

A KEY WEST “JACK-OF-ALL-TRADES”:
THE STRANGE LIFE, AND PECULIAR DEATH, OF DR.
DANIEL W. WHITEHURST

Robert M. Jarvis*

ABSTRACT

In 1845, lawyer-turned-physician Daniel W. Whitehurst, originally from Virginia, moved to Key West. By the time of his death in 1872, Whitehurst had served as the city’s mayor, state senator, and captain of its rebel guard. Nevertheless, Whitehurst now is an unknown figure. Buried with him is his cause of death, which may have been suicide.

KEYWORDS

Africa, Confederate States of America, Cuba, Disease, Early Newspapers, Florida Keys, Florida Politics, Forts, Key West, Medical Education, Slavery, Spain, St. Augustine (Florida), Suicide, U.S. Civil War

CONTENTS

I. INTRODUCTION 256

II. CORRECTIONS 256

 A. Who Was Who Entry 256

 B. McMurtie’s Article 257

 C. Smiley’s Essay and Wickman’s Book 260

 D. Family Papers 268

 E. Nichols’s Report 271

III. ADDITIONS 281

 A. Expulsion from West Point 282

 B. Election to the Florida Senate 284

 C. Election as Mayor of Key West 287

 D. Death 287

IV. CONCLUSION 291

* Professor of Law, Nova Southeastern University (jarvisb@nova.edu). For their help with this article, many thanks are due to Giselle Alonso (Miami-Dade County Public Library); Jane Arnold (National Society of the Colonial Dames of America in the State of Florida); Chad Germany (St. Augustine Historical Society); Tamara Hallo (Hallo Genealogical Services); Tom Hambright (Monroe County Public Library); Melissa Jerome (University of Florida Library); Stefanie Kite (Ximenez-Fatio House Museum); Alison Rosenberg (NSU Panza Maurer Law Library); Breana Sowers (Monroe County Public Library); and Payson Tilden (Ximenez-Fatio House Museum).

I. INTRODUCTION

On a web site listing Key West's dead, Daniel Winchester Whitehurst, a 19th century Florida doctor, explorer, journalist, lawyer, politician, and soldier, is celebrated as a "jack-of-all-trades."¹ Yet despite his diverse talents, Whitehurst does not have a Wikipedia page;² there is no known picture of him;³ and his headstone, erected long after his death, contains incorrect information.⁴ Moreover, while a scattered handful of sources recount his exploits, almost all contain errors of one sort or another. Accordingly, this article seeks to set matters straight. To do so, it first corrects what the existing sources say about Whitehurst. It then provides important new information about his education, political career, and death.

II. CORRECTIONS

A. WHO WAS WHO ENTRY

Perhaps the easiest source to find about Whitehurst is his short entry in *Who Was Who in Florida* ("WWWF"). After giving the years of his birth (1807) and death (1872), it summarizes his life as follows:

A native of Virginia, [Whitehurst] came to Florida and settled in St. Augustine. He served as a major during the Second Seminole War of 1835-1842. After the war he practiced law and became editor of the *St. Augustine News*. Whitehurst then studied medicine and in 1843 received his degree as a medical doctor from New York University. He moved to Key West to become post physician at Fort Taylor and later was the post physician at Fort Jefferson. While serving at Fort Jefferson he assisted the famous Dr. Mudd during the terrible yellow fever epidemic of 1866 [sic].⁵

¹ *Whitehurst, Daniel Winchester (1808-1872) – Jack of All Trades*, CITY CEMETERY, KEY WEST, FLORIDA, PART 3, at <http://historichouston1836.com/city-cemetery-part-3-key-west-florida/>. This web site misidentifies Whitehurst's birth year, listing it as "1808" rather than "1807."

² Whitehurst does have a page on Ancestry.com, but it is rather sparse and also misstates his birth year. See Alison R. Hardage, *Daniel Winchester Whitehurst 1808-1872*, ANCESTRY.COM, at <https://www.ancestry.com/family-tree/person/tree/69316113/person/36288915359/story>.

³ See, e.g., Albert C. Manucy, PAGES FROM THE PAST: A PICTORIAL HISTORY OF FORT JEFFERSON 22 (1999) (image of a blank box with the notation: "No portrait of Dr. Whitehurst has been found.").

⁴ Whitehurst's headstone includes the names of his wife Henrietta and oldest daughter Mary. The latter's middle name is spelled "Catharine" instead of "Catherine." A photograph of Whitehurst's headstone can be viewed at *Dr Daniel W. Whitehurst*, FIND-A-GRAVE, at https://www.findagrave.com/memorial/87186706/daniel-w_-whitehurst. For many years, Whitehurst, like many early Key Westers, did not have a headstone. See Mike Capuzzo, *United in Death on Key West: Graves Shared*, MIAMI HERALD, June 9, 1981, at 1A, 4A.

⁵ HENRY S. MARKS, WHO WAS WHO IN FLORIDA 261 (1973). Marks incorrectly gives the date of the 1867 Fort Jefferson yellow fever outbreak as "1866." As has been explained elsewhere:

B. McMURTIE'S ARTICLE

There likewise is a brief description of Whitehurst in the *Florida Historical Quarterly*. In an article about early Florida newspapers, Douglas C. McMurtie explains that Whitehurst "established the St. Augustine *News* in November, 1838[,] published [it] until the end of 1840[,] and remained as editor through part of the next year, when he left Florida for New York."⁶

In the *News*' first issue, Whitehurst penned a long editorial in which he laid out his goals:

A paper, bearing the title of "THE NEWS," is this day issued, and seeks from the countenance of the public, such support as its merits may deserve. In thus adding another newspaper to the many which are already on occupied ground, the Editor candidly admits he feels the extent of the responsibilities, which necessarily attach to a faithful discharge of the duties incurred, and enters upon the field with no little solicitude, as to the success of an undertaking, in which more able and experienced hands have not unfrequently met with failure and defeat. . . .

Three years have now passed by, and the territory is still the theatre of war. Her people have ever shown a ready zeal to encounter any danger, which the exigencies of the times have demanded; and have repeatedly given proof in action of their fidelity and courage. Yet, with this amount of suffering and privation endured, her inhabitants have been misrepresented and abused, and error perpetuated, by *ex parte* statements, which have had their full influence aboard. To correct these impressions, and exonerate our people from the sweeping charges of anonymous or avowed authors; to disseminate such intelligence as will best develop the capabilities of our soil, and advance the agricultural interests of the country;—to support a system of education, which shall embrace every free white citizen of the country,—and to allay the discordancies of party, by a mild and equable course of conduct, will be his anxious and studious effort. . . .

The dreaded yellow fever invaded Fort Jefferson in August, 1867. It was brought by Captain George W. Crabbe from Havana, Cuba. Unknowingly, he had carried on his person or in [his] luggage several Tiger mosquitoes that quickly multiplied into millions of virus carriers.

By late September the epidemic reached its peak. Of the approximately 400 people then at the fort, 275 were seriously infected. Of these, 38 had died, including two prisoners, the Post Surgeon, and four hospital nurses. Dr. Samuel Mudd had been fighting the scourge since September 6 when he was released from confinement. Dr. Daniel Whitehurst joined Mudd on September 7 when the latter returned from Key West. Both doctors performed heroic work and survived. They were credited with containing that particular epidemic which ended with the last case reported.

Living at Fort Jefferson Then and Now, DRY TORTUGAS NATIONAL PARK AND FORT JEFFERSON FERRY SERVICE, at <https://www.drytortugas.com/fort-jefferson-life/>.

⁶ Douglas C. McMurtie, *The Beginnings of Printing in Florida*, 23 FLA. HIST. Q. 63, 72 (1944).

The Editor disclaims all attachment to party, other than the cause of
CORRECT PRINCIPLES, the TRUTH, and MORALS.

His columns are open, therefore, to all temperate communications,
which do not entrench on private character, or which would strike at
conscientious obligation.

These are the landmarks which shall guide him in the conduct of this
paper.⁷

Whitehurst quickly abandoned the neutrality promised in his editorial. Like most East Floridians, he was a supporter of the Whigs,⁸ and when the party succeeded in electing William Henry Harrison president in 1840, Whitehurst joined other Whig newspaper editors at a celebratory dinner in Washington, D.C. When his turn came to speak, Whitehurst praised his fellow editors as “[t]he sentinels on the watch-tower of freedom—the conductors of the Whig press: Neither bound in ‘golden shackles’ nor intimidated by the ‘iron hand of despotism.’”⁹

In operating the *News*, Whitehurst showed a distinct taste for yellow journalism:

Established in 1838 by Peter Sken Smith and Daniel W. Whitehurst to promote Whig party principles, the *News* was generally more a purveyor of sensationalism than its arch rival, the St. Augustine *Florida Herald*. Most articles and editorials were written by Whitehurst, who had served in the Indian war as a staff officer for Brigadier General Joseph M. Hernandez, a commander of the East Florida militia. Thus, his interest in and knowledge of military affairs came naturally. Whitehurst depended on the ship captains who entered St. Augustine harbor enroute to and from southern military posts like Fort Lauderdale for much of his information about the war.¹⁰

⁷ D.W. Whitehurst, *The News*, ST. AUGUSTINE NEWS, Nov. 3, 1838, at 2 (capitalization and italics as in the original).

⁸ For a history of the Whig party in Florida, see HERBERT J. DOHERTY, JR., *THE WHIGS OF FLORIDA 1845-1854* (1959).

⁹ *Festival of Whig Editors*, NILES’ NAT’L REG. (Balt.), Mar. 20, 1841, at 34, 36.

¹⁰ Cooper Kirk, *Ambush on the New River*, 1 BROWARD LEGACY 8 (July 1977). As Kirk reports, Whitehurst’s partner in the *News* was Peter Sken Smith. The scion of a wealthy family, Smith, like Whitehurst, was a lawyer:

[Smith] was educated at Hamilton College and became a merchant before he had reached his 21st birthday. He established a large store in Utica . . . [but] soon became [overextended] and failed for upwards of \$100,000 and took the benefit of the bankruptcy act. He then entered [various New York] law office[s] . . . as [a] student . . . until he was admitted to practice. . . . In 1829 he removed to Oswego, and afterwards resided in Pennsylvania and Florida, where he was an officer in the U.S. Army, bearing the title of Major-General. For several years he was a prominent politician in Philadelphia, but his eventful life was ended May 6, 1858, in an insane asylum at Springfield, Mass.

On January 15, 1841, Whitehurst sold the *News* to Aaron Jones, Jr., and Thomas T. Russell.¹¹ In announcing the sale, Whitehurst made it clear he was staying on as editor:

The Subscriber has this day sold the Press, types, debts, &c, of "THE NEWS," to Messrs. THOMAS T. RUSSELL and AARON JONES, Jr., who will continue to issue it in [the] future as the proprietors thereof. The connection of the Subscriber for the present, will continue to exist as Editor.¹²

On March 5, 1841, however, Whitehurst resigned as editor. He subsequently bid the paper's readers good-bye by writing:

The Subscriber's connection with "THE NEWS," was dissolved on the 5th inst. In withdrawing his association from a Press, which he controlled over two years under much difficulty and opposition, he has reason to congratulate himself, that the strenuous efforts of personal and political enemies toward its destruction, were alike fruitless, and have left him unscathed from the combinations of undisguised malignancy. To his friends, he owes much for their forbearance and cordial assistance—to his opponents, nothing. With his brethren who have interchanged a friendly relation, he extends the warm hand of attachment—all that he can offer; and to those who have stood by him in "good and evil report," the assurances of his gratitude.¹³

¹¹ This turned out to be the first in a series of changes for the paper:

Whitehurst was succeeded on the *News* by Thomas T. Russell and Aaron Jones, Jr. Russell, a southerner by birth, published the *News* until the spring of 1845, when he left St. Augustine for Jacksonville, where he published for a short time the *Florida Whig*, a party organ which existed solely for political purposes. Jones came to the *News* from the Jacksonville *East Florida Advocate*, but he remained with the St. Augustine paper only a few months. From 1842 to 1844 Russell had as a partner Charles E. O'Sullivan, previously a compositor on the *Savannah Republican* of Georgia. After his two years in Florida, O'Sullivan returned to Savannah, where he was printing as late as 1869. When Russell left the *News* in 1845 he was followed by Albert A. Nunes, a foreign-born printer who was brought to the United States in 1819 at the age of two. He came to Florida about 1838, and his career after 1845 is not known. The *News* was moved to Jacksonville in 1846.

McMurtie, *supra* note 6, at 73.

¹² D.W. Whitehurst, *To the Public*, ST. AUGUSTINE NEWS, Feb. 5, 1841, at 3 (capitalization as in the original).

¹³ D.W. Whitehurst, *To the Public*, ST. AUGUSTINE NEWS, Apr. 2, 1841, at 2. Whitehurst's principal nemesis while running the *News* was James M. Gould, the publisher of the crosstown *Florida Herald and Southern Democrat*. Matters became so heated between the two men that at one point Whitehurst published a nearly page-long editorial attacking the *Herald*. See D.W. Whitehurst, *The Herald and Its Editors*, ST. AUGUSTINE NEWS, July 3, 1840, at 2. For a brief biography of Gould, see *History of St. Johns County*

C. SMILEY'S ESSAY AND WICKMAN'S BOOK

With a bit more effort, a researcher can go beyond Whitehurst's WWWF entry and McMurtie's article and find what until now has served as Whitehurst's biography: an essay by Nora K. Smiley in *Martello*, the former annual journal of the Key West Art and Historical Society.¹⁴ It lists Whitehurst's full date of birth (September 29, 1807); his birth city (Norfolk); his full date of death (January 19, 1872); his wife's maiden name (Henrietta Weedon); and explains (somewhat incorrectly) that the couple had a son (Dr. Mason Whitehurst) and two daughters (whose names are omitted).

In addition to mentioning his war record, newspaper editorship, and medical studies, Smiley reports: "As a young man [Whitehurst] was active in the American Colonization Society [(“ACS”)]. It was in connection with this group that he made a trip to Liberia [c. 1831 to 1835], a considerable adventure in those days."¹⁵

Sheriffs, ST. JOHNS COUNTY SHERIFF'S OFFICE, at <https://www.sjso.org/sheriffs-office/history/>. As this source explains, Gould "was . . . brash and outspokenly belligerent toward his enemies. [After his newspaper days, he] had a busy life as public office holder [and served as] Sheriff, County Commissioner, Justice of the Peace, State Legislator, and Registrar of Public Lands." For a further look at Whitehurst and Gould's rivalry, see Jonathan B. Crider, "Printing Politics: The Emergence of Political Parties in Florida, 1821-1861" (unpublished Ph.D. thesis, Temple University, May 2017), available at <https://digital.library.temple.edu/digital/api/collection/p245801coll10/id/427023/download>.

¹⁴ See Nora K. Smiley, *Dr. Daniel W. Whitehurst*, 4 MARTELLO 21 (1967) [hereinafter MARTELLO]. Smiley's essay also appears in newspaper form. See Nora K. Smiley, *Dr. Daniel W. Whitehurst*, KEY WEST CITIZEN, Feb. 19, 1967, at 5B.

¹⁵ MARTELLO, *supra* note 14, at 21. Founded in 1816, the ACS promoted the transportation of freeborn U.S. Blacks and emancipated slaves to Africa. See ERIC BURIN, SLAVERY AND THE PECULIAR SOLUTION: A HISTORY OF THE AMERICAN COLONIZATION SOCIETY (2005). Upon returning to the United States, Whitehurst wrote a lengthy article about his trip, which was serialized by the ACS in its monthly magazine. See D.W. Whitehurst, *Mr. Whitehurst's Journal*, 12 AFR. REPOSITORY & COLONIAL J. 105-11, 144-50, 177-84, 209-16, 241-46, 273-81, and 307-15 (1836).

