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A Study of the Journal of Elisha P. Hurlbut, American Social Reformer,
1858-1887

A thesis submitted in partial fulfillment of the requirements for the
degree of Master at Virginia Commonwealth University.

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Abstract

A STUDY OF THE JOURNAL OF ELISHA P. HURLBUT, AMERICAN SOCIAL REFORMER, 1858-1887

By Jeffrey Gordon Dunnington, Master of Arts.

A thesis submitted in partial fulfillment of the requirements for the degree of Master of Arts in History at Virginia Commonwealth University.

Virginia Commonwealth University, 2014.

Thesis Director: Dr. Ryan K. Smith, Associate Professor, Department of History

The life of Elisha P. Hurlbut (1807-1889) has been mostly forgotten since his death. This examination of his personal journal, which he wrote from 1858 to 1887, brings back to the forefront an influential figure that lived most of his life in and around Albany, New York. Prior to beginning the journal, Hurlbut was a lawyer and then a Supreme Court justice in New York. Seven years after retiring from public life in 1851, he commenced work on the journal that provided a detailed social and political commentary on New York, the United States, and the world as a whole.

While the journal offers detailed insight into many specific subjects, this thesis focuses on Hurlbut's views and expertise in civil rights, religion, and phrenology. This body of work will demonstrate how he shaped arguments for equality for all people, despised the influence of organized religion, and was a leader in phrenological studies.

Introduction

On October 13, 1870, retired New York Supreme Court Judge Elisha Powell Hurlbut (see Figure 1) sat down in his home on the Hudson River outside of Albany to begin another entry in his journal. On this particular occasion, news of the death of Robert E. Lee had just spread through the United States. Hurlbut frequently pondered the legacies of others in the private journal, and this occasion was no different. He wrote, “the wicked die, as well as the good – there is some comfort in that. For myself, I claim no exemption from the frailties of humanity; but as a citizen, I have never in thought, word or deed, done injury to my country.”¹ In pondering Lee’s legacy, Hurlbut considered his own, as well. Although a model citizen of the United States, Hurlbut understood Lee’s infamy would exist for centuries while his own legacy would fade soon after his death.

This theme, and many others, appeared repeatedly throughout Hurlbut’s journal. He began writing what would become an eight volume, 5,028 page journal (see Figures 2 and 3) in March 1858, four months after the birth of his oldest son. Over the following twenty-nine years, Hurlbut wrote almost daily on topics ranging from past and contemporary political happenings, scientific innovations, and religious convictions. Initially, he began writing the journal to create a record of his life and beliefs for his children so they could understand his true moral fiber in the case of his premature death. On the journal’s first page, Hurlbut wrote, “at the age of fifty and a little upwards I begin to keep a memorandum of events and thoughts which may be interesting to my children

¹ Entry for 13 October 1870 in Elisha P. Hurlbut, *The Journals of Elisha P. Hurlbut*, Vol. V. Transcribed by Emily D. McDaniel, 2007, 655.

some future day.”² His hypochondriac tendencies frequently led him to believe his end to be near, even though he would live until 1889.³

While Hurlbut played an important role in New York politics during his career, holding several distinct positions and penning prominent essays, his journal holds the most value to understanding this man who has been mostly forgotten. Historians have not known of the journal’s existence because Hurlbut’s descendants have protected it since his death. Currently, it is stored in Franktown, a small town on the Eastern Shore of Virginia, by Hurlbut’s great-great granddaughter, Emily McDaniel. Its contents, which provide original commentary on the second half of the nineteenth century, open fresh perspectives into political, religious, and scientific realms.

The content of Hurlbut’s journal sometimes lacked consistency. At times, he wrote solely for his children, pleading for it to never be published. Other times, he gloated about the value of his words, believing the journal would serve as the preeminent history and social commentary of the nineteenth century. Quite confident in his writing ability, Hurlbut wrote to a friend in December 1867 about the journal less than ten years into its existence:

A truly great work—in hand for some ten years—with several thousand pages of manuscript, which is destined to contain the history of this wonderful country for a quarter of a century, including the period of its vast Civil War – biographical sketches of all notable men who shall have died during that period—with essays on all subjects political, moral, scientific and religious—and putting in the shade all...that ever wasted ink and paper as diarists!⁴

² Entry for March 1858 in Hurlbut, *Journals*, Vol. I, 1.

³ Charlotte Fowler Wells, “Sketches of Phrenological Biography: Elisha Powell Hurlbut,” in *The Phrenological Journal and Science of Health*, Vol. 96-7 (January to June, 1893), 35.

⁴ Entry for 29 December 1867 in Hurlbut, *Journals*, Vol. V, 76-7.

While Hurlbut clearly joked in the letter about the significance of his journal, in reality he believed what he wrote. Because of his historical knowledge, in addition to the broad base of wisdom he possessed in many contemporary and scholarly fields, the journal offers an educated and opinionated perspective that has never been studied.

Although Hurlbut was retired from life in the public sphere by the time he began the journal, it still depicted a man involved in New York's political and activists' circles. Whether he was writing about social interactions with New York Governor Horatio Seymour, or written correspondences Elizabeth Cady Stanton, Hurlbut remained well known around New York in his retirement. As his opinions were scathing at times, it was good for Hurlbut to have a private forum to express himself, as his quick tongue irritated those people around him at times. He took pride in journal, as he carefully scrutinized his own opinions. His approach to how he wrote in the journal was methodical, as he carefully dated and annotated his accounts, giving short, sometimes witty, headings on the margins of the left side of each sheet of paper (see Figures 4 and 5). He would re-read the journals frequently, sometimes striking out unwarranted or changing beliefs years after they were composed. He understood that descendants would read the journal, but he expected it would be studied in a much more widespread manner than was.

The depth of Hurlbut's journal was unparalleled for its time, although it could be compared the diary of another New York lawyer, George Templeton Strong. Strong lived in New York City for most of his life, and he wrote daily on topics similar to Hurlbut from 1835 to 1875. While Strong worked on his diary ten years more than Hurlbut, he started writing at the age of fifteen, while Hurlbut did not begin his journal until his fifty-first year. Like Hurlbut, Templeton's diary remained hidden from the

public until 1930, but has since been considered a valuable asset for historians of the time. The two social commentators both interjected witty and sophisticated accounts on important events and characters of their day.⁵ John C. Willis wrote, “even in a nation where literacy was unusually high among free men, this was an unusual practice. Yet, in the words he left there, George Templeton Strong offered proof of his connections to the men and women of his day.”⁶ Hurlbut’s journal offered a similar, if not more in-depth, portal to the second half of the nineteenth century.

Elisha Powell Hurlbut’s ancestors arrived in New England in the seventeenth century. Thomas Hurlbut, of England, came as a soldier and settled in Wethersfield, Connecticut in 1636.⁷ For his bravery fighting Native Americans, especially in defending his settlement when “invaded by the savages,” Thomas Hurlbut earned a large swath of land in Connecticut from the colonial government.⁸ Over time, the Hurlbuts migrated to the area surrounding Albany, New York. Born in 1769, Hurlbut’s father, Daniel Hurlbut, became a judge of the Court of Common Pleas in Herkimer County, New York, in addition to being a member of a legislative assembly in Montgomery County from 1811-

⁵ Judith K. Schafer, “Strong, George Templeton,” in *American National Biography Online* (2000), accessed on 31 March 2014.
<http://www.anb.org/articles/11/11-00967.html?a=1&f=%22George%20Templeton%20Strong%22&ia=-at&ib=-bib&d=10&ss=8&q=11>.

⁶ John C. Willis, “George Templeton Strong,” in *America’s Civil War*, accessed on 31 March 2014.
http://www.sewanee.edu/faculty/Willis/Civil_War/documents/Strongbio.html.

⁷ Amasa Junius Parker, *Landmarks of Albany County, New York* (Syracuse, NY: D. Mason & Co., 1897), 111.

⁸ Wells, “Elisha Powell Hurlbut,” 31-2.

1812.⁹ Hurlbut affectionately referred to his mother as “the kindest and best of mothers, always tenderly caring for me in health, and nursing me in sickness with a true mother’s solicitude and care.”¹⁰ Although Hurlbut greatly respected his father, he did not feel the same fondness for him as he did his mother. It was in Herkimer County that E.P. Hurlbut was born as the youngest of eight children on October 15, 1807.

Hurlbut excelled academically throughout his school years. He attended Fairfield Academy in Herkimer County. From there, he went on to study medicine briefly before focusing his efforts on a career in law. In Little Falls, New York, he studied under a well-known lawyer named Owen Grey Otis until his death, when Hurlbut continued his education with Judge Arfaxed Loomis. After seven years as a clerk, which was required in New York at the time, Hurlbut was admitted to the Bar. He continued to practice with Judge Loomis until 1835, when he moved to New York City. As a young lawyer, Hurlbut enjoyed tremendous success, becoming well known across the state, and in law circles around the country. In one particular case, *Bailey vs. The Mayor*, he earned the largest fee ever obtained by a lawyer in New York City at the time.¹¹ After a successful, lucrative, and brief law career, Hurlbut was elected to be a judge on the New York Supreme Court in 1847, the youngest person to achieve the honor.

In his journal in February 1862, Hurlbut characterized his family’s lineage over time. One characteristic Hurlbut observed in all Hurlbuts was that “they were not addicted to cousining or claiming relationship...yet each one is to stand apart. But if you seek him out, he will be found to be genial, social, hospitable and kind. They are

⁹ Parker, *Landmarks of Albany County*, 111.

¹⁰ Entry for 18 April 1858 in Hurlbut, *Journals*, Vol. I, 79.

¹¹ Wells, “Elisha Powell Hurlbut,” 32.

therefore constitutionally shy and sensitive.” Not surprisingly, Hurlbut painted a favorable portrait of the family he strived to promote and protect. He claimed the Hurlbut family cared about itself and had little desire to climb the social ladder, a trait of which he took particularly pride. In addition, Hurlbut noted, “at some period of their lives, [all Hurlbuts have] been liberals in matters of religion; and all are fond of philosophical discussion.” Often labeled an atheist, Hurlbut frequently refuted organized religion, yet he was obsessed with the subject. He continued to write about Hurlbut traits: “Wit, humor, [and] a keen sense of ludicrous, and a turn for relating anecdotes, appropriate to their argument or discourse, also belong to the Hurlbuts.”¹² This wit, while apparent throughout his life, often turned to passionate outbursts geared toward religious and political opponents.

The same day he was nominated for a seat on the bench of the state Supreme Court, Hurlbut married Catherine Cuyler Van Vechten. Affectionately called “Kate” or “Mrs. H,” she came from a family more prominent than Hurlbut’s. The Van Vechtens were steeped in the history of both Albany and United States. Her Dutch ancestors arrived in the mid-seventeenth century, settling in Albany and setting up a brewery as early as 1660.¹³ She was also a descendant of a prominent family, the Gansevoorts of New York. Kate’s grandfather, Leendert Gansevoort, became a successful merchant in Albany by the 1730s by catering to the needs of the city’s expanding population by developing farms.¹⁴ He was a major figure in Revolutionary New York, serving as a member of the provincial congress from 1775-1777, in addition to being a member of the

¹² Entry for 12 February 1862 in Hurlbut, *Journals*, Vol. II, 518.

¹³ Parker, *Landmarks of Albany County*, 111.

¹⁴ David G. Hackett, *The Hand of Innovation: Religion and Social Order in Albany, New York 1652-1836* (New York: Oxford University Press, 1991), 42.

light cavalry during the Revolutionary War. Kate's father, Teunis Van Vechten, was also from an illustrious family. At one point, he served as mayor of Albany.¹⁵ While Mrs. Hurlbut was not afraid to voice her opinion on both political and family matters, she habitually deferred to her husband, following the era's customs. Upon her death, Hurlbut wrote:

All her conduct shows that her family was her world—her children her jewels—and her husband her protector and unfailing reliance. She was not learned as a scholar—her headaches in youth having prevented study—but she had remarkable sense—great household economy—and was wholly devoted to her husband and children. She retained the simplicity of childhood through life. Her father called her “a child of nature” truly—and she lived and died uncorrupted by society.¹⁶

Hurlbut claimed she brought order to his life by balancing out his negative attributes. Where Hurlbut was prone to fits of anger, Mrs. Hurlbut conveyed a calm and soothing temperament. She died of breast cancer November 13, 1880, at the age of fifty-five.

Together, the Hurlbuts had four children. All four survived childhood, but not without complications, yet only three survived their father's death. Jeanette Cuyler, affectionately referred to as Nettie, was the eldest, born June 10, 1851. She and her sister, Bertha Van Vechten, or Bertie, born January 28, 1853, were extremely close. Both idolized their father and played integral roles in raising the two younger brothers. Bertie's early death (see Figure 6) at twenty-three sent her father into a depression from which he never fully recovered. Gansevoort de Wandelaer was the prized son, born November 5, 1857. Commonly called Ganse, Ganie, and eventually Gan, the eldest son was the primary reason Hurlbut undertook writing the journal. Lastly, Ernest Cole, called

¹⁵ Parker, *Landmarks of Albany County*, 111.

¹⁶ Entry for 13 November 1880 in Hurlbut, *Journals*, Vol. VIII, 359.

Ernie Collie in his younger days, was born January 6, 1863. Ernest suffered from mental illness that consumed his father's time and energy for the later part of his life.

Hurlbut lived his entire life in New York, predominantly in the Albany area. Even though he lived in New York City for several years in his early law career, he preferred life outside of the big city. After serving four years on the bench of the New York Supreme Court, he resigned his seat and retired from public service because of what he perceived to be his own failing health. As a result, he relocated to Newport, in Herkimer County where he was born. After residing in his native county for eight years, he moved southeast to a farmhouse just outside of Albany called Abbey Farm. Here, he significantly improved the property, maintaining a farmhouse that he renamed Glenmont-on-the-Hudson. Located on twelve acres, Hurlbut gave the old mansion its name because it was "strongly marked by a hill and a glen," yet it was a short carriage ride from the city of Albany.¹⁷ He feared appearing "snobbish" from naming his property, but he could not bear to keep the same name it possessed when the property housed debaucherous taverns prior to his purchase of the land. Hurlbut would live out the remaining thirty years of his life at Glenmont, prior to his passing on September 5, 1889.¹⁸

It was at Glenmont that the focus of this study will concentrate. At Glenmont, Hurlbut "interested himself in personally superintending the education of his children and in following the pursuits of a country gentleman."¹⁹ He moved outside Albany to distance himself from the clamor of the city, yet he enjoyed frequent visitors to Glenmont. To maintain the property, he regularly employed gardeners, cooks, and other domestic

¹⁷ Entry for 28 October 1859 in Hurlbut, *Journals*, Vol. I, 430.

¹⁸ Wells, "Elisha Powell Hurlbut," 35.

¹⁹ Wells, "Elisha Powell Hurlbut," 32.

servants to help maintain the mansion's grounds. Still, he was quick to dismiss these servants because of his distrust for their religious views or nationality, especially the German and Irish servants. Hurlbut often irritated and insulted many of these servants and other townspeople, which possibly led to his home being targeted by criminals as he had to fend off robbers and intruders several times from his country estate. For example, in December, 1876, Gansevoort had to fight off thieves in a gunfight, although no one was injured.²⁰

While Albany's origins were largely Dutch influenced, the growing city had become increasingly diverse by the time Hurlbut moved back to the area. From 1790 to 1810, Albany's population tripled, with most of the new town dwellers arriving from New England. At the turn of the nineteenth century, it could have been described as a city without an identity, combining its Calvinist-Dutch origins with an influx Irish-Catholic immigration. Until 1825, Albany's political leaders seemed to be more economically driven instead being pushed by religion interests, but this would change as revivalism bred more evangelical Christians in Albany, as new Baptists and Methodists congregations accounted for fifty-four per cent of the population, up from twenty-five per cent in 1825.²¹ Hurlbut fit the mold of the former, as he was not a religious man. With revivalism on the rise, Hurlbut became more disillusioned by evangelical Christians than he might have otherwise. As a result, he frequently contested and mocked Christianity with close friends and in his journal, but remained otherwise polite among other acquaintances in town.

²⁰ Entry for 1 December 1876 in Hurlbut, *Journals*, Vol. VII, 587.

²¹ Hackett, *The Hand of Innovation*, 3, 6, 69, 101, and 124.

Today, available information on Hurlbut is sparse. Hurlbut's most cited work, both during and after his lifetime, was his *Essays on Human Rights and Their Political Guaranties* (1845).²² Other notable published essays include, *Civil Office and Political Ethics* (1840) (see Figure 7) and *A Secular View of Religion in the State, and the Bible in the Public Schools* (1870).²³ All three of these essays are available in online databases, but few copies of the actual works still exist. Supplementing these essays with the journal permits a much more in depth portrait of Hurlbut. Still, his narrative has been mostly untouched as the journal not only opened up Hurlbut's personal story, but a new understanding of both New York and the United States as whole through his social and political commentary.

The most comprehensive biographical sketch of Hurlbut was published two years after his death. Gansevoort Hurlbut requested Charlotte Fowler Wells to publish a sketch of Hurlbut's life in her family-created *Phrenological Journal of Science and Health*.²⁴ Wells was the sister of Orson and Lorenzo Fowler, who found fame through popularizing phrenology in the United States. She was the president of her brothers' business.²⁵ While Hurlbut was not fond of her family because of their money-inspired approach to phrenology, Gansevoort would have looked to them to publish the brief biography

²² Elisha P. Hurlbut, *Essays on Human Rights and Their Political Guaranties*, with a preface and notes by George Combe (New York: Greeley and McElrath, 1845).

²³ Elisha P. Hurlbut, *Civil Office and Political Ethics; With an Appendix, Containing Familiar Law Relating to Husband and Wife, Parent and Child, Guardian and Ward, Wills, Executors and Administrators, Witnesses, Jurors, and Arbitrators* (New York: Taylor and Clement, 1840) and Elisha P. Hurlbut, *A Secular View of Religion in the State, and the Bible in Public Schools* (Albany, NY: Joel Munsell, 1870).

²⁴ Wells, "Elisha Powell Hurlbut," 31-5.

²⁵ Edward T. James, Janet Wilson James, and Paul S. Boyer, Volume II, "Wells, Charlotte Fowler" in *Notable American Women, 1607-1950: A Biographical Dictionary* (Cambridge, MA: Radcliffe College, 1971), 561.

because of their international popularity. Despite Hurlbut's sentiments, Wells referred to him as "one of the most distinguished advocates of Phrenology, and honest lawyer, and a man of great moral worth."²⁶ The sketch offered personal stories about Hurlbut, as well as a detailed account of his professional law career and his essays. It also focused on his phrenological expertise and his relationship with famed Scottish phrenologist George Combe. Outside of this account, there does not seem to be any other account of Hurlbut's life.

Over the past twenty years, several authors have cited Hurlbut's work, especially in the field of women's rights, but none have focused on his life on the whole. In Ann. D. Gordon's *The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony*, she compiled letters and speeches made by the two women.²⁷ In her notes, she made several references to Hurlbut's impact on Stanton, including a half-page biography on his professional career. Gordon explained that she lacked significant information on Hurlbut and that through "massive searches associated with Stanton and Anthony, including Hurlbut, [she] never turned anything up remotely" like Hurlbut's journal.²⁸ Nancy Isenberg seemed to have a similar opinion to that of Gordon. In *Sex and Citizenship in Antebellum America*, she briefly examined Hurlbut's role in aiding the women's movement prior to the Civil War.²⁹ She seemed to be the only other modern scholar to connect Hurlbut directly to Stanton and the women's rights movement. Isenberg explained that he was "a crucial figure in shaping the debate on women's citizenship,"

²⁶ Wells, "Elisha Powell Hurlbut," 31.

²⁷ Ann D. Gordon, ed. *The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony*, Vol. I. (New Brunswick, NJ: Rutgers University Press, 1997).

²⁸ Ann D. Gordon, personal communication to Jeffrey Dunnington, 1 August 2013.

²⁹ Nancy Isenberg, *Sex and Citizenship in Antebellum America* (Chapel Hill, NC: University of North Carolina Press, 1998).

but she also acknowledged the limited information on him.³⁰ Again, because of the dearth of information on Hurlbut, he was not a major subject in her book, which focused on the role of women, both legally and socially.

Other recent historians have cited Hurlbut's importance in the second half of the nineteenth century, but have failed to add any depth on Hurlbut's true impact. For example, Philip Hamburger's *Separation of Church and State* was a broad study on the founders' intentions regarding religion and the government.³¹ He cited Hurlbut's essay, *A Secular View of Religion in the State and the Bible in Public Schools*, in addition to his *Essays on Human Rights*.³² In particular, Hamburger explored Hurlbut's belief that the United States had an "irreconcilable conflict between 'democracy and theocracy' – a conflict 'stronger and fiercer' than between 'freedom and slavery.'"³³ Although Hamburger looked at Hurlbut's essays, the vitriol from the journal far exceeded anything of which he had access. Lori D. Ginzberg's *Untidy Origins: A Story of Woman's Rights in Antebellum New York* was a more focused study.³⁴ Because of Hurlbut's close relations with many of New York's leaders in the movement, such as Stanton, Ginzberg relied on several of his rulings from the bench and some of his written work, yet she failed to properly connect his relationship with Stanton and her work. Sally G.

McMillen's *Seneca Falls and the Origins of the Women's Rights Movement* (2008) had a

³⁰ Nancy Isenberg, personal communication to Jeffrey Dunnington, 23 October 2012.

³¹ Philip Hamburger, *Separation of Church and State* (Cambridge, MA: First Harvard University Press, 2002).

³² Hurlbut, *A Secular View of Religion in the State* and Hurlbut, *Essays on Human Rights*.

³³ Hamburger, *Separation of Church and State*, 247.

³⁴ Lori D. Ginzberg, *Untidy Origins: The Story of Woman's Rights in Antebellum New York* (Chapel Hill, NC: University of North Carolina Press, 2005).

focus similar to that of Ginzberg, yet even more specific, looking particularly at the women's convention at Seneca Falls, New York.³⁵ Specifically, she examined Hurlbut's *Essays on Human Rights*.³⁶ She noted that Stanton was directly impacted by his work, but like Ginzberg, she failed to connect Stanton and Hurlbut personally. As information on Hurlbut's life was sparse, it has been difficult for historians to obtain a true understanding of his impact to the New York political and social scene in the nineteenth century.

Hurlbut's life was guided by his studies in three intertwined spheres: civil rights, religion, and phrenology. His persistent legal, philosophic, and scientific scholarship steered him toward expertise in each field. While the journal delves into many subject areas, this thesis will focus on these three specific fields.

The first chapter focuses on Hurlbut's approach to civil rights. He devoted much of his legal understanding to extending what he called "human rights." Nothing specifically appeared to push him in a direction to fight for individual rights other than his legal study, where he became more concerned with protecting people's natural rights from an infringing government. In particular, he was most known for his devotion to women's rights. He devoted two chapters in *Essays on Human Rights* to the rights of women, arguing for their enfranchisement and property rights.³⁷

In 1847, he was elected to the New York Supreme Court at the same time as Daniel Cady, Stanton's father, which set up the working relationship between Hurlbut

³⁵ Sally G. McMillen, *Seneca Falls and the Origins of the Women's Rights Movement*. (New York: Oxford University Press, 2008).

³⁶ Hurlbut, *Essays on Human Rights*.

³⁷ Hurlbut, *Essays on Human Rights*, 44-51.

and the leading women's rights figure that would last until the final years of his life.

Hurlbut greatly respected Stanton, but also believed she had significant shortcomings. In

1867, Hurlbut referred to her as:

A poor housekeeper—a negligent mother, but a grand publicist...I wonder if she makes this sacrifice for the love of herself or the good of her sex...I wish that [women's] equality before the law could be conceded by the sense and justice of my sex, rather than it should be extorted by female clamor.³⁸

Hurlbut clearly believed in Stanton's cause, but did not seem to agree with her *modus operandi*. Regardless, Hurlbut inspired Stanton, as evidenced by her citing his work in her seminal piece, "The Declaration of Sentiments." Having spent significant time with Hurlbut clearly affected her development as a leader in the women's rights movement. As late as 1876, Stanton was still contacting him, attempting to garner extra copies of *Essays on Human Rights*.³⁹

In addition to women, Hurlbut held strong opinions in favor of the abolition of African-American slavery in the southern states. Still, he did not believe in the immediate enfranchisement of freed people. The primary reason Hurlbut left the Democratic Party was his belief in freedom for all blacks. On the first page of the journal, he commented on "the curse of slavery," noting that if slavery were not abolished, "the sooner the Federal Union is dissolved, the better."⁴⁰ These sentiments were recurrent throughout the first three volumes of the journal, and important enough for him to express his opinion on the first page. This theme ran parallel to Hurlbut's thoughts in his *Essays on Human Rights* for the acquisition of justice for all men, even though he did not

³⁸ Entry for 20 February 1867 in Hurlbut, *Journals*, Vol. IV, 516 and Hurlbut, *Essays on Human Rights*.

³⁹ Entry for 3 October 1876 in Hurlbut, *Journals*, Vol. VII, 568.

⁴⁰ Entry for March 1858 in Hurlbut, *Journals*, Vol. I, 1.

specifically mention African-Americans. He continued to explain how the peculiar institution corrupted the highest officials in Washington D.C., and how “it is the great curse of this country and our age.”⁴¹ Hurlbut had many complaints about the country he loved, but nothing else seemed to anger him as much as the slaveocracy that dominated United States’ political system and the injustices it invoked.

The second chapter investigates Hurlbut’s beliefs on religion. If slavery irritated Hurlbut more than anything, then organized religion closely followed. Hurlbut never denied the existence of a higher being, yet he expressed his doubts on a regular basis. Regarding his religious views, Hurlbut wrote:

While I express great doubt and misgivings in respect of religion, I have not denied the existence of an Intelligence in Nature; nor have I ventured to affirm the nature of that existence; but I have left the whole subject, as it exists in my mind, in a state of doubt, to be resolved-- if at all-- by future scientific discovery, or to be settled by instinct and blind faith. I have utterly rejected the Christian religion and all revelation. Of the justice of this I have not a doubt.⁴²

Going against the grain of most of his contemporaries, Hurlbut, looked to nature and scientific discovery over organized religion. In particular, he detested all Christian-affiliated denominations, even though a Presbyterian minister baptized him as an infant. According to Hurlbut, “there can never be a true enlightened civilization, so long as the religious element is paramount.”⁴³ Consequently, he frequently criticized the Protestant and Catholic elements of society that dominated his beloved country. He thoroughly enjoyed writing about priests and other religious leaders charged with conduct unbecoming of their positions. Hurlbut filled countless pages in his journal detailing

⁴¹ Entry for 6 March 1859 in Hurlbut, *Journals*, Vol. I, 373.

⁴² Entry for 6 March 1859 in Hurlbut, *Journals*, Vol. I, 373.

⁴³ Entry for 20 January 1877 in Hurlbut, *Journals*, Vol. VII, 612.

various “clouds over Zion,” as he called them. For example, when a minister in Indiana was cited for drunkenly staggering down a street, insulting every woman in his path, Hurlbut exclaimed, “it is wonderful how the priests concur in choosing drunkenness and lechery as their pet vices.”⁴⁴ Hurlbut felt the hypocrisy of religious leaders to be too all too common. In a later period of his life, he considered himself to be a blend of a scientist and an ancient Buddhist, depicting his transcendentalist thought process. Consequently, his final published essay, which he wrote in 1870 at the age of sixty-three, sought to keep religion out of schools.⁴⁵

The third chapter concentrates on Hurlbut’s phrenological background. Perhaps nothing excited Hurlbut more than scientific studies. He was well educated in many areas, including the human body, astronomy, and agriculture, to name a few subjects. At Glenmont, he frequently commented in his journal on passing comets or the various species of birds chirping on his estate. In addition, he experimented with growing crops on his land, especially grapes. Various animals also resided at Glenmont, including horses, chickens, cattle, and dogs. While Hurlbut paid servants to help maintain the farm, he worked the fields on his own as well, along with the help of Gansevoort.

