A COLONIAL TRILOGY
Ohio Valley and Beyond

The Society of Colonial Wars in the State of Ohio

Presents

"George Rogers Clark and the Revolution in the West"

by

Lowell H. Harrison

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"Not Under Oath"

by

Eslie Asbury, .M.D.

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"An Unlikely Set of Circumstances"

by

Dean Ernest G. Muntz

SOME PASSING COMMENTS

The Random House Dictionary gives as one of the definitions of potpourri "A collection of miscellaneous literary extracts. "On the following pages we take pleasure in presenting a petit potpourri

1) Professor Harrison writes of an extraordinary military commander and the important part he played in the American Revolution;

2) Eslie Asbury, M.D., physician, horse breeder, raconteur and beloved by all who know him, waxes whimsical about his native Kentucky ;

and

3) Dean Muntz writes delightfully of a certain important real estate transaction that had its confusing and complicated ramifications.

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Editors

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GEORGE ROGERS CLARK AND THE REVOLUTION IN THE WEST

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The American Revolution was fought on a small scale when compared with later conflicts, but the war in the west along the Ohio Valley was waged in miniature dimensions even when measured against the engagements of the eastern seaboard. The war in the west differed from that waged in the east in yet another aspect. Had the Revolution been suppressed, a few of the eastern ringleaders would probably have been executed as examples to other potential rebels, but most of the participants would have resumed their previous status with little disruption to their lives. In the west however, much of the fighting was done by Indians, and warriors seldom paused to check political affiliations before taking a scalp. If the people living in Kentucky were defeated, they might flee eastward, be carried into captivity, or be killed. The war in the west was fought for survival; there was no civilian population.

By early 1777 an estimated 300 settlers had fled from the Kentucky area and several small settlements had been abandoned because of Indian attacks. The men of fighting age numbered under 150, and they were confined to the remaining settlements at Harrodsburg, Boonesborough, and Logan's Station. Hunting was dangerous, crops were almost impossible to raise, and the Kentucky settlements appeared to be on the verge of extinction. In one of Kentucky's darkest hours, when many men thought only of survival, George Rogers Clark determined to carry the war to the enemy.

Clark was born in Albemarle County, Virginia, in 1752. He received little formal education, but he had an excellent mind and he developed a love of reading and an effective style of writing despite erratic spelling. Sometime before his twentieth birthday he qualified as a surveyor, and between 1772 and 1775 he began clearing land on a site some 40 miles below Wheeling, West Virginia. In 1774 he served as a captain of militia in Dunmore's War against the Indians. It was apparently during this brief expedition that he became aware of his rare ability to lead men.

Clark reached Harrodsburg for the first time about the end of May, 1775. A few weeks later he wrote a brother that "a richer and more Beautifull Country than this I believe has never been seen in America yet." The ownership of Kentucky was in dispute, but Clark decided during this period that the region's prospects were best under Virginia's supervision. Little is known about Clark's reactions to the events leading to the outbreak of the Revolution, but he cast his lot with the rebels when the conflict began.

A meeting that Clark called at Harrodsburg in 1776 sent him and John Gabriel Jones back east to seek help for the frontier. The General Assembly had adjourned, but Clark visited Governor Patrick Henry and secured a favorable recommendation to the Executive Council. That body expressed sympathy and offered to lend 500 pounds of gunpowder to their "Friends in distress"; they could not do more since the Kentuckians "were a detached people not yet united to the state of Virginia." Clark replied "that if the country was not worth protecting, it was not worth claiming." If Virginia did not want it, the Kentuckians would have to look elsewhere. The Council then decided that it could provide the gunpowder, and Virginia created Kentucky County in December, 1776, an action that was vital in Kentucky's development.

Clark became a major in the county militia; among the officers he outranked were Daniel Boone, James Harrod and Benjamin Logan. The command was important, for Indian raids increased during the spring of 1777. A diary that Clark kept during this period contained such items as: "March 6. Thomas Shores & Wm. Ray killed at the Shawnee Spring." "March 7. The Indians attempted to cut off from the fort a small party of our men. . . . We had 4 men wounded and some cattle killed. We killed and scalped one Indian, and wounded several." By May 1 Harrodsburg had only 84 men fit for military service, and the other stations were in even worse plight.

As Clark wrote later, "I was frequently afraid that people would think of making their peace with Detroit and suffer themselves and their families to be carried off." Or they might flee Kentucky for the safety of the lands east of the mountains. "This led me to a long train of thinking, the result of which was to lay aside every private view and engage seriously in the war and have the interest and welfare of the public my only view. . . ." With Kentucky as a base, he believed that the war could be carried to the enemy.

Two young hunters, Sam Moore and Ben Linn, were sent to the Illinois towns to gain intelligence, but, "To prevent suspicion, neither did they, nor any person in Kentucky ever known my design, until it was ripe for execution." His spies reported that the enemy was well prepared but felt secure; that the Indians

were actively pro-British; that some of the French were pro-American. Armed with this information, Clark went to Virginia in the autumn of 1777 to seek approval and assistance for his plans.

Sometime in December Clark presented his plan to Governor Henry. There were serious objections to it: Could Virginia spare the men and 'supplies? Would such an effort only arouse the Indians to even greater raids? Should Virginia engage in such an effort in an area to which she was preparing to give up her claims? Could Clark's plan possibly succeed? But the Governor recognized both the value of the scheme and the need for secrecy, and after approving it he confided it to only a few gentlemen such as Thomas Jefferson, George Mason and George Wythe. They promised to seek liberal land grants for the participants in the expedition. Since there was doubt about the legality of conducting an expedition across the Ohio, the Assembly was asked only to authorize a force for the protection of Kentucky. But the measure did not indicate where that force should be employed.

Clark was promoted to Lt.-Col., given £1200 in Virginia currency, and authorized to recruit 7 companies of 50 men each. Henry's secret instructions endorsed Clark's proposal: to go down the Ohio, then march overland to take Kaskaskia; to win over the French and to neutralize the Indians; to seek supplies from the Spaniards. The young commander was given wide discretionary powers to move on to even more ambitious goals, such as the capture of Detroit.

As he headed westward Clark began his recruitment of men and appointment of officers. He was particularly fortunate in the selection of Leonard Helm and Joseph Bowman - loyal, dependable men who never failed to execute his orders. Few Pennsylvanians volunteered to assist Virginia, and few men came from the Holston area where 200 had been expected; the anticipated little army of 350 was reduced to half that number. "I knew our case was desperate," Clark admitted, "but the more I reflected on my weakness, the more I was pleased with the enterprise."