The exact dates of Whitehurst's trip are unknown. In his article, Whitehurst gives no inkling of when it began, but does say that on May 14, 1835, while in Monrovia (Liberia's capital), he and his fellow commissioners were "informed that our Mission being completed, our services were no longer required for the public benefit." See *id.* at 315. It appears that Whitehurst remained in Liberia until the fall, when he booked passage back to the United States. See [News] *From Western Africa*, COMM. ADVERT. (NY), Dec. 8, 1835, at 1 ("[T]he brig Ruth[] arrived yesterday at Philadelphia, after a passage of 43 days from Liberia. She brought the following passengers: . . . Daniel W. Whitehurst, Esq. . . ."). Based on various documents discussed later in this article, it seems likely that the trip started in late 1831. But see PATRICIA RILES WICKMAN, OSCEOLA'S LEGACY 206 (rev. ed. 2006) (listing "mid-1832" as Whitehurst's embarkation date—Wickman, however, gets several other facts wrong: not only does she say that Whitehurst took the trip for his health, she claims he went on it *after* he attended NYU).

Whitehurst's trip generated considerable interest outside ACS circles, with one newspaper reporting:

Messrs. D.W. Whitehurst, A.D. Williams, and G.R. McGill were appointed commissioners to proceed into the interior for the purpose of negotiating peace among the hostile tribes, and of exploring the country with a view

Smiley also adds that Whitehurst represented Key West at Florida's 1865 state constitutional convention.¹⁶

For the most part, however, Smiley focuses on two other events in Whitehurst's life. First, in 1843, Whitehurst received as a wedding present from his new father-in-law, Dr. Frederick R. Weedon, the head of the Indian warrior Osceola. Weedon had treated Osceola during the latter's confinement at Fort Moultrie in South Carolina and, following Osceola's death there in 1838, had taken his head as a trophy. Whitehurst, in turn, presented the relic to Dr. Valentine Mott, one of his NYU professors.¹⁷

to fixing on a spot for a colonial settlement in the interior. It appears . . . that they were not entirely successful. They took with them some Arabic Bibles for distribution,--a quantity having been received from the British and Foreign Bible Society.

Liberia, VT. CHRON. (Windsor), July 16, 1835, at 115.

- ¹⁶ Whitehurst was elected to this position by a comfortable margin, polling 54.5% of the vote. See *Political Items*, NEW ENG. FARMER (Boston), Oct. 28, 1865, at 3 ("The New York *Tribune* has a few returns from Florida of the election for delegates to the Constitutional Convention. In Monroe County, D.W. Whitehurst, 'representing the set who ruled *before* the war,' received 189 votes; Judge T.J. Boynton, 'representing the set who ruled *during* the war,' 150 votes; and Samuel Walker, 8 votes. Whitehurst's majority over all, 31.").

The convention met in Tallahassee for two weeks (Oct. 25-Nov. 7, 1865), with Whitehurst serving on the Boundaries Committee (which defined with increased precision the state's borders) and the General Provisions Committee, which dealt with "all subjects connected with the Colored Population of the State." See JOURNAL OF PROCEEDINGS OF THE CONVENTION OF FLORIDA, 1865, at 26 (1865) (listing Whitehurst's committee assignments).

Although grudgingly acknowledging that slavery had been destroyed by the federal government, in all other respects the delegates took pains to preserve the *status quo*. When they were finished, each man affixed his signature to the new constitution, with Whitehurst, the gathering's only doctor, adding "M.D." after his name. See *Constitution of the State of Florida, 1865*, FLORIDA MEMORY: STATE LIBRARY AND ARCHIVES OF FLORIDA, at <https://www.floridamemory.com/items/show/189093?id=47> (reproduction of page 47 of the original text showing Whitehurst's signature).

- ¹⁷ As has been explained elsewhere:

[I]n 1843, [Whitehurst] sent [the head] to Dr. Valentine Mott in New York, along with this short note: "My Dear Sir: Accompanying this, you will be handed the head of the celebrated Seminole Chief, Osceola, a man who in recent years filled a large space in the eye of the American public, if indeed not the civilized world. The strong sentiment which is manifested in the fate of the aborigines of this country and the policy of the government in consolidating them westward . . . is the removal of the Red Man." When Dr. Mott received the package, he replied happily, "I am delayed returning you my thanks for the Head of Osceola. . . . It will be deposited in the collection and preserved in my library at home, for I fear almost to place it in my museum at the University . . . temptation will be so strong for someone to take it."

Andy McKee (posted by Art Remillard), *Empire, Science, and the Disembodied Head of Chief Osceola*, RELIGION IN AMERICAN HISTORY BLOG, June 3, 2014, at <http://usreligion>.

In describing Weedon—who she repeatedly misidentifies as “Weeden”¹⁸—Smiley mentions that he “had served as a colonel in General Andrew Jackson’s army . . . and . . . had settled in St. Augustine before Whitehurst.”¹⁹ Patricia Riles Wickman, in her much later book focusing on Weedon’s theft of Osceola’s head, describes how Weedon and Whitehurst likely became acquainted:

While Minorcan and Spanish inhabitants and American settlers banded together to form militia companies for physical protection, they also met compatriots in fraternal organizations. Frederick Weedon was a Freemason. Among the members of his lodge in little St. Augustine was a *criollo* (local-born Spaniard), Joseph M. Hernández, who was also the brigadier general commanding forces east of the St. Johns River. By at least mid-1837, Daniel Winchester Whitehurst, another Freemason, also was residing in St. Augustine. Whitehurst, originally of Norfolk, Virginia, was thirty years old that July when he became a lieutenant of a company of East Florida Mounted Volunteers in Col. John Warren’s regiment. Whitehurst spent his six-month enlistment (13 July 1837 to 4 February 1838) at duty stations at Picolata and along the St. Johns River, close enough to St. Augustine to enhance his association with the Weedon family. . . .

blogspot.com/2014/06/empire-science-and-disembodied-head-of.html. That Whitehurst gave Osceola’s head to Mott is unsurprising:

The outstanding figure of the faculty of the medical department of New York University was Valentine Mott (1785-1865), the first professor appointed. Mott was the most famous surgeon of his day in America. His early training was obtained at London and Edinburgh, after which he was elected professor of surgery at Columbia College at the age of twenty-six. When the medical faculty of Columbia College joined that of the College of Physicians and Surgeons, Mott was made professor. He continued there until 1826, when he resigned, together with several prominent associates, to found Rutgers Medical College.

CLAUDE EDWIN HEATON, A HISTORICAL SKETCH [OF] NEW YORK UNIVERSITY COLLEGE OF MEDICINE, 1841-1941, at 4-5 (1941).

There is a dispute over what eventually happened to Osceola’s head. In 1955, one of Weedon’s great-granddaughters said it was lost in an 1866 fire. See May McNeer Ward, *The Disappearance of the Head of Osceola*, 33 FLA. HIST. Q. 193, 201 (1955). In 2015, however, Seminole medicine man Bobby Henry insisted that the head was destroyed to cover up the U.S. Army’s murder of Osceola. See Peter B. Gallagher, *Bobby Henry’s Story: U.S. Soldier Murdered Osceola*, SEMINOLE TRIB., Sept. 2, 2015, at <https://seminoletribune.org/bobby-henrys-story-u-s-soldier-murdered-osceola/>. Henry’s claim runs counter to all other sources, who agree that Osceola died from “quinsy” (i.e., a peritonsillar abscess). See, e.g., THOM HATCH, OSCEOLA AND THE GREAT SEMINOLE WAR: A STRUGGLE FOR JUSTICE AND FREEDOM 236 (2012).

¹⁸ Smiley gets Weedon confused with his younger brother William, who, following a dispute over an inheritance, changed his last name to “Weeden.” See WICKMAN, *supra* note 15, at 201.

¹⁹ MARTELLO, *supra* note 14, at 21.

The records do not show when and where Whitehurst and Weedon met,
but their overlapping spheres of interest in such a small town, and relative
social stations must have thrown them together quickly.²⁰

After leaving the army in February 1838,²¹ Whitehurst in short order became a lawyer,²² started the *News*, and began pursuing various commercial

²⁰ WICKMAN, *supra* note 15, at 206. As Freemasons, Whitehurst and Weedon belonged to St. John's Lodge No. 12. According to one source: "St. Johns Lodge No. 12 was chartered [by the Grand Lodge of] Florida [but] surrendered its charter [sometime] before 1869. The Lodge lost all [its] property and records in a fire." See *History of Freemasonry in St. Augustine, Florida*, ASHLAR LODGE 98, at https://www.ashlarlodge98.org/uploads/8/6/5/9/86594636/the_history_of_freemasonry_in_st_augustine.pdf.

An 1840 notice invited the public to celebrate the "Festival of St. John" with the Lodge and advised that the event would include "an Oration . . . by Brother D.W. Whitehurst." The notice was signed by the "Committee of Arrangements," whose members included "F. Weedon." See *Celebration of St. John the Evangelist*, ST. AUGUSTINE NEWS, Dec. 18, 1840, at 3. In 1842, the Lodge held a service for the troops killed in the Second Seminole War, with Whitehurst reading an ode for the dead:

The burial of Major F.L. Dade's martyr'd dead and those officers and
soldiers who have died in Florida, took place in St. Augustine on the
15th ult. The scene was a sad and solemn one. . . . The Masonic fraternity
proceeded from the tombs to the Presbyterian Church, where a monody on
the dead was pronounced by D.W. Whitehurst, Esq.

Honor the Dead, DAILY PICAYUNE (New Orleans), Sept. 2, 1842, at 2. (This service took place between Whitehurst's first and second years of medical school, when presumably he was home on vacation.)

²¹ While Wickman in her book uses Whitehurst's initial rank (lieutenant), Whitehurst's WWWF entry uses his final rank (major). The army's own records, however, use his intermediate rank (captain). See 10 FLORIDA MILITIA MUSTER ROLLS—SEMINOLE INDIAN WARS 103-04 (1968) ("Muster Roll of Captain D.W. Whitehurst's Company of Mounted Volunteers"). According to this source, Whitehurst's command consisted of one lieutenant, two sergeants, two corporals, and forty-two privates. In addition, it had two "servants" (*i.e.*, slaves), assigned, respectively, to Whitehurst and his executive officer (Lieutenant Joseph Woodruff).

²² Whitehurst announced his admission to the bar via a newspaper advertisement: "The Subscriber will attend to the duties of his profession in the various Courts of Law of this Territory. D.W. Whitehurst, Attorney at Law. St. Augustine. May 18, 1838." *Law Notice*, FLA. HERALD & S. DEM., July 21, 1838, at 4. During this period, becoming a lawyer in Florida was quite easy:

In 1832, the legislative council directed the court of appeals to draft rules
for the superior courts. Under the new rules, an applicant had to be at least
21 years old and of good moral character. In addition, a superior court
judge had to find the petitioner fit to practice.

Christopher A. Vallandingham, *Territorial Courts, in* FLORIDA'S OTHER COURTS: UNCONVENTIONAL JUSTICE IN THE SUNSHINE STATE 63 (Robert M. Jarvis ed., 2018) (footnotes omitted). Although it is not known which judge certified Whitehurst, it almost certainly was Eastern District Superior Court Judge Robert R. Reid, whose chambers were in St. Augustine. See THE AMERICAN ALMANAC AND REPOSITORY OF USEFUL KNOWLEDGE FOR THE YEAR 1842, at 313 (1841) (explaining that Reid served on the

ventures.²³ But as Wickman says, throughout this time Whitehurst was giving serious thought to becoming a doctor,²⁴ and in 1841, after selling the *News*, he enrolled in NYU's medical school (no doubt using at least some of the sale's proceeds to pay his tuition).²⁵

The decision to go to NYU was an easy one. In 1841, Florida had no medical schools.²⁶ Thus, to get his degree Whitehurst had no choice but to look outside the territory. More importantly, NYU's fledgling medical school ("University Medical College") was making no secret of the fact that it was willing to accept just about anybody.²⁷

As noted in his WWWF entry, Whitehurst received his degree in 1843.²⁸ As soon as he did, he rushed back to St. Augustine "to be married, on [30] April of that

court from 1832 until 1839, when he was named Florida's fourth territorial governor).

Even after he became a doctor, Whitehurst retained an interest in legal matters and continued to associate with lawyers. Shortly before his own death, for example, he helped plan the memorial service that the Key West bar held for U.S. District Judge John McKinney. *See In Memoriam*, YORK DAILY (PA), Nov. 8, 1871, at 3 ("Upon motion and unanimous consent, . . . D.W. Whitehurst, G.D. Allen, and B.K. Kerr [were directed] to make arrangements for a public meeting on Thursday, the 19th inst., at 12 o'clock m, at the U.S. Court Rooms.").

²³ In December 1838, for example, Whitehurst placed an ad offering to sell "Ninety acres of LAND, excellent quality, and well Timbered, on North River. Also, a small LOT, with dwelling, and out buildings, in this city." *See For Sale*, ST. AUGUSTINE NEWS, Dec. 1, 1838, at 3 (capitalization as in the original). A short time later, he was made a director, and elected secretary, of a local railroad. *See St. Augustine and Picolata Rail Road Company*, ST. AUGUSTINE NEWS, Mar. 30, 1839, at 4.

²⁴ Wickman believes that Whitehurst began considering a medical career after meeting Weedon. She also credits the influence of Dr. Benjamin B. Strobel, who helped Weedon decapitate Osceola's body at Fort Moultrie. In later years, Weedon and Strobel would get together whenever Strobel was in St. Augustine, and during these visits Whitehurst often joined them. *See WICKMAN, supra* note 15, at 171.

²⁵ *See CATALOGUE OF THE OFFICERS, ALUMNI, AND STUDENTS OF THE UNIVERSITY OF THE CITY OF NEW-YORK: 1841-'42*, at 10 (1842) (listing "Whitehurst, D.W., *Florida*" as one of the school's medical students).

²⁶ Florida's first medical school, located at the University of Miami, did not open until the Fall of 1952. *See University of Miami Makes Start on Medical School*, TAMPA DAILY TIMES, Apr. 2, 1952, at 6. *See also* Overman v. State Board of Control, 62 So. 2d 696, 701 (Fla. 1952) (en banc) (observing, in a decision permitting the University of Miami to use state funds to help pay for its new venture, "Florida is the largest state in the Union without a Medical School. It is the only state in the South without one.").

²⁷ *See* DAVID OSHINSKY, BELLEVUE: THREE CENTURIES OF MEDICINE AND MAYHEM AT AMERICA'S MOST STORIED HOSPITAL 5 (2016) ("The enormous [inaugural] entering class of 271 included almost everyone who applied. Only blacks, women, and complete illiterates were rejected. . . . Tuition was \$105 per term, plus a \$5 'matriculation' fee, a \$10 'broken' fee (for damaged equipment), and a \$20 'anatomical' fee (for fresh cadavers). With four terms required to graduate, plus a \$30 'graduation' fee, the total for each student ran to \$550, a hefty sum."). Two days before the start of classes, the faculty invited the "profession and friends of science generally" to attend the first week of lectures for free. *See University of New York—Department of Medicine*, N.Y. EVENING POST, Oct. 23, 1841, at 1. It is not known if anyone took the school up on its offer.