Hurlbut’s favorite scientific studies revolved around phrenology. He utilized phrenological principles through out his lifetime, especially in his published essays, to illustrate his beliefs. In the journal, Hurlbut habitually remarked on the shapes of his subjects’ heads. Whether he was reporting and analyzing the measurements of his childrens’, Abraham Lincoln’s, or Napoleon Bonaparte’s head, he enjoyed the discovery associated with the little-known science. Hurlbut was considered by many to be one of

⁴⁴ Entry for 17 January 1859 in Hurlbut, *Journals*, Vol. I, 329.

⁴⁵ Hurlbut, *A Secular View of Religion in the State*.

the top phrenologists in the United States, although he never gained the notoriety of the Fowler brothers or Amos Dean. Still, he became close friends with George Combe, one of the most proficient phrenologists in the world, ranking alongside the science's patriarchs, Franz Joseph Gall and Johann Spurzheim. Upon Combe's death, Hurlbut commented, "he was the best intellectual and moral philosopher of this or any preceding age with whom I am acquainted...I can say that I owe almost all I possess of intellectual and moral truth to his guidance."⁴⁶ The two corresponded regularly about the science and its connection to political and moral views. Hurlbut spent about fifty years of his life infatuated with the science, and frequently wrote articles in phrenological journals. It is telling that Wells, in the *Phrenological Journal of Science and Health*, wrote the most in-depth biographical sketch of Hurlbut up to this point.⁴⁷

It is easy to comprehend how someone as influential as Hurlbut could fade into history's abyss. As he bowed out of public life at a relatively young age, others initially built off of his ideas and eventually made them their own. Although he published several influential essays, it is the unpublished journal that depicted Hurlbut's true value to the second half of the nineteenth century. In particular, it revealed a scholar and civil servant who strived to bring justice to all people. He was well versed in ancient and contemporary history, politics, and literature enough to be able to present commentary on countless events and people. Whether writing about Sidhartha Gautama, John Milton, or Jefferson Davis, Hurlbut was equally prepared to offer his own interpretations. In an innovative time filled with racial and sexual imbalance, Hurlbut's journal offered a portal

⁴⁶ Entry for 31 August 1858 in Hurlbut, *Journals*, Vol. I, 203-4.

⁴⁷ Wells, "Elisha Powell Hurlbut."

into the nineteenth century that has yet to be seen. Well-rounded in various spheres of life, Hurlbut offered a wealth of insight rarely seen in American history.

Chapter One

Hurlbut and Civil Rights

“For falsehood is out of harmony with Nature; Truth and Justice being the light and glory of the earth.” – Elisha P. Hurlbut, 1859 March 6

On April 14, 1866, Elisha Powell Hurlbut had just finished running several errands on his regular day trip to Albany when he took a seat in a local shop to catch up on political and local news. While sitting, a young lawyer named Hilton, “a sort of street gossip and lawyer without any practice,” engaged Hurlbut in a political discussion, which soon turned negative. As Hurlbut was accustomed, he demonstrated his knowledge of the United States’ Constitution and freedom of speech to briefly defend his response to the unprepared challenger. Infuriated, the young Hilton unleashed an onslaught of slander against Hurlbut, calling him “a disgrace to Herkimer County,” “dishonest and false,” and exclaiming “[that Hurlbut] cared nothing for his country but only self,” among many other “abusive epithets.” In response, Hurlbut rose from his chair to greet the young slanderer face to face, telling Hilton to leave him alone and to not speak to him anymore. Hilton again interrupted and insulted Hurlbut. Consequently, Hurlbut used his cane to inflict two blows to Hilton’s head.¹

This brief encounter in an Albany shop, which lasted no more than a couple minutes, is informative about the life of Hurlbut. The retired lawyer and judge, who was as well-versed in the law as any man in New York, would not permit a young, and potentially drunk, Hilton to take Hurlbut’s right as a private citizen to express himself freely or to stand up for himself against a slanderous denizen of Albany. Hurlbut, with

¹ Entry for 15 April 1866 in Elisha P. Hurlbut, *The Journals of Elisha P. Hurlbut*, Vol. IV. Transcribed by Emily D. McDaniel, 2007, 330-1.

the only defense he felt necessary, said to an onlooker, “this man [Hilton] after the greatest possible abuse charged me with ‘deliberate falsehood’—whereupon I struck him over the head with a cane, as you would have done in a like case.”² As a result, Hurlbut had used his rights as a private citizen to express and defend himself against a slanderer, who had insulted Hurlbut’s honor. Although he was nervous about a physical attack from Hilton in the following days, Hurlbut continued his regular trips to town without incident.

It was this sense of justice that Hurlbut felt all people were entitled to. Whether for man or woman, black or white, Hurlbut continually advocated for the rights of all United States’ inhabitants that lived under the Constitution. As long as people sought to better United States’ society with a capable mind, Hurlbut worked to ensure their human rights. He utilized many methods to help others in need, but his written work was perhaps his greatest instrument. His most renowned work, *Essays on Human Rights*, was written with women in mind, yet he would apply his ideas to enslaved African-Americans, and others, as well.³ Charlotte Fowler Wells noted that Hurlbut’s “aim was to point out faulty law and how to remedy it. His sympathy for women was strong, and he reasoned ably to secure her constitutional and property rights, both by his pen and by lectures.”⁴ Admirers sought copies of his works until his death. While some of his views changed slightly, his core beliefs revolving around justice for all people never wavered.

² Entry for 15 April 1866 in Hurlbut, *Journals*, Vol. IV, 332.

³ Elisha P. Hurlbut, *Essays on Human Rights and Their Political Guaranties* (Edinburgh, Scotland: MacLachlan, Stewart, and Co, 1847).

⁴ Charlotte Fowler Wells, “Sketches of Phrenological Biography: Elisha Powell Hurlbut,” in *The Phrenological Journal and Science of Health*, Vol. 96-7 (January to June, 1893), 31.

It took Hurlbut's personal character being unreasonably questioned for him to be attracted to the study of law. One day, Hurlbut's teacher Oran Gray Otis sent him to deliver a message to Otis's estranged law partner, George H. Feeter. After delivering the message, Feeter accused the young Hurlbut of anonymously writing a letter to his wife and "insulting her grossly." Later that evening, Hurlbut, accompanied by his father and Otis, returned to Feeter to demand he retract his statement, which he had already circulated around town in public writing. While Feeter acknowledged he made an improper accusation, he refused to formally renounce his claim on Hurlbut. Consequently, this incident pushed Hurlbut away from studying medicine. Hurlbut wrote, "this event determined me to the Law. I would study law in that village and settle there – vindicate my fame – and have my satisfaction with George H. Feeter."⁵ As a result, Hurlbut's quest for justice for all people began with him seeking it for himself.

Hurlbut studied under Otis for the next year. Otis provided young Hurlbut with William Blackstone's *Commentaries on the Laws of England* (1765-1769), which Hurlbut used to teach himself, with the occasional assistance from Otis.⁶ During that year, Hurlbut "pettifogged sundry small cases," before taking over Otis's practice as an inexperienced and unqualified student of the law.⁷ Although Hurlbut lacked the proper training, he had a list of clients and a growing reputation in the small town of Littlefalls. By chance, an elder acquaintance of the Hurlbut family moved to Littlefalls around the same time. Arphaxad Loomis offered to take on and officially train Hurlbut for a law

⁵ Entry for 31 October 1867 in Hurlbut, *Journals*, Vol. IV, 628-9.

⁶ Sir William Blackstone, *Commentaries on the Laws of England* (Oxford, England: Clarendon Press, 1765-1769) and Entry for 1 June 1868 in Hurlbut, *Journals*, Vol. V, 136.

⁷ Entry for 31 October 1867 in Hurlbut, *Journals*, Vol. IV, 629 and entry for 1 June 1868 in Hurlbut, *Journals*, Vol. V., 136.

career. Loomis was an established lawyer who provided Hurlbut the opportunity “to establish an office in opposition to Feeter” in Littlefalls. So, in 1825, Hurlbut offered Loomis all he could; himself “as a clerk, and remnants of Otis’ old business and clients.”⁸ After training under Loomis, Hurlbut obtained his attorney’s license in 1828, and he continued to practice with Loomis until 1835, when Hurlbut moved to New York City.⁹ By the time Hurlbut relocated to New York City, he had defeated his nemesis, George H. Feeter, in numerous cases. As Hurlbut ascended and Feeter declined in the profession, the two mended prior grievances, as he declared Hurlbut to be “the most magnanimous of all his enemies.”¹⁰ Without Feeter’s influence, Hurlbut seemed destined to a career in medicine. Instead, he would succeed as both a lawyer and judge until he retired from public life in 1851.

According to Hurlbut, every human was entitled to a certain set of rights. These rights were not determined by gender or race, but rather one’s ability to contribute to society. To Hurlbut, the “sole purpose of government was to protect natural rights rather than to create or invest rights.”¹¹ The influence of Enlightenment thinkers on Hurlbut was evident, as he frequently cited men like Locke, Hobbes, and others throughout the journal. When laws were made to limit various groups of Americans, whether enslaved or female, it contradicted the natural orders of the universe. As he wrote in his *Essays on Human Rights*, “the duty of the legislator is simply to conform to natural truth...[his]

⁸ Entry for 31 October 1867 in Hurlbut, *Journals*, Vol. IV, 629.

⁹ Entry for 8 December 1867 in Hurlbut, *Journals*, Vol. V, 55, and Wells, “Elisha Powell Hurlbut,” 32.

¹⁰ Entry for 31 October 1867 in Hurlbut, *Journals*, Vol. IV, 630.

¹¹ Nancy Isenberg, *Sex and Citizenship in Antebellum America* (Chapel Hill, NC: University of North Carolina Press, 1998), 31.

business is to *perceive*, not *create*.”¹² Consequently, lawmakers should be able to employ legislation that molds with the natural rhythms of society rather than to generate laws that do not. Unfortunately, this was not typically the case, in Hurlbut’s opinion, and it provided most of the country’s problems.

Everything Hurlbut wrote, including his journal, served a purpose. Four years after his death, Wells explained that Hurlbut’s books “were all valuable and intended for the improvement of the human race.”¹³ It is important to note that she did not claim he concerned himself with just the plight of women, but all people. His seminal work, *Essays on Human Rights*, began:

Since the period of the Revolution, scarcely an attempt has been made by any of our citizens to show the origin, and to define the extent, of human rights. The Declaration of 1776 contained several broad assertions upon this subject, favouring human equality, and the sanctity of natural rights; but did not attempt much more than to assert the sacred inviolability of human life, liberty, and happiness.¹⁴

Hurlbut saw a gaping omission in the United States’ rhetoric since the country’s inception, even noting that the Declaration of Independence only sparsely covered its citizens’ natural rights. His objective was to demonstrate those rights all people were entitled to according to the natural laws of nature.

Essays on Human Rights was published two years prior to Hurlbut’s election to the bench, and certainly helped to make him a more public figure in New York. Hurlbut combined his phrenological expertise with his belief in Enlightenment thought to form his own declaration on individual rights. In an address to New York’s legislature in 1854,

¹² Hurlbut, *Essays on Human Rights*, 1.

¹³ Wells, “Elisha Powell Hurlbut,” 31.

¹⁴ Hurlbut, *Essays on Human Rights*, 1.

Elizabeth Cady Stanton called the essay a “profound work on human rights.” That Stanton used Hurlbut to gain clout in her address demonstrated his high place in New York politics. Ann D. Gordon characterized the work as “an extreme statement of inalienable individual rights, informed by phrenology and legal history and laced with sarcasm.”¹⁵ As the women’s rights movement was relatively young, in addition to his use of phrenology to explain his views, Hurlbut’s opinions would have been viewed as extreme for the time period because of the advanced thought.

The ninety-five page pamphlet was divided into ten chapters that outlined the United States’ government and its effect on the rights of the individual. It sold well in the United States, as well as Great Britain, due to famed Scottish phrenologist George Combe, who wrote a preface to gain British readership. Hurlbut opened the work looking at the “Origin of Human Rights,” which included “the right to existence” and “the right to happiness,” echoing Locke. Hurlbut demonstrated a fear of a government that, if taking away any human right, might take all of them. Frequently citing Blackstone, Chapter Two saw Hurlbut explain “The True Function of Government.” Out of moral necessity, he wrote that a government should exist to protect all citizens and “respond to the demands of humanity,” thus never acting in an unnatural manner. Hurlbut feared that more mentally endowed people might take advantage of lesser-educated individuals. To Hurlbut, an American aristocracy had run the government for their own gain. While he did not write it directly, this would have applied to enslaved African-Americans and women, in addition to others who did not have ability to look after their own interests via the government through voting and petitions. The next three chapters discussed his

¹⁵ Ann D. Gordon, ed. *The Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony*, Vol. I. (New Brunswick, NJ: Rutgers University Press, 1997), 86, 242.

opinions on the necessity of having a written Constitution, as well as the limitations that should have been imposed on it. Some highlights included his opposition to capital punishment and his support of eminent domain.¹⁶ If the government acted for the public good, it could act as necessary. Putting criminals to death did not help society as a whole, but taking over private property could help the larger population. As long as the private citizen received just compensation, Hurlbut felt the government be taken for public use.

The remaining chapters focused more on the individuals as opposed to the role of the government. Chapter Six, titled “The Elective Franchise,” outlined Hurlbut’s beliefs for popular suffrage. As long as an individual was mentally competent, regardless of sex, they should be permitted to vote, although he mocked the “pride of the Anglo-Saxon man,” which refused to concede so much. The sarcasm, noted by Gordon, was evident throughout the pamphlet. The seventh chapter dealt with the legalities of slander, libel, seduction, and adultery, which he felt should all be criminal offenses, as they impeded others’ rights. Assaulting one’s character was as low as a man could go, and Hurlbut felt either a legal or physical response was within reason, as he demonstrated twenty-one years later with Hilton. The next two chapters outlined “The Rights of Woman” and “The Right of Property and its Moral Relation,” which explained the necessity for the wealthy to govern with morals. Again, Hurlbut returned to the importance of eminent domain, stressing that it could be necessary for the happiness of the whole, but that private property should not be confiscated from one man and given to another.¹⁷ He felt that wealthy men in power would be quick to use their power to enhance their own power and wealth, yet their actions should be checked to avoid abuse of power. Lastly, Hurlbut

¹⁶ Hurlbut, *Essays on Human Rights*, 5, 8-11, 21-2, and 33-4.

¹⁷ Hurlbut, *Essays on Human Rights*, 70.

set down his opinion on how intellectual property should be defended. Again harkening to his phrenological background, Hurlbut felt the body was simply an “instrument” of the mind and that its work needed to be valued and protected.¹⁸ This sentiment protected foreign intellectual property as well, not just within the United States.

While *Essays on Human Rights* was Hurlbut’s most popular work that incited considerable interest, the private journal better established his opinions on civil rights for several reasons. In particular, he provided more personal and detailed accounts of politicians and events he questioned. Instead of speaking in the more general terms as he did in his public essays, the journal offered countless protestations to legislators, by name, who created laws for personal and unnatural gains. His journal mirrored the sentiments from his publications, but in a specific and more intimate fashion, as he devoted hundreds of pages to politicians he deemed crooked. Whether chronicling James Buchanan, who was “simply and merely a knave” as president, or a corrupt “Boss Tweed” coming into sudden wealth, Hurlbut filled the journal with personal and scathing opinions of many of the United States’ most famous people.¹⁹ These various opinions of Hurlbut, which were directed toward varying figures over the twenty-nine years of the journal, remained consistent about race and gender.

As an activist, Hurlbut was most outspoken about women’s rights. As intelligent, thinking human beings, he did not feel that women necessitated men to be their “charmed

¹⁸ Hurlbut, *Essays on Human Rights*, 38-43, 44-51, and 70-8.

¹⁹ Entry for 25 April 1858 in Hurlbut, *Journals*, Vol. I, 96 and entry for 2 July 1871 in Hurlbut, *Journals*, Vol. VI, 43.

representative[s],” as he suggested sarcastically.²⁰ Rather, Hurlbut asserted women could represent themselves as thinking individuals. Nature clearly embodied women with a similar mental capacity as men. Consequently, Hurlbut disagreed with legislation that prevented women from owning property or having the chance to vote. Hurlbut, “impatient with the pace of reform,” wrote, women have “suffered enough from the barbarous tyranny of the common law.”²¹ It was paramount in Hurlbut’s mind to dispute the “conventional paternalism” that existed throughout most of recorded history.²² He did this by voicing his opinion in his written work, speeches, and through formal discourse with people he deemed to be influential.

In his *Essays on Human Rights*, Hurlbut wrote, “woman is deprived of her natural dignity when the laws depress her below the condition of man, and she may be treated as an usurper when she aspires to exercise dominion over him.”²³ Because of this condition, woman was placed in civil society in disagreement with her natural capacity. In a journal entry on July 24, 1859, Hurlbut reflected on his public endeavor to “awaken attention to the rights and interests of womankind,” which began around 1840 while he lived in New York City.²⁴ His public discourse attracted the attention of later leaders of the woman’s rights movement, such as Elizabeth Cady Stanton and Susan B. Anthony, to name a few.

Marriage laws, and how they affected women’s property rights, particularly irritated Hurlbut. Because women were equal to men intellectually, “possessed of the same sentiments and affections – the same emotions and wants,” they had the same

²⁰ Isenberg, *Sex and Citizenship in Antebellum America*, 27.

²¹ Lori D. Ginzberg, *Untidy Origins: The Story of Woman’s Rights in Antebellum New York* (Chapel Hill, NC: University of North Carolina Press, 2005), 149-50.

²² Isenberg, *Sex and Citizenship in Antebellum America*, 27.

²³ Hurlbut, *Essays on Human Rights*, 52.

²⁴ Entry for 24 July 1859 in Hurlbut, *Journals*, Vol. I, 424.

natural rights, and thus should be viewed equally in the eye of the law.²⁵ The cause for Hurlbut's struggle for equal rights stemmed from the natural rights of women being ignored by the male-centric government. Ginzburg quoted Hurlbut on the law of marital property, where he called it, "a most apt illustration of this species of injustice...the law creates a right arbitrarily, and without a shadow of foundation in nature."²⁶ Again, he called on laws of nature to defend his argument, feeling that woman's mental capacities equaled that of man.

Upon marriage, Hurlbut explained that women lost all property rights they previously held as single women. Humorously, Isenberg noted, "Hurlbut mocked the holy estate of matrimony when he described how the wife exchanged all her 'worldly estate, for that most uncertain estate – *a man*.'"²⁷ When writing in the mid-nineteenth century, man obtained all possessions of his wife upon marriage. According to Hurlbut, woman was man's equal prior to marriage, but inferior afterwards in the eyes of the society. He defended his belief, noting, "she existed before as a distinct moral being, full of rights, and bounden by duties; that existence is now merged in her husband, and in the eye of the law she exists not at all."²⁸ Consequently, from this merger, and the subsequent death of the wife's legal status, the husband obtained more power as a result her various assets. Hurlbut agitated social norms by questioning this reality, both in his written work and through various speeches.²⁹

²⁵ Hurlbut, *Essays on Human Rights*, 52.

²⁶ Hurlbut, quoted in Ginzberg, *Untidy Origins*, 135.

²⁷ Isenberg, *Sex and Citizenship in Antebellum America*, 179.

²⁸ Hurlbut, *Essays on Human Rights*, 53.

²⁹ Ginzberg, *Untidy Origins*, 135.

Hurlbut believed that because a woman married, her legal status should not be altered. He wrote, as a “distinct person” responsible for her own “estate, contracts, debts and injuries,” marriage should not undermine a woman’s freedom. Rather, these obligations should entitle her to more rights, as opposed to the situation where she forfeited these responsibilities to the husband. Consequently, a woman and a wife should remain equal in the eyes of the law, so long as that woman met the social and moral qualities that nature afforded sensible human beings.³⁰ Unfortunately for Hurlbut and other advocates of woman’s rights, this was not standard practice. Instead, married women possessed dower rights, which entitled her to a third of the deceased husband’s property, yet provided her nothing until he died. While the husband could not legally sell property that a wife could potentially inherit, he legally could “inspire fear” or potentially inflict bodily harm upon her, in order to get her to agree to property transfer contracts.³¹ This greatly offended Hurlbut, in addition to other women’s rights activists of the nineteenth century. Accordingly, Hurlbut wrote in his journal, “Women must know their husbands – and must not trust them, if unworthy of confidence. A *man* will lose his estate, as well as a woman, who trusts a knave.”³² Here, he did place responsibility in the woman’s hands, but only in her selection and trust of her husband.

In order for women to achieve total equality, Hurlbut believed the enfranchisement of women to be paramount. In his lifetime, Hurlbut had hoped “to see woman occupying her true position in the social state, with her rights acknowledged as equal with man’s, and indeed to see her exercising the elective franchise.” While all of

³⁰ Isenberg, *Sex and Citizenship in Antebellum America*, 173.

³¹ Ginzberg, *Untidy Origins*, 66.

³² Entry for 17 December 1858 in Hurlbut, *Journals*, Vol. I, 295.

his hopes did not come to fruition in his lifetime, he certainly helped to create momentum for future progression in the movement. He hoped that within thirty years of this particular journal entry, or by 1890, as “a result of half a century’s agitation and reflection, on the part of [his] fellow citizens,” that legal equality would be achieved for women.³³ This desire would be delayed by an additional thirty years, at least regarding enfranchisement for women.

According to Hurlbut, the right to vote should be granted to most individuals, regardless of their understandings of governmental function. Consequently, he felt “suffrage qualifications required competence rather than practical knowledge or understanding. True measurement for the right to franchise was the absence of any defects of character.” These defects were not determined by race, or in particular, gender. Rather, enfranchisement should be “based on a minimal measurement of civic competence.”³⁴ Because the majority of women met this proficiency level, Hurlbut fervently lobbied for their voting rights.

Hurlbut outlined four potential reasons to keep one from enfranchisement in his *Essays on Human Rights*. First, the age of a voter should be considered. To Hurlbut, as in today’s legal code, “the physical incapacity of an underdeveloped mind and body” should prevent the right to vote.³⁵ Second, Hurlbut argued that mental deficiencies could impede a voter’s competence. He believed a voter should be excluded “whose *intellectual perceptions* are so disordered as to depart from the standard of truth and reason.” In typical fashion, he harkened back to laws of nature in defense of his opinion.

³³ Entry for 24 July 1859 in Hurlbut, *Journals*, Vol. I, 424.

³⁴ Isenberg, *Sex and Citizenship in Antebellum America*, 25.

³⁵ Isenberg, *Sex and Citizenship in Antebellum America*, 25 and Hurlbut, *Essays on Human Rights*, 39.

Third, Hurlbut wrote that those with moral defects should be omitted. Consequently, he believed those habitual criminals who lacked self-restraint did not deserve the right to vote. Fourth, those “grossly ignorant and unenlightened – say those who cannot read” should not be permitted enfranchisement.³⁶ As a result, he felt illiterate citizens should be omitted suffrage. Because many women, like men, existed above these causes to exclude, they should be afforded the same voting rights.

Hurlbut understood the opposition his written words ignited in many men. Thus, he “devised a three-step plan for gradual enfranchisement” for women.³⁷ Hurlbut wrote:

Should the experiment ever be made, prudence might suggest that the single woman who paid taxes, should be first enfranchised – and that after the experience of a season all adult single women should follow. And if the experiment thus gradually and cautiously made, should be attended with no public mischief, then the whole sex should receive their full enfranchisement – if the pride of the Anglo-Saxon man could be made to concede so much.³⁸

Through the gradual implementation of female suffrage, Hurlbut felt his plan had the best opportunity to succeed. Still, he insulted the honor of the law-making men who he foresaw would resist such a change. Regardless, the enfranchisement of women did not happen in Hurlbut’s lifetime.

Hurlbut foresaw an American society where women held reputable positions in public society. In the journal, he pondered:

What really stands in the way of women’s occupying the pulpit---and the apothecary’s shop? Why may they not be doctors of medicine, professors of science and learning, shopkeepers, printers, editors, publishers, painters, sculptors, engravers? etc. etc.-- thus occupying the easy places, so far as

³⁶ Hurlbut, *Essays on Human Rights*, 39.

³⁷ Isenberg, *Sex and Citizenship in Antebellum America*, 25.

³⁸ Hurlbut, *Essays on Human Rights*, 43.

concerns muscular exertion; leaving to men the rugged paths of life which call for muscular energy and physical courage.

Although Hurlbut recognized some physical distinctions between the sexes, he understood that the mental capacity of women did not keep them from positions of higher intelligence. Although he noted men were better suited for the more laborious jobs that necessitated physical rigor, he felt nature afforded women the proper tools to be doctors, lawyers, and other positions that would be termed “white collar” jobs today. Hurlbut continued to explain, “the Demon of Fashion will have less ascendancy over the female sex,” which will permit woman “to expand herself.”³⁹ Interestingly, Hurlbut pinpointed how expectations placed on appearance kept women from increasing their roles in society. Consequently, women continued to be confined to the household under the paternal supervision of fathers and husbands.

Hurlbut saw the various forms of government in New York and the United States as inherently corrupt. One means of ending the “executive patronage” in government, in Hurlbut’s opinion, was to permit suffrage to those women who met the aforementioned criteria. Women were not inferior to men in terms of mental capacity, but they frequently observed people and events in a different manner. Because women could help identify intelligent men with integrity, he felt “the reign of our present miserable corruption and blackguardism would cease” in government if women obtained the vote.⁴⁰ Therefore, by giving suffrage rights to qualified women, corrupt lawmakers in all facets of government would have a difficult time protecting their seats. It is interesting to note that Hurlbut did

³⁹ Entry for 24 July 1859 in Hurlbut, *Journals*, Vol. I, 424.

⁴⁰ Entry for 25 March 1858 in Hurlbut, *Journals*, Vol. I, 16.

not express to want women in elected positions. Rather, he felt they should have a pulpit to express themselves, whether in front of organized crowds or through the vote.

Hurlbut believed his sentiments were obvious. Consequently, he became angered that corrupt lawmakers ignored the arguments for female enfranchisement. His tone in the journal depicted his frustrations when he wrote in 1866, “Nothing is clearer than that suffrage should be universal.”⁴¹ The delay in women’s suffrage further confirmed his opinion of the corrupt male patronage that dominated the government. The next year, Hurlbut pointed to the political considerations of permitting women to vote, noting that men did not even attempt to argue against woman’s capability to do so. Instead, lawmakers feared women would side with one political party or the other, rather than providing a split vote. Hurlbut commented that Democrats believed women saw their party as “dirty” after the Civil War, yet Republicans felt all “Bidhees (or Irish women)” would always side with the Democrats. Hurlbut disagreed with both overgeneralizations, feeling that woman’s views would be diversified and demonstrated through their voting patterns. Rather, he claimed these trains of thoughts were “folly... Women will use all the power they have—and they would all vote if permitted to do so.”⁴² Essentially, Hurlbut forecasted women would be empowered with the vote and would relish the opportunity to be a contributing factor in the United States’ democratic society.

One obstacle that stood in women’s path, according to Hurlbut, was that civilized society had made them cowardly and dishonest. He reasoned that “all cowards are liars, more or less – altho’ all liars are not cowards. Women, being cowards, are afflicted with

⁴¹ Entry for 22 November 1866 in Hurlbut, *Journals*, Vol. IV, 478.

⁴² Entry for 14 December 1867 in Hurlbut, *Journals*, Vol. V, 67.

this vice to such extent.”⁴³ Because women were placed in a position of weakness compared to men, whether in the household or in the public arena, they were forced to employ dishonest tendencies. Hurlbut was not suggesting women naturally fit the role of cowards. Rather, he believed they molded into this position as a result of societal pressures placed on them over time. Consequently, historian Lori D. Ginzberg noted “Elisha Hurlbut’s cutting phrase” that a husband had a “legal right to inspire fear in the wife.”⁴⁴ As a result of superior brute strength and elevated social positions, men exercised physical and mental dominance over their female counterparts. According to Hurlbut, this was not a natural state, but one created by governing bodies. Because of this phenomena, Hurlbut connected a contemporary saying about “habitual liars among men, that – ‘He lies like a woman.’”⁴⁵ While Hurlbut did view women as cowards, he did not feel it was women’s natural state, but an affliction cast on them over time.

