

# ***PRISON MUSEUM POST***

*The Official Newsletter of the Historic Burlington County Prison Museum Association  
Incorporated in 1966*

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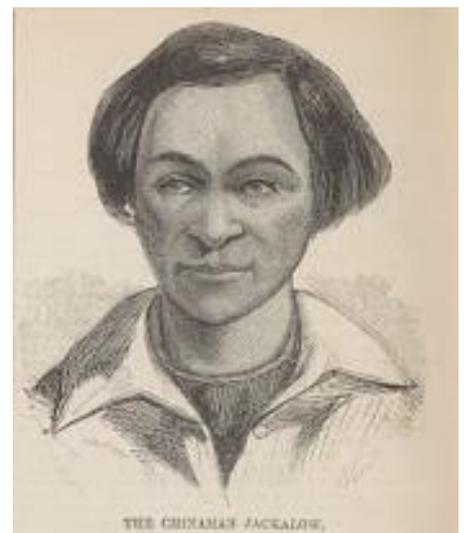
It is with heavy hearts that the Board of Trustees of the Prison Museum Association announces the passing of our dear friend and mentor, David A. Kimball. Please see Page 10.

## ***PMA WELCOMES INTERNS***

We are delighted to report that two post-graduate students have volunteered to do research and work on various projects. Mark "Paulie" Wenger of Southampton and Chase Circello of Burlington are both pursuing masters' degrees in history at Rowan. Paulie has been hard at work for us for several months now on. Among other things, he has organized tens of thousands of inmates' names, which will eventually be added to our website for use in future research projects. He also manages our Facebook page. He's chock-full of ideas and energy, and has brought us a renewed sense of purpose at a time when we never needed it more. Chase recently came on board and will tackle the job of preparing a guide for docents.

## ***THE STORY OF THE JAPANESE PIRATE AT THE BURLINGTON COUNTY JAIL***

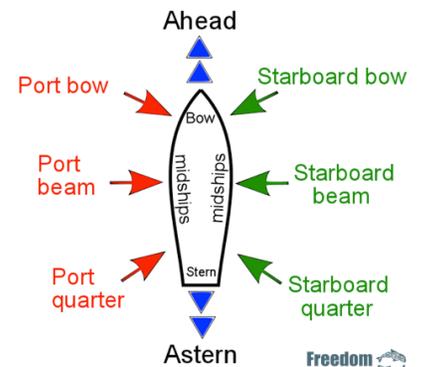
One of the most interesting inmates ever to be incarcerated in our Jail has to be Jackalow, a seaman who was tried in 1861 for piracy and murder in federal court in Newark. Following a guilty verdict, he was, in May of 1861, removed to the Burlington County Prison pending an appeal. The case eventually found its way to the US Supreme Court, which in March of 1862 set aside the verdict and granted a new trial. In March of 1863, the US attorney decided not to prosecute the case further, and Jackalow was released.



He was from the Ryukyu Islands, which form a chain stretching from the southern tip of Japan to Taiwan. Okinawa is the largest of these islands. How he got here, how he got the name "Jackalow" and what ultimately happened to him is a whole other story that we hope to bring you in future issues.

At this point, some of you who are not up to date on your sailing jargon might want to refer to the cheat sheet below before continuing on with the story.

### 18<sup>th</sup>-19<sup>th</sup> CENTURY SLOOPS LOOKED LIKE THIS:



The bowsprit is the beam extending from the bow (front of the ship) to which the "headsails" (on the left) are tied. The boom is the horizontal beam perpendicular to the mast onto which the "main sail" or "main sheet" (on the right) is tied. The mast is the vertical beam.

The horizontal transverse timbers of the ship are the "beams". The nautical phrase "upon her beam ends" means that the ship has fallen over so that her sides are touching the water.

Jackalow came to the US in the 1850s and was befriended by two brothers from Connecticut, Jonathan and Elijah Leete. The brothers later bought a 30-ton sloop called the *Spray* and hired Jackalow as a crewman. They had been sailing together for two or three years when, on March 15, 1860, the *Spray* left its home port in Connecticut and sailed down the Long Island Sound to carry cargo to New York

City. It reached the city safely and sold its cargo for \$500. It never made it back to Connecticut, however.

