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**The Notorious Nathaniel Harrison**  
by  
**Kenneth R. Bailey**

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There were “carpet baggers” who came to West Virginia after the Civil War to benefit from the proscriptions that kept ex-Confederates from holding office. However, the most nefarious character to prey upon the former Rebels and their sympathizers was one of their own. Circuit Judge Nathaniel Harrison’s behavior toward his fellow West Virginians was so bad that he was eventually forced from office. He left the state and died in poverty after having earned a small fortune fleecing disenfranchised West Virginians.

Little is known of Harrison’s origins other than he was a member of the family that boasted two United States presidents—William Henry Harrison and Benjamin Harrison—though his exact relationship to them is unclear. He was educated at the University of Virginia and arrived in Monroe County in the late 1830s where he began the practice of law. He soon married Mary M. Erskine whose father owned and operated the Salt Sulphur Springs resort. In his history of Summers County, James H. Miller described Harrison as “a lawyer of accomplishment; a most polished and ornate orator, distinguished and even handsome in appearance, but Satan had set his

mark upon him.”<sup>1</sup>

Harrison was elected prosecuting attorney of Monroe County in the 1840s. His lifestyle, however, caused him to leave Monroe County and settle, without his wife, in Philadelphia sometime in the 1850s. When the war began, Harrison traveled to Richmond, where he sought a staff appointment on the staff of Gen. Augustus A. Chapman. He failed to secure that post and another in the quartermaster department. He blamed his failure on Allen T. Caperton, a fellow Monroe County lawyer and a member of the Confederate States Senate. Apparently, Caperton revealed Harrison’s character flaws, which prevented him from gaining a position of influence. Nursing his wounds, Harrison “drifted” back to Monroe County.<sup>2</sup>

Back in Monroe County, Harrison concocted a plan to take bribes to excuse conscripts from serving in the Confederate Army. Following the war, a letter to Governor Arthur I. Boreman described how Harrison operated the scheme. “While he was not engaged in the rebel army he was in partnership with the board of enrollment and for money enough could have any man released but in another few days another order would come out and another fee was requested. So that as much as \$2000 have been given him by men in this county to keep them out of the army and every circumstance goes to prove that he had the enrolling board for his partners.”<sup>3</sup>

Even though Harrison had sought a position in the Confederate Army and had worked with Confederate officials on conscription, he somehow managed to pass himself off as a loyal Union

supporter once the war ended. He took the loyalty oath and lied about his involvement with the Confederacy. While other ex-Confederates probably managed to evade responsibility for their wartime actions, probably no one was as successful as Harrison at working his way into the ranks of the Radical Republicans.

In November 1865, Samuel Price, who had served as the lieutenant governor of Virginia during the war, won election as circuit judge for a circuit composed of Greenbrier, Monroe, Mercer, McDowell and Pocahontas counties. Price, who could not take the loyalty oath because of Confederate service during the war, was denied his seat. Instead, Governor Arthur Boreman appointed Nathaniel Harrison to the bench.

Rumors about this pending appointment led Lewis Ballard, who described himself as a loyal citizen of Monroe County, to write Governor Boreman to advise him not to appoint Harrison as a circuit judge. "The same feeling exists in the upper end of the county that does in the lower end in reference to Nat Harrison and if I am not deceived he has acted the most wicked and base part in this county during the war than any man in the county." Ballard went on to warn that if Harrison was appointed, he would not be allowed to ride the circuit.<sup>4</sup>

Boreman ignored Ballard's advice but Ballard's prediction that Harrison would not be allowed to sit on the bench was only partially true. Harrison tried to hold court in Princeton, Mercer County, but he was met with a hostile crowd and didn't even get off his horse. He traveled farther north to Athens (then known as Concord Church), where the population was a little more friendly, and held court there.<sup>5</sup>

Early in his tenure Harrison returned to Philadelphia, where he recruited Cyrus Newlin, an ex-Union officer and lawyer, to move to Monroe County. It is possible that he had met Newlin during his earlier time in Philadelphia though there is no evidence to confirm that. At any rate, Harrison and Newlin began to fleece the former Confederates in Harrison's judicial district. Newlin would take Unionists as clients and then sue ex-Rebels, who were accused of false arrest or damage to property, in Harrison's court. Once a judgment was rendered, Harrison and Newlin split Newlin's fee. According to James Miller's *History of Summers County*,

Harrison pocketed upwards of \$20,000 per year from these suits.<sup>6</sup>

There were numerous instances in which civilians who were Union supporters had been arrested on suspicion of disloyalty and jailed by Confederate authorities. Likewise, Confederate soldiers confiscated or destroyed property belonging to civilians. However, during and after the war the West Virginia Legislature enacted a number of statutes designed to allow Confederates and their sympathizers to be punished for wartime actions while protecting Unionists from being sued for their actions.<sup>7</sup> Though some ex-Confederates were indicted for criminal behavior, most of the litigation involved suits for damages. Lawsuits immediately after the war were extremely one-sided as Confederates and their sympathizers, who had suffered from similar activities from Unionists and Union soldiers, were prohibited from suing to redress their grievances.