One specific example of how Hurlbut viewed women in a different respect to men focused on physical differences, specifically how it pertained to riding horses. He wrote that girls “are out of place on horseback...A woman astride a horse is indecent – and sitting sideways is awkward and unsafe.”⁴⁶ Here, he magnified the physical weakness women exhibited. This depicted that he did not expect total fairness between the sexes, although he typically argued for both social and legal equality on all fronts. While he held this opinion, it does not diminish the other aspects for his struggle for the woman’s movement.

⁴³ Entry for 16 July 1868 in Hurlbut, *Journals*, Vol. V, 180.

⁴⁴ Ginzberg, *Untidy Origins*, 66.

⁴⁵ Entry for 16 July 1868 in Hurlbut, *Journals*, Vol. V, 180.

⁴⁶ Entry for 8 December 1869 in Hurlbut, *Journals*, Vol. V, 562.

Through Hurlbut's work, he influenced the other, better-known leaders of the woman's rights movement. He was fond of commenting on conferences attended by both men and women who used his ideas. In his opinion, he "first set this ball in motion, and made the only well-based argument [he] had seen yet on the subject."⁴⁷ As a result, it seemed Hurlbut was claiming to be the founder of the woman's right movement. Upon hearing of a conference in Albany in November 1866, Hurlbut wrote in his journal, "These are my disciples...I wonder if any of these conventionists will recognize me as the founder of their order – I having kept aloof from them for more than twenty years." Although he had not participated in twenty years as his focus shifted to his role as a supreme court judge and his blossoming family, Hurlbut still felt the participants owed him homage for using intellectual property that belonged to him. On the next page, he seemed unimpressed by the same, regular participants of this particular convention, which included Susan B. Anthony, Elizabeth Cady Stanton, and Frederick Douglass, who "repeated the same old speeches."⁴⁸ Hurlbut did not agree with their method of approaching woman's rights anymore, which was attempting to gain enfranchisement alongside African-Americans. Rather, he believed women obtained sufficient ammunition for their cause from his work twenty years prior. Several years later, in 1869, Hurlbut again recognized that he had fallen out of memory for the new, female leaders of the movement when he wrote:

I am no longer referred to, not even by the ladies who are struggling for their rights. They quoted me often when I was young and gallant—but now that my hair is all white—they quote themselves. The old and ugly

⁴⁷ Entry for 19 December 1867 in Hurlbut, *Journals*, Vol. V, 72.

⁴⁸ Entry for 22 November 1866 in Hurlbut, *Journals*, Vol. IV, 479.

always complain of neglect; but why should we not all like the young and handsome best? I confess, I do.⁴⁹

He portrayed himself as a defeated old man who understood why he was not cited anymore, yet he still believed he deserved some credit for the positive movement that he provided for the cause.

Nevertheless, Hurlbut still took credit for improvements for the woman's movement. One place where he noted a particular improvement for women was in the medical field. Hurlbut wrote, "The experiment of female physicians has succeeded in this country. We now have sundry doctresses who are in fine position in several of our large towns -- with a practice realizing from two to fifteen-thousand dollars a year." He was pleased to see women participating and succeeding in a male centered profession, believing that it could happen elsewhere as well. As usual, Hurlbut was quick to take credit for this phenomena, remarking, "I cannot help thinking that my *Essays* assisted to help on this great step in civilization."⁵⁰ Hurlbut understood his own significant contributions to the woman's movement, even if others did not afford him the proper recognition.

Perhaps this egotistic attitude stemmed from Hurlbut's influence on the leading woman's suffragists and their notoriety they gained from the Seneca Falls Convention in 1848 and various other meetings in that time period. In her book review of Ginzberg's *Untidy Origins*, Isenberg faulted the author for neglecting to recognize Hurlbut's impact on the "founding mothers."⁵¹ While Ginzberg attributed Stanton and other leaders to

⁴⁹ Entry for 12 June 1869 in Hurlbut, *Journals*, Vol. V, 340.

⁵⁰ Entry for 18 January 1868 in Hurlbut, *Journals*, Vol. V, 84.

⁵¹ Nancy Isenberg, "Founding Mothers, Myths, and a Martyr" in *Journal of Woman's History* 19.3 (2007), 185-94 and Ginzberg, *Untidy Origins*.

using the *Federalists' Papers*, Isenberg felt their language “distinctly echoed that of Hurlbut.”⁵² Hurlbut’s influence on Stanton and other leaders of the woman’s movement could not be ignored, as his relationship with Daniel Cady certainly had brought them into contact. Ann D. Gordon explained, “The authors of the Declaration (of Sentiments) followed Hurlbut in all their examples” relating to the rights of women.⁵³ Because of his influence, he frequently boasted in the journal about his contributions to the woman’s rights movement and was quick to criticize those who followed his lead. Yet, he never attended any of these meetings or conventions as he felt his written words carried more weight than his presence at any meeting ever would.⁵⁴ Perhaps this is the reason the leaders of these meetings abandoned citing Hurlbut his innovative ideas.

Hurlbut greatly respected Stanton, but he also held critical opinions of her. He felt Stanton retained a brash attitude where she placed herself above others. Hurlbut cited an example of this in 1866 when Stanton was a candidate for Congress. He wrote, “This is approbateness run mad. Of course she has no idea of being elected – but only of being singular, and ‘before the people.’”⁵⁵ He was disgusted by her attention-grabbing stunt of using government positions to help get her point across, even though, in his opinion, she had no intention of ever serving in the government. He wrote that the “vanity of public appearance” led her to “mouthiness.”⁵⁶ Hurlbut certainly never spoke in such derogatory terms publicly about Stanton, but he revealed his true thoughts in the journal regularly. In his mind, a more honest and direct approach would have served

⁵² Isenberg, “Founding Mothers, Myths, and a Martyr,” 191.

⁵³ Gordon, ed. *The Selected Papers of Elizabeth Cady Stanton*, 86.

⁵⁴ Entry for 19 December 1867 in Hurlbut, *Journals*, Vol. V, 72.

⁵⁵ Entry for 13 October 1866 in Hurlbut, *Journals*, Vol. IV, 462.

⁵⁶ Entry for 19 December 1867 in Hurlbut, *Journals*, Vol. V, 72.

Stanton better. Still, his respect for her emerged in his writing, calling her “the strongest of the ‘strong-minded,’” and explaining, “she has the strength of three men.”⁵⁷

Hurlbut and Stanton’s relationship carried on until at least 1876, when she wrote Hurlbut to ask for another copy of his *Essay on Human Rights*.⁵⁸ In general, he felt that her actions were positive, but that her approach could be better crafted. He wrote, “Let us have a good many Mrs. Stantons for the good of the breed,” but “the truth is, Elizabeth is wiser in words than in action.”⁵⁹ By referring to her by first name, he demonstrated a personal relationship that he felt he could criticize her in his journal. This matched Isenberg’s feeling that Stanton’s “self-centered history” held much more to the story than just what she said or wrote publically.⁶⁰ Still, Hurlbut continued to follow, and in many ways aid, her work, whether she was organizing woman’s suffrage meetings in the 1840s, making an address before the Judiciary Committee of the New York Legislature in 1867, or requesting assistance in writing an article for *The Index* in 1876.⁶¹ While he valued her work, he always held a diminished view of her because he felt she and others owed him a higher sense of reverence than they attributed to him for frequently using his ideas. Although Hurlbut recognized Stanton’s and other woman’s rights activists’ shortcomings, he respected their work since it was for a positive cause, in his opinion. At the same time, he felt plagiarized, never receiving the due credit he believed he deserved for being an early leader in the woman’s rights movement.

⁵⁷ Entry for 10 October 1876 in Hurlbut, *Journals*, Vol. VII, 572.

⁵⁸ Gordon, ed. *The Selected Papers of Elizabeth Cady Stanton*, 86 and entry for 1 October 1876 in Hurlbut, *Journals*, Vol. VII, 568.

⁵⁹ Entry for 11 September 1871 in Hurlbut, *Journals*, Vol. VI, 86.

⁶⁰ Isenberg, “Founding Mothers, Myths, and a Martyr,” 191-2.

⁶¹ Entry for 20 February 1867 in Hurlbut, *Journals*, Vol. IV, 516 and entry for 1 October 1876 in Hurlbut, *Journals*, Vol. VII, 568-79.

Although Hurlbut felt women had moved up in society by the end of the Civil War, he understood that the ascent was just beginning. Women were moving toward their natural place in society, not solely determined by a paternalistic, unnatural government. Hurlbut recognized women in new professions and public positions. New laws in favor of woman's rights that were appearing around the United States encouraged him. Hurlbut felt the only thing that would bring actual equality to women would be a Constitutional amendment that eliminated sexual division. Still, he saw a responsibility that fell directly to women to change their lifestyles if they wanted equality and respect in all facets of American life. He summed up his feelings in an 1868 journal entry:

Women are already in the pulpit – where I think they have a better right than coarse bearded men; they are at the head of schools for girls; they are in the schools of design as pupils; they are compositors in the printing offices. Thus slowly but inevitably, do they rise from the seamstresses and domestic drudges. The laws have already elevated them in several of the American states. With us in this state, they are now complete owners of their property, inherited and acquired – and can make wills – as well as their husbands. With us they lack nothing but a Constitutional amendment—striking out one word –“male”—in the article on the elective franchise, to place them on a perfect equality with man – before the law. The rest depends on themselves. They will have to subdue approbateness – to improve their fashions of dress—to take more exercise out of doors – and indeed to study and obey the laws of health – before they will rise to an equality with their wishes, or their ultimate destiny. The reform moves slowly – but it *does* move – and another quarter of a century will witness the consummation.⁶²

Hurlbut acknowledged the faults that he perceived in women, yet he spent considerable time and effort arguing that they deserved more according to the law and society as a whole. Although Hurlbut was proud of the pace he helped to set for the improvement of woman's rights, he understood that it would not happen all at once. He wrote, “thus step

⁶² Entry for 18 January 1868 in Hurlbut, *Journals*, Vol. V, 84.

by step—by decision and by statute—by her own assertion and by public sentiment, woman will at length gain her proper position in society and the state.” Again, Hurlbut felt that progress could only be made if recognized by both civil society and through legal means. The accession would be gradual, which he envisioned “as a growth [rather] than a manufacture.”⁶³ Regardless of how or when equal rights materialized, equality would occur inevitably as a natural process rather than a forced governmental act.

Hurlbut detested the existence of slavery in the United States, yet he did not place people of African descent on the same intellectual plane as those with European ancestry. Hurlbut asserted that many of the problems of the United States originated directly from the institution of slavery. Although he loathed slavery, he felt that centuries of shackles had stunted the intellectual development of African-Americans. As a result, he deemed them unsuited to participate in public affairs, unless they met the criteria Hurlbut outlined in his *Essays on Human Rights*, which he felt women must demonstrate, as well.⁶⁴ Over time, Hurlbut’s views developed in African-Americans’ favor, but he always put the ascension of women in United States’ society ahead of both enslaved and freed African-Americans.

⁶³ Entry for 14 December 1867 in Hurlbut, *Journals*, Vol. V, 67.

⁶⁴ Hurlbut, *Essays on Human Rights*, 39. These criteria stated:

“There may be excluded (from governmental affairs), then:

1. Those who have not attained to the age of discretion – whose moral and intellectual faculties are immature ;
2. All persons whose *intellectual perceptions* are so disordered as to depart from the standard of truth and reasons ;
3. All whose *moral* natures are so defective as that their impulses are chiefly in favour of the licentious indulgences of their animal desires, or who are without the ordinary restraints of the moral sentiments ;
4. Those grossly ignorant and unenlightened – say those who cannot read.”

Hurlbut did not consider Africans to be civilized human beings, but he felt they possessed many society-serving attributes. He agreed with the infamous Scottish Dr. David Livingstone that Africans held no religious ideas, yet they were “pure naturalists, with some absurd superstitions, sorcery, witchcraft, and notions of evil spirits,” but still “pretty safe people to live amongst.” While Hurlbut considered many of the African customs that transferred to the Americas to be senseless, much in the same manner that he viewed Christian rituals, he deemed African-Americans to be a safe race of people entitled to natural justice. He chided missionaries’ attempts to Christianize the Africans, as he felt it was not possible, but he did feel as though they could be taught practical knowledge. Hurlbut wrote, “The Negro has no god, and no soul; and yet he can cook; he can fiddle; he can cultivate the earth; learn the mechanic arts; [and] he is eager for trade and property.”⁶⁵ Although Hurlbut did not view African-Americans as equal, his opinions went beyond the majority of his contemporaries. He saw a productive group of thinking people who could contribute positively to American society if provided the opportunity.

Hurlbut did recognize the difference between slavery in Africa and how it existed in the United States, which he understood to be more brutal. He noted that enslaved people in Africa often possessed some liberties, such as property ownership, but that depended on each enslaved person’s particular situation. Those sold on the coast for transport across the Atlantic came from the interior of Africa, or from “debtors, criminals, sorcerers, adulterers, etc.” of the coastal African groups. The latter group would not have bothered Hurlbut as much as those people stolen from the interior since they had broken

⁶⁵ Entry for 22 September 1861 in Hurlbut, *Journals*, Vol. II, 214.

the law. “In general, masters are not severe with their slaves, and the domestic slave is not sold at the coast, unless he has committed a crime,” Hurlbut wrote.⁶⁶ Through the European brand of enslavement, Africans lost the ability to function within a civilized government. To Hurlbut, the only way they could regain the proper status would be through freedom and education.

One aspect of slavery that especially disgusted Hurlbut was the continued trans-Atlantic slave trade. Although the shipment of slaves across the Atlantic Ocean had been outlawed, Hurlbut acknowledged that the shipment of new Africans continued into the late 1850s. He wrote, “slaves are being landed from vessels on our southern coast and distributed among planters.” He confidently stated newly enslaved Africans were still arriving on our coasts. To do so, American ships had to evade British vessels and American laws. Sarcastically, Hurlbut asked, “slaves are protected by the “Stars and Stripes” on American soil—why not on the ocean? We have made a legal difference, but is there a moral one, between the slave trade on the sea and on the land?” As he was prone to do, Hurlbut found a weakness in the law that he felt should have applied to both land and sea. He continued to recount an incident where a gang of enslaved Africans were driven, handcuffed in shackles, through Washington D.C., where one of them exclaimed, “Hail Columbia! Happy land!”⁶⁷ He was noting how the irony of the situation had not missed that enslaved individual. The contradictions of the United States’ founding principles would always trouble the retired judge.

Perhaps more irritating than the slave trade, Hurlbut despised the practices of slave breeding within the United States. Even in 1861, Hurlbut noted in his journal how

⁶⁶ Entry for 22 September 1861 in Hurlbut, *Journals*, Vol. II, 213.

⁶⁷ Entry for 11 December 1858 in Hurlbut, *Journals*, Vol. I, 294.

slaveholders often impregnated the enslaved Africans. He asked, “How many of these breeders know, when they sell a slave, whether it is a child or a grandchild of their own?” Like others, Hurlbut understood this frequently to be a truth because of the lighter skin tones of many of the enslaved. It upset him that many of these slaveholders and breeders claimed “an equality with civilized people...to what degradation will the systematic injustice of Negro slavery, reduce a people!”⁶⁸ To Hurlbut, these barbaric slaveholders stole the freedoms of a group of people. For that reason, they were decaying the credibility of the entire United States.

Hurlbut took time to define the relationship of master and slave in a series of speeches in 1862, which he recounted in the journal. He noted that it started with the difference in appearance of the enslaved Africans with their white counterparts. In particular, Hurlbut certainly would have noted common phrenological differences between the races. This disparity in appearance made it easier for white, European-Americans to justify the enslavement of a different race of people. Hurlbut claimed that because the African-Americans were gentle, by nature, the white government of the United States took advantage of the Africans’ disposition by taking away their rights. Because of these actions, Hurlbut explained that the slaveholder was “in a condition of barbarism – and it [was] natural for him to ignore equity in the state, which only thoroughly obtains in the midst of a high civilization.”⁶⁹ Consequently, Hurlbut believed the injustice of slavery was founded on the barbaric ways of the white men in power. To further show his discontent, he wrote, “I would sooner bury a daughter of mine than that

⁶⁸ Entry for 7 May 1861 in Hurlbut, *Journals*, Vol. I, 499.

⁶⁹ Entry for 24 November 1862 in Hurlbut, *Journals*, Vol. III, 194.

she should marry a slaveholder!”⁷⁰ To Hurlbut, men in the government acted upon an animal instinct where those in power suppress the weak without any notion of natural justice. He strongly felt that no civilization could flourish that was founded upon injustice.

Because slavery had stunted the intellectual development of African-Americans in the United States, Hurlbut did not believe they should hold full equality under the Constitution immediately. To him, all men should be free and “equal in respect of their rights, but no law or custom ought to be endured which places the base, illiterate, mean and vulgar on the same footing in the social state, as the enlightened and best positions of mankind.”⁷¹ Echoing his sentiments from his *Essays on Human Rights*, all humans, no matter their status, deserved equality according to the law. Still, that equality would limit those decision makers to those who qualified as rational beings. Consequently, he believed most African-Americans’ development had been retarded by the institution of slavery to the point that they were not qualified to meet the minimum requirements to actively participate in government. Over time, Hurlbut believed, this would change as long as slavery ceased to exist. As long as it did exist, American society would continue to move “backward, backward – forever backward.”⁷²

Although Hurlbut more vehemently depicted the irrationalities of slavery during the Civil War, his thoughts were well crafted prior to the first shots at Fort Sumter. In May 1858, Hurlbut lamented in his journal, “we must hang our heads for very shame, and not even brag on the 4th of July, as long as any man wears the bonds of slavery on our

⁷⁰ Entry for 7 May 1861 in Hurlbut, *Journals*, Vol. I, 499.

⁷¹ Entry for 13 January 1859 in Hurlbut, *Journals*, Vol. I, 319.

⁷² Entry for 4 February 1860 in Hurlbut, *Journals*, Vol. I, 442.

soil.” Even though Hurlbut loved the United States, he viewed African slavery as an impediment to the nation’s progress. He continued to ponder on the institution of slavery, blaming the Christian influence for the problem as well:

Shall I live to see the last “human chattel” in America-- or will slavery outlive me? I rather think it will be the longest liver of the two. I will live cursing it, and die damning it at any rate, however it may be a Bible and a Christian institution-- bringing the poor benighted African to the land of civilization, and the light of the Gospel-- to be finally an “heir of the kingdom.” “Whom he loveth, he chaseth,” and whippeth every “n-----” with many stripes.⁷³

The contradictions between the words of the Bible and the institution of slavery upset Hurlbut significantly. The hypocritical nature of Christians, in his opinion, created an untrustworthy nation. The approval of slavery in the United States only compounded the matter, according to Hurlbut.

Hurlbut blamed the problems of the United States on the existence of slavery. He did not blame the United States for the slavery existing in its borders, but he deplored that it continued to exist for so long. Hurlbut referred to the United States as “a patient having cancer, which England inflicted on [it].”⁷⁴ In this sense, he did not fault United States entirely, but placed some of the responsibility on Great Britain. In a letter to a friend, dated November 10, 1862 and transcribed in the journal, Hurlbut wrote, “if slavery had never existed in the United States, we should now, instead of being the most miserable, have been the happiest nation on earth. Our misfortunes proceed not from republican institutions, but from slavery.” Although Hurlbut wrote these strong sentiments at a dire time for Union supporters during the Civil War, his anti-slavery

⁷³ Entry for 1 May 1858 in Hurlbut, *Journals*, Vol. I, 104-5.

⁷⁴ Entry for 21 September 1861 in Hurlbut, *Journals*, Vol. II, 210.

fervor was apparent. He continued in the letter to note, “Democracy and slavery cannot exist together under the same constitution.”⁷⁵ He was quick to point out the obvious contradiction, which he preached prior to the war as well.

Hurlbut also cited economic reasons for the abolition of slavery. In particular, he looked to Virginia at the beginning of the Civil War as a state that would benefit greatly from freeing the enslaved. “Poor old Virginia!” he wrote, “How mad, not to abolish slavery! It would quadruple the value of her soil at once! In the hands of enterprising freedmen – her soil, climate, water power, mines and seaports would in a quarter of a century make her the favorite of the American States.” Although he did not cite his sources, he felt strongly that Virginia could be the most successful state in the Union. Instead, its leaders and aristocrats fell into the fever of secession because of “the pride of her leaders and the anarchy of the mob.”⁷⁶ Consequently, he believed Virginia would fall into ruins with the war, rather than prosper off of the natural resources and the potential expertise of freed men.

Prior to the 1862 Congressional elections, Hurlbut delivered a series of speeches in St. Lawrence County against the defects of slavery. He stated, “I am neither Republican nor a Democrat, but a citizen of the United States – which was once a free and happy country, but now alas! torn asunder by civil discord.” Although he had considered himself a Democrat his entire life, his speeches demonstrated support for the Republican outlook on the war, in addition to his separation from party politics. His primary concern was that the nation be preserved with justice for all people, regardless of race, gender, or any other separating factor. Because the Democrats were attempting to

⁷⁵ Entry for 10 November 1862 in Hurlbut, *Journals*, Vol. III, 163.

⁷⁶ Entry for 7 May 1861 in Hurlbut, *Journals*, Vol. I, 499.

tear the country apart, Hurlbut could no longer side with the party he had previously supported because his loyalty to the United States and its fundamental principles of freedom and equality outweighed all other considerations. Hurlbut was horrified that the southern rebellion was not caused by the oppression of a people, but rather, because the government did *not* oppress a group of people, which was “new in the history of rebellions.” Because he believed in freedom and justice for all people, he felt compelled to publicly speak, which he detested at the time, because the South was fighting to preserve a way of life that bound a race of humans to involuntary servitude. “Freedom and slavery cannot live in peace under the same government---and one or the other must cease—or the government will fall,” Hurlbut preached to the crowds.⁷⁷ His negative perspective depicted this sense that the injustice of slavery caused the nation’s problems.

The Civil War, according to Hurlbut, became a necessary means to emancipate the enslaved in the United States. If anything, the war offered an opportunity for the nation to rid itself of the peculiar institution. He wrote:

In my opinion, if we do not seize this opportunity to abolish slavery – an opportunity which we have never had before, and which is now presented in as significant a shape, as if the very hand of God by a special interference on the subject, had done it – we may be regarded as an abandoned and ruined people. Slavery and democracy cannot co-exist. Democracy implies the rule of right for all men – while slavery negatives this.⁷⁸

Because, as he claimed, slavery and democracy cannot work together, this was the only hope for the country to continue its existence, in his opinion. The slaveholding states had previously been protected, but now that they challenged the Constitution, it offered the

⁷⁷ Entry for 24 November 1862 in Hurlbut, *Journals*, Vol. III, 189.

⁷⁸ Entry for 26 October 1861 in Hurlbut, *Journals*, Vol. II, 299.

northern states a chance to destroy American slavery and to “regenerate and strengthen the Republic.”⁷⁹ In the absence of involuntary servitude, Hurlbut envisioned a more productive nation with hard working individuals of all races. At this point, in 1861, it was still a dream to Hurlbut, as he did not feel Lincoln and members of Congress were qualified to meet the challenge. Rather, they were men of “ordinary and vulgar minds,” incapable of turning the country to a new direction.⁸⁰ He felt this sentiment until after the conclusion of the war, even though Lincoln and his administration led African-Americans out of slavery.

Still, emancipation did not happen quickly enough for Hurlbut. When, late in 1861, a plan went public to potentially emancipate and colonize the enslaved somewhere, Hurlbut noted the gradual but slow pace of justice, feeling the government “ought to have done this last April – last July; nay we ought always to have freed the slave, and provided for his welfare.” He never believed slavery was just, and continued to complain about the proceedings even when positive action was beginning to occur. “I perceive that it is to be a sublime affair, and that it moves slow by reason of the vast weight it carries,” he reasoned, demonstrating some understanding of the plight faced by the Union.⁸¹

Finally, upon hearing of the signing of the Emancipation Proclamation, Hurlbut did rejoice, even if he thought the measure tardy. On January 1, 1863, Hurlbut still did not have official news of the Proclamation, but hoped the reports were true. He wrote, “Every rumor from Washington represents the President as firm on his Proclamation of Freedom—which we expect to see in print tomorrow. Even as I write (this evening) we

⁷⁹ Entry for 6 December 1861 in Hurlbut, *Journals*, Vol. II, 383.

⁸⁰ Entry for 26 October 1861 in Hurlbut, *Journals*, Vol. II, 299.

⁸¹ Entry for 6 December 1861 in Hurlbut, *Journals*, Vol. II, 383.

hear cannon firing in the City, which may be for Emancipation.”⁸² Hurlbut’s excitement shined through his words, yet he still did not want to make any assumptions until he heard a formal report. The next morning, he exclaimed, “The President has done it! He has issued the Proclamation of Freedom to the slaves in all the rebellious states, and may God favor the Right!”⁸³

Although Hurlbut celebrated the freedom of his African-American countrymen, he was not prepared for total equality and integration of the two races. To him, there was a distinct difference between affording African-Americans their rights and making them equal to white Americans. Consequently, Hurlbut explained, “A man who cannot distinguish between the bounden duty of the state to make the Negro free, and the social equality of the black man, must have a skull as impenetrable as that of the burliest African.” A leader in the struggle for human, and natural, rights for all human beings, Hurlbut’s racist temperament still appeared occasionally. He took it a step farther, remarking, “the white race must be kept apart and pure in blood – and whoever would mingle it with the Negro, is as great an enemy of mankind as the slave-driver, and exhibits a great deal worse taste.” At this point, Hurlbut appeared as a white supremacist. He finished the paragraph, writing “I can give a Negro his rights, without inviting him to marry my daughter.”⁸⁴ There was a difference in inflicting harm upon African-Americans and resisting an integrated lifestyle. To Hurlbut, because the enslaved had not been afforded education and other means to being civilized citizens, he believed they should not have equal rights. In addition, in part because of his past phrenological beliefs,

⁸² Entry for 1 January 1863 in Hurlbut, *Journals*, Vol. III, 233.

⁸³ Entry for 2 January 1863 in Hurlbut, *Journals*, Vol. III, 233.

⁸⁴ Entry for 4 April 1864 in Hurlbut, *Journals*, Vol. II, 563.

he also felt the mixing of the races would dilute the intelligence of those with European descent. His forceful, and what would today be termed hurtful, language demonstrated a racist attitude, even though Hurlbut was a vocal advocate for emancipation.

To prove his contempt for violence toward African-Americans, Hurlbut scolded the actions of the Ku Klux Klan after the war. He wrote of a group of white men in Tennessee who were “shooting down the blacks on very empty pretenses.” The fact that he felt compelled to mention the atrocious actions of the Ku Klux Klan demonstrated a disdain for their racist-tinged violence. He later referred to members of the white supremacist group as “savages,” in a similar tone to how he referred to slaveholders earlier.⁸⁵ Ironically, Hurlbut’s views seemed to match those of the Ku Klux Klan to a certain degree, yet he disapproved of their use of violence and the continued rebellion. Rather, he believed all men were entitled to their natural rights, but he did not believe the races needed to mix together in society. In a sense, Hurlbut was a precursor to the eugenics movement. Again, this train of thought would have stemmed from his prior phrenological training.

At times, Hurlbut appeared content for the government to provide African-American suffrage, so long as women obtained the right as well. In July 1865, he felt certain that freed slaves deserved the vote in the South to make sure their rights were protected, but this opinion still only applied to those literate African-Americans. Just months after the conclusion of the Civil War, Hurlbut’s beliefs again shifted slightly. Perhaps he was caught up in the emotion of the end of the United States’ most bloody war. Still, he quickly turned his thoughts back to women alongside the African-

⁸⁵ Entry for 23 September 1868 in Hurlbut, *Journals*, Vol. V, 205.