In May, 1778 he started westward, and his party of some 150 soldiers and several civilian families readied the Falls of the Ohio on May 27. While a number of people such as Thomas Bullitt had already visited that area, the beginning of a permanent settlement at the Falls is generally dated from Clark's arrival. Cabins and blockhouses were constructed on Corn Island as quickly as possible, and land was hastily cleared for late crops. As the labor progressed, Clark and his officers began to drill the men and to instill some discipline in them. "You already know the situation in which you left me at the Falls and the kind of people with whom I had to deal," Clark later wrote a friend, "but after I had knocked some down and

punished and imprisoned others, they became the best people that can be imagined."

John Bowman brought some reinforcements from the Kentucky stations, but Clark, reluctantly, kept only 20-25 of them. Kentucky had suffered a severe blow in the late winter when Daniel Boone and some 27 salt makers had been captured by Indians near Blue Licks, and Clark realized that he could not strip the forts of too many defenders. When Clark finally revealed his plans to the men most of A Company escaped to the Kentucky shore and fled from the madman. But progress was made, and on June 24, 1778 Clark and some 170 men shot the rapids and began their invasion of the Northwest. Clark knew that the British kept a careful watch over traffic at the juncture of the Ohio and Mississippi rivers, so he left his boats at a point some 9 miles below the mouth of the Tennessee River and marched overland to Kaskaskia, a town of nearly 800 inhabitants that lay 120 miles distant.

The march was difficult. Food ran out, and the men ate berries the last two days. Their guide became lost, but his memory was stimulated by Clark's threat to execute him at sundown, and he succeeded in finding the trail. The Americans took the town and fort by complete surprise on the night of July 4, and patrols were sent out to prevent word from reaching other communities. To win over the French, Clark had recourse to applied psychology. He ordered his men to have no conversation with the terrified French citizens, and the next day he suddenly placed some of the French militia officers in irons. When the priest, Father Pierre Gibault, and some elderly gentlemen came to beg permission for the French to take leave of each other in their church before their anticipated exile, they were visibly shocked by the wild half- naked appearance of the American officers.

But Clark had made the desired first impression; of course they could assemble in the church. When the delegation returned later to ask timidly if families could be kept together in exile, Clark decided that "This was the point I wished to bring them to." American were not savages, he assured them; they did not war on civilians or the Catholic Church; the people should resume their normal lives. Since the King of France had recently made a treaty with the United States, there was hope that the war would soon be over. Within minutes bells were ringing, the church was crowded; the town was filled with joy. Clark had won over the French.

But he knew that he occupied a vulnerable position, and his dreams extended far beyond what had been accomplished. Captain Bowman took 30 Americans and some French. Volunteers and occupied Cahokia, 50 miles to the north. Contacts were made with the Spanish officials on the west bank of the

Mississippi who might be able to ease the serious supply situation. When Simon. Kenton reported that no British troops were at Vincennes, Father Gibault and other French leaders went there and persuaded the inhabitants to accept American control.

Everything had gone off unbelievably well, but Clark was still in a precarious situation. He had to expect British counter-measures from Detroit when Col. Henry Hamilton, who had displayed considerable skill and energy in directing Indian raids against the Americans, learned of his invasion. The enlistments of his men would soon expire, and many of Clark's soldiers wanted to go home. It was one of the critical moments of the campaign, and Clark's actions reveal a great deal about his character.

"I resolved to usurp the authority necessary to carry my points," he later explained. By persuasion and great promises he persuaded 100 men to re-enlist, and he recruited additional troops from among the French. To give the impression that a large army was behind him, he headed letters (that the French were allowed to see) "Headquarters Western American Army, Falls of Ohio, Illinois Detachment."

Clark also worked to neutralize the Indian tribes that had been so long under British influence. No one of that period was more successful than he in .conducting such diplomacy. As he described his technique, he "gave Harsh language to supply the want of Men: well knowing that it was a mistaken notion in many that soft speeches were best for Indians." He warned the Wabash tribes to stand aside and leave the Americans a wide path to Detroit, and he convinced some of the Indians that George III meant to tax them as he had the Americans. After a month of intensive talks, some 10-12 tribes had accepted the white belt of peace.

While Clark consolidated his position, Lt. Governor Henry Hamilton of Detroit prepared to dislodge him. Of Scottish background, Hamilton had served in America as early as 1758. During a visit to the American colonies he described the people as "naive, simple, kindly, and uncorrupted" -an opinion he later changed. His Detroit appointment dated from April, 1775, and in early summer, 1777, he had been instructed to use Indians "in making a Diversion and exciting an alarm upon the frontiers of Virginia and Pennsylvania." By September he had sent out 1,150 Indians, usually in small war parties, and by January 15, 1778, he had received 73 prisoners and 129 scalps in Detroit. The gifts he gave the Indians for their cooperation led to the frontier belief that he actually purchased scalps, a charge that historians have long since discarded.

Hamilton learned of Clark's presence in Illinois about August 8. Moving perhaps with too much dispatch, he left Detroit on October 7, 1778 with some 176 whites and 70 Indians; many other Indians were recruited along the way.

On December 17 Hamilton captured Vincennes without firing a shot as Capt. Helm's French troops deserted him. Hamilton then set to work to put Fort Sackville in good condition and to counteract Clark's influence among the Indians. He was confident that no further action could be undertaken before early summer; the 1778 campaign was ended.

A Spanish merchant, Francis Vigo, brought Clark news of the capture on January 29, 1779. The American officers, Clark said, "now Viewed ourselves in a very critical Situation." If they retreated to Kentucky, they would be over-whelmed there in the spring. Clark's little army had dwindled in size and nearly half of its members were now French, but he concluded that his only chance was to attack Hamilton at once; "I knew if I did not take him he would take me."

Clark began preparations without a hint that he doubted total success. A large river boat, re-named *The Willing*, was armed with two 4-pounders and 4 swivels, crewed with 40 men under Capt. John Rogers, and started off on Feb. 4 to make the long journey to a spot on the Wabash River south of Vincennes. The next day Clark and some 130 men set off overland. "Over water" might be more accurate, for the flat countryside was flooded, and the men marched and slept in sodden discomfort. Clark was everywhere along the column, joking, shouting and leading nightly entertainments "like Indian War Dances." A 14 year old drummer boy who sang comic songs while floating on his drum added to the merriment; when a tall sergeant carried the lad on his shoulders through a deep spot the men followed with shouts of laughter.

By Feb. 19 the Americans were on the flooded Wabash 9 miles below Vincennes. Food was almost gone, the waters were high, the *Willing* was not in sight; morale finally began to sag. But Clark kept the men moving. When some seemed ready to quit he daubed his face with dampened gunpowder, shrilled a war-whoop, and plunged into the flood -and the men followed. They ate an unwary fox and some possums, and a hunter brought in a deer. Two canoes they had found ferried those who collapsed on ahead to an island about two miles from Vincennes. As Clark said: "Our situation was now Truly critical, no possibility of Retreating in case of Defeat, in full View of a Town that at this time had upwards of Six Hundred Men in it, Troops, Inhabitants and Indians."