On March 21, the *Spray* collided with another ship near Barnegat on the south Jersey shore. Jackalow was the *Spray's* only passenger. Although the *Spray* was filling with water from a hole knocked into her bow during the collision, Jackalow refused to be rescued by the other ship. Later in the day, the *Spray* anchored to another ship. Jackalow told the captain of that ship that Jonathan was sick in the cabin and that Elijah had been knocked overboard by the boom. He then changed the story, and said that one brother fell overboard off the bowsprit and the other got knocked overboard by the main sail. The captain took Jackalow via rowboat to shore at Little Egg Harbor. Immediately upon disembarking, Jackalow disappeared into a crowd.



The *Spray*, lying on her beam ends, was towed to New York Harbor, where harbor police searched her and found a blood-spattered bed, two unloaded pistols (one with signs of recent discharge) and an empty money box that had been broken into. (At left is a drawing of the investigation which appeared in local

papers.) A warrant was issued for Jackalow's arrest. On March 27, the engineer of a train travelling from Philadelphia to Jersey City spotted Jackalow running into the woods near Jersey City. Word went out and four men, no doubt motivated by a \$1000 reward, tracked Jackalow down and apprehended him on the Newark Plank Road. (Newark Plank Road was a major artery between the Jersey City waterfront and Newark, further inland across the New Jersey Meadows. It was constructed of wooden planks laid side-to-side on a roadbed.) Jackalow was delivered to the Jersey City police, who noted that he was wearing Jonathan's coat, the pockets of which contained \$400 and Jonathan's notebook.

On April 2, 1860, a preliminary hearing was held in Jersey City. The brothers' mother and sister testified, identifying the men's effects. Upon seeing the women, Jackalow burst into tears and requested to speak with them. His attorney refused

to allow it. Jackalow was moved to the Essex County Jail in Newark while the US attorney prepared for a grand jury hearing in which he would seek an indictment for the murder of both men and the robbery of their money and the ship. Jackalow was later moved to the Mercer County Jail, and was there when the grand jury proceeding was held in the late summer and early fall of 1861.

The case presented an interesting legal issue involving "venue". Venue is where a case has to be heard. If a criminal from Philadelphia robs and murders a person from New York in Burlington County, and is thereafter apprehended in Maine, where is the trial held? Burlington County, where the crime was committed. The "venue" is Burlington County. Who says? The US Constitution, Article III.

But what happens when the crime isn't committed in any state? What happens, for example, when the crime is committed on the high seas? This issue came up more often back in the day when there were a lot of pirates sailing all over the place. Article III says that in that case, venue will be in accordance with federal statutes. At the time the Leete brothers were robbed and murdered, the federal statute provided that if a person committed robbery (the statute doesn't mention murder) on the high seas, he was to be tried in the US district court for the district in which he was apprehended. If convicted, the punishment was death.

The US attorney alleged that the Leetes were robbed and murdered in the Long Island Sound, between New York and Connecticut. This wasn't a state, he said. It was part of the "high seas". Therefore, the federal statute applied and venue was proper in the federal court in New Jersey, where Jackalow had been apprehended.

Jackalow's lawyers disagreed, saying that the area **was** within a state - either New York or Connecticut. The case should not have been heard in federal court at all. The authorities should have figured out which state the alleged crime was committed in, and then brought the case there in the state court.

The venue issue was argued at the preliminary hearing, the grand jury hearing and at trial. None of the several judges and lawyers involved could agree. On February 2, 1862, the trial jury found Jackalow guilty of robbing Jonathan of his coat and not guilty of the robbery of the money and the ship. They also didn't find Jackalow guilty of murder, despite overwhelming circumstantial evidence, including a body, believed to be Jonathan's, that washed ashore in Queens during the grand jury proceeding. (Later, when the case on appeal, a second body, believed to be

Elijah's, washed up nearby in Connecticut. Neither body could be positively identified.)

Although the jury also found that the crime was committed where the US attorney said it was (Long Island Sound between New York and Connecticut), they did not find whether that site was in any state. The US Supreme Court ruled in March of 1862 that whether or not the location was in a state was a factual issue that should have been determined by the jury. They therefore overturned the conviction and sent the case back for another trial.

The US attorney took his time deciding whether or not to re-try the matter. In March of 1863, at the suggestion of the trial judge, he dropped the case, apparently in part because he didn't want to tackle the venue issue. Jackalow was discharged and admonished to leave the country.