Americans, writing, “I am willing to go further and allow all above the age of puberty, of both sexes and all colors, to vote---provided they can read and write, and are not criminals.”⁸⁶ He understood this was not a realistic hope, claiming universal suffrage was at least fifty years away. Unbeknownst to Hurlbut, it would only take five years for African-Americans to obtain suffrage, while women would wait over half a century for enfranchisement.

Hurlbut’s opinions on African-American suffrage were inconsistent as he became further removed from the Civil War. Because centuries of involuntary servitude had stunted the development of the race, in his opinion, most African-Americans lacked the literacy and intelligence to be able to make rational judgments on legal matters. According to Hurlbut, he felt women deserved the vote prior to the freed African-Americans. When writing about women and African-Americans seeking the vote together, Hurlbut wrote, “I do not quite like this humble attitude for white women. I would rather say, let them vote at any rate, and we will consider the Negro afterwards.”⁸⁷ Not surprisingly, Hurlbut felt women were more prepared to vote and he did not want them to impede their own efforts by attempting to obtain suffrage alongside African-Americans. He later exclaimed that he would rather his wife and daughters be extended the vote before African-Americans, as well as before the illiterate and immigrants.⁸⁸ In fact, he maintained, six years after the Fifteenth Amendment passed, it was “mean and wrong to give aliens and Negroes the precedence” over women.⁸⁹ As much against

⁸⁶ Entry for 12 July 1865 in Hurlbut, *Journals*, Vol. IV, 220.

⁸⁷ Entry for 22 November 1866 in Hurlbut, *Journals*, Vol. IV, 479.

⁸⁸ Entry for 10 January 1867 in Hurlbut, *Journals*, Vol. V, 498.

⁸⁹ Entry for 4 November 1876 in Hurlbut, *Journals*, Vol. VII, 578.

slavery as he was, Hurlbut remained unhappy about the rapid increase in African-American rights when compared with white women.

Hurlbut's racist attitudes toward African-Americans were not based on skin color. Rather, he believed the captive Africans were placed in a situation where it was impossible for them to succeed. As a result, the freed slaves were not prepared to contribute to the decision-making process in the United States, according to Hurlbut. Still, he believed nature afforded them rights, just as it does every human being. Freedom to live and act as one chooses was paramount, so Hurlbut adamantly felt that abolition was necessary. As a result, he passionately spoke out in favor of African-Americans, yet he also placed them below women in American society.

Hurlbut had little sympathy for Native Americans, placing them well beneath African-Americans on the social ladder. Hurlbut considered Native Americans to be uncivilized savages who were not capable of participating in a democratic society. Because Native Americans did not attempt to adapt to the more powerful European culture, Hurlbut felt their existence to be unnecessary. He was disturbed by the violence that occurred between native tribes and United States' soldiers. To Hurlbut, Native Americans slowly were disappearing, so any deaths inflicted upon United States' citizens were unnecessary. His sentiments toward the natives were strong and to the point. He did not view them as humans who deserved natural rights. Rather, he considered them to be mired in savagery and unable to contribute to United States society, which in turn impeded the nation's development.

In 1867, Hurlbut outlined the United States' relationship with Native Americans as it pertained to the trans-continental railroad. He felt if it were not for the Civil War, the "warfare" with the native tribes would have been more magnified.⁹⁰ This violence was unnecessary because the United States was going to overtake the land regardless. He detailed the problem, writing:

Our railway to the Pacific seems to be the grand point with the savages. They see in this "the beginning of the end." They resent and resist; they block the way—they murder passengers. We send armies and shoot them. They in return massacre our ill-defended soldiers in forts—and our slender border populations. This will proceed now and in the future, till the red race shall be annihilated—and no harm done.

Hurlbut predicted the issues between the two races to continue for years to come. He explained the senselessness of the struggle, but felt minimal pity for the displaced natives. He alleged the United States' government had treated Native Americans "humanely," yet United States' agents sent to the frontier were in the habit of "cheating the savages."⁹¹ Hurlbut clearly recognized the plight of Native Americans, but it simply did not bother him since he deemed them to be an inferior race incapable of participating in civilized American society.

Hurlbut understood the Native American tribes would disappear because they did not attempt to assimilate to United States' culture. He explained, Native Americans "have none of the elements of civilization; and as the earth seems to have been intended for the abode of civiliz-ed men, the appearance of these red men on the planet was a mistake which cannot be too soon corrected."⁹² Because they were not willing to adapt to

⁹⁰ Entry for 8 September 1867 in Hurlbut, *Journals*, Vol. IV, 584.

⁹¹ Entry for 25 April 1873 in Hurlbut, *Journals*, Vol. VI, 543.

⁹² Entry for 8 September 1867 in Hurlbut, *Journals*, Vol. IV, 584.

civilized life, which he somewhat ironically believed nature intended, they should be eliminated. He believed this would happen as a natural process, although violence would occur simultaneously. He later reiterated, “Time narrows the hunting grounds of these people—and they will not work, nor adopt the habits of civilized men...They will disappear with the beaver and the buffalo, and we shall miss the animals more than the red men.” As one who fought for the natural rights of all human beings, Hurlbut classified Native Americans on a level, not just below humans, but also below beavers and buffalo. Because they resisted the new American culture, often times with violence, he considered them to be savages. Over time, Native Americans would disappear, “but they will take some scalps first—and our soldiers will meet with inglorious deaths at their hands.”⁹³ This bothered Hurlbut deeply.

Unlike Native Americans, Hurlbut believed Chinese immigrants contributed positively to American society. He still referred to them as heathens, yet he believed they were a particularly civilized group who could potentially fit in United States’ society. He noted that “Chinamen are taking our Pacific Coast by tens of thousands...These heathen have some vices – but laziness is not one of them.” To Hurlbut, because their work habits and morals were on par with those from Christian nations, the Chinese were welcome additions to the developing United States. They were a group of people that had been “highly underrated” in intellectual and moral aptitude, unlike Native Americans, who were unwilling to participate in civilized society.⁹⁴

⁹³ Entry for 25 April 1873 in Hurlbut, *Journals*, Vol. VI, 543.

⁹⁴ Entry for 15 December 1867 in Hurlbut, *Journals*, Vol. V, 68.

One reason Hurlbut saw a civilized group of people in the Chinese was their high culture that provided beautiful forms of art. He wrote, “in San Francisco, the Chinese population have three theaters – the last being superior to any of the Americans there, and they are to have a troupe of actors from China, with scenery and wardrobe befitting the celestials.”⁹⁵ By demonstrating themselves to be seasoned in the theater and other civilized matters, Hurlbut envisioned a group of people who would fraternize with Americans in the future. Nevertheless, the Chinese focus on “the immaterial principle of nature” impressed him. Since Hurlbut based his beliefs on what he deemed to be the natural order of things, he felt Chinese immigrants were in tune with the way civilization should operate. In his estimation, Chinese were his “heathen brethren -- a people having among their upper classes great princes, wise sages, and profound philosophers—a literature containing much for us to admire – manners worthy of imitation...and reverence for age.” He finishes his diatribe by writing, “I have no doubt the Chinese will accept and appreciate whatever we may offer them of value.”⁹⁶ Because these immigrants were not only hard working individuals, but also came from a culture that possessed a sophistication in the arts not unlike Christian nations, Hurlbut welcomed their inclusion into American society. If anything, he felt Chinese immigrants added a value that lacked among many who already resided in the United States.

On the whole, Hurlbut championed human rights for all people. As long as he felt either men or women could contribute to society in a positive manner, he felt they deserved equality from the Constitution. To Hurlbut, nature created all men and women

⁹⁵ Entry for 15 December 1867 in Hurlbut, *Journals*, Vol. V, 68.

⁹⁶ Entry for 23 January 1869 in Hurlbut, *Journals*, Vol. V, 264.

as thinking individuals who both actively operated in society. As a result, he vigorously advocated for equal rights for both genders in the eyes of the law. Equal rights under the Constitution did not mean that all citizens automatically had the ability to partake in governmental affairs. Rather, he felt all citizens had the opportunity to participate, so long as they qualified in a mental capacity. Consequently, he did not believe all men and women, regardless of race, should be politically active, as many white men and women, as well as enslaved and freed African-Americans, were illiterate.

Although Hurlbut actively sought equality for all people in the United States, in reality, he did not consider all humans to be equal. In today's atmosphere, Hurlbut would be deemed a racist, as noted from his frequent use of derogatory terms, fear of racial mixing, and general feeling that white people of European descent were naturally more intelligent. Still, he assumed Native Americans to be barbaric individuals who did not meet the category of being humans. He respected the work ethic of Chinese immigrants, yet still felt they were heathen who needed to prove themselves further. Nevertheless, when compared to his contemporaries, Hurlbut was a liberal thinker ahead of his time.

Chapter Two

Hurlbut and Religion

“The Christian religion is false—and it is time that all intelligent and honest men who think so, should say so.” – Elisha P. Hurlbut, 1861 October 6

Early in his journal, Elisha P. Hurlbut cautioned his children, or anyone else who would later read the journal, not to misinterpret his opinions on religion. He understood that he would write at length upon the topic of religion, and in particular Christianity, frequently condemning the various practices that he deemed corrupt. Because his anti-religious sentiments potentially could ostracize himself, but more importantly his children, from social and occupational circles of Albany and New York as a whole, he intended his words to be private, yet he wanted his children to comprehend his protestations. Hurlbut explained, “I hope my children will not understand me as ‘condemning the gods,’” which he noted was the same capital offense committed by both Socrates and Aesop.¹ By connecting himself to the famed ancient Greek philosopher and storyteller, Hurlbut placed himself on a pedestal of righteousness, above those practitioners of Christianity, who essentially ruled modern civilization. This mindset persisted throughout his private journal, yet also became public with his essay, *A Secular View of Religion in the State and the Bible in Public Schools*.²

Hurlbut demonstrated a distinctive personal opinion on religion in the United States. Over the course of his life, he practiced aspects of several religions but never felt allegiance to any in his adulthood. He detested organized religion and especially

¹ Entry for 31 March 1858 in Elisha P. Hurlbut, *The Journals of Elisha P. Hurlbut*, Vol. I. Transcribed by Emily D. McDaniel, 2007, 31.

² Elisha P. Hurlbut, *A Secular View of Religion in the State and the Bible in Public Schools* (Albany, NY: Joel Munsell, 1870).

Christianity, whether Catholicism or any Protestant denomination. Although he believed in a higher power, or what he called the “Supreme Divine Power,” he felt that Christianity provided people another method to infringe upon natural rights.³ As strongly as Hurlbut felt about human rights, he wrote with the same fervor about religion’s impact on civil society. To Hurlbut, the negative effects of Christianity far outweighed the positive contributions to the United States, and the world as a whole. Under the Constitution of the United States, Hurlbut felt it was his right to express his opinions, even if those people around him objected. By condemning “false gods, foolish gods or low, degraded and vicious ones,” Hurlbut was not “being irreverent to the True Supreme.”⁴ Consequently, Hurlbut demonstrated piety and reverence to the creator of nature, but he frequently mocked what he deemed to be crooked organizations: Catholicism and the Protestant denominations. His belief in an omnipotent power over nature was evident, yet he still approached life differently than mainstream religionists.

Although he openly mocked the imposter-gods created by Christians, Hurlbut felt a strong connection to an omnipotent force that was responsible for all things in nature. By believing in a higher power, he asserted that all people received some sense of comfort. When explaining the “sovereign power of nature,” he wrote:

A certain reverence for the Sovereign Power of Nature (whatever that may be), a looking upward in the dark hours of life, an overwhelming sense of awe for the Majesty of the Universe, an acknowledged dependence on a Superior Power for all the goods of life, and a filial feeling of helplessness, want and hope---these are natural and, as I incline to think, necessary to human life. And if these feelings and sentiments can be indulged with an enlightened spirit, free from superstition, ignorant fear and delusive hope; if allowed their natural sway, without the professional aid of priests, they

³ Hurlbut, *A Secular View of Religion*, 6.

⁴ Entry for 31 March 1858 in Hurlbut, *Journals*, Vol. I, 31.

seem to give health to the human mind, and add greatly to human enjoyment.⁵

Transcendentalist thought from the likes Ralph Waldo Emerson, Walt Whitman, and others certainly would have been discussed in Hurlbut's social circles. He harkened the natural feelings that arise in all humans in one form or another regarding a higher power. Instead of attributing these sensations to one God, as created by Christianity, he viewed the Divine Supreme power to be out of the range of the human mind. He so despised the practice of Christianity because the one God took many forms, all created by the human mind. Rather, if something existed on earth for unknown reasons, Hurlbut believed in a cause for it according to nature, but not for the reasons given by Christian clergy, which depicted God in man's image. To Hurlbut, religious leaders and any other people who pushed religion on others only hindered the development of society. In the journal, he cleverly offered an analogy: "The priest is to religion, what the strumpet is to love – a cure and end, with all delicate minds."⁶ Had Hurlbut compared Christian leaders to prostitutes publicly, both he and his family likely would have attracted the scorn of the local community. Consequently, he saved this kind of vitriol for his personal journal.

The maltreatment presented by the various Christian denominations to non-believers irked Hurlbut more than anything else. In many respects, he equated himself with famous scientists and philosophers such as Socrates and Galileo, who were both prosecuted "by the bar of the priesthood – and condemned as enemies of the gods."⁷ Perhaps nothing worried Hurlbut more than the threat of a theocratic government running his life. Rather, as a scientific thinker, he believed all events happened for natural

⁵ Entry for 18 June 1861 in Hurlbut, *Journals*, Vol. II, 51.

⁶ Entry for 18 June 1861 in Hurlbut, *Journals*, Vol. II, 51.

⁷ Entry for 26 June 1869 in Hurlbut, *Journals*, Vol. V, 356.

reasons. Since organized religion was a manmade construct, it should not determine anything enforced by the government. In 1872, in a self-reflective moment when Hurlbut abandoned hope of understanding “the Infinite” power, he claimed his top religious priority to be “to prevent the priests from damaging the state.”⁸ To Hurlbut, Christian leaders were a set of overbearing con artists. In addition, people blindly followed these leaders, frequently administering public scorn to non-Christians. For this reason, he was a strong advocate for separation of church and state. Hurlbut wrote, “On one side are all the clergy, and the current literature of the day, and on the other a few virtuous men and solid thinkers, who have dared at great peril to express their views.”⁹ Clearly, Hurlbut placed himself in the latter category, one of a few righteous humans who had vision beyond the haze created by organized religion.

In addition to the aforementioned ills of Christianity, Hurlbut also felt religion caused pain to its followers. The mental and physical distress thrust upon Christians was both expensive and time consuming. Hurlbut explained that the burdens caused by Christianity included the time spent devoted to prayer, tithes, and other mental obligations. All of these facets weighed down humanity, in his estimation, detracting from the progression of civilization as a whole. As a result, “fair, truth-loving, thinking men” were sparse because most people became ensnared in religious propaganda.¹⁰ Despite the setbacks to society imposed by religious leaders, and his strong belief in separation of church and state, Hurlbut still felt clergy deserved an equal opportunity to

⁸ Entry for 20 February 1872 in Hurlbut, *Journals*, Vol. VI, 226.

⁹ Entry for 18 June 1861 in Hurlbut, *Journals*, Vol. II, 51.

¹⁰ Entry for 6 October 1861 in Hurlbut, *Journals*, Vol. II, 243-4.

hold office.¹¹ Hurlbut believed every competent United States' citizen deserved the right to run for public office, yet, at the same time, he felt religious tendencies should not affect legislation. Interestingly enough, he fought for the rights of priests and ministers as it pertained to their rights, yet he despised their daily work within their religion.

Hurlbut detested organized religion as an adult, but he was raised in a religious setting. His Christian name, Elisha, actually derived from a Jewish prophet, although in Hurlbut's estimation, his name required "such precision in its pronunciation, that it was a pity that any, but the Nation of Moses, the 'Shosen beoples'—should wear it." Not surprisingly, the sarcasm in his voice beamed through his words, as it tended to do when he wrote about anything religious. His parents both descended from a Puritan background, yet neither was strict in their beliefs. Hurlbut noted, "my father during his prime doubted altogether, and my mother believed like a good woman, what she was taught to venerate in infancy – but she was pretty liberal in her interpretations."¹² Because neither of his parents was devout in their beliefs, Hurlbut would have felt less pressure to acquiesce to the more standard religious sentiments of the era. In particular, the Calvinist influence combined with the "Yankee Invasion" after the Revolutionary War caused a situation "marked by both malaise and new energy."¹³ The Hurlbuts fell in the former category as a family not caught up in the religious upheaval that was only beginning to grip the upstate and western portions of New York.

¹¹ Charlotte Fowler Wells, "Sketches of Phrenological Biography: Elisha Powell Hurlbut," in *The Phrenological Journal and Science of Health*, Vol. 96-7 (January to June, 1893), 34.

¹² Entry for 31 March 1858 in Hurlbut, *Journals*, Vol. I, 30.

¹³ David G. Hackett, *The Hand of Innovation: Religion and Social Order in Albany, New York 1652-1836* (New York: Oxford University Press, 1991), 58-9.

In 1877, Hurlbut outlined the progression of his religious beliefs throughout his lifetime. He explained:

Thus I give in this diary, the progress of my religious ideas. Starting an infant, baptized by a Presbyterian priest—and sitting under Calvinism till some fourteen years of age—grieved and fearful, I listened next to the Universalist, then the Unitarian—then the Deist—then Atheist---and at last to the Scientist---and I end something of an ancient Buddhist---but with a mind so balanced and yet open to conviction—as to embrace anything new which may seem more reasonable. It is worthwhile to know the origin and history of all the religions—(as I think I do)-- to treat them as they deserve—i.e. as of no value whatever. They have been the enemy of human peace and progress. They are mere poetry—and mighty poor at that... Surely I have travelled a long way since my baptism—but whether in the right path remains to be seen. I am at any rate quite freed from all superstition.¹⁴

Religious skepticism dominated his views from the age of fourteen onwards. Regardless, he claimed his beliefs were dynamic, shifting between various deist faiths to atheism and finally to a train of thought based on scientific reason. Although a skeptic, he only considered himself to be an atheist for a short part of his life. Otherwise, he deferred to a scientific outlook, which attributed the world's mysteries to a natural, supreme entity. Hurlbut explained his skepticism, noting “the philosopher as well as ‘the fool,’” both argue for and against the existence of God, yet neither can “satisfy themselves or anybody else of the truth of either proposition.”¹⁵ Despite one's education, he depicted that all types of people have questioned the existence of a higher being, yet no religious scholar, philosopher, or scientists had been able to prove anything.

Although scientific reason dominated Hurlbut's thought process, he demonstrated the value of natural instinct, which he attributed to a higher power. When questioning the

¹⁴ Entry for 20 January 1877 in Hurlbut, *Journals*, Vol. VII, 612.

¹⁵ Entry for 17 March 1858 in Hurlbut, *Journals*, Vol. I, 8.

existence of a God, Hurlbut wrote, “our *feelings* say yes – but our *reason* cannot find Him out.” Hurlbut made a distinction between humans’ reasoning capacity and that of animals, whose natural instinct led them “to seek the teat” for survival. As a result, natural instinct carried significant weight to humans as well as animals, according to Hurlbut. Consequently, “this innate consciousness of His existence,” which asserted itself through all walks of life, was enough for Hurlbut to assume the existence of a higher power.¹⁶ As a free thinker, Hurlbut used scientific reason to come to the conclusion that a God of some sort existed, yet he admitted the lack of evidence to prove his assertion’s truth. Religious instinct guides people to believe in God, and Hurlbut was no different than the masses.

Hurlbut’s belief in an omnipotent power did not result in him adhering to any form of Christianity. Rather, he felt the corruption and ill-will afforded to humanity by the institution of Christianity affected the morals of its followers. Priests and ministers were simply the agents for the crooked organization that so heavily influenced the United States and the world as a whole. Hurlbut wrote, “on the whole mankind are rather the worse for the Christian ministry – since they constantly hold out redemption, vicarious sacrifice and other tricks for the escape of sinners from justice, which cannot fail of having a bad effect.”¹⁷ In essence, Christianity permitted its followers to live an immoral life as long as they acknowledged their mistakes.

To Hurlbut, criminals frequently evaded consequences for their actions because of their stated belief. He asked, “Who but Christians go from the gallows straight to heaven?” Here, he continued to question the morality of a religion that inspired faith in

¹⁶ Entry for 17 October 1861 in Hurlbut, *Journals*, Vol. II, 267.

¹⁷ Entry for 20 March 1858 in Hurlbut, *Journals*, Vol. I, 10.

the worst kinds of criminals. Mockingly, Hurlbut criticized the fundamental foundation on which Christianity stood when he wrote, “It is a pity God ever concluded to accept the death of Jesus for the sins of mankind; it has made such d--- rascals of the Christians.” Consequently, criminals and other believers obtained, in essence, a form of amnesty for their actions, no matter how crooked their deeds were. When facing death for the crime of murder, Christians obtained forgiveness for their sins simply for believing in God. To Hurlbut, this bred an immoral society. The blame resided with all Judeo-Christian believers. Hurlbut asserted, “Ye Jews, who invented this poor joke; ye Christians who built on it---go stand in your boots like decent men, and answer for your sins.”¹⁸ With these sentiments, Hurlbut knew he would infuriate most denizens of Albany. As a result, he did not discuss religion with others, with the exception of his closest friends and family members.

Outside of the fundamental tenets of Christianity, Hurlbut also criticized the violent history that surrounded the religion. Because of all of the violence, Hurlbut wrote that it would have been better “if all mankind had been atheists, than they should have been under the sway of religion.” Here, Hurlbut again condemned Christian history, but also all organized religion throughout time. Attacking Christianity more specifically, he exclaimed:

Think of its bloody history! Ye Catholics—ye Protestants! How ye have burned—how tortured—how destroyed each other! And how equally hell-bent ye have all been! I have no choice between you...Now that ye cannot hang and burn heretics—ye only rob men—fasten on them like bloodsuckers— and consume millions, earned by the sweat of labor. Ye priests—a lazy horde of idle vagabonds! How can ye look each other, or an honest man, in the face? I observe, that like cats and dogs when they

¹⁸ Entry for 24 March 1877 in Hurlbut, *Journals*, Vol. VII, 648.

look at a superior, you shut your eyes when you pray! How like beasts of prey! And what beast of prey lives with less labor, or consumes more fat than you?¹⁹

The contempt in his wording is obvious. Had Hurlbut used this language either in his formal essays or in conversation with most of the population of Albany, he would have been shunned from the local society. Consequently, Christianity had cursed mankind into collections of people who acted freely without consequences because they felt they would be spared in the eyes of God. This formed thousands of years of selfish humans who caused more harm on each other rather than doing good deeds for the common good of those around them.

More closely connected to Hurlbut's life was the combination of Christianity and slavery in the same country. Hurlbut felt, if there actually was a just God, "then there must be an end of slavery."²⁰ If God cared about humanity, then He would not permit the captivity of His people. Hurlbut particularly despised the Christian clergy in the slave states, who he said were "as contemptible a set of flunkies as God ever employed in his service." The fact that these men of God lived comfortably, surrounded by and benefitting from the effects of slave labor, disturbed him immensely. In 1858, there was a group of clergy who planned to make a trip to the northern states as "slave-missionaries," using Bible verses to defend the institution of slavery.²¹ As expected, Hurlbut detested this act, reiterating that no just God would defend such a despicable practice. To further his point, many enslaved people prayed to the same God as these missionaries who argued in favor of slavery. Had God answered their prayers, forced

¹⁹ Entry for 18 June 1861 in Hurlbut, *Journals*, Vol. II, 51-2.

²⁰ Entry for 10 February 1861 in Hurlbut, *Journals*, Vol. I, 471.

²¹ Entry for 25 March 1858 in Hurlbut, *Journals*, Vol. I, 18.

bondage would have been eliminated long before.

In the same way Hurlbut felt American slavery was incompatible with democracy, he claimed that tenets of Christianity were also contrary to democratic liberties. Christians lived according to the Bible, which limited these Americans' capacity for free thought. It would be impossible for a democratic government to exist when it had outside religious leaders, whether being the Pope or other priests and ministers, influencing decisions.²² Hurlbut admitted that the United States had made rapid progress over its first hundred years, despite the impediment of Christianity, because the American forefathers and subsequent leaders were mostly self-confident skeptics. While they identified with Christianity, their freethinking characteristics permitted them to advance the United States in a positive direction. He noted, "American Christians have never venerated their sacred books, as Hindus and Jews have theirs. A small Tom Paine has long been perched in every Yankee mind."²³ At times, such as this instance, Hurlbut held an optimistic view on Americans and religion, as a whole. For the most part, he blamed much of the nation's shortcomings on its attachment to Christianity.

Even though Hurlbut was a strong advocate for the separation of church and state, he understood the Bible better than most people. Ironically, "he is said to be the first American Judge of an Appellate Court that quoted Scripture to sustain" a position in a settlement.²⁴ In attempting to define lightning, Hurlbut quoted from the first Book of Kings and the Book of Job. He used the scripture to decide, "was a mechanical

²² Philip Hamburger, *Separation of Church and State* (Cambridge, MA: Harvard University Press, 2002), 247.

²³ Entry for 15 February 1867 in Hurlbut, *Journals*, Vol. IV, 515.

²⁴ Wells, "Sketches of Phrenological Biography: Elisha Powell Hurlbut," 33.

destruction by lightning without ignition, fire within the meaning of an insurance policy insuring against damage ‘by fire by lightning?’”²⁵ He would use any resource necessary, even if that meant using the Bible, which he felt should remain outside of the government’s use. Like all men, he was bound to contradict himself if it could help him to prove a point.

Hurlbut saw Christianity, not just as a detriment, but also as a danger to the existence and well-being of the United States. Perhaps melodramatically, he claimed that Catholicism was as great a danger to the nation as slavery had been. Because “the Church claims to be above the Government,” it gave people reason to disobey the law.²⁶ Hurlbut held a belief that still existed in the United States with the election of John F. Kennedy almost one hundred years later that the Pope might indirectly rule the country with the election of a Roman Catholic. The threat of religion being forced upon people terrified Hurlbut, which led him to actively pursue an amendment to the Constitution in 1870 to put into writing a prohibition on the state recognizing religion. To Hurlbut, he feared religious leaders enough that he felt that their threat to the government was real. In addition, as Catholicism’s influence seemed to fade in Europe, he felt many European Catholics might “turn an eye of hope to America – where all religions thrive.”²⁷ The threat of a government takeover only grew with more Catholics moving to the United States. Whether Hurlbut’s fears were well founded or not, he saw it as a threat that the nation needed to deal with sooner rather than later.

More than anything, Hurlbut saw the various organized Christian groups as

²⁵ Wells, “Sketches of Phrenological Biography: Elisha Powell Hurlbut,” 33.

²⁶ Entry for 19 November 1865 in Hurlbut, *Journals*, Vol. IV, 269.

²⁷ Entry for 15 February 1867 in Hurlbut, *Journals*, Vol. IV, 515.

criminal alliances that took in people and robbed them, not just of their money, but their freedom of thought and expression as well. He admitted that the principles of giving and good will towards others were admirable, yet he felt that no one associated with Christianity, including the church leaders themselves, adhered to these maxims. He wrote, Christianity's "history consists of one uniform, continued, and wide departure from its avowed principles...its professors are mere hypocrites."²⁸ He vehemently attacked the religion that boasted a bloody history that contradicted what it preached. As long as Christians used Jesus as a "scapegoat" to bear their sins, they would continue to steal from and hurt each other as long as priests continued to pardon them.²⁹ As a result, Christianity was a sham and all who followed lost their true identity because they lived as others told them to.

