



Richard Peters

Born: June 22, 1744, in (Belmont) Philadelphia, Pennsylvania.  
Died: August 22, 1828, in (Belmont) Philadelphia, Pennsylvania.

#### **Federal Judicial Service:**

Judge, U.S. District Court for the District of Pennsylvania

Nominated by George Washington on January 12, 1792, to a seat vacated by William Lewis.  
Confirmed by the Senate on January 12, 1792, and received commission on January 13, 1792.  
Service terminated on April 20, 1818, due to reassignment.

Judge, U.S. District Court for the Eastern District of Pennsylvania

Reassigned on April 20, 1818, to a new seat authorized by 3 Stat. 462.  
Service terminated on August 22, 1828, due to death.

#### **Education:**

College of Philadelphia (now University of Pennsylvania): 1761  
Read law, 1763

#### **Professional Career:**

Private practice, Philadelphia, Pennsylvania: 1763-1771, 1783-1787  
Continental Army: 1771  
Register of Admiralty, Philadelphia, Pennsylvania: 1771-1776  
Secretary and member, Continental Board of War: 1776-1781  
Delegate, Continental Congress: 1782-1783  
State Representative, Pennsylvania: 1787-1790  
State Senator, Pennsylvania: 1791-1792

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## Judicial Biography

\*President Washington named another Federalist, Richard Peters, as his third appointee to the District Court of Pennsylvania to succeed Lewis. The Senate, again moving quickly, gave its advice and consent on January 13, 1792, a day after he was nominated.

Upon confirmation, Peters still had some business to finish as a state senator and requested that Thomas Jefferson, the Secretary of State, withhold his Commission until that business was completed. Peters resigned his legislative office on February 1, 1792, and then took the oath of office. In contrast to the short tenures of Judges Hopkinson and Lewis, Peters went on to serve as the District's sole federal judge for the next thirty-six years.

Peters was born on June 22, 1744 in Blockley Township, Philadelphia County at the family farm known as Belmont, in what is now part of the Fairmount Park in West Philadelphia. His father, William Peters, was a large landowner and successful lawyer who at one point held office as a colonial judge. An uncle, The Reverend Richard Peters, served as the rector of Christ Church before the Revolution. As had Hopkinson, Peters earned a degree from the College of Philadelphia (now the University of Pennsylvania) and subsequently read law.

Although his family had maintained a close relationship with the Penns, the colonial proprietors of Pennsylvania, Peters supported the American cause during the Revolution. He resigned his post as Registrar of the Admiralty Court, which he had held since 1771 and became a captain in the Pennsylvania militia. On June 13, 1776, Congress appointed him Secretary of the Board of War. From this position, Peters exposed the peculations of Benedict Arnold and worked fervently and successfully at raising money and provisions for the Continental Army during the Revolution at a time when the situation was dire. He resigned in 1781 when a Department of War was created and then served a year in Congress. Thereafter, Peters was elected to the Pennsylvania Assembly and later to the state Senate. In each instance his fellow legislators chose him as that body's Speaker. Before his appointment as a District Judge, he had been offered but declined the position of Comptroller of the Treasury in the new federal government.

Peters was a noted wit and conversationalist who made a delightful dinner companion. He was a classical scholar with a reading knowledge of Dutch, Spanish, French, and Italian. His proficiency in German helped his legal career among Pennsylvania's large German population.

While most of his adult life was dominated by politics and his judicial career, his interests cut across a wide spectrum. He was a devout and influential Episcopalian, who like Francis Hopkinson was instrumental in the establishment of the Protestant Episcopal Church in the United States. After the Revolution, he sailed to England and met with the Archbishop of Canterbury to resolve certain ecclesiastical issues with the Church of England.

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\* The following material is excerpted from JUDGE HARVEY BARTLE, III, MORTALS WITH TREMENDOUS RESPONSIBILITIES, A HISTORY OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA, 3-12 (Saint Joseph's University Press, 2011). Reproduced with the permission of the author, Judge Harvey Bartle, III, and the publisher, Saint Joseph's University Press.