²⁸ This was a significant achievement, for 76% of Whitehurst's classmates ended up either dropping out or being dismissed. *See University of New York—Medical Department*, BUFFALO DAILY GAZETTE, Aug. 24, 1843, at 2 (reporting that only 65 students from the inaugural class managed to graduate). *See also* CATALOGUE OF THE GRADUATES AND OFFICERS OF THE MEDICAL DEPARTMENT OF THE UNIVERSITY OF THE CITY OF NEW YORK 34 (1872) (listing Whitehurst among the 1843 graduates).

year, to Henrietta Weedon, the eldest surviving daughter of his friend Frederick.”²⁹ At 35, Whitehurst was considerably older than Henrietta, who was 22 and considered “a dark-haired beauty.”³⁰

Shortly after the wedding, the couple moved to Dade County, where Whitehurst was named a justice of the peace.³¹ Whitehurst’s decision to relocate from St. Augustine to South Florida raises a host of questions, especially given that neither he nor Henrietta had ever visited the region (as far as I can tell); the couple had no friends or relatives in the area (ditto); and it was during this period that the pair began to have children. The most obvious explanation is that Whitehurst, angry at how he had been treated while at the *News*, wanted to get away from St. Augustine and make a fresh start somewhere else.³²

In 1845, the couple moved again, this time to Key West. After years of dithering, the federal government finally was going ahead with its plan to build a

²⁹ WICKMAN, *supra* note 15, at 209. Wickman inexplicably gets the date of the marriage wrong, listing it as “13 April” instead of 30 April. *Id.* The county’s official records, however, make it clear that the marriage took place on April 30. See *Daniel W. Whitehurst[:] Florida Marriages, 1830-1993*, FAMILYSEARCH.ORG, at <https://www.familysearch.org/ark:/61903/1:1:23C6-FCC> (this web page provides a link to the county clerk’s registration book, which shows that Whitehurst and Henrietta were issued a marriage license on April 29, 1843, and were married the next day).

Wickman correctly states that “[t]he couple [was] married by Father [Benedict] Madeore according to the rites of the Roman Catholic Church, and the civil notation was copied by Mr. [Peter B.] Dumas, county court clerk, on 12 May 1843.” See WICKMAN, *supra* note 15, at 334 n.32. At the time of the wedding, Madeore was newly arrived in St. Augustine. See *Church History, Basilica of the Immaculate Conception*, at <https://www.icjax.org/about-the-church.html>. In 1847, he began a campaign to obtain compensation from the federal government for its 1821 confiscation of local church lands. Although Madeore managed to convince Congress to arbitrate the dispute, the arbitrator (future U.S. Senator Stephen R. Mallory) ruled in favor of the government. For the case’s documents, including Mallory’s lengthy award, see *Report of the Solicitor of the Treasury, January 30, 1849*, 30th Cong., 2d Sess. (1849).

³⁰ SAMUEL CARTER III, *THE RIDDLE OF DR. MUDD* 312 (1974).

³¹ See *A JOURNAL OF THE PROCEEDINGS OF THE HOUSE OF REPRESENTATIVES OF THE TERRITORY OF FLORIDA, AT ITS TWENTY-SECOND SESSION, 1844*, at 54 (1844) (indicating that Whitehurst received his commission on September 13, 1843). Whitehurst owed his new position to Governor Richard K. Call, a Democrat who in the 1840 presidential election had crossed party lines to support the Whig ticket. See 1 HARRY GARDNER CUTLER, *HISTORY OF FLORIDA: PAST AND PRESENT, HISTORICAL AND BIOGRAPHICAL* 119-20 (1923).

³² Whitehurst did not cut all his ties to St. Augustine. In 1852, for example, while on his way to Baltimore, he stopped for a visit:

We learn by letter from Key West that the Whigs of that city have appointed Dr. D.W. WHITEHURST as a Delegate to represent them in the Baltimore Convention. Other appointments would have been made for South Florida, had there been time to communicate with the other portions of the District. Dr. WHITEHURST took his departure in the last steamer from Key West, intending to make a brief visit to his former abode, St. Augustine, previous to his attendance at Baltimore.

Delegate from South Florida, FLA. REPUBLICAN (Jacksonville), May 27, 1852, at 2 (capitalization as in the original).

series of massive forts in the Florida Straits. First up was Fort Zachary Taylor in Key West,³³ where, as his WWF entry explains, Whitehurst was given the job of base physician. Undoubtedly, Whitehurst's military service gave him a leg up for the position and made the prospect of serving at a fort appealing.

Two years later, work began on Fort Thomas Jefferson at Garden Key in the Dry Tortugas, 68 miles to the west of Key West.³⁴ Having proven his mettle at Fort Taylor, Whitehurst, as his WWF entry further reports, now became Fort Jefferson's physician. Whitehurst also was appointed the installation's bookkeeper at a combined salary of \$150 per month.³⁵

In 1860, however, Whitehurst's Confederate sympathies cost him these jobs.³⁶ Whitehurst's change of status also meant that he could not remain at Garden Key. Thus, the family returned to Key West.³⁷ Once back in the city, Whitehurst became the captain of a band of local citizens called the "Island Guard," which looked for ways to drum up support for the rebels' cause. In a story in the *Charleston Daily Courier*, for example, readers learned about a Guard event that had served as a counterweight to a similar Union event:

³³ For the fort's history, see Ames W. Williams, *Stronghold of the Straits: Fort Zachary Taylor*, 14 TEQUESTA 3 (1954). See also EDWARD L. ENGLAND, THE FORT ZACH GUIDEBOOK (2017).

³⁴ For the fort's history, see Albert Manucy, *The Gibraltar of the Gulf of Mexico*, 21 FLA. HIST. Q. 303 (1943). See also THOMAS REID, AMERICA'S FORTRESS: A HISTORY OF FORT JEFFERSON, DRY TORTUGAS, FLORIDA (2006).

³⁵ See Williams, *supra* note 33, at 14. Over time, Whitehurst gained other government positions. An 1853 newspaper story, for example, reported: "The Secretary of the Navy has appointed D.W. Whitehurst Naval Storekeeper and Superintendent of the Coal Depot at Key West." See *Death of the Wife of Senator Douglas—Naval Appointment*, DAILY FREE PRESS (Burlington, VT), Jan. 21, 1853, at 2.

During his service at Garden Key, Whitehurst developed an interest in the island's fauna and flora and sent many of his finds to friends and colleagues. See, e.g., THEODORE LYMAN, ILLUSTRATED CATALOGUE OF THE MUSEUM OF COMPARATIVE ZOOLOGY, AT HARVARD COLLEGE—NO. I, OPHIURIDAE AND ASTROPHYTIDAE v (1865) ("I take this opportunity to thank the following gentlemen for their kind assistance in giving me specimens, and a great variety of valuable information: . . . Dr. Whitehurst, Surgeon of the post . . . at Fort Jefferson, Tortugas. . .").

³⁶ See HAL HIGDON, THE UNION VS. DR. MUDD 180 (expanded ed. 2008). Whitehurst was replaced as base physician by Dr. Joseph B. Holder. In 1892, Holder's widow Emily published an anonymous account of their lives at the fort. See *At the Dry Tortugas During the War: A Lady's Journal*, 1 CALIFORNIAN 87 (1892).

³⁷ See OFFICE OF THE SECRETARY OF THE INTERIOR, THE EIGHTH CENSUS OF THE UNITED STATES: 1860 (1864) (Page 51, Lines 21-27 of Schedule 1.—Free Inhabitants in the City of Key West, in the County of Monroe, State of Florida, enumerated Aug. 14, 1860) [hereinafter KEY WEST—1860 U.S. CENSUS] (showing Whitehurst, Henrietta, their four children, and Dr. Hamilton M. Weedon, Henrietta's younger brother, living together in the city).

Hamilton Weedon was born in 1834 and graduated from Albany Medical College in 1855. After completing an internship at Albany Hospital, he moved to Key West, where he opened a private practice and also worked for the U.S. Marine Hospital Service. During the Civil War, he was placed in charge of the Confederate hospitals in Eufaula, Alabama, where he spent the remainder of his life. See *In Memoriam—Hamilton M. Weedon, M.D.*, 30 ALB. MED. ANNALS: J. ALUMNI ASS'N ALB. MED. COLLEGE 216 (1909).

In military circles we observe no important changes at this port [Key West,] except the increase of the [federal] garrison [at Fort Taylor] from a skeleton to a full Company. Captain Brannan, in command of Fort Taylor, fired a national salute on the 22d [George Washington's birthday, considered a sacred day by both the Union and the Confederacy]. The Island Guard, a volunteer Company in command of Capt. D.W. Whitehurst, also celebrated the day by an oration, speeches, &c.³⁸

The second event discussed at length by Smiley is Whitehurst's battle to control Fort Jefferson's 1867 yellow fever outbreak. Whitehurst had been summoned from his home in Key West on September 7th after Dr. John S. Smith, the fort's physician, died.³⁹ Upon reaching the fort, Whitehurst found Dr. Samuel A. Mudd, one of the prisoners, caring for the sick.⁴⁰

Mudd had been imprisoned at the fort following his conviction for aiding in the assassination of President Abraham Lincoln.⁴¹ Because of Mudd's untiring efforts during the outbreak,⁴² many of Mudd's patients, as well as Whitehurst himself, sent

³⁸ "Scarlet," *Correspondence of the Courier—Key West, February 26th, 1861*, CHARLESTON DAILY COURIER (SC), Mar. 7, 1861, at 1. In an obvious reference to Whitehurst, a later observer wrote: "They [the Confederates] felt a confidence and security that the prey was at any time within their grasp—Tortugas seemed beyond escape, and at Key West was an armed band called the Island Guard, its captain the clerk at Fort Taylor, and an old rat at the Government crib[.]" Delavan Bloodgood, *Fort Taylor and Jefferson—How They were Saved*, in *THE REBELLION RECORD: A DIARY OF AMERICAN EVENTS—SUPPLEMENT—FIRST VOLUME* 23, 24 (Frank Moore ed., 1866).

³⁹ Smith's tenure at Fort Jefferson had lasted less than two months, for he arrived on the island just prior to the start of the outbreak. See *Army Personal*, 4 ARMY & NAVY J. 747 (July 13, 1867) ("Brevet Major J.S. Smith, Assistant Surgeon, has been relieved from duty in the Department of Washington, and ordered to duty at Fort Jefferson, Tortugas, Florida.").

⁴⁰ Every biography of Mudd discusses his efforts to control the outbreak. For a work focusing solely on this part of his life, see ROBERT SUMMERS, *GET THE DOCTOR FROM HIS CELL: DR. SAMUEL A. MUDD, YELLOW FEVER, AND REDEMPTION AT AN ISLAND PRISON* (2015). Mudd's heroism forms part of the plot of the romance novel *Wave of Destiny*. Although Whitehurst is mentioned, he appears in just one sentence: "Dr. Whitehurst and Dr. Burbury issued pleas for volunteer assistance." MARTHA MELAHN, *WAVE OF DESTINY* 290 (1981). As Melahn explains in her Author's Note, *id.* at v, she invented Dr. Burbury to help drive her story.

Although all sources agree that Whitehurst went to Fort Jefferson on September 7th, they differ as to how long he stayed. Some sources say he remained until October 1st, when he was relieved by Dr. Edward Thomas, a "contract physician" from New York. See, e.g., ROBERT K. SUMMERS, *DR. SAMUEL A. MUDD AT FORT JEFFERSON* 88 (4th ed. 2009). In his book, however, Carter claims that Whitehurst, "with some relief," left the fort on September 25th. See CARTER, *supra* note 30, at 318 (agreeing that Whitehurst departed after Dr. Thomas arrived).

⁴¹ See *The Assassins at the Dry Tortugas*, N.Y. TIMES, Aug. 4, 1865, at 1.

⁴² At the height of the outbreak, one newspaper advised its readers:

We learn that out of four hundred prisoners at Dry Tortugas one hundred are sick with yellow fever. The commanding officer of the post and the surgeon of the hospital are also sick with the same disease.
Dr. Henry [sic] Clay [sic] Mudd, sentenced to imprisonment there for an

numerous letters to federal officials asking that Mudd be released.

In a letter to Major George P. Andrews, dated February 24, 1868, for example, Whitehurst wrote:

I regret to inform you, that I have no copy of my letter addressed [to] you in September or October last, in relation to the meritorious conduct of Dr. Mudd, during the epidemic of yellow fever at Fort Jefferson, last summer. I have subsequently to that letter to you, in a report to the Surgeon General, entered into much detail regarding those valuable services to me as the medical officer in charge, and to the sick, from his unwearied and constant devotion night and day in the wards.

Major Stone, and Lieuts' Orr + Gordon each spoke to me, in unqualified terms of admiration, of his excellent conduct; and their design to represent it to the government, in the hope that its clemency and justice, would be exercised to his benefit. These gentlemen all fell, victims to the fever, and when I wrote you, I thought it but just to their memories, that their feelings and views on this subject should be made a matter of record.

The services of Dr. Mudd, eminently valuable as they were, derive an additional value, from the fact, that he volunteered them, at a time when the sick were without direction, by the illness of Surgeon Smith, whose attendant he was.⁴³

D. FAMILY PAPERS

With still more effort, a researcher likely will come across the Weedon and Whitehurst Family Papers at the University of North Carolina ("WWFP").⁴⁴ Although the bulk of this collection concerns the Weedons, it includes, for example, Whitehurst's Sierra Leone "permission to enter" pass. Dated May 8, 1832, the pass identifies

alleged connection with the conspiracy to assassinate the late President Lincoln, is rendering medical assistance to those who are stricken with yellow fever at Dry Tortugas, and among his patients are the officers mentioned.

It is said that Dr. Mudd treats his patients with eminent success, and that most of them are in a fair way of recovery.

Yellow Fever at the Dry Tortugas, CHARLESTON MERCURY (SC), Sept. 28, 1867, at 2. As is obvious, the *Mercury's* editors confused Dr. Mudd with his relative John Henry Clay Mudd. See 1 RICHARD D. MUDD, *THE MUDD FAMILY OF THE UNITED STATES* 474 (1951) (explaining that John, a Washington, D.C. lawyer, was born in 1821 and died in 1866).

⁴³ *Today's Document*, NATIONAL ARCHIVES, Feb. 24, 2020, at <https://todaysdocument.tumblr.com/post/191000044354/letter-from-d-w-whitehurst-md-to-major-g-p>. On February 8, 1869, President Andrew Johnson granted Mudd a full pardon. For the pardon's text, which describes Mudd's role in containing the outbreak, see https://en.wikisource.org/wiki/Dr._Mudd%27s_Pardon.

⁴⁴ See *Collection 04057-z: Weedon and Whitehurst Family Papers, 1824-1869; 1932-1966?*, UNIVERSITY OF NORTH CAROLINA—SOUTHERN HISTORICAL COLLECTION, at <https://finding-aids.lib.unc.edu/04057/>.

Whitehurst by his full name; lists his birthplace as Norfolk, Virginia; and indicates that he is 24 years old.⁴⁵ It also provides the only known physical description of Whitehurst, reporting that he is 5'6" tall, has a pale complexion, brown hair, grey eyes, an aquiline nose, and an "as usual" mouth.⁴⁶

In response to the question, "Purpose for which Alien came into the Colony[?]," the pass states: "[F]or the benefit of his health."⁴⁷ As Wickman explains: "After a shipwreck and an escape from hostile natives, [Whitehurst] found refuge in Sierra Leone and recuperated there for more than three years."⁴⁸

As previously discussed, in 1831 Whitehurst agreed to go to Liberia to conduct a fact-finding mission for the ACS. That he would have appeared haggard to the authorities in Sierra Leone (Liberia's northern neighbor) after nearly losing his life twice is quite believable.⁴⁹ Whitehurst's own later reporting confirms that he remained in Sierra Leone until 1834.⁵⁰

Another document in the WWFP collection is Whitehurst's September 29, 1865, Amnesty Oath.⁵¹ As explained above, Whitehurst was forced to leave Garden

⁴⁵ This notation is the best evidence that we have that Whitehurst was born on September 29, 1807, and not, as is so often reported, September 29, 1808 (which would have made him 23 at the time the pass was issued).

⁴⁶ See *Weedon and Whitehurst Family Papers*, *supra* note 44, at <https://dc.lib.unc.edu/utills/ajaxhelper/?CISOROOT=04ddd&CISOPTR=196472&action=2&DMSCALE=29.359953024075&DMWIDTH=3406&DMHEIGHT=2757> (Sierra Leone Pass).