As much as Hurlbut despised organized Christianity, he still encouraged his children to read the Bible. Along with the "absurdities," he saw positive aspects of the Bible, namely that it was a piece of ancient literature that provided insight into the lives of the early Jewish people.³⁰ On the whole, he criticized the prose of the Bible, which he felt lacked artistic merit. Hurlbut had his children read certain books, such as Genesis and the Book of Job, but he encouraged them to read both the Bible and the Koran after they were twenty-one. At that point, he felt they could make educated decisions about their own beliefs. If one were to look at the history the Bible provided along with the morals it promoted, Hurlbut could understand its appeal, "but as a book of God, it is mere

²⁸ Entry for 23 January 1864 in Hurlbut, *Journals*, Vol. III, 532.

²⁹ Entry for 24 September 1877 in Hurlbut, *Journals*, Vol. VIII, 12.

³⁰ Entry for 23 September 1866 in Hurlbut, *Journals*, Vol. IV, 454.

trash.”³¹

In particular, Hurlbut ridiculed the rudimentary nature the Ten Commandments. He felt they presented the “natural laws” well, such as “those forbidding stealing and murder, enjoining respect to parents, etc.” Still, he considered these commandments to be obvious and natural tenets that all humans inherently understood. In addition, he noted several commandments that both Christians and Jews ignored regularly, such as those commandments that forbid “covetousness and envy.” He correctly asserted that men and women throughout history were fond of both their neighbors and their valuable goods. He wrote, “On the whole, I do not think the man who put together this string of commandments really informed the world of any new morality—or advanced any valuable thing unknown, even to the Egyptians.”³² Consequently, the Ten Commandments added nothing to humanity that was not naturally understood by humans.

While Hurlbut did not hold the Bible in high esteem, he did not object to certain selections of it being taught in schools. Before students learned religious stories, he felt they needed to develop a scientific foundation. He explained that the Jews, like the barbarians of Europe, knew nothing of the natural sciences, and as such, helped develop the “meanest race of white men that ever trod the earth.” Had more focus been placed on scientific discovery, a more peaceful European civilization might have developed. Hurlbut believed that, if the Bible were taught, then other holy books such as the Koran and the Book of Mormon should be taught simultaneously to be fair.³³ This would allow students to make judgments on their own, instead of leaning one way or the other. As

³¹ Entry for 18 June 1861 in Hurlbut, *Journals*, Vol. II, 53.

³² Entry for 21 January 1859 in Hurlbut, *Journals*, Vol. I, 329.

³³ Entry for 29 November 1858 in Hurlbut, *Journals*, Vol. I, 259, 261.

schools taught these religious works, they should also explain the skepticism that surrounded each. In addition, Hurlbut thought only certain sections should be taught, but “all the myths, miracles, indecencies and silliness of the sacred volume should be carefully avoided.”³⁴ To Hurlbut, anything that could not be explained in scientific terms, such as the various supernatural events in the Bible, should not be taught in schools.

In 1858, Hurlbut compared Shakespeare’s literature with that of the Bible. He ventured “the prediction that the dramas of Shakespeare will be represented to admiring throngs long after ‘the Tragedy of the Crucifixion’ shall have ceased to ‘draw’ even at Jerusalem.” Hurlbut frequently criticized the prose of the Bible, along with the unrealistic and supernatural stories. In addition, he felt women were underutilized in the Bible, yet very well developed in Shakespeare. “Shakespeare’s female characters,” he wrote, “should render him immortal; the female characters of the Bible are not fit to serve them as chambermaids.”³⁵ As a historical document, Hurlbut saw value in the Bible, but as a literary work, it failed to match up to Shakespeare or other less prominent dramatists.

The literary character Hurlbut most enjoyed from the Bible was the Devil. He had read Milton, which certainly piqued his interest in the character. Hurlbut explained that a “religious sect among the Arabs, known as ‘devil-worshippers,’ have more reason in their religion than they have hitherto had credit for.” He did not believe in what the Devil stood for, but he felt one could justify following his lead just as much as Christians did their faith. He continued his sarcastic rant, exclaiming:

Let me prostrate myself before thee – oh most illustrious Devil – and acknowledge thee to be the Lord of all the Earth! Thou alone dost thy pleasure among its inhabitants; to thee alone is it given to be pleased with

³⁴ Entry for 9 November 1869 in Hurlbut, *Journals*, Vol. V, 537.

³⁵ Entry for 6 April 1858 in Hurlbut, *Journals*, Vol. I, 47.

earthly transactions! Thou lovest injustice—and hatest equity—and the earth abounds in the one, and escheweth the other. If thou hast any fault, thou art a shade too proud for thy comfort—but as thou presidest over all the earth, and so of course over South Carolina and the slave states, thou shouldst be proud, aye, mighty proud, or thou wouldst fall below the “n---- - drivers,” which would be worse than thy first fall!³⁶

His “prayer” to the Devil attacked the slaveocracy of the southern states, yet never went beyond the social norms of the day in 1858. As a character that loved mischief and fun, the devil was a character that possessed far more entertainment than the other mundane characters in the Bible.

While working in his garden in the spring of 1872, Hurlbut developed plans to write a novel on the Devil. He felt that the life of Christ had been depicted countless times, but that of the Devil had been largely omitted. He intended to use Milton’s Satan as his hero, yet Hurlbut’s Satan “would never descend to meanness...and make him only responsible for ungodly pride and ambition.” Consequently, he planned to show the Devil more respect than any religious leader. He continued to write that Satan “actuated Napoleon in his ambition to rule the world and Jeff. Davis in his rebellion; but had nothing to do with...the Libby and Andersonville prisons.” His thoughts continued for five pages in the journal, which he meditated while hoeing six-dozen tomatoes in his garden. He claimed the fact that he “was not struck by lightning” while positively promoting the Devil in his thoughts further advanced his beliefs about the falsehoods of Christianity.³⁷ Hurlbut always welcomed more ammunition to further secure his understanding of the Christian faith.

³⁶ Entry for 1 May 1858 in Hurlbut, *Journals*, Vol. I, 107.

³⁷ Entry for 27 May 1872 in Hurlbut, *Journals*, Vol. VI, 286-7, 291.

Hurlbut preferred the Protestant denominations to Catholicism, but only in certain ways. He wrote bluntly, “as a religion, Protestantism is no improvement on Catholicism.” Although he made a definitive statement on Protestantism, he did recognize an improvement with a “step toward free inquiry, which may lead to truth.” This was a first step, but it clearly did not satisfy Hurlbut. The various denominations still impeded free thought to some degree, which meant it limited the possible mental growth of the followers. Yet, he recognized a step in a positive direction. With added reasoning among Protestants, it would be inevitable for people to eventually reject religion as a “blind act of faith,” thus turning to a more scientific train of thought.³⁸ According to Hurlbut, a turn away from Catholicism benefitted society, but people still needed to rely more heavily on scientific reasoning.

The concept of prayer bothered Hurlbut as well. In the Christian faith, prayer was used primarily from a point of weakness where one wanted relief from something, whether mental or physical. “To give thanks and humbly submit to the sway of the Supreme, is quite a different thing,” according to retired judge.³⁹ While Hurlbut seemed to disregard one aspect of prayer on which many Christians focused, he correctly asserted how people frequently prayed to God when they wanted something. He differed in his view because he felt people should submit to the natural power, which Hurlbut concluded directed the earth. By attempting to understand natural phenomena scientifically, one would better understand life than by spending time asking the gods for help.

In examining Christian prayer, Hurlbut considered the famed Confederate General Thomas “Stonewall” Jackson. Cynically, Hurlbut described Jackson as being “gifted in

³⁸ Entry for 9 May 1858 in Hurlbut, *Journals*, Vol. I, 120.

³⁹ Entry for 7 December 1861 in Hurlbut, *Journals*, Vol. II, 385.

prayer.”⁴⁰ Because Jackson had found continued success on the battlefields, Hurlbut reasoned that Jackson’s prayers must have been answered. As a result, according to Hurlbut, that meant God sanctioned “treason and murder.” Again, Hurlbut equated Christianity’s connection to violence, thus discrediting the religion. He joked, Jackson’s “negro servant says he can tell any day, the amount of deviltry his master is going to commit, by the length and loudness of his previous evening prayer.”⁴¹ By connecting Jackson, a staunch Christian, with both violence in war and slavery, Hurlbut continued to question the values of Christianity and its followers.

Another religious group that irritated Hurlbut was the religious revivalists. The surge of “revivalism, moral reform, and interdenominational cooperation” that took hold of Albany in the mid-nineteenth century seemed to be more of a money-making scheme to Hurlbut.⁴² The fact that a group of people could live a life of sin, yet “by the priests’ dodge of repentance...a little mummary, a few prayers and the payment of sufficient pew rent – they are warranted heaven, and a seat at the right hand,” which seemed unfair. The Christian God, which preached charity and good morals, essentially provided a free pass for criminals so long as they donated thought and money to the religious establishment. At the same time, those “poor devils that never do any harm...have got to roast in hell...all because [they] had not faith, did not bow to the priest, nor pay pew rent, nor mumble prayers.”⁴³ Hurlbut was comfortable as a non-believer, but despised the damage his reputation suffered for not being devout. In reality, he perceived himself to be both morally and spiritually superior to the majority of practicing Christians.

⁴⁰ Entry for 8 September 1862 in Hurlbut, *Journals*, Vol. III, 105.

⁴¹ Entry for 8 September 1862 in Hurlbut, *Journals*, Vol. III, 105.

⁴² Hackett, *The Rude Hand of Innovation*, 124.

⁴³ Entry for 1 October 1861 in Hurlbut, *Journals*, Vol. II, 233.

Hurlbut also wrote extensively in the journal on the actions of spiritualists. The group of religious fanatics, primarily located in western New York, was too close geographically for Hurlbut to ignore. The concept of communicating with spirits was the “foolishness of the day.”⁴⁴ In the *New York Tribune*, Horace Greely frequently promoted the exploits of spiritualists, and those notable people who participated, such as Elizabeth Cady Stanton, William Lloyd Garrison, James Fenimore Cooper, and Hurlbut’s contemporary on the bench of the New York Supreme Court, John Edmonds.⁴⁵ A leader of the spiritualists who Hurlbut sarcastically named “the great apostle of spiritualism,” Edmonds was a drunken liar who accepted bribes as a judge, according to Hurlbut.⁴⁶ As stories of people communicating with the dead appeared frequently in and around Albany, Hurlbut had ample opportunity to ridicule various spirit-rapping accounts. In particular, the free-love attitude of the participants these séances attracted irked Hurlbut, as he mentioned several men who abandoned their families and successful lives “to show an affinity for some ‘she-devil’ or other.”⁴⁷ The concept of abandoning one’s family or place in society for the supernatural far eluded Hurlbut. “For one I can say,” wrote Hurlbut, “if there be ghosts, spirits, witches, enchanters, dragons, devils, souls, angels, etc. etc. flying about, they have hitherto managed to avoid me very successfully, since I have never been rendered, in the slightest degree, conscious of their existence.”⁴⁸

Hurlbut believed many ignorant Christians used their religion as an excuse against social norms, even when not relying on faith to provide relief or redemption. For

⁴⁴ Entry for 17 September 1858 in Hurlbut, *Journals*, Vol. I, 218.

⁴⁵ Stephen Prothero, *The White Buddhist: the Asian Odyssey of Henry Steel Olcott* (Bloomington, IN: Indiana University Press, 1996), 21, 26.

⁴⁶ Entry for 17 September 1858 in Hurlbut, *Journals*, Vol. I, 218.

⁴⁷ Entry for 1 February 1859 in Hurlbut, *Journals*, Vol. I, 334.

⁴⁸ Entry for 27 September 1858 in Hurlbut, *Journals*, Vol. I, 227.

example, evangelists and revivalists frequently entered others' homes and workplaces to spread their ideas. To Hurlbut, ministers of God were not gentlemen whose main objective was to care for and respect others. Rather, Hurlbut noted, everybody has "a pocket and a soul; this 'minister' simply and merely desires to put his hand in the former, under pretense of saving the latter." As the rest of civilized society tended to respect others, religious leaders felt these natural rules did not apply to them as they frequently begged for money while claiming to be saviors to their followers. "It seems to be part of the divine economy," Hurlbut wrote in 1858, "that when a man is too lazy to work, he is immediately taken into God's employment, and goes about saving the souls of industrious and useful men."⁴⁹ Consequently, these men of God promoted an idle lifestyle that bred men to live unproductively, which was how he also measured the ministers' lives as well. Hurlbut reiterated eleven years later, "The tired laborer rests and doses [sic]—while the fat and eager priest is forever at leisure, inventing delusions to entrap his understanding and command his purse."⁵⁰

Hurlbut found particular satisfaction upon hearing news of Christian leaders getting into trouble. These "clouds over Zion," as he called them, littered all eight volumes of the journal. Whether these priests and ministers were caught stealing from their congregations or arrested for being drunk and disorderly, Hurlbut delighted in providing the details to the journal. One instance in 1869 saw a devout member and secretary of the Young Men's Christian Association who stole between "60 and 70 thousand dollars – which the young saint had squandered in stock gambling – a favorite

⁴⁹ Entry for 20 March 1858 in Hurlbut, *Journals*, Vol. I, 9.

⁵⁰ Entry for 26 June 1869 in Hurlbut, *Journals*, Vol. V, 357.

diversion of the godly.”⁵¹ Consequently, Hurlbut enjoyed telling these stories as it discredited the Christianity and its followers. Another story, which he wrote in 1872, was about a deacon of the Dutch Reformed Church in Albany, who refused to provide his twenty-year old wife with medical assistance when she went into child labor. Instead, he ordered her out of the bed when her water broke because she was causing a mess and continued to send those who came to help away.⁵² She died as a result. To Hurlbut, this amounted to murder. Because the devoutly religious man repented and the law let him free, the Church shouldered as much of the blame as the man, in Hurlbut’s mind.

In addition to Christian leaders, Hurlbut also questioned the moral aptitude of religious leaders’ children. He claimed that children of ministers were more likely to be unruly troublemakers. “In a word,” he wrote, these children were “utterly ruined by false and morbid religious restraints.” Consequently, he did not place blame on the young delinquents. Rather, the expectations placed on them by devout parents led them to a more rambunctious lifestyle. He even considered the rank of a father, noting “the children of puritanic priests generally go wildest; and next to them the children of deacons and elders.”⁵³ Upon finding liberty when they were away from restricting parents, they frequently sought revenge for the strict upbringing. As such, these children, according to Hurlbut, caused more problems with society than those children of lay people.

One way corruption within the Church mirrored the United States’ government, in Hurlbut’s estimation, was the omission of female priests and ministers. On the whole, he

⁵¹ Entry for 21 July 1869 in Hurlbut, *Journals*, Vol. V, 398.

⁵² Entry for 28 January 1872 in Hurlbut, *Journals*, Vol. VI, 205.

⁵³ Entry for 21 February 1859 in Hurlbut, *Journals*, Vol. I, 359.

felt women formed the larger population within the church, yet they rarely obtained the role of minister, as his acquaintance Elizabeth Cady Stanton achieved, and never the role of priest. He hoped “her sex will hereafter have much to do in the salvation of souls, as in their production, and that the bearded and mustachioed reverend will betake themselves to plough and the anvil.”⁵⁴ Here, Hurlbut not only promoted woman’s ascension in the Church, but he provided another jab at the idle men of the cloth who resisted manual labor. Women, in his opinion, were better suited to spiritually guide and nurture people, as that was their natural role as mothers.

One aspect of the Christian faith that Hurlbut abhorred was its followers’ typical routine on Sundays. He did not object to the idea of people taking breaks from strenuous activity, but he struggled with the fact that Christian regions essentially shut down on the Sabbath. He explained, “Sunday is a nuisance” for several reasons.⁵⁵ “Rest – mere rest,” he wrote, “is well enough as far as it goes – but it is not enough.”⁵⁶ He simply did not understand how people could give up one full day when they could be productive. People could still find ways to rest over the course of the week without donating a full day to rest in the name of the Lord. The “merit” of staying home was counterproductive, as it promoted an idle class of people who frequently ventured towards crime and drunkenness.⁵⁷

Because so many people were idle, more crimes were committed due to the lack of activity and the abundant inebriating indulgences. He went so far as to label Sunday

⁵⁴ Entry for 24 July 1859 in Hurlbut, *Journals*, Vol. I, 423.

⁵⁵ Entry for 14 September 1862 in Hurlbut, *Journals*, Vol. III, 112.

⁵⁶ Entry for 18 March 1866 in Hurlbut, *Journals*, Vol. IV, 322.

⁵⁷ Entry for 23 April 1871 in Hurlbut, *Journals*, Vol. V, 764.

“the devil’s day,” where he had to protect his home from marauders on the prowl.⁵⁸

Consequently, this caused Hurlbut to be on edge. He wrote:

Those who go to church get no good, and those who do not go, infest the groggeries, or maraud in the country. A stated day of rest and innocent recreation would be a good thing---but our Sunday, as kept by the godly and the ungodly, is anything but good---especially in and about great cities.⁵⁹

On a day dedicated to God, more sins took place Sundays than any other day. He simply did not understand why the religion prescribed this idleness when it could have added structure, whether in terms of further religious instruction or recreation, to keep people out of trouble. The rest of the week, people were more consumed with work, but Sunday afforded an opening for the beginning of a career of crime, in his opinion. Hurlbut peered to the Chinese as a model the United States should emulate, as “the oldest nation on earth has no Sunday—and for that bit of civilization the Chinese are to be envied.”⁶⁰ The lack of idleness created a productive people who did not seem to die off from absence of rest.

As a man who avoided alcohol consumption, the drunkenness people exhibited on Sundays greatly irritated Hurlbut. One particular instance in May 1871 caused him to rant on the vulgarity of Sundays. After hearing the yells of “drunken carousers” at a tavern a quarter mile away from Glenmont, he saw a man, whose family Hurlbut had recently befriended, walk up the road to Glenmont where he passed out on the side of the road.⁶¹ After allowing the man to lie in a ditch for a couple of hours, Hurlbut summoned the man’s wife and children to carry him away. Normally one to help those in need,

⁵⁸ Entry for 23 April 1871 in Hurlbut, *Journals*, Vol. V, 764.

⁵⁹ Entry for 14 September 1862 in Hurlbut, *Journals*, Vol. III, 112.

⁶⁰ Entry for 23 April 1871 in Hurlbut, *Journals*, Vol. V, 764.

⁶¹ Entry for 21 May 1871 in Hurlbut, *Journals*, Vol. VI, 17.

Hurlbut felt no sympathy for the inebriated man, allowing him to lie, passed out, instead of assisting him. While Hurlbut's temper flared up at times, he demonstrated a passive-aggressive response in this case.

In regards to Christmas, Hurlbut rather enjoyed the timing of the holiday, but still mocked the Christian customs that surrounded it. What most excited Hurlbut about the holiday was the extension of daylight. He sarcastically wrote, "the Saviour will increase his halo, or circle of light and brilliancy from day to day." Hurlbut's scientific and pragmatic mind applauded the lengthening of the day as he saw value in the extension for workingmen purposes. "Now if only my Christian friends would only consent to celebrate the astronomical fact, of the return of the Sun to the North, instead of the fact personified by the Jew of Nazareth...I would gladly join in the performance."⁶² The timing of the holiday made perfect sense to Hurlbut, but the actual practices of the holiday seemed senseless. "No matter what gave rise to the Christmas holidays," he wrote, "they are delightful – and come at precisely the right period for this latitude, since they begin when the labor of the year is ended."⁶³ Hurlbut was interested by the natural phenomenon of longer days, as his scientific mind was inclined to do.

Hurlbut had his own belief on how funerals should be conducted, which predictably differed from the Christian tradition. To "comport with true grief," he felt there should be a "solemn and expressive silence" during a procession and the lowering of a body into the ground.⁶⁴ Because he felt silence best expressed the grief and sadness felt at funerals, he did not believe religious officials should contaminate the ritual with

⁶² Entry for 24 December 1862 in Hurlbut, *Journals*, Vol. III, 223.

⁶³ Entry for 24 December 1865 in Hurlbut, *Journals*, Vol. IV, 279.

⁶⁴ Entry for 6 May 1858 in Hurlbut, *Journals*, Vol. I, 118.

prayer or sermon. As a non-believer in the Christian God, it would not be expected that Hurlbut would understand the comfort provided by a minister, yet he argued the focus on such occasions should be placed on the deceased, rather than God. In addition, the fact that both sinners and saints received the same funeral services under the guidance of the religious leaders depicted a flaw in the Christian faith. For his own funeral, Hurlbut requested to be buried five days after his death, or at least once his body began to decompose, in a private ceremony with family and friends, with the absence of priests or ministers.⁶⁵ Hurlbut desired a silent ceremony where grief would not be featured. Rather, those grieving would do so silently, out of respect for his wishes.

Hurlbut's words were tested upon the death of Bertha, his second child. Bertie's sudden and premature death of Typhoid Fever on May 13, 1876 elicited rumors from the denizens of Albany, yet the family never turned to religion, as the townspeople insisted.⁶⁶ The service took place without religious officials at Glenmont, in silence, as Hurlbut had wished for himself. Because the family "was aimed at as a Christian target" by the various Christian denominations, Hurlbut was not surprised that his family name was brought up in religious congregations, yet he became angry at the rumors he encountered. Word reached Hurlbut that Christians in town claimed Bertie, on her deathbed, requested her father to read several Bible verses to her, yet he refused.⁶⁷ This led Hurlbut to despise the Christian organizations even more as they had created falsehoods that benefited their organizations at his expense. Several months later, Hurlbut again heard rumors that Bertie had requested "Nearer my God to Thee" to be sung in her final

⁶⁵ Entry for 14 February 1869 in Hurlbut, *Journals*, Vol. V, 278.

⁶⁶ Entry for 13 May 1876 in Hurlbut, *Journals*, Vol. VII, 500.

⁶⁷ Entry for 17 March 1877 in Hurlbut, *Journals*, Vol. VII, 644-5.

moments so she would be prepared for heaven.⁶⁸ To Hurlbut, this again depicted Christians who lacked respect for truth, which he claimed had been a pattern throughout the institution's history.

As a result of his religious objections, Hurlbut perceived that many despised and even were frightened by him. Regardless, he became more empowered by his beliefs as he grew older. "In Albany," he wrote, "many devout, ignorant souls, have a decided horror of me – on account of my religious skepticism." He continued to teach his children all that he believed, while providing them with resources to make educated decisions on their own. Many in town even criticized the retired Hurlbut's manner of raising his own children, as noted from the reaction to his handling of his daughter Bertie's death. One particular conversation with another judge in Albany demonstrated the general public's opinion of him. The judge mentioned a conversation he held with Hurlbut to "one of his pious brethren," who responded, "You do not talk with that man, do you?"⁶⁹ Because the man felt strongly enough to criticize Hurlbut, who was not present, to the judge, showed something about Hurlbut's reputation around town.

Frequently, Hurlbut compared the Christian faith with other religious groupings. Sometimes he did so to depict what he viewed as a deficiency in Christianity. Other times, he made comparisons when he admired an aspect of another faith. Interestingly, he did not place Christianity at the bottom of his religious spectrum, yet he loved to debase the dominant practice in the United States. The more organized the religion, the more Hurlbut tended to detest the organization, as he felt it was just another method to

⁶⁸ Entry for 25 September 1877 in Hurlbut, *Journals*, Vol. VIII, 13.

⁶⁹ Entry for 14 July 1872 in Hurlbut, *Journals*, Vol. VI, 327.

plunder from people. If the laws of a religion did not intertwine with what he perceived to be humans' natural rights, then he found ways to ridicule it in same way he did the Christian faith.

Hurlbut lived in an era where the vast majority of Americans were not educated about lifestyles outside of the Euro and Christian-centric models, especially Asian religions. Thomas A. Tweed asserted, "Most Americans remained apathetic or ignorant. Very few, needless to say, considered the possibility of learning from any of these religions...in fact, many could not distinguish between the various trains of thought."⁷⁰ In this sense, Hurlbut was ahead of his time, as he would even employ various Asian customs into his own life. Even though the Asian religions were lumped together as forms "heathenism" or "paganism," Hurlbut perceived them at a more sophisticated level than the Christianity practiced by his contemporaries.⁷¹ Whether Buddhists or Confucian, the Chinese people, in particular, led lives in tune with nature, yet rather organized. The Chinese "cultivated *veneration*," not to a personal god, but to nature, their ancestors, and an emperor, which impressed Hurlbut.⁷²

Buddhism was the most important innovation in China, according to Hurlbut. It was "a peculiar tradition that called into question widespread assumptions" held by Christians.⁷³ For this very reason, Hurlbut was more willing to follow Buddhist customs than the more common Christian ways. This included a period in 1872 where Hurlbut

⁷⁰ Thomas A. Tweed, *The American Encounter with Buddhism, 1844-1912: Victorian Culture and the Limits of Dissent* (Bloomington, IN: Indiana University Press, 1992), p. xvii

⁷¹ Tweed, *The American Encounter with Buddhism*, xviii.

⁷² Entry for 6 September 1868 in Hurlbut, *Journals*, Vol. V, 193.

⁷³ Tweed, *The American Encounter with Buddhism*, 6.

even adhered to a Buddhist diet where he ate primarily vegetables.⁷⁴ The fact that he was open to consider an Asian lifestyle, which was still mostly ignored by Americans, demonstrated Hurlbut's progressive mindset. Still, Hurlbut accepted aspects of Buddhism into his lifestyle, although temporarily, eight years before the "White Buddhist," Henry Steel Olcott, professed his own conversion to Buddhism. Hurlbut was not about to move to an Asian country and give up his life, which was submerged in Christian customs, even though he abhorred many of the practices. Tweed documented Americans who converted to Buddhism as people who did not want to give up "Victorian culture," but still veered towards the Asian religion to show dissent from "their peers politically, economically, socially, culturally, and religiously."⁷⁵ Hurlbut appeared to fit Tweed's assessment initially, but in reality, Hurlbut was making an individualistic statement about something he chose to do himself. He was not making a public statement, but rather an educated decision based on extensive readings he had completed throughout his lifetime. To Tweed, Hurlbut was a "rationalist" Buddhist, meaning that he focused on: "rational-discursive means of attaining religious truth" instead of "revelational or experiential means."⁷⁶ As a scientific thinker who did not subscribe to supernatural beliefs, Hurlbut certainly fit this mold of new Buddhists emerging in the United States.

Hurlbut noted that Christians had urged that people could not maintain an organized government without a belief in God, yet the Chinese were a happy and well-organized mass of people who lived their lives according to the morality they obtained

⁷⁴ Entries for 12 May 1872 to 20 October 1872 in Hurlbut, *Journals*, Vol. VI, 279, 298, 300, 305, 307, 309, 339, 355, 369, 394.

⁷⁵ Prothero, *The White Buddhist*, 85, 96.

⁷⁶ Tweed, *The American Encounter with Buddhism*, 60-1.

from the worship of nature and their ancestors.⁷⁷ He did not argue that life was perfect in China, but when compared with the God-fearing Christian population, it was a better way to live. He went further to explain how the Chinese should view Christians: “I rather think the Chinese understand the Christians pretty well, and consider them a trading, cheating, marauding, conquering, and rather rascally sort of people—which estimate is not far from the truth.”⁷⁸ The violence associated with Christianity turned Hurlbut away from the religion perhaps more than anything else. “Not only was Buddhism more rational and less dogmatic,” Tweed asserted, “it also provided a superior ethical framework.”⁷⁹ Because Christianity preached showing love and compassion to each other, yet its history had shown a group quick to raise the sword, Hurlbut could not give the institution credibility.

The exquisite record keeping in China was something the Christian nations lacked as well. In particular, the specific history of Confucius and his disciple Mencius guided the Chinese people for more than two thousand years. He noted that, for these two, “the parentage – their personal history – their pedigree – and their doctrines – are as well known to the Chinese...as if they lived and died during the present century,” in addition to their time of death and place of burial. These men are venerated like Jesus, yet their lives are better and more historically documented. Had Confucius risen from the dead, Hurlbut asserted, “it is probable his tomb would have become a myth – and no temples or tablets would have been erected to his memory. So I judge from the case of our blessed

⁷⁷ Entry for 6 September 1868 in Hurlbut, *Journals*, Vol. V, 193 and Entry for 14 February 1869 in Hurlbut, *Journals*, Vol. V, 278.