He, like William Lewis, held membership in the Pennsylvania Abolition Society. Devoted to innovation in farming, he served as the first president of the Philadelphia Society for the Promotion of Agriculture and wrote a number of influential articles on agricultural subjects. His knowledge and practical experience were such that George Washington, retired at Mt. Vernon, sought his advice on what type of grain to plant to avoid destruction of his crops by the Hessian fly. Among a wide variety of civic improvement projects with which he was connected, one of the most important was the construction of the bridge over the Schuylkill at High (now Market) Street which made travel easier to and from the western part of Philadelphia County where he lived.

At the time Peters was appointed to the bench in 1792, the District Court was still sitting in Philadelphia's City Hall at Fifth and Chestnut Streets. The Court remained there until 1824, except for a temporary absence during the summer and fall of 1799, when it sought refuge in the Montgomery County Courthouse in Norristown because of the yellow fever epidemic in Philadelphia. In 1824, the Court moved a few yards west from City Hall to Congress Hall, originally constructed as the Philadelphia County Courthouse, at Sixth and Chestnut Streets.

After a two year stay, the Court relocated again. A ten-year lease, effective January 1, 1826, was signed for the use of the second floor of the Franklin Institute on Seventh Street, just south of Market Street. However, the Court occupied that venue only until April 1, 1830, when the United States Marshal, who had responsibility for leasing court space and paying the rent, negotiated a release of the Government's obligations to the Franklin Institute. The building still stands and now houses the Philadelphia History Museum at the Atwater Kent. Thereafter, the Court returned to Independence Hall where it sat on the second floor until 1854.

When Peters was sitting as a District Judge on the Circuit Court, he was joined by one or more Supreme Court Justices as provided in the Judiciary Act. In his early years on the bench, Justices John Blair, Samuel Chase, James Iredell, William Paterson, and James Wilson presided with him at one time or another.

On December 19, 1798, President Adams appointed Bushrod Washington, the nephew of George Washington, to the Supreme Court to fill the seat left vacant by the death of Justice Wilson. The younger Washington, a Virginian, had studied law under Wilson in Philadelphia. Within a few years of his appointment, he was the justice who regularly joined Peters on the Circuit Court. Washington's time on the Supreme Court (1798-1829) largely coincided with that of Peters on the District Court (1792-1828). The two men developed a close friendship. Both were Federalists, and both held Chief Justice John Marshall in high regard. Washington died in Philadelphia on November 26, 1829, while present for a court session. On the third floor of the present United States courthouse outside the judges' conference room is a marble relief of the Justice with an accompanying tablet which reads:

THIS TABLET RECORDS  
the affection and respect,  
of the members of the Philadelphia Bar, for  
BUSHROD WASHINGTON  
an associate Justice of the Supreme Court

of the United States:  
alike distinguished  
for simplicity of manners,  
arid purity of heart:  
fearless, dignified, and enlightened as a Judge;  
no influence or interest,  
could touch his integrity, or  
bias his judgment:  
a zealous patriot, and a pious christian.  
He died at Philadelphia,  
on the 26th of November A.D. 1829;  
leaving to his professional brethren,  
a spotless fame;  
and to his country, the learning, labour, and wisdom,  
of a long judicial life.

The main work of the District Court in the days of Judge Peters was presiding over and deciding admiralty and maritime cases, and it is in this setting that he earned an esteemed reputation. These lawsuits ranged widely in subject matter. They concerned the seizure of ships during wartime, the distribution of prize money from captured vessels, insurance coverage for lost or damaged cargo, and wages and medical care due seamen. Criminal cases involving murder and assault on the high seas also came before the Court. The highly respected Supreme Court Justice Joseph Story lauded Peters for his “rich contribution to the maritime jurisprudence of our country.”

It was also a time when there existed tens of thousands of acres of virgin land west of the developed areas of the eastern seaboard. A number of civil suits of note before Peters concerned land disputes and land speculators.

Peters from the outset was sensitive to the separation of powers among the executive, legislative, and judicial branches of government. In 1792, Congress approved the Pension Act to benefit certain Revolutionary War veterans. The Act included a provision for the Circuit Courts to evaluate pension applications. The conclusions of the judges and the proofs upon which they relied were to be forwarded to the Secretary of War for his review and approval, with authority given the Secretary to deny a pension where he “shall have cause to suspect imposition or mistake.”

