



**PHILADELPHIA BAR FOUNDATION**

Promoting Equal Access To Justice Since 1964

# Ad Hoc Committee Report

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**Unanimously Adopted by the Board of Trustees**

July 21, 2016

**Philadelphia Bar Foundation**  
**Ad Hoc Committee Report**

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## **I. Introduction**

### **A. The Ad Hoc Committee's Formation and Charge**

The Philadelphia Bar Foundation supports Philadelphia's highly-regarded network of non-profit legal organizations. According to its Mission Statement, the Foundation "is dedicated to promoting access to justice for all people in the community, particularly those struggling with poverty, abuse and discrimination."<sup>1</sup> It is the only charitable foundation in Philadelphia that is solely dedicated to providing the region's legal services community with the resources to protect the rights of our community's most vulnerable citizens.<sup>2</sup> Consistent with this mission, the Foundation is also committed "to advancing diversity and inclusion in the profession, so that all members of the bar can fully participate in all aspects of the profession."<sup>3</sup>

This Ad Hoc Committee was appointed by the Foundation's Board of Trustees to determine whether the Andrew Hamilton Benefit, the Foundation's signature fund-raising event, should be renamed. The Ad Hoc Committee was convened by Bar Foundation Vice President, Thomas Brophy. Its fifteen members represent a cross-section of the Bar, including Foundation Trustees, Former Chancellors, and other prominent practitioners and academics in the region.<sup>4</sup>

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<sup>1</sup> Mission & Background, PHILADELPHIA B. ASS'N. (2012), <http://philabarfoundation.org/mission-background> (last visited June 30, 2016).

<sup>2</sup> See id.

<sup>3</sup> Philadelphia Bar Foundation Diversity & Inclusion Plan, PHILADELPHIA B. ASS'N. (July 2015), <http://philabarfoundation.org/sites/default/files/PBF%20Diversity%20Inclusion.pdf> (last visited June 30, 2016).

<sup>4</sup> A list of Committee members is attached to this Report as Exhibit A. The Foundation's current President, Steven E. Bizar, Esquire, explained the reasons for the Committee's appointment in his column in the Philadelphia Bar Reporter. See Steven Bizar, The Legacy of Andrew Hamilton, PHILADELPHIA B. REP., Dec. 2015, at 9, 17.

The Board recently learned that Hamilton, the renowned colonial-era lawyer and public official for whom the Foundation's annual benefit was named 38 years ago, was a slave owner. Concurrently, and consistent with its Strategic Plan, the Foundation was evaluating overall opportunities to update its branding, communications and fundraising strategies. The Committee was asked to determine whether, given the Foundation's mission and goals, this aspect of Hamilton's history should be considered in rebranding the Foundation's signature event.

What follows is the Ad Hoc Committee's report to the Board. It provides background relevant to the Committee's charge, the Committee's conclusions, and the reasons underlying these conclusions.

B. Andrew Hamilton, his Contributions to American History, and his Connection to Pennsylvania

For generations, Philadelphia's legal community has embraced Andrew Hamilton's legacy as an attorney of exceptional intelligence, skill, and courage. In the eyes of many, he has become the pre-eminent symbol of the Philadelphia bar's reputation for producing innovative and aggressive advocates. In naming its premiere fund-raising event for Hamilton, the Foundation has tied itself to this legacy. The Foundation proclaims as much on its website, asserting that:

Philadelphia is a city with a well-established reputation in the legal profession. Ever since Andrew Hamilton, a "Philadelphia Lawyer," defended John Peter Zenger in 1735, establishing the principle of freedom of the press, Philadelphia lawyers have epitomized legal expertise and dedication to principle.

As a pre-Revolutionary War historical figure, Hamilton is primarily remembered for his successful defense of John Peter Zenger, a printer in colonial-era New York who was charged

with seditious libel, a criminal offense. In Pennsylvania, however, he is also remembered for his record of service to the Commonwealth as a public official.

Little is known of Hamilton's early life. He is believed to have been born in Scotland in about 1676, and to have immigrated to Virginia under the name Trent.<sup>5</sup> Hamilton originally lived on Virginia's eastern shore, where he ran a school and was either taught or taught himself law. By 1705 he had begun practice in Virginia using the Hamilton name.<sup>6</sup> After establishing his practice in Virginia and extending it to other colonies, Hamilton moved his family to Maryland, and ultimately to Pennsylvania, where he remained for the rest of his life.<sup>7</sup>

By the time he tried the Zenger case, Hamilton was "reputedly the best lawyer in America,"<sup>8</sup> a well-known and respected advocate whose practice covered several colonies.<sup>9</sup> Hamilton practiced not only in American courts, but was also admitted to practice in England, where he appeared on behalf of prominent colonial clients, most notably William Penn and his descendants.<sup>10</sup> An admiring biographer described Hamilton as a lawyer who had "art, eloquence,

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<sup>5</sup> See BURTON ALVA KONKLE, THE LIFE OF ANDREW HAMILTON, 1676-1741: "THE DAY STAR OF THE AMERICAN REVOLUTION" 5-11 (1941) [hereinafter Life of Andrew Hamilton]; see also William Loyd, Jr., Andrew Hamilton (1676-1741), in 1 GREAT AMERICAN LAWYERS 1, 4-5 (William Draper Lewis ed., 1907)[hereinafter Andrew Hamilton].

<sup>6</sup> See Life of Andrew Hamilton, supra note 5, at 9-11.

<sup>7</sup> See id. at 9-21.

<sup>8</sup> JAMES ALEXANDER, A BRIEF NARRATIVE OF THE CASE AND TRIAL OF JOHN PETER ZENGER, PRINTER OF THE NEW YORK WEEKLY JOURNAL 21 (Stanley Nider Katz ed., 1963) [hereinafter Brief Narrative].

<sup>9</sup> See Life of Andrew Hamilton, supra note 5, at 11, 13 (referring to Hamilton as a "well-known lawyer" by the time he was in his thirties with clients in Virginia, Maryland, Delaware and Pennsylvania).

vivacity, and humor, was ambitious of fame, negligent of nothing to ensure success, and possessed a confidence which no terrors could awe.”<sup>11</sup>

The connections Hamilton forged through his practice also helped to make him “a dominant figure in Pennsylvania politics.”<sup>12</sup> After moving his family and practice to Philadelphia, Hamilton held a number of prominent offices, including a period as Pennsylvania’s Attorney General,<sup>13</sup> multiple terms as Speaker of both the Pennsylvania and Delaware Assemblies,<sup>14</sup> and several offices in Philadelphia’s local government.<sup>15</sup> As Speaker of the Pennsylvania House, Hamilton was responsible for, among other things, the design of Independence Hall, which originally was built as a meeting place for the Pennsylvania Assembly.<sup>16</sup>

Hamilton appears to have successfully combined his career in public service with his law practice. For example, in 1720, Hamilton was appointed to the colony’s Provincial Council, accepting the appointment under the express condition that it would not interfere with his legal

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<sup>10</sup> See id. at 16–17.

<sup>11</sup> See Brief Narrative, supra note 8, at 21.

<sup>12</sup> See id.; see also Life of Andrew Hamilton, supra note 5, at 45 (observing that by age 51, Hamilton was a recognized political power in Pennsylvania and Delaware).

<sup>13</sup> See id. at 26–27.

<sup>14</sup> See id. at 45–47.

<sup>15</sup> See id. at 45.