Among the several proscriptive acts the West Virginia Legislature enacted was a suitor's test oath requiring that one who wished to sue had to be able to swear that he/she had never supported the Confederacy or taken up arms against the United States or West Virginia.

As early as February 1866, Harrison's behavior had become so bad that David S. Hounshell asked the legislature to impeach him. It was reported that Hounshell had originally supported Harrison for the judgeship. It was also alleged that Hounshell's change of heart stemmed from Harrison's refusal to appoint him prosecuting attorney for Greenbrier County.<sup>8</sup>

Hounshell prepared a statement of charges against Harrison. Col. Daniel Johnson, a delegate who was a Union veteran, introduced a resolution of impeachment in the House of Delegates. Each charge alleged specific acts and provided the name of a person or persons who were willing to swear to the misconduct. The charges were reprinted in the *Wheeling Intelligencer*. Three of the charges addressed comments Harrison made supporting the Confederacy, while still in Philadelphia, and his efforts to gain a position in the Confederate army. Others alleged that he had aided the Confederate army with information about Union troop movements, had sworn allegiance to the Confederate States, and had perjured himself by taking the oath

of loyalty to West Virginia indicating he had never supported the Confederacy. Additional charges were that he had neglected his duty and tried to affect the outcome of cases before his court.<sup>9</sup>

During the war, Col. David S. Hounshell had led a battalion of irregular troops known as “partisan rangers.” Though called ‘partisan rangers’ by the Confederates, irregular soldiers such as those Hounshell led were considered “bushwhackers” by the Unionists, a fact that was thrown into his face when he approached the legislature. When Hounshell waited in the lobby of the legislature to learn if his charges would be considered, he was accosted by Union veteran members of the legislature who called him a “bushwhacker,” which he denied, and who then physically attacked him and threw him down the stairs and into the street.<sup>10</sup> The legislature refused all the charges and supported Harrison.

Not all citizens of Monroe County criticized Harrison. A relative of Lewis Ballard, John C. Ballard, a member of the West Virginia House of Delegates from Monroe County, put a different take on Harrison’s activities. In a note to the *Wheeling Intelligencer*, he claimed that Harrison had actually tried to help the Union loyalists in Monroe County during the war. “. . . his loyalty has never been doubted by a single loyal man of this county and circuit, and as evidence of this I mention the fact that during the war, the loyal men of Monroe were accustomed to visit Judge Harrison at the dead of night to consult him upon business of different kind, and especially to obtain his advice in escaping conscription, and that every loyal man of his county voted for him for the position he now holds and cordially approve of his judicial action.”<sup>11</sup>

Harrison apparently was a frequent visitor to Wheeling, the seat of power during and immediately after the war. On occasion, he would occupy a temporary seat on the West Virginia Supreme Court of Appeals in place of one of the justices who was ill. He participated in the decision known as *Ex Parte Faulkner* which by a vote of two to one (Harrison being in the minority) awarded Charles James Faulkner his license to practice law without having to take the “loyalty oath” required of all state officers. Faulkner argued that he was not an “officer” of the state and James H. Brown and Ralph Berkshire, the regular justices, agreed with him.<sup>12</sup>

Support from the Republican controlled legis-

lature must have emboldened Harrison whose behavior became worse. He continued to receive money from Newlin, he was cavalier in his treatment of other court officers, was sometimes drunk on the bench, failed to appear for court sessions, and had numerous mistresses in the towns in which he held court.<sup>13</sup> All of this notwithstanding, Harrison’s tenure on the court was confirmed on the expiration of his appointed term when he was elected in 1868. He was elected because the Voter’s Test Oath had eliminated all but the most vociferous Unionists from voting in his district.<sup>14</sup>

By 1870, Harrison had become so odious to the citizens of his district that “Alexander Walker who was a Northern man (then living in Greenbrier County), a Republican and a member of the bar, at last resolved to aid in a new attempt for the impeachment of the judge.” Harrison learned of Walker’s plans and entered an order to disbar him and revoked his license. Walker quickly appealed to the West Virginia Supreme Court of Appeals which reinstated his license. “By this time the Republican party in the state found Judge Nat. Harrison a pretty heavy load to carry. He had become a stench in the nostrils of decent people all over the state and his infamies could be no longer winked at or brazenly ignored.”<sup>15</sup>

New impeachment articles were prepared and submitted to the 1870 session of the legislature. They were adopted by both houses and Harrison was summoned to appear to answer charges on February 25. He was in Wheeling at the time, but he went to Pittsburgh to escape service of notice. He was tracked down to a brothel in Pittsburgh, was served, returned to Wheeling the next day and resigned.<sup>16</sup>

Harrison immediately left West Virginia for Denver, Colorado. He is listed in the 1870 census as living in a boarding house there and his occupation as “lawyer.” He died there, penniless, in 1875.<sup>17</sup> It was reported that other members of the Denver bar contributed to the cost of burying him.