William Hayburn petitioned the Circuit Court for the District of Pennsylvania to be placed on the pension list. Justices James Wilson and John Blair along with Judge Peters, then sitting on the Circuit Court, decided “after due Deliberation” that they would “not proceed upon” the petition. Instead of issuing an opinion setting forth the reasons why they refused to resolve the case on the merits, they addressed an explanatory letter to President Washington. They first stated that it was a “painful occasion” not to have been able to proceed with Hayburn’s petition. Nonetheless, it was their conclusion that a part of the Pension Act was unconstitutional in that any judicial decision on his pension request was subject to revision “by an officer in the executive department.” Consequently, the statutory scheme was “radically inconsistent with the

independence of that judicial power which is vested in the courts; and consequently with that important principle which is so strictly observed by the constitution of the United States.” The letter closed apologetically:

These, Sir, are the reasons of our conduct. Be assured that, though it became necessary, it was far from being pleasant. To be obliged to act contrary either to the obvious directions of congress, or to a constitutional principle, in our judgment equally obvious, excited feelings in us, we hope never to experience again.

The Circuit Courts in New York and North Carolina each took a similar stance. Attorney General Edmund Randolph thereupon filed a petition for mandamus on behalf of Hayburn in the Supreme Court. While the matter was pending, Congress enacted a new procedure for processing pension applications without judicial involvement. As a result, the Supreme Court never ruled on the Attorney General’s motion. The decision of the Circuit Court for the District of Pennsylvania in Hayburn’s Case in which Judge Peters participated was handed down some eleven years before the famous case of *Marbury v. Madison* in which the Supreme Court firmly established the right of the courts to invalidate an Act of Congress as repugnant to the Constitution.

Peters had been the District Judge only a relatively short time when the Whiskey Rebellion erupted in Western Pennsylvania in 1794. It was precipitated by an excise tax on whiskey, to be paid by the distillers, which Congress had enacted to help pay for the massive fiscal program of Secretary of the Treasury Alexander Hamilton to assume the debt of the states incurred during the Revolution. Many of those living in that rugged area of Pennsylvania refused to pay the levy. There was even talk of establishing a separate country beyond the Allegheny Mountains and of marching on Philadelphia, the nation’s capital.

President Washington decided to dispatch some 13,000 militiamen to quell the revolt. He joined the troops as Commander-in-Chief in Carlisle, Cumberland County and accompanied them as far as Bedford County before returning to Philadelphia. As the Army marched westward, it met no opposition, and shots were never fired. The rebellion simply dissolved.

What began as a political and military issue was transformed, as so often happens, into a judicial matter. Judge Peters and United States Attorney William Rawle, one of the initial twenty-six attorneys to have been admitted to practice before the Circuit Court in 1790, traveled with the soldiers into Western Pennsylvania. Arrests were made, and Peters sent some back to Philadelphia for trial. Indictments for treason were handed down, such as the one against Frederick Reamer, which charged him as “an evil, depraved person ... of a turbulent and seditious disposition.” Supreme Court Justice William Paterson of New Jersey and Judge Peters presided over the Circuit Court trials in Philadelphia. Of those indicted, two were convicted of treason and sentenced to death, but both were pardoned by President Washington.

In early 1798, Justice Samuel Chase and Judge Peters decided a case involving the important but unsettled legal question as to whether federal common law crimes exist, that is, whether a court may deem to be a crime conduct which Congress had not made criminal. Robert

Worrall was indicted for attempting to bribe a Government official in Philadelphia in connection with the construction contract for a lighthouse in Cape Hatteras, North Carolina. There was no federal statute at the time making such behavior a crime. Worrall was convicted by a jury. Justice Chase was of the view that the indictment should be dismissed because the Constitution only allowed conduct to be considered a federal crime pursuant to a law passed by Congress. Judge Peters disagreed. He reasoned:

the existence of the Federal government would be precarious, it could no longer be called an independent government, if, for the punishment of offences of this nature, tending to obstruct and pervert the administration of its affairs, an appeal must be made to the State tribunals, or the offenders must escape with absolute impunity.