<sup>16</sup> See id. at 51–59. Hamilton guided the State House’s design, and took the lead in finding a site for the project: “a slightly sloping, vegetation-covered site at the outskirts of the city, across the street from property he [Hamilton] owned on Chestnut Street between Fifth and Sixth Streets.” See also CHARLENE MIRES, INDEPENDENCE HALL IN AMERICAN MEMORY 4–6 (2002).

practice. Indeed, although he remained a member of the Council until his death, records suggest that Hamilton seldom took part in the Council's deliberations.<sup>17</sup> As a capstone to his legal career, the Crown appointed Hamilton in 1737 to a judgeship on the Court of Vice-Admiralty. His last case for that Court was concluded in 1741.<sup>18</sup>

As devoted as he was to practice, Hamilton appears to have been equally proud of his public service record, and of the Pennsylvania Assembly's role in preserving the colonists' freedoms. This pride is evident from the Farewell Address Hamilton gave to the Assembly when he resigned from the House in 1739. In that speech, Hamilton praised his adopted home and the freedoms Pennsylvania's constitution allowed its citizens:

I would beg leave to observe to you, that it is not the fertility of our soil, and the commodiousness of our rivers, that we ought chiefly to attribute the great progress this province has made, within so small a compass of years in improvements, wealth, trade and navigation, and the extraordinary increase of people, who have been drawn hither from almost every country in Europe; a progress which much more ancient settlements on the main of America cannot boast of; No, it is principally and almost wholly owing to the excellency of our constitution, under which we enjoy a greater share of civil and religious liberty than any of our neighbors.<sup>19</sup>

Hamilton died on August 4, 1741, the sixth anniversary of the Zenger trial. The obituary for Hamilton that appeared in the Pennsylvania Gazette is reported to have been written by Benjamin Franklin, the Gazette's publisher. Franklin's Gazette generally supported the rights of the Assembly against the colony's appointed governors, and Franklin himself "admired Hamilton's antiaristocratic populism." For his part, Hamilton became something of a mentor to

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<sup>17</sup> See Andrew Hamilton, supra note 5, at 10; see also Life of Andrew Hamilton, supra note 5, at 31 n.1.

<sup>18</sup> See Life of Andrew Hamilton, supra note 5, at 120–23.

<sup>19</sup> Id. at 133.

Franklin. It was with Hamilton's assistance that Franklin had become the Assembly's printer and, later, Clerk of the Assembly, which helped Franklin land other government printing jobs.<sup>20</sup>

Speaking of Hamilton's temperament and its relationship to his political views, Franklin wrote:

[Hamilton] lived not without enemies; for, as he was himself open and honest, he took pains to unmask the hypocrite, and boldly censured the knave, without regard to station or profession. Such, therefore, may exult in his death. He steadily maintained the Cause of liberty; and the laws made during the time he was Speaker of the Assembly, which was many years, will be a lasting monument of his affection to the people, and of his Concern for the welfare of this Province. He was no friend to power, as he had observed an ill-use had been frequently made of it in the Colonies; and therefore was seldom on good terms with the Governors. This prejudice, however, did not always determine his conduct towards them, for, when he saw they meant well, he was for supporting them honourably, and was indefatigable in endeavoring to remove the prejudice of others.<sup>21</sup>

### C. The Trial of John Peter Zenger

Given the relationship of Hamilton's legacy to Philadelphia's legal community, it is safe to assume that many lawyers in Philadelphia are acquainted, at least on a general level, with the

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<sup>20</sup> See WALTER ISAACSON, BENJAMIN FRANKLIN: AN AMERICAN LIFE 113–14 (2003); see also Life of Andrew Hamilton, *supra* note 5, at 39 (quoting Franklin as writing that Hamilton “interested himself for me, strongly in that instance, as he did in many others afterwards, continuing his patronage until his death”). Hamilton and Franklin became acquainted on a trip they took on the same ship to England in 1724. Hamilton was travelling on legal business, the much younger Franklin for his own reasons. During their stay in England, on the advice of a friend Franklin provided Hamilton with information about a political opponent that proved to be useful and, “from that time,” wrote Franklin, “he [Hamilton] became my friend, greatly to my advantage afterwards on many occasions.” Life of Andrew Hamilton, *supra* note 5, at 38–39. Accompanying Hamilton on his two-year trip to England was his son, James. James Hamilton also had an illustrious political career during Pennsylvania's colonial period, serving as Mayor of Philadelphia and Governor of Pennsylvania, among other positions. James Hamilton and Franklin also became friends. See Life of Andrew Hamilton, *supra* note 5, 37–39; see also ISAACSON, at 497.

<sup>21</sup> Andrew Hamilton, *supra* note 5, at 23–24.



basics of the Zenger trial story. Still, to provide an adequate context for this discussion, a limited version of the account is repeated here.

In 1732, William Cosby – described as “quick-tempered, haughty, unlearned, jealous, and above all greedy” – arrived in New York as the colony’s Governor, and almost immediately turned to using his new office to enrich himself.<sup>22</sup> The events that led to Zenger’s trial began with a dispute over money between Governor Cosby and Rip Van Dam, a merchant who served as New York’s acting governor during the period between the death of Cosby’s predecessor and Cosby’s appointment. Traditionally, the acting Governor was obligated to set half of his government salary aside for the incoming Governor, which Cosby claimed immediately upon his arrival. When Van Dam refused to honor his claim, Cosby decided to ask the colony’s Supreme Court to sit as a court in equity and order Van Dam to pay him.<sup>23</sup> Although the Supreme Court was authorized as a technical matter to hear the Governor’s claim as an equity court, the court had not exercised this authority for years, as equity proceedings were unpopular with the colony’s citizens. Ignoring these sentiments, Cosby pressed for a law establishing an equity court and ordered his Attorney General to use it to recover the contested monies from Van Dam.<sup>24</sup>

Cosby’s claim came up for argument before the New York Supreme Court in April of 1733, where Van Dam’s lawyers argued against the Supreme Court’s exercise of equity

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<sup>22</sup> Brief Narrative, supra note 8, at 2.

<sup>23</sup> Cosby could have brought a common law action in the Supreme Court, but believed that a New York jury would have ruled against him and in Van Dam’s favor. He also could not ask New York’s Court of Chancery for relief, since in New York the Governor acted as Chancellor. See Brief Narrative, supra note 8, at 3.

<sup>24</sup> See id. at 3–4.

jurisdiction. Presiding over this argument was Lewis Morris, the Court's Chief Justice since 1715, "the greatest political figure of his time, and already the center of the opposition to the Cosby administration."<sup>25</sup> Chief Justice Morris was from a well-known and respected family, and one of New York's wealthiest citizens. He not only agreed with Van Dam's lawyers, but said so, delivering "a long discourse attacking the propriety and legality of such a court."<sup>26</sup> When the other two Justices agreed with Cosby's position, Morris rebuked them, and took the unusual step of publishing his reasons for disagreeing. Unhappy with this public criticism of his actions and his claim, Governor Cosby dismissed Morris from the Supreme Court and replaced him as Chief Justice with one of Morris' fellow Justices, James De Lancey.<sup>27</sup> It was De Lancey who later, as Chief Justice, was to preside over Zenger's trial.<sup>28</sup>

An organized political opposition dedicated to Cosby's ouster developed in response to this ham-handed exercise of power.<sup>29</sup> One of the tools the anti-Cosby faction used to drum up popular support for their mission was a newspaper, the New York Weekly Journal, which printed material that criticized and even ridiculed Governor Cosby and his actions. The person who was in charge of the Journal's content was James Alexander, a leading New York attorney who was

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<sup>25</sup> See Eben Moglen, Considering Zenger: Partisan Politics and the Legal Profession in Provincial New York, 94 COLUM. L. REV. 1495, 1505 (1994)[hereinafter Partisan Politics].