⁷⁸ Entry for 8 May 1871 in Hurlbut, *Journals*, Vol. VI, 8.

⁷⁹ Tweed, *The American Encounter with Buddhism*, 68.

Saviour.”⁸⁰ This comparison had more to do with the Chinese respecting the deceased, and had Confucius risen, he would not have been considered dead. Consequently, trusting in nature molded the Chinese into a people that Hurlbut deeply respected.

Hurlbut asserted the Catholics from Spain ruined the Aztec civilization as well. Although the Spanish brought new technology to the Americas, the Aztecs would have been happier had they not been under Christian rule. He preferred the rule of the Aztecs for several reasons, arguing the “sacrificial stone was merciful...compared with the Inquisition – and Montezuma was a model of civilization and humanity, compared with Charles the Vth and his successor.” In comparison to the Aztecs, the Christians were a more violent and controlling group of people, in Hurlbut’s estimation. Even though the Spaniards considered the Aztecs to be heathen, the tenants of Aztec civilization held high morals like Christianity, but the Aztecs actually adhered to what they preached. Hurlbut depicted differences between Cortez and Montezuma, explaining “the former violated all the precepts of his religion, while the latter scrupulously kept the faith and morals of his. Montezuma was besides a true nobleman and gentleman.”⁸¹ If a group of people were to be compared by their rulers, then the Aztecs had a morally sufficient lifestyle while the invading Spaniards took the role of barbarian.

Because the Aztecs’ religion was set up more according to nature than Christianity, Hurlbut also applauded them. In particular, he noted that they were worshippers of the sun, and that their religion was dictated by astronomical measures.⁸² He asserted that the Sun played a similar role to Jesus, in a way dictating the lives of its

⁸⁰ Entry for 6 September 1868 in Hurlbut, *Journals*, Vol. V, 194.

⁸¹ Entry for 23 January 1864 in Hurlbut, *Journals*, Vol. III, 530-1

⁸² Entry for 25 March 1870 in Hurlbut, *Journals*, Vol. V, 590.

followers. Any belief system that was based off of nature would appeal more to Hurlbut. As a result, Hurlbut promoted the Aztecs, claiming that their lives would have been better off in numerous ways had the Spanish not thrust Catholicism on them.

Closer to his home, the new Mormon religion disturbed Hurlbut as well. He wrote, “Mormonism is not a religion – but a felony.” The basic tenets of Mormonism, and in particular polygamy, bothered Hurlbut immensely. In the journal, he depicted a group of people protected by its leaders, namely Brigham Young, in the secluded area of Utah, where they could make up their own rules. “When a religion simply embodies a code for the protection of crime and criminals against the laws of nature,” he wrote, “it is no longer a religion, but felony – and its freedom is license to crime.” In this case, the freedoms allowed by the United States’ Constitution potentially permitted a group to impede others peoples’ rights. As a result, the Church of Latter Day Saints went against natural rights bestowed upon Americans, especially women under the Mormon code.

Like Christian leaders, Hurlbut depicted Brigham Young as a leader who desired power and was able to use the religion’s followers to obtain it in addition to wealth in a criminal manner. About Young, Hurlbut wrote, his “brains are not all in his britches, [as he] has become rich, bold and powerful – without any more moral feeling than Charles the Fifth, the Duke of Alva, or a gorilla.”⁸³ Hurlbut feared that Utah would be established as a state that promoted Mormonism, and thus, polygamy. After Young died, leaving over thirty orphaned children in addition to “a long row of widows,” Hurlbut gave his final thoughts on him:

He was a wicked man; and his religion, a foul imposture—but he died rich—and unhung—since justice rarely obtains in this dirty little world. Of

⁸³ Entry for 25 October 1869 in Hurlbut, *Journals*, Vol. V, 525.

course we look for Justice under a new administration after death.⁸⁴

Like many Christian leaders, Hurlbut felt the veil of religion kept Young from actually receiving justice. Because he was a leader, he was not sentenced as a criminal, even though he was a polygamist who led a religion that impeded freedom of all women under his lead.

Several times, Hurlbut compared atheists to theists, in general. When he considered “a sincere and consistent” theist to the same atheist, he believed the latter to be a more efficient thinker because he “is not weighed down with reverence for the work of a god, nor cheated out of his reason and proper instincts by the revelations of a god.” Because the atheist could think freely without interference from a belief system, he would be better suited for a governing position. Accordingly, he would have the “proper impulses of the instincts and sentiments of his unperverted nature.”⁸⁵ On the other hand, religiously inclined individuals were clouded by their faith, which influenced decision-making. Whether in a ruling position or any other profession, religion would block one from acting freely in accordance with nature. To Hurlbut, the “Divine Power” naturally guided people in their decisions, but the gods from organized religions caused people to act in a manner in which they sought to please a higher power.⁸⁶ This higher power Hurlbut frequently mentioned led people towards scientific discovery, and would eventually lead civilization to new heights where society would advance socially and technologically, which was not an objective of Christianity. This progressive mentality set Hurlbut apart from his God-fearing neighbors.

⁸⁴ Entry for 4 September 1877 in Hurlbut, *Journals*, Vol. VIII, 2.

⁸⁵ Entry for 4 April 1858 in Hurlbut, *Journals*, Vol. I, 42-3.

⁸⁶ Entry for 3 June 1868 in Hurlbut, *Journals*, Vol. V, 142.

Hurlbut's final foray into public life occurred in 1870 with the publication of his essay, *A Secular View of Religion in the State, and the Bible in Public Schools*.⁸⁷ This fifty-five page pamphlet proposed two amendments to the United States' Constitution, one that altered the First Amendment and another amendment altogether. Several like-minded friends in New York coerced him into writing the essay after several letters he had exchanged with them, although he rather enjoyed the project as it unfolded. Hurlbut understood his words would irritate many Christians in the country, but he felt it was his civic duty to express his opinion in his desire for a change to the Constitution.⁸⁸ Because Hurlbut saw a fundamental contradiction between theocracy and democracy, he proposed an amendment to specifically prohibit any state from establishing a religion. While he was concerned about Christian doctrine infiltrating law, he was also concerned with the rising Mormon influence, especially considering he knew Utah would soon apply for statehood.⁸⁹ Overall, Hurlbut wanted to prevent individual states from having the power to establish religion, which he did not feel the United States Constitution did.

One place Hurlbut applauded the United States was the Constitution's omission of religion. This "brightest spot of the Constitution," or what was left out, demonstrated the genius of the founding fathers, according to Hurlbut.⁹⁰ Still, many attempted to add a religious perspective to the Constitution, which Hurlbut strongly criticized. If anything,

⁸⁷ Hurlbut, *A Secular View of Religion in the State, and the Bible in Public Schools*.

⁸⁸ Hurlbut, *A Secular View of Religion in the State, and the Bible in Public Schools*, 3-4.

⁸⁹ Hurlbut, *A Secular View of Religion in the State, and the Bible in Public Schools*, 15 and 28.

⁹⁰ Entry for 7 January 1872 in Hurlbut, *Journals*, Vol. VI, 185.

he felt the document needed to spell out the omission of organized religion, as he would later attempt in 1870. One professor at Union College in Schenectady, New York, caught Hurlbut's attention, in particular. He publicly criticized Hurlbut's views from his essay, *A Secular View of Religion in the State, and the Bible in Public Schools* (1870), where he advocated for an amendment to the First Amendment that prohibited states from establishing a religion.⁹¹ Hurlbut responded to the professor in his journal, writing, that "this donkey thinks he can improve on Washington, Franklin, Jefferson, and Madison."⁹² Hurlbut never would have insulted this man publicly, but he did not restrain himself in the journal. By invoking the founding fathers, he degraded the professor as being ignorant.

Specifically, Hurlbut proposed to add several words and sentences to the First Amendment to improve it. He began his essay by rewriting the First Amendment, with his additions written in italics:

Art. I. *Neither Congress nor any state shall make any law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble and to petition the government for a redress of grievances. But congress may enact such laws as it shall deem necessary to control or prevent the establishment or continuance of any foreign hierarchical power in this country, founded on principles or dogmas antagonistic to republican institutions.*⁹³

Hurlbut's primary concern was that individual states might create their own laws in respect to a specific religion. He felt that the Constitution did not adequately protect

⁹¹ Hurlbut, *A Secular View of Religion in the State, and the Bible in Public Schools*, 14.

⁹² Entry for 7 January 1872 in Hurlbut, *Journals*, Vol. VI, 185.

⁹³ Hurlbut, *A Secular View of Religion in the State, and the Bible in Public Schools*, 5.

citizens from this possibility. So, with the nudging of some friends, he took it upon himself to challenge this issue. This measure would guard against “accidents of ignorance, blind zeal and passion.” This would allow freethinking men, not influenced by a specific belief system, to act and regulate naturally. “The bigot loves his religion,” Hurlbut noted, “but hates all others.”⁹⁴ Consequently, if the legislators favor one belief system, then there was a strong possibility aspects of it would be placed on his constituency. In addition, this proposed amendment would create a system in the United States where the church, as a foreign power, would not possess any power. With the influx of Catholics into the United States, especially in New York, Hurlbut would have been concerned about the Pope’s transatlantic authority, in particular.

At the same time, this measure would also prohibit a state from not allowing free exercise of religion as well. The nation, just as individual states, should not tell people how to think, as it should not mandate anything on religion either. As a result, people should be permitted to follow any religion they choose. He even continued to write that the election of ministers and priests to public positions should be permitted as well.⁹⁵ It is important to note that Hurlbut believed in free elections where anyone could be elected, including ministers and priests. As long as the United States’ and the individual states’ constitutions remained secular in nature, he urged that anyone could be elected. By not allowing religious leaders the opportunity to be elected, their individual rights would have been impeded upon.

Hurlbut believed schools should teach morality to their students, but that morality

⁹⁴ Hurlbut, *A Secular View of Religion in the State, and the Bible in Public Schools*, 14,16.

⁹⁵ Hurlbut, *A Secular View of Religion in the State, and the Bible in Public Schools*, 14, 17-19.

did not need to come from the Bible. He proposed another amendment to the U.S.

Constitution that stated:

*To the end that the functions of civil government may be exercised without interference in matters of religion; neither the United States, nor any state, territory, municipality, or any civil division of any state or territory, shall levy any tax, or make any gift, grant or appropriation for the support, or in aid of, any church, religious sect, or denomination, or any school, seminary, or institution of learning, in which the faith or doctrines of any religious order or sect shall be taught or inculcated, or in which religious practices shall be observed; or for the support, or in aid of any religious charity or purpose, of any sect, order, or denomination whatsoever.*⁹⁶

He favored the use of the Bible as a historical document, but did not want the morals and beliefs to influence students in their religious beliefs. Although Hurlbut believed that Bible taught good morals, he frequently ridiculed the manner in which it taught, namely the supernatural events that occurred with no scientific proof. By teaching the Bible, that would be that state placing a specific theocratic belief system upon its subjects in schools. In addition, Hurlbut pointed out that millions of Jews found the Old Testament sacred, yet they rejected the New Testament.⁹⁷ Because the Bible encompassed both, it provided historical value to two different groups. So long as the public schools did not teach students to be Christians or any other religion, the teaching about religions could be possible.

His excitement for the essay dwindled rapidly as the pamphlet failed to sell on the scale he had hoped. He initially requested to have one thousand copies printed, which he

⁹⁶ Hurlbut, *A Secular View of Religion in the State, and the Bible in Public Schools*, 54-55

⁹⁷ Hurlbut, *A Secular View of Religion in the State, and the Bible in Public Schools*, 38.

would then distribute “to sell in all directions,” but he struggled to sell any.⁹⁸ One bookstore in Albany advertised the pamphlet for three months, only to sell one copy.⁹⁹ Because of the amount of work he put into the project, only to receive minimal interest, he viewed the pamphlet as a failure. He felt that because people were so set in their religious views, he would “convince nobody” and reap “nothing but abuse.”¹⁰⁰ Unless men like Hurlbut spoke out on the subject, in his opinion, there would be no change, but he did not feel his voice was strong enough, which was proven with the lack of circulation of the pamphlet. The lack of success spelled the end of Hurlbut’s public life in discourse. He would continue to write in an opinionated manner in the journal for the next seventeen years, but he felt he was too old to contribute at that time, as all anybody read anymore were “newspapers, magazines, and novels,” which purpose was to make money, not to make a difference.¹⁰¹ This failure was his final attempt to affect public discourse. Because few people took notice or acknowledged his efforts at this stage in his life, he pledged to keep his thoughts on religion and all other matters private for his peers, family, and the journal.

While much of this chapter has focused on the negative attitudes Hurlbut held toward organized religion, he still believed in a higher power that guided life on earth. He had hope that the future would provide a belief system that combined “knowledge and reverence – science and awe.” Eventually, scientific study would deter people away from superstition imposed via religious leaders and the Bible. Instead of fighting the current

⁹⁸ Entry for 1 March 1870 in Hurlbut, *Journals*, Vol. V, 581.

⁹⁹ Entry for 16 July 1870 in Hurlbut, *Journals*, Vol. V, 613.

¹⁰⁰ Entry for 13 March 1870 in Hurlbut, *Journals*, Vol. V, 586.

¹⁰¹ Entry for 16 July 1870 in Hurlbut, *Journals*, Vol. V, 613.

systems, Hurlbut endorsed enduring “the prevalent religions, as we endure other disorders and diseases brought on mankind by their ignorance and folly, with hope of cure at last.”¹⁰² Looking toward the future, Hurlbut carefully considered how he approached religion with his children. His goal was to give them the resources to make an educated decision on their own, but he always gave his own point of view, as well.

As he desired of the schools, Hurlbut did not formally teach his children to follow any religion, but he did teach them about various religions. Because he felt they were well-balanced children, he sought to “to teach them the truths of nature.”¹⁰³ This permitted his children make up their mind on their own, with minimal influence from parents, grandparents, or other outside factors. Of course, Hurlbut did influence the children, as he directed their readings, especially in historic and religious matters. They continued to emulate his example as long as he lived. While he attempted to allow his children to think for themselves, he vowed to make them have “reverence and awe” towards nature, as man was a “shortsighted, and ignorant” while nature was “vast and deep.” Through this deistic approach, he explained to them, whether they prayed or swore, rain would continue to help crops grow, and the sun would continue to rise on a daily basis.¹⁰⁴ This kind of advice forced them to focus more on the natural ways of the world as opposed to religious belief systems that had their own explanations for how the world works.

Regardless of the beliefs Hurlbut’s children chose to follow, he urged them to respect all religions, at least publicly. If they came to conclusions against mainstream

¹⁰² Entry for 18 June 1861 in Hurlbut, *Journals*, Vol. II, 52.

¹⁰³ Entry for 1 June 1868 in Hurlbut, *Journals*, Vol. V, 137.

¹⁰⁴ Entry for 18 June 1861 in Hurlbut, *Journals*, Vol. II, 50-1.

society, or Christian beliefs, he advised them to remain silent on the matter, so not to strain relationships with others. He wrote, “nobody but man will reward or punish you for your religion.” By remaining silent, there would be no future of persecution, whether socially or legally. Speaking out against a religious person would be dangerous because he would have an organized support system ready to fight back against those who oppose his belief system. Professing a religion, Hurlbut contended, could only bring problems. Only the leaders gain fame and fortune, while the members of the congregation submit to the higher authority. While the priest gets the “glory,” the masses get “all the hardships and the blows” during their lifetime, in exchange for eternal salvation.¹⁰⁵ To Hurlbut, this was a crooked deal.

As Hurlbut alluded when explaining his religious progression, he claimed his journey led him towards a form of Buddhism. Stereotyping the numerous belief systems in the United States, he wrote:

I am not an ignorant, slavish priest-ridden Catholic; nor a bawling Methodist; nor a sour, fiend-worshipping Presbyterian; nor a narrow, mean, hard-shelled Baptist; nor a sly, stiff orthodox Quaker; nor a half-philosophic Unitarian; nor a poor donkey of a Mormon, nor a big-swallowing Swedenborgian; nor an unnatural Shaker; nor any sort of Christian whatsoever – I am so glad!

As usual, he did not hold back his vitriol against the religious groups, yet he exclaimed his joy of not being connected to any of them. He continued, “Oh! Sakyamuni – the last and best Buddha! If I ever follow any man – I’ll follow thee!”¹⁰⁶ While his sarcastic tone illuminated this proclamation, his views were more coherent with a Buddhist mindset. He believed in a superior omnipotent power that controlled nature. Still, he

¹⁰⁵ Entry for 18 June 1861 in Hurlbut, *Journals*, Vol. II, 55-6.

¹⁰⁶ Entry for 22 May 1872 in Hurlbut, *Journals*, Vol. VI, 283.

believed there was a scientific reason behind everything. By expanding scientific thought, people would become more in tune with nature, and as a result, the Divine Supreme. “I have looked past the surface of things,” he wrote, “of men and women – and have learned that simplicity, benevolence and justice, are the foundations of all moral and true happiness.”¹⁰⁷ These morals, or natural tenets of humanity, can be taught by any group of people without an accompanying, overbearing belief system.

¹⁰⁷ Entry for 30 July 1869 in Hurlbut, *Journals*, Vol. V, 410.

Chapter Three

Hurlbut and Phrenology

“For altho’ the modern scientists take pains to ignore phrenology; having studied it more thoroughly, I know more of it than they do—and still hold to it as founded in truth. I teach it to my children—and hope it may be of as much practical value to them, as it has been to me.” – Elisha P. Hurlbut, 1878 May 17

Scientific reasoning dominated Elisha P. Hurlbut’s mindset. A student of Enlightenment thought, Hurlbut always sought reason over faith. As long as people were treated fairly according to nature, Hurlbut would be content with the outcome. One particular scientific field captivated Hurlbut while he was still a young, practicing lawyer. Although he was not a scientist or medical doctor by profession, Hurlbut became one of the most advanced phrenological scholars in the United States, if not the world. As the science provided physical evidence about the behavior of people, whether proven or not, Hurlbut more readily accepted phrenology over belief in the organized religions that were based on supernatural phenomena. Although phrenology’s popularity peaked in the United States in the mid-nineteenth century, Hurlbut continued to cling to its principles until his death.¹ Consequently, Hurlbut frequently measured the heads of his family and friends, in addition to other people in and around Albany, to judge both their positive and negative mental attributes. “Anything that indicated progress of the knowledge of the science” was pleasing to Hurlbut, Charlotte Fowler Wells wrote.² Hurlbut’s excitement

¹ Sharrona Pearl, *About Faces: Physiognomy in Nineteenth-Century Britain* (Cambridge, MA: Harvard University Press, 2010), 191.

² Charlotte Fowler Wells, “Sketches of Phrenological Biography: Elisha Powell Hurlbut,” in *The Phrenological Journal and Science of Health*, Vol. 96-7 (January to June, 1893), 31.

surrounding phrenology led him to share his findings on a personal level with his family and publicly in his published works.

Hurlbut's phrenological studies engulfed his outlook on life, and as a result, influenced his own behavior. While phrenology shaped Hurlbut's scientific reasoning capacity, it in turn affected his political views, as the science helped define the nature of human thought. Consequently, in his *Essays on Human Rights and Their Political Guaranties*, Hurlbut employed his "philosophy of the mind" to explain what rights all people were entitled to, and how mental deficiencies might obstruct one's ability to participate in the political system.³ As a result, phrenology helped to form his beliefs on the natural rights the government should protect for all people.

The study of phrenology originated at the end of the eighteenth century from the theories of Franz Joseph Gall and was expanded with his student and partner, J.G. Spurzheim. The word "phrenology," which derived from Greek root *phren*: 'mind,' was coined by T.I.M. Forster in 1815, and came into regular use within a few years.⁴ Charles Colbert defined "phrenology" as being "the discipline dedicated to ascertaining the mind's orientation from the shape of the skull."⁵ In reality, the science examined the physical structure of the head and brain, but did little to explain how the mind actually worked. In *Heads and Headlines: The Phrenological Fowlers*, Madeline Stern argued that because phrenology was so "ardently embraced by so many thinkers of the

³ Elisha P. Hurlbut, *Essays on Human Rights and Their Political Guaranties* (Edinburgh, Scotland: MacLachlan, Stewart, and Co, 1847), 1.

⁴ John van Wyhe, *History of Phrenology on the Web*, "Overview" 1999-2011. Accessed August 21, 2013.
<http://www.historyofphrenology.org.uk/overview.htm>.

⁵ Charles Colbert, *A Measure of Perfection: Phrenology and the Fine Arts in America* (Chapel Hill, NC: University of North Carolina Press, 1997), xi.

nineteenth century, that century cannot be thoroughly understood without a knowledge of phrenology.”⁶ Because the science holds a key to understanding the nineteenth century, Hurlbut’s contribution to phrenology provided insight into the nineteenth century as a whole.

According to phrenologists, the brain was divided into sections that each held a specific function. Stern simplified the basic tenets of phrenology according to Gall. First, she wrote that the brain was the organ of the mind in the same manner that “the eye is the organ or instrument of sight.” Still, the brain was not just one organ with one function, but rather a network of organs that each held different functions. The power of the function of each faculty was determined by its size, according to Gall. Lastly, the size of each organ of the brain could be increased by exercise, just like other muscles in the body, “so a man is literally the master of his own mind.”⁷ Hurlbut defined Gall’s explanation of phrenology in a similar manner:

the size of the brain, or any particular portion of it, can in general be accurately enough determined from an outward examination of the human skull...the brain is composed of congeries of organs, each having its peculiar function, namely, the manifestation of a peculiar faculty, sentiment, or passion, and having that office alone.⁸

Consequently, Gall and later phrenologists believed they could determine a person’s character by inspecting each faculty represented by certain areas of the head. These specific organs of the head might tell about a person’s memory, ability to reason, or even specific moral and physical traits, such as benevolence or honesty.

⁶ Madeleine B. Stern, *Heads and Headlines: The Phrenological Fowlers* (Norman, OK: University of Oklahoma Press, 1971), xv.

⁷ Stern, *Heads and Headlines*, xi.

⁸ Hurlbut, *Essays on Human Rights and Their Political Guaranties*, 2.

Phrenology ascended and declined relatively quickly in the mid-nineteenth century, even though Hurlbut and some others continued its study later into the century. In particular, the popularity of phrenology boomed after the visits of Spurzheim, and a few years later, George Combe. Alexis de Tocqueville concluded about Jacksonian Americans that they felt “everything in the world may be explained, and that nothing in it transcends the limits of the understanding.”⁹ Phrenology helped to explain why people held the characteristics they did, even if it had not been proven. By understanding mental traits passed down through family, individuals had the ability to maximize the stronger faculties while trying to minimize the weaker ones.

The United States’ population never fully accepted the new science. Many theologians were threatened by phrenology, but about half of the doctors in Boston in the 1830s favored it. The medical community’s partial acceptance demonstrated that phrenology was gaining traction, not just in popular culture, but also in the academic realm. Demonstrating his doubts in *Moby Dick*, Herman Melville noted that the brain of a whale was at least twenty feet from its forehead. This separation in a mammal would discount many widely held beliefs about phrenology. John Quincy Adams wryly claimed that phrenology was a “plausible rascality that had bewitched the populace” of the United States.¹⁰ Consequently, Adams viewed the science much in the same manner that Hurlbut saw spiritualism.

There are several theories as to the decline of phrenology. Michael M. Sokal noted that the decline of the study of phrenology has yet to be explained effectively, but he claimed the cause was a shift in the “reform spirit” after the Civil War in which

⁹ Alexis de Tocqueville, quoted in Colbert, *A Measure of Perfection*, 7.

¹⁰ John Quincy Adams, quoted in Colbert, *A Measure of Perfection*, xv, 20, 27.

reformers became more focused on fixing “social ills” instead of placing emphasis on the individual.¹¹ Since phrenology was about individual character traits and how people could self-improve, the science was destined to fail at that time. Sharrona Pearl looked into the rise and fall of phrenology from the standpoint of another science: physiognomy. In essence, phrenology was an attempt at “scientizing physiognomy,” which Pearl noted was an older and similar science defined as “the study of facial traits and their relationship to character.” Because phrenology involved more than analyzing visible facial features, people tended to accept it as a more dignified and scholarly science. Pearl wrote that phrenology garnered more attention because it was “a more exact and superior scientific system that was less accessible, more expert, and therefore, more valuable.” Because phrenology offered self-improvement opportunities that did not exist in physiognomy, it found commercial success with speakers and entertainers that travelled the country. Still, because phrenology lacked “visible legibility,” which is part of the reason for its ascension, it was doomed to fail as a popular science since it was not more accessible to all people.¹²

Hurlbut never spoke negatively about phrenology, but he did acknowledge that it was a fading popular science by the time he was writing his journal. Like many scientists, phrenologists such as Hurlbut often sought confirmations of their hypotheses, yet chose to ignore evidence that contradicted the teachings of Gall. Phrenologists “readily and vociferously” accepted evidence that seemed to confirm the science, while rarely

¹¹ Michael M. Sokal, “Practical Phrenology as Psychological Counseling in the 19th-Century United States,” in *The Transformation of Psychology; Influences of 19th-Century Philosophy, Technology, and Natural Science*. Edited by Christopher D. Green, Marlene Shore, and Thomas Teo (Washington D.C.: American Psychological Association, 2001), 43.

¹² Pearl, *About Faces*, 189-191.

acknowledging information against it. For example, “if someone had a well-developed organ of Benevolence,” yet was disagreeable in nature, phrenologists claimed that other faculties of the brain overpowered that particular organ of the brain.¹³ In essence, the science could be more equated to astrology than one based on facts. Regardless, Hurlbut felt phrenology would rise to be more prominent and commonly accepted after his death, yet that never occurred.

Hurlbut considered himself to be a disciple Gall, the Viennese professor who founded phrenology, as he often cited him in his writing. “Gall was a clear-headed, patient, persevering and successful observer,” Hurlbut wrote in 1869.¹⁴ In particular, Hurlbut applauded Gall’s ability to overcome his critics, having a pliable response to all doubters of his science. He noted, “Dr. Gall and his disciples have demonstrated, by observation upon a world of facts, that the brain is the medium through which all human passion, sentiment, and intellect, are manifested.”¹⁵ To Hurlbut, Gall’s discovery that the size of particular portions of the brain affected personality traits was indisputable, yet Hurlbut also asserted that the stamina and density of the organ played a determining role as well. Gall was more than just a phrenologist, in Hurlbut’s estimation. He was “the most masterly and exhaustive reasoner” he ever followed, excelling ahead of “Bacon, Locke and all the metaphysicians.”¹⁶ As well read as Hurlbut was, his devotion to Gall surpassed all others.

¹³ van Wyhe, *History of Phrenology on the Web*, “Overview.”

¹⁴ Entry for 1 July 1869 in Hurlbut, *Journals*, Vol. V, 370.

¹⁵ Hurlbut, *Essays on Human Rights and Their Political Guaranties*, 2.

¹⁶ Entry for 16 January 1862 in Hurlbut, *Journals*, Vol. II, 454.

One reason Hurlbut praised Gall was his belief in nature over religion. Gall “had no patience for the abstract categories of thought created by philosophers.”¹⁷ This direct line of thinking certainly attracted Hurlbut in his studies of Gall. Like Hurlbut, “Gall was accused of irreligion.”¹⁸ While Gall might not have believed in the Christian God, Hurlbut felt Gall looked to a supreme power that guided nature. Gall believed all people had a choice between acting in a positive or negative manner, as humans were equipped with moral freedom. In particular, any person who was conscious of phrenology and his own traits was always a good and decent person, according to Hurlbut.¹⁹ Neither Gall nor Hurlbut believed God made these distinctions. Rather, nature afforded all people with specific faculties that helped to determine their actions.

