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THE ELDER BREWSTER OF PENNSYLVANIA

LEWIS C. CASSIDY*

The Pennsylvania bar of the nineteenth century was for that long period the most distinguished bar in the United States. Its history has never been written but there is a wealth of material from which it might be fashioned. Such a history can not be written apart from the epochal changes in the social, economic and political structure of the state and of the nation. This interrelation was apparent in the writings of Alexander K. McClure, Samuel W. Pennypacker and Hampton L. Carson, and their approach to the subject was legal, historical and political.

Five periods are discernible in the history of the Pennsylvania bar: 1. The era of the American Revolution, of Edward Shippen, Andrew Hamilton, the elder William Rawle and James Wilson; 2. The Jacksonian era of George M. Dallas, John B. Gibson, Horace Binney, John Sergeant and David Paul Brown; 3. The Civil War era of Jeremiah Sullivan Black, William M. Meredith, George Sharswood, George W. Woodward; 4. The post Civil War era of Francis Wharton, Benjamin Harris Brewster, F. Carroll Brewster, James T. Mitchell, George W. Biddle, Clement B. Penrose, and Craig Biddle; and 5. The era of the twentieth century, in the first quarter of which John G. Johnson, George Earle, Hampton L. Carson and Alexander Simpson were the leaders.

It is not surprising that the majority of these men were from Philadelphia, for this city was the largest and most important city in the Colonies and as the century wore on its growth as a cultural and industrial centre was second only to that of New York. The tone of the city was an index to the manner in which the entire state thought and acted, rural and urban alike, and as Lord Bryce pointed out, in the latter part of the nineteenth century, its political and industrial morale were not always enviable.

Benjamin Harris Brewster, 1816-1888, was a direct descendant of the Elder William Brewster of Plymouth, the teacher and leader of the Plymouth colony. He had set up a printing press in Leyden where the Pilgrims were in practical exile, and by virtue of his training at Cambridge, his diplomatic service in the Low Countries, and his espousal of religious freedom, became the leader of the heroic group. He was willing to lose much for his conscience sake. Had he not he would not have been the deathless man he has become. Through Connecticut into New Jersey his descendants journeyed, truly pilgrims, and on October 13, 1816, Benjamin Harris Brewster was born in Salem. His father was Francis Enoch

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Brewster, a lawyer, and his mother was Maria Hampton, the daughter of Dr. John Thomas Hampton and Mercy Harris, the latter a daughter of Benjamin Harris of the Society of Friends, who fought in the American Revolution.

The second child was Anna Hampton Brewster, who became a disciple of Elizabeth Barrett Browning, and whose novels "Compensation; or, Always a Future," and "St. Martin's Summer," were eagerly read. They are not inferior products, and her observations on the motivation of conduct, and the influence of Beethoven, leave unforgettable impressions. Her later years were spent in Rome.

When Brewster was five the great tragedy of his life occurred. His family had removed to Philadelphia and it was the custom of his father to walk with him after church. Not being ready his father departed without him and he and his sister Anna played in the dining room unattended before a grate fire which he fanned with his dress. It became ignited and covered his face. A maid entered with a pitcher of water, but dropped it upon seeing him. His mother rushed into the room and put out the fire with a carpet, applying mashed potatoes and olive oil to his burns, unable to find a physician.

Eight years after his birth his father remarried, and this act also colored his horizon, for his devotion to his mother was the deepest attachment of his life and her death in 1853 occurred when her valiant son was financially successful after the very lean but eminently successful years that had preceded them.

The published biography of Brewster¹ is silent upon his half-brother, F. Carroll Brewster, 1825-1898. It is true that his attitude toward this gifted man was unfriendly and that it was unreasonable. During his life and at his death each remained apart but their paths were singularly parallel. They were very much alike in appearance, if one did not unduly consider the elder's disfigurement. Each had a marked sense of duty towards his own, his clients, his profession, his country, and it seems fitting that these brothers, both great men and great lawyers should now, with the lapse of years, be joined in fraternal accord. Judge Brewster had not gone through the privation and humiliation of his elder brother. As a teacher of law to a group of eager law students, some of whom are now living, as a lawyer deeply interested in the welfare of the lowliest and newest member of the Philadelphia bar, he contributed more to its then altruistic character than did his scholarly treatise on Practice² and his highly successful briefs in the most important litigation of his time.