Chase ultimately relented, and Worrall was sentenced to jail and fined.

The position of Peters that the Constitution countenanced federal common law crimes was widely held by federalist judges of that period and was consistent with the notion of an energetic federal government. Thomas Jefferson and his Republican adherents vehemently disagreed. They considered the Federalist position to be nothing less than a dangerous and illegal enhancement of federal judicial power. It was not until 1812 that the Supreme Court finally settled the issue by deciding that Chase's original position had been correct. The Court concluded that neither the enumerated nor the implied powers granted under the Constitution authorize federal common law crimes.

In 1798, a few years after the Whiskey Rebellion, Judge Peters was confronted with what is known as the Fries Rebellion. At that time, France and Great Britain were locked in war, with both nations seizing neutral American ships. In response, Congress enacted a series of taxes on real estate to raise revenue to finance an enlarged Army and Navy. The tax was calculated on the basis of the number of windows in a person's home. German-speaking residents of Bucks and Northampton counties, led by a John Fries, "revolted" against compliance with the tax. Fries was a Federalist who had served as an Army officer during the Revolution and during the Whiskey Rebellion. In civilian life he was an auctioneer. Poor communication about the tax in these areas as well as in Montgomery County played a role in the Fries Rebellion or, as it is sometimes known, the "Hot Water War." When revenue collectors arrived in the area, they were often met with hot water dumped on them from upper windows. The fleeing tax assessors were thus prevented from calculating the taxes owed.

Judge Peters directed United States Marshal William Nichols to arrest those responsible. After making several arrests, Nichols was met by John Fries and other armed locals at the Sun Tavern in Bethlehem. Fries demanded the prisoners be tried in local courts rather than in the federal court in Philadelphia. Nichols refused the demand but being surrounded eventually turned the prisoners over to Fries and his men. Fortunately, no shots were fired during the standoff.

President Adams thereafter ordered troops to seize those in revolt. That Fries had served his country in the army and was a Federalist mattered little. All that Federalists saw was yet

another insurrection in Pennsylvania. Ultimately, Fries along with sixty others who had been with him during the standoff with Nichols were arrested and taken to Philadelphia where Fries was indicted for treason.

Fries had able representation at his trial. His lawyers were William Lewis, the former District Judge, and Alexander James Dallas. Though the two counsels could not have been more different politically, and indeed had almost fought a duel, they were united in defending Fries. The first trial began in April 1799 in Philadelphia before Judge Peters and Supreme Court Justice James Iredell of North Carolina. Fries was convicted of treason by the jury. Nonetheless, before a death sentence could be imposed, it was brought to the Court's attention that some of the jurors had talked during a recess in the trial about how "Fries and the other insurgents" should be hanged. Lewis, on behalf of his client, moved for a new trial based on juror bias. The Court agreed and granted the motion.

The second trial took place in 1800 before Justice Samuel Chase of Maryland and Judge Peters. In a dramatic move, Lewis and Dallas resigned from the case in the midst of the proceedings because of the rulings and intemperance of Chase whom Peters had unsuccessfully attempted to moderate. While Chase and Peters offered to appoint new counsel, Fries declined the offer. He proceeded to represent himself. He was convicted by the jury of treason for the second time and sentenced to be hanged. Contrary to the unanimous recommendation of his cabinet and over the strong opposition of adherents of former Secretary of the Treasury Alexander Hamilton, President Adams pardoned Fries and the other individual who had been convicted. Capitalizing on his notoriety, Fries thereafter opened a tin-ware shop in Philadelphia and was said to have attained "a respectable fortune, and a respectable character."

The execution of Louis XVI, the onslaught of the Reign of Terror and the radical phase of the French Revolution, and the war between Great Britain and France in the 1790's had their deep-felt effects on domestic politics in the United States. The Federalists coalesced in support of the British, while the Republicans, led by Thomas Jefferson, advocated a pro-French policy. What has sometimes been called this country's quasi-war with France arose as part of this larger European conflict.