Harrison’s co-conspirator, Cyrus Newlin, continued to practice law in Monroe County until 1871 when he died suddenly in Hinton while attending court. “Newlin was also dissipated and dissolute, and his ill-gotten fees passed through his hands as sands through a sieve. There is nothing to mark the grave of this brilliant, though misguided man, and there is not a human being at this day can point out his grave, and no mortal eye to tell in what spot of

the earth his remains rest. Forgotten and neglected, he has passed from the affairs of men.”<sup>18</sup>

Reconstruction ended in West Virginia with the repeal of the voter’s test oath and other proscriptive acts and the adoption of the Constitution of 1872. However, the bitterness engendered by Harrison and Newlin lived on in his judicial district long after his departure.

1. James H. Miller, *History of Summers County* (Hinton, 1908), 228-231.
2. O. S. Long and William L. Wilson, “Reconstruction in West Virginia,” in Hilary Herbert, ed., *Why the Solid South* (Baltimore: R. H. Woodward, 1890).
3. Lewis Ballard to Governor Arthur I. Boreman, June 28, 1865.
4. *Ibid.* Lewis Ballard had served in the first West Virginia Legislature representing Monroe County, was later a home guard captain, captured and eventually escaped from imprisonment at Salisbury, North Carolina. He was elected sheriff of Monroe County in 1865.
5. Miller, *History of Summers County*, 229.
6. *Ibid.*, 231.
7. Actions included: amending the statute of limitations to allow suits to be filed years after a tort occurred; moving lawsuits from counties with Confederate sympathizers to one with Union sympathizers, and others.
8. *Wheeling Intelligencer*, February 10, 1866.
9. *Ibid.*
10. *Ibid.*, February 8, 1866.
11. *Wheeling Intelligencer*, February 13, 1866.
12. *Ex parte Charles J. Faulkner*, 1 W.Va. (1866), 269-303.
13. Richard E. Fast and Hu Maxwell, *The History and Government of West Virginia* (Morgantown: Acme Publishing Company, 1901), 164.
14. Long and Wilson, “Reconstruction in West Virginia,” 17.
15. *Ibid.*
16. *Ibid.*
17. Petersburg (VA) *Index and Appeal*, September 30, 1875.
18. Miller, *History of Summers County*, 232.

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### From the Editor Documents on the Impeachment of Nathaniel Harrison

In the above article, Kenneth Bailey references articles of impeachment against Nathaniel Harrison that were adopted by the legislature in 1870 and brought a scandalous end to his career in West

Virginia. The articles of impeachment printed in the *Acts of the Legislature of West Virginia* were only slightly modified from those reported on January 25 by a special House committee comprised of Francis H. Pierpoint (the former governor), William H. H. Flick, George C. Sturgiss, James M. Jackson, Elbridge G. Cracraft, Jerome T. Bowyer, and Henry Brannon. They cite several instances of misconduct on the part of Nathaniel Harrison, the seriousness of which were undeniable by all but his staunchest supporters. These articles of impeachment and subsequent legislative actions on the issue are reprinted in the pages that follow.

Joint Resolution No. 8, “giving notice to Nathaniel Harrison, judge of the Seventh Judicial Circuit, of proceedings for his removal,” adopted February 8, 1870.<sup>1</sup>

Resolved by the Legislature of West Virginia, That notice be given to Nathaniel Harrison, judge of the seventh judicial circuit of this state, that the Senate and House of Delegates will, the twenty-fifth day of February, eighteen hundred and seventy, proceed to consider and thereafter to determine the question of his removal from office as aforesaid, pursuant to the thirteenth section of the sixth article of the constitution of this state, and that the following causes are alleged for such removal; that is to say:

#### I—Misconduct.

In this, that he has been guilty of taking jurisdiction of causes in which he is personally interested, that is to say: In a suit brought by Oscar Callison against Lewis Ballard and Alexander R. Humphreys, in the circuit court of Monroe county, the partnership transactions of said Ballard, Humphreys, Harrison, and one Cyrus Newlin, and William A. Monroe were necessarily involved, against the protest of said Ballard.

And in this, that the said Harrison while judge of the circuit court of Greenbrier county, took jurisdiction of the case of John A. Wills vs. Henry F. Hunter’s administrator, the said suit being prosecuted for the benefit of the said Harrison. And the administrator of Henry F. Hunter refusing to pay the bond, on the ground that the consideration was illegal and void, the said Harrison agreed to compromise and receive a less

amount, and judgment was rendered for the amount agreed upon at the special term of the Greenbrier circuit court, held in January eighteen hundred and sixty-nine; that the said administrator has paid one hundred dollars of the said judgment, and refuses to pay the residue because the amount already paid is more than his proportion of the personal assets of the estate of said Hunter, that the said Harrison has since assigned the residue of the said judgment to Alexander R. Humphreys, who is now seeking to collect the same.

And also in this: that he has improperly and corruptly advised parties as to suits to be brought by them, and as to the management and conduct of suits pending in his courts, in this, that in a case pending in the circuit court of Monroe county, between Lewis Ballard, plaintiff, and Augustus A. Chapman and others, defendants, he, the said Harrison, maliciously, voluntarily, and corruptly suggested and advised the said Chapman to have his cause tried at the then May term, eighteen hundred and sixty-nine, of said circuit court, proposing at the same time to give him, the said Chapman, a special jury, and to appoint a special officer to summon the jury, for the trial of said cause, who was then known to the said Harrison to be on unfriendly terms with the said Lewis Ballard,

And that he improperly and corruptly advised Lewis Ballard and others, parties litigant in his court, to employ a particular attorney, to-wit: Cyrus Newlin, to bring and prosecute their suits in his said court, the same being in the years eighteen hundred and sixty-five and eighteen hundred and sixty-six, with intent to profit by the fees to be paid to said attorney.