We have the picture of Benjamin at ten reading *Paradise Lost* to his sister, having since five been instructed in Latin. He entered Princeton as a freshman at fourteen and was graduated in 1834. Dr. McLean, the president, had vouched

¹Savidge, *Life of Benjamin Harris Brewster*. 1891.

²F. C. Brewster's *A Treatise on Practice in the Courts of Pennsylvania*, 2 vols. 1891; 2d ed. 1896. His *A Treatise on Practice in the Orphans' Courts*, 2 vols., appeared in 1894; a *Treatise on Equity Practice in Pennsylvania*, 2 vols., in 1895.

for "his superior mind," and Charles J. Biddle, son of Nicholas Biddle, became a warm friend: ". . . we were sincere, earnest, honest friends." Brewster entered the office of Eli K. Price and was admitted to practice January 6, 1838, age 22. His law office was opened immediately at No. 1 Sansom street, and thereafter he arose to eminence. His sister Anna later wrote to him of this period: "I have never in my life met a man so charming and brilliant in conversation as you. You were a wonderful young man. Often now, when I am reading the old poets of England and ancient tomes, enjoying keenly passages and incidents, I see that the first strong outline of my present classical tastes were traced by you in your young manhood."

Brewster kept from the first a careful account of income and outlay and earned five hundred dollars his first year, nine hundred his second, slightly less his third and more than fifteen hundred his fourth, and wrote on January 1, 1842: ". . . God willing, I will go on and do better—do better by myself and by others, and I *must* prosper."

It is amazing to note how few older and successful lawyers then, and particularly now, indicate the slightest interest in the aspirations of the younger bar, and it is not financial aid, such as being associated in a case, but friendly encouragement that is needed. In 1838 began his long friendship with Simon Cameron who was also a Democrat before the Civil War, and Senator Cameron, eighteen years his senior, accompanied his junior to his grave. Senator Cameron was easily as resourceful and able as Martin Van Buren and his career is yet to be fairly appraised. James Buchanan became interested at this time in Brewster, but this Pennsylvanian had neither the personal magnetism of Stephen A. Douglas nor the personal steadfastness of Cameron. Brewster defeated George M. Dallas for delegate to the Democratic National Convention of 1844. In this year Henry A. Muhlenburg was supported for governor by Brewster and the state attorney-generalship was assured him, by whom does not appear; but Muhlenburg dying before the election Francis R. Shunk was elected governor and it is refreshing to find Brewster at twenty-seven writing to Cameron: "I want to have, or to be refused the Attorney-Generalship by Mr. Shunk." Neither materialized. At the Baltimore Convention of 1844 Pennsylvania was instructed for James Buchanan and in the historic struggle between him and Van Buren, the state delegates stood also for the two-thirds rule recently abrogated³. Buchanan having withdrawn, Pennsylvania changed to Van Buren and it is recorded that the latter, seeing his own nomination impossible, supported James K. Polk who was nominated and elected. George M. Dallas became vice president, James Buchanan secretary of state and Robert J. Walker secretary of the treasury. Cameron's effort to make Brewster United States Attorney was thwarted by Dallas, and Walker, the future father-in-law of

³Democratic National Convention, 1936.

Brewster. In 1847, however, came his appointment upon a commission authorized as a result of a treaty⁴ proclaimed August 17, 1846 between the United States and the Cherokee Nation.

The provisions of this treaty called for the execution of the agreements made in the treaties of 1830 and 1835 relative to the securing of land to the Cherokee Nation and the cession of the "outlet west, promised by the United States. A general adjustment of land claims, spoliation claims and a general amnesty is encompassed."