⁴⁷ *Id.*

⁴⁸ WICKMAN, *supra* note 15, at 206.

⁴⁹ I have found no independent proof that corroborates Wickman's claim that Whitehurst was the victim of a shipwreck and a native attack. Given the frequency of shipwrecks in the 19th century, however, and the pass's reference to Whitehurst's health, her claims ring true.

⁵⁰ Whitehurst's lengthy ACS article begins with him traveling on November 19, 1834 to visit "the tribes north of [Liberia's Saint Paul River] and there effect[], if possible, an amicable settlement of the difficulties existing among them[.]" See *Mr. Whitehurst's Journal*, *supra* note 15, at 105. This makes it clear that Whitehurst's expected 1832 arrival in Liberia was delayed by his long recuperation in Sierra Leone.

⁵¹ Whitehurst's oath was witnessed by George D. Allen, the clerk of the U.S. District Court for the Southern District of Florida. Even in a city with more than its fair share of eccentrics, Allen stood out:

Mr. George D. Allen was short, with a large head, usually surmounted by a silk hat, worn tipped back. He was full of energy, with a finger in everything that was going, or at least, comments to make on them. He had been a druggist, clerk of the United States court, merchant, United States marshal, member of the school board that instituted the first public or "free" school, tax collector and warden of St. Paul's church. His speech[,] while voluble, was accompanied by a kind of hesitating pause in the middle of his sentences and accentuated by a peculiar motion of the lower jaw, as if chewing, from which he acquired the nickname "Gum Drops." . . . He was a man of great and varied information, good ideas as to every one's business but his own; he was always trotting up and down the streets at something; was always most decidedly in evidence. He had an old saddle horse, with a peculiar gallop, whose rythmical hoof beats suggested the name of the drugs Mr. Allen usually prescribed for all ailments, which caused the old plug to be nicknamed Calomel-Jalap. . . .

Key in 1860 because of his pro-South leanings. In 1863, he was ordered to leave Key West for the same reason, but the order was rescinded at the last minute.⁵² In his Amnesty Oath, Whitehurst promised to resume being loyal to the United States.

Like many other well-to-do Southerners, Whitehurst was a slave owner:

Beginning in 1845 at the Key West fort [Fort Taylor] and in 1847 at Fort Jefferson on Garden Key [in the Tortugas], rented slaves worked ten-hour days in subtropical heat. Harsh conditions and open waters inspired dreams of escape. The first summer, seven slaves . . . disabled nearly all the vessels at the wharf and sailed away. Doctor Daniel Whitehurst organized a pursuit, but another posse caught the slaves. . . .

Doctor Whitehurst's slaves were considered the best workers at Fort Jefferson until the army ruled that as an officer in federal employ, he could not be paid for their labor. To skirt this ruling, he acquired many slaves in his wife's name. . . .

[T]he Whitehursts [later] added Weedon family slaves to their own. Over the years they bought twelve-year-old Sam, ten-year-old Lucy, and seven-year-old Sarah for \$500, then Charly, who was thirteen, and Mary, about four, for \$550. Contracts granted the slaves to Henrietta Whitehurst and her heirs "for their own proper use and benefit, for ever." The couple later acquired seven more slaves, including an eighteen-month-old girl, and the rights to "the future issue and increase of the females."⁵³

JEFFERSON B. BROWNE, *KEY WEST: THE OLD AND THE NEW* 177 (1912).

⁵² See Lewis G. Schmidt, *Civil War Days in Key West (Part 5)*, 9 FLA. KEYS SEA HERITAGE J. 8, 11-12 (Summer 1999). As Schmidt explains, the order was issued on February 25, 1863, by Colonel Joseph S. Morgan and rescinded two days later by Colonel Tilghman H. Good (Morgan's successor as Fort Taylor's commander). Had the order been carried out, Whitehurst, together with the rest of his family and other rebel sympathizers, would have been transported aboard the U.S.S. *Illinois* to Hilton Head, South Carolina.

⁵³ MIKE PRIDE, *STORM OVER KEY WEST: THE CIVIL WAR AND THE CALL OF FREEDOM* 18-19 (2020). For additional details regarding Whitehurst's role in the island's 1847 manhunt, see Mark A. Smith, *Engineering Slavery: The U.S. Army Corps of Engineers and Slavery at Key West*, 86 FLA. HIST. Q. 498, 508 (2008).

In addition to leasing out slaves, Whitehurst profited from slavery in other ways. In the spring of 1860, for example, the U.S. Navy freed 1,432 Africans from the American barques *Wildfire* and *William* (the two ships were intercepted off the coast of Cuba). Until the rescuees could be repatriated to their homelands, the Navy arranged for them to be housed in a hastily erected "depot" in Key West. During their stay, Whitehurst provided them with medical care, for which he was paid handsomely:

The expenses incurred by Mr. [Fernando J.] Moreno [the Southern District's U.S. Marshal] in maintaining the depot for eighty days came to \$19.14 per capita. The total cost was \$45,760. The expenditure for medicines and medical care was \$27,650.92, \$3,562 of which went to Drs. Whitehurst, [T.C.] Skrine and [Hamilton M.] Weedon [Henrietta's younger brother] for services rendered.

The merging of the Weedon and Whitehurst slaves occurred in 1853, when Whitehurst's father-in-law Frederick Weedon moved to Garden Key. In exchange for Whitehurst and Henrietta's written promise to care for him for the rest of his life, Frederick turned his slaves over to them.⁵⁴

In the 1860 federal census, Whitehurst's real property is valued at \$3,160,⁵⁵ while his personal property is valued at \$15,550.⁵⁶ Nearly all (\$15,000) of the latter amount represents Whitehurst's slaves; the rest likely reflects his law books and medical equipment.⁵⁷ The total (\$18,710) is the modern-day equivalent of \$547,003.20.⁵⁸

General Robert E. Lee's surrender at Appomattox (Apr. 9, 1865) therefore dealt Whitehurst a double blow. Not only did it extinguish the political cause he had so zealously championed (and for which he had sacrificed his government salary), it meant his slaves were free.⁵⁹ Thus, in the blink of an eye, Whitehurst lost 80% of his wealth.⁶⁰

E. NICHOLS'S REPORT

With much more work, a truly determined researcher will find, in the files of the St. Augustine Historical Society, a typed 10-page report by Robert E. Nichols,

A.W. Diddle, *Medical Events in the History of Key West*, 31 J. FLA. MED. ASS'N 207, 209 (1944).

⁵⁴ See *Weedon and Whitehurst Family Papers*, *supra* note 44 (under "Scope and Content") (explaining that the collection "include[s] bills of sale or exchanges of slaves in 1848, 1853-1857, 1860 and 1861. The bills of sale or exchange, 1853-1857, stem from a transaction, 1853, between Frederick Weedon and Henrietta W. Whitehurst whereby, in exchange for slaves, Weedon received care and a guaranteed annuity for the remainder of his life . . ."). Good to their word, Whitehurst and Henrietta took care of Frederick until he died in 1857. See *id.* (under "Biographical Information") ("[Frederick] lived the last years of his life with his daughter Henrietta and her husband; he died at Fort Jefferson in 1857.").

⁵⁵ See KEY WEST—1860 U.S. CENSUS, *supra* note 37, at line 21.

⁵⁶ See *id.*

⁵⁷ The 1860 federal census does not separately break out the value of Whitehurst's slaves. But when its figures are compared to those in the 1870 federal census, see *infra* note 60, and adjusted for inflation, there is no doubt that Whitehurst's slaves were worth \$15,000 in 1860.

⁵⁸ See S. Morgan Friedman, *The Inflation Calculator*, at <https://westegg.com/inflation/>.

⁵⁹ As a legal proposition, of course, they had been free since January 1, 1863 (the date set by President Lincoln's 1862 Emancipation Proclamation). But now, they also were free as an actual matter, although it would take another six weeks for this fact to be fully absorbed. See Robert L. Hall, "Yonder Come Day": *Religious Dimensions of the Transition from Slavery to Freedom in Florida*, 65 FLA. HIST. Q. 411, 420 (1987) (explaining that on May 20, 1865, Union General Edward M. McCook gathered the residents of Tallahassee and formally declared the Proclamation in effect in Florida).

⁶⁰ Whitehurst's finances never recovered. In the 1870 federal census, taken just 18 months before his death, Whitehurst is listed as having \$3,400 in real property and just \$600 in personal property. See OFFICE OF THE SECRETARY OF THE INTERIOR, THE NINTH CENSUS OF THE UNITED STATES: 1870 (1872) [hereinafter KEY WEST—1870 U.S. CENSUS] (Page 78, Line 24 of Schedule 1.—Inhabitants in Key West, in the County of Monroe, State of Florida, enumerated July 5, 1870).

an amateur historian, called *Who Was Eliza C. Whitehurst?*⁶¹ Although it devotes most of its attention to Whitehurst's mother Eliza, it offers additional details about Whitehurst.

As Nichols explains, Eliza was born in Georgetown, South Carolina,⁶² most likely in 1779.⁶³ Her parents were Elizabeth and Daniel Roland (spelled "Rolain" or "Rowland" in some sources). On October 6, 1807, Eliza married a man named James Whitehurst in Norfolk, Virginia.⁶⁴ James, whose birth year is unknown, originally was from Princess Anne County (present-day Virginia Beach).⁶⁵

⁶¹ The report [hereinafter Nichols Report] is attached to a letter, dated Oct. 13, 1998, from Nichols to Charles Tingley, the Society's librarian. Neither the letter nor the report is included in the Society's on-line catalogs (<https://sahs.pastperfectonline.com/>), and a researcher must know to ask for them. They were located for me by Chad Germany, the Society's assistant librarian.

⁶² "Georgetown" can refer to Georgetown County (founded 1800); Georgetown District (founded 1769); or the City of Georgetown (founded 1729). See PAUL T. HELLMANN, HISTORICAL GAZETTEER OF THE UNITED STATES 974 (2005). In this article, the name is used to refer to the entire area without further specificity.

⁶³ Nichols claims that Eliza was born in 1786, which would be (based on Nichols's own research) two years *after* the death of her father Daniel. See Nichols Report, *supra* note 61, at 2. This obviously is not possible. Nichols arrives at his conclusion by taking Eliza's supposed age at death (52) and working backwards from when she died (June 3, 1838). However, as he admits, "Her 1838 grave marker in the Huguenot Cemetery in St. Augustine provides her age as 5_, the last digit having eroded to the point where it can no longer be read." The more likely 1779 date comes from Volume 48 (1894) of the *New England Historical and Genealogical Register*, which Nichols cites in footnote 2 of his report. See Nichols Report, *supra* note 61, at 10.

⁶⁴ For this date, Nichols relies on 2 ELIZABETH B. WINGO, MARRIAGES OF NORFOLK COUNTY, VA., 1788, 1793-1817, at 117 (1963). Wingo, in turn, relies on the "Minister's Return" filed by the Reverend Thomas T. Jones, who performed the ceremony. The foregoing, of course, means, as Nichols explains, that Whitehurst was born a bastard:

On September 3, 1807 in Norfolk Co., VA, James WHITEHURST obtained a license to marry Eliza C. ROWLAND which ceremony was performed by Rev. Thomas T. JONES on October 6, 1807 in Norfolk. It is important to note the date that James WHITEHURST obtained his license to marry Eliza, nearly five weeks prior to the event itself, because he apparently did so as much from necessity as from desire. According to census records, James and Eliza had a son before 1810 and this son, from all available evidence, was the future Dr. Daniel W. WHITEHURST of St. Augustine, Key West, and Tortugas who was born in Norfolk, VA on September 29, 1807, twenty-six days after the license but seven days before the marriage ceremony!

Nichols Report, *supra* note 61, at 2 (capitalization as in the original).

Under Virginia law, James and Eliza's marriage legitimated Whitehurst. See 1785 Virginia Acts ch. 60, § 17, *reprinted in* 12 HENING'S STATUTES AT LARGE 139-40 (1823). See also *Stevenson's Heirs v. Sullivant*, 18 U.S. (5 Wheat.) 207, 257-58 (1820) (describing Virginia's legitimation law). As such, Whitehurst was able to avoid the stigmatization historically suffered by children born out of wedlock. See generally JENNY TEICHMAN, ILLEGITIMACY: AN EXAMINATION OF BASTARDY (1982).

⁶⁵ The Whitehurst family arrived in Virginia in 1636. A branch of the family later moved to North Carolina. The family's history is traced in DIANE WHITEHURST COLLINS, THE

Within just a few years of the marriage (neither Nichols nor I can pin down an exact date), James and Eliza moved to South Carolina. Although both the 1810 and 1820 city censuses show them in Charleston, Nichols explains that the couple lived in Georgetown (Eliza's hometown) from 1812 to 1816:

[M]any historical notes concerning South Carolina politics during and subsequent to the British Invasion of 1812 firmly place the family in nearby Georgetown Parish some 40 miles to the north of Charleston during the better part of the 1810-20 decade. Eliza's future expertise as a hostess and innkeeper during this decade are apparent in the 1812-16 journal of Gen. Peter Horry. It is repeatedly recorded that travelers of note to Georgetown often were guests of the family and were given food and lodging during their stay at the WHITEHURST home. According to his journal, Gen. Horry frequently corresponded with James WHITEHURST, and his own family and guests were welcomed on many occasions by "Mrs. WHITEHURST."⁶⁶

In 1816, James and Eliza moved back to Charleston to run a popular restaurant called the Carolina Coffee House.⁶⁷ As Nichols reports, in 1823 James died of unknown causes.⁶⁸

During their 16-year marriage, Eliza and James had four children: Daniel; a second son named James (1810?-Apr. 30, 1816); and two daughters.⁶⁹ The name

WHITEHURST FAMILY OF PRINCESS ANNE COUNTY, VIRGINIA AND PITT COUNTY, NORTH CAROLINA (2d ed. 2004). The enormous size of the Whitehurst clan makes it easy to attribute events to the wrong family member. During Whitehurst's life, for example, there was another "D.W. Whitehurst," who lived in Carteret County, North Carolina. David W. Whitehurst (1810?-66) was a farmer, merchant, and long-time member of the North Carolina House of Commons (the state legislature's lower chamber). For a look at this side of the Whitehurst family, see Dawn D.B. Eckhout, *THE WHITEHURST FAMILY OF CARTERET COUNTY, NORTH CAROLINA: OVER 390 DIRECT DESCENDANTS OF WILLIAM RICHARD WHITEHURST, WITH SOURCE NOTES* (2000).

⁶⁶ Nichols Report, *supra* note 61, at 3 (footnotes omitted) (capitalization as in the original).

⁶⁷ The Carolina Coffee House, modeled after the Carolina Coffee House in London's Birching Lane, was founded in 1785 by John Williams. In 1799, the business was taken over by Catherine Coates, who operated it until 1802. From then on,

the property . . . changed hands several times. In October 1816, James Whitehurst announced that he had leased the property and that "the Ball and Supper Rooms are handsomely painted and fitted up for parties." A year later Whitehurst repeated that "the *Ball Room* is commodiously and well fitted up for the convenience of Balls and Cotillion Parties."

NICHOLAS MICHAEL BUTLER, *VOTARIES OF APOLLO: THE ST. CECILIA SOCIETY AND THE PATRONAGE OF CONCERT MUSIC IN CHARLESTON, SOUTH CAROLINA, 1766-1820*, at 133-34, 145 (2007) (italics as in the original). See also James W. Hagy, *CHARLESTON, SOUTH CAROLINA CITY DIRECTORIES FOR THE YEARS 1816, 1819, 1822, 1825, AND 1829*, at 67 (reprint ed. 2002) (listing, in the 1819 directory, James's address as being the Carolina Coffee House on Tradd Street).