The case is viewed as historically significant, because even though it occurred during the Civil War, the federal courts focused on proper legal procedure and jurisprudence in a case unrelated to the war.

The trial attracted significant media attention, which made a celebrity out of Jackalow. Shortly after his arrest, he was visited in jail by none other than P.T. Barnum, who featured a wax figure of Jackalow in his show.

It was sympathy for Jackalow that landed him in the Burlington County Prison, to which he was removed from Mercer County Jail for the "benefit of fresh air" according to the Philadelphia Inquirer (May 22, 1861).

The jury probably found him not guilty of murder because the US attorney presented little evidence as to murder. Had the robbery verdict been upheld, Jackalow would have been executed under the federal statute anyway. The fact that

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**In Memoriam**  
Jay B. Tomlinson 1893-1967  
David A. Kimball 1930-2021

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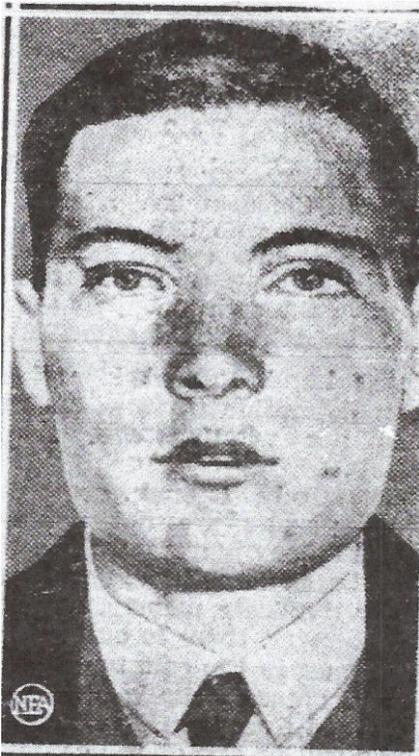
Please help us preserve and promote the Prison Museum by joining the PMA. Annual dues are \$15(individual)/\$25 (family). Membership benefits include a quarterly newsletter, event updates, 10% off gift shop purchases, and free admission to the museum.

Jackalow faced the death penalty was probably a factor that saved him. The trial judge reportedly stated: "If the Supreme Court of the United States can't make up its mind whether the place where the murder was committed was within the jurisdiction of the states or on the high seas, I am not going to come so near committing judicial murder as to set twelve men guessing at it."

Jackalow's attorney filed a writ of attachment against Jackalow for legal fees and ended up with the \$400 that had been found on his client when he was arrested.

Some of our readers may be shocked to learn that the newspapers, in particular, the New York Times, reported almost every aspect of the case incorrectly. One article reported that the Supreme Court ruled that New York had no jurisdiction. Another article reported that Jackalow had been sentenced to death, but that the Judge "decided not to pass the sentence". Yet another article reported that Jackalow had been represented at the US Supreme Court hearing by an attorney named Reverdy Johnson even though the opinion clearly states that no one appeared for the defendant.

## JACOB CIEMIENGO INTERVIEW NOTES FOUND



Our readers will recall that in the last issue about the PMA's founder, attorney Jay Tomlinson, we discussed the case of Jacob Ciemiengo, a 16-year-old boy from Burlington who was convicted of the murder of Bordentown farmer Herman Eilers in 1935. He and his 25-year-old friend, George Hildebrand, carried out a plan to rob and kill Eilers. Ciemiengo was sentenced to death. His attorney, George Hillman, died before an appeal could be filed. Jay Tomlinson was appointed to represent him. Although he was unable to have the conviction overturned, he was able to have the sentence reduced to life in light of the defendant's age.

Intern Paul Wenger recently uncovered detective Ellis Parker's notes on his interview of Ciemiengo. We thought you might be interested. We are attaching them for your review.

E-116  
Columbus, N.J.  
October 8th. 1935 6:45 A.M.

I, Jacob John Ciemiengo age 16 yrs. of Cedarlane Road, R.D.#1 Bordentown, N.J. do make the following voluntary statement of my own free will and accord, without fear, threat or promise of reward, knowing that same can be used against me in court.

This statement is being made in presence of Sgt. A.Zapolsky, Cpl. H. Lambertson, Det. H.Stockburger, Tpr. Caisse of the New Jersey State Police and also in the presence of George Herman Hildebrand of Columbus-Burlington Road, R.D.#1 Bordentown, N.J.