But a French hunter was sent in to tell the inhabitants to "be tranquil," and they obeyed. Clark's men infiltrated the town so quietly that when they opened fire on the fort Col. Hamilton thought that some drunks were shooting off their weapons. But accurate rifle fire wounded several of the British regulars and kept them from manning the fort's artillery pieces. Still, Hamilton had 79 men in the garrison and a supply party coming down the Wabash might be able to rally Indian support. Clark needed a quick surrender, and again he had recourse to psychological warfare.

The heavy firing convinced Hamilton that he was greatly outnumbered. While negotiations were underway on February 24 the Americans intercepted a party that was returning from a raid with scalps and captives. "I had now a fair opportunity of making an impression on the Indians," Clark explained, ". . . that of convincing them that Governor Hamilton could not give them that protection that he had made them to believe he could."

So, while four of the captives sang their death songs, they were tomahawked in sight of the garrison and their bodies tossed into the river. This grisly execution profoundly affected the British commander, and after some haggling Hamilton accepted terms that saved his pride but amounted to unconditional surrender. His French militiamen were sent home, the approaching supply boats were captured and the spoils divided, and on March 8 Col. Hamilton and 26 other prisoners began the long march to captivity in Virginia.

George Rogers Clark had reached the height of his career. Here was a young man, not yet 27 years old, who had performed brilliantly under the most adverse conditions and had not lost a man to enemy action. With these initial accomplishments, one might have expected his career to soar to ever greater achievements. Instead, he operated for a time on a sort of plateau, his main goal always just beyond his reach; then his career crashed, and the remainder of his life was a bitter anticlimax to his early successes.

Clark's immediate objective was poorly defended Detroit, which could be taken, he believed, with 500 men. But he could not muster that number before June when promised reinforcements were expected. Supplies remained a problem, and when the government's credit was exhausted Clark personally endorsed notes - for which he then became personally responsible.

When the reinforcements arrived, there were only 30 men from Kentucky instead of the 300 expected; and only 150 instead of the 500 John Montgomery had promised to bring from Virginia. By July; 1779 the bitterly disappointed Clark admitted that he would have to postpone his scheme. He scattered his forces

among several Illinois towns, then returned to Louisville where he made his headquarters for the rest of the war.

Living on Corn Island had greatly complicated hunting, and the settlers and troops left there had moved to the south shore of the Ohio in late 1778 or early 1779. A fort some 100 x 200 feet was constructed near the foot of what was later 12th Street. Clark spent some of his time in the fall of 1779 drawing up plans for the future city of Louisville. He placed great emphasis upon what he called "public lands," that is parks. Unfortunately, his plans were not adopted. Soon after his arrival at the Falls Clark sent out invitations to the interior settlements for a celebration party. Some would-be guests were turned back by the appearance of Indians, but the James Harrods opened the dance in the largest room in the fort, and the rum and sugar Clark had brought back from the French towns kept the party going for several days. Such interludes, while welcome, were rare, for Clark still dreamed of taking Detroit.

Many factors combined to thwart Clark's plans during the last years of the war. His success in the Northwest had eased some of the danger to the Kentucky settlements; men were less willing to volunteer for extended tours of duty. The flood of immigrants that gave Kentucky an estimated 20,000 inhabitants by the summer of 1780 added to the sense of security, although Indian raids continued to be costly. The probability that Virginia would relinquish her claims north of the Ohio to the central government decreased the concern of the Old Dominion for that region. People were weary of the demands of the war, and the economic situation was grim; should money be lavished on enterprises that no longer seemed urgent? And there was jealousy of Clark and his success, along with efforts to hold him responsible for failing to attain all his objectives or to prevent Indians from crossing the Ohio.

When the British attempted to re-take the western country from the United States and Spain in 1780 Clark reacted with his usual vigor. He reached Cahokia with reinforcements the day before the Indians attacked and they were beaten off. Then Clark rushed back to Louisville before Captain Henry Bird got there with some whites, several hundred Indians, and a few cannon that could render log stockades useless. Bird's Indians paid Clark a supreme compliment; hearing that Clark was already at the Falls, they refused to go there. They caused extensive damage in the Licking River area where they took both Ruddle's and Martin's stations, but when Clark was reported on his way there, Bird withdrew across the Ohio.

In order to mount a retaliatory raid Clark closed the Harrodsburg land office and ordered the seizure of horses and weapons of anyone who tried to flee

eastward. By the end of July he had assembled 1,000 men at the mouth of Licking River. He built a small fort across the Ohio River to store supplies and protect the ill or injured men who had to remain behind. Then he led the volunteers against the Shawnees, destroying crops and villages and routing their warriors at a sharp little engagement at Piqua. But he could not pin them down for a decisive battle, and his men demanded to return home.

The Indians were not suppressed, and Clark still dreamed of Detroit, and he returned to Virginia in the fall of 1780 in another effort to secure the force that would permit success. Clark received his commission as a Virginia brigadier general, and he was promised assistance by both General Washington and Governor Jefferson.

A crisis was fast developing in the Illinois towns as the supply situation became critical. Kaskaskia was abandoned in February, 1781, and the Vincennes commander wrote Clark that "I cannot keep Garrison any longer without some speedy relief from you. My Men have been 15 days upon half allowance; there is plenty of provisions here, but not credit." Fort Jefferson on the Mississippi River beat off a Chickasaw attack, but then the fort had to be abandoned on June 8. When the garrison reached Louisville, they found the situation there almost as bad. As Col. Montgomery wrote Clark, ". . . not a mouthful for the troops to eat, nor money to purchase it with . . . . the credit of the government is bare . . . . unless supplies soon arrive I fear the consequences will be fatal."

But the British invasion of Virginia held troops there; Patrick Henry in an Assembly speech revealed Clark's plan to invade the Northwest; few Pennsylvanians would enlist in a Virginia cause; and the expedition began to collapse before it ever got underway. In August, 1781George Rogers Clark led 400 men down the Ohio; he had expected to have 2,000. Joseph Brant, the Mohawk chief, then killed or captured 106 of 107 Pennsylvania rangers on their way down the Ohio to join Clark. When he consulted with the Kentucky militia colonel s at the Falls, a disappointed Clark admitted that "The forces ordered by government to be furnished by your country, added to those I have, are not sufficient to execute anything of moment. . . ."

Clark was deeply hurt by a resolution of the Virginia Assembly "to call to account certain officers and others in the western country" for "waste and misapplication of public property." Assuming that it was aimed at him, he offered his resignation to Governor Benjamin Harrison and warned him that Kentucky would fall unless strong measures were taken.

