former WBA member Robert Key, of Freeport, passed away at age 87 on January 27, 2021. Mr. Key practiced law for over 50 years and was the president/owner of Key Bellevilles Inc., the largest manufacturer of disc springs in North America. He is survived by his wife, Patty, two children, and other family members.



Domenic Meffe

Former Westmoreland County attorney Domenic Meffe, of Avon, Ohio, passed away at age 81 on January 1, 2021. Mr. Meffe practiced law for nearly 20 years, and was involved in real estate, restaurants, health care services, and oil and gas. He is survived by his wife, Marlene, five children, and other family members.



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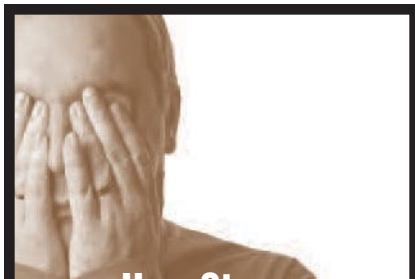
- 9** Civil Litigation Committee, Noon
- 10** Real Estate Committee, Noon
Membership Committee, Noon
Board Meeting, 4 p.m.
- 11** Criminal Law Committee, Noon
- 16** Family Law Committee, Noon
- 18** Elder Law & Orphans' Court Committees, Noon

APRIL

- 2** WBA & Courthouse closed in observance of Good Friday

- 5** Annual Meeting of the Westmoreland Bar Foundation and Westmoreland Bar Association *via Zoom*
- 7** 2021 Directory Portrait Sitzings, 10 a.m. to 4 pm.
- 8** 2021 Directory Portrait Sitzings, 10 a.m. to 5 pm.
- 9** 2021 Directory Portrait Sitzings, 10 a.m. to 3 pm.
- 14** Membership Committee, Noon
Board Meeting, 4 p.m.
- 20** Family Law Committee, Noon

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