The Cherokee Nation is now settled in Oklahoma, but the problems of constitutional and international law involved cover a long period of time. Chief Justice Marshall spoke for the majority of the Supreme Court in his opinion in the earlier case of *Cherokee Nation v. Georgia*⁵ when he said: "that an Indian tribe or nation within the United States is not a foreign State." For this reason its suit for an injunction against the state of Georgia to prevent certain acts of legislation within its territory, was dismissed, but Justices Thompson and Story held that the Cherokee Nation was a foreign state in what appears to be the sounder reasoning, and hindsight has proved that the Federal government alone is fully able to promote the best internal order of the Cherokee Nation.⁶

Shortly after Brewster's appointment as commissioner he admitted a young law student to his office named Cassidy who was to serve as attorney general of the state while his former preceptor was the attorney general of the United States, and this young man said that ninety per centum of the legal opinions growing out of the Cherokee Treaty were written by Brewster, who served for four years, and it is probable that the young law student who was admitted to the bar two years later may have been of assistance in the preparation of the opinions. However, the opinions on the matter are signed by the then attorney general Nathan Clifford, later a justice of the Supreme Court, and Isaac Toucey, his successor. The Commissioners acted not merely under the Treaty of 1846 but under the earlier treaty of 1835.

The opinions rendered dealt mainly with questions of interpretation.⁷ The claim of Nancy Reed and her children was disallowed because she had voluntarily sold the reservation prior to the treaty of 1837. She owned no property which had been appropriated prior to her re-settlement in the Indian Territory, now Oklahoma.

⁴Compilation of All the Treaties between the United States and the Indian Tribes. 1873. Pp. 79-85.

⁵5 Pet. (U. S.) 1. 1821.

⁶Peters, *The Case of the Cherokee Nation against the State of Georgia*. 1831.

⁷The opinions are: (a) Pre-exemption Claims under Treaty with the Cherokees, 4 Opinions of the Attorneys-General, 560; (b) Term and Compensation of the New Cherokee Commissioners, 4 Opinions, 577; (c) Claims for Improvements under Treaty with the Cherokees, 4 Opinions, 580; (d) Certificates of Awards of the Cherokee Commissioners, 4 Opinions, 597; (e) Claim under the Treaty with the Cherokees, 4 Opinions, 613; (f) Claim under the Treaty with the Cherokees, 4

In another case it was held that an attorney who had consented to the payment of a claim of an Indian could not, having not received ten per centum thereof as agreed, deduct that sum from another claim in which he had a similar agreement. There was no general lien by agreement. On September 20, 1848 no payments, it was held, would be allowed to any agent without a warrant of attorney. On October 9, 1850 under the signature of Attorney General J. J. Crittenden, it was held that the Board of Commissioners for Foreign Missions^{7(j)} in the territory ceded by the Cherokee Nation to the United States, could not, without the adjudication of his claim, be charged to the Cherokee fund arising from the sale of their lands.

There appears to be no publication of the routine opinions of the Cherokee Commission, and for that reason important but internal opinions are not available, and matter of course opinions such as those given above appear. There is frequently a sinking spirit attitude when a lawyer reads the opinion of a court or commission. It all seems so simple when it has been adjudicated, but the restless attorney has not seen it so clearly. His facts and his legal research, and his bias, too, have given him an appraisal of a case that may differ from reality and not be a true picture.

The actual practice of a lawyer is seldom glamorous and not often does his practice evoke wide-spread public interest, and this was especially true at this period when the press was not so ubiquitous as today. It is interesting to note that in the celebrated *Dangerfield Case* which was tried at nisi prius in Harrisburg, Brewster clearly indicated his courage. He represented the owner of a fugitive slave. The Abolitionists of the day appeared through their attorney George Earle and it appeared that the slave would be freed by force and that Brewster would be injured. It is related that he defied them and wrapped the American flag about him. He never feared to take an unpopular side in any litigation.

