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Joseph Baxendale

James J. Fishman
Pace University School of Law, jfishman@law.pace.edu

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JOSEPH BAXENDALE

James J. Fishman†

The defendant in the great case of *Hadley v. Baxendale*[1] and the subject in the photograph[2] is Joseph Baxendale, managing partner of Pickford and Co., the common carrier that delayed the delivery of the Hadley's shaft. Baxendale was named the defendant, because Pickfords[3] was a partnership and did not incorporate until 1901.[4] Joseph Baxendale was born in 1785, the son of a Lancastershire surgeon.[5] In 1806, he moved to London, where he worked for a wholesale linen draper. Later, he became a partner in that firm, and developed the managerial and accounting skills that would serve him so well at Pickfords. He also married.[6]

James Pickford had established Pickfords's Movers, approximately in 1756, though the firm claimed origin in the seventeenth century. The Pickford family retained control until 1817 when over expansion and accumulated debt threatened bankruptcy.[7] Baxendale joined Pickfords at that time. He and two other partners brought a needed capital infusion to the firm, which Baxendale obtained the old fashioned way—from his wife's dowry.[8]

As the catalyst of Pickfords' recovery, Baxendale transformed the firm from a family-run canal carrier into a national enterprise.[9] He had the foresight to discern the future impact of the railroad on freight carriage and oversaw the firm's switch from canal to rail traffic.[10] Through his efforts Pickfords became a national rail agent, a highly complex transportation enterprise, and a modern specialized firm operating on a gigantic scale at a time of England's economic growth and hegemony.[11]

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† Pace University School of Law.

1. 156 Eng. Rep. 145 (Ex. 1854).

2. The photograph is reprinted, with permission, at the end of this Article.

3. The Author has used "Pickfords" to refer to the carrier, though the leading source on the history of the case uses both Pickford and Pickfords. *See* Richard Danzig, *Hadley v. Baxendale: A Study in the Industrialization of the Law*, 4 J. LEGAL STUD. 249, 263 (1975), *reprinted & abridged in* RICHARD DANZIG, THE CAPABILITY PROBLEM IN CONTRACT LAW 76–105 (1978) [hereinafter DANZIG]. The historian of the firm, Gerald Turnbull, uses "Pickfords".

4. DANZIG, *supra* note 2 at 263. The first general limited liability was enacted in 1855. Limited Liability Act 1855, 18 & 19 Vict. c. 133 (1855). Incorporation had been discouraged since the South Sea Bubble 130 years before.

5. GERARD L. TURNBULL, TRAFFIC AND TRANSPORT: AN ECONOMIC HISTORY OF PICKFORDS 48 (1979).

6. *Id.* at 48–50.

7. *Id.* at 15, 33. The Pickford family retained a small presence in the firm until 1850.

8. *Id.* at 42.

9. DANZIG, *supra* note 3, at 279.

10. TURNBULL, *supra* note 5, at 50–51.

11. A contemporary chronicler of industry described Pickfords as "an enormous

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Baxendale had enormous energy and drive. He was a skilled administrator, accountant, and manager, though probably a tyrant as an employer. A eulogy by an acquaintance noted:

> In the conduct of the business his [Baxendale's] energy and judgment were equal to the necessity. Night after night he traversed the roads in his special traveling carriage, on the look-out to see that none of his employees slackened in their duty, as often as not passing by by-roads so as to double back on the drivers, who in consequence never knew whether he was before or behind them; so, general vigilance thus became the rule of all.[12]

In 1847 Baxendale ostensibly turned over day-to-day management to his children but remained a partner and retained control of the firm. Pickfords' corporate biographer describes him as the dominant figure in his industry.[13] Joseph Baxendale died in 1872 and left a personal estate of £700,000, worth approximately $58,452,128 in 2004 dollars,[14] as well as a 28 acre estate in Whetstone which included a house with seventeen bedrooms, six reception rooms, and out buildings.[15]

The photograph is a mezzotint[16] by Charles Turner of a portrait by Henry William Pickergill that was presented to Mrs. Baxendale in 1847 by Pickfords' agents as a tribute to their employer's achievements over the previously thirty years.[17] The photograph reflects Baxendale's personality, as we know of it, the self-assurance of a man in control. It is also a wonderful symbol of the confidence and optimism of that particular period of English history.

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mercantile establishment with a huge staff of busy clerks, messengers, and porters .... It is divided into innumerable departments, the employees in each of which find it as much as they can comfortably do to master its details without troubling themselves about any other." HENRY MAYHEW, THE SHOPS AND COMPANIES OF LONDON 50–55 (1865) (on file with the Author).