And that he improperly and corruptly consulted and advised with parties about their causes pending in his said court, or with their attorneys. In a case pending in his court, of Riley vs. Riley, in the county of Pocahontas, wherein C. A. Sperry, Esq., was the counsel for the defendant, during the recess at dinner, he sought an interview with said Sperry, in which he advised him to put in the Confederate plea, and as to what testimony would be necessary to make out his defense.

And that the said Harrison has improperly and corruptly appeared as an attorney in the courts of the United States, in a suit where the subject in controversy in the said court was also in controversy in a suit pending in his court, in this, that the said Harrison, at the November term,

eighteen hundred and sixty-nine, of the District Court of the United States, at Charleston, acted as counsel for William P. Rucker, in a suit in chancery pending against him in said court. Said Harrison appeared as attorney for the purpose of procuring a continuance of said cause, in order that action might be had in a branch of the same case which was pending in the circuit court of Nicholas county, the result of which action in said court in Nicholas county could be pleaded as a defence in said case pending in the United States court.

That he has used his judicial power and authority oppressively, vindictively, and corruptly, in this, that he required all the court orders from every part of his circuit to be published in the Monroe Republican,<sup>2</sup> a paper of which he was part owner, so long as the said paper had an existence, to-wit: sometime in the year eighteen hundred and sixty-nine.

Also in this: that he appointed Alexander R. Humphreys commissioner and receiver of the circuit courts of the counties of Greenbrier and Monroe, and allowed him a commission upon any sales made by him by virtue of decrees rendered in said courts, to the full extent prescribed by the statute, but also an additional commission of two per cent for the collection of the bonds executed at such sales, in express violation of law.

And also in this: that although the said Humphreys has held the said office of receiver since sometime in the year eighteen hundred and sixty-six, he, the said Harrison, has failed and neglected to require the said receiver to make a settlement of his said accounts before a commissioner of said Harrison's court, as provided and required by law.

And also in this: that the said Harrison has repeatedly borrowed for his own use funds from the said Alexander R. Humphreys, which he held in his hands as receiver of said courts, without giving security therefor as required by law.

And also in this: That the said Harrison has made unreasonable and illegal allowances out of the funds under his control as judge as aforesaid, to-wit: in the case of Harrison vs. The Farmers Bank, in which he allowed to the attorneys in the cause excessive and unusual gratuities.

And also in this: That on the \_\_\_\_\_ day of January, eighteen hundred and sixty-nine, the said Harrison, acting in concert with the board of registration of Greenbrier county, made an order, upon citation of the officer, declaring the office of

sheriff vacant, upon the ground that the incumbent, Wallace Robinson, had been stricken from the list of voters since his election and qualification, the said Robinson having opposed the election of the said Harrison as judge of the seventh judicial circuit; from which order an appeal taken to the supreme court of appeals of this state, where the same was reversed; and notwithstanding the reversal thereof, and notice of the same, the said Harrison directed the clerk of the circuit court of said Greenbrier county not to deliver the process of the said court to said Robinson, and directed one of the assessors for said Greenbrier county not to deliver the assessor's books to said Robinson, but to one Oscar Callison, whom the said Harrison had appointed to fill the vacancy produced by his order aforesaid, all of which was unlawful and corrupt.

And also in this: That on the \_\_\_\_ day of \_\_\_\_, eighteen hundred and sixty-five, one Henry F. Hunter, then a citizen of said Greenbrier county, applied to the said Harrison for his judicial endorsement of his (Hunter's) petition for a pardon from the president of the United States, and he, the said Harrison, refused to give his said endorsement unless the said Hunter, or some one for him, would give his bond for three hundred dollars to one John A. Wills, a partner of said Harrison, and living in Washington. The bond thus required was given; whereupon the said Harrison made the endorsement desired, thereby putting a price upon his judicial influence and recommendation.

And also in this: That at the November term, eighteen hundred and sixty-nine, of the circuit court of Monroe county, there being a case on the office judgment docket in the name of Jacob C. Allen, for the benefit of Baldwin Ballard versus Richard A. Hutchinson and Richard Woodram, the said Harrison voluntarily and corruptly appealed to the bar, as many as three times, to put in a plea in the case, saying that he could continue the case if such was done, although there was no defense and no counsel in the case, and notwithstanding one of the said defendants was, at the time, in court and urging a judgment for the plaintiff.