In 1856 one of the most celebrated election contests ever held in Pennsylvania was decided in *Mann v. Cassidy*.⁸ F. Carroll Brewster appeared as counsel for the contestant, and Benjamin Harris Brewster for Cassidy who was returned elected to the office of district attorney of Philadelphia. Feeling ran high during the contest. Mann was successful in the contest and the legislature authorized the creation by appointment of another district attorney for the county. The gover-

Opinions, 615; (g) Payment of an Award of the Cherokee Commissioners, 4 Opinions, 621; (h) Payment of Awards of the Cherokee Commissioners, 5 Opinions, 13; (i) Payment of Awards of the Cherokee Commissioners, 5 Opinions, 36; (j) Claim of Board of Foreign Missions under Treaty with Cherokees, 5 Opinions, 268; (k) By Whom Treaties are to be Negotiated, 5 Opinions, 305; (l) Payment of Certain Moneys to the Cherokees, 5 Opinions, 320; (m) Claims for Services Rendered the Cherokees, 5 Opinions, 363; (n) Claims for Services Rendered the Cherokees, 5 Opinions, 378.

⁸¹ Brewster's Reports, 11; Brightly, Leading Cases on Elections, 1871, Pp. 351-365.

nor, however, did not appoint Cassidy who had served as district attorney for some months before the contest was decided adversely to him. The decision of Thompson, P. J. in the Court of Quarter Sessions is authority for the requirements and allegations sufficient to support a petition; an undue election, and false return, the number of votes received in a division, the number illegally counted, and the circumstances under which the fraud was effected. The names of the voters need not be averred, and pleading conclusions of law was not then nor is it now good practice. The Court also held that it had authority to proceed even if one candidate wished to withdraw, which is undoubtedly good law.

The Civil War changed many political affiliations in Pennsylvania. Many Democrats supported the policies of the government within the party while some became Republicans. Brewster followed Cameron into the Republican fold and in 1866 was tendered the attorney-generalship by Governor John W. Geary. The Opinions rendered by Brewster to the Governor and the heads of departments are not in the Harvard Law Library. The collection of these early opinions by the attorneys-general of Pennsylvania would be a worth-while service to the profession. Brewster's service as attorney-general covered two years and the litigation in which he appeared begins with 54 Pa. (4 P. F. Smith) and ends with 63 Pa. (13 P. F. Smith). In *Attorney-General v. Germantown Turnpike Road*⁹ the per curiam opinion notes that "The Attorney General abandoned the argument of the case." It was commenced by his predecessor, William M. Meredith, and was quo warranto because a statute directed the removal of a toll gate years after the defendant company's creation. The court held that this was the taking of property and was void. In *Commonwealth v. Mayloy and Keating*¹⁰ the Supreme Court agreed with the Attorney General against Judge Allison of the District Court. It declared that the re-sentencing of prisoners out of term was void. In *Commonwealth v. Pittsburgh and Connellsville Railroad Company*¹¹ Justice Sharswood declared that the mere fact that the defendant was also incorporated in Maryland was not ground for the surrender of its charter, nor was the fact that a share-holder of the Maryland corporation brought suit against the Pennsylvania company in a Federal court, both being propositions very well settled. In the *Tonnage Cases*¹² the argument of the Attorney General that the tax was not a regulation of interstate commerce prevailed, Justice Agnew declaring: "It is clearly nothing but a tax on the business of the road measured by the number of tons carried over it." In *Commonwealth v. Gamble*¹³, the last case in which Brewster

⁹55 Pa. 466. (1867).

¹⁰57 Pa. 291. (1868).

¹¹58 Pa. 26. (1868).

¹²62 Pa. 286. (1869).

¹³62 Pa. 343. (1869).

appeared for the Commonwealth, Chief Justice Samuel G. Thompson held that an Act of March 16, 1869, was invalid because it was an "attempt substantially to abolish the office of the president judge of that district."

A cabal against Brewster was formed by Colonel A. K. McClure and Governor Geary requested his resignation.¹⁴ Brewster's letter of reply is of the same nature as Dr. Johnson's epistle to Lord Chesterfield. The ire of the Attorney General was deserved and it removed him "from a place I never sought and which you solicited me to accept and which I have held with due respect to my public duty and my own honor."

Brewster was growing in national prestige and in 1869 we find both Emory Storrs and Robert J. Walker urging his appointment as President Grant's Attorney General, the former alluding to him as "the greatest lawyer in the country, greater even than William M. Evarts," and the latter wrote of his "intrepidity." One may be sure that Cameron urged the appointment, for their friendship never wavered. It was not to be and Brewster returned to private practice and was consoled in preparing addresses on Frederick the Great, Thomas a Becket and Gregory the Great, his spiritual forebears.