These events were the backdrop for the Alien and Sedition Acts passed by Congress sitting in Congress Hall in Philadelphia and signed by President Adams in July 1798. The Federalists sought to bolster the Adams administration against the increasingly virulent verbal attacks by the Jeffersonian Republicans and the Republican press on its record, including its handling of relations with France.

The key provision of the Sedition Act read:

SEC. 2 .... That if any person shall write, print, utter or publish ... any false, scandalous, and malicious writing or writings against the government of the United States, or either house of the Congress of the United States, or the President of the United States, with intent to defame [them], or to bring them ... into contempt or disrepute; or to excite against them ... the hatred of the good people of the United States, or to stir up sedition within the United States ... then

such person ... shall be punished by a fine not exceeding two thousand dollars, and by imprisonment not exceeding two years.

Truth was a defense in any prosecution. While the Act protected the President and Congress, it did not outlaw “false, scandalous and malicious writings” against the Vice-President, the office then held by Adams’ political rival, Thomas Jefferson.

The Federalist administration of President Adams did not wait for the enactment of the Sedition Act to take legal action against its critics. It indicted Benjamin Franklin Bache, Benjamin Franklin’s grandson, in June 1798, for what it deemed the federal common law crime of sedition. Bache, a vociferous critic of the Federalists, was the publisher of the widely read Philadelphia newspaper known as the *Aurora*. For years, he had excoriated both George Washington and John Adams, accusing the latter on one occasion of being “blind, bald, crippled, toothless [and] querulous.” On June 26, 1789, United States Marshal Nichols arrested him on a warrant signed by Judge Peters. The indictment charged Bache with “libelling the President & the Executive Government in a manner tending to excite sedition and opposition to the laws, by sundry publications and re-publications.” Bache was brought before Judge Peters who released him on bail pending trial. His counsel, Alexander Dallas, had made it known that he would challenge any trial based on the existence of a federal common law crime, even though Peters had ruled in the Worrall case that such crimes exist. Bache’s trial in the Circuit Court, scheduled for October 1798, with all its potential legal and political ramifications, never took place much to the chagrin of the Federalists. Bache had died of yellow fever in September.

Once the Sedition Act became law, the Government wasted no time in using it to bring indictments against its adversaries in the District of Pennsylvania and elsewhere. In total, fifteen indictments were handed down nationwide and ten cases went to trial between the passage of the Act in July 1798, and its expiration on the last day of the Adams administration on March 3, 1801. All ten resulted in convictions, fines, and jail terms.

The Government’s focus on the alleged libels emanating from the *Aurora* did not end with the death of Bache. William Duane, who married Bache’s widow Margaret, continued the newspaper’s publication with its virulent attacks on the Federalists. After a jury acquittal in an earlier common law sedition case against him where Joseph Hopkinson, the son of Francis Hopkinson, had been appointed the special prosecutor, the Government indicted Duane in July 1799 under the Sedition Act. The indictment was based on an article in the *Aurora* that the British government had exercised undue influence over the State Department.

Duane was brought before Judge Peters who released Duane on bond. The trial was scheduled for October before Peters and Justice Bushrod Washington in the Montgomery County Courthouse where the Circuit Court was sitting temporarily due to the yellow fever outbreak in Philadelphia. The trial, however, was delayed while awaiting the arrival of Justice Washington in Norristown for his circuit duties. Belatedly recognizing the difficulties with the case and recently aware that then Vice President John Adams had written a letter in 1792 making the same accusation of British influence at the State Department, the Government withdrew the indictment. No trial ever took place.



Duane's respite was temporary. He was indicted again for sedition on October 17, 1800, toward the end of the Adams Administration and appeared in Court that day before Justice Paterson and Judge Peters. The trial was postponed in order to provide Duane's counsel time to obtain evidence for his defense. With the expiration of the Sedition Act and the inauguration of Thomas Jefferson as President in March 1801, the protracted effort to prosecute Duane ultimately came to an end.

Not so fortunate was Thomas Cooper, an attorney and the editor of the Gazette in Northumberland County, Pennsylvania. He was charged under the Sedition Act "with having published a false, scandalous and malicious attack on the character of the President of the United States [John Adams], with the intent to excite the hatred and contempt of the people of this country against the man of their choice." He had castigated the Adams administration for the expense of a permanent navy, the existence of a standing army, and the fact the credit of the country was so weak as to require it to borrow money at 8% in time of peace.

