

# Harris, Lewis, and the Hollow Tree

By JAMES BERTON RHOADS\*

*National Archives*

THIS is an archival detective story, with elements of suspense, surprise, and mystery—a tale of feuding, character assassination, and moral turpitude. It begins prosaically enough. Early last year the National Archives learned that a 15-year-old schoolboy had found some volumes that appeared to deal with early U. S. consular affairs in Russia. They had been found several years before, it was said, near the town of King of Prussia, not far from Philadelphia, in a hollow tree. Supposedly the books had been wrapped in oilcloth, which had protected them from serious damage.

This report immediately raised a number of questions. Were the documents Federal records? If so, how had they strayed from Federal custody? And what about the story of the hollow tree? Could oilcloth have adequately protected them from the elements? What were the documents, exactly? What was their provenance?

Inquiries by the National Archives ascertained that the volumes contained copies of letters sent to Thomas Jefferson, James Monroe, and John Quincy Adams. With this additional information it was possible for the staff of the (then) Foreign Affairs Branch of the National Archives to begin a preliminary investigation. The names of the correspondents suggested that the documents had been written during the first quarter of the nineteenth century. Some of them, at least, were apparently copies of letters sent from a consular post in Russia. This indicated that they would have been records maintained at the post, rather than originals received by the President or the Secretary of State in Washington.

A search of the State Department records in the National Archives revealed that consulates had been established in Arch-

\*The author, Chief of the Foreign Affairs Branch of the National Archives when this paper was written, is the modest third-person-singular investigator who (with the assistance of Julia B. Carroll) did the research in Washington and Philadelphia recounted in this article. He is now Chief of the Diplomatic, Legal, and Fiscal Branch, Reference Division, Office of Civil Archives, National Archives.

angel and in Riga during the second decade of the century,<sup>1</sup> but that they had been manned intermittently for a number of years and that their correspondence with the Department had been sparse and irregular.

The only other American consulate in Russia during this period was in St. Petersburg, and that seemed to be the likely source of the records. The first consul, Levett Harris, a Philadelphian, had arrived in the Russian capital and had taken up his official duties in October 1803. Early in 1813 he had been named secretary of the Joint Mission appointed to negotiate a treaty of peace with Great Britain under the mediation of the Russian Emperor. In 1814, when John Quincy Adams, then Minister to Russia, was directed to proceed to Ghent to negotiate with the British Commissioners there, responsibility for American affairs in Russia was given to Harris. He served as *Chargé d'Affaires* until 1817, when he returned to the United States.<sup>2</sup>

Meanwhile John Levett Harris, a nephew of Levett Harris, had been commissioned as consul at St. Petersburg and had taken up his duties in 1816. His successor, in 1819, was Abraham P. Gibson, who served as consul until 1850.<sup>3</sup>

The series of despatches received by the State Department from both the consulate and the Legation at St. Petersburg seem to be complete for this period. But no records maintained at the consulate that were dated earlier than 1912 had ever been received by the National Archives. The lists of records shipped by consular posts to the Department of State indicated that none earlier than this year had been sent from St. Petersburg to Washington.

What, then, had happened to the archives of the consulate at St. Petersburg for the first century of its existence? A report of 1912, by Jacob E. Conner, then consul at St. Petersburg, shed some light on the matter but failed to provide a precise answer.

<sup>1</sup> Samuel Hazard to James Monroe, Aug 17/29, 1811, in *Despatches From U. S. Consular Officials in Archangel*, vol. 1, and Mordecai M. Noah to Monroe, July 2, 1811, *ibid.*, Riga (bound in vol. 17 of *Consular Despatches*, St. Petersburg), records of the Department of State, National Archives, Record Group 59. Hereafter records in the National Archives are indicated by the symbol NA, followed by the record group (RG) number. Despatches from consular officials or ministers will hereafter be described as Consular (or Diplomatic) Despatches, followed by the name of the post from which the despatch was sent.

<sup>2</sup> Levett Harris to James Madison, Oct. 25, 1803, in *Consular Despatches*, St. Petersburg, vol. 1, NA, RG 59; James Monroe to Harris, Apr. 6, 1813, and to John Quincy Adams, Jan. 8, 1814, in *Instructions to Ministers*, vol. 7, NA, RG 59.

<sup>3</sup> Consular Commissions, Apr. 26, 1816, Mar. 3, 1819; Abraham P. Gibson to Daniel Webster, Nov. 20, 1850, in *Consular Despatches*, St. Petersburg, vol. 7, NA, RG 59.

Conner stated that the archives began in 1804 but were not continuous and that no correspondence before 1820 could be found. The only record for the period 1804-20 was a register of the arrival of American ships.<sup>4</sup> If the records found in the hollow tree consisted of correspondence of the consulate, they had been missing from its archives at least as early as 1912.

Armed with this information, a representative of the National Archives visited Philadelphia in April 1961 to inspect the volumes. Three of them did appear to have once been part of the archives of the consulate at St. Petersburg.