⁶⁸ See Nichols Report, *supra* note 61, at 5.

⁶⁹ *Id.*

of the first daughter is unknown. Nichols speculates that she was born sometime between 1812 and 1816 and died prior to 1829. The second daughter was named Anna (1819?-June 29, 1855).⁷⁰

In 1822, Eliza's sister Margaret Cook moved to St. Augustine with her husband Samuel, a Charleston tailor she had married in 1810.⁷¹ Margaret and Samuel undoubtedly were lured to Florida by the fact that, after nearly 300 years as a Spanish colony, the territory now was in U.S. hands.⁷²

In describing this part of Whitehurst's life, Nichols writes:

[Whitehurst's] name first appears among the list of unclaimed letters at the St. Augustine Post Office on April 1, 1823. The young Daniel, not yet sixteen years of age, probably was living with his Uncle Samuel and Aunt Margaret COOK at the time the letter in his name was received at the Post Office. Although speculative, but because he was his father's only male heir, the letter very likely notified him of the death of his father.⁷³

Based on subsequent events discussed later in this article, it almost is a certainty that the letter went unclaimed because Whitehurst, having helped Margaret and Samuel move to St. Augustine, already was on his way back to South Carolina when the letter was sent. It also seems likely that the letter was mailed by Eliza, or someone acting on her behalf.

As Nichols explains, in 1826 Samuel died.⁷⁴ Over the next four years, Margaret turned one of their properties—the three-story Ximenez building on Hospital Street—into a boarding house.⁷⁵ In 1829, Eliza agreed to move to St. Augustine to help Margaret run the business.⁷⁶ Accompanying Eliza was Whitehurst's 10-year-

⁷⁰ Anna's second husband was the Reverend Rufus King Sewall, the pastor of St. Augustine's Presbyterian Church. As Nichols explains at page 6 of his report, in 1848 Sewall was "essentially . . . run out of town because of the controversy over a page in his book, *Sketches of St. Augustine*, on which a statement suggested that the city's strong Minorcan population were 'of servile extraction,' implying that their ancestors were black and/or slaves." (underlining as in the original) To escape the controversy, Sewall and Anna moved to Wiscasset, Maine, where, according to Nichols, Anna died "on June 29, 1855 at the age of only 36 . . . possibly from complications resulting from the birth of her sixth child. . . ." Nichols Report, *supra* note 61, at 6-7.

⁷¹ See *id.* at 4.

⁷² Spain's 1821 turnover of Florida to the United States attracted numerous settlers, and the sudden influx soon led to the taking of the territory's first official census. See Dorothy Dodd, *The Florida Census of 1825*, 22 FLA. HIST. Q. 34 (1943).

⁷³ Nichols Report, *supra* note 61, at 7 (capitalization as in the original).

⁷⁴ *Id.* at 4.

⁷⁵ Constructed in 1798 by Andres Ximenez, Margaret and Samuel had acquired a one-third interest in the building in 1825. Margaret purchased another one-third interest in 1827. By 1830, she owned the entire building. See Ximenez-Fatio House Museum, *Our Story*, at <https://www.ximenezfatiohouse.org/our-story> [hereinafter *XF House Our Story*]. In 1924, Hospital Street was renamed Aviles Street "because it sounded 'more charming.'" BETH ROGERO BOWEN, *ST. AUGUSTINE IN THE GILDED AGE* 88 (2008).

⁷⁶ In describing Eliza and Margaret's partnership, one source has written: "Realizing the economic importance of a boarding house in the struggling yet growing community, the sisters strove to entice clientele to the Hospital Street house with their hospitality and efficiency." KAREN G. HARVEY, *DARING DAUGHTERS: ST. AUGUSTINE'S FEISTY FEMALES*,

*A KEY WEST "JACK-OF-ALL-TRADES":
THE STRANGE LIFE, AND PECULIAR DEATH, OF DR. DANIEL W. WHITEHURST*

old sister Anna.⁷⁷ On April 13, 1837, Whitehurst, by now 29, scratched his name and the date into one of the building's windows. In 1939, the building was turned into a museum with Whitehurst's handiwork preserved for all to see.⁷⁸



Dr. Daniel W. Whitehurst's April 13, 1837 "scratched-in" window signature
Photograph (taken 2014) courtesy of the Ximenez-Fatio House Museum

There are three other interesting tidbits in Nichols's report. First, he gives the location of Whitehurst and Henrietta's wedding—St. Augustine's Cathedral Basilica⁷⁹—and points out that Henrietta was Catholic (Whitehurst likely was

1565-2000, at 71 (2002). Another source reports: "Up to twenty-four guests could be accommodated in the house, with rooms for single men located on the ground floor, while rooms for women and families were located upstairs." MARY ATWOOD & WILLIAMS WEEKS, *HISTORIC HOMES OF FLORIDA'S FIRST COAST* 106 (2014).

⁷⁷ See Nichols Report, *supra* note 61, at 6 ("Anna arrived in St. Augustine from Charleston with her mother in 1829. . . . Although Elizabeth BREBNER was more than twice her own age, Anna surely became close friends with her cousin and the two young women likely assisted their widowed mothers with chores associated with running Margaret COOK's boarding house on Hospital Street.") (capitalization as in the original).

⁷⁸ See *XF House Our Story*, *supra* note 75. See also E-mail from Stefanie Kite, Operations Manager, Ximenez-Fatio House Museum (St. Augustine), to the author, dated Feb. 13, 2023, at 2:33 p.m. (copy on file with the author) ("The window is on the second floor of the original house building and is located in the room we call the 'Owners Parlor.' The etching is on the interior of the pane on the south window facing east over Aviles Street."). As explained *supra* note 75, in Whitehurst's time Aviles Street was known as Hospital Street.

⁷⁹ Built over five years (1793 to 1797), the Basilica Cathedral has long been the seat of the Catholic Bishop of St. Augustine. In 1970, the structure was designated a national

Presbyterian).⁸⁰ Second, he notes that Whitehurst's senior thesis at NYU, "unlike those of his classmates, was not written about [a] medically technical area[;] rather, the subject of his thesis was 'Woman.'"⁸¹ Third, he partially fills in a gap in Smiley's article by giving the names of Whitehurst's two daughters: Catherine and Laura.⁸²

In fact, Whitehurst had *five* children, as Wickman reports in her book (as will be seen, some of her other information is wrong):

Henrietta Williams Weedon (1821-1885) and Daniel Winchester Whitehurst (1808-1874) had five children: Clarence (died at sea, no issue); Mason (1853-1881, also a physician); Mary Katherine, or "Kate" (1858-1924); Laura (1860-1925); and Manning. Laura never married. Kate was married to a Spanish military officer, but the two never lived together as man and wife. The two sisters spent the rest of their lives together.⁸³

As is obvious, Wickman misreports Whitehurst's birth and death years. With respect to Henrietta, Wickman correctly lists her middle name and her birth and death years. Elsewhere in her book, she reports that Henrietta was born in Huntsville, Alabama, on January 25, 1821, and that the Weedons moved from Alabama to Tallahassee when she was six years old.⁸⁴ These facts line up with the 1870 federal census, which shows Henrietta being 49 years old, a native of Alabama, and "keeping house" for Whitehurst, Mason, Kate, Laura, and Manning.⁸⁵ Henrietta also appears in the 1880 federal census⁸⁶ and the 1885 Florida state census,⁸⁷ which was taken shortly before she died.⁸⁸

historic landmark, and in 1976 Pope Paul VI recognized it as a "minor basilica." See *Cathedral of St. Augustine*, NATIONAL PARK SERVICE—U.S. DEPARTMENT OF THE INTERIOR, at https://www.nps.gov/nr/travel/american_latino_heritage/Cathedral_of_St_Augustine.html.

⁸⁰ See Nichols Report, *supra* note 61, at 7.

⁸¹ *Id.* (citing UNIVERSITY OF NEW-YORK, MEDICAL DEPARTMENT ANNUAL ANNOUNCEMENT OF LECTURES 1843-1844, at 14-15 (1843)). Unfortunately, Whitehurst's paper no longer exists. See E-mail from Glenda S. Barahona, Reference Archivist, NYU Medical Archives, to the author, dated Feb. 17, 2021, at 5:49 p.m. (copy on file with the author).

⁸² See Nichols Report, *supra* note 61, at 8.

⁸³ WICKMAN, *supra* note 15, at 213.

⁸⁴ *Id.* at 201-02. As Wickman further explains, Henrietta's mother was Frederick Weedon's second wife Mary Wells Thompson, the daughter of a well-to-do Alabama planter. The couple married in 1816; moved to Tallahassee in 1827; and moved again in 1834, "almost two hundred miles across the Florida Territory," to St. Augustine. *Id.* at 202.

⁸⁵ See KEY WEST—1870 U.S. CENSUS, *supra* note 60, at Lines 24-29.

⁸⁶ See OFFICE OF THE SECRETARY OF THE INTERIOR, THE TENTH CENSUS OF THE UNITED STATES: 1880 (1883) [hereinafter KEY WEST—1880 U.S. CENSUS] (Page 26, Supervisor's District 18, Enumeration District 114, Line 9 of Schedule 1.—Inhabitants in Key West, in the County of Monroe, State of Florida, enumerated June 26, 1880).

⁸⁷ See Page 6, Enumeration District 5, Line 26 of Schedule 1.—Inhabitants in Key West, in the County of Monroe, State of Florida, enumerated June 26, 1885, FAMILYSEARCH.ORG, at <https://www.familysearch.org/ark:/61903/3:1:S3HY-6XSZ-9C?i=211&personaUrl=%2Fark%3A%2F61903%2F1%3A1%3AMNJC-BNQ>.

⁸⁸ No source gives the exact date of Henrietta's death. For a further look at Henrietta's life, see Alison R. Hardage, *Henrietta Williams Weedon, 1821-1885*, ANCESTRY.COM,

With respect to Whitehurst's children, the following corrections are in order:

Clarence. Clarence was Whitehurst's first child and appears in both the 1850 federal census (where he is listed as being seven years old)⁸⁹ and in the 1860 federal census (where he is listed as being 16 years old and still living with his parents).⁹⁰ Based on these entries, he was born in 1844.⁹¹ By 1862, Clarence was a student at the Maine Wesleyan Seminary in Kent's Hill, Maine.⁹² In the 1880 federal census, there is a "Clarence W. Whitehurst" (the "W." almost certainly an abbreviation for "Weedon") living in Live Oak County, Texas, and working as a "stock raiser" (*i.e.*, rancher).⁹³ That this *is* Clarence is supported by his race (White) and the fact that he gives his birthplace as "Florida"; his father's birthplace as "Virginia"; and his mother's birthplace as "Alabama."⁹⁴ Although Wickman says that Clarence perished at sea, this is incorrect. Instead, shortly after the 1880 census was taken he moved to New York City and died there on March 26, 1893, at the age of 49.⁹⁵ Although he was married at the time of his death, we do not know his wife's name or whether he had any children.⁹⁶ The only other thing we know about Clarence is that he apparently had some sort of disability as a child, for a stranger who met him when he was 12 remarked: "Mrs. Whitehurst has two boys under six—the eldest a little cripple—he was a pitiable object."⁹⁷

at https://www.ancestry.com/family-tree/person/tree/69316113/person/36277542865/story?_phsrc=KTc165&_phstart=succesSource.

⁸⁹ See OFFICE OF THE SECRETARY OF THE INTERIOR, THE SEVENTH CENSUS OF THE UNITED STATES: 1850 (1853) (Line 14 of Schedule I.—Free Inhabitants in Tortugas, District No. 3, in the County of Monroe, State of Florida, enumerated Aug. 24, 1850).

⁹⁰ See KEY WEST—1860 U.S. CENSUS, *supra* note 37, at Line 23.

⁹¹ Although the 1850 federal census indicates that Clarence was born in 1843, this is almost impossible because: 1) Whitehurst and Henrietta did not get married until Apr. 30, 1843; and 2) Whitehurst was in New York City during the early part of 1843 finishing up his medical studies. The 1860 federal census corrects the mistake by lowering Clarence's age by one year.

⁹² See CATALOGUE OF THE OFFICERS AND STUDENTS OF THE MAINE WESLEYAN SEMINARY, AND FEMALE COLLEGE, KENT'S HILL, READFIELD, 1862-63, at 9 (1863) (identifying Clarence as one of the school's male students and listing his home as "Key West, Fla.").

⁹³ See OFFICE OF THE SECRETARY OF THE INTERIOR, THE TENTH CENSUS OF THE UNITED STATES: 1880 (1883) [hereinafter LIVE OAK—1880 U.S. CENSUS] (Page 5, Supervisor's District 6, Enumeration District 102, Line 30 of Schedule 1.—Inhabitants in Commissioner's Precinct No. 4, in the County of Live Oak, State of Texas, enumerated June 5, 1880).

⁹⁴ *Id.*

⁹⁵ See *Clarance [sic] Whitehurst: Death • New York, New York City Municipal Deaths, 1795-1949*, FAMILYSEARCH.ORG, at <https://www.familysearch.org/ark:/61903/1:1:2WVQ-NMN> [hereinafter CWW Death Certificate]. That this *is* Clarence is proven by the fact that his mother is listed as "Heneretta" (an obvious misspelling of Henrietta).

An 1883 directory lists Clarence, unmarried, living at 49 Morton Street in Manhattan's West Village and working as a clerk, although it does not give the name of his employer. See TROW'S NEW YORK CITY DIRECTORY, FOR THE YEAR ENDING MAY 1, 1883, at 1792 (1883).

⁹⁶ See CWW Death Certificate, *supra* note 95.

⁹⁷ Emma Talcott Norman, *Shipwreck and Escape in the Tortugas*, SOUTH FLORIDA

Mason. As Wickman reports, Mason (middle initial “J.”) was born in 1853 and followed in his father’s footsteps. After graduating from the University of Maryland’s medical school in 1875,⁹⁸ Mason returned to Key West and moved in with his mother and sisters.⁹⁹ On June 9, 1881, he married Irene Bethel,¹⁰⁰ but died soon thereafter of unknown causes.¹⁰¹ In 1884, James L. Harn, a Jacksonville lawyer, sued Mason’s estate to foreclose on his only asset: a single lot of land in Jacksonville.¹⁰²

COLLECTIONS MANAGEMENT CENTER, EVERGLADES NATIONAL PARK (n.d.), available at <http://www.themosttraveled.com/Shipwreck%20and%20Escape%20in%20the%20Dry%20Tortugas.pdf> (the quoted language appears at page 7 of the transcription).

Norman was a passenger aboard the steamer *Coronet*. During a July 1856 voyage from New Orleans to Liverpool, the ship foundered in the Florida Straits, forcing the passengers to take refuge on Garden Key. See *Memoranda—Disaster*, CHARLESTON DAILY COURIER (SC), Aug. 15, 1856, at 4. Norman’s belief that Clarence was less than half his actual age suggests that his disability, whatever it was, severely affected his physical development.

⁹⁸ See *The University of Maryland: Sixty-Eighth Commencement of the School of Medicine*, SUN (Balt.), Mar. 2, 1875, at 1 (listing Mason among the graduates). In 1878, Mason joined the Florida Medical Association. See PROCEEDINGS OF THE FLORIDA MEDICAL ASSOCIATION—SESSION OF 1878, at 5 (1878) (“The Committee on Credentials reported favorably on the credentials of Drs. Horstman, Whitehurst, Mitchell, Shine and Kimball.”).

⁹⁹ See KEY WEST—1880 U.S. CENSUS, *supra* note 86, at Lines 9-12 (showing Henrietta, Kate, Laura, and Mason all sharing the same house).