<sup>26</sup> See Brief Narrative, supra note 8, at 4.

<sup>27</sup> De Lancey, a Cambridge educated lawyer who also was from one of the colony's richest and most influential families, and who was not yet thirty when he was appointed to the Supreme Court, was a "staunch ally" of the Governor. He was 31 when he became Chief Justice. See Partisan Politics, supra note 25, at 1505–06.

<sup>28</sup> See Brief Narrative, supra note 8, at 4.

<sup>29</sup> See id. at 2–7.

to take up Zenger’s defense when he was charged with sedition. The critical articles and satirical material about the Governor were published anonymously. Zenger’s participation in this enterprise consisted merely of printing the paper – he wrote none of the articles it published.<sup>30</sup>

Cosby became convinced within a few months that the Journal’s influence posed a genuine threat to public order (and to his administration), and decided to end the newspaper’s publication.<sup>31</sup> After other attacks on the publication failed, he had Zenger arrested, charged with publishing seditious libels, and imprisoned.<sup>32</sup> When a grand jury twice refused to indict Zenger for sedition, Cosby had the Attorney General (another of his appointees) charge Zenger by means of an information, which made the Governor even less popular than he already was with New York’s citizens.<sup>33</sup>

Alexander and a second lawyer named William Smith stepped forward to represent Zenger. One of their first moves was to file a writ of habeas corpus challenging the legality of the Chief Justice’s and of another Justice’s appointments, and by extension their authority to hear Zenger’s case.<sup>34</sup> After warning the lawyers about the potential consequences of proceeding with such an argument, Chief Justice De Lancey responded to their petition by disbarring Alexander and Smith.<sup>35</sup> De Lancey’s action, along with the Governor’s earlier replacement of the colony’s

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<sup>30</sup> See id. at 8.

<sup>31</sup> See id. at 7–11, 17.

<sup>32</sup> See id. at 18, 48.

<sup>33</sup> See id. at 19, 49–50.

<sup>34</sup> See id. at 19–20, 50–54.

<sup>35</sup> See id. at 20, 53. The Brief Narrative’s introduction suggests that the disbarment was probably “a tactic to deprive Zenger of competent legal counsel, since there were so few

Chief Justice, was seen by the public as nothing less than “an attempt to take political control of the entire legal system.”<sup>36</sup>

Now without representation, Zenger asked the Court to appoint another lawyer for him. The Court granted Zenger’s request and appointed John Chambers,<sup>37</sup> who has been described as “a competent lawyer but a Governor’s man.”<sup>38</sup> When faced with dishonest conduct that could have harmed his client, however, Chambers protected Zenger’s interests. An attempt was made to pack the pool of citizens from which the Zenger trial’s jurors would be drawn with a group of Cosby sympathizers.<sup>39</sup> Chambers discovered this plot and moved the court to have the packing scheme squelched and the normal process for juror selection followed, thus ensuring a neutral jury for Zenger’s trial.<sup>40</sup> It is fair to say that Hamilton’s victory would not have been possible without Chambers’ intervention on his client’s behalf at the jury selection stage.

Zenger’s trial began on August 4, 1735, some eight months after he had been arrested and imprisoned.<sup>41</sup> After the Attorney General read the information, Zenger’s court-appointed

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lawyers in New York at the time and probably none so skilled as Smith and Alexander.”  
Id. at 20.

<sup>36</sup> Partisan Politics, supra note 25, at 1516.

<sup>37</sup> See Brief Narrative, supra note 8, at 55.

<sup>38</sup> See id. at 21.

<sup>39</sup> See id.

<sup>40</sup> See id. at 20–21. Although Hamilton has received the lion’s share of credit for the Zenger victory, Chambers’ refusal to abandon his professionalism in the face of what must have been considerable political and personal pressure clearly played a significant role. For a more detailed discussion of Chambers’ actions, see Partisan Politics, supra note 25, at 1516–19.

<sup>41</sup> Zenger was forced to remain in jail because the Chief Justice set his bail at ten times the amount Zenger claimed to be capable of paying. The bail was excessive and the amount

counsel, Chambers, made an opening statement. When the opening was concluded, Andrew Hamilton rose and announced to the Court that he would be participating in Zenger’s defense.<sup>42</sup> It has been suggested that Hamilton, who had been recruited to try the case by James Alexander and his allies, believed that Cosby’s attempt to compromise the integrity of New York’s courts was a threat to the judiciaries of other colonies.<sup>43</sup>

Hamilton faced formidable legal hurdles in his defense of Zenger, the most important of which was the unavailability of truth as a defense to seditious libel. In 1735, the common law did not recognize the truth of an otherwise disparaging criticism of government or government officials as a legitimate defense to a charge of seditious libel. Prosecutions for these kinds of offenses were meant not to promote truthful commentary about government affairs, but to protect the sovereign by silencing critics.<sup>44</sup> As commentators have noted, “Attacks based on truth were actually believed to be a greater threat to the king than were attacks manufactured out of whole cloth, for an accurate criticism was more likely to ferment discontent and perhaps even insurrection.”<sup>45</sup> Thus, the axiom went, “The greater the truth, the greater the libel.”<sup>46</sup> The trial

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unprecedented in New York. See Brief Narrative, *supra* note 8, at 18–19, 48–49; Partisan Politics, *supra* note 25, at 1514.

<sup>42</sup> See id. at 22, 61–62.

<sup>43</sup> See Life of Andrew Hamilton, *supra* note 5, at 62, 66; see also Brief Narrative, *supra* note 8, at 21–22 (noting that Hamilton was a “professional associate and friend of James Alexander, from whom he frequently borrowed law books.”).

<sup>44</sup> See David Jenkins, The Sedition Act of 1798 and the Incorporation of Seditious Libel into First Amendment Jurisprudence, 45 AM. J. LEGAL HIST. 154, 160–63 (2001); William Mayton, Seditious Libel and the Lost Guarantee of a Freedom of Expression, 84 COLUM. L. REV. 91, 97–108 (1984).

<sup>45</sup> See Rodney A. Smolla, 1 Smolla & Nimmer on Speech § 1:4 (April 2016).

<sup>46</sup> Id.

judge in Zenger’s case (the Cosby-appointed Chief Justice) so instructed the jury.<sup>47</sup> He also denied Hamilton’s request to put evidence on at Zenger’s trial that would have established the truth of the publications in suit.<sup>48</sup>

Hamilton also argued that the jury, not the court, should decide whether Zenger’s statements were libelous.<sup>49</sup> This argument also was contrary to then-prevailing law, which allowed only the element of publication to be decided by juries.<sup>50</sup> Hamilton took the position that leaving it to the Court to decide whether the words on which the claim of sedition was based were in fact libelous essentially rendered the jury useless. What the law required, he argued, was a general verdict, and that “where matter of law is complicated with matter of fact, the jury have a right to determine both.”<sup>51</sup> Not surprisingly, Chief Justice De Lancey denied this request as well.<sup>52</sup>

Ignoring these limitations, Hamilton convinced the jury to disregard the Court’s instructions on the law and to free Zenger. Although he made several legal arguments, the core of Hamilton’s defense was the political argument that free citizens had the right to criticize their rulers, and that this right “rests on the assumption that the state exists to protect each person’s liberty and that the rulers of the state are merely the guardians of the public good.”<sup>53</sup> No doubt

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<sup>47</sup> See Brief Narrative, supra note 8, at 22–23, 100–01.