One, with the backstrip title "Official / Correspondence / in Russia / A," was a leatherbound letter book containing copies of letters sent by the consul, Levett Harris, between January 30, 1804, and August 30, 1816. A few pages at the beginning and end of the volume were missing. The communications included despatches to Secretaries of State James Madison, Robert Smith, and James Monroe; letters to President Jefferson, the Czar and the Czarina, and Secretaries of the Treasury Alexander J. Dallas and Albert Gallatin; and to Edward Preble (commander of the U. S. Squadron in the Mediterranean), William Shaler, and Stephen Decatur regarding treaty negotiations with Algiers. Other despatches were to John Quincy Adams as Minister to Russia and to Adams, Gallatin, and James A. Bayard as Peace Commissioners at Ghent. There were also notes to members of the Imperial Cabinet and Court and to diplomatic representatives in St. Petersburg of other powers. Besides routine despatches to the Department of State, instructions to consular agents, and notes to the Russian Government, the correspondence concerned maritime problems caused by the Napoleonic Wars, the effect of the War of 1812 on U. S. trade, the defeat of Napoleon in Russia, economic and political conditions in Russia, activities of the Imperial Family, the negotiations at Ghent, and the reaction of the Russian Government to the arrest of Nicholas Kosloff, the Russian consul general at Philadelphia.<sup>5</sup>

The second volume, with the backstrip title "Official / Correspondence / in Russia / B," was a companion letter book, into which had been copied letters received by the consulate from October 11, 1803, to November 6, 1816. Many of the same cor-

<sup>4</sup> *Archives of Government Offices Outside of the City of Washington*, 62d Cong., 3d sess., H. Doc. 1443, p. 71 (1913).

<sup>5</sup> Kosloff had been charged with the rape of a "servant girl" in his home. See "Papers Relative to Kosloff's Affair," NA, RG 59.

respondents and subjects of volume "A" appeared in this volume. At the back of the book was a certification by one Peter Schmidt, dated March 18, 1824, at St. Petersburg, stating that the copies of letters on pages 1-387 were in the handwriting of his brother, Joachim Schmidt, who had served as Levett Harris' secretary in the consulate, and that the copies on pages 388-435 were in his, Peter's, handwriting. Peter Schmidt had been a clerk in the consulate under both Levett and John Levett Harris. Schmidt further stated that the copies in the volume "were regularly made from the Originals at the periods of their respective dates." Schmidt's certification was notarized, also on March 18, 1824, by Stephen Sasonoff, a notary public of St. Petersburg. Sasonoff had apparently bored two holes through the volume, inserted blue ribbon through them, and sealed the ends of the loop with his notarial seal. The seal, however, had been torn from the volume. (A reexamination of volume "A" revealed that it, too, had been pierced, and had apparently been certified and notarized in the same fashion.)

The third volume was entitled "Extraordinary Mission / of the United States / of America / Near H. I. M. the Emperor / of all the Russias." Into this book had apparently been copied all or most of the correspondence that had passed through Levett Harris' hands in his capacity as secretary to the Joint Mission to negotiate, under the mediation of the Czar, an end to the War of 1812. Included were copies of President Madison's letter of credence to the Russian Emperor regarding the appointment of Adams, Gallatin, and Bayard as Commissioners; and of full powers for them to treat with Great Britain for a peace treaty and a commercial treaty and to treat with Russia for a commercial treaty. There were copies of communications between the Commissioners and Russian officials, Harris' own secretarial correspondence, and a number of letters between Gallatin and Alexander Baring relating to fiscal and other matters. The correspondence in this volume covered the period from April 17, 1813, to February 6, 1814, and was thus limited to the pre-Ghent period. The volume was sealed and notarized in the same manner and on the same date as volume "B," and in this instance the notarial seal was still affixed. In this certification Peter Schmidt stated that the entire volume was in the handwriting of his brother Joachim.

There was also a fourth volume, not leatherbound but with heavy mottled paper covers. On the front cover the letters "AZ"



had been entered by hand in ink. This appeared to contain transcripts of depositions made by various individuals in answer to interrogatories of the Supreme Court of Pennsylvania for the Eastern District, in a matter of litigation involving Levett Harris and one William D. Lewis. Time limitations precluded a careful reading of the volume, and it was not possible to determine precisely what the dispute was about. Nor could the questions put to the deponents by the court's commissions be found. It was obvious, however, that about half of the volume was taken up by a deposition of John Quincy Adams, and there were shorter depositions by William H. Crawford, John C. Calhoun, and other men of less renown. These depositions were apparently taken in Washington in 1821. Other depositions in the volume were taken at later dates by other commissions, at least one of which operated in St. Petersburg.

At this point it was not possible to determine precisely the relation of the deposition volume to the letter books. It seemed, however, more than a coincidence that they had been found together, for Harris was involved in all of them. And the fact that the letter books had been certified and notarized lent credibility to the idea that they might have been used as evidence in a court case involving Harris and Lewis, whoever Lewis might be.

Armed with this information, the staff of the Foreign Affairs Branch began a systematic search of the records of the Department of State for further information about the relationships among Harris, Lewis, and Adams, who now appeared to have been the principal actors in the drama. From the State Department records the staff was led to the Adams papers, available on microfilm in the National Archives Library, and to the Jefferson papers in the Library of Congress.

On July 27, 1817, John D. Lewis, an American merchant resident in St. Petersburg and elder brother of William D. Lewis, had written to John Quincy Adams, at that time Secretary of State. In his letter he protested against the possible appointment of Levett Harris as Minister to Russia. Harris had left St. Petersburg in January of that year to return to the United States and actively seek this appointment. He had tired, apparently, of being responsible for the conduct of American affairs in Russia without having ministerial rank. In Lewis' opinion Harris was unfit to represent the United States at the Russian Court. "Your Excellency is well-acquainted with Mr. H's corrupt conduct, and no

person knows better than yourself how truly contemptible he is . . ."<sup>6</sup>

In August of the same year John D. Lewis again wrote to Adams and enclosed an affidavit of Frederick Küsel, whom Harris had appointed vice consul at Archangel in 1805. Küsel averred that he had written to Harris at the time that he considered the position "to be of such advantage to me that I agree . . . to pay you One thousand Roubles, and to account with you annually for a like sum . . ."<sup>7</sup>

