



Blowing the status quo out of the water

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BOOK REVIEW / The Interview With D. Graham Burnett

In 1818, in a New York City courtroom, the case of Maurice v. Judd posed an apparently straightforward question: Was whale oil fish oil, and therefore subject to state inspection and taxation? As expert witnesses testified, however, the trial quickly became a passionate public debate on the order of nature and the supremacy of man. In the fascinating "Trying Leviathan: The Nineteenth-Century New York Court Case That Put the Whale on Trial and Challenged the Order of Nature" (Princeton University, \$29.95), D. Graham Burnett describes the trial, its undercurrents, and its repercussions with sublime wit and consummate skill. Burnett, the author of "Masters of All They Surveyed: Exploration, Geography, and a British El Dorado" and "A Trial by Jury," is associate professor of history at Princeton University. He spoke from his home in Princeton, N.J.

Is there a common preoccupation that connects this and your previous books?

I suppose I'm concerned with the way that facts become facts. My first book dealt with the history of cartography; maps are wonderful spaces to see natural and social facts in the making. My second book is more personal. In 2000 I served as the foreman of a jury in a murder trial in Manhattan, and found myself completely caught up in the complicated dynamics of proof, evidence, and persuasion in the courtroom. "Trying Leviathan" represents an intersection between those two previous books, perhaps, since here I open up a legal case that is of real importance in the history of science. There was a good deal of serendipity in all this. I am a lover of "Moby-Dick" and had decided I wanted to write a book about changing ideas about whales in the modern era - how did these creatures go from monstrous "beasts" to soulful, musical friends of humanity? I was doing this research when I stumbled on the records of Maurice v. Judd.

What most disturbed people about the whale being classified as a mammal?

The mammalian whale flew in the face of public opinion, which still embraced a tripartite organization of nature borrowed from the book of Genesis: beasts that creep on the land, birds that fly in the air, fish that swim in the sea. It was a reassuring taxonomy that confirmed human beings' unique place in creation. We don't creep. We walk upright in a godlike manner. The emerging taxonomies of the post-Linnaean period, however, put human exceptionality on the block. When they weren't laughed out of court as absurd, such ideas were viewed as dangerous French radicalism that could undermine the human relationship with God and unsettle social order. Besides, why would you choose to classify a beast by dwelling on its sexual parts and sexual behavior? This was taken as evidence of a not entirely savory preoccupation on the part of those who studied nature.

Was anti-intellectualism evident in the trial?

I prefer to think of it as a contest between different sorts of expertise. The trial featured different witnesses, many of whom felt they were perfectly qualified to dispute the book learning of naturalists and professors. Whalers, for example, rightly argued that they had far more detailed knowledge of whales than some French philosopher. He might be familiar with the latest "blah blah" in the scientific journals, but did he spend a lot of time up to his knees in whale guts? These working men were happy to argue with the scholars. You say a whale is not a fish because fish have scales and whales don't? Well, the fisherman pointed out that eels don't have scales either. Whales give birth to live young? Fishermen knew that dogfish do the same.

Is this what you mean when you write that it was not just the whale but also the citizenry that was being classified?

That's partly it. I wanted to show how a seemingly neutral attempt to classify the whale as different from fish was, in this case, shot through with the idea of human difference. There's a shocking moment in the trial when you realize that part of what is at stake for New Yorkers in all this testimony is the question of race and franchise. One of the lawyers points out that if you let these scientists define animal categories, they may define human categories as well. That means that if you have a law stating that men can vote, your desire to exclude African-Americans (because they're not the right kind of human) may be subject to revision at the hands of the naturalists. This point could be very successfully exploited in New York in 1818, since the city had seen considerable violence and controversy around the Emancipation Act of 1817.

What were the implications of the trial for the new republic?

I think the trial can be understood as the snipping of a certain kind of link between science and governance in the early republic, a snipping that is pretty definitive for the rest of the century. The most important expert witness, Samuel L. Mitchill, walks over from New York's new public palace of learning to the courthouse to inform New Yorkers about the taxonomy of the whale. And he walks back as the laughingstock of the island, and gradually of the whole country, as news of the trial spread. The costs were high.

What do you want readers to ponder here?

I hope that the book will help people realize that the sciences, despite their powerful claims to possess truths that defy time and place, are nevertheless very much the products of human labor in particular times and places. I also hope that readers will enjoy being slowly submerged in the old, weird America - an underworld of learning and hucksterism, carnivals and queer anatomy shows. "Hey, buddy, got a quarter? I've got some whale bones here ... and a band!"

Caption: ANAQUI SEER D. GRAHAM BURNETT

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