<sup>48</sup> See id. at 74–75.

<sup>49</sup> See id.

<sup>50</sup> See id.

<sup>51</sup> See id. at 23, 91.

<sup>52</sup> See id. at 78.

<sup>53</sup> See id. at 24.

informed by his own extensive experience with government in the colonies, Hamilton was able to speak directly to the lives of the Zenger jurors, who, like Hamilton, had left Europe to create new histories for themselves in America. Hamilton argued that in this, their new land – far away from the direct protections of England and the Crown, and a place where the colonists had become used to a degree of independence in managing their own affairs – protecting the rights of colonists to express their grievances truthfully against government officials was the most effective guard against abuses of the Crown’s authority by corrupt appointees like Cosby:

No, it is natural, it is a privilege, I will go farther, it is a right which all freemen claim, and are entitled to complain when they are hurt; they have a right publicly to remonstrate the abuses of power in the strongest terms, to put their neighbors upon their guard against the craft or open violence of men in authority, and to assert with courage the sense they have of the blessings of liberty, the value they put upon it, and their resolution at all hazards to preserve it as one of the greatest blessings heaven can bestow.<sup>54</sup>

Hamilton ended his argument by urging the jury to protect not only Zenger’s liberty or even the liberty of their fellow New Yorkers, but the liberty of all free colonists:

Power may justly be compared to a great river, while kept within its due bounds, is both beautiful and useful; but when it overflows its banks, it is then too impetuous to be stemmed, it bears down all before it and brings destruction and desolation wherever it comes. If then this is the nature of power, let us at least do our duty, and like wise men (who value freedom) use our utmost dare to support liberty, the only bulwark against lawless power, which in all ages has sacrificed to its wild lust and boundless ambition the blood of the best men that ever lived.

I hope to be pardoned, sir, for my zeal upon this occasion; it is an old and wise caution *that when our neighbor’s house is on fire, we ought to take care of our own*. For though blessed be God, I live in a government where liberty is well

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<sup>54</sup> See *id.* at 23–25. Hamilton made clear that he was not speaking in the abstract. See *id.* at 79 (“[W]hen a ruler brings his personal failings, but much more his vices, into his administration, and the people find themselves affected by them, either in their liberties or properties, that will alter the case mightily, and all the high things that are said in favor of rulers, and of dignities, and upon the side of power, will not be able to stop people’s mouths when they feel themselves oppressed, I mean in a free government”).

understood and freely enjoyed; yet experience has shown us all (I'm sure it has to me) that a bad precedent in one government is soon set up for an authority in another; and therefore I cannot but think it mine and every honest man's duty that (while we pay all due obedience to men in authority) we ought at the same time to be upon our guard against power wherever we apprehend that it may affect ourselves on our fellow subjects.

I am truly very unequal to such an undertaking on many accounts. And you see I labor under the weight of many years, and am borne down with great infirmities of body; yet old and weak as I am, I should think it my duty, if required, to go to the utmost part of the land where my service could be of any use in assisting to quench the flame of prosecutions upon information set on foot by the government to deprive a people of the right of remonstrating (and complaining too) of the arbitrary attempts of men in power. Men who injure and oppress the people under their administration provoke them to cry out and complain; and then make that very complaint the foundation for new oppressions and prosecutions. I wish I could say there were no instances of this kind. But to conclude; the question before the Court and you gentlemen of the jury is not of small nor private concern, it is not the cause of a poor printer, nor of New York alone, which you are now trying: No! It may in its consequence affect every freeman that lives under a British government on the main of America. It is the best cause. It is the cause of liberty; and I make no doubt but your upright conduct this day will not only entitle you to the love and esteem of your fellow citizens; but every man who prefers freedom to a life of slavery will bless and honor you as men who have baffled the attempt of tyranny; and by an impartial and uncorrupt verdict, have laid a noble foundation for securing to ourselves, our posterity, and our neighbors that to which nature and the laws of our country have given us a right – the liberty – both of exposing and opposing arbitrary power (in these parts of the world, at least) by speaking and writing truth.<sup>55</sup>

The jury deliberated for only “a small time” before they acquitted Zenger, and the verdict was met with cheers from the crowd who had attended the trial.<sup>56</sup> Hamilton's victory was achieved by skill, courage, and above all, foresight. As one historian put it, “The law was against [Hamilton], but the law was out of step with public opinion, and he saw to it that Zenger was tried by the public rather than by the law.”<sup>57</sup>

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<sup>55</sup> Id. at 98–99.

<sup>56</sup> See id. at 101.

<sup>57</sup> Id. at 25–26.



Although Hamilton won the trial, the Zenger verdict itself did not make Hamilton's theory the law. In the end, it took the American Revolution, the adoption of a Bill of Rights as part of the Constitution, the passage and subsequent repudiation of the Alien and Sedition Acts, and other reforms of federal and state law before the theory underlying Hamilton's defense was to become a permanent fixture of American constitutional law.<sup>58</sup> Nevertheless, the verdict put an end to Governor Cosby's attempts to mold New York's judicial system into a tool he could control politically.<sup>59</sup> Historians also have noted that Zenger's victory made it much more difficult as a practical matter for New York's government to bring seditious libel actions against its colonists.<sup>60</sup> Prosecutions for seditious libel ended throughout the colonies in the years following the Zenger verdict.<sup>61</sup>

Most importantly, the principle that Hamilton advanced as the core of Zenger's defense – namely, that a democratic government cannot abide the punishment of citizens for truthful criticism of their public officials, however caustically expressed – remains a pillar of our First Amendment jurisprudence today.<sup>62</sup>

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<sup>58</sup> See id. at 29–33.

<sup>59</sup> See Partisan Politics, supra note 25, at 1519.

<sup>60</sup> See id. at 29–30.

<sup>61</sup> See David Rabban, The Ahistorical Historian: Leonard Levy on Freedom of Expression in Early American History, 37 STAN. L. REV. 795, 804–806 (1985); see also David Anderson, The Origins of the Press Clause, 30 U.C.L.A. L. REV. 455, 510–11 (1983) (noting that there were few trials in the colonies for seditious libel before Zenger's trial “and none after”).

<sup>62</sup> See, e.g., Garrison v. Louisiana, 379 U.S. 64, 70–75 (1964); New York Times v. Sullivan, 376 U.S. 254, 270 (1964).

D. The Question of Hamilton's Slave Ownership.

One of the defining ironies of our country's history is the fact that many of the people we revere most for their defense of liberty were slave owners. Andrew Hamilton was one of these historical figures. He owned slaves, kept them until his death, and willed them as property to others, including his children.

The best evidence available to the Committee on this issue is found in Hamilton's will, through which Hamilton bequeathed slaves he owned to various people, including his children. To his son James, for example, Hamilton bequeathed "my Negroes Isaac the Gardner, Nanny and her daughter [Cis?], and the Negro Boy Jeremiah."<sup>63</sup> His will serves as a record of assignments of slaves to others as well, including Hamilton's son Andrew.<sup>64</sup> It was impossible to tell exactly how many slaves Hamilton actually owned from our review. There is also nothing in the records we examined that provided any information on what Hamilton may have thought of individual slaves, or about slavery generally. Nevertheless, the will makes clear that Hamilton owned a number of slaves, and his bequests are convincing evidence that for all intents and purposes Hamilton regarded these people as property, to be managed and assigned as one would any other source of personal wealth.