In Adams' reply, several months later, he said:

I felt it to be my duty to lay [the affidavit] before the President, to whom Mr. Harris had expressed a desire to be again employed in the public service. The President directed that a copy of it should be transmitted to Mr. Harris himself, for such explanation as he might think proper to give. . . . After a conversation with me, in which I stated to him without disguise my own impression on the subject, he intimated to the President that he was apprehensive I entertained prepossessions unfriendly to him, and expressed the wish that the examination of the charges against him and of his vindication of himself might be referred to other persons. . . . To this the President with my entire acquiescence and approbation assented. The reference was accordingly made to the Secretary of the Treasury and the Secretary of War, Messrs. Crawford and Calhoun. Mr. Harris's defence consisted chiefly in the proofs of approbation of his conduct by all the administrations . . . under which he had served; by the favor of the Emperor Alexander which he had constantly enjoyed; and by Count Romanzoff and the American ministers who have successively resided at St. Petersburg, and in impeaching the character of his accusers.<sup>8</sup>

Crawford and Calhoun, meanwhile, had sifted the evidence against Harris; and, although no formal charges were brought against him and their report to the President was apparently not put in writing, he was eliminated as a candidate for the post he so badly wanted. On April 16, 1818, George Washington Campbell of Tennessee was appointed Minister to Russia.<sup>9</sup>

President Jefferson had originally appointed Harris consul at St. Petersburg, and Harris now sought sympathy, at least, from the Sage of Monticello. Jefferson assured him "that I am disappointed in your failure to be nominated to Petersburg." He had

<sup>6</sup> Lewis to Adams, July 27, 1817, in *Miscellaneous Letters Received by the Department of State* (hereafter cited as *Miscellaneous Letters Received*), NA, RG 59.

<sup>7</sup> Another copy of the affidavit is in *Miscellaneous Letters Received* (sent Dec. 19, 1819, by William D. Lewis), NA, RG 59.

<sup>8</sup> Adams to John D. Lewis, June 18, 1818, in microfilm copy of the Adams papers, roll 146. Hereafter this microfilm publication will be cited as *Adams papers*.

<sup>9</sup> *Credences*, vol. 1, p. 292, NA, RG 59.

"had a full conversation with the President on your subject & of the mission to St. Petersburg, and the favorable terms in which he spoke of you, & of your fitness for it, led me to expect your appointment. . . no doubt that reasons unknown to either you or myself have dictated the present appointment."<sup>10</sup>

William D. Lewis was an impetuous young man who five years earlier, at the age of 22, had been private secretary to Henry Clay at Ghent.<sup>11</sup> About two years before his return to the United States from Russia in November 1819 he had engaged in a public brawl with John Levett Harris, then consul at St. Petersburg.<sup>12</sup> His dislike for the Harrises, uncle and nephew, was probably increased by that encounter, in which he had come out second best. But he had other reasons, too, and he lost no time in using the information he had to destroy the reputation of Levett Harris.

He published a 3-page leaflet entitled *Consular Corruption*, distributed it liberally in Philadelphia, and then came to Washington, where he dispensed more copies to Members of the Congress. Just before the beginning of the New Year he thoughtfully sent a copy to President Monroe. In the leaflet Lewis had printed abstracts of statements by Küsel and by Christian Rodde, whom Harris had appointed vice consul in Riga. Rodde had declared that "a PART of the compensation which I paid to . . . Levett Harris, for the appointment . . . was the first year *one per cent.*, and the succeeding years *two per cent.*, on the gross amount of sales of imports and . . . of purchases of outward cargoes." This amounted, apparently, to about 20,000 rubles for the period 1808-11. But by about 1817 Rodde had paid Harris roughly 320,000 rubles, and 40,000 rubles alone had been paid to him for "admitting" the papers of a ship "whose documents made the voyage appear to have originated in New York, whereas the papers were simulated and made in London." Rodde also alleged that "in *many* instances Mr. Harris received large sums of money *from me* for admitting vessels to enter as Americans, whose papers were notoriously false, and the fact of his knowledge thereof, is proved by the sums he required to pass their papers as genuine."<sup>13</sup>

Küsel's statement was also enlightening. In the summer of 1808

<sup>10</sup> Thomas Jefferson to Harris, July 21, 1818, in Jefferson papers, vol. 213, no. 38042, Library of Congress. Hereafter materials in the Library of Congress are indicated by the symbol LC.

<sup>11</sup> *Appletons' Cyclopædia of American Biography*, 3:707 (1888).

<sup>12</sup> Adams to John D. Lewis, June 18, 1818, in Adams papers, roll 146.

<sup>13</sup> *Consular Corruption* (sent to President Monroe Dec. 28, 1819), in Miscellaneous Letters Received, NA, RG 59.

he had been temporarily assisting Harris at the St. Petersburg consulate. A ship had arrived there from London, claiming to be from Philadelphia. Because of the war between Russia and Great Britain, English ships were not admitted to Russian ports. There were such obvious similarities between British and American crews, vessels, and cargoes, however, that the American consul had to certify to the genuineness of the papers of the American ships before their cargoes could be landed. According to Küsel:

Mr. Harris mentioned to me several times that he sincerely wished to assist [the captain and that] he did not care from what place the ship came . . . but that the expenses of clearing her at the Department of Count Romantzoff, would be very great. The ship was soon afterwards admitted, the captain having made oath that he had neither touched in England nor in Sweden, and I am well assured that Mr. Harris received towards the expenses of getting this vessel admitted, the sum of EIGHTY THOUSAND RUBLES.<sup>14</sup>