Q. What is your full name?

A. Jacob John Ciemiengo.

Q. How old are you?

A. Sixteen (16) years.

Q. Are you living with your parents at the above address?

A. Yes.

Q. Jacob you are being charged with the murder of Herman Eilers, are you willing to give us a voluntary statement, knowing that you have been warned of your rights, that you dont have to say anything if you dont want to?

A. Yes.

Q. Now tell us in your own words just what you did, what you know and who was with you when you committed this crime.

A. I do not know how long ago we first thought of this thing, "How long ago was that George?" (Answer by George Herman Hildebrand) Sometime during the summer about four months ago. (Ciemiengo Continued) A few months ago George Hildebrand and I were figuring on getting some money and so we thought we would holdup Herman Eilers. About six weeks ago George Hildebrand and I were intending to holdup Herman Eilers. We went to his place by walking across fields, and I had a 22 calibre revolver that my father gave to me. Suddenly we got to Herman Eilers house and seen that we could'nt hold him up because we were afraid of getting shot, knowing that he had a shot-gun. So we turned around and started back to home.  
Last night, Monday evening October 7th. 1935 about 6:00 o'clock I had supper at my home and got in the car and went over to get George Hildebrand who works at Scattergoods on Columbus Stone Road. George came out of the house to the car, got in the car and we drove about a mile thru Cedarlane where we stopped in the woods and talked it over about holding up Herman Eilers. George and I planned to get some money. We was going to shoot him so he could'nt recognize us. I had my 22 calibre revolver "Young America" with me and it had three bullets in it, so we finally drove up to Herman Eilers place and got out of the car, went in the house by opening the kitchen screen door and house door, leading into the kitchen. I took my gun out of my pants pocket and put it in my right hand, I led the way into the house, and George was in back of me. We were in the doorway and then Herman Eilers coming out of the room towards us. I walked up to Herman Eilers and then I tried to hold him up. I shot Herman Eilers in the chest and then the head and he dropped to the floor. George Hildebrand reached down and went thru his pockets while Herman was kicking on the floor. Then we thought we would better move along in case of being caught. We started for Burlington to go to the Schlams Baker shop on Broad Street. We stopped on our way to Burlington and met Baird Malseed and Norman Abrams who were parked along the road in an automobile, about four miles from Burlington. We talked to them for about five minutes and then went to Burlington. When we shot Herman Eilers we did not get any money from his pockets, and George tried to borrow ten cents from Baird Malseed, but he did'nt have it. So we went in town and got our bread and cigarettes and come back home to Joe Ciemiengo's house.  
(CONTINUED)

Jacob John Ciemiengo

Columbus, N.J.  
October 8th. 1935.

STATEMENT OF JACOB JOHN CIEMIENGO CONTINUED SHEET #2

When we got home we talked for an hour and then George got ready to go home. So I took him home and come back and put my 22 calibre revolver in the bureau drawer in the dining room and then went to bed.

- Q. When you planned to hold up Herman Eilers did you think he had a large sum of money on his person or in the house?
- A. Yes, Mr. Richardson an insurance man came to my fathers house to collect insurance. He could not change a twenty dollar bill so we went to Herman Eilers House (Richardson & I) Herman changed the twenty dollar bill and I saw a roll of money in his wallet and I thought I would try to get some of it.
- Q. Where does Mr. Richardson live?
- A. Burlington, N.J.
- Q. Is this the revolver you used in killing Herman Eilers? (Sgt. A. Zapolsky showing Jacob Ciemiengo 22 calibre Young America Double Action Revolver. Number 25579)
- A. Yes that is the gun I used, and it was given to me by my father about a year ago.
- Q. Jacob you told us you shot Herman Eilers twice, once in the chest and once in the head. This revolver shows it has three exploded shells in the chamber, what happened to the third shot?
- A. It had exploded during the excitement. I think it went wild.
- Q. How is it you had only three shells in the revolver?
- A. I didn't have any more to put in.
- Q. What distance was you from Herman when you fired the shots?
- A. Within three feet of him.
- Q. Did Herman at any time get his hands on the revolver?
- A. No.
- Q. At the time of the shooting of Herman Eilers where was George Hildebrand?
- A. George Hildebrand was alongside of me close to the door.
- Q. Did you touch the body of Herman Eilers after he had fallen to the floor?
- A. No.
- Q. Did you witness George Hildebrand searching pockets of Herman Eilers while he laid on the floor after he had been shot?
- A. Yes.
- Q. Did George Hildebrand tell you that Herman Eilers had no money on his person?
- A. Yes.
- Q. When had you and George Hildebrand made the final arrangements to Hold-up Herman Eilers?
- A. On Monday afternoon October 7th. 1935 about quarter after four while I was visiting George Hildebrand at the Scattergoods Farm I told George that I would be up in the evening as it would be a good time to hold-up Herman Eilers and get the money.
- Q. Did George Hildebrand agree to accompany you on this holdup?
- A. Yes.
- Q. How long have you known Herman Eilers?
- A. About four and a half years.
- Q. Did you have knowledge of Herman Eilers having large sums of money either in his house or carried on his person?
- A. Yes.
- Q. How long have you known George Hildebrand?
- A. About three and a half years.
- Q. Have you ever had any quarrells with George Hildebrand?
- A. No.
- Q. Did you ever have a quarrel or any trouble with Herman Eilers?
- A. No.