The resignation was refused, but the Assembly, influenced by such defensive minded Kentuckians as John Todd and Benjamin Logan, prohibited the proposed Detroit expedition. Instead, Clark was ordered to erect forts at the Kentucky and Licking rivers and Limestone Creek. Six gunboats were to be built to patrol the Ohio crossings. But the needed supplies and men were not provided, the scheme could not be completed, and Clark was then blamed for not obeying the order. He was also severely criticized by such people as Daniel Boone for keeping his headquarters at Fort Nelson, constructed at Louisville in 1782, instead of moving eastward to protect the interior settlements against the Shawnees. Such critics ignored Clark's responsibility for the Illinois country as well as the Kentucky settlements. Louisville was a central point from which he could move quickly in either direction as needed.

The Revolution may have ended in Virginia in the autumn of 1781, but in Kentucky 1782 was "The Year of Blood." The British were unable to supply their red allies as they had in the past, but by February Simon Girty, Alexander McKee and William Caldwell were leading as many as 1,000 Indians against the Kentucky settlements.

Clark was so feared that many Indians refused to invade any part of Kentucky where he was reported to be. But he could not be everywhere, even in rumor, and some 300 Indians attacked Bryan's Station on August 16-17, 1782. They retreated leisurely to the Blue Licks where they ambushed their rash pursuers, killed nearly 60, and routed the rest. It was Kentucky's worst disaster of the war.

This debacle allowed Clark to organize his last expedition of the Revolution against the Indians. General William Irvine was to lead 1,200 men into the Sandusky area while Clark punished the Shawnees. If all went well - perhaps Detroit would be within reach at last. But Irvine was ordered not to go, and it was Clark who started 1,050 men toward the Indian country on November 4, 1782. Scouts and strong flanking par- ties guarded against ambushes, and Indian homes, corn and other supplies were destroyed in the Miami River area, but Clark was again unable to pin the Indians down to a decisive battle. They were, however, willing to begin peace talks that brought a temporary peace to the frontier.

Before leaving on the expedition, Clark renewed his request to resign, and on December 19, 1782 Governor Harrison wrote that he would accept it. In May, 1783 Clark went to Virginia to try to settle his tangled accounts, and on July 2 Harrison relieved Clark of his command. In doing so, the Governor graciously and belatedly extended "my thanks and those of my Council for the very great and

singular services you have rendered your Country in wrestling so great and valuable a territory out of the hands of the British enemy, repelling the attacks of their Savage allies and carrying on successful war in the Heart of their Country." The war had finally ended for thirty year old George Rogers Clark.

Clark conducted his war on a small scale, in a large territory, and no one can say how he would have performed under other conditions. He possessed a keen sense of both strategy and tactics; no one saw more clearly than he what should be done in the Northwest and how it could be accomplished. He was an inspirational leader and a master of applied psychology. His diplomatic skills were displayed time and again as he dealt with the Indians, French and Spanish who complicated life for him. He was, in my opinion, one of the most capable American commanders of the Revolution.

He did not dislodge the British from the Great Lakes, and he was never able to move beyond that target to even more ambitious goals. Indian raids continued against Kentucky, and in the early 1790s the Indian problem became critical in the Northwest Territory. His success in the Illinois country was probably not the major reason why that area became a part of the United States in the peace treaty.

But if the British had held the Northwest in 1781, they would have been much more likely to have retained it or created an Indian territory under their influence. Clark probably saved the Kentucky settlements from destruction, and his success made possible the flow of immigrants that led to statehood in another decade.

He failed; it seems to me, primarily because of inadequate, support. Washington and Congress reckoned his plight to be a Virginia concern, Virginia assigned a low priority to her citizens beyond the mountains, and the westerners could not be persuaded to volunteer in sufficient numbers for long enough periods of time to enable Clark to undertake the campaign that might have accomplished his goals.

In the years just after the War of 1812 travelers who passed by Locust Grove, an estate a few miles from Louisville, might have seen the wrecked hulk of a man slumped in a wheelchair. His wasted body hinted of once great strength, but the vacant eyes gave no indication of the active mind and powerful personality that had once inhabited that body. Paralyzed, a leg amputated, his speech lost, his mind almost gone, George Rogers Clark lingered in a twilight existence until death released him on February 13, 1818. As he waited for that

day, as he gazed outward from Locust Grove, was there ever a moment when he remembered things as they were? Did Clark still dream of Detroit.

81st General Council Meeting
General Society of Colonial Wars
Cincinnati, Ohio
May 6, 1977

Not Under Oath (Kentucky is The Greatest)

Eslie Asbury, M .D.

The Society of Colonial Wars and guests, I appreciate the introduction, even if it was "not made under oath." Program committees have a problem. They must justify the speaker they select. So they build him up with a flattering introduction. Nobody believes it, but the designated speaker loves it. He is like the fat, black landlady who had a good looking male boarder who was often in arrears. In this recurring situation he would lie, like an emcee. He would say, "Mamie, your eyes are beautiful, your hair is beautiful. You are the most beautiful woman in town," and Mamie would always take the bait. "You know that ain't so, Sam." "It is so. You want the truth don't you?" "No, No," Mamie would reply, "I like that other stuff better!"

Frank was afraid the laudatory introduction wouldn't be enough pay and asked what I usually charged. "The same as I did for operations, some full pay, some part pay and some couldn't pay." "Then we 'are home free" said Frank, "after we pay tonight's liquor bill, the SCW will be broke."

The first time I "instructed" you, was last year at your national business session and now you have invited me back. I regarded this a double honor and was bragging about it to a friend. "You're wrong," he said. "The members of SCW are gentlemen. They believe in affirmative action. They give failures, even white ones, a second chance." Now I don't mind what anyone says behind my back but friends who tell you the truth to your face are annoying.

I like that "other stuff' better. Truth mongers can Be dangerous, especially when they delve into pedigrees . A pedigree is like chastity: a fine thing if not carried too far. A Kentucky woman, trying to qualify for the D.A.R., paid an expert $5.00 to look up her ancestry and when she got the report she had to pay the expert $100.00 to keep his mouth shut. The trick is to find one big name and forget the bums, whether you are selling a horse or up for membership in the SCW. The difference is that in selling a horse, the horse needs a famous close-up relative whereas, to qualify for the SCW, as I under- stand it, a man needs a forefather, as far back as possible, who was a colonial official. Despite this restriction the pool of eligible people must be sizable.

We were under the Crown nearly as long as we have been under Presidents. The Colonial population was small but families were large and a high percentage were officials and ad hoc officers created instantly to fight in the wars and, as in the Civil War, a man's civil stature determined his military rank. From

the first Colonial War in 1613 when Governor Sam Argall of Maine teamed with Captain John Smith of Jamestown to drive the French settlers from Mount Desert Island, through King Phillips War, the Pequot War, Sir Francis Wyatt's War against the Powhataws , the Anglo- Dutch War and finally Lord Dunmore's War, there were countless smaller uprisings and Indian engagements. There were Wars between the Colonies long before the War between the states and revolutions against the Crown before the War of Independence. A lot of officers and officials were involved.