Sometime afterward a vessel from New York arrived at Riga, with a cargo assigned to the business house of Rodde and Co., of which Christian Rodde, whom Harris had appointed vice consul at that port, was the major owner. Upon hearing from Rodde that the ship had arrived, Harris asked Küsel if he could take an eight- to ten-day trip to Riga if it would enable him "to make something very handsome." Küsel decided that he could. Harris then stated that unless the ship's supercargo would sacrifice 50 or 60 thousand rubles the ship could not be admitted. This money was "absolutely necessary, as fees to the department of Count Romantzoff; he hinted at the same time, that the situation he was in, and under the then existing circumstances, it was nothing but just that he, Harris, should also derive some benefit from the employment of the influence he had in this country." Because he did not wish to correspond with the persons at Riga on such a subject, Harris instructed Küsel to go there and request 60 to 70 thousand rubles as being absolutely necessary to obtain admission of the ship. Küsel was also to obtain the ship's papers and the captain's oath. When he returned to St. Petersburg he would be given 5,000 rubles plus expenses. Upon his arrival at Riga he found that the supercargo "was much averse to sacrificing so large a sum, and seemed to think that ten thousand Rubles would be sufficient." Küsel persisted and finally settled for 40,000. When he delivered the money to Harris, the latter

was much dissatisfied with the smallness of the sum, bitterly complaining

<sup>14</sup> *Consular Corruption.*

that he would not have any thing left for his trouble, and saying that he could not now give me more than four thousand rubles, instead of five thousand as first agreed on; to the latter I immediately agreed, and received the sum, for fear of afterwards getting nothing. Two days afterwards Mr. Harris despatched an express to Riga, with permission from government to admit the ship.<sup>15</sup>

Harris, of course, soon heard of Lewis' allegations, now appearing for the first time in print, and he wasted no time in launching a counterattack. He had come to the conclusion—or so, at least, he wished it to appear—that Lewis was little more than an agent for Adams.

In a long letter to his mentor, Thomas Jefferson, he said that Lewis, "almost a stranger to me," had "in the shape of anonymous handbills . . . clandestinely and industriously circulated . . . a new edition of the self same calumnies, which had been previously reported to me by Mr. Adams. I immediately instituted a Suit against this libeller," he continued, "and to the astonishment of every body here, did it soon afterwards appear, that he was upon a footing of intimacy, and of friendly correspondence with the Secretary of State; and that an union of feeling and of action existed between them on this occasion!" Harris further noted that it "may be of importance to me to proceed to Russia in order to collect evidence necessary to this prosecution." And to prove, in closing, that his besetting sin was not that of modesty, he declared that he could prove that the success Adams' career presently enjoyed had been due to his, Harris', "successful efforts in the public Service." In later correspondence with Jefferson, Harris again referred to the "cause, which . . . I have pending in the Supreme Court of this State." He hoped that it would be brought to trial in March of 1822.<sup>16</sup>

Adams, meanwhile, felt that he had just cause for complaint at Harris' conduct. Lewis had informed him in a letter of February 12, 1821, that he had appointed Henry Clay, William Lowndes, Nicholas Van Dyke, and William Rufus King as commissioners to take Adams' testimony. They would be joined, as commissioners for the plaintiff, by James Brown, Harrison G. Otis, Daniel Webster, Walter Jones, and Joseph Hemphill.<sup>17</sup> Adams was

<sup>15</sup> *Consular Corruption*.

<sup>16</sup> Harris to Jefferson, June 15, 1820, and Dec. 3, 1821, in Jefferson papers, vol. 217, nos. 38838–38839, and vol. 221, no. 39459, LC.

<sup>17</sup> William D. Lewis to Adams, Feb. 12, 1821, and "Commission of the Supreme Court of the Eastern District of Pennsylvania," Feb. 8, 1821 (copy), in Adams papers, roll 451.

going to have a lot to tell the commission, and he wished to refresh his memory by reference to some of the official records of the State Department that were not at the time available to him. He therefore promptly wrote to Harris, stating that he had been "called upon by a Commission issued from the supreme Court of the Eastern District of Pennsylvania to give testimony in a case in which you are plaintiff and Wm. D. Lewis Defendant." To enable him to answer the call, he requested the return of "the papers belonging to the files in this Department, which many months since were at your request and by direction of the President of the United States, delivered to you, upon your promise that they should be returned . . ."<sup>18</sup>

Upon receiving no favorable response from Harris, Adams requested Joseph R. Ingersoll, a prominent member of the Philadelphia bar, who had been retained as counsel by Lewis, to try to retrieve the records. He would be glad to do so, Ingersoll replied, but he supposed that "the papers would be retained for the use of the Court," until the trial of the case.<sup>19</sup>

When Adams gave his deposition to the commission on April 14, 1821, he may have been somewhat hampered by Harris' proclivity for retaining official records that had come into his possession, but this did not prevent his giving a long, involved, and illuminating account of Harris' activities in St. Petersburg.<sup>20</sup>

When war broke out in 1808 between Russia and Great Britain, Adams deposed, Russia adopted "the Continental System, of special warfare against British Commerce," and all trade with the British Empire was forbidden. This greatly encouraged the commerce of neutrals, especially the United States, with Russia.

Among the expedients resorted to by the Merchants in England, was that of using forged Papers, purporting to be American—To ascertain and decide upon the authenticity of the Papers of vessels coming to the Russian Ports, two sets of Commissioners were appointed by the Russian Government, one of which sat at St. Petersburg and . . . the other at Archangel.<sup>21</sup>

Harris "was himself a dormant partner" of the Brothers Cra-

<sup>18</sup> Adams to Harris, Feb. 26, 1821, in *Miscellaneous Letters Sent by the Department of State ("Domestic Letters")*, vol. 18, p. 260, NA, RG 59.