And also in this: That in the year eighteen hundred and sixty-five, and before the said Harrison was appointed judge, he was engaged by one Lewis Ballard, of Monroe county, to prosecute a suit in the district court of the United States for the district of Virginia, against certain parties who had broken open the store of the said Ballard

during the late war; that after the said Harrison went upon the bench, and the discovery by the said Ballard of evidence in the county of Monroe upon which to found an indictment, he, the said Ballard, applied to said Harrison to know whether a criminal proceeding in this state against said parties would affect the said Ballard's chances for recovering in the state of Virginia, in a civil suit; that said Harrison informed said Ballard that it would not, but would add to his chances; whereupon the said Ballard had the evidence brought before the grand jury, and a presentment was found against said parties, to-wit: John R. Gleason, Joseph Harrison, William E. Lunda, Robert Gleaves, William Steptoe, Reece Gillaspie, Jno. B. Young, Jas. O. Young, John Holbrook, and Annin Delong. Upon said presentment a bench warrant was issued, and application was made to the governor of this state for a requisition upon the governor of Virginia, in which state the defendants resided, to surrender said parties; which requisition the said governor of Virginia honored, and issued his warrant for the surrender of said parties, but no proceedings have been had under said warrant. Whilst the said presentment was pending, it was suggested to said Ballard that the said parties were willing to pay a large sum of money if the prosecution should be dismissed. The said Ballard declined to become a party to a compromise of said prosecution; but some time after, on or about the \_\_\_\_ day of September, eighteen hundred and sixty-seven, the said Ballard was approached by the said Harrison, who remarked to said Ballard that he, the said Harrison, had been corresponding with the parties to said presentment aforesaid, ever since the presentment was found, and that the said parties were now willing to pay something handsome to get rid of said prosecution. Upon being asked by said Ballard what the said parties were willing to pay, the said Harrison replied, some five or six thousand dollars; and that he, the said Harrison, was going on to Mercer and McDowell counties, and that if he (Ballard) said so, he (Harrison) would fix up the matter while he was gone; but that in the event of his (Harrison's) doing so, that he, the said Harrison, must have a thousand dollars of the amount; that upon the said Ballard's declining to have anything to do with such an arrangement, and expressing his surprise that he (Harrison) should approach him on such a subject, he, the said Harrison, remarked to the said

Ballard that if he, the said Ballard, did not divide with him, he, the said Harrison, would be God damned if he (Harrison) would ever enter a nolle prosequi,<sup>3</sup> thereby corruptly suggesting and advising a compromise of a criminal prosecution.

And also in this: that in the trial of causes the said Harrison takes sides with his friends and flatterers, and against those whom he holds as his enemies; and shows his bias from beginning to the end of the trial, makin[g] it difficult, if not impossible, to get a just and fair verdict of the jury, that is to say: in the case of Kelley vs. Lewis and others in Greenbrier or Monroe county, now pending in the supreme court of appeals of this state, also in the case of Augustus Pack vs. Amos A. Hauxbarger<sup>4</sup> on trial at the September term, eighteen hundred and sixty-nine, in the circuit court of Monroe county.

And also in this: that the said Harrison, at a special term of the circuit court of Greenbrier county, commencing in the month of December last and continuing into the month of January following, came into court one morning with a rule, prepared against Alexander Walker, a member of the bar of said court, to show cause why his name should not be stricken from the roll of attorneys; that the said rule was immediately served, and the said Walker forced to trial without any time for preparation whatever; that at the time of the sitting of said court, on the day aforesaid, the said Harrison came into court with the order disbaring said Walker already prepared, and having heard the evidence, although the same did not sustain the allegations of the rule, he had the said order immediately entered of record, which he had previously prepared, revoking the license of the said Walker as an attorney at law, and disbaring the said Walker from the courts of this state.<sup>5</sup>

And also in this: that the said Harrison permitted one Hercules Scott to qualify as deputy clerk of the circuit court and deputy recorder of Mercer county, without taking the oaths required by law.

And also with willful and corrupt swearing, in this that the said Harrison swore when taking his official oath, as judge as aforesaid, that he had not sought to exercise the functions of any office whatever under any authority in hostility to the United States, which it is charged is false in the following particulars: First, The said Harrison sought the office of aid on the staff of General Augustus A. Chapman, a brigadier general in the

confederate militia. Second, The said Harrison south an office in the quartermaster's department of the confederate army, through the friendly intercession and recommendation of Major Harry H. Harrison, then an officer in the confederate army. Third, That the said Harrison sought an office under the confederate government in the bureau of exchange of prisoners of war.

In his said oath the said Harrison swore that he had given no aid or comfort to persons engaged in armed hostility to the United States by countenancing, counseling or encouraging them in the same, which it is charged is false in this: First, that he voluntarily took an oath to support the confederate government, at Covington, Virginia, on the \_\_\_\_ day of \_\_\_\_, and at Fincastle, Virginia, on the tenth day of December, eighteen hundred and sixty-two, and that in conversation with one Thomas J. Michie and others, and among them several confederate officers, encouraged them in this hostility to the government of the United States.

And also in this: that the said Harrison was intoxicated while engaged in the discharge of his official duties when on the bench, to-wit: on the first day of January, eighteen hundred and sixty-nine.

And also that the said Harrison while occupying his said office as judge as aforesaid has been guilty of gross licentiousness and adultery, which is calculated to bring the judiciary into contempt, in this that he has committed adultery with Nannie Perkins, Jane Reynolds, Fannie White<sup>6</sup> and others, and also with \_\_\_\_, in the county of Pocahontas, while holding court in said county, to-wit: during the year eighteen hundred and sixty-nine, and prior thereto.