12. J.W., *A Great Carrier*, Times (London), Jan. 6, 1873, at 11B (on file with the Author).

13. TURNBULL, *supra* note 5, at 183.

14. *See id.* at 142. The figure was reached by calculating the 2002 purchasing power in pounds of £700,000 in 1872, which was £31,476,644.42. John J. McCusker, *Comparing the Purchasing Power of Money in Great Britain from 1264 to Any Other Year Including the Present*, Economic History Services available at <http://www.eh.net/hmit/ppowerbp/> and then converting the pounds to dollars on July 13, 2004, at the rate of $1.85 to one pound, (last visited March 23, 2005) (on file with the Texas Wesleyan Law Review).

15. *See Advertisement for the Annual Rental of His Estate for £350 Per Year*, Times (London), Aug. 31, 1872, at 14a (on file with the Author).

16. A mezzotint is a type of intaglio print or tonal engraving and the technique from which a print is produced. The plate grooved or roughened so that its surface retains ink according to the degree of burr or roughness on any particular area. The earliest mezzotints date from the seventeenth century. In the eighteenth and nineteenth centuries, London was a center for mezzotints. David Alexander, *Mezzotint*, *in* 21 DICTIONARY OF ART 414, 414–18 (Jane Turner ed., 1996) (on file with the Author).

17. TURNBULL, *supra* note 5, at 53.

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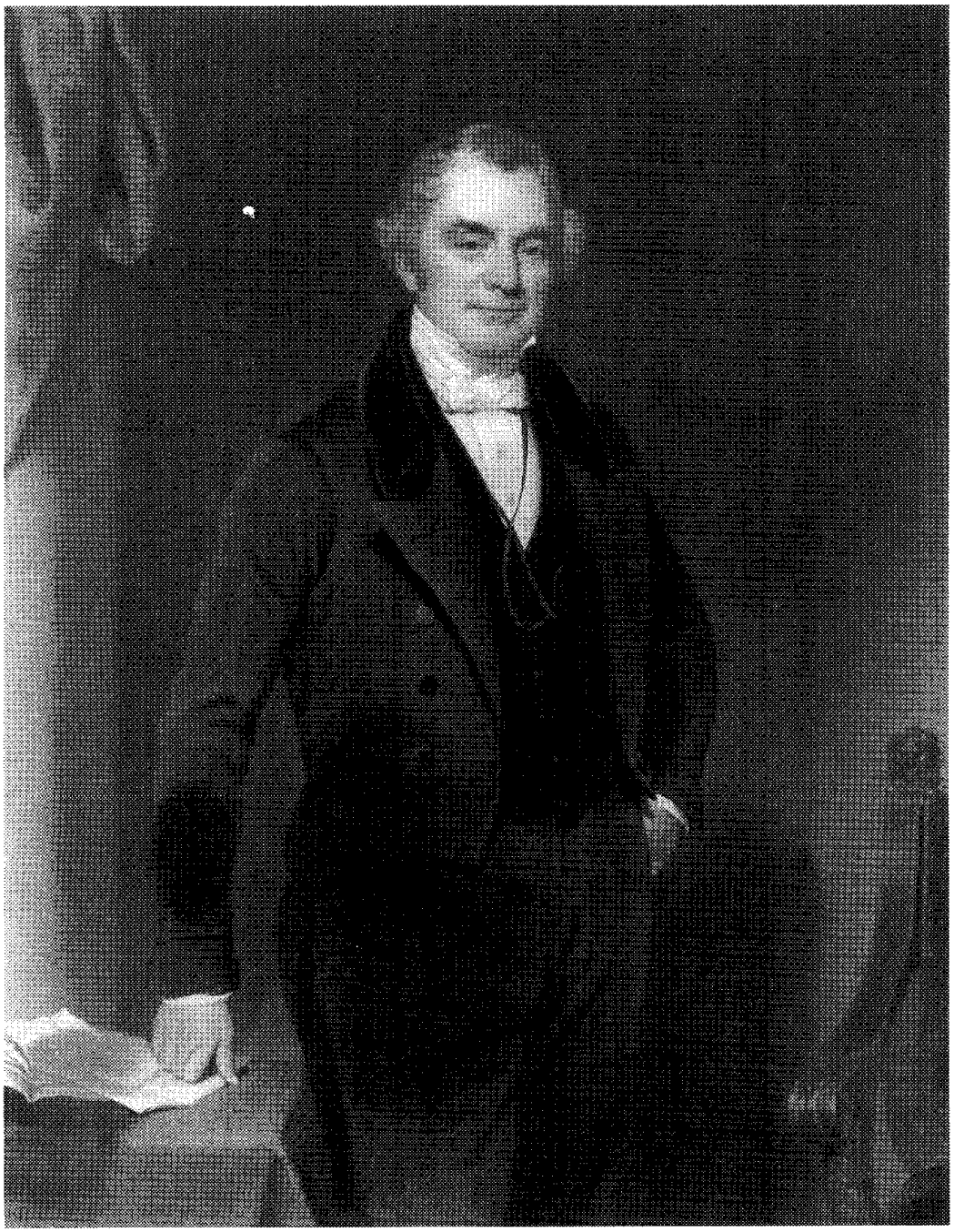

National Portrait Gallery, London.

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