<sup>19</sup> Ingersoll to Adams, Apr. 16, 1821, in Adams papers, roll 451.

<sup>20</sup> A copy of Adams' replies to the interrogatories and cross-interrogatories of the commission, as well as a set of the questions asked, appears on roll 451 of the Adams papers. The text of the deposition is similar to that in the volume that was inspected in Philadelphia.

<sup>21</sup> Deposition of John Quincy Adams in the case of *Levett Harris v. William D. Lewis*, Apr. 14, 1821, in Adams papers, roll 451. The quotations in the four paragraphs below are all from the deposition.

mer and later of Mayer and Brückner, both of which were major import-export houses in St. Petersburg. Adams had been told by Harris that he had withheld his name from these firms because merchants were not held in particularly high esteem in Russia and that his character as a merchant "would affect his standing as a public officer." Harris referred ships' captains to these firms, where all the business was transacted; and the firms afterward "accounted" with him. The commissions for the examination of ships' papers were "under the direction of a private Secretary of Count Romanzoff then Chancellor of the Emperor," who had previously served as Minister of Commerce and Minister of Foreign Affairs.

Through the agency of this Secretary two principles had been settled between Mr Harris and the Boards of Commissioners—one that all vessels certified by Mr Harris to be admissible as genuine Americans should upon that certificate be admitted—The other that the only paper to the genuineness of which Mr Harris considered himself pledged by his Certificate was the Ship's *Register*—... and the practical result was that whenever he gave that certificate, the vessel was admitted...

Adams then cited several examples of what had appeared to him to be questionable uses of this power, as well as unfortunate events arising from Harris' sale of vice consulates. Adams could not recall that Harris "ever denounced to the Russian Government any vessel consigned to his own house or to the houses of his Vice-Consuls, but who came with false Registers."

At the time of Harris' efforts to obtain appointment as Minister to Russia he had tried to induce Adams not to oppose it. Adams had suggested

that if he would produce to me the Accounts actually settled between him and the house of the brothers Cramer, on the dissolution of their partnership ... authenticated by his own oath and by their's, and they should show nothing to support the charges against him, they would go further to satisfy me of his innocence than any thing else—From that day, Mr Harris preferred considering and representing me as his enemy...

An obvious question, of course, was why, if John Quincy Adams had known all about the shady activities of Levett Harris, he had done nothing about them. He "had firmly believed that Mr Harris had at least connived for pecuniary profit at the admission ... of ... vessels ... with false documents ... [and] That he gave his Certificate as a public officer, and received the money for it as a partner of a commercial house." Adams had, he noted, communicated his impressions of some irregularities to the Secretary of



State. "I could go no further than I had done," he averred, ". . . without adducing formal charges against Mr Harris— . . . To this from various causes I felt an invariable repugnance." He pointed out that to do this he would have needed "more positive proof than I then possessed." Harris "had always been kind, courteous and friendly" toward him, and when Adams' infant daughter had died, Harris' "attentions to me and my family . . . were assiduous, soothing, and even affectionate—I can never forget them." Then, too, he believed that Harris had ceased to conduct himself improperly and he "was willing to pass a sponge of oblivion upon the past." In every respect Harris was "a useful, vigilant, and . . . faithful public officer." If Adams had pressed charges he would have had to conduct an investigation "tending to expose many commercial houses, some of high standing, public officers of the Russian Government, and even the members of the neutral Commissions." This "would have been in the highest degree obnoxious to the Russian Government, whose friendship it was at that moment of infinite importance to conciliate . . . a prying search into the itching palmistry of the extinguished neutral Commission would have had a most pernicious effect upon our national interests . . ."

Adams the pragmatist stood revealed.

The reasons for the litigation between Harris and Lewis were now clear. It was also obvious that the St. Petersburg consulate records might logically have been introduced as evidence in the trial. It had not yet been determined, however, when the trial took place, or whether the consulate records were actually introduced in evidence or if so by whom. Neither was it known under what circumstances, when, or by whom, they were brought to the United States, or who had had them certified and notarized in St. Petersburg. Then, too, if they had been introduced in evidence, how did they get out of the custody of the court and into the hollow tree? Although it was not entirely germane to the search for facts regarding the records themselves, by this time the story had aroused so much interest in those who were working on it that the question of who had won the case became intriguing.

A reasonable assumption seemed to be that one of the litigants brought the letter books back from Russia. If he went to St. Petersburg to fetch them, he might have obtained a passport. Even though passports were not needed by American citizens going abroad at that time, they sometimes served to lessen the hazard of foreign travel. A check of the passport records for the

early 1820's revealed that Lewis had obtained a passport on June 16, 1823.<sup>22</sup> Thus he at least might have been in St. Petersburg in March 1824, when the letter books were certified and notarized. Some time before, it will be recalled, Harris had alluded in a letter to Jefferson to the possibility that he, too, might have to go to Russia.

A good deal of information had now been accumulated about the dispute between Harris and Lewis and the events leading up to the trial, and searches among the Adams and Jefferson papers and the records of the Department of State had been fruitful. It still seemed important, however, to determine if possible the role played in court by the fugitive consular records. For this reason, the voluminous published *Reports of Cases Argued and Adjudged in the Supreme Court of Pennsylvania* for the decade of the 1820's were carefully searched. In contrast to the productivity of the research carried on thus far, the *Reports* made no reference to the case. Could it be that, despite the heat engendered by the dispute and the sizable financial expenditures by the litigants in collecting evidence, the case had been settled out of court? Had it been tried by another court?