And there are those who fought on the wrong side, say a French or Dutch officer or an Indian Chief. Do their descendents qualify for this honorable organization? I'm sure your membership committee faces many difficult decisions. For example, how far can one descend from a proven, distinguished ancestor and still be elected?

The use of the word descend in such connections is unfortunate. It does not convey the desired meaning. In speaking of the pedigree of a horse we say he traces back to Man-0-War. To say a man descends from an important person is belittling. He may not be the man his ancestor was but why stress it. Maybe he even ascended in rank. Personally I would rather claim ascent from many of my forebears.

When the original people came into Kentucky some families, including my own, divided. Some stopped in the mountains and others settled in the Blue Grass section. Branches of the Lee and Marshall families stayed in the mountains back of Flemingsburg, I knew them as patients for 50 years and often visited them to hunt quail. Mr. Lee, a staunch Democrat, had two good bird dogs, one named "Alfred E. Smith" and the other "Andrew Jackson" and he always called them by their full names. "Steady Alfred E. Smith", down "Andrew Jackson", he would say. At that time the mountain section, unlike the rest of the state, was solidly Republican as a protest against the Bluegrass elite and during the Al Smith Campaign I was up there on a hunt. I said "Mr. Lee, I suppose Hoover will win". "Yes", he replied, "but in Fleming County my family will cast 12 votes for Alfred E. Smith, they will be his only votes, and all twelve of us will be there to see they are counted".

Kentucky has been as solidly Democratic as any southern state since the War between the States. Therefore, you may ask, why didn't Kentucky join the Confederacy? Very simple. It was smart. It didn't want all those Yankees messing up the place. Kentucky waited until after the war to secede. (The truth is, Kentucky had more downright volunteers in the Union Army than Ohio and more volunteers in the Southern Army than Florida.)

Charlton Wallace had prominent Kentucky ancestors but when he was up for election to the SCW, he wanted no argument. He relied on a Yankee Bradford to qualify him. On the other hand, I confess I have hundreds of relatives of all kinds in my native Kentucky. One distant cousin, the perennial jailer of Letcher County, stemmed from a long line of jailers, extending back to Colonial Virginia. They neither ascended nor descended. Like English butlers, they were proud to emulate their fathers. The Letcher County jailer left his job to fight in the Spanish-American War and when he got back he found dangerous opposition. An opponent with a lot of voting relatives was campaigning on the platform that he was disabled and needed the job, but our hero beat him with a set speech. He said, "Folks, I admit my opponent is the rupture-dest, one-armed S.O.B. in the County but I have been your jailer for 20 years. When your sons were in jail for a month for a killing or making a little whiskey, I took good care of them. They had a clean bed and good vittles. Now I'm back from the big War. In the battle of San Juan Hill, Teddy Roosevelt and I got to the top of the hill at the same. No one else had got there. Teddy turned to me and said "Tom off of this great victory one of us has *got* to be President" 'and I said "Teddy, if one of us has *got to be president*, it will have to *be you. I'm* going back home and be jailer of Letcher County."

Kentucky mountaineers didn't' have any Puritans to build schools for them and they were a little backward in the three R’s. Before the days of radio, a stranger got a puncture on a mountain road and a passing native offered to change the tire. While the native was bent over jacking up the axle he said "Where you from?" "I'm Senator Smith on my way home from Washington." "Oh", said the native "Tell me, who won the last election?" "Woodrow Wilson, but that was two months ago. Don't you get any newspapers around here?" "Yes", the native replied, "we get 'em alright but those damn Republicans won't read 'em to us."

The people of rural Kentucky are mostly Scotch-Irish and in many counties a man may be related to a third of the population. No new people have come in' for 175 years and "clan justice" is still the custom. Land and other disputes were settled out of court. They simply shot it out or "squatted" it out. Anyway, lawyers, fearing retribution, wanted no part of these cases. Even now, civil litigation is rare in rural Kentucky. Down there a man might shoot his doctor but malpractice suits are unknown and doctors don't sue to collect bills. A little hospital near my farm had delinquent accounts but the lawyers on the Board would not sue for them. They knew it would cost them votes when they ran for office.

Out of state lawyers have no chance in a case without the help of a local lawyer but they have to get one from another county especially if they represent a corporation. Frank Davis had such a case in court at Beattyville and he asked Col.

Phil T. Chiun of Lexington, to recommend a trial lawyer. "The best lawyer around here is Beauregard Johnson when he's drunk" said the Colonel. "I can't afford him." replied Frank. "Who is second best?" "Why that's Beauregard Johnson when he's sober."

This brings me to the title of my speech, "Not Under Oath". I won't swear to these stories. I can't document them but I can do even better. I can give you a "Kentucky guarantee" on them. When a Kentuckian owes you money he says "I'll be an S.O.B. if I don't pay you next month". If he tells you a story or claims kinship with a famous man he says, "I'll be an S.O.B. if this isn't true." What more could you ask? Sam Johnson put it well. Speaking of monuments he said lapidary inscriptions are *not made under oath*.

Unfortunately the stories of Indian killings did not carry a Kentucky guarantee. They were not even made under oath. Another mountain kinsman, Jim Asbury, a real life character in a John Fox Jr. novel, bragged about his grandfather who claimed over a hundred scalps. Others made similar claims. "When me and my brother wuz out huntin' yesterday we ran into 22 Indians and killed 18." Actually, until Snaphances and Flintlocks were replaced (1675) by the Matchlock, the Indians were better armed and, one on one, could more than hold their own against the settlers. We are indebted to "Roosevelt the First" for at least one thing. In his poorly written but well researched book. "The Winning of the West", Teddy debunked these phony claims, proving that if all the Indians listed as killed in Colonial Wars and by settlers were toted up, the number would be twice the total Indian population.

Exaggeration is an American trait and for a long time was the basis of our humor in contrast to the English under-statement. Josh Billings, Artemus Ward, and Mr. Dooley, de- pended on exaggeration, bad spelling and improper grammer and were the best known early *northern* humorists, but we had nothing to compare with the drolleries of Anthony Trollope and the antics of the Pickwickians.