Other sources support the conclusion that Hamilton owned slaves. In addition to Hamilton's will, a biography published in 1941, The Life of Andrew Hamilton, 1676-1741, 'The Day Star of the Revolution,' reported that, "[Hamilton's] negro slaves were assigned to various

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<sup>63</sup> Hamilton Will, at 3 (attached as Exhibit B to this Report; original available from the Pennsylvania Archives).

<sup>64</sup> See id. at 3–4.

people.”<sup>65</sup> Another history of Hamilton’s early life in the colonies published in the William and Mary Quarterly in 1964, suggests that Hamilton may have acquired ownership of at least some slaves through marriage to his wife Ann, who inherited slaves from her father’s estate upon his death in the early 1700s.<sup>66</sup>

Hamilton’s ownership of slaves would not have been unusual in Pennsylvania or in any of the other colonies where Hamilton held land during his lifetime. Though never as widespread as it was in the South, slavery was common during this period in the northern colonies, including Pennsylvania. William Penn and Benjamin Franklin owned slaves. Franklin released his slaves later in life and became an abolitionist before his death in 1790.<sup>67</sup> Penn, who used slaves to work his estate, said that he preferred slaves to white indentured servants, “for then a man has them while they live.”<sup>68</sup>

Records show that slaves were working in Pennsylvania as early as 1639, when the Dutch brought them to the Delaware Valley, and that the British continued the practice when they took

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<sup>65</sup> See Life of Andrew Hamilton, *supra* note 5, at 141.

<sup>66</sup> See Foster C. Nix, Andrew Hamilton’s Early Years in the American Colonies, 21 WM. & MARY Q. 390, 398–99 (1964) (noting that Mrs. Hamilton’s father had left her land and “five Negroes.”). Mrs. Hamilton was originally married to Joseph Preeson, who became ill not long after the wedding and never recovered. While Preeson was ill, Hamilton was hired to manage the family’s estate, and he and Mrs. Hamilton were married after Preeson’s death, in 1706. See Life of Andrew Hamilton, *supra* note 5, at 9–11.

<sup>67</sup> For a discussion of Franklin’s evolution on the slavery issue and his work as an abolitionist, see ISAACSON, *supra* note 20, at 463–67; see also *id.* at 151–53, 190–91, 268–69 (discussing Franklin’s early attitudes about slavery and involvement with the practice).

<sup>68</sup> Douglas Harper, Slavery in Pennsylvania, SLAVERY IN THE NORTH (2003), <http://slavenorth.com/pennsylvania.htm> (last visited June 30, 2016).

possession of the colony in 1660.<sup>69</sup> By 1700, 1 in 10 Philadelphia families owned slaves.<sup>70</sup> Most of these servants worked in the city's manufacturing sector, notably in the iron works and in ship building.<sup>71</sup> Slavery also was part of Chester County's economy by 1687. Between 1729 and 1758, slaves were working on 58 Chester County farms.<sup>72</sup>

In 1721 there were about 500 slaves in Pennsylvania. That number grew to 11,000 by 1754 and was estimated to have grown to 30,000 by 1766.<sup>73</sup> The practice peaked in Philadelphia between 1759 and 1765, when wars in Europe and in the colonies reduced the population of immigrants and indentured servants and the demand for labor was high.<sup>74</sup> After the conclusion of the French and Indian war, however, the number of slaves in Pennsylvania fell sharply as immigration to the colonies increased and religious opposition to slavery continued to grow.<sup>75</sup>

Hamilton had been dead for more than 30 years when Pennsylvania took its first steps as a government to abolish slavery within its borders. As a practical matter, the slave trade in Pennsylvania largely ended in 1773 when the colony levied a high duty on imported slaves in response to fears of slave revolt and calls to end the practice.<sup>76</sup> Pennsylvania then moved to

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<sup>69</sup> See id.

<sup>70</sup> See id.

<sup>71</sup> See id.

<sup>72</sup> See id.

<sup>73</sup> See id.

<sup>74</sup> See id.

<sup>75</sup> See id.

<sup>76</sup> See James Gigantino, *Slavery and the Slave Trade*, THE ENCYCLOPEDIA OF GREATER PHILADELPHIA (2012), at <http://philadelphiaencyclopedia.org/archive/slavery-and-the-slave-trade/> (last visited June 30, 2016).

abolish slavery “gradually” in 1780, with the passage of a law that was intended to emancipate the slave population in stages. It was the first law of its kind to be passed in the United States.<sup>77</sup>

## **II. The Ad Hoc Committee’s Conclusions and Rationale**

After extensive discussions, the Committee agreed to recommend that the Foundation seriously consider choosing a new name for its annual benefit, for a variety of reasons including the issue of Hamilton’s slave holding. Those reasons are outlined below.

On the question of whether Hamilton’s slave ownership alone should cause the Foundation to cease affiliating its signature fundraiser with Andrew Hamilton, a number of different opinions were expressed. On the one hand, it was said that slavery was so completely immoral that the Foundation would be wrong to continue to affiliate itself and its signature fundraising program with a historical figure who had engaged in the practice. The moral force of this argument is indeed compelling, particularly when one is reminded of what the institution of slavery was in this country: the brutal and dehumanizing practice of owning and trading in human beings as property; a callous and calculated form of economic exploitation that separated millions of Africans and their descendants by force from their families, identities and native cultures; and a state-sanctioned form of imprisonment and forced labor protected by an unjust legal system, built on and nurtured by the racist falsehood that people of African ancestry were lesser beings who could not be trusted to participate in a democratic society as full and equal citizens because of their ancestry.

On the other hand, without ignoring the legitimacy of this view, or the continuing legacy of injustice wrought by the institution of slavery, it was argued that Hamilton’s contributions to

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<sup>77</sup> See id.

the colonies as they took their first steps towards modern democracy, and most especially Hamilton's historic victory in the Zenger case, outweighed his involvement with an institution that, while morally reprehensible, was lawful and even relatively common among people of Alexander's economic standing during his lifetime. A related concern that was raised was that a symbol of great significance to the Philadelphia bar might be lost if the spirit of Hamilton's example were to be tarnished by this Committee's decisions.

Committee members also vigorously discussed whether attempts to distance present day institutions from their unjust and exclusionary pasts by erasing evidence of their associations with slavery or other forms of bigotry are truly the most effective way in every case of addressing slavery's continuing legacy. Slavery is part of this country's genetic makeup, its continuing legacy part of what we are and a source of challenges Americans continue to face as a people. For its vestiges to be eliminated from American society, slavery's history cannot be forgotten, but rather must be acknowledged, understood, and overcome through commitment to an inclusive future. Acknowledging and noting the participation of Hamilton and other historical figures in slavery as an institution could serve as a commitment to owning this injustice as part of our nation's and Philadelphia's past, and as a reminder of wrongs still to be remedied.<sup>78</sup> As one committee member noted, even if we were to determine that continuing to use Hamilton's name was acceptable, there always should be an "asterisk" next to the name when it is used, to keep both the value and the costs of Hamilton's achievements in perspective.

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<sup>78</sup> For an explanation of this view, see David Cole, Race & Renaming: A Talk with Peter Salovey, President of Yale, LXII THE NEW YORK REVIEW OF BOOKS 10, June 9, 2016, at 42.