Justice Samuel Chase and Judge Peters presided over the trial, which began in April 1800. United States Attorney William Rawle was the prosecutor while Cooper represented himself. Chase dominated the courtroom. He demonstrated extreme bias in favor of the Government and his rulings at every turn prevented Cooper from being able to present his defense. In his charge to the jury, Chase declared, "if a man attempts to destroy the confidence of the people in their officers," he undermines the "foundations of the government." He further instructed the jury that Cooper was doing nothing less than attempting to "arouse the people against the President so as to influence their minds against him on the next election." The jury found Cooper guilty. Chase sentenced him to six months in prison and imposed a \$400 fine.

Cooper's conviction for seditious libel did not ruin his reputation or his career. In 1804, he was appointed as a Pennsylvania state judge. He later taught chemistry at Carlisle College (now Dickinson College) and the University of Pennsylvania and became President of South Carolina College. In 1850, with the benefit of hindsight and some fifty years after his trial, Congress voted to refund his \$400 fine with interest to his heirs. Although it may seem surprising today, no challenge was ever made in any court to the constitutionality of the Sedition Act on free speech grounds.

Chase's total lack of impartiality and his intemperance during the Cooper and the second Fries trials were to play a role a few years later in his impeachment by the House of Representatives controlled by the Jeffersonian Republicans and in his subsequent trial in the Senate. In connection with its efforts to impeach Chase, a House Committee also investigated Peters, who had presided with Chase in both cases. Nonetheless, the Committee soon concluded that "no cause of accusation" existed against him.

In 1801, not long after the second Fries trial and in the final days of his Federalist Administration, President John Adams signed a bill establishing six Circuit Courts with separate judgeships and expanding the jurisdiction of those courts to all types of cases authorized under Article III of the Constitution. The Act was quickly repealed once President Jefferson took office, and a new law was enacted in 1802. Although Congress had abolished the "mid-night" judgeships created by the Federalists, the Act of 1802 reauthorized the six circuits with

Pennsylvania and New Jersey now placed in the new Third Circuit. It also allowed a District Judge to preside alone in a Circuit Court if a Supreme Court justice was not available.

The supremacy of federal law was not always a universally accepted principle in Pennsylvania or elsewhere in the early nineteenth century even though Article VI, ¶2 of the Constitution declares: “This Constitution and the Laws of the United States which shall be made in Pursuance thereof ... shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.” A clash between federal power and state power came to a head in a case before Judge Peters. Gideon Olmstead and others had been captured by the British in 1778 and taken to Jamaica during the Revolution. Thereafter they were impressed to serve on the British sloop *Active*, which was taking supplies to the troops of King George III in New York. During the voyage to New York in September 1778, Olmstead and his associates seized control of the vessel and were sailing toward Egg Harbor, New Jersey, when an armed brig of the Commonwealth of Pennsylvania took possession of it and brought it to the Port of Philadelphia.

The Olmstead group as well as the Commonwealth and another party each claimed the vessel and its cargo as a prize in the state admiralty court. After a trial, the court ruled primarily in favor of Pennsylvania and awarded only a quarter of the prize to Olmstead and his associates. On appeal, a court of commissioners of appeals of the United States of America under the Articles of Confederation overturned the state court verdict. It held that the vessel and cargo were the exclusive prize of the Olmstead group.

As the result of a series of circumstances, the portion of the prize money awarded originally by the state admiralty court to Pennsylvania and another claimant was not paid to Olmstead and his associates. Instead, the Pennsylvania state treasurer, David Rittenhouse, had in his possession certain certificates representing this prize money. In 1803, Judge Peters, in the exercise of the District Court’s admiralty and maritime jurisdiction, entered a decree requiring the Rittenhouse Estate, which held the certificates after the death of Rittenhouse, to deliver them to the Olmstead group. Throwing down the gauntlet, Pennsylvania passed a law requiring the certificate holders to turn them over to the Commonwealth. Ominously, the law also authorized the Governor “to protect the just rights of the state ... by any further means and measures that he may deem necessary for the purpose.” The Rittenhouse Estate, not surprisingly, when faced with these competing demands, refused both.