¹⁰⁰ See *Mason J Whitehurst[:] Florida, County Marriages, 1830-1957*, FAMILYSEARCH.ORG, at <https://www.familysearch.org/ark:/61903/1:1:QG1J-WLH6>. This web page provides a link to Monroe County’s marriage license index. Irene (1858-1939) subsequently married the famous Key West wrecker Bradish (Hog) Johnson. Her headstone mentions Johnson but says nothing about Mason. See *Irene Bethel Johnson*, FIND-A-GRAVE, at <https://www.findagrave.com/memorial/49558380/irene-johnson>. For a biography of Johnson, see Vincent Gilpin, *Bradish W. Johnson, Master Wrecker, 1846-1914*, 1 TEQUESTA 21 (1941).

¹⁰¹ I have not found any source that gives the exact date of Mason’s death. For a photograph of Mason’s headstone, see *Mason J. Whitehurst*, FIND-A-GRAVE, at <https://www.findagrave.com/memorial/142087022/mason-j.-whitehurst>. As this picture reveals, Mason’s headstone is next to the headstone of his maternal grandfather Frederick Weedon.

It is probable that Mason died of yellow fever. See *Yellow Fever at Key West*, N.Y. TIMES, Aug. 24, 1881, at 5 (reporting that the dreaded disease once again was present in the city). As a busy seaport with limited sanitation facilities, Key West repeatedly experienced yellow fever outbreaks during the 19th century. See Herbert L. Tindall, *Yellowjack and the Conchs: The Impact of Yellow Fever on Key West*, 2 FLA. KEYS SEA HERITAGE J. 1 (Spring 1992).

¹⁰² See *Dr Mason J Whitehurst in the Florida, U.S., Wills and Probate Records, 1810-1974*, ANCESTRY.COM, at <https://www.ancestry.com/discoveryui-content/view/632774:8993>. Harn represented a man named Thomas McMurray, who claimed he was owed “some Six or Seven Hundred Dollars which sum is secured by a mortgage upon the before mentioned lot.” *Id.* Recognizing that the lawsuit was sure to raise eyebrows given its tardiness, Harn wrote in his papers: “[This petition concerns] the Estate of the late Dr. Mason J. Whitehurst. We understand that he died some two years since and that no administration was ever taken out.” *Id.*

That Mason died intestate and nearly broke is not surprising. First, he had inherited nothing when his father died. (As previously explained, Whitehurst lost nearly all his

Mary. Mary was Whitehurst's middle child. As will be explained shortly, she ended up having the greatest impact on Whitehurst's life. For the moment, however, it suffices to say that she was born in 1857 (not 1858 as Wickman reports) and that the correct spelling of her middle name was "Catherine," and not, as Wickman indicates, "Katherine," nor as her headstone proclaims, "Catharine." This is made clear by her 1919 passport application, which includes her photograph.¹⁰³ Given the actual spelling of her middle name, Mary's use of the nickname "Kate" is puzzling. As Wickman partially reports, Mary died on March 5, 1924, in Tampa.¹⁰⁴

Laura. As Wickman states, Laura (middle initial "H.") was born in 1860. But contrary to her account, Laura was married. Her husband was an optometrist named Bernardo Gallo,¹⁰⁵ and the couple took their vows in Key West on April 2, 1902.¹⁰⁶ Later, they moved to Tampa, where they spent the rest of their lives. Bernardo died on December 9, 1924;¹⁰⁷ Laura passed away four months later (Apr. 7, 1925).¹⁰⁸ Laura's *Find-A-Grave* web page includes a photograph showing her and Bernardo's joint Key West headstone.¹⁰⁹ Wickman is correct that Kate lived with Laura, but she did so as part of Bernardo and Laura's household. This is made clear by

wealth at the end of the Civil War.) Second, he had been working as a doctor for only six years. Lastly, he had just gotten married and likely had spent whatever money he did have on his wedding and setting up his new home with Irene.

¹⁰³ See *Mary Catherine Whitehurst in the U.S., Passport Applications, 1795-1925*, ANCESTRY.COM, at https://search.ancestry.com/cgi-bin/sse.dll?indiv=1&dbid=1174&h=918175&tid=&pid=&queryId=b21476e59ae2a1e15aedc313f187dd10&usePUB=true&_phsrc=KTc35&_phstart=succesSource. This web page provides a link to Mary's passport application.

¹⁰⁴ See *Mary C. Whitehurst[:] Florida Deaths, 1877-1939*, FAMILYSEARCH.ORG, at <https://www.familysearch.org/ark:/61903/1:1:FP9G-RYT>. This web page provides a link to Mary's death certificate, which shows that she was born on January 27, 1857.

¹⁰⁵ See *U.S., Passport Applications, 1795-1925 for Bernardo Gallo*, ANCESTRY.COM, at https://search.ancestry.com/cgi-bin/sse.dll?indiv=1&dbid=1174&h=542913&tid=&pid=&queryId=b816db86a2a3319ea53dd0676c19742f&usePUB=true&_phsrc=KTc167&_phstart=succesSource. This web page provides a link to Bernardo's passport application.

In addition to stating his profession, Bernardo explains that he is applying for a passport "for myself and wife Laura"; that he was born in Cuba on August 20, 1860; that he immigrated to the United States in 1883; and that while living in Key West, he became a U.S. citizen in 1893. The application includes (on page 2) photographs of both Bernardo and Laura.

¹⁰⁶ See *Bernardo Gallo[:] Florida Marriages, 1837-1974*, FAMILYSEARCH.ORG, at <https://www.familysearch.org/ark:/61903/1:1:QG1J-MT3M>. This web page provides a link to Monroe County's marriage license index.

¹⁰⁷ See *GALLO*, TAMPA DAILY TIMES, Dec. 10, 1924, at 11A ("Nonardo [sic] Gallo, 68 [sic], died at this home in Tampa yesterday. He is survived by his widow, Mrs. Laura Gallo. . . . The body will be sent to Key West for funeral and burial.").

¹⁰⁸ See *Laura Whitehurst Gallo[:] Florida Deaths, 1877-1939*, FAMILYSEARCH.ORG, at <https://www.familysearch.org/ark:/61903/1:1:FP74-KY2>. This web page provides a link to Laura's death certificate, which also gives her birth date (Mar. 28, 1860).

¹⁰⁹ See https://images.findagrave.com/photos/2015/31/142086543_1422826838.jpg (the inscription reads: "Bernardo Gallo 1860-1924; "Laura W. Gallo 1860-1925").

the 1910 federal census, which identifies Kate as Bernardo's widowed sister-in-law.¹¹⁰

Manning. Manning (middle initial "E.") was Whitehurst's youngest child. He is listed in the 1870 federal census as being nine years old,¹¹¹ which means he was born in 1861. In 1875, he is included on the roster of preparatory students at Mount Saint Mary's College in Emmitsburg, Maryland.¹¹² In the 1880 federal census, he is shown living in Jacksonville and working as a clerk in a dry goods store.¹¹³ A July 16, 1885, newspaper story reports that Manning traveled from Florida to Keyport, New Jersey, where he threatened to kill and eat a "Captain R.R. Sewell" for insulting a member of his family.¹¹⁴ After being arrested, Manning calmed down,

¹¹⁰ See DEPARTMENT OF COMMERCE AND LABOR—BUREAU OF THE CENSUS, THIRTEENTH CENSUS OF THE UNITED STATES: 1910 (1913) (Sheet B, Supervisor's District 1, Enumeration District 60, Lines 75-77, City of Tampa, County of Hillsborough, State of Florida, enumerated Apr. 16, 1910). In this census Kate is listed as being 50, meaning she shaved three years off her real age. Laura's age is listed as 45, meaning she shaved five years off her real age. Bernardo, on the other hand, gives his real age (49).

¹¹¹ See KEY WEST—1870 U.S. CENSUS, *supra* note 60, at Line 29.

¹¹² See CATALOGUE OF MOUNT SAINT MARY'S COLLEGE, EMMITSBURG [SIC], MD.—ACADEMIC YEAR 1875-'76, at 16 (1876) (listing "Whitehurst, Manning E." of "Key West, Fla." as being a high school sophomore). As its web site (<https://msmary.edu/>) explains, the school, which was founded in 1808, now is known as Mount Saint Mary's University.

Manning undoubtedly found his time in Emmitsburg bleak. As one pair of commentators has written:

Life at Mt. St. Mary's in those days [1875-78] had very few attractions, save for the studious. The social side of education seems to have been entirely neglected; and while there ever existed among the students a tender good-fellowship, yet they knew little of one another. There were few means of amusement, and these very restricted, while the notion obtained that "all work and no play" should be the collegians' constant watchword.

2 THE STORY OF THE MOUNTAIN: MOUNT ST. MARY'S COLLEGE AND SEMINARY 154 (John J. Tierney & Peter A. Coad eds., 1911).

¹¹³ See OFFICE OF THE SECRETARY OF THE INTERIOR, THE TENTH CENSUS OF THE UNITED STATES: 1880 (1883) (Page 4, Supervisor's District 18, Enumeration District 34, Line 39 of Schedule 1.—Inhabitants in Jacksonville, in the County of Duval, State of Florida, enumerated July 3, 1880). See also WEBB'S JACKSONVILLE DIRECTORY—1882, at 74 (1882) (listing Manning as still living in the city and still working as a clerk).

¹¹⁴ The story does not say who Sewell allegedly insulted and provides no additional information about Sewell. The 1885 New Jersey state census shows a Rufus R. Sewell, age 20-65, living in Keyport. See *Rufus R Sewell in the New Jersey, U.S., State Census, 1885*, ANCESTRY.COM, at <https://search.ancestry.com/cgi-bin/sse.dll?indiv=1&dbid=61556&h=836688&tid=&pid=&queryId=7372f07f5de83cee3266cbd0790b5fff&usePUB=true&phsrc=KTc87&phstart=successSource>.

Undoubtedly, however, Rufus's last name was "Sewall" and he was Manning's cousin Rufus Roland Sewall (1844-89), one of the children of Reverend Rufus Sewall and his wife Anna (Whitehurst's younger sister). See *supra* note 70. See also *Anna E Whitehurst Sewall*, FIND-A-GRAVE, at <https://www.findagrave.com/memorial/36411342/anna-e-sewall> (listing Rufus Roland as one of Anna's children and giving his birth and death dates).

retracted his charges, and eventually was released. According to the newspaper: "The affair was a most mysterious one to all onlookers. . . . One could not but feel that the man might not be sound in mind. His variableness would seem to indicate that he was laboring under some infirmity."¹¹⁵ On October 30, 1886, Manning can be found among the inmates in a Huntsville, Texas prison—unfortunately, the prison register does not indicate the reason for his arrest.¹¹⁶ Despite diligent searching, the only further trace of Manning after this date are several 1892 newspaper articles that mention that a "Manning Whitehurst" is the president of the Topeka (Kansas) Bi-Chloride of Gold Club, an organization for recovering alcoholics.¹¹⁷ Whether this Manning Whitehurst is Whitehurst's son is impossible to say.

Mason, Mary, and Laura all died childless. If Clarence and Manning also died without children (which, from the available evidence, seems likely), Whitehurst's direct line has died out. As previously explained, however, his sister Anna had six children,¹¹⁸ so it is likely that Whitehurst has distant relatives who currently are alive.

III. ADDITIONS

Collectively, Whitehurst's WWF entry, McMurtie's article, Smiley's essay, Wickman's book, the WWFP collection, and Nichols's report would seem to provide a thorough recounting of Whitehurst's life. In fact, however, they all overlook four very important details.

¹¹⁵ *Armed with a Rawhide*, MONMOUTH INQUIRER (NJ), July 16, 1885, at 3.

¹¹⁶ *See Texas, U.S., Convict and Conduct Registers, 1875-1945 for M E Whitehurst*, ANCESTRY.COM, at https://search.ancestry.com/cgi-bin/sse.dll?indiv=1&dbid=2143&h=121961&tid=&pid=&queryId=46e07de46dd87235101fd9f081f3f145&usePUB=true&_phsrc=KTc21&_phstart=successSource (under "Registration No. 4161"). The register indicates that Manning lives in Paris, Texas; was arrested on October 22, 1886; was born in Florida; is 26 years old; is 5' 8" tall and weighs 118 pounds; has a fair complexion, black hair, and black eyes; and is a "Lawyer" (which almost certainly was not true). Just a few months earlier, Manning had been pardoned from a 12-month jail sentence by Alabama governor Edward A. O'Neal after it was discovered that he had tuberculosis. *See Several Pardons That Were Granted by the Governor Yesterday*, MONTGOMERY ADVERT. (AL), July 23, 1886, at 5.

¹¹⁷ *See, e.g., The Bi-Chloride Gold Club*, ST. J. (Topeka, KS), Jan. 14, 1892, at 4. Bi-Chloride of Gold was a quack cure for alcoholism that was very popular in the 1890s. Championed by Dr. Leslie E. Keeley, it was known as both the "Gold Cure" and the "Keeley Cure." For a further discussion, see, e.g., *Keeley Cure*, HISTORY NEBRASKA BLOG, at https://history.nebraska.gov/publications_section/keeley-cure/.

¹¹⁸ *See supra* note 70.

A. EXPULSION FROM WEST POINT

In the Fall of 1826, Whitehurst enrolled as a student at the United States Military Academy at West Point.¹¹⁹ He had tried to enroll in 1825, but there had been no slot for him.¹²⁰

¹¹⁹ See LIST OF CADETS ADMITTED INTO THE UNITED STATES MILITARY ACADEMY, WEST POINT, N.Y., FROM ITS ORIGIN TILL SEPTEMBER 1, 1901, at 103 (1902) (indicating that Daniel W. Whitehurst, of South Carolina, was admitted in 1826).

I have been unable to find any information about Whitehurst's pre-college education. It is likely, however, that he was reared in the Charleston public schools. In 1811, the South Carolina legislature had passed a law requiring each election district to have a free public school. While this edict was met with either indifference or outright hostility in most parts of the state, in Charleston it was taken seriously:

The free school system gained the most popularity in Charleston where it began. In 1812, the city had five schools. A glimpse of those schools comes from an 1887 account by Charleston School Superintendent Henry P. Archer: "No child under eight was admitted unless he or she had made some proficiency in reading. Students were taught 'reading, writing, arithmetic, spelling, parsing [study of sentence components and parts of speech], geology, grammar and the pence and multiplication tables. Special attention was paid to penmanship.'"

The History of South Carolina Schools, SOUTH CAROLINA CENTER FOR EDUCATOR RECRUITMENT, RETENTION, AND ADVANCEMENT (Virginia B. Bartels ed.), at https://www.carolana.com/SC/Education/History_of_South_Carolina_Schools_Virginia_B_Bartels.pdf. As previously explained, see *supra* text accompanying note 67, in 1816 Whitehurst's parents moved to Charleston to run the Carolina Coffee House. Whitehurst would have been nearly nine years old and therefore eligible to attend the city's schools.

¹²⁰ This is made clear by a letter that U.S. Representative William Drayton (D-Charleston) sent to Whitehurst on April 6, 1826:

I this morning received a letter from the Secretary of War [James Barbour] in reply to your application for admission at the Academy at West Point in which he says that he had directed the letter & recommendations in your favor to be put on file to be considered next year when the Selections will be made from the applicants to fill the vacancies which may occur in the interim at the Military Academy. Mr. [Abraham] C. Myers of Georgetown[, South Carolina] has been appointed for the present year [and, as a result,] no vacancy [currently] exists. . . .

1 THE JEWS OF THE UNITED STATES, 1790-1840: A DOCUMENTARY HISTORY 68 (Joseph L. Blau & Salo W. Baron eds., 1963). Drayton's letter to Whitehurst turns up in Blau and Baron's book because it is quoted in a missive that Abram Myers—a prominent Jewish merchant, politician, cantor, and Abraham's father—sent to Barbour. Despite being accepted ahead of Whitehurst, Abraham's admission to West Point was held up (due to anti-Semitism) until 1828, leading Abram to complain to Barbour. For a biography of Abraham, see BRUCE S. ALLARDICE, CONFEDERATE COLONELS: A BIOGRAPHICAL REGISTER 287 (2008) (explaining that Abraham, who finally graduated from West Point in 1833, served as the Confederacy's first quartermaster-general but resigned in 1863 after his wife Marion implied that President Jefferson Davis's wife Varina was a Native American, a frequent but inaccurate claim made on account of her olive complexion).