In 1877 Brewster made the mistake of becoming a candidate for district attorney. He liked to help people, especially the under-privileged, and this appealed to him. He thought in national terms and sought to become a United States Senator in 1881. Richard Henry Dana urged him on but the coveted positions went to J. Donald Cameron, Simon's son, and to Matthew S. Quay.

In the Republican National Convention of 1880 Cameron and Brewster worked to effect the re-nomination of General Grant, but Garfield was nominated and the seeds sown for the election of Cleveland in 1884. Wayne MacVeagh was appointed Attorney General but withdrew after less than a year's service following the death of Garfield and the friction which developed in President Arthur's administration. During the initial work on the Star Route litigation, Brewster had been appointed a special assistant to the Attorney General and on February 6, 1882 rendered an opinion¹⁵ as Attorney General to the Secretary of War, Robert T. Lincoln, stating that the only question in connection with the construction of a dock by the Illinois Central Railroad Company in Chicago was whether it would interfere with the navigation of the harbor. Interesting but not momentous questions came before him, such as whether the Union Pacific Railroad was entitled to a patent for the lands "lying along the last section of constructed road not complete at the time fixed by the Statutes," there being a delay of three months and

¹⁴His successor was F. Carroll Brewster. See Pennypacker, "The Autobiography of a Pennsylvanian," (1918) P. 116.

¹⁵17 Opinions of the Attorneys General, 279.

twenty-three days. The issue was decided on the maxim *de minimis*, but was silent upon the government's right to give less than full performance on its side.¹⁶

Brewster advised the President that the executive could not restore Major General Fitz John Porter¹⁷ to his former rank after a conviction by a general court-martial approved by President Lincoln.

The Attorney General refused to recommend a reprieve of Guiteau, stating that the "Willful, deliberate and premeditated killing of President Garfield by the defendant was an admitted fact. It was conceded to have been done by lying in wait for his victim with a deadly weapon, carefully prepared for the purpose." In another opinion,¹⁸ without any Federal statute, Brewster advised the Postmaster General that a lottery circular "should not be carried in the mails," thus anticipating the decision in *Champion v. Ames*¹⁹ which reached the same conclusion in construing the Act of March 2, 1895, although four justices joined in a dissenting opinion. Later Brewster advised the House of Representatives that he was unauthorized by law to give it an official opinion, citing the uniform practice of the Department of Justice and the separation of powers.

The Annual Reports of the Attorney General for 1882-85 were prepared under Brewster's direction and forwarded to the House of Representatives. They are valuable to the student of legislation and judicial statistics since they indicate the amount and kind of litigation in the Federal Courts and concern the recommendations of the Attorney General in addition to his supervisory control over the attorneys, marshals, clerks and penal institutions of the government. At this period even the amount and name of the addressee of a telegram is recorded with other innocuous items. The Report for 1882 is of routine nature, but that of 1883 is fuller, recommending the reform of criminal procedure, setting forth forms for adoption, and also urging reforms in the selection of jurors in the District of Columbia in view of the difficulties encountered in the Star Route trials. The Report of 1884 renewed these recommendations and alluded to the practice of some marshals who encouraged frivolous prosecutions "in order to make the maximum fees." He recorded, "It is estimated that it costs the Government \$10 in expenses for every dollar of the marshal's emoluments, which shows that it would be to the interest of the Government to give the marshal a fixed compensation, so as to remove all inducement to perpetrate frauds upon the Government and wrongs upon the citizen. The penitentiary in Montana Territory "is insecure, and is more or less unhealthy and expensive. Its crowded condition is an incentive to jail-breaking and to almost hourly efforts of escape on the part of the inmates."

¹⁶17 Opinions 295.

¹⁷17 Opinions 297.

¹⁸17 Opinions 624.

¹⁹220 U. S. 45. (1911).