*Jacob Ciemiengo*

Columbus, N.J.  
October 8th. 1935.

STATEMENT OF JACOB JOHN CIEMIENGO CONTINUED (SHEET# 3)

- Q. Are you any relation to George Hildebrand?  
A. No.  
Q. Does George Hildebrand keep company with your sister Blanche Ciemiengo?  
A. Yes, for about seven months.  
Q. How long has George Hildebrand worked at Scattergoods?  
A. Over a year.  
Q. Did George Hildebrand ever work for Herman Eilers?  
A. Yes, in 1932 on Eilers Poultry Farm.  
Q. Do you know whether or not George Hildebrand had any ill feeling toward Herman Eilers?  
A. No.  
Q. About how often would you visit Herman Eilers?  
A. Every couple weeks, we would also play cards at his home, and he would drive my fathers car and I would accompany him, as I had no license.  
Q. Had you ever planned to hold up Herman Eilers along the highway while you accompanied him in your fathers car?  
A. Yes, about a year ago I was planning ~~to~~ a fake holdup, where I would shoot Herman Eilers and let it look like a real holdup.  
Q. Have you ever been convicted of a crime?  
A. No.  
Q. Have you ever been committed to any State Institution?  
A. No.  
Q. During your incarceration at the Columbus State Police Barracks have you been threatened, or received any promises of immunity to give this statement?  
A. No.  
Q. Are all the aforementioned questions answered correctly to the best of your knowledge?  
A. Yes.

Signed

Jacob John Ciemiengo

WITNESSES

[Signature]  
[Signature]  
[Signature]

## **DAVID A. KIMBALL**

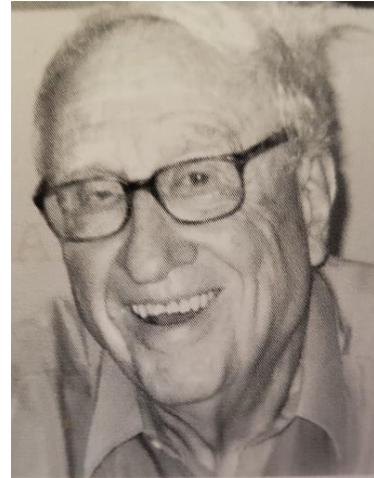
April 26, 1930-January 15, 2021

It is with profound sadness that we report the loss of our dear friend and mentor, David A. Kimball.

Dave is survived by his son, long-time PMA member Dan Kimball. He is also survived by his daughters, Melissa Kimball and Marion Mussoneli, and three grandchildren. He was predeceased by his wife, Marge, and their daughter, Betty Kimball, who died last year after a lengthy illness.

A devout Christian, Dave was a member of the Rancocas Valley Baptist Church in Westampton.

Dave grew up in Vermont. The grandson of a Civil War veteran and a descendant of a passenger on the Mayflower, he came at an early age to love and appreciate our country and its history. He graduated from the University of Maryland in 1951 with a major in history and a minor in government. Many of his classmates and professors were World War II veterans, and his relationship with them formed the foundation of his lifelong respect, admiration and affection for servicemen.