Following his first semester, Whitehurst was expelled for taking part in the "Eggnog Riot."¹²¹ Although the revolt began as an innocent Christmas party in the North Barracks, it quickly spiraled out of control. In all, 90 cadets (out of 260) were implicated and 20 were court-martialed, including future U.S. Supreme Court Justice John A. Campbell, future Mississippi Governor Benjamin G. Humphreys, and future Texas Secretary of State Samuel A. Roberts.¹²²

Unlike many of his fellow cadets, Whitehurst was largely blameless. Indeed, the most damning thing anyone could say about him was that he had gotten drunk.¹²³ The uprising, however, gave the school an excuse to clean house and it did not miss the opportunity:

[T]he academic board, [not to be confused with the Court of Inquiry, which was separately trying the court-martialed cadets,] having finished examining the cadets, made [its own] recommendations. . . . Jim Hamilton, for instance, had been cited by many as a central figure in the mutiny, but before his role in the disturbances could be adjudged . . . "the board . . . recommended that he be discharged." Hamilton packed his bags and left. . . .

¹²¹ See *U.S., Military and Naval Academies, Cadet Records and Applications, 1800-1908*, ANCESTRY.COM, at https://www.ancestry.com/imageviewer/collections/1299/images/40487_548227-00116?treeid=&personid=&hintid=&queryId=f83b5f51d898c3067a852a2f2d08f30&usePUB=true&_phsrc=KTc118&_phstart=successSource&usePUBJs=true&_ga=2.202856913.1730001549.1611737458-564600014.1608575374&_gac=1.57645400.1611478137.Cj0KCQiA0rSABhDlARIsAJtfCcxJJlq-UAP9oX_Wb5MIaZz4_w7rCfhOzjMdabPMLXhkve1ksLN6waAuonEALw_wcB&pId=123934 (indicating that Whitehurst left West Point on January 29, 1827).

The immediate cause of the riot was Superintendent Sylvanus Thayer's order banning drinking by the corps of cadets. As has been explained elsewhere:

Before Thayer became superintendent in 1817, West Point hardly resembled the esteemed military academy of modern times. When it first opened its doors in 1802, it was nothing more than a few ramshackle buildings with ten cadets taught by three teachers. Students were admitted at any point during the year, and admissions standards were laughable. All this began to change after the War of 1812, when America's military failings inspired Congress to spend more money on the institution. They instated Thayer as superintendent, hoping he would bring order to the derelict academy.

Natasha Geiling, *Egg Nog: It's All Fun and Games Until Someone Starts a Holiday Riot*, SMITHSONIAN MAG., Dec. 19, 2013, at <https://www.smithsonianmag.com/arts-culture/egg-nog-its-all-fun-and-games-until-someone-starts-a-holiday-riot-180949281/>.

¹²² For a thorough recounting of the uprising, see JAMES B. AGNEW, *EGGNOG RIOT: THE CHRISTMAS MUTINY AT WEST POINT* (1979).

¹²³ In his January 12, 1827, appearance before the school's "Court of Inquiry," for example, Cadet Thomas Drayton testified: "I saw—after breakfast—on the 25th December last Cadet J.F. Davis [the future president of the Confederate States of America] in a state of intoxication and also Cadet Whitehurst, the latter in the Mess-Hall." 1 THE PAPERS OF JEFFERSON DAVIS: 1808-1840, at 78 (Haskell M. Monroe, Jr. & James T. McIntosh eds., rev. ed. 1991). Unlike Whitehurst, Davis escaped punishment and graduated in 1828. See Walter L. Fleming, *Jefferson Davis at West Point*, 10 PUBS. MISS. VALLEY HIST. SOC'Y 247 (1909).

The board also recommended that several other cadets be dismissed for lack of aptitude in certain academic disciplines or for bad conduct. Among them were Walter Otey, Charles Schoolfield, George Skipwith, Charles Whistler, and Daniel Whitehurst, all fourth classmen [*i.e.*, freshmen]. These and several cadets in the other classes departed for home not long after Hamilton.¹²⁴

It is not known what kind of reception Whitehurst received when he got home. It likely was not a very pleasant one.¹²⁵

B. ELECTION TO THE FLORIDA SENATE

On November 29, 1865, Whitehurst was elected to the Florida Senate. A total of 123 votes were cast, with Whitehurst receiving 119 votes; John J. Philbrick netting three votes; and an “H. Albury” garnering one vote.¹²⁶

¹²⁴ AGNEW, *supra* note 122, at 133-34.

¹²⁵ Whitehurst apparently did not go directly home, for Agnew reports that in subsequent proceedings before the Court of Inquiry, “Stocker, in his support of Berrien’s story, requested that the court send to New York to order the return of ex-cadet Whitehurst, who he said could confirm Stocker’s statement regarding the assault.” *Id.* at 149. (As Agnew explains, cadet John C. Stocker, Jr. was on trial for assaulting Captain Ethan A. Hitchcock during the riot. Stocker denied touching Hitchcock and identified cadet James W.M. Berrien as the culprit. Berrien willingly accepted responsibility and boasted about his actions to anyone who would listen.)

Whitehurst’s whereabouts between early 1827 (after he left West Point) and late 1831 (when he departed for Africa on his ACS trip) are uncertain. However, there is a tantalizing clue in the October 29, 1831, issue of the *Charleston Courier*:

The Subscriber begs leave to inform her friends and the public, that she has taken that large and commodious HOUSE on Bay-st. formerly occupied by Mr. Whitehurst, which has been fitted up and prepared to accommodate both constant borders and transient persons. Her table will always be plentifully equipped with the best that the Market affords, and every exertion used to render those comfortable who may favor her with their patronage.

This Hotel is in the immediate mercantile part of the town, and conveniently situated to all the public offices.

A share of public patronage is respectfully solicited.

ELIZA W. POTTER.

Georgetown, (S. C.) October 21 [O 22 s3]

New Hotel, CHARLESTON COURIER (SC), Oct. 29, 1831, at 3 (capitalization as in the original). Given Whitehurst’s familial connection to Georgetown, it seems reasonable to believe that the “Mr. Whitehurst” mentioned in this notice is Whitehurst; that he spent at least part of the period 1827 to 1831 in Georgetown; and that by the Fall of 1831 he no longer needed a place to live because he was setting sail for Africa.

¹²⁶ See *Weedon and Whitehurst Family Papers*, *supra* note 44, at <https://dc.lib.unc.edu/utis/ajaxhelper/?CISOROOT=04ddd&CISOPTR=462298&action=2&DMSCALE=31.298904538341&DMWIDTH=3195&DMHEIGHT=3996> and <https://dc.lib.unc.edu/utis/ajaxhelper/?CISOROOT=04ddd&CISOPTR=462282&action=2&DMSCALE=31.201248049922&DMWIDTH=3205&DMHEIGHT=3999> (certificate of election signed by Probate Judge Winer Bethel and electors John H. Mead and Henry Muhenan, dated Dec. 2, 1865).

Under Florida's 1865 constitution (which Whitehurst had helped write three weeks earlier as a member of the state's constitutional convention), senatorial terms were two years.¹²⁷ During his term, Whitehurst was one of three senators appointed to a special committee to study the advisability of establishing a State Medical Board. On November 22, 1866, the committee unanimously recommended that the board be created.¹²⁸

On the same day as the committee's recommendation, Whitehurst introduced a bill reconfiguring Dade County.¹²⁹ In 1823, when Monroe County was created out of St. Johns County (one of Florida's two original counties), all the Florida Keys (Upper, Middle, and Lower) were made part of it.¹³⁰ In 1836, however, when Dade County was carved out of Monroe County, the Upper and Middle Keys were included in its boundaries at the urging of the notorious Jacob Housman.¹³¹

Philbrick was a successful local businessman who in 1889 built Key West's first electric plant. See *Electricity Comes to the Keys*, KEYS WKLY., Aug. 10, 2018, at <https://keysweekly.com/42/electricity-comes-to-the-keys/>. Following his death in 1897, Philbrick's estate was sued by one of his creditors. The case made it all the way to the U.S. Supreme Court, which dismissed due to a lack of federal jurisdiction. See *Allen v. Arguimbau*, 198 U.S. 149 (1905).

Although I have not been able to determine with certainty the identity of "H. Albury," the reference likely is to Henry Albury, who soon after the election moved to Tampa, opened a saloon and a billiards parlor, and in 1868 became the sheriff of Hillsborough County. See CANTER BROWN, JR., *TAMPA IN CIVIL WAR AND RECONSTRUCTION* 93, 128 (2000).

¹²⁷ See 1865 Fla. Const. art. IV, § 5 ("The Senators shall be chosen by the qualified electors for the term of two years, at the same time, in the same manner, and at the same places where they vote for members of the House of Representatives; and no man shall be a Senator unless he be a white man, a citizen of the United States, and shall have been an inhabitant of this State two years next preceding his election, and the last year thereof a resident of the District or County for which he shall be chosen, and shall have attained the age of twenty-five years.").

¹²⁸ See JOURNAL OF THE PROCEEDINGS OF THE SENATE OF THE GENERAL ASSEMBLY OF THE STATE OF FLORIDA AT THE 2D SESSION OF THE FOURTEENTH GENERAL ASSEMBLY 41 (1866) [hereinafter 1866 FLORIDA SENATE PROCEEDINGS]. For a variety of reasons, no action was taken on the committee's recommendation and the subject was allowed to languish until 1889. See Ronald Hamowy, *The Early Development of Medical Licensing Laws in the United States, 1875-1900*, 3 J. LIBERTARIAN STUD. 73, 83 (1979) ("The first state to require both a diploma in medicine and examination was Florida. In 1889, the State Medical Society was successful in prevailing upon the state legislature to enact a medical practice law which authorized the appointment of medical examining boards for each judicial district to examine all candidates 'upon production of a medical diploma from a recognized college.'").

¹²⁹ See 1866 FLORIDA SENATE PROCEEDINGS, *supra* note 128, at 40.

¹³⁰ See An Act to Provide for the Organization of a County South of Charlotte Harbour in the Territory of Florida (approved July 3, 1823), in ACTS OF THE LEGISLATIVE COUNCIL OF THE TERRITORY OF FLORIDA PASSED AT THEIR SECOND SESSION 1823, at 122-24 (1823).

¹³¹ See Dorothy Dodd, *Jacob Housman of Indian Key*, 8 TEQUESTA 3, 9-10 (1948). For a map showing the 1836 division, see *Monroe County's Changing Border*, KEYS WKLY., July 20, 2018, at <https://keysweekly.com/42/monroe-countys-changing-border/>.

As Dodd reports, Housman (sometimes spelled "Houseman") was the most successful wrecking captain in the Upper Keys and the owner of nearly every square inch of Indian Key, a small island just a few hundred yards off the Atlantic Ocean side of present-day Islamorada. However, Monroe County's political establishment was

Whitehurst's bill corrected this anomaly by returning the Upper and Middle Keys to Monroe County.

I have found no contemporaneous newspaper stories discussing (or even mentioning) Whitehurst's bill.¹³² As a result, all we have is the bare legislative record, which reveals that the bill passed the Senate (unanimously and without debate) on November 24, 1866; passed the House of Representatives (also unanimously and without debate) on December 6, 1866; and was signed into law by Governor David S. Walker on December 8, 1866.¹³³

controlled by the wrecking captains in Key West. Thus, when Dade County was created in 1836, Housman successfully lobbied for the Upper and Middle Keys to be placed in it. Housman also convinced the Florida legislature to make Indian Key the county seat of Dade County. An 1840 Indian attack razed Indian Key, leading the county seat to be moved to Miami in 1844. Today, Indian Key is a state park. *See Indian Key Historic State Park*, FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, at <https://www.floridastateparks.org/IndianKey>.

¹³² The earliest newspaper account I have located regarding Whitehurst's bill is from 1923:

The act of 1866 gave the northern boundaries of the county at the mouth of Broad creek, a stream separating Cayo Largo, now known as Key Largo, from Old Roads key, and extending thence in a direct line to Mud point. This change gave back to Monroe county all the islands from Old Roads key to Bahia Honda, which had been taken by the act of 1836.

Monroe Has Dwindled as Years Pass, TAMPA DAILY TIMES, June 4, 1923, at 1B.

¹³³ *See* ACTS AND RESOLUTIONS ADOPTED BY THE SECOND SESSION OF THE 14TH GENERAL ASSEMBLY OF THE STATE OF FLORIDA 62 (1867). In full, the law (officially designated "Chapter 1,592 [No. 57]"), read as follows:

AN ACT changing and defining the Boundary of Dade County.
SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Florida in General Assembly convened*, That the district of country [sic] included within the following boundaries shall hereafter constitute the County of Dade, to-wit : Commencing at the mouth of Broad Creek, (a stream separating Cayo Largo from Old Rhodes Key,) thence in a direct line to Mud Point, thence along the main land to Whites Bluff, thence in a straight line to the point where the Range line strikes the main land between Ranges thirty-six and thirty-seven, thence along the western margin of the Everglades, and Lake Okeechobee to the Township line between Townships thirty-seven and thirty-eight, thence East along said Township line to the Atlantic Ocean, thence along the Coast including the waters of the Atlantic Ocean and the Gulf Stream within the jurisdiction of the State of Florida, to the place of beginning.
SEC. 2. *Be it further enacted*, That so much of the former County of Dade as is not included within these boundaries is attached to and made a part of the County of Monroe, and the County Clerk of Monroe County is hereby authorized to transcribe so much of the Records of Monroe County as pertain to the County of Dade, and such records so transcribed shall be received in all courts of law and equity, and the expenses incurred in said transcribing of records shall be paid by the County of Dade.

Id.

C. ELECTION AS MAYOR OF KEY WEST

Upon his return from Tallahassee, Whitehurst was elected mayor of Key West and served from 1868 to 1869.¹³⁴ Remarkably, there is no record of Whitehurst's election or his activities while in office. In his 1912 book about Key West, however, Jefferson B. Browne includes a full list of the city's mayors and provides the following description of Whitehurst: "Dr. Daniel W. Whitehurst, both physician and attorney, was a quiet, cultured, lovable gentleman of the old school, a man of education, travel and experience."¹³⁵

D. DEATH

Whitehurst died at his home in Key West on January 19, 1872.¹³⁶ Because he was 64, it has been taken for granted that he died of old age.¹³⁷ And because his obituary has not survived,¹³⁸ there has been nothing to fact check.¹³⁹

However, in a paragraph near the end of his 1974 book about Dr. Mudd, Samuel Carter III states:

¹³⁴ See Tom Hambright, *Today in Keys History*, KEY WEST CITIZEN, Jan. 19, 2017, at A2.

¹³⁵ BROWNE, *supra* note 51, at 56, 182. In another part of his book, Browne explains *sub silentio* why Whitehurst did not stand for re-election: "The earliest contest after reconstruction, in which the newly enfranchised negroes voted, was the mayoralty election of 1869, when Hon. Joseph Beverly Browne, the Democratic candidate[,] defeated Mr. E.L. Ware, the candidate of the black Republican party, as it was then called." *Id.* at 130. In his book about Key West, Walter C. Maloney also includes a list of Key West's mayors, although he gets Whitehurst's name wrong, giving it as "Dr. W. Whitehurst." See WALTER C. MALONEY, A SKETCH OF THE HISTORY OF KEY WEST, FLORIDA 17 (1876).