If, on the other hand, there was some logical but elusive reason for the omission of the case from the *Reports* and if it had actually been tried before the Supreme Court of Pennsylvania for the Eastern District, it was entirely possible that the official manuscript records of the court would contain information bearing on the case. These were, presumably, in the custody of the prothonotary of the court in Philadelphia. Then, too, it had been noted during the course of previous research that the *Guide to the Manuscript Collections in the Historical Society of Pennsylvania* (1940) included references to materials on the case of *Harris v. Lewis* in the Gilbert Cope collection.

In May 1961, therefore, a member of the National Archives staff spent nearly a week in Philadelphia. His first visit was to the prothonotary of the Supreme Court. The prothonotary's records for the case were fragmentary, but they included a summons to Lewis to appear before the court on the third Monday of March 1820; a docket book with an entry, May 27, 1820, that the defendant pleaded not guilty; a number of papers relating to the composition and work of the several commissions appointed to take testimony in the case; and, most interesting of all, the original verdict of the jury, February 14, 1827, which read, "The

<sup>22</sup> Passport Letters, vol. 6, no. 405, NA, RG 59.

Jury in this case find a verdict in favour of the Plaintiff of One hundred dollars Damages."<sup>23</sup>

Now it was known not only that the case had come to trial but that Harris had won—and that the proceedings had consumed seven years since the suit had been filed. It also seemed likely that damages of a hundred dollars constituted only a token award.

Although the mystery remained unsolved as to whether the consular records had been introduced as evidence during the trial, it was learned that the usual practice of the court had been to return to the litigants documentary materials submitted in evidence. The prothonotary also explained why the search in the Pennsylvania Supreme Court *Reports* had been unavailing: the *Reports* covered only cases appealed from a lower court. In the case of *Harris v. Lewis* the court sat as a court of *nisi prius*, that is, a court of the first instance.

At the Historical Society of Pennsylvania it was discovered that besides the materials on the case of *Harris v. Lewis* in the Gilbert Cope collection, there was available a rather extensive collection called the Lewis-Neilson papers. Most of these papers were those of William D. Lewis; many related to his litigation with Harris and to his personal and business affairs during the period of litigation. The collection also included a number of documents that had been submitted as evidence by Lewis and had apparently been returned to him after the trial. Also in the collection was Lewis' manuscript autobiography, written in the 1870's. Despite the dictates of prudence that it be used with caution, it did shed some additional light on Lewis' activities of 50 years before.

A study of these documents led to the conclusion that either Levett Harris, when he left St. Petersburg in 1817, or his nephew and successor, John Levett Harris, when *he* left the post in 1819, carried away practically all the archives of the consulate, including of course the letter books that were currently the subject of investigation. Both Lewis and Harris had been in St. Petersburg in mid-1822 and again in 1823 and 1824, on occasions when commissions from the Supreme Court of Pennsylvania were taking testimony there.<sup>24</sup> During the second sojourn in the Russian cap-

<sup>23</sup> Summons to William D. Lewis, defendant in the case of *Harris v. Lewis*, Jan. 1, 1820; appearance docket, Dec. 1817–Dec. 1823, p. 258; verdict of the jury in the case of *Harris v. Lewis*, Feb. 14, 1827. All the foregoing are among the records of the Supreme Court of Pennsylvania for the Eastern District, Office of the Prothonotary.

<sup>24</sup> Manuscript autobiography of William D. Lewis, p. 127, 132–138, in Lewis-Neilson papers; William D. Lewis to Harris, Dec. 17, 1823, in Lewis letter book, *ibid.*; and rough journal of the commissioners, case of *Harris v. Lewis*, in the Gilbert Cope

ital Lewis had requested Abraham P. Gibson, then the U. S. consul at that place, to furnish him copies of some of the correspondence between Harris and the Russian Minister of Commerce, Count Romanzoff, to document his charge that there had been collusion between those two in permitting non-American vessels to trade in Russia under false American papers. Gibson, who was quite friendly to Lewis, informed him that when he became consul he found none of the correspondence between Harris and the Russian Government.<sup>25</sup> Lewis himself later described the situation even more succinctly. "There were," he said, "no Consular Archives, Harris having carried away every scrap of his correspondence, so as to remove every trace of his transactions."<sup>26</sup>

Lewis had particularly wanted 13 documents that he thought should have been among the archives of the consulate. Eventually, after much pulling of wires, he was able to obtain copies of nine of them from the Russian archives.<sup>27</sup> Some of these, at least, appeared in the letter books that had recently come to light.

All the available evidence, then, bore out the theory that when Harris returned to St. Petersburg in 1823 he took with him the consulate letter books brought by him to the United States six years before; that he located his former clerk, Peter Schmidt, and had him certify to the authenticity of the volumes; and that he then had the Russian notary, Sasonoff, notarize them for use in court. Whether they were actually introduced in evidence is not known. No transcript of the proceedings survives in the prothonotary's office, and the contemporary Philadelphia newspapers give no detailed accounts of the trial. At the conclusion of the trial Lewis wrote to his brother that "no Report of the Trial will be printed."<sup>28</sup>

The letter books apparently either remained in Harris' custody throughout the period of the trial and for some time afterward, or else they were used as evidence and later returned to him by

collection. All the foregoing are in the Historical Society of Pennsylvania, hereafter indicated by the symbol PHS. The Lewis-Neilson papers are hereafter indicated by the symbol LN.

<sup>25</sup> William D. Lewis to Adams, Oct. 12, 1823, in correspondence and depositions, LN, PHS.