The Puritans and other Yankees, who dominated the culture of the North, had no time for levity. They were too busy mortifying the flesh in preparation for the hereafter. When the Puritans landed they first fell on their knees and then on the aborigines and everybody else who didn't agree with them. In Colonial times if they couldn't preach the Hell out of you, they fined you, put you in the stocks, burned you at the stake or ran you out of town, *not* neglecting to foreclose the mortgage. Then they mellowed. They legislated us with "Blue Laws" and tried to educate the Hell out of us. However, we are indebted to them for their work ethic, for establishing schools of higher learning which are still our best, and for

bringing education to the interior of the United States. (Why as late as 1930 the principal of every High School in Cincinnati were Yankees in German Cincinnati). On balance we could forgive them, even for selling the slaves to the south and then fomenting a war to free them, if they had permitted us a few laughs along the way. They were devoid of humor, they didn't even make puns. Any kind of jesting was against their religion. They didn't laugh when Cotton Mather said he was always thankful for his early ill health which kept him safe against the temptations of youth. No wonder the humor of the north was poor until Mark Twain and Ring Larder Sr. came along, followed by George Ade, Booth Tarkington and Damon Runyon.

Humor of the South

In the south, which also claims Twain, humor had a chance to develop earlier. The churches were more liberal and the people found time to take a drink and tell a story. Kentucky, with the best whiskey and horses, had the best humorists, mostly newspapermen including Henry Watterson (editorials), Tandy Ellis (Tang of the South), Irwin S. Cobb and the best of all, Joe Palmer (of the Lexington Blood Horse) who, Red Smith said was the best writer about anything.

Some preachers and al1 successful Kentucky politicians, from Clay to Breckenridge to Barkley to Ollie James and Happy Chandler, were humorists . They created the unwritten humor of the South, stories involving whiskey, dogs, negroes, and the incongruities of people. Actually they were entertainers whose stories, like old hams, required the proper preparation, proper consumers, and proper setting and when told privately or publicly their stories never revolved around sex or obscenity.

In this southern folklore the Negro was an important character. Pictured as happy-go-lucky and ignorant, smart blacks played up to this role as a defensive facade and to please the white boss. As a reward they were given the punch-line in these stories.

When Teddy Roosevelt ran on the "Bull-Moose" ticket in 1912, he agreed to make a short campaign in Kentucky provided his sponsor, Col. Oldham, would include a bear hunt. The Colonel, with no hounds of his own, armed himself with a quart of whiskey and set out to borrow the best pack in the country, owned by a black, Henry Jones. He knew Henry was jealous of his dogs but he thought the liquor and a little talk would turn the trick. The Negro took a liberal swig of the gift.

"How is it, Henry"?

"Just right Boss. If it had been any better you wouldn't give it to me and if it was any worse, it would kill me." Ignoring the slur, the Colonel came to the point. "Henry, I want you to do me a big favor. I want to borrow your hounds next Tuesday night." "Colonel, you and me is friends but you know I never lend them hounds to nobody." "Henry you have got to help me. I promised to take a famous guest on a bear Hunt."

Henry slowly shook his head. "Ise sorry Colonel but I can't do it." The Colonel, now desperate, played his hole card. "I would be eternally grateful Henry. The man I'm taking on this hunt is President Theodore Roosevelt!" The Negro still shook his head. "No suh, not even if it wuz Booker T. Washington!"

Colonel Oldham located some mediocre hounds, the hunt was on, the dogs treed a bear in a cave but they wouldn't go in after him. Everything was at a standstill. Finally Oldham pointed to one of his faithful black retainers. "Sam, go in and get that bear out of that cave." Sam didn't move. "Do you hear me Sam? Get in there!" After a few explicit threats, the old Negro slowly started into the big hole. An instant later he came flying out with the bear right on him, clawing him at every step but the dogs saved him, killed the bear and the hunt was a great success. Roosevelt was impressed by the bravery of the old Negro who was covered with scratches and otherwise *uncovered*. He had lost most of his clothes. "Didn't you know what that bear would do to you, Sam, if you went into that cave?" Roosevelt asked. "No Suh", I didn't know what that bear would do if I went *in* but I sho' knowed what the Colonel would do if *didn't go in*."

In addition to politicians, Kentucky has had a host of accomplished raconteurs, both amateur and professional, who were popular after dinner speakers. In small groups, Col. Phil T. Chiun was the best but the champion stand-up entertainer was Riley Wilson. Even in the thirties he got $1,000.00 for speaking to bankers conventions but he was like a surgeon. If necessary he would perform free for the advertising, as he did one night in 1937 as a guest at my farm. Frank McEwen and my cousin Hicel Asbury, noted amateurs themselves, were also present and among the guests were Powel Crosley and Roy Burlew of Owensboro and Ken-Rad fame. Stories went on for hours and Powel never got in a word. On Monday morning his Secretary, Miss Bauer, called. "Powel can't remember the great stories he heard at your farm and, he would like for you to write them out for him." He also tried to hire Riley Wilson for W .L. W.

There are many "power of whiskey" stories but Riley told the only one that included the morning after. Just after prohibition a Procter and Gamble drummer, stranded one night in a small Kentucky town, visited the local saloon. It was deserted except for a dejected figure sitting at a table. "Is that fellow drunk?"

the drummer asked. "No" said the bar-tender, "he's a down and out share-cropper. Probably couldn't afford a drink." The drummer, desperate for company went over and said "partner, you look worried. How about a drink?" "O.K." replied the native without enthusiasm. Close questioning revealed the native's sad plight. His boy was in jail, his unwed daughter was pregnant, his wife had T.B. and his tobacco crop looked bad. With the first drink he perked up enough to ask the stranger where he was from. "I'm from Cincinnati," replied the drummer. "Cincinnati, I got an uppity brother up there somewhere and I think its Cincinnati or Akron. They say he works in a bank but I ain't heard from him in 10 years." The "Whiskey Courage" of the share-cropper mounted with each drink and in the classic pattern of all such sagas his troubles sloughed away one by one. "The Doctor said the woman ain't got no bad consumption. Might be well in a year. Anyway she's in that State Sanatarium up at Lexington and it don't cost nothin'." He then rescued his daughter. "Ellie ain't no bad girl and that boy will marry her or else" he said with an ominous look. The next drink helped his tobacco crop. "All it needs is a good rain." The last drink solved his son's problem. "Clint's a steady boy. Never gets drunk except on Saturday and Sunday. I'm gonna borrow $10.00 against my crop and get him out tomorrow. That fellow he killed, needed killing. The Marshall apologized. Said he wouldn't have jailed him at all if he hadn't argued and disturbed the peace. The judge said he knowed what he'd have done, he'd done the same as Clint." "If the boy had stole some hams" the judge said "it was one thing, killing a man who had already been bought and paid for was another thing." No professor of law could have explained true Kentucky justice better.

The bartender called closing time and out on the sidewalk the native suddenly remembered all about his stuck up brother. "I know he's in Cincinnati" he said. "He's a rich banker up there. You look him up and tell him you saw his brother, that old John ain't doing so bad hisself, getting a ton of tobacco to the acre every year. And be sure you tell him I'm still the best damn man in the state, that I can still climb the tallest tree in Kentucky with a wildcat under each arm and never get a scratch."