## *II.—Neglect of Duty.*

In this that he failed and neglected to discharge his duty as judge of the circuit court of Pocahontas county during the terms of said court during the years eighteen hundred and sixty-seven, eighteen hundred and sixty-eight, and eighteen hundred and sixty-nine, by adjourning his court early in the day before adjourning time, while business was proceeding therein, and absenting himself in the country for licentious purposes until late in the succeeding day, whereby suitors and all other persons having business in said court, were greatly hindered in the trial of their business, and put to great trouble and expense, which practices were continued from day to day.

Joint Resolution No. 9, “fixing the time and manner of the trial of Nathaniel Harrison, Judge of the Seventh Judicial Circuit,” approved February 4, 1870.

Resolved by the Legislature of West Virginia, That the Senate and House of Delegates meet in the hall of the House of Delegates, on Friday, the twenty-fifth day of February, eighteen hundred and seventy, in joint convention, for the purpose of hearing the evidence and arguments of counsel on the trial of the charges against Nathaniel Harrison, judge of the seventh judicial circuit; and that any votes which may be required during the progress of said trial, shall be had by each house in its own hall; and at the termination of said trial, each house shall vote separately upon each of said charges.

Joint Resolution No. 11, “providing for service on Nathaniel Harrison, judge of the seventh judicial circuit, of the charges and specifications against him,” adopted February 8.

Resolved by the Legislature of West Virginia, That the Senate and House of Delegates meet, in joint convention, in the hall of the House of Delegates, twenty days after the service upon Nathaniel Harrison of a copy of these resolutions, and the charges and specifications, as contained in House Joint Resolution number thirteen [Joint Resolution No. 8, above], for the purpose of hearing the evidence and arguments of counsel on the trial of the charges against Nathaniel Harrison, judge of the seventh judicial circuit of this state; and that any votes which may be required to be taken during the progress of said trial shall be had by each house in its own hall; and at the termination of said trial, each house shall vote separately upon each of said charges.

2. That the clerk of the House of Delegates is hereby directed to telegraph Henry M. Mathews,<sup>7</sup> at the White Sulphur Springs, Greenbrier county, in this state, or at such other place as a telegram will reach the said Mathews, these resolutions, and service of a copy of such telegram, together with a copy of the charges and specifications adopted by House Joint Resolution number thirteen of this session, upon Nathaniel Harrison, in the mode prescribed by law, shall be held a valid and legal service of the said charges and specifications and these resolutions.

In the House of Delegates, February 11, 1870:

On motion of Mr. Lamb,

*Ordered*, That summons issue for

- |                         |                    |
|-------------------------|--------------------|
| Samuel Price,           | Greenbrier county. |
| Robert F. Dennis,       | “                  |
| Henry M. Matthews,      | “                  |
| Alexander Walker,       | “                  |
| Alexander F. Matthews,  | “                  |
| Carlos A. Sperry,       | “                  |
| Wallace Robinson,       | “                  |
| Adam C. Snyder,         | “                  |
| James W. Davis,         | “                  |
| Samuel C. Ludington,    | “                  |
| Johnston E. Bell,       | “                  |
| William A. Anderson,    | “                  |
| William H. Peyton,      | “                  |
| Joel McPherson,         | “                  |
| John W. Harris,         | “                  |
| Harry H. Harrison,      | “                  |
| Fannie White,           | “                  |
| Jane Reynolds,          | “                  |
| Nannie Perkins,         | “                  |
| Mat. Crawford,          | “                  |
| Lewis Ballard,          | Monroe county.     |
| Lewis Callaway,         | “                  |
| Frank Hereford,         | “                  |
| Andrew G. Tebbetts,     | “                  |
| Cyrus Newlin,           | “                  |
| Beverly Ballard,        | “                  |
| Alexander R. Humphreys, | “                  |
| James M. Nickell,       | “                  |
| Augustus A. Chapman,    | “                  |
| Benjamin White,         | Mercer county.     |
| John J. Jackson, Jr.,   | Wood county.       |
| Joseph Sebert,          | Pocahontas county. |
| Wesley Mollohan,        | Kanawha county.    |

To attend the Legislature on the first day of March, 1870, as witnesses in behalf of the State on the trial of Nathaniel Harrison, Judge of the Seventh Judicial Circuit.

Joint Resolution No. 23, “authorizing the clerk of the House of Delegates to issue subpoenas for witnesses on behalf of Nathaniel Harrison, judge of the seventh judicial circuit, and providing for the expenses of the same,” adopted February 19.

Resolved by the Legislature of West Virginia, That the clerk of the House of Delegates, be, and he is hereby authorized on the application of the Honorable Nathaniel Harrison, judge of the seventh judicial circuit, of West Virginia, or his counsel, to issue process for such witnesses as he may request, not exceeding thirty, to testify for him on the charges now pending against him, before the legislature, which shall be served by the sergeant-at-arms of the House of Delegates, or such person or persons as he may designate and appoint for that purpose, and that the witnesses shall be paid as provided for in chapter one hundred and thirty of the code of West Virginia.