<sup>26</sup> "Extracts from C. J. Ingersoll's [*sic*] opening speech, and remarks thereon [by Lewis], in the case of Levett Harris vs Wm D. Lewis," Feb. 8, 1825, in court papers, LN, PHS. Charles J. Ingersoll was one of the attorneys for the plaintiff; Joseph R. Ingersoll, his younger brother, was counsel for the defendant.

<sup>27</sup> "Extracts from opening speech"; see also William D. Lewis to Gibson, Nov. 13, 1823, in Lewis letter book, LN, PHS.

<sup>28</sup> William D. Lewis to John D. Lewis, Feb. 19, 1827, in "letters and personal," LN, PHS.

the court. The volume of depositions that had been found with the letter books would logically have been kept by or returned to Harris, for the depositions it contained were those that had been taken at Harris' request or in which he had offered cross-interrogatories to witnesses friendly to Lewis.

To digress briefly, the seven years that elapsed between the time that Harris had brought suit and the actual trial of the case were extremely frustrating for Lewis. His preoccupation with the lawsuit and his resultant inattention to the mercantile interests of his brother John brought about a severance of the business connections between them and, for a while, a rupture in their personal relationships. At the same time, William was subjected to a series of disappointments in his efforts to bring the case to trial. These can best be traced through his letters to John.

On November 29, 1824, he saw Judge Gibson and "told him of my extreme anxiety to have it [the case] brought to issue . . . he asked me if I was ready. I told him I was—'are the opposite Counsel?' They say so.—'Then it will be tried, sir,—*if we can reach it.*'" About a week later he reported that the case must be tried the following week "unless put off by some new quibble." Eight days later he wrote that the court had adjourned to reconvene in the middle of January when "my case will inevitably be reached."<sup>29</sup>

The case finally came to trial early in 1825, but after six days in court it was postponed until April because Harris' counsel raised a point of law that was to be decided by a panel of three judges in March. April came and went and the case failed to come to trial, but Lewis was consoled by a promise of a special court in July. He soon reported, however, that the chief justice had revoked this promise and that he now saw no chance of a trial until November. In October he unhappily told his brother that his lawyers had now warned him that there was little chance of a trial before the spring of 1826. With the coming of spring Lewis had begun to despair of the case ever being tried, there being "no prospect of my law Suit Coming on as far as I can learn." It had begun to seem as though Harris had a vested interest in keeping the case from coming to trial.<sup>30</sup>

<sup>29</sup> William D. Lewis to John D. Lewis, Nov. 29, Dec. 6, and Dec. 14, 1824, in "letters and personal," LN, PHS.

<sup>30</sup> The delays in trying the case have been traced through letters of William D. Lewis to John D. Lewis, Feb. 14, Apr. 12 and 16, May 6, and Oct. 6, 1825, and Apr. 19, 1826, in "letters and personal," LN, PHS.

Then, suddenly, the long-awaited event occurred. Lewis wrote jubilantly to his brother:

The suit of Mr. Harris against me is at an end!—The trial came on by a sort of surprise. . . . [It] commenced on Monday the 29th ult. and the Court sat . . . for *sixteen days*. On the *seventeenth* morning Judge Huston charged the jury & on the eighteenth morning after nine hours consultation they brought in a verdict for the Plaintiff *one hundred Dollars Damages*—this verdict was of course intended to be merely nominal & was the result of a compromise. 9 of the Jury wished to make the Damages under 50 *cts* one or two wished a larger sum, and the result was as above stated. The verdict could not have been in my favor unless the truth of *every part* of the publication were established. The Jury were Convinced of the truth of the most of it but not of the whole. . . . No appeal has been entered by Mr. Harris, who is, no doubt very glad to get off so well.—<sup>31</sup>

The award to Harris was, indeed, nominal, as the original suit had asked for damages of \$50,000.<sup>32</sup>

Lewis, certainly, was satisfied with the outcome. He was, incidentally, amused at this anecdote that was making the rounds in Philadelphia:

FRIEND OF HARRIS TO PARTISAN OF LEWIS, both of whom claimed that their man had won: "We did not want money, we only wanted character."

THE REBUTTAL: "Yes, that seems to be what you stand most in need of."<sup>33</sup>

After the trial, Lewis was finally able to resume a normal existence. In time he became a prominent citizen. Before his death in 1881 at the venerable age of 89, his long career had included the presidency of the Catawissa Railroad, trusteeships of various benevolent societies, and the presidency of the Pennsylvania Academy of Fine Arts. He was U. S. Collector of the Port of Philadelphia during the administrations of Zachary Taylor and Millard Fillmore. And despite a varied career in business, philanthropy, and government, he maintained a lively interest in Russia that found its outlet in translating works of Pushkin and other Russian poets into English.<sup>34</sup>

Levett Harris, according to one account, never again took up residence in Philadelphia after the trial. He traveled widely in

<sup>31</sup> William D. Lewis to John D. Lewis, Feb. 19, 1827, in "letters and personal," LN, PHS.

<sup>32</sup> Declaration of Charles J. Ingersoll, plaintiff's attorney, March Term, 1820, in court papers, LN, PHS.

<sup>33</sup> William D. Lewis to John Hodgson, Feb. 23, 1827, in Lewis letter book, LN, PHS.

<sup>34</sup> *Appletons' Cyclopædia*, 3:707.

Europe and again resumed his quest for a Government position abroad. His efforts were finally rewarded by an appointment as *Chargé d'Affaires* in France for seven months in 1833.<sup>35</sup>

Although it had now been established that the letter books had been created in the course of official activities at the consulate in St. Petersburg, the question remained as to whether or not Harris had had a right to remove them from the consulate. Not until 1829 did the Department of State rule that "all the records kept in the office of the Legation, and all original documents received and filed there, in the course of business, are . . . public property, and constitute the archives of the Mission."<sup>36</sup> Could it be, then, that previously the Department had condoned the removal of records by outgoing consuls and ministers?