In the end, although the Committee never reached consensus on the question of whether Hamilton's status as a slave owner, standing alone, made it necessary or desirable to change the name of the Hamilton benefit, the Committee was unanimous in expressing its total antipathy to slavery, and was agreed that no institution or practice could be more at odds with the Bar Foundation's mission or philosophy. Moreover, while consensus on this complex issue eluded it, the Committee did reach consensus on two other justifications for changing the benefit's name, both of which we believe are of equal importance to the Foundation and its stakeholders.

First, the Committee believes that exemplars of the prototypical "Philadelphia lawyer" abound. History shows that Hamilton's victory in the Zenger trial played a pivotal role in building the reputation of Philadelphia lawyers as exceptional advocates and counselors, and his enduring legacy as an advocate continues to merit our admiration. But we also think that there have been other lawyers whose lives have much to teach us about the characteristics that make an attorney a "Philadelphia lawyer," and thus a role model for others.

There have been many lawyers in Philadelphia who, through their brilliance, personal courage, and use of exceptional legal talents have become role models for any Philadelphia practitioner. Examples of these lawyers can be found throughout the history of this bar, and in all areas of practice. Some, like Richardson Dilworth, Joseph Clark or Arlen Specter, followed Hamilton's example and combined successful careers as practicing attorneys with distinguished tenures as elected public officials. Other practitioners used their superior legal and organizational skills to advance the cause of civil rights. These attorneys – like J. Austin Norris, Gerald F. Flood, Sadie T. M. Alexander, Bernard Segal, Cecil B. Moore, Harvey N. Schmidt, Robert W. Sayre, Juanita Kidd Stout, William M. Marutani, Judith J. Jamison and A. Leon

Higginbotham, Jr. – literally changed the face of leadership in this city, opening doors that had once been closed to far too many Philadelphians.

To these lawyers we would add the names of many members of Philadelphia’s public interest bar, who have committed their careers to ensuring that those who cannot afford representation are represented with the same skill and courage that paying clients are. Over the years, members of the city’s public interest bar have fought to desegregate the city’s public schools; to save children from abusive homes or systems; to ensure that public and private employers follow the law in their interactions with employees and prospective employees; to defend the rights of consumers to honest business practices; to ensure that indigent criminal defendants get fair trials and that defendants who are wrongfully convicted of crimes are exonerated; to protect the rights of individuals against unconstitutional exercises of power by the state; and, in one recent case, to help to expose and, ultimately, remedy the most pernicious fraud on the operations of a local court system ever to occur in the Commonwealth.

In short, we believe there is more than one “Philadelphia Lawyer.” Although there is much to admire in Andrew Hamilton’s record of accomplishments, our Committee was not convinced that the career of a single lawyer who practiced law in Philadelphia almost 300 years ago, even a lawyer whose career was as impressive as Hamilton’s, can adequately represent the rich diversity of contributions that have made our legal community what it is today. Rather, our legal community stands on the shoulders of many practitioners who have distinguished themselves through talent and character, all from different backgrounds and circumstances, whose combined experiences have shaped who we are. More of these lawyers can and should be recognized for their unique contributions to the life of this city and the reputation of its bar.



Second, changing the name of the Hamilton Benefit would allow the Foundation to consider alternatives that more directly relate to its mission and the community the Foundation serves with its fundraising. In significant ways, Hamilton’s career was different than those of the lawyers the Foundation regularly honors with its support. Viewing his career as a whole, one could argue that Hamilton was the ultimate example of how a talented, ambitious, and hard-working lawyer can “do well by doing good.” He prospered from the combination of a successful practice and a talent for government service that also gave him access to influential clients and contacts. Although he may have come to the colonies from Europe with very little money, Hamilton died a wealthy and famous man who was able to leave his children sizable inheritances. Much of his wealth and many of the positions to which he was appointed appear to have been the result of connections he made or compensation he earned through his law practice.<sup>79</sup>

In contrast, the public interest lawyers who are supported by the Foundation’s efforts today have chosen very different professional paths. They have for the most part given up the material benefits that can come from private practice to devote themselves instead to serving the poor and underrepresented. Their daily efforts on behalf of these clients rarely generate publicity and, in many instances, appearing to seek the limelight would only hamper their advocacy on behalf of their client populations with government agencies and others. Rather, these lawyers

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<sup>79</sup> For example, for his services as counsel to the Penn family, Hamilton received a grant of 153 acres, “a territory north of and nearly half as large as the original city of Philadelphia,...one of the great estates of that day.” Life of Andrew Hamilton, *supra* note 5, at 42. The biography also notes that the Penn family gave Hamilton “much of what is now West Philadelphia” for his services in proving Penn’s will. *See id.* at 42 n.1. Nix’s article on Hamilton’s earlier years as a practitioner recounts incidents where Hamilton received sizable bequests from clients and others. *See* Nix, Hamilton’s Early Years, 21 WM. & MARY Q., at 392–93, 396–97.

achieve professional satisfaction from doing their jobs well and fulfilling their chosen missions – namely, helping clients who would go to jail, lose their homes, be fired from their jobs, or find it difficult to properly educate their children if no one was there to protect their legal rights. The Foundation chooses to fund these organizations to thank our public interest community for its commitment and to provide them with the resources needed to keep them in the field, doing what they do best. The Committee believes that it is time to consider whether another name for the Foundation’s signature benefit would more directly acknowledge the value of these lawyers’ contributions to our community’s well-being and celebrate them as examples of the best our profession can offer.

It takes nothing from Andrew Hamilton’s legacy as a lawyer, public servant, and philanthropist for the Foundation to consider naming its primary fundraiser for some other person, organization, or in some other manner whose nomenclature may bear a more direct relationship to the Foundation’s current mission and the community of stakeholders it represents. When the Hamilton Ball was launched 38 years ago, Philadelphia’s legal community was significantly less diverse and the scope of its non-profit practice not nearly as far-reaching or sophisticated as it is today. It is in our view appropriate to consider whether a new name or another approach to marketing the Hamilton benefit would better capture the spirit not only of a more diverse Philadelphia bar, but also of a dynamic and vibrant public interest community that has changed dramatically over the three-and-a-half decades since the Hamilton Benefit was founded.

### **III. Recommendations**

For the reasons discussed above, the Ad Hoc Committee recommends that the Bar Foundation’s Board of Trustees consider changing the name of the Andrew Hamilton

Benefit. We believe that any change should be the result of an inclusive and transparent process that will seek input from all of the Foundation's stakeholders, including contributors to the benefit and representatives from the public interest organizations that are meant to benefit from the Foundation's fund-raising efforts. The ultimate goal of the process should be to develop an image for the benefit that would continue to be effective as a fundraising tool, but that also would accurately reflect the rich diversity of today's community of "Philadelphia lawyers," and celebrate the contributions of the public interest community the Foundation's efforts are meant to support.

In making these recommendations, the Committee takes no position on any other uses the Foundation, the Philadelphia Bar Association or any of its sections or committees may make of Hamilton's legacy in pursuit of their objectives. Our concern was only with whether the Foundation's philanthropic mission and its diversity objectives would be better served by a name change for the Hamilton event. We believe that as far as the Foundation's needs are concerned, a name change should be considered.