¹³⁶ In his book on pre-statehood Florida newspapers, James Owen Knauss cites this date and explains that it "was obtained for me by one of my students, Miss Mary Weedon, from Miss Mary Whitehurst, Ybor City, Florida, a daughter of Daniel W. Whitehurst." JAMES OWEN KNAUSS, TERRITORIAL FLORIDA JOURNALISM 68 n.288 (1926). Thus, sources that use a different year (such as Wickman) can be said, with a great deal of confidence, to be incorrect.

¹³⁷ Statistically, this assumption rests on solid ground. At the time of Whitehurst's birth, life expectancy in the United States was 35. By the time of his death, it was 40. See Max Roser et al., *Life Expectancy*, revised Oct. 2019, at <https://ourworldindata.org/life-expectancy>.

¹³⁸ While working on this article, I conducted a deep dive for Whitehurst's obituary using such search engines as ChroniclingAmerica.gov, NewspaperArchive.com, and Newspapers.com. I also consulted with historians Tom Hambright (Monroe County Public Library) and Melissa Jerome (University of Florida Library).

At the time of Whitehurst's death, Key West had two newspapers: the *Dispatch* and the *Guardian*. See BROWNE, *supra* note 51, at 142. Very few of their issues are extant, and none are available from around the time of Whitehurst's death. See *Key West Dispatch*, LIBRARY OF CONGRESS, at <https://chroniclingamerica.loc.gov/lccn/sn82014743/holdings/>, and *Key West Guardian*, LIBRARY OF CONGRESS, at <https://chroniclingamerica.loc.gov/lccn/sn84027563/>.

¹³⁹ Whitehurst does not have a death certificate because Florida did not begin issuing death certificates until 1877. See RED BOOK: AMERICAN STATE, COUNTY, AND TOWN SOURCES 127 (Alice Eichholz ed., 3d ed. 2004).

Whitehurst himself had retired to Key West where his only daughter [sic] became engaged to a visiting European count. The doctor raised passionate objections to this mismatch with “Count No-account.” The daughter insisted on going ahead with the marriage even if it broke her father’s heart. Whitehurst refused to attend the wedding ceremony. Instead he stayed home and killed himself by taking poison.¹⁴⁰

At the back of his book, Carter explains the basis for his provocative statement. In its entirety, it reads: “Whitehurst papers in Dade [sic] County Public Library, Key West.”¹⁴¹

There are two obvious problems with Carter’s story. First, Whitehurst had two daughters, not one. Second, of course, the Key West Public Library is in Monroe, not Dade (now known as Miami-Dade), County.¹⁴² But because he died in 1988, it is not possible to ask Carter about these errors.

Nevertheless, Carter’s reputation makes it impossible to simply dismiss his assertion:

SAM DIED on Dec. 28, 1988, at the Pomperaug Health Center, near his home in Southbury, Conn. His literary career, one of the longest and most distinguished among Princeton alumni, began on the campus with the Triangle Club, which fired his interest in music, the stage, and writing. After study at Oxford and the Sorbonne, Sam lived in Europe and poured out short stories and articles for the SATURDAY EVENING POST, COLLIERS, and other magazines. He returned to America in the 1930s and began a career of several decades in radio, television, and movies, in N.Y.C. and California. He wrote innumerable scenarios, rewrote popular plays for radio, staged productions with original casts, and was associated with prestigious companies. The editors of the READER’S DIGEST highly valued his literary prowess and advised him to concentrate on books. The result was a stream of brilliant works—20 in all—on American history, especially the War of 1812 and the Civil War. . . .¹⁴³

¹⁴⁰ CARTER, *supra* note 30, at 347.

¹⁴¹ *Id.* at 369 n.9.

¹⁴² At the start of my research, I asked one of my university’s librarians to contact the Monroe County Public Library. It responded by forwarding copies of its entire Whitehurst file. See E-mail from Breana K. Sowers, Florida History Department Archivist, Monroe County Public Library, to Alison F. Rosenberg, Assistant Director—Research & Reference, NSU Panza Maurer Law Library, Jan. 22, 2019, at 1:50 p.m. (copy on file with the author). The file contains no information about Whitehurst’s death. Of course, it is possible that such information was in the file when Carter looked at it and has become lost.

For the sake of completeness, at the end of my research I contacted the Miami-Dade County Public Library. It advised me that it has no Whitehurst materials. See E-mail from Giselle Alonso, Florida Collection Librarian, Miami-Dade County Public Library, to the author, Feb. 1, 2021, at 2:13 p.m. (copy on file with the author).

¹⁴³ *Samuel T. Carter III* ’27, 89 PRINCETON ALUMNI WKLY. 47 (Feb. 22, 1989) (capitalization as in the original).

As will be recalled, Wickman in her book states: "Kate was married to a Spanish military officer, but the two never lived together as man and wife."¹⁴⁴ In her 1919 passport application, Kate explains that her husband was Elias Moscoso; that he was born in Ferrol, Spain; that he immigrated to the United States from Havana in November 1871 and proceeded to live in Key West until 1875; that he never became a U.S. citizen; and that he died in 1879.¹⁴⁵ These facts line up with Carter's insistence that Whitehurst was distraught over Kate's marriage to a European suitor.

Further support for Carter's contention is contained in Browne's 1912 book about Key West. While writing about another disreputable local figure he identifies only as "the Spanish Doctor," Browne says "he was, as Dr. Mason Whitehurst said, a second 'Count Fosco.'"¹⁴⁶ The name "Fosco" is close to "Moscoso," and Browne was recalling what Mason had said after the passage of more than three decades. Moreover, Mason refers to Fosco as a count, the same title used by Carter in describing Moscoso.

On Ancestry.com, a member named Geoffrey Thompson has put up his family tree. Thompson reports that "Elias Moscase [sic] y Marcet [sic]" married "Mary Catharine [sic] Whitehurst" on January 19, 1872, in "Monroe [sic], Florida," and that the couple had no children.¹⁴⁷ Ignoring his various misspellings and omissions, Thompson's posting provides Carter's tale with additional support.

That Kate and Moscoso did get married in Key West on January 19, 1872, is indisputable. The ceremony took place at Saint Mary Star of the Sea, Key West's oldest Catholic church (founded 1852),¹⁴⁸ and their marriage license records are readily available on-line.¹⁴⁹ Whether Kate was a practicing Catholic, or simply gave

¹⁴⁴ WICKMAN, *supra* note 15, at 213.

¹⁴⁵ See Mary Catherine Whitehurst Passport Application, *supra* note 103, at 1. Ferrol is a city in Galicia in northwestern Spain. Historically, it has been known for its shipyards. Today, it also is famous for being the birthplace of the Spanish dictator Francisco Franco. More information about the city can be found on its official web site at <https://www.ferrol.gal/>. See also MAXWELL FOX, TRAVEL LIKE A LOCAL: MAP OF FERROL (2018).

¹⁴⁶ BROWNE, *supra* note 51, at 183.

¹⁴⁷ See Geoffrey Thompson, *Elias Moscase y Marcet—1910*, ANCESTRY.COM, at <https://www.ancestry.com/family-tree/person/tree/173136889/person/252249636329/story>. Among his many typographical errors, Thompson misspells "Marset," substituting a "c" for the "s." See, e.g., *Elias Moscoso y Marset*, MYHERITAGE.COM, at <https://www.myheritage.com/research/record-1-260562921-1-500367/elias-moscoso-y-marset-in-myheritage-family-trees> (explaining that Moscoso's parents were Vicente Moscoso Vasquez and Teresa Moscoso (nee Marset Cucurella) and that he had three sisters: Adelaida (b. 1841), Emilia (b. 1842), and Elisa (b. 1849)). I have not been able to find a birth year for Moscoso. But see *infra* note 158 (suggesting that Moscoso was born in 1840).

¹⁴⁸ See BROWNE, *supra* note 51, at 34-35 (describing the church's history). In 2012, Saint Mary was recognized as a minor basilica. See *Basilica of St. Mary Star of the Sea, Key West, Florida, USA*, GCATHOLIC.ORG, at <http://www.gcatholic.org/churches/northamerica/5328.htm>. For a further look at Saint Mary, see <https://stmarykeywest.com/>.

¹⁴⁹ See *Florida Probate Records, 1784-1990 Monroe Deeds 1871-1873 vol H*, FAMILYSEARCH.ORG, at <https://www.familysearch.org/ark:/61903/3:1:3Q57-99Q5-K4N-X?i=78&cc=2046765&cat=296331>. I thank Tamara Hallo of Hallo Genealogy Services of Miami (<https://www.hallogenealogyservices.com/>) for bringing these records to my attention.

into Moscoso's wishes, is unknown. Certainly, however, Henrietta, being Catholic, would have pushed her oldest daughter to have a church wedding.

If one searches for Moscoso in the Hispanic Digital Library,¹⁵⁰ one finds 10 articles, published in various Spanish periodicals, that report on his naval career.¹⁵¹ The last one appears in the July 6, 1870, issue of *La Iberia*. It describes Alférez (Spanish for "Ensign") Moscoso's participation in a successful effort to recover a cache of munitions that had been landed by Cuban rebels from aboard the steamer *George B. Upton*.¹⁵²

Moscoso deserted the Spanish Navy shortly after the *Upton* raid. On October 5, 1870, Commander Tomás Valarino y Badino ordered Moscoso to present himself within 30 days and explain why funds entrusted to his care while serving as the executive officer on the gunboat *Eco* could not be located.¹⁵³ Receiving no reply, Valarino reissued his order on December 12, 1870¹⁵⁴ and again got no reply. Four days earlier, a New York newspaper had reported:

Another naval paymaster has absconded with funds entrusted to his care, and sough safety with his ill-gotten gains upon American shores, where extradition treaties with Spain are not known. The guilty fellow this time is Lieutenant Elias Moscoso, paymaster of the . . . gunboat *Eco*, and the amount of his defalcation foots up \$18,000. Verily, Admiral [José] Malcampo is having a vexing time of it with the paymasters of his fleet, among whom honesty seems to be at a discount.¹⁵⁵

If Whitehurst did kill himself on the day of Kate's wedding, Wickman's reporting that Moscoso and Kate never lived together as man and wife makes sense—it would be hard to imagine a more challenging way to begin a marriage. And it also would explain why, after more than three years of waiting, Moscoso decided to leave Key West in 1875. It appears, however, that the family and Moscoso did not harbor any ill will towards each other. In September 1872, for example, Henrietta had Moscoso serve as one of her two witnesses when she decided to sell a plot of land at the corner of Duval and Greene Streets for \$1,000 to a local grocer named Jacinto Borroto.¹⁵⁶

¹⁵⁰ See "Hemeroteca Digital" at <http://hemerotecadigital.bne.es/>.

¹⁵¹ These articles, of course, support Wickman's statement that "Kate was married to a Spanish military officer."

¹⁵² See *Noticias Generales*, LA IBERIA, July 6, 1870, at 3. By this time, the incident had been reported on by many U.S. newspapers, but none of them mention Moscoso by name. See, e.g., *Disaster to Another Cuban Expedition—Capture of the Steamer Upton*, SUN (Balt.), June 6, 1870, at 1.

¹⁵³ See *Comandancia general de Marina del Apostadero de las Habana* [General Command of the Havana Naval Station], GACETA DE LA HABANA [*Havana Gazette*], Oct. 7, 1870, at 22.

¹⁵⁴ See *Vapor San Francisco de Borja* [Steamer San Francisco de Borja], GACETA DE LA HABANA, Dec. 17, 1870, at 59.

¹⁵⁵ *Another Defalcation*, WORLD (NY), Dec. 8, 1870, at 1. Today, \$18,000 would be worth \$399,227.48. See Friedman, *supra* note 58.

¹⁵⁶ See *Florida Probate Records, 1784-1990 Monroe Deeds 1871-1873 vol H*, FAMILYSEARCH.ORG, at <https://www.familysearch.org/ark:/61903/3:1:3QS7-99Q5-K4ML?i=185&cc=2046765&cat=296331>. I again am indebted to Ms. Hallo, see *supra* note 149, for bringing this record to my attention.

In the previously mentioned 1880 federal census, Kate is identified as "Kate Moscoso" and is shown living with her mother Henrietta, sister Laura, and brother Mason.¹⁵⁷ In all later records that I have been able to find, including her death certificate, Kate's last name always appears as "Whitehurst."

Going into the marriage, Moscoso had four strikes against him: 1) he was much older than Kate;¹⁵⁸ 2) he had known Kate for only a short period of time;¹⁵⁹ 3) he was a military deserter;¹⁶⁰ and 4) he was a thief.¹⁶¹ These facts undoubtedly would have been very upsetting to Whitehurst.¹⁶² Moreover, as a doctor, Whitehurst would have known exactly how much poison to take to kill himself.¹⁶³ Thus, as noted at the outset of this section, Carter's claim that Whitehurst committed suicide cannot be dismissed easily.

IV. CONCLUSION

Even with the foregoing corrections and additions, Whitehurst remains an elusive character. Clearly, however, his role in the development of Key West deserves more notice. Likewise, his successful effort to reunite the Keys should be more widely lauded. Lastly, his death provides tantalizing clues for future research on 19th century suicides.¹⁶⁴

¹⁵⁷ See KEY WEST—1880 U.S. CENSUS, *supra* note 86, at Lines 9-12. This census incorrectly lists Kate as being married, when we know from her 1919 passport application, see *supra* note 103, that by this time she was a widow.

¹⁵⁸ As previously explained, see *supra* note 147, I have been unable to find Moscoso's actual birth year. However, Moscoso is included in a list of "aspirantes" (candidates) in the book ESTADO GENERAL DE LA ARMADA PARA EL AÑO DE 1863 ("General State of the Navy for the year 1863") 51 (1862). Given the birth years of his sisters, this suggests that Moscoso was born around 1840, making him 17 years older than Kate. Of course, Whitehurst was 13 years older than Henrietta when they married. See *supra* text accompanying note 30.

¹⁵⁹ It is impossible to say just how long Kate and Moscoso knew each other before they got married. In her 1919 passport application, Kate says Moscoso came to Key West in November 1871. See *supra* note 103 and accompanying text. If this is correct, then the pair knew each other for only two months. Newspaper reports, however, put Moscoso in America by December 1870. See *supra* note 155 and accompanying text. Thus, it is possible that Kate and Moscoso knew each other for a year before getting married.

¹⁶⁰ See *supra* text following note 152. In contrast, Whitehurst served his full tour of duty and left the army as a respected officer. See *supra* notes 20-21 and accompanying text.

¹⁶¹ See *supra* note 155 and accompanying text. Of course, with a fortune of nearly \$400,000, see *id.*, Moscoso would have had no trouble providing for Kate.

¹⁶² Whether Whitehurst would have counted Moscoso's nationality as a fifth strike against him is hard to say. One assumes not, given that Whitehurst had known many Spaniards during his time in St. Augustine. See *supra* text accompanying note 20.

¹⁶³ Of course, there is a chance that Carter might be right that Whitehurst killed himself but wrong about the method of execution. In 1870, for example, there were 1,294 reported suicides in the United States. Of these, 379 were committed by hanging; 251 by gunshot; 203 by poisoning; 133 by cutting the throat; 119 by drowning; and 209 by unspecified means. See 2 SECRETARY OF THE INTERIOR, THE VITAL STATISTICS OF THE UNITED STATES xix (1872).

¹⁶⁴ Surprisingly little work has been done on this topic. See, e.g., Christoph Kronenberg, *A New Measure of 19th Century US Suicides*, 157 SOC. INDICATORS RES. 803 (2021)

(canvassing sources); India Miller, “In the Midst of Life We Are in Death: Suicide Coverage in the South During the Civil War Era” (unpublished honors thesis, University of Richmond, Apr. 27, 2015), *available at* <https://scholarship.richmond.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1822&context=honors-theses>.