These reports prove the industry of the Attorney General, for after his great activity he reported: "I am pleased to report to Congress that the condition of the public service, so far as it relates to officials connected with this Department, is, I am satisfied, greatly improved. This, I think it is safe to say, is in a large measure due to the active efforts which have been taken by this Department . . . in checking irregularities, correcting abuses, and punishing frauds and exactions committed by district attorneys, marshals and commissioners, which have existed in a number of districts. From the first I have exercised a strict supervision in this respect which is still carried out. In some cases the evils were the result of the general inefficiency of the officer. In others they could be attributed directly to dishonesty. In every case where these matters came to my attention I have done all in my power to remedy them, and in some cases have secured the conviction and public punishment of such offenders by fine and imprisonment . . . In these efforts to improve the public service many difficulties have been experienced. This course was resisted by those delinquent officers and their adherents, who raised a clamor charging persecution; but this was silenced by the convictions and imprisonments that followed, and the useful and purifying effect was soon felt in the whole service."

When Brewster became Attorney General the Supreme Court consisted of Chief Justice Waite and Justices Miller, Bradley, Harlan, Field, Hunt, Gray and Blatchford with Justice Woods succeeding Justice Hunt. It was a strong bench and it merited the support of the profession and of the public. The Reports from volume 104 to volume 113, inclusive, list Brewster's name. He himself never aspired to the bench. His was not the temperament and he was primarily an advocate, learned and courageous. The Solicitor General at the time was Stephen F. Phillips, and he and Assistant Attorney General Maury represented the Government invariably save for the case of *Keyes v. United States*²⁰ in which Brewster upheld the right of the President to supercede an Army officer who had pleaded guilty at a general court martial and been discharged from the service. The officer had sued in the Court of Claims on the ground that his prosecutor and commanding officer was a member of the court martial. The plea of guilt made this immaterial.

The judicial grist during Brewster's tenure produced no leading cases. *Julliard v. Greenman*,²¹ another Legal Tender Case, upheld chapter 146 of the Act of May 3, 1878 making treasury notes legal tender for private debts, and the *Butchers' Union Case*²² read into a Louisiana monopoly statute the sensible conclusion that it was subject to the exercise of the police power of the state. Dean

²⁰109 U. S. 336. (1883).

²¹109 U. S. 421. (1883).

²²111 U. S. 746. (1884).

Roscoe Pound cites the reasoning of Justice Bradley as to the "natural calling of a butcher" as an example of reasoning deducible from the second book of Lord Coke's *Institutes*.

The task of preparation for the trial of the *Star Route Cases*²³ accounts for the limited appearance of the Attorney General before the Supreme Court for that office had not then, as now, been regarded as highly executive. "For the purpose of preparing myself," he said, "I went over the whole of the testimony that was taken; then I had it cut out and condensed, and here in this mass of papers you see evidence of the preparation I personally made for my argument in the case. I went over it with great care. I sat up at nights — many a night — working at it, because in the daytime I had other duties and I was interrupted. . . . There was not a line of testimony or a line that counsel spoke that I did not read and study."

The *Star Route Cases* were so named because the postal route in the west and sparsely settled portions of the country were marked in the post office with an asterisk. As early as 1872 there were rumors of fraud in the operation of these routes. In one year the cost of a route in Nevada had risen from \$2982 to \$49,000 upon authority of an Assistant Postmaster General, Thomas J. Brady who was indicted by the grand jury of the District of Columbia with former Senator Stephen W. Dorsey of Arkansas and others for conspiracy to defraud the government. Senator William P. Kellogg of Louisiana was charged with accepting \$20,000 to expedite the award of a contract and journeyed to Canada. He was the leader of the Reconstruction forces of the South and President Arthur was a candidate for re-nomination. The *Teapot Dome Cases* alone match this cause celebre. The trial commenced June 1, 1882 and continued until September 15. Brewster made the closing speech for the Government. "He seemed like some grand impersonation of the dignity of justice, calling upon judge, jury and spectators to the solemnities of the hour." The first trial resulted in the conviction of a minor defendant and a disagreement as to the others who were acquitted at the second trial. Richard T. Merrick of the Washington bar aided George B. Corkhill, the United States Attorney, and George Bliss. Brewster and Merrick alone had a steady desire to convict. Colonel Robert G. Ingersoll was the leading counsel for the defendants. Civil suits to recover the fraudulent payments were not very successful. Brewster related that President Arthur "always stood by me and strengthened me and gave me confidence." Brewster regarded the defendants as "the worst band of organized scoundrels that ever existed since the commencement of the government." Since these frauds occurred during a Republican administra-