Finally, we also recognize that changes in traditions can be difficult. It is the Committee's strong hope that through this process the entire Philadelphia legal community will rally around the core mission of the Bar Foundation and strongly support equal access to justice for all. The Foundation is a vital institution, embodying the commitment of our legal community to supporting these principles and using philanthropy to assist all non-profit legal aid organizations, large and small, to provide services to individuals and families in need. The Committee trusts the Board and staff of the Foundation to continue engaging the broader community as it implements the Committee's recommendations and finds ways to update organizational traditions within the context of renewed branding, communications and fundraising strategies.

**Members of the Ad Hoc Committee Appointed by the Philadelphia Bar Foundation (2016)**

Thomas A. Brophy, Esq., Shareholder, President & CEO, Marshall Dennehey Warner Coleman & Goggin, P.C. *(Chair of the Ad Hoc Committee; President-Elect and Trustee of the Bar Foundation)*

Edward F. Chacker, Esq., Senior Managing Partner, Gay Chacker & Mittin, P.C.  
*(Former Chancellor of the Bar Association; Honorary Trustee of the Bar Foundation)*

Albert S. Dandridge, III, Esq., Partner, Schnader Harrison Segal & Lewis LLP  
*(Former Chancellor of the Bar Association)*

William P. Fedullo, Esq., Counsel to the Firm, Rosen, Schafer & DiMeo  
*(Former Chancellor of the Bar Association)*

Alan M. Feldman, Esq., Managing Partner, Feldman Shepherd Wohlgerlenter Tanner Weinstock & Dodig LLP *(Former Chancellor of the Bar Association)*

Vernon L. Francis, Esq., Partner, Dechert LLP

Rudolph Garcia, Esq., Principal, RudolphGarcia.com, Expeditious Resolutions  
*(Former Chancellor of the Bar Association)*

Amy B. Ginensky, Esq., Partner, Pepper Hamilton LLP *(Trustee of the Bar Foundation)*

Deborah R. Gross, Esq., Of Counsel, Kaufman, Coren & Ress, P.C.  
*(Chancellor-Elect of the Bar Association; Trustee of the Bar Foundation)*

Jessica R. Hilburn-Holmes, Esq., Executive Director, Philadelphia Bar Foundation  
*(Staff to the Ad Hoc Committee)*

Emmanuel O. Iheukwumere, Esq., Founder, Emmanuel Law Firm, LLC *(Trustee of the Bar Foundation)*

Frank M. McClellan, Esq., Professor Emeritus, Temple University Beasley School of Law

Susan Nanes, Esq., Chief Clerk to Hon. Carl Solano, Superior Court of Pennsylvania  
*(Board Observer of the Bar Foundation)*

Angela Taylor, Esq., Asst. Vice President - Manager Enterprise Legal Services Eastern Region, Liberty Mutual Insurance

Roberta G. Torian, Esq., Partner, Reed Smith LLP *(Trustee of the Bar Foundation)*

Michael L. Turner, Esq., Shareholder, Marshall Dennehey Warner Coleman & Goggin, P.C.

Lawrence F. Walker, Esq., Member, Cozen O'Connor *(Trustee of the Bar Foundation)*

# **The Official Will of Andrew Hamilton**

1  
I Andrew Hamilton of the City of Philad<sup>a</sup> in the Province of  
Pennsylv<sup>a</sup> being sick, but of perfect Mind & Memory  
do make this my last Will and Testament. In witness  
Whereas I have the Marriage of my loving Daughter  
Margaret to William Allen of this City Min<sup>st</sup>. I have by  
Deed given to her and her Heirs and Assigns forever, a Lot  
of Land containing about five hundred Acres lying near  
the Borders of Bucks County, a Lot of Ground within the  
City of Philad<sup>a</sup> adjacent to another Lot formerly given  
to her by Geo. Willcox, one other Lot of Ground at Wiccasoa  
lying upon the River Delaware. A piece of pasture  
ground at Wiccasoa afo<sup>r</sup>d. containing about nineteen  
Acres, and ten Acres of Swamp Meadow at Wiccaso afo<sup>r</sup>d  
~~all now in the Tenure and possession of the said~~  
Allen which I intended for part of her Marriage Portion  
but some Doubt occurring to me, whether they may pass  
by that Deed, her Husband not being a party thereto.  
Therefore to avoid all such Doubts, I do hereby give & devise  
all the Lands, Lots, Pastures and Meadows Ground given  
or granted or intended to be given or granted to the said  
Margaret by that Deed, unto the said Margaret, her  
Heirs and Assigns forever.  
Also I give and devise all my Bank and Water Lots  
late the Estate of Joshua Pittery, extending sixty feet from  
North to South all my Messuage Lot and Ground now in  
the Tenure and possession of Stephen Benzett of this City  
Min<sup>st</sup>. extending one hundred and two feet upon second  
Street, together with all my Lots and Ground, contained



(2)

contained in that Square which lies between Second and  
Third Street, Mulberry Street and Sassafras Street in this  
City, which I suppose to be one lot extending sixty one feet  
upon Third Street, four other lots extending each fifty feet  
upon the same Street, and parts of two other lots lying  
contiguous to each other, extending in length <sup>ninety feet</sup> fifty feet each  
one of which parts is bounded by Sassafras Street as to  
my said Daughter Margaret, her heirs and assigns forever.  
Item. I give and devise all my lot of Ground bounded westward  
by fourth Street and to the Southward by Mulberry Street  
extending about ninety nine feet in breadth, which I  
purchased from the heirs of one Richards to my Grandson  
John Allen his heirs and assigns forever. Item. I give &  
devise all my Estate Right and Interest in the three lots of  
Messuages <sup>the</sup> Messuages, which I lately purchased of John and  
William Bidlock to my Grandson Andrew Allen, his heirs  
and assigns forever. Item. I give and bequeath my largest  
Silver Dish to my Grandson James Allen.  
Item. I give and devise the lot and Messuage where I now  
dwell with all the Land & Ground adjacent and occupied  
therewith, the Tract of Land called Bush Hill with also  
my adjacent thereto, two lots of Ground extending each  
twenty feet each on the West Side of Third Street, now in  
the hands of Peter Banks and William Riple all that lot  
of Ground lying on Chestnut Street, which I bought from  
the Widow Carpenter, representatives of one Townsend and  
my lots and Ground on Chestnut Street adjacent opposite  
to the State House - All the rest of my lots, Lands, Goods  
and House



and Houses lying on Walnut Street adjacent to the Westward  
of the Lot belonging to William Madison joint formerly the  
Estate of Widow Weston and her Son or one of them (except  
what I have before devised to my Grandson Andrew Allen)  
and ten Acres of Meadow Ground at Weeacoe now in the  
Possession of my loving Son James Hamilton, to him the  
said James Hamilton his Heirs and Aff. forever.

Now Whereas I am now seized of two Lots of Land containing  
five hundred Acres each lying on the Borders of the County  
of Bucks, I do hereby direct that my said Son James  
Hamilton shall elect one of those Lots, and then I give &  
devise that Lot so elected to him the said James, his Heirs &  
Aff. forever, and the other of those Lots, I give & devise  
to my loving Son Andrew Hamilton his Heirs & Aff. forever.  
I give and devise all my Quacks and Water Lots lying  
by Coates Bridge, which I purchased of Stephen Jackson  
all my Lands, Tenements, Lots and Meadows Grounds in  
the County of New Castle or Delaware, with all my Land  
and Plantation at Coates Bridge in Kent County upon  
Delaware and my Tract of Land called the Grove in the  
said County, to my said Son James, his Heirs and Aff. forever.  
I give and devise all my Lands, Tenements, Orchards &  
Plantations in the Province of New Jersey to my said Son James  
his Heirs and Aff. forever.