On this high note they parted. Early the next morning as the drummer walked up Main Street to the depot, there wasn't a soul in sight. Finally, he saw a tall, woe-begone figure leaning against a telephone pole. Coming closer he identified his companion of the night before but the man showed no sign of recognition. "Aren't you the fellow I had drinks with last night," the drummer asked. "Might be. Some dude sho' poured a lot of lightnin' down me." "Do I remember right? Didn't you tell me you are the best man in Kentucky and that you can climb the tallest tree in the state with a wildcat under each arm and never get

a scratch?" "Yeah", the native said hanging his head . "I can get 'em *up there* all right but *its Hell coming down*."

You'all will climb down tomorrow morning. You won't be carrying wildcats and you will do it gracefully. In the mean- time, I shall do something the Devil never did. I'm leaving you.

83th Annual Winter Court
Society of Colonial Wars in the State of Ohio
December 1, 1978

AN UNLIKELY SET OF CIRCUMSTANCES

Dean Ernest G. Muntz
Raymond Walters Branch
University of Cincinnati

Let us return to the very early years of our national his- tory when we were struggling, under the leadership of Presidents George Washington and John Adams, to produce "a more perfect union." As the decade of the 1790's opened, we still had to make good our claim to the land between the Appalachian Mountains and the Mississippi River. The British Empire was poised to the north, the Spanish Empire to the south and west. Indian resistance, widely assumed to be supported by those colonial powers, checked the advance of American settlers into those regions so recently ceded to us in the Treaty of Paris of 1783. The loss of life was great and the seeming inability of the federal government to protect its citizens was disturbing. Even worse, the blockage by Spain of the Mississippi River to American traffic - the only cheap and convenient way for western farmers to export their produce - made every westerner subject to the siren song of separatism and alliance with Spain. Frontier adventurers and Spanish agents, playing on these fears and offering economic prosperity under different political relationships, clearly were a threat to the unity of the new country.

As our first Secretary of State, Thomas Jefferson considered this situation in the west to be the most important problem of American foreign relations. During his service as Secretary of State, he sought to use the conflicts between England and Spain to secure Spanish recognition of the right of American citizens to freely navigate the Mississippi River and to secure the right of deposit at the mouth of the river for American goods awaiting transshipment. Eventually these efforts bore fruit in the Pinckney Treaty of 1795, when the United States secured free navigation of the Mississippi and the right to deposit -goods at New Orleans. This temporarily appeased frontier discontent and removed the threat of disunion.

Such tranquility was not to last long. You will recall that in 1763, at the close of the Seven Years' War -known by you Warriors, I am sure, as the French and Indian War - the defeated France was excluded from continental North America. While England received undisputed possession of the trans - Appalachian West as well as the north country to be known as Canada, Spain, in compensation for territorial losses suffered as the ill-fated ally of France, fell heir to the vast territory that lay between the Mississippi River and the Rocky Mountains. This land, the heart of the French colonial empire, bore the name Louisiana in memory of King Louis XIV. Ownership of Louisiana, however, did

not produce beneficial results for Spain. Poorly governed, virtually unexplored, almost impossible to defend, it cost more to own than it produced in revenue. In a practical sense, its only value to Spain was strategic, for it served as a buffer between her vastly more important silver mines in Mexico and the British presence in North America.

During the decade of the 1790's, both France and Spain were reassessing the value of Louisiana. There were elements in France who dreamed of reconstructing New France, the colonial empire lost to England in 1763: Among them was Tallyrand, judged by many as the craftiest, most dissolute and most corrupt of European Statesmen - a former bishop whose illegitimate children were said to be scattered around Paris like chestnuts. He was small, lame, brilliant, ambitious. And of course, there was the Corsican - Napoleon Bonaparte -who was gradually, steadily accruing the power that would soon lead to his emperorship. For Talleyrand , the restoration of the French Empire would ensure the greatness of France. For Napoleon, it would ensure the greatness of Napoleon. In Spain, a prime actor was Manuel Godoy, duque de Alcudia, a protege of Queen Maria Luisa. A consumate diplomat - who else could keep the Queen of Spain as his mistress and the King of Spain as his best friend! - Godoy was in charge of every department that dealt with Louisiana and the other parts of New Spain. His view of Louisiana was completely pragmatic. If France wanted to remove this constant drain from the Spanish treasury, and if she would maintain it as a buffer protecting Mexico, she could have it - for the right price. It was only over the issue of price that negotiations for the sale of Louisiana to France broke down in 1795, 1796, and 1797. But Godoy could afford to wait.

When Napoleon became First Consul of France in 1799, the grand plan for France's - and Napoleon's - greatness was put into place. With the controlling factor that England must ultimately be met and defeated in battle always in mind, the Undeclared Naval War which France and the United States had been waging for several years was settled on terms quite favorable to us. These negotiations were completed on September 30, 1800. The very next day, October 1, 1800, agreement was reached with Spain for the transfer of Louisiana to France at some future date. For the time being, this Treaty of San Ildefonso was to remain secret so as to give France time to rebuild her fleet. The purpose of this reacquisition of a long-lost territory was to use Louisiana as a continental base from which to mount sufficient seapower to protect the French Caribbean Islands, and to serve as a granary to supply the slave workers on those islands. Furthermore, the very presence of France on her western boarder would ensure the neutrality of the United States when France and England finally locked horns in the coming war for European - indeed, world - hegemony.

The New France envisioned by Napoleon and Talleyrand was to be built in stages. First, the rich Caribbean Islands, and particularly Santo Domingo -the eastern end of Hispanola -must be made secure and productive. France had lost control of Santo Domingo when slave insurrections led by the gifted Toussaint L'Ouverture in the early 1790's had driven virtually all white men from the island. In October 1801, a French force of 20,000 men and 30 ships, commanded by Napoleon's brother-in-law General Charles Leclerc, was sent to subdue once and for all the pesky Dominicans and then sail on to take formal possession of Louisiana. A grand plan, perhaps, but one that was totally wrecked by a combination of fierce, savage resistance by the islanders and by the deadly scourge of yellow fever. The army was decimated, the workers slaughtered, both Leclerc and Toussaint dead. The dream of a new colonial empire also was dead.

Meanwhile, as early as May 1801 rumors had reached Washington that Spain had secretly ceded Louisiana to France, a fact later confirmed by our minister in London, Rufus King. A reborn French Empire in North America had enormous implications for the young United States, posing a far greater threat to our security than did the decrepid Spanish Empire. Somehow, through either war or negotiation, the vital rights of the free navigation of the Mississippi River and of deposit of goods at New Orleans had to be preserved. While Jefferson quietly made preparations for building some military strength in the west, he also set in motion certain diplomatic measures.