Outside of Gall, two other phrenologists pushed the science to greater heights more than anyone else, especially in the United States. Both Spurzheim, in 1832, and Combe, in 1839, would travel across the Atlantic Ocean to deliver a series of lectures on phrenology.²⁰ Gall’s first follower and eventual partner, Spurzheim, further developed phrenology by providing it with more order and clarity.²¹ “Without Gall,” Hurlbut wrote, “we might never have had the first glimpses of phrenological truths; without Spurzheim they would have lacked order.”²² Together, Gall and Spurzheim helped create a science that George Combe, Scottish phrenologist and personal friend to Hurlbut, brought to a wider audience. Combe demonstrated the “practical benefit” of the science, helping

¹⁷ Colbert, *A Measure of Perfection*, 4.

¹⁸ Entry for 16 January 1862 in Hurlbut, *Journals*, Vol. II, 455.

¹⁹ Entry for 1 July 1869 in Hurlbut, *Journals*, Vol. V, 370.

²⁰ Colbert, *A Measure of Perfection*, 12 and Stern, *Heads and Headlines*, 29.

²¹ Entry for 1 July 1869 in Hurlbut, *Journals*, Vol. V, 370.

²² Entry for 16 January 1862 in Hurlbut, *Journals*, Vol. II, 454.

spread it through out Europe and the United States.²³ His seminal work, *The Constitution of Man and Its Relation to External Objects*, first published in 1828, sold over 350,000 copies, including 200,000 in the United States.²⁴ In contrast, Darwin's *Origin of the Species* only sold 50,000 copies in the United Kingdom in the nineteenth century, while the only books to outsell *The Constitution of Man* in the United States was *The Bible* and John Bunyan's *Pilgrim's Progress*.²⁵ Combe's celebrity status did not deter him from later creating a strong professional and personal bond with Hurlbut, to be discussed later, which lasted until Combe's death in 1858.

After Combe visited the United States, the Fowler brothers popularized the study of phrenology in the United States beginning in the 1840s, making large profits off of the science. After graduating college, Orson Squire Fowler said he wanted "to try [his] hand at phrenology, since [he] had nothing special to do." From an early age, the Fowlers saw phrenology as a lucrative profession. Lorenzo Niles and Orson Fowler, both well acquainted with Hurlbut, became the most renowned American phrenologists, selling books, pamphlets, and custom-made phrenological busts to a wide audience. The two brothers created one of the most popular entertainment acts on the east coast, filling lecture halls with their flamboyant acts, such as blindfolding or double-blindfolding themselves while analyzing a head to demonstrate their authenticity.²⁶ While they put on a show, they also raked in money from selling merchandise and examining heads of the

²³ Entry for 16 January 1862 in Hurlbut, *Journals*, Vol. II, 454.

²⁴ George Combe, *The Constitution of Man and Its Relation to External Objects*. Eighth Edition (Edinburgh: Maclachlan, Stewart, and Co., 1847) and Colbert, *A Measure of Perfection*, 20.

²⁵ Colbert, *A Measure of Perfection*, 20 and Van Wyhe, *History of Phrenology on the Web*, "George Combe."

²⁶ Stern, *Heads and Headlines*, 15-16, 18.

townspeople they visited. Mark Twain noted that the Fowlers were two of the most anticipated visitors to Hannibal, Missouri, where people massed to hear the lectures and to be examined for twenty-five cents a head. In addition, the brothers created and sold phrenological busts for \$1.25 each. By 1850, the Fowlers claimed to have the largest mail order list in New York City, with a market that spread all over North America.²⁷ It was clear that the Fowlers used the science to form a business empire. To them, it was more about the money than the heads.

Hurlbut was offended by the Fowlers' approach to phrenology because it was not purely for the advancement of science. Hurlbut claimed that while Gall made phrenology a "dignified science," the Fowlers "made it a shopkeeper's affair," made to profit off of "vulgar customers." Hurlbut did praise the brothers for spreading the science in the United States, but he did not feel that they did so in an appropriate manner. On the whole, though, he felt they "had done more harm than good, in degrading a noble science."²⁸ In this sense, Hurlbut thought their approach lacked a necessary seriousness to promote the science in the academic realm. Rather than wholeheartedly attempting to further understand phrenology, the Fowlers utilized it to form their lucrative enterprise. Like an artist who overproduces for a profit, Hurlbut thought the Fowlers eliminated the virtuous distinctions of the science.

In May 1867, Hurlbut brought home a phrenological bust marketed by the Fowler brothers (see Figure 8). He was upset that the Fowlers, or "charlatans" as he called them, changed the names of some of the mental faculties, and eliminated others, essentially remapping Gall and Combe's previous work. Hurlbut erased some new labels on the bust

²⁷ Stern, *Heads and Headlines*, 20,61-2, 84.

²⁸ Entry for 1 July 1869 in Hurlbut, *Journals*, Vol. V, 371.

that read “Human Nature” and “Sublimity,” rewriting the traditional phrenological terms in the correct locations, such as “Benevolence and Imitation” and “Ideality and Cautiousness.”²⁹ Hurlbut adhered to the Gall and Combe mapping of the head, feeling that the Fowlers altered the busts in a fashion to make additional profit. Regardless, Hurlbut purchased one, as the Fowlers were the primary producers of the busts in the United States. Ironically, their sister, Charlotte Fowler Wells, wrote a biography praising Hurlbut in *The Phrenological Journal and Science of Health*.³⁰ While Hurlbut did not advance phrenology on a global scale in the same way as the aforementioned scientists, he learned from them and applied the lessons to his immediate surroundings.

In July 1869, Hurlbut outlined phrenology’s impact on his life. He explained how, since the age of twenty-seven, his life had “been regulated by the principles of phrenology.” Studying the work of Gall and other phrenologists, Hurlbut “endeavored to discipline [his] faculties and to subdue and correct [his] faults” through his knowledge of the science. While Hurlbut utilized phrenology for self-improvement, he further employed his understanding of the science to judge society and to figure out how it could improve. “My estimate of men in society and business,” he wrote, “has been uniformly formed on phrenological principles, which have proved an almost unerring guide.”³¹ Whether using the science’s standards to help him in the courtroom, with business matters, or elsewhere, phrenology influenced most aspects of Hurlbut’s adult life.

Accordingly, phrenology influenced Hurlbut’s family life as well. He admitted his consciousness of his and family members’ temperaments as demonstrated by the

²⁹ Entry for 21 May 1867 in Hurlbut, *Journals*, Vol. IV, 551.

³⁰ Wells, “Sketches of Phrenological Biography: Elisha Powell Hurlbut,” 31-35.

³¹ Entry for 1 July 1869 in Hurlbut, *Journals*, Vol. V, 365.

science. This affected the manner in which he treated his wife and children.

Phrenologists often suggested specific traits that people should look for in spouses.³²

Because Hurlbut had diagnosed himself as having a “bilious-nervous constitution,” which could be associated with his hypochondriac tendencies and his frequent temper, he “selected a wife of the sanguine temperament” to balance him with a more positive outlook on life. Because of the traits his phrenological studies placed upon him, he married a woman who balanced out the negative aspects of his personality. As a result, the temperaments of his children seemed to be a mixture of traits as well. Hurlbut explained, “I used my knowledge of phrenology in the moral treatment of their infancy; and when they came to be educated, the principles of that science controlled me.”

Consequently, he taught the concepts of phrenology to his children as well, “instead of the ordinary so-called sciences of intellectual and moral philosophy.”³³ Hurlbut’s alternative method of education led his children to develop a unique, more progressive mindset than others in the mid-nineteenth century. While phrenology was a science on the decline, it helped to create an entire family of divergent thinkers in the Hurlbuts.

Upon meeting new people, Hurlbut was quick to introduce and defend the topic of phrenology. In one particular instance, when Hurlbut had been ridiculed by some men for his excitement in the science after measuring their heads and explaining their character traits, he invited the famed Lorenzo Fowler to make his own assessment on the men.³⁴ They claimed they would believe in phrenology if Fowler provided them with the correct measurements and explanations, as Hurlbut had claimed to do. After Fowler gave

³² Sokal, “Practical Phrenology,” 27

³³ Entry for 1 July 1869 in Hurlbut, *Journals*, Vol. V, 365.

³⁴ Wells, “Sketches of Phrenological Biography: Elisha Powell Hurlbut,” 31.

identical assessments as Hurlbut on each man, including telling one man that he “was fond of fast horses,” which all the other men acknowledged, the men at first decided Hurlbut had “coached” Fowler on what to say. Eventually, the doubters succumbed to Fowler and Hurlbut, as they knew Hurlbut well and understood he “would not state a falsehood to ward off a charge.”³⁵ Hurlbut found great satisfaction in winning an argument, whether friendly as this dispute, or more serious. In particular, he beamed with excitement when presented with the opportunity to convert others into believing in the alternative science.

Hurlbut met George Combe (see Figure 9) during his trip to the United States in 1836, just as Hurlbut began to study phrenology. After Combe completed his two years’ lecture tour, his students in New York presented him with an elegant silver vase.³⁶ Hurlbut, as chairman of the committee who presented the vase, spent significant time prodding Combe’s brain, both literally and figuratively, about the ascending science. The relationship that developed portrayed two friends who exchanged regular letters for over twenty years. In Hurlbut’s seminal work, *Essays on Human Rights and Their Political Guaranties*, Combe donated copious notes on the work before it was published, in addition to writing the preface.³⁷ In one letter to Hurlbut, Combe wrote that he and his wife had read the *Essays* together and that “it is difficult for me to express my admiration of it without appearing to flatter the author; but truly it is a work after my own heart.”³⁸

³⁵ Wells, “Sketches of Phrenological Biography: Elisha Powell Hurlbut,” 31.

³⁶ Wells, “Sketches of Phrenological Biography: Elisha Powell Hurlbut,” 34.

³⁷ Hurlbut, *Essays on Human Rights and Their Political Guaranties*.

³⁸ George Combe in letter to Elisha P. Hurlbut, dated 31 March 1846, transcribed in entry for 1 July 1869 in Hurlbut, *Journals*, Vol. IV, 403.

In Volume Four of the journal, “to make a complete record” between the two men, Hurlbut transcribed over ten letters written by Combe to Hurlbut, dated between May 1839 and May 1855, that showed a dialogue on various philosophical and scientific matters, although Hurlbut noted that some letters had been lent to other men who never returned them.³⁹ These correspondences depicted two men who only met several times, yet showed that they regarded each other in the highest esteem. Combe always inquired about Mrs. Hurlbut, and frequently told of his travels with his wife.

To Hurlbut, Combe was phrenology’s greatest innovator. Because Combe had married into substantial wealth, he did not do lecture tours for the money.⁴⁰ Unlike the Fowlers, Combe’s pure approach to the science attracted Hurlbut. While acknowledging that Combe’s influence was not universal, *The Constitution of Man* presented the greatest advance in the science.⁴¹ Consequently, his work held its greatest significance to Hurlbut and other phrenological followers, but it clearly did not have a lasting impact as phrenology was on the decline in the second half of the nineteenth century. In particular, the religionists always avoided the influence of phrenology as they felt threatened by what the science could mean for their beliefs. Still, among liberal-minded scholars, Combe’s philosophy found success. Hurlbut wrote:

For myself I can say that I owe almost all I possess of intellectual and moral truth to his guidance. Nay – my success in life – whatever I have had – my self-discipline and self-knowledge – my knowledge of mankind and their springs of action – in a word whatever of practical wisdom I may possess, I can justly attribute to the teachings of this great master.⁴²

³⁹ Entry for 1 July 1869 in Hurlbut, *Journals*, Vol. IV, 397-421.

⁴⁰ Colbert, *A Measure of Perfection*, 22.

⁴¹ Entry for 31 August 1858 in Hurlbut, *Journals*, Vol. I, 203 and Combe, *Constitution of Man and Its Relation to External Objects*.

⁴² Entry for 31 August 1858 in Hurlbut, *Journals*, Vol. I, 204.

While Hurlbut acknowledged Gall's importance as he created the science, he gave Combe credit for expanding his knowledge of the science and demonstrating how to apply it his everyday life.

In his preface to *Essays on Human Rights*, Combe gave a general opinion on the science of phrenology. First, he claimed that Gall's discoveries on the brain "accomplished for mental philosophy what the discoveries of Kepler, Copernicus, Galileo, and Newton had previously done for astronomy." As Hurlbut also claimed, Gall's innovation matched the work of the most renowned scientists in western civilization. In addition, Combe wrote, phrenology "brought to light several elements of human nature which the metaphysicians had failed to discover, and given certainty to the existence of several which had been with them subjects of dispute."⁴³ In particular, he asserted that phrenology connected the mental organs with the external world more successfully than had been accomplished beforehand. These developments, of which Combe was the frontrunner, influenced Hurlbut to connect the science with his daily activities, whether arguing about the role of government or disputing the credibility of Christianity.

One place the two friends differed was in their belief in God. Combe, a theist, believed phrenology could help men come closer to understanding God. The two exchanged religious views often, yet never came to an agreement. This was their sole disagreement, as the two "only differed on this," because Combe believed in a "design and a designer in nature," while Hurlbut "denied the capacity of man either to affirm or

⁴³ George Combe, preface to *Essays on Human Rights and Their Political Guaranties*, by Elisha P. Hurlbut, iii.

deny the theist's proposition."⁴⁴ As Hurlbut believed in the power of nature, Combe argued that an entity in nature, or more specifically the Christian God, held control. Regardless of the "present generation of small 'scientists' – and smaller religionists...Mr. Combe will guide future generations to true virtue and happiness."⁴⁵ Consequently, even though Combe was a Christian, Hurlbut believed Combe's phrenological work would eventually push civilizations in a positive direction for all people regardless of their faith.

Combe's death left Hurlbut in a period of despair. Several days after receiving the news of Combe's passing, Hurlbut acknowledged that he could "not banish the death of Mr. Combe from [his] mind. It makes a great void."⁴⁶ Hurlbut was prone to periods of temporary depression, and the death of Combe seemed to thrust him into one of these periods. Three days later, Hurlbut lamented, "there seems to me to be more than the loss of a friend in Mr. Combe's death. The world is not the same without him; and I am not the same."⁴⁷ Even though the two were separated by the Atlantic Ocean, their likeness in mind forged a bond that when broken by death, greatly affected Hurlbut. Hurlbut would continue to emphasize Combe's influence on his life throughout the journal.

Although many phrenologists influenced Hurlbut's work, he derived many of his own opinions on the practical uses of the science. Although van Wyhe claimed that phrenologists only considered the size of various parts of the head, Hurlbut did not feel the same way.⁴⁸ Rather, Hurlbut wrote, "size is never to determine the case, alone. The

⁴⁴ Entry for 31 August 1858 in Hurlbut, *Journals*, Vol. I, 204.

⁴⁵ Entry for 5 September 1858 in Hurlbut, *Journals*, Vol. I, 210.

⁴⁶ Entry for 2 September 1858 in Hurlbut, *Journals*, Vol. I, 207.

⁴⁷ Entry for 5 September 1858 in Hurlbut, *Journals*, Vol. I, 210.

⁴⁸ van Wyhe, *History of Phrenology on the Web*, "Overview."

endurance, the activity of the mental system, are owing to temperament.” Consequently, Hurlbut argued that the stamina of the specific mental faculties could vary, regardless of the size of the organ. “If size and temperament are favorable to a proper symmetry” when combined, Hurlbut asserted, “we look to complete the man.”⁴⁹ Considering most phrenologists only considered the size of portions of the head, Hurlbut appeared to be a more progressive phrenological thinker than the other scientists. As such, he did seem to make enhancements on what he had learned on the science, but he did not promote his discoveries in the same manner as Gall, Spurzheim, Combe, or even the Fowler brothers.

While all men were entitled to the same rights according to the United States’ Constitution, Hurlbut would not argue that all men were created equal. Phrenology demonstrated a disparity among men in regards to their mental capacities. Hurlbut asserted “that there are vast individual and national differences in respect to both intellectual and moral endowments, and that this difference is mainly dependent upon their physical organization.” Consequently, all men have similar faculties compared with each other, as opposed to another species, yet the physical disparities between each man’s head caused differing mental traits. Differences in these mental faculties arose from the mental organs’ size, strength, stamina, and how it combined with the other faculties. Still, all men possess the same faculties of the mind, but there was a “difference in *degree*, although none in *kind*.”⁵⁰ These differences were depicted by the wide spectrum of intelligence levels. According to Hurlbut, those whose mental faculties were not in tune

⁴⁹ Entry for 1 July 1869 in Hurlbut, *Journals*, Vol. V, 366.

⁵⁰ Hurlbut, *Essays on Human Rights and Their Political Guaranties*, 3.

with nature were the same people who should be excluded from public affairs.⁵¹ So, if one's mental faculties directed him towards violence, ignorance, or any other trait that was detrimental to being able to function in civilized society, then they should be barred from holding public office, voting, or any other governmental matters. While Hurlbut felt all people were entitled to equal rights, he felt limits could be set toward those who could not handle their negative faculties.

Hurlbut made frequent connections with phrenology and human rights that he believed all people should be afforded. From his studies, he felt "clear that phrenology points to a democratic republic, as the true government, but it extends the suffrage to all the people of both sexes, who are old enough to be morally responsible for their actions."⁵² He wrote two interesting points here. First, that phrenology favored a democratic government because it demonstrated that all people potentially held the mental capacity to make educated decisions on what is best for them. These decisions would come innately because natural instincts guide individuals. Second, he noted that men and women demonstrated small differences according to phrenological studies, but not enough to keep women from participating in governmental affairs as effectively as men. As noted in the first chapter, Hurlbut fought for equality for all women according to the law.

One section of society that sought Hurlbut's expertise in phrenology was the criminal justice system. He thought criminals were a beneficial group to study from a phrenological point of view because their cerebral measurements might explain people's actions more thoroughly. When writing about punishment, Combe cited a principle of

⁵¹ Hurlbut, *Essays on Human Rights and Their Political Guaranties*, 3.

⁵² Entry for 16 January 1862 in Hurlbut, *Journals*, Vol. II, 454.

Hurlbut, noting that “society has no right to take the life of the condemned, the ends of justice being accomplished when the ability of the criminal to do harm has been effectively restrained.”⁵³ Once these men and women were secure from causing harm to others, Hurlbut felt they could benefit society through phrenological examinations. As a result, he did not approve of capital punishment.

Specifically, Eliza W. Farnham, the matron of the Female Prison at Sing Sing in Ossing, New York, sought to make reforms with how she handled convicted criminals, and she looked to Hurlbut for help. Although Madeleine B. Stern credited Lorenzo Fowler with giving his “blessing” to make phrenological studies on the prisoners, Hurlbut seemed to give Farnham more direct help.⁵⁴ Hurlbut aided Farnham when she wrote a “pamphlet on criminal jurisprudence, with “both his suggestions and his pen.”⁵⁵ In particular, he provided her a quick course in phrenology, which was outlined in letters between the two written in 1845 that were transcribed in the journal in 1865. In a letter dated December 9, 1845, she sent head measurements to Hurlbut where she cited the data from eighty prisoners on the following: “Sise of head,” [sic] “Moral region,” “Cerebellum,” “Intellectual Region,” “Propensities,” “Acquisitiveness,” “Superior, posterior region,” and “Conscientious,” although the “Conscientious” measurements were not included because she “found but 5 cases in which the organ is worthy of being mentioned.”⁵⁶ As most who studied phrenology tended to do, Farnham focused solely on the size measurements in her descriptions. While Hurlbut understood what she was

⁵³ Wells, “Sketches of Phrenological Biography: Elisha Powell Hurlbut,” 35.

⁵⁴ Stern, *Heads and Headlines*, 39-41.

⁵⁵ Wells, “Sketches of Phrenological Biography: Elisha Powell Hurlbut,” 31.

⁵⁶ E.W. Farnham in a letter to Elisha P. Hurlbut dated 9 December 1845 transcribed in entry for 6 September 1865 in Hurlbut, *Journals*, Vol. IV, 235-6.

attempting to measure, he noted her amateurism in his reply.⁵⁷ In response, Hurlbut explained that there was more to reading the heads than size. In addition, he admitted phrenology's founders had also focused on size, as Hurlbut had initially, but he explained to Farnham that "temperament, symmetry, roundness or fullness of the convolutions—and in respect of the intellectual faculties, the breadth of the frontal region" were just as important.⁵⁸ He continued to explain the significance of each of these elements of phrenology to show how they mattered too.

Hurlbut told Farnham that he frequently studied the temperament of his phrenological subjects. He readily admitted that he could not tell the function of the brain just by measuring the head of its owner, but by noting the temperament of that person, he might be able to tell something. For example, he wrote that "a brain the size of Webster's (presumably Noah Webster of *Webster's Dictionary*, although he could also be referring to Daniel Webster, who would have been a senator in Massachusetts at the time of the letter) of the lymphatic temperament, or even the sanguine lymphatic, will be far less effective than a small sized brain the same shape." He used the phrenological terms to explain that the size of the brain was irrelevant if the contents of it were manipulated. In comparison, he demonstrated that a small piece of gold was still more valuable than a piece of copper five times its weight.⁵⁹ It took Hurlbut years of observation to come to this conclusion, but he did believe that there was much more to the science than the size of one's head. In 1845, he beliefs were advanced, but most other

⁵⁷ Elisha P. Hurlbut in letter to E.W. Farnham, dated 10 December 1845 transcribed in entry for 6 September 1865 in Hurlbut, *Journals*, Vol. IV, 238.

⁵⁸ Hurlbut in letter to E.W. Farnham, dated 10 December 1845, in entry for 6 September 1865 in Hurlbut, *Journals*, Vol. IV, 237.

⁵⁹ Hurlbut in letter to E.W. Farnham, dated 10 December 1845, in entry for 6 September 1865 in Hurlbut, *Journals*, Vol. IV, 237.

phrenologists would agree with him by the time he copied this letter into the journal twenty years later.

Next, Hurlbut explained to Farnham the importance of symmetry. He iterated that one with symmetrical features combined with “a fine temperament” provided “moral and intellectual perfection.” While a small variation in the symmetry of the head did not ruin a person’s mental capacities, a more considerable departure led to a more eccentric character, often times depicting impulsivity and criminal behavior.⁶⁰ Hurlbut would be the first to admit that not all people fit these descriptions perfectly, but he argued that they were more inclined towards specific behavior based on asymmetrical imperfections.

Hurlbut continued to give descriptions of various types of measurements that Farnham could examine on her prisoners to obtain an even more in-depth understanding. He explained, “round and full convolutions are indicative of strength,” and by measuring the “breadth of the intellectual region,” might explain the activity level or mental strength of the subject.⁶¹ To obtain a comprehensive phrenological understanding of a person, many measurements would be necessary, and they would have to be compared with each other and related to the criminal’s prior behavior. For this reason, in 1845 when these letters were written, “phrenology was the rule” in prisons and lunatic asylums, according to Hurlbut.⁶² These locations provided a fertile ground for phrenology to excel, as the inmates were deemed deviant to society because of specific actions they had committed

⁶⁰ Hurlbut in letter to E.W. Farnham, dated 10 December 1845, in entry for 6 September 1865 in Hurlbut, *Journals*, Vol. IV, 237.

⁶¹ Hurlbut in letter to E.W. Farnham, dated 10 December 1845, in entry for 6 September 1865 in Hurlbut, *Journals*, Vol. IV, 237-8.

⁶² Entry for 6 September 1865 in Hurlbut, *Journals*, Vol. IV, 239.

in their past. As a result, phrenologists were able to compare the head measurements with the documented character flaws to attempt to understand the science better.

A particular physical feature typically accompanied specific phrenological characteristics, according to Hurlbut. He explained that “pride, vanity, combativeness, avarice, amativeness, veneration, marvelousness, and hope,” when “large or intensely active” had peculiar features, which enabled phrenologists “to read mankind pretty well.”⁶³ Just by looking at someone, without taking any measurements, Hurlbut felt confident he could explain some of his or her characteristics. After years of phrenological education, this was true, or he allowed his own mental desires to lead him astray.

After spending the majority of his adult life studying phrenology, it was not surprising that Hurlbut thought the science should be taught to all young people. Even though Combe “admitted that Phrenology has created no new faculty, and that every mental quality of which it treats existed and operated before Dr. Gall was born,” Hurlbut felt that if people understood the science, they might monitor and control their own temperaments more closely.⁶⁴ Since it was of significant value to understand what motivated man, Hurlbut professed that teaching phrenology to a wider audience could only benefit society as a whole. Because the clergy, “who mainly control education...are still fooling with Moses and religion, and the old metaphysical philosophies,” most people would fail to benefit from what Hurlbut considered to be a practical science.⁶⁵ Because he taught phrenology to his children, he believed they had an advantage over

⁶³ Entry for 1 July 1869 in Hurlbut, *Journals*, Vol. V, 368.

⁶⁴ Combe, preface to *Essays on Human Rights*, iii.

⁶⁵ Entry for 1 July 1869 in Hurlbut, *Journals*, Vol. V, 365.

most of society who was deprived of the opportunity to know more about the mind of their fellow man. By understanding their own mental faculties, the prospects for self-improvement were more accessible for the younger generation than for those who missed the opportunity to learn phrenology.⁶⁶

Hurlbut made it his personal mission to educate his children on phrenology. He was so enamored with the alternative science that he began teaching his two oldest children, Nettie and Bertha, about it in 1862, when they were eleven and nine years old, respectively.⁶⁷ Within two years, the daughters understood the anatomy of the brain and were able to recite each organ's functions, according to what Hurlbut had taught them. He felt tremendous pride and excitement at being able to share what he had learned from the famous phrenologists, especially Combe, whom the girls would have never met.

From their phrenological studies, Hurlbut explained that his children were:

good judges of human character and motive at a very early age. They read biography, history, fiction and the drama, with a greater interest, and better understanding, than they could otherwise have done. They judge of the characters of those whose pictures they see, with greater accuracy. They make an independent and intelligent estimate of public and historical characters—instead of taking the word of their writer or eulogist.⁶⁸

Because he had taught them to notice people, whether alive, dead, or fictional, from a phrenological point of view, they were able to decipher character traits effectively. In reality, Hurlbut's children had no other option than to view the world as he taught them. Hurlbut always claimed he raised well-rounded children who were exposed to many kinds of literature and philosophies. While this was true, he most certainly solicited

⁶⁶ Colbert, *A Measure of Perfection*, xii.

⁶⁷ Entry for 11 January 1862 in Hurlbut, *Journals*, Vol. II, 446.

⁶⁸ Entry for 1 July 1869 in Hurlbut, *Journals*, Vol. V, 365.

phrenology, as he started them on its study at such a young age. Bertie took the most interest in it, as she understood “every principle, which she finds laid down by Mr. Combe” by the age of twelve, causing Hurlbut to remark that she was “a disciple of whom Dr. Gall would have been proud.”⁶⁹ Bertie’s and the other children’s scholarship in phrenology made Hurlbut proud, especially since the science was largely ignored from the mid-nineteenth century on.

Even though phrenology had been largely discredited by the time Hurlbut wrote his journal, it never obtained the popularity he thought it should have received. Van Wyhe asserted, “even during the peak of its popularity between the 1820s and 1840s, phrenology was always controversial and never achieved the status of an accredited science.”⁷⁰ For Hurlbut, he simply did not understand why it was ignored, yet he felt it was destined to return to prominence. According to him, phrenology was “destined to be accepted as the only mental philosophy worthy of attention.”⁷¹ For that to happen, it would be necessary for religionists to begin to accept the science as well. In Hurlbut’s opinion, the science failed to gain popularity because “of the priestcraft warring against science,” as it could endanger the belief in the spirits and the supernatural stories of the Bible, thus helping to enable skepticism in Christianity’s core beliefs.⁷² If phrenology had been taught to the masses, Hurlbut felt the more scientific mindset would engulf the people, possibly affecting the Church. As his friend Combe remained a Christian, that assertion was not necessarily true.

⁶⁹ Entry for 22 April 1865 in Hurlbut, *Journals*, Vol. IV, 151 and entry for 7 August 1865 in Hurlbut, *Journals*, Vol. IV, 229.

⁷⁰ van Wyhe, *History of Phrenology on the Web*, “Overview.”

⁷¹ Entry for 28 January 1868 in Hurlbut, *Journals*, Vol. V, 89.