²³Savidge, Brewster, 116-185; Muzzey, James G. Blaine, 285-260 (1934); Howe, Chester A. Arthur, 161, 167, 179-93, 289 (1934); Testimony of Attorney General Brewster, Government Printing Office, 1884; Cate, Lucius Q. C. Lamar, 402 (1935).

tion the party suffered defeat in 1884 when James G. Blaine was the nominee to the disappointment of Arthur.

One of the characteristics previously noted was that of helpfulness. Nothing gave him greater pleasure than to comply with a request made to him at this time by Jeremiah Sullivan Black²⁴ who himself had been Attorney-General and Secretary of State in the Buchanan administration. "Now please remember," wrote Brewster, "that you must treat me in this way always. I wish to keep alive between us the most cordial and pleasant relations. . . . My respect and admiration for you binds me to you closely and I am never so happy as when, every now and then, since I have been in public office you have displayed your sense of friendship by your personal appeals to me in such matters as interested you, for I know that a man of your noble nature—I should say heroic nature—would never make personal requests unless he felt an affinity of strong personal regard."

Brewster's first wife was Elizabeth von Meyerbach de Reinfeldts, a widow whom he married abroad who died in 1868. His second wife, Mary Walker, the daughter of Robert J. Walker, Polk's Secretary of the Treasury, was married in 1870 but did not survive him. Their son, Benjamin Harris Brewster lives in Baltimore and of his wife's children, later adopted General Andre Brewster, former Inspector General of the American Expeditionary Force also survives, as do the latter's nephew, Colonel David L. S. Brewster of the Marines and Mrs. Marshall of Washington.

Observers said that Brewster's service as Attorney General made him age greatly and he died in Philadelphia on April 4, 1888, at the age of 72 and was carried to his grave by Simon Cameron and Lewis C. Cassidy.

When a statue of Alexander Hamilton was unveiled in New York²⁵ on November 22, 1880 Brewster excelled in his eulogy of Hamilton. He was always at home in that type of address. His most exhaustive address was delivered before the ninety-sixth graduating class of Dickinson College the previous year when his "Religious Foundation of Collegiate Learning" emphasized broad religious and historical sympathies. His last address was given before the New York legislature on April 20, 1887 at the services in memory of former President Arthur.

Here was a man of illustrious lineage and sensitive soul whose face was rendered unsightly by burns at the age of five. He made his own way in the world as his father sought to dissuade him from the law while the youth labored to support his mother. He never faltered. He met each responsibility with courage and humility. There was never a greater attorney general either in the United States or in the state of Pennsylvania. He was fond of quoting Pascal who said: "I have often said that all of the misfortune of men spring from their not knowing

²⁴Brigance, Jeremiah Sullivan Black, 283. (1934).

²⁵These addresses appear as an appendix in Savidge, Brewster, 265-340.

how to live quietly at home in their own room." He was at home in his study as well as in public life and living quietly never meant retreating from the vindication of a principle. As early as September 22, 1857 he advised his hearers at the Law Academy of Philadelphia: "The most important part of a man's professional life is made up of a multitude of almost insignificant and obscure points of duty that he dare not omit, and in the faithful performance of which alone he will merit and secure the fame of a good lawyer." The description of Launcelot seems to catch the significant phases of Brewster's nature: "Ah, Launcelot, thou wert the head of all Christen knights, and thou wert the courteoust knight that ever beare shield, and thou wert the kindest man that ever struck with sword, and thou wert the goodliest person that ever came among press of knights, and thou wert the meekest man and the gentlest that ever sate in hall among ladies, and thou wert the sternest knight to thy mortal foe that ever put speare in rest."

Cambridge, Mass.

Lewis C. Cassidy