Olmstead requested Judge Peters to enforce the Court’s order, but should Peters do so it was anticipated that Governor Simon Snyder would command the state militia to prevent the order from being carried out. Considering the seriousness of the situation, Peters declined to take any further steps until he had a ruling from the Supreme Court. A mandamus proceeding, that is, a proceeding to compel Judge Peters to act, followed. In *United States v. Peters*, the high Court granted the writ of mandamus directed to Judge Peters. Chief Justice Marshall made it clear that the “highest judicial authority of the nation” had held that the Confederation court of appeals had full authority to reverse the decisions of the state admiralty courts in prize cases. While regretting to have to rule in this matter, he stated that “it is a solemn duty,” and directed Judge Peters to enforce his order.

Pennsylvania, however, was not mollified by the Supreme Court's decision and appeared in no mood to comply. President James Madison finally persuaded the Governor to withdraw his threat of calling out the militia to prevent enforcement of Judge Peters' order, and Olmstead and his associates finally obtained the certificates more than thirty years after the prize money had been awarded to them.

As the years passed while Peters was serving as a federal judge, the population of both Philadelphia and Pennsylvania was rapidly expanding. According to the 1790 census, the City and County of Philadelphia had 82,852 residents while Pennsylvania's population stood at 434,373. By 1820, both had grown significantly. That year's census figures showed slightly more than 137,000 people living in Philadelphia and 1,049,393 in the Commonwealth.

Recognizing this growth, Congress in 1818 divided the District of Pennsylvania into the Eastern District of Pennsylvania with court to be held at Philadelphia before Judge Peters, and the Western District with a new federal judge to be appointed to sit in Pittsburgh. Congressman (later Judge) Joseph Hopkinson, at the behest of Judge Peters, had unsuccessfully opposed this division. In Peters' view there was not enough judicial business in the western reaches of Pennsylvania for the creation of a new court. The smaller District over which Peters now presided consisted of twenty-six counties in the eastern half of the state.

Judge Peters died in late August 1828, at his home, known today as Belmont Mansion. He was eighty-four years old and was buried in St. Peter's Churchyard in Philadelphia. Born thirty-two years before the Declaration of Independence, he had engaged in distinguished public service during and after the Revolution. President Washington named him to the District Court where he presided for thirty-six years in times of war and peace, tumult and tranquility, during the terms of six presidents.

For the first few years during which Peters sat on the bench, Philadelphia was not only the nation's capital but also the capital of Pennsylvania. Even after the seat of the federal government moved to Washington and the state capital moved first to Lancaster and then to Harrisburg, the City and County of Philadelphia remained vibrant with a bustling port, extensive commerce, and the Second Bank of the United States. But that was not all Philadelphia was. It continued to have an abundant intellectual and cultural life, in which Francis Hopkinson, William Lewis, and Richard Peters had all actively participated. The famous portrait painter Gilbert Stuart quite aptly described Philadelphia of this era as the "Athens of America."

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### Biographical Material

1. Re-appointment of Samuel Caldwell as Clerk of the Court by Judge Richard Peters dated February 1, 1792.

Richard Peters Esquire Judge of the District Court  
of the United States in and for the Pennsylvania District  
To all whom it may concern

Be it known that I have appointed and by these Presents do  
appoint Samuel Caldwell of the City of Philadelphia Clerk of the Dis-  
trict Court of the United States in and for the Pennsylvania District  
and that the said Samuel Caldwell hath taken before me the Oaths to  
support the Constitution of the United States and of Office and  
has given Bonds with sufficient Securities approved of by me as is  
required by an Act of the Congress of the United States in such  
Case provided —

Given under my Hand and Seal at Philadelphia this first  
~~fourth~~ Day of February in the sixteenth Year of the  
Independence of the United States —

Richard Peters  
D

Judge Peter's Appointment  
of Sant'Antonio to be Clerk of  
the District Court of the United States in  
the Pennsylv. District

Feb 1. 1791