⁷² Entry for 1 July 1869 in Hurlbut, *Journals*, Vol. V, 367.

Regardless, Hurlbut was positive that phrenology would rise to the status he felt it deserved. To him, Gall was as influential as any that preceded him. Hurlbut wrote, “Bacon slumbered for years—and even Shakespeare found a time when he was neither acted nor read. Milton once mouldered on the shelf, unread and unhonored.”⁷³ Likewise, Gall too, who according to Hurlbut made one of the greatest scientific discoveries, would rise to international prominence once again. Hurlbut claimed that Gall’s science, with improvements from the likes of Spurzheim and Combe, made two exceptional conclusions regarding the composition of the brain. It provided “an innate sense of right, and an innate sense of the Deity--- these it has proved to have their seat in the brain, and thus has laid a true natural foundation for religion, morals, order and government.”⁷⁴ Consequently, the science of the mind led all men to naturally understand right and wrong, in addition to the mind creating a sense of a higher power that guided all life. As a result, he demonstrated the basis for why man created order through government. Even in the eighth volume of the journal, Hurlbut still claimed, “the world will come back to [phrenology] before two generations shall pass away.”⁷⁵

While Hurlbut enjoyed arguing the merits of the science for society as a whole, he also delighted in practicing phrenology on his own time. He regularly took measurements of his children’s heads. In addition, he frequently spoke of the positive and negative faculties of the mind that affected both him and those around him. In his first entry in the journal in March 1858, Hurlbut showed his love for the science by

⁷³ Entry for 1 July 1869 in Hurlbut, *Journals*, Vol. V, 367.

⁷⁴ Entry for 11 January 1862 in Hurlbut, *Journals*, Vol. II, 446.

⁷⁵ Entry for 17 May 1878 in Hurlbut, *Journals*, Vol. VIII, 125.

providing Bertie's head measurements from when she was two years old in 1852, and compared with her measurements at the time of the entry.⁷⁶ He continued for the next twenty-nine years to provide measurements and phrenological assessments on his wife, the other three children, friends, enemies, acquaintances, and famous individuals, both dead and alive. He demonstrated his dedication to the science when putting it to use, as opposed to defending it.

Hurlbut was quick to point out both his own positive and negative traits as determined by his own phrenological measurements. In one self-assessment, he explained:

Phrenology taught me to keep a watch on approbateness—and I have schooled my excess of vanity not a little. I am by nature highly endowed with veneration—but at the same time another endowment of causality, comparison and quick sense of the ludicrous, has put veneration in a rather tight place--and I have rejected all the objects of vulgar veneration— and reached out wider and higher than most people, to find an object on which to rest my instinctive reverence; thus rejecting all the vulgar divinities—and substituting Infinitude—the Universe—its Time, Space, Motion and qualities—as the only means of gratifying the desire of worship, acceptable to an enlightened mind.⁷⁷

He remarked on specific traits of the organs of the head that were excessive, and he demonstrated that he consciously acted on that knowledge. For example, he decided he was high in vanity, so he made sure to monitor that fault. Of course, he was quicker to reveal his positive attributes, which allowed him to reject the “vulgar veneration” that could have led him to praise the Christian God or other deities he did not believe in. Rather, he was able to revere all the qualities of nature that dictated life, according to him.

⁷⁶ Entry for March 1858 in Hurlbut, *Journals*, Vol. I, 2-3.

⁷⁷ Entry for 1 June 1868 in Hurlbut, *Journals*, Vol. V, 137.

One particular fault Hurlbut attributed to himself came from his enlarged Destructiveness and Combateness faculties. Because of these traits that he felt he inherited from his father, he claimed, “when the weather is ill or things go wrong with me – I hold life exceedingly cheap.”⁷⁸ He blamed his irritable temper on these particular faculties. During the Civil War, he explained that his Destructiveness organ inflamed as a result of excitement, thus causing “dull pain, and tenderness and itching of the scalp over the ear, at [the organ’s] precise location, and not elsewhere.” As the organ was utilized more, Hurlbut claimed he could feel it changing shape. He noted that the symptoms were particularly aggravated as a result of the assassination of Abraham Lincoln.⁷⁹ Because Hurlbut was so influenced by the science, he might have imagined inflammation in these locations. Still, as one who, by 1865, had spent thirty years studying phrenology, he was confident in his assertions.

For each family member, he monitored their phrenological development. Primarily, he was concerned with their temperament. While he wrote details on each person throughout the journal, he gave a brief synopsis of each family member in October 1867. He suggested that the “bilious” temperament existed in himself, Nettie, and Ernest. They displayed this temperament with notable negative moods. The “sanguine” and “nervous” temperament affected every member of the family.⁸⁰ Because of this, they exhibited optimism, but in an anxious manner.

Hurlbut gave more specific measurements on the children throughout the journal. In these entries, he provided measurements in inches of specific parts of the their heads.

⁷⁸ Entry for 21 May 1867 in Hurlbut, *Journals*, Vol. IV, 551.

⁷⁹ Entry for 22 April 1865 in Hurlbut, *Journals*, Vol. IV, 151.

⁸⁰ Entry for 21 October 1867 in Hurlbut, *Journals*, Vol. IV, 614.

For example, in his first entry he showed that he had measured Bertie's head at two years old:

- 6 . inches front to rear – at root of nose and Philoprogenitiveness.
- 5 and 5/8 inches through above ears, at Destructiveness.
- 4 . inches width of base of forehead.
- 4 . inches width of top of do.
- 20 . inches round head at top of eyebrow and ears.⁸¹

He used the specific measurements to gage character traits. If his child was sick, or at landmark moments in their lives, Hurlbut would take additional measurements to see if anything on their mental organs were inflamed. On Ganie's first birthday, he recorded:

His head measured today (but he was uneasy and I am not quite exact) about this:

- 6½ inches through from Individuality to Philopro.
- 5½ inches through ear from Dest. to Dest.
- 12½ inches over the crown from center of ear to ear touching firmness
- 18 inches round the head—over eyes—and Dest. and Philo.
- Temperament nervous sanguine lymphatic.⁸²

These precise measurements meant little to most of the world, but they provided Hurlbut with what he considered a roadmap for his children.

In addition to taking measurement on friends and relatives, Hurlbut loved to analyze paintings and photographs of some of the most influential people from the United States and the world as a whole. Phenology had penetrated popular culture by the mid-nineteenth century in a way that both historic and contemporary art pieces were analyzed through a phrenological lens.⁸³ If an actor or artist ignored certain traits, then his work

⁸¹ Entry for March 1858 in Hurlbut, *Journals*, Vol. I, 2.

⁸² Entry for 8 November 1858 in Hurlbut, *Journals*, Vol. I, 250.

⁸³ Colbert, *A Measure of Perfection*, xv.

failed altogether, in Hurlbut's estimation.⁸⁴ Because of artists' representations throughout time, Hurlbut believed phrenologists could dive deeper into the past by bringing to light character traits of men and women who had been long deceased. Hurlbut loved to see new artist renditions of historical figures, whether an old Roman emperor, Shakespeare, Gall, or others, because he felt he could figure out something about their personality. The artists' "indirect tribute paid to phrenology" let Hurlbut both admire and "bear scrutiny" on proportioned and disproportioned heads, alike. He felt that all people, not just phrenologists, benefitted from artists' renditions of historical figures:

Indeed it seems to be true, that while the clergy condemn, and the philosophers and teachers ignore this science, that it still creeps into our literature, is used by scientific men without acknowledgment—and has a large, general influence among the unlearned populace.⁸⁵

In other words, even those men who refute and ignore phrenology learn from it through the arts.

Hurlbut was particularly interested in Shakespeare's head. Since Hurlbut considered Shakespeare to be "the great master of British literature," he became particularly excited when an acquaintance came in contact with a plaster bust said to represent Shakespeare that recently had been discovered at the Globe Theatre.⁸⁶ Hurlbut immediately showed this man the representations he owned of Shakespeare, asking him to say which one most resembled the bust. In one meeting with Horatio Seymour, the former governor of New York told Hurlbut that his head closely resembled that of Shakespeare, which Hurlbut responded he was "of course [Seymour's] debtor."⁸⁷ In

⁸⁴ Entry for 1 July 1869 in Hurlbut, *Journals*, Vol. V, 368.

⁸⁵ Entry for 1 July 1869 in Hurlbut, *Journals*, Vol. V, 366, 369.

⁸⁶ Entry for 26 August 1863 in Hurlbut, *Journals*, Vol. III, 417.

⁸⁷ Entry for 27 January 1869 in Hurlbut, *Journals*, Vol. V, 266.

Hurlbut's opinion, Shakespeare's mental organs explained why his works made him a genius.

In February 1862, Hurlbut wrote six pages in his journal providing phrenological assessments of other notable and famous people, mostly contemporaries of himself. His wife had collected the photographs he analyzed over the previous year. In addition to Civil War figures such as Abraham and Mary Todd Lincoln, Jefferson Davis, George McClellan, and numerous other Confederate and Union generals, Hurlbut also examined photographs of other notable historic men like Kit Carson, Henry Clay, Ralph Waldo Emerson, George Bancroft, and James Fennimore Cooper.⁸⁸ As Hurlbut felt his journal provided one of the best social commentaries of the nineteenth century, he was happy to share his phrenological assessments of notable figures.

A sample of his phrenological analyses demonstrated positive and negative opinions of these famous men. In his description of Kit Carson, he wrote, he “portrays Indian blood in his picture...his head and face are what might be expected from history. He fears neither man nor elements; neither hunger, frost, fire nor famine...there are manliness, generosity and fidelity stamped on the head and features of this man.” His admiration for Carson beamed through his phrenological description of the frontiersman. On Lincoln, he referred to him as “a homely man, with the plebian cheekbone; but he has a large frontal region, and possibly can think much better than he can write; if not, it is a pity.” Even though Hurlbut did not have a favorable opinion of the president, he acknowledged a strength demonstrated by the shape of his head. He did admit that Jefferson Davis appeared to have “a good military brain,” but the “moral region of his

⁸⁸ Entry for 10 February 1862 in Hurlbut, *Journals*, Vol. II, 508-514.

brain seemed to be truncated; and so this rebel has no conscious and feels no remorse.”⁸⁹

In reality, Hurlbut knew enough about the science that he could find either positive or negative traits on any head he analyzed. His prior opinions on the people more than likely determined his phrenological reading.

Hurlbut found more satisfaction when studying and exercising phrenology than anything else in his life. “Those were the happiest days of my life,” he wrote, “when the subject of phrenology, then new to me, became an engrossing study—from 1835 to 1845—during which I gave it all the attention I could afford to divert from my professional pursuits.” The hobby provided an escape, as well as an enhancement, to Hurlbut’s law career. As a result, he was able to spend time studying science rather than religion as many of his contemporaries devoted their time. In remembering his years studying the science, he had “the pleasure, not only of following the facts and reasonings of its great masters, but of the pleasant recollections of those years which are associated with phrenology.” Because he was a young professional, just beginning his life, Hurlbut was able to associate those years of learning the science as the happiest of his life. In addition, he reveled in the “freedom from anxiety and care, such as a man of family must always experience,” as he “had neither wife nor children, nor the cares of property, beyond a thought for the moderate surplus” from his earnings.⁹⁰ Essentially, he was happiest living the life of a bachelor, doing what he most loved, which in his case was expanding his knowledge of phrenology, while making a living as a lawyer.

⁸⁹ Entry for 10 February 1862 in Hurlbut, *Journals*, Vol. II, 512-3.

⁹⁰ Entry for 16 January 1862 in Hurlbut, *Journals*, Vol. II, 455.

Upon Combe's death in 1858, Hurlbut took time to reflect upon Combe's lasting impact on his life. When Hurlbut "first made [Combe's] acquaintance" at thirty years old, Hurlbut was "just well-established in business in the city, and full of hope and joy."⁹¹ As he grew older, whether practicing law, sitting on the bench, or writing in his journal on an almost daily basis, Hurlbut lost that flare for life that he cherished in earlier days.

Hurlbut loved his family, but it was not his wife and children that made him most content. Rather, he acknowledged a sadness in his "sober years," which he partially attributed to his enlarged Combativeness and Destructiveness organs.⁹² But it was his time spent learning phrenology, and with George Combe in particular, that made Hurlbut feel like he positively contributed to society. By promoting a science that framed the way he approached life, he felt like he was creating positive change both to those around him and the United States as a whole.

Revisiting Hurlbut's journal entry for October 13, 1870, where he contemplated Robert E. Lee's death, Hurlbut was thrust into a self-reflective moment. On this day, he wrote:

The wicked die, as well as the good – there is some comfort in that. For myself, I claim no exemption from the frailties of humanity; but as a citizen, I have never in thought, word or deed, done injury to my country; as a lawyer I never did aught that could tend to lower my profession; and as a man, I have loved justice more than wealth or honor. But I was never pious like Jeff. Davis and Lee – and shall probably die without notice – and perhaps be damned.⁹³

⁹¹ Entry for 1 September 1858 in Hurlbut, *Journals*, Vol. I, 210.

⁹² Entry for 1 September 1858 in Hurlbut, *Journals*, Vol. I, 210.

⁹³ Entry for 1 October 1870 in Hurlbut, *Journals*, Vol. V, 655.

Because Hurlbut lacked the typical religious devotion so common amongst others of his time, he feared he might die unnoticed, or possibly with declared contempt from his contemporaries. Still, Hurlbut understood that all people, whether virtuous or villainous, expired with time. Hurlbut understood that the legacy of Lee, although a traitor, would be enshrined in the annals of history. For himself, however, Hurlbut correctly realized that his name would disappear soon after his death.

Over the course of history, people have had a way of forgetting some the most significant and influential people. While Lee, who betrayed his country, has gone down in the pantheon of notable American figures, many American patriots such as Hurlbut have either disappeared or failed to make the history books. Perhaps Hurlbut wished to fade into history's abyss. If not, he certainly would have made sure his journal found the right publisher soon after his death, if not before. Of course, his boisterous and proud personality suggested he wanted to be remembered throughout time, like his favorites Thucydides and Plutarch, Bancroft and de Toqueville, and other social commentators of which he commented on regularly. While his most valuable commentary, preserved in the journal, has gone unnoticed, his potential importance as a contributor and commentator on the New York political scene, the Civil War, phrenology, and late nineteenth-century life is indisputable. The journal depicted Hurlbut to be one of the greatest social commentators of the nineteenth century, even though it has been held from public access since his death.

The depth and breadth of Hurlbut's journal held a wealth of information on countless topics. While this study scratched the surface on three important aspects of Hurlbut's life, the journal offered insight into many other subject areas. Full studies of

the Civil War could be taken from his opinions alone, as he commented on the day-to-day events of the war. Copious insights on the religious fanatics in New York received his outsiders' view, as he frequently remarked on what became known as the "Burned-Over District" and the spiritualists that captivated New York after the 1840s. Hurlbut provided a detailed account of Boss Tweed's corruption in Tammany Hall in the 1870s. In addition, by examining the daily minutiae of the journal, an interesting social history on his life within the household would be available, ranging from health precautions to travel logs to home expenses.

Attempting to consolidate information from the journal in connection with Hurlbut's published essays proved to be a difficult task. With the dearth of secondary sources about his life, most of this study was put together through the journal. The issues arose because the biographical information that was out there focused on his professional career, yet it had little overlap with the time period in which he was writing the journal. What was evident from the journal was Hurlbut's consistent sense of who he was. He always believed in standing up for those who could not defend themselves, especially in the eyes of the law. Although his religious views held more dynamism, he always believed in helping others and felt that all people should be held to a strict set of morals. In addition, he continued to preach the benefits of phrenology, even after mainstream scholars had marginalized the science.

Hurlbut was a loyal and passionate friend. If he respected someone, then they could count on his unquestioned loyalty. George Combe learned that first-hand during and after his tour of the United States. Of course, that respect was difficult to earn. Regardless of wealth or power, one's moral character was paramount to Hurlbut.

Perhaps more than anything in his life, Hurlbut loved justice. Fitting for a lawyer and judge, this love guided every pursuit of Hurlbut's throughout his long life. While he cared deeply about his lasting legacy, he understood that it would probably be short-lived, even though he saw value in it.

Hurlbut always took time to reflect on the lives of those he outlived. Whether ancient or contemporary war heroes, writers, politicians, or simply his neighbors, Hurlbut typically expressed his attitudes toward the deceased in a remarkably honest fashion, never afraid to denigrate the defenseless dead. In public, it was possible, but not regular, for him to restrain his emotions. His impassioned temper even irked his closest friends, as one companion recounted, "[Hurlbut] became not only blasphemous but violent" during an interaction in 1876.⁹⁴ But it was in his journal where he wrote his true, uncensored thoughts. Hurlbut's passion for spirited discourse shaped his approach to the world and seeped through both his spoken and written dialogue until the final years of his life.

Today, Elisha Powell Hurlbut's legacy is minimally known, even in Albany. Although a Supreme Court judge and an influence on female heroes Elizabeth Cady Stanton and Susan B. Anthony, Hurlbut quietly faded into New York history, much as he did in his later life at Glenmont on the Hudson. In 2010, a blogger from Albany's *Times Union* newspaper commented on what remains of him in the city: Hurlbut Street. The blogger wrote of the street as "a source for snickers for kids (and parents)... Vomiting and

⁹⁴ Entry for 23 April 1876 in John Bigelow, *Retrospections of an Active Life*, Volume V, 1872-1879, (Garden City, NY: Doubleday, Page & Company, 1913), 259.

anatomy in the same breath? Priceless.”⁹⁵ In today’s American vernacular, the name phonetically combines slang terms for throwing up and the buttocks. Although people still chuckle when they drive by Hurlbut Street, they are missing the importance of one of the most influential figures of Albany in the nineteenth century.

⁹⁵ Akum Norder, “Give My Regards to Hurlbut,” in *A History of Here: Life in Albany, Past and Present* Blog, 18 October 2010 <http://blog.timesunion.com/norder/give-my-regards-to-hurlbut/44/>

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Appendix



Figure 1. Photo of portrait of Elisha P. Hurlbut. The portrait was painted by Asa Twitchell in 1871 at Glenmont-on-the-Hudson. The portrait hangs in the home of Emily D. McDaniel in Franktown, Virginia. Photo taken by Jeffrey Dunnington.



Figure 2. Photo of the original copies of Elisha P. Hurlbut's eight-volume journal. The journal rests in the home of Emily D. McDaniel in Franktown, Virginia. Photo taken by Jeffrey Dunnington.



Figure 3. Photo of the original copy of the Volume 3 of Elisha P. Hurlbut's journal. The journal rests in the home of Emily D. McDaniel in Franktown, Virginia. Photo taken by Emmy McDaniel.

1865
 April 10
 Lee surren-
 ders the Army
 of Virginia!

Even so! As I sallied
 great guns booming. I saw
 ed to town. On the bridge
 derer, who has been loyal
 his head, I said "See how
 walked in to town. The
 flags were out - men
 - then the dogs were carrying
 paper. I wrote this in the
 "Glory! Hallelujah!
 rejoice! Shout! Shout!
 Give old Glory to the
 Cannons roar! The Old
 his army Surrender to
 Gen Grant prepares the tea
 Thus, under grand Eci
 we on last night till m
 celebration of the victory
 The Sunday of War has a
 of Grant's triumph - every
 writes thus - "Thank
 ting, with which he has th
 under your eye

Figure 4: Photo of entry for 10 April 1865 upon Hurlbut learning's
 of Lee's surrender at the end of the Civil War. In Elisha P. Hurlbut,
The Journals of Elisha P. Hurlbut, Vol. IV, 136. Photo taken by
 Jeffrey Dunnington.

1865
 April 15.
 Lincoln
 assassinated
 Seward
 attacked.

I was not half way to town this morn-
 ing of the assassination of President Lincoln
 a play actor, a man of great intelligence, had
 made large fortune in Petroleum, rushed
 into private box at the Theatre, lost his
 life fatally in the head. He then leaped
 flourished a knife, exclaimed See Seward
 vanished out of a back door. The
 quivered till between seven & eight o'clock, the
 expired. At about the time of the attack
 a villain appeared at the door of Sec. Seward
 to gain admittance by a false pretence; but
 he freed his way to the sick chamber of
 being opposed by two of Seward's sons, he en-
 ght at the Secretary, in bed, & stabbed him
 the neck; but cut no artery, - I heard a
 before I left town, it did not appear to
 were mortally wounded. No arrests
 - but it is said the assassins are the
 that they acted in concert, & believed that
 by people in Dixie. The Secretary
 villains, has been a good deal lessened
 murder; and the successor of Andy
 supposed to have personally from the rebels
 to do them justice, promises to cure
 into which we had like to have fallen
 - of Lincoln & Seward. According
 shape of things, it would seem that the
 only that slavery shall be abolished,

Figure 5. Photo of entry for 15 April 1865 upon
 Hurlbut's learning of Lincoln's assassination. In Elisha
 P. Hurlbut, *The Journals of Elisha P. Hurlbut*, Vol. IV,
 143. Photo taken by Jeffrey Dunnington.

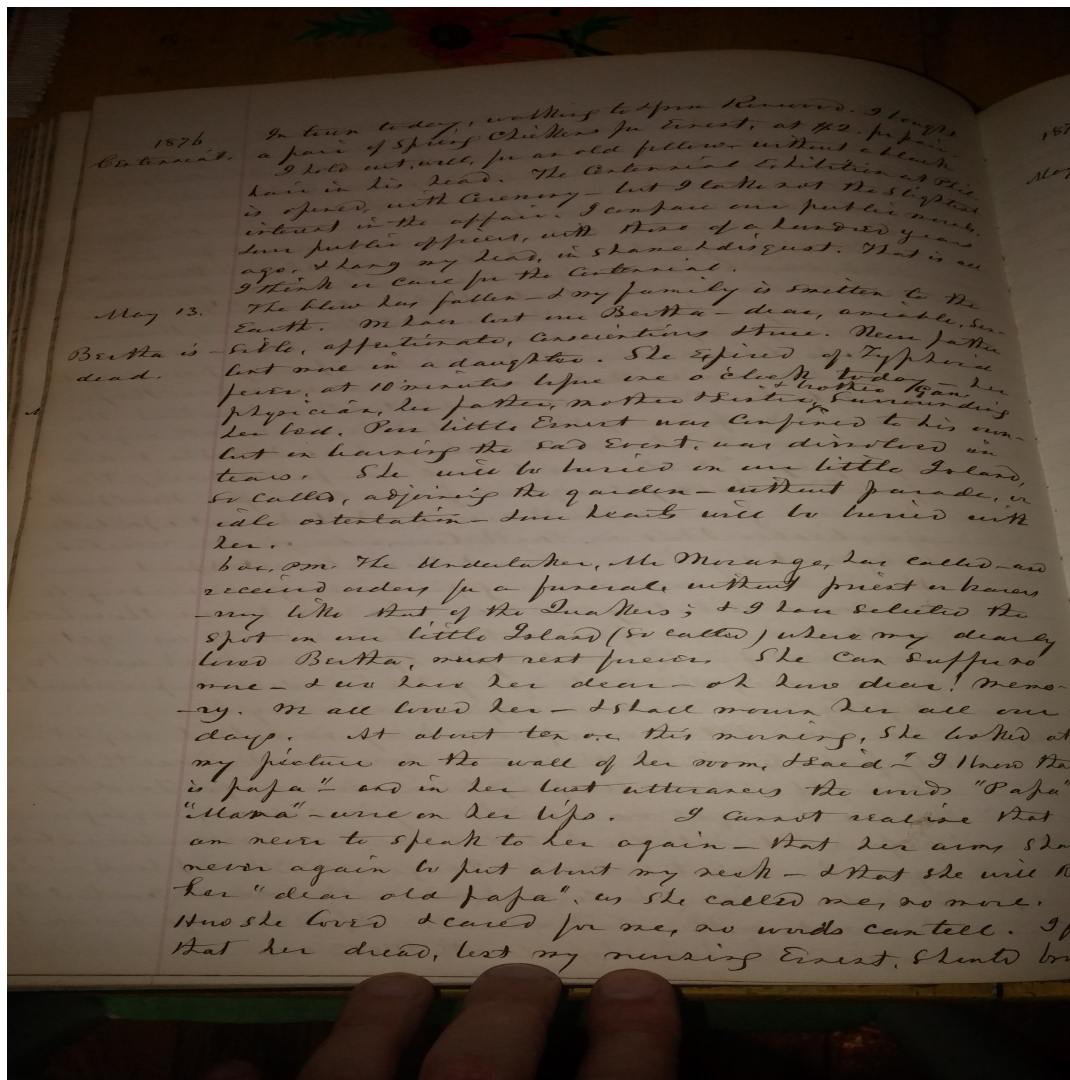


Figure 6. Photo of entry for 12 May 1876 just after the death of Hurlbut's daughter, Bertha. In Elisha P. Hurlbut, *The Journals of Elisha P. Hurlbut*, Vol. VII, 500. Photo taken by Jeffrey Dunnington.

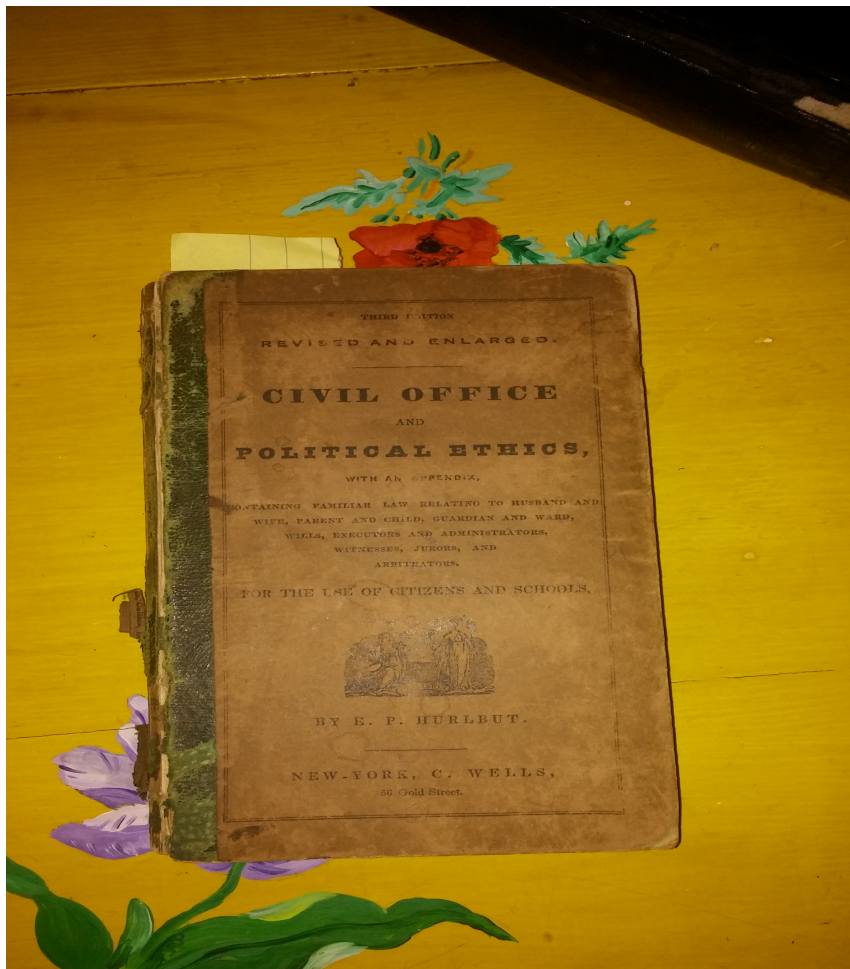


Figure 7. Photo of original copy of *Civil Office and Political Ethics* by Elisha P. Hurlbut. The book rests in the home of Emily D. McDaniel in Franktown, Virginia. Photo taken by Jeffrey Dunnington.



Figure 9. Portrait of Scottish phrenologist George Combe. Photo published on John Van Wyhe's website, *History of Phrenology on the Web*, 1999-2011. Accessed August 21, 2013. <http://www.historyofphrenology.org.uk/overview.htm>.

Vita

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