A search of the records of the State Department showed quite conclusively that this was not so. At least as early as 1801 the Department had taken the position that the archives of legations and consulates should be passed on by an incumbent to his successor and should not be removed by an official leaving his post.

Secretary of State James Madison, for one instance, when informing Tobias Lear of his appointment as general commercial agent in Santo Domingo, had told him that on his arrival he should obtain from Edward Stevens, his predecessor, "all such public letters and papers as belong to the station you are to fill." And to Stevens went instructions that "Mr. Lear is instructed to . . . receive from you the documents and papers belonging to the station which he is to fill. To these acts of form, your own disposition will I am persuaded superadd all the polite and friendly attentions, to which he is entitled."<sup>37</sup>

In notifying Charles Pinckney of his appointment as Minister to Spain, Madison had referred to "the documents and letters belonging to the Legation which you will receive from Col<sup>o</sup> Humphrey's . . ." Shortly thereafter Madison instructed David Hum-

<sup>35</sup> Manuscript autobiography of William D. Lewis, p. 113, LN, PHS; Levett Harris file, in Applications and Recommendations for Office, 1829-36, records of the Department of State, NA, RG 59; Edward Livingston to Nathaniel Niles, Mar. 13, 1833, in Instructions to U. S. Ministers in France, vol. 14, p. 113; and Harris to Louis McLane, Oct. 3, 1833, in Diplomatic Despatches, France, vol. 26, NA, RG 59.

<sup>36</sup> "Personal Instructions to the Diplomatic Agents of the United States in Foreign Countries [1829]," copy in Instructions From the Department of State to the U. S. Legation in France, records of the Foreign Service Posts of the Department of State, NA, RG 84.

<sup>37</sup> Madison to Lear, June 1, and to Stevens, June 2, 1801, in Consular Instructions, vol. 1, p. 51, NA, RG 59.



phreys to deliver to Pinckney "whatever papers and other things, in your hands that may belong to the Legation."<sup>38</sup>

At the end of June 1961, just as research on the background of the consular letter books was nearing completion, Jesse Sohoski, the boy who had found them, wrote to President Kennedy. He reported his find and indicated that he understood that the volumes should be placed with the original records in Washington. This letter was referred to the Archivist of the United States. In his reply the Archivist complimented Jesse for bringing the matter to the attention of the Government and invited him to donate the records to the National Archives. There they would be preserved with an accompanying notation to the effect that they had been recovered and returned to the Federal Government through Jesse's efforts.<sup>39</sup>

Eventually, in early September, representatives of the General Services Administration and of the National Archives and Records Service (a constituent service of GSA) visited Jesse Sohoski at his home in the Philadelphia suburb of Bridgeport. On this occasion, with parental consent, he gave all four volumes to the National Archives.

This visit provided an opportunity to learn more of the hollow tree story. Officials of the National Archives had found it difficult to accept the account, for the volumes were in no worse condition than many records of the same age that had been relatively well-housed all during their existence. No one, of course, knew how long they had been in the tree, but if they had been there even a few months they would surely have shown the effects of dampness. If they had been there for many years it seemed likely that in spite of their oilcloth wrapping they would have shown evidence of fungus growth and would have been otherwise damaged from at least partial exposure to the elements. When Jesse was asked where he found the books, he said that in 1953, while he and his family had been on one of their frequent outings in King of Prussia Woods, he had noticed a large piece of sheet metal on the ground that he had not seen there before. As a young boy would, Jesse promptly investigated and found under-

<sup>38</sup> Madison to Pinckney, June 9, and to Humphreys, June 22, 1801, in *Consular Instructions*, vol. 1, p. 53, 64, NA, RG 59. Note: During this period instructions to ministers were copied in the same State Department letter book as instructions to consular officials.

<sup>39</sup> Jesse Sohoski to John F. Kennedy, [June 28, 1961]; Wayne C. Grover to Sohoski, Aug. 2, 1961.

neath it the four volumes, presumably wrapped in oilcloth. This account cleared away, at least in part, the doubts raised by the fragmentary and apparently inaccurate story that had first interested the National Archives. If someone in the vicinity had cleaned out an attic, for instance, and had dumped the contents in the woods, the volumes might, with partial protection, have remained undamaged for several days or even a few weeks until Jesse happened upon them.

The letter books were duly accessioned by the National Archives and were placed in the stacks with the other records of the U. S. consulate in St. Petersburg. The volume of depositions, on the other hand, was quite obviously not a record of the Federal Government. Having been microfilmed, it was transferred to the office of the prothonotary of the Supreme Court of Pennsylvania in Philadelphia, the proper custodian. The case was now essentially closed.

It still remained for a press release to be prepared and for an expression of the Government's gratitude to be tendered to Jesse Sohoski. In a letter of thanks and of commendation "for your awareness of the value of these documents," the Archivist enclosed a specially designed Certificate for Act of Special Merit.<sup>40</sup> The citation appropriately summarizes the foregoing account:

*This certifies that*

JESSE SOHOSKI

*Has performed an act of special merit by calling to the attention of the Government and donating for deposit in the National Archives of the United States, records of the United States Consulate in St. Petersburg, Russia, 1803-16, that had been alienated from Federal custody and had come into his possession. This unselfish act insures the preservation of a valuable group of historical documents, that will now be available for scholarly research into a crucial period of American history.*

<sup>40</sup> GSA News Release 1540, Nov. 1, 1961; Grover to Sohoski, Oct. 20, 1961, with enclosure.

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