Joint Resolution No. 30, “concerning the trial of Nathaniel Harrison, Judge of the Seventh Judicial Circuit,” adopted February 28.

Resolved by the Legislature of West Virginia, That the parties who preferred the charges against Nathaniel Harrison, judge of the seventh circuit, be permitted, upon the trial of said Harrison, in person or by counsel, to appear for the prosecution of the charges aforesaid.

2. That such persons, or their counsel, shall be permitted to introduce and examine the testimony, and in all respects to conduct said trial against said Harrison.

3. That no person shall be permitted to speak more than ten minutes on any motion or question of law or evidence connected with said trial, unless the session shall be extended for the trial aforesaid; provided, that both the counsel for the prosecution and defense, shall each have three hours in which to argue the case at the close of the testimony.

4. That House joint resolution number twenty-two [Joint Resolution No. 23, above] be so modified as that, on any question arising in connection with or during the progress of said trial, and until the final question be taken, the vote of the respective bodies may be taken in the hall of the House of Delegates, without the necessity of senators withdrawing to their chamber for the purpose of voting.

In the House of Delegates, March 1, 1870:

The Speaker laid before the House the following message from the Governor:

THE STATE OF WEST VIRGINIA,  
EXECUTIVE DEPARTMENT,  
WHEELING, *March 1, 1870.*

Hon. WM. M. WELCH,  
*Speaker of the House of Delegates:*

SIR:—It becomes my duty to inform the Legislature that I received from Nathaniel Harrison, at 10 o'clock and 15 minutes this morning, his resignation<sup>8</sup> as Judge of the Seventh Judicial Circuit, and have accepted the same.

W. E. STEVENSON,  
Governor.

In the House of Delegates, March 2, 1870:

Mr. Smith, from the Committee on Elections and Privileges, made the following report:

The Committee on Privileges and Elections, to which was referred the resolution relating to the per diem and mileage of Witnesses in the case of Nathaniel Harrison, on trial for removal as Judge of the Circuit Court for the Seventh District of West Virginia, have had the subject under consideration, and instructed me to report,

1st. That the following witnesses, from the county of Greenbrier, are allowed each, for 1,060 miles, coming and returning, at five cents per mile, and one dollar for one day's attendance, entitling each to the sum of \$54[.]00. The said witnesses are as follows: Benj. H. Jones, Alexander Walker, A. F. Mathews, J. E. Bell, O. Collison, John W. Harris, J. F. Caldwell, D. C. B. Caldwell, Wm. A. Anderson, S. C. Luddington, Samuel Price, R. P. Lake, Wm. H. Peyton, Wallace Robinson.

That the following named witnesses, from Greenbrier, are each allowed the sum of \$53 for mileage, and \$3 each for three days' attendance, making to each \$56. The names are as follows, to-wit: Robert F. Dennis, H. M. Mathews, C. A. Sperry.

The same allowance for mileage to the following witnesses, from the county of Monroe, to-wit: Lewis Calloway, Lewis Ballard, A. A. Chapman, J. M. Nickell, making for each, \$54. And the following names witnesses, from Monroe, are each allowed \$53 for mileage, and \$3 each for attendance, making the sum of \$56 for each, to-

wit: Frank Hereford, A. G. Tibbets, Cyrus Newland.

Benj. F. White, of Mercer, is allowed \$54 for mileage, and \$1 for one day's attendance as witness, making in all \$55.

J. M. D. Alderman is allowed as witness from Pocahontas, \$47[.]50 for mileage, and \$1 for one day's attendance, making the sum of \$48[.]50 allowed.

John McCausland, witness from Mason county, is allowed \$18[.]50 mileage, and \$1 for one day's attendance, making \$19[.]50 in all.

D. D. Dix and John G. Malcom, from the county of Nicholas, are each allowed the sum of \$22[.]50 for mileage, and \$1 each for one day's attendance, making the sum of \$23[.]50 allowed to each.

All of which is respectfully reported, with a recommendation that the above sums be allowed.

BENJ. H. SMITH,  
*Chairman.*

Joint Resolution No. 38, "fixing the amount of mileage to be paid certain witnesses for Nathaniel Harrison," adopted March 3, 1870.

Resolved by the Legislature of West Virginia, That J. M. D. Alderman, a witness on behalf of Nathaniel Harrison, from Pocahontas county, receive the same mileage as witnesses in the same case from Greenbrier county; and that William P. Rucker receive the same mileage as other witnesses from Nicholas county.

Joint Resolution No. 42, "fixing the mileage of Zachariah Trueblood, a witness of Nathaniel Harrison," adopted March 3, 1870.

Resolved by the Legislature of West Virginia, That Zachariah Trueblood, a witness summoned here in behalf of Nathaniel Harrison, late judge of the seventh judicial circuit, from Greenbrier county, be allowed the same mileage that has been allowed to witnesses in the same case, from the same county.

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1. Most of these charges, as well as additional allegations, were contained in a memorial presented to the legislature in January 1870. It was signed by Lewis Ballard, T. F. Nickell, Alexander Walker, Baldwin Ballard, Jacob C. Allen, John Hunter, George N.