Immediately after college, he entered the National Park Service as an entry-level historian at Fort McHenry National Monument in Baltimore. In December 1955, he transferred to Independence National Historical Park, where he assisted in research on the construction, alteration and use of various park buildings. Eventually those reports governed the restoration and refurbishing of several exceptionally important historic buildings, including Independence Hall, Congress Hall, the Bishop House and the First Bank of the United States.

In 1962, he transferred to the Park Service Regional Office as a park planner, eventually becoming Regional Chief of Planning and Environmental Compliance. For the next 20 years, he prepared plans to guide the development, management and public use of several national parks, including the Delaware Water Gap National Recreational Area, the Theodore Roosevelt National Memorial and the Cape Cod National Seashore. During his work on the Roosevelt Memorial, he conferred with President Roosevelt's son, Archibald, a colorful character whom David enjoyed immensely.

As a park planner, Dave wasn't your stereotypical bureaucrat. He wasn't interested in making the Park Service bigger; his goal was to make it better. If a site proposed for inclusion in the Parks was going to cost more than it was worth, or if it was going to be impossible for the NPS to properly maintain, he said so. Remarkably, on occasion the government listened: one of President Nixon's veto message on a proposed park contained, verbatim, three key paragraphs from Dave's evaluation.

During his years as a park planner, he appeared as a witness before congressional committees and worked closely with various state and federal agencies. One of his main jobs was to assure that the parks complied with the National Environmental Policy Act. His region was undefeated in four NEPA suits during his tenure.

In 1983, he returned to Independence National Historic Park to lead the NPS participation in the bicentennial of the US Constitution in 1987. As Chief Historian he contributed to the research needed for the major exhibit "Miracle at Philadelphia" and to the Bicentennial Daybook, a day-to-day account of events in Philadelphia during the constitutional convention. During this time, Dave spoke to groups ranging from parochial school junior high students to the Board of Directors of Dun and Bradstreet. He was interviewed on C-Span by its CEO, Brian Lamb.

He retired on December 26, 1987. He always liked to joke that it was a Christmas present his wife didn't particularly enjoy, motivating her to volunteer him as a docent at the Historic Burlington County Prison Museum to get him out of the house. Of course, this was nonsense; Marge was simply a devoted wife who knew her husband well. Life wouldn't quite be worth living for him unless he could continue to interact with the public, and learn and spread the word about American history. He continued to do so until the day he died, 33 years later.

In 1989, he wrote *Venerable Relic: The Story of the Liberty Bell* (Eastern National Park and Monument Association, Philadelphia, 1989), which was re-printed four times.

He served for many years as historian for Burlington County. During this time, he studied the minutes of Freeholder meetings going back to the 1700s. No one has ever known more than he did about the history of Burlington County government.

He also served for many years on the Board of the Burlington County Historical Society.

Within a couple years of joining the PMA in 1987, he became its President. These were hard times for the PMA, though. The building was deteriorating and the County seemed to be losing interest. Dave held the organization together on a wing and a prayer. During this period, he was interviewed by C-Span about the Jail in connection with Alexis de Tocqueville's tour of American prisons in 1831. See the interview on our website [www.prisonmuseum.net](http://www.prisonmuseum.net) under the "Videos" tab.

The County closed the museum in 1993 for repairs and renovation. The PMA was basically suspended at that point. Dave got stuck with maintaining and storing the PMA's records and meager assets. Finally, in 1997, the County contacted Dave about reactivating the organization so that it would be ready to go when the repairs were done. He called the few remaining PMA members together for a meeting which he dubbed the "Resuscitation Luncheon". He told us that he would continue to guide the organization, but not as president. He suggested that Mt. Holly attorney and fellow history lover Janet Sozio serve as president, a position which she accepted on the condition that Dave continue as vice president. This started a 23-year collaboration between Janet and Dave which has resulted in significant accomplishments, including an informative website, several articles, an interesting newsletter, an audio tour, and a video on the graffiti. Janet's energy and persistent determination was important to these successes, but 90% of it was Dave, especially the research. No one has done more to preserve and promote the history of the Old Jail. His passing leaves a huge void.

Dave was a brilliant scholar, but also a kind gentleman who enjoyed people immensely. Nothing delighted him more than introducing people to American history, especially that of our Founding Fathers. Anyone who wishes to honor Dave's memory – and no one deserves to be honored more than this fine man – can do so by endeavoring in any way they can to preserve and promote our great American history and heritage.

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