Now I give and bequeath my Gold Bow, which I had with  
the Seal of my Freedom of the Corporation of the City of  
New York to my said Son James Hamilton.

I give and bequeath to the said James my Negroes Isaac  
the Gardener, Nanny and her Daughter Cis, and the  
Negro Boy Jeremiah.



(4)  
Item. Over and above the Estates which I have been at in building  
and erecting New Houses and a wharf for my son Andrew, I  
give and devise to him, his heirs and assigns forever, the plantation  
lying on Schuylkill River, which I bought of Stephen Bach  
and I do direct the same to be conveyed to him accordingly.

Item. I give and devise all that Lot on Walnut Street, containing  
about ninety feet in Breadth which I purchased of the  
Heirs of one Jeffers, one other Lot adjacent thereto extending  
about forty feet in Breadth, which I purchased from  
Edward Robinson, all my Tract of land lying near to  
Dunk's Ferry in Bucks County, and all my Land &c  
(plantation in Kent County upon Delaware called  
Whitehall, containing about ninety acres to my said son Andrew  
his heirs and assigns forever.

Item. As to my Negro Garrison  
and his Family, which by a former Gift from me belonged  
to my son Andrew, I desire they may esteemed his, without  
accounting for them in any sort to my Estate.

Item. I give and bequeath my Negro Woman Sue and her  
two youngest Children to Elizabeth Wallers who now  
lives with me.

Item. I direct that my Executors shall give  
a Negro Girl to George Gale of Somerset County in the Province  
of Maryland Gentl; who married the Daughter of Bridget  
Leatherbury.

Item. I give and bequeath all my plate  
to my sons James & Andrew to be equally divided between  
them.

Item. I give and devise all the Rest of my real Estate  
lands, Tenements, Hereditaments, Reversions, Remainders  
with all my Rights and Titles to them or any of them with  
in Law or Equity to my son James Hamilton, his heirs &c  
assigns forever.

Item. I give and bequeath all the Rest  
of my personal Estate to my said Daughter Margaret  
and my son



(5)

And my Sons James and Andrew equally to be divided amongst them - And I do constitute and appoint William Allen and my said Sons James and Andrew Executors of this my last Will and Testament - hereby revoking all other Wills by me heretofore made - In Testimony whereof I have hereunto set my Hand and Seal this thirty first Day of July, in the Year of our Lord, one thousand seven hundred forty and one -

Signed, sealed, published & declared for the last Will & Testament of Andrew Hamilton in the presence of

A. Hamilton

Abraham Taylor  
Wm. Lill  
Sept. Robinson  
Jonah Francis

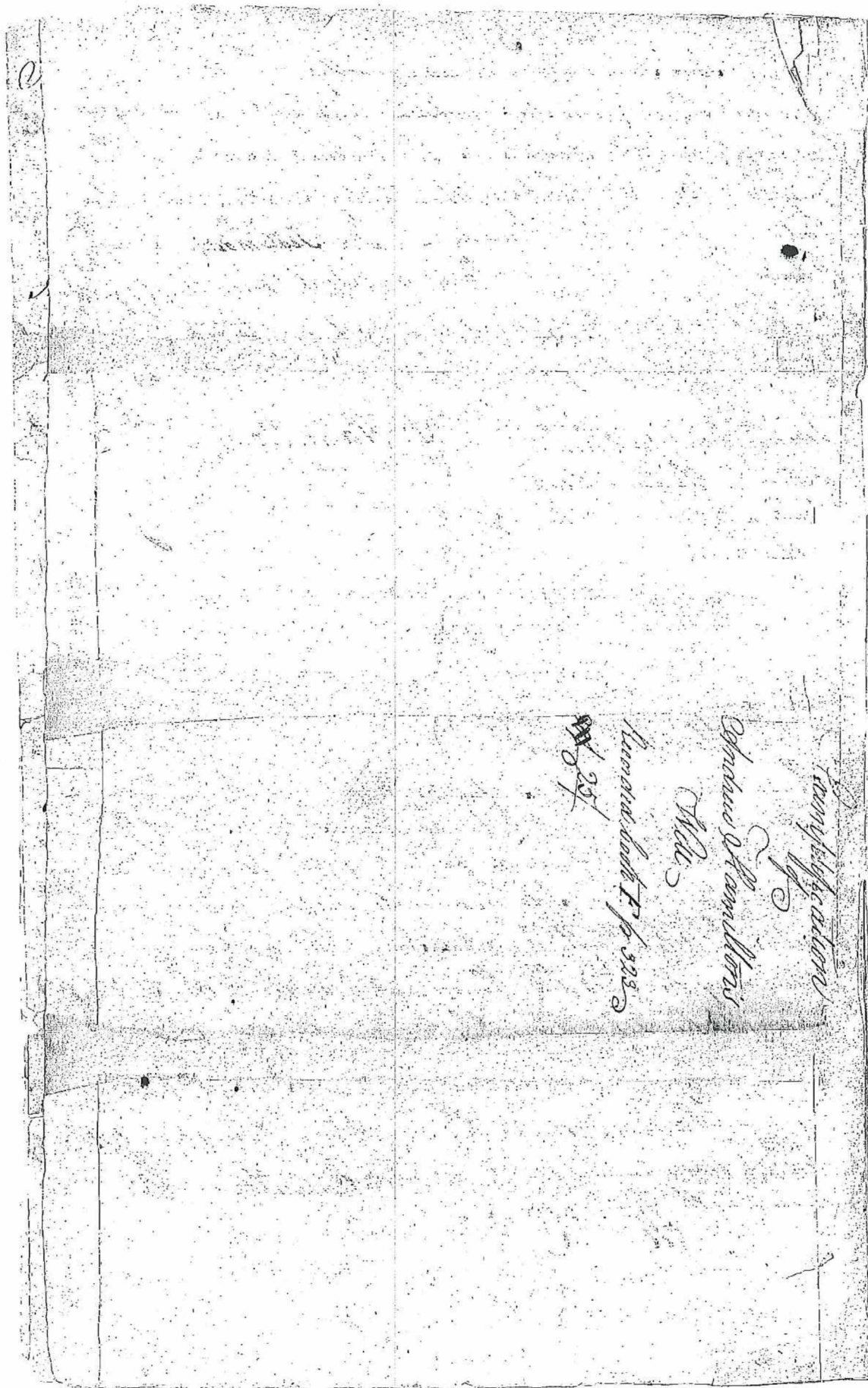
Know all men, That as a full and perfect Codicil to this my last Will and Testament, so far as concerns the wasting & settling the Lots, Houses and Grounds formerly agreed for by me for the use of the province, I do now ratify, authorize & appoint William Allen <sup>of the City of Philadelphia</sup> with my Son James Hamilton, to grant and convey the said Lots, Houses and Grounds to the Trustees appointed by Act of Assembly to receive the same and that in Testimony whereof I have hereunto set my Hand and Seal this second Day of August 1741.

Signed, sealed, published & declared in the presence of

A. Hamilton

Wm. Lill  
Jonah Francis  
Sept. Robinson





Handwritten text in cursive script, likely a signature or address, located in the lower right corner of the document. The text is written on a small, rectangular piece of paper pasted onto the main sheet. The handwriting is in dark ink and is somewhat faded. The text reads: "Adrianus & Annulterius", "M.W.", "Herscheidt, P. 323", and "1827".