Brown, Isaac Mann, William Mann, Richison Kesinger, and Wallace Robinson, residents of the Seventh Judicial Circuit. *Wheeling Register*, February 1, 1870.

2. The partnership transactions of Lewis Ballard, Alexander Humphreys, Nathaniel Harrison, William Monroe, and Cyrus Newlin that are alluded to in the first paragraph of the charges concerned the *Monroe Republican*. According to an affidavit of Ballard, part of the agreement was that Harrison, as long as he was judge of the judicial circuit, would give "so much of the judicial advertising as should be subject to his control" to the paper. *Callison vs. Ballard and Humphreys*, Box 216, folder 7, West Virginia Supreme Court of Appeals Papers, Ar1800, West Virginia State Archives.
3. *Nolle prosequi* literally means unwilling to prosecute.
4. The name, correctly given in the charges as printed in the *House Journal*, is Amos A. Hansbarger.
5. Nannie Perkins, mentioned later in the specifications, figured in Harrison's effort to disbar Alexander Walker. According to Perkins's affidavit made on January 10, 1870, on January 8 in the office of C. A. Sperry, Walker had tried to get her to admit that she and Harrison had had intimate relations, which she denied. Her testimony suggested that Walker had tried to bribe her. On January 12, Judge Harrison suspended Walker's right to practice law in the court "for unprofessional conduct and malpractice, in attempting to bribe Nannie Perkins to swear falsely against the said Harrison." *Alexander Walker vs. The State in Reports of Cases Decided in the Supreme Court of Appeals of West Virginia, 1870*, 749-50.
6. Perkins, Reynolds, and White were African American women who, according to the January 17, 1870, *Wheeling Register*, admitted in their affidavits taken in Sperry's office to "relations between themselves and Judge Harrison, as are popularly supposed to need the intervention of a clergyman, a license and a ring. . . . [They] further deposed that Judge Harrison had established an institution in the town of Lewisburg analogous to . . . a harem, with the possible difference that the house that Nat kept was free to all comers and filled with blushing beauties not of Caucasian but of African descent. That the Judge is the practical patron of this establishment, the amiable affiants leave no room to doubt."
7. Apparently, Henry M. Mathews's name was selected because he had left for Greenbrier County a few days earlier with an official copy of the resolution preferring charges against Harrison. Some legislators thought that a telegram was sufficient for service of the subsequent resolution. During the legislative debate, one senator questioned the legality of serving notification by telegraph, characterizing the method as "an anomaly in the history of legislation." *Wheeling Register*, February 8 and 9, 1870.
8. The same day Nathaniel Harrison submitted his

resignation to Governor Stevenson, he wrote a letter to the legislature in which he challenged several items concerning the process and conduct of a trial. Harrison also stated, "I deny the truth of every material charge or specification which is preferred against me." He then announced himself as a candidate for election to the position from which he had just resigned, appealing to "the people, who have twice elected me as their Judge." In his letter, Harrison also characterized himself as the "first judicial victim to the guillotine of the new 'Let Up' policy of the Republican party" and predicted that "it will not stop with me." The Democratic Party did, in fact, win a majority of seats in both houses in the 1870 elections and took the governorship from the Republicans as well. *Wheeling Register*, March 2, 1870.

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### Annual Meeting of the West Virginia Historical Society

On September 30, 2012, the West Virginia Historical Society held its annual meeting in the West Virginia Archives and History Library at the Culture Center in Charleston. Darrell Fetty, actor, writer, musician, and one of the producers of the Emmy-nominated miniseries *Hatfield & McCoys*, was the featured speaker for the program portion of the meeting, "The Making of *Hatfields & McCoys*: A West Virginian's Perspective."

In addition to co-producing the *History Channel* historical drama miniseries on the feud, Fetty played the role of Doc Rutherford in the miniseries. He also produced the companion documentary *America's Greatest Feud: Hatfields & McCoys*, which was shot in West Virginia and Kentucky.



Photograph courtesy of Mary Johnson

Two of the historians who participated in that documentary, Bill Richardson and historical society president Fredrick Armstrong, joined Fetty during the program to provide additional perspectives on the production of the two films. The historical society program, which attracted an audience of more than sixty people, proved a very informative and enjoyable gathering.

The following officers were elected for the 2012-2014 period:

Fredrick Armstrong	<i>President</i>
Chad Proudfoot	<i>Vice president</i>
William McNeel	<i>Treasurer</i>
Mary Johnson	<i>Secretary</i>

### *Regional Vice Presidents*

#### First District

Margaret Brennan  
Rodney Pyles

#### Second District

Cheryl Withrow  
William Dean

#### Third District

Larry Legge  
Paul Rakes

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### Submissions

The West Virginia Historical Society newsletter welcomes manuscript submissions for publication consideration that deal with state or local history-related topics. Submissions, which should be of a length suitable for publication in the newsletter and include footnote/endnote citations of referenced materials, should be sent to the newsletter editor, West Virginia Historical Society, P.O. Box 5220, Charleston, WV 25361.



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