At about the time General Leclerc's fleet was on its way to Santo Domingo, our newly appointed minister to France was presenting his credentials. He was Robert R. Livingston, a wealthy, landed gentleman from New York. Though totally without diplomatic experience, he had earlier served in both Continental Congresses, had been a member of the committee charged with drafting the Declaration of Independence, and had served for twenty-four years as Chancellor (or secretary) of New York. He was a friend of Jefferson, vigorously pro-French, and brimming with self-confidence. For over a year, in ways subtle and not so subtle, through letters and essays, personal remonstrances and arguments, Livingston sought to impress on any and all officials in the French government who might have the ear of Napoleon that Louisiana, in the great poker game then being played, represented at best a busted flush, and that Louisiana should be given back to Spain. At the very least, American interests in the Mississippi River and New Orleans must be recognized and guaranteed. Despite his great energy, Livingston seemed to be making little progress.

And then a new development occurred. On October 16, 1802 the Spanish official in charge at New Orleans, Juan Ventura Morales, suddenly withdrew our right of deposit at New Orleans and did not assign an alternate depot as required

by the Pinckney Treaty. The west blew up, and again there was wild talk of secession or of direct attack on New Orleans. Though we now know that Morales' action was taken on his own initiative in retalliation to American smuggling, westerners assumed that the order had come from Napoleon and that it presaged a complete closure of the Mississippi to American traffic when France took possession of Louisiana. With the Federalists trying to make political hay through promising aid to the westerners and calling for an armed attack on New Orleans, Jefferson was faced with a dilemma. Action that was too weak could lead to a disruption of the Union; action that was too strong could lead to war with France - and defeat in that war could also destroy the Union.

Jefferson hit on the right combination of actions. Through pressure on both French and Spanish representatives in Washington he secured the restoration of the right of deposit at New Orleans. He also gave every indication that French policy was forcing closer relations with England, France's enemy. But his master stroke in tempering the inflamed attitudes of the west was his decision to send to France James Monroe, his Virginia neighbor and former law student, as envoy extraordinary and minister plenipotentiary. Monroe throughout his career had identified himself with the interest of westerners, possibly because of his own large land holdings there. He was known by·the westerner, and trusted by him. Monroe was to work with Livingston in Paris and Charles Pinckney in Madrid "In enlarging and more effectively securing our rights and interests in the river Mississippi and the territories eastward thereof." Congress authorized Monroe and Livingston to engage in negotiations to purchase New Orleans and West Florida, spending up to two million dollars if necessary.

Livingston, of course, saw the Monroe mission not as a response to a domestic political crisis but as a slap in the face. Determined that his work of the past year not be lost - nor his place in history blurred by this unwanted helper - Livingston redoubled his efforts. And suddenly those efforts bore totally unexpected fruit. In January 1803 Napoleon had learned of Leclerc's death and of the impossibility, without frightful expenditure - of both treasure and men, of pacifying Santo Domingo. War with England was imminent. In that war, Louisiana would surely be taken, either by England or by the United States. In addition, money, much money, would be required to fight the war. Therefore Napoleon suddenly decided to postpone his dream of empire.

On April 11, 1803, Talleyrand sought a meeting with Livingston and casually asked whether the United States would be interested in buying all of Louisiana. One can only imagine how surprised - even shocked - certainly how skeptical -Livingston must have been, but that same day the offer was formally

repeated by the Minister of the Treasury, Francois Barbe-Marbois, who had been selected by Napoleon to be his chief negotiator for the sale.

The very next day, April 12, 1803, Monroe arrived. Both American ministers agreed that this opportunity must not be lost. In less than three weeks the terms had been hammered out. After some haggling, the price for Louisiana was finally settled at 80 million francs, or $15,000,000. Of this sum, 20 million francs, or $3,750,000, was to be distributed by the United States to American ship owners who had suffered losses at the hands of French privateers since 1800. The rest would be paid to France. Though some loose ends still had to be tied up, the Purchase Treaty was dated April 30, 1803, with formal ratification by both governments within six months. As he signed the treaty, Livingston said "We have lived long, but this is the noblest work of our whole lives." And he was right - but this "noblest work" was by no means an assured thing, something that had automatically and inevitably happened. There were so many irregularities, so many improbabilities, so many inconsistencies connected with the whole history of Louisiana and its eventual purchase by the United States that the deal might never have been struck or never carried to its culmination.

Consider, for instance, what France was offering to sell. The Secret Treaty of San Ildefonso which conveyed Louisiana from Spain to France contained a number of provisions along with some clear understandings. For one thing, France solemnly promised that in exchange for Louisiana and the Duchy of Parma (which Napoleon's army had occupied in 1796), France would turn over Tuscany, with its glamorous cities of Florence, Pisa, and Siena. This area would be reorganized into the Kingdom of Etruria, and the deposed duque de Parma -who happened to be Charles IV's son-in-law and nephew - would be installed as King of Etruria. For Spain, land in Italy - plus solving a family problem - might have seemed a fair exchange for non-productive Louisiana . The only problem was that the exchange never took place! Napoleon reneged on the promise of Tuscany and Spain was left holding the bag. The Treaty of San Ildefonso was thus nothing but a broken contract, and Spain could protest -as she did, but ineffectively - that Louisiana was legally hers. Furthermore, at the time of the original negotiations in 1800, and clearly and specifically repeated when Charles IV finally and reluctantly signed the Treaty of San Ildefonso on October 12, 1802, Spain had stipulated that France was never to alienate the territory or cede it to any other nation but Spain. The French ambassador had given his country's pledge to this stipulation. Our negotiators were well aware of these substantial clouds on France's title to Louisiana, but they shrugged them off as a problem between France and Spain that did not concern them. The might of France prevailed over

the right of Spain, but in a more perfect world one might bring into question both the moral and the legal right of France to sell Louisiana to the United States.

And if one could argue that France had no right to sell, it could also be argued that Livingston and Monroe had no right to buy. Their instructions and authorization were rather specific: two million dollars to purchase New Orleans and a few thousand square miles of sandy coastal lands to the east. Now, suddenly, unexpectedly, they are offered half a continent, an empire, a land larger than the nations of Great Britain, Germany, France, Spain, Portugal and Italy combined -and at a price that far exceeded their authorized limit. Additional authorizations were impossible to obtain. Weeks and weeks of sea voyage separated them from Washington. Lesser men might have hesitated, but fully aware of the unparralleled opportunity presented, and equally aware of the mercurial nature of Napoleon that could lead him to decide not to sell a quickly has he decided to sell, they pressed ahead with the negotiations. But in so doing, they clearly exceeded their instructions and could only rely, ultimately, on the approval of the American people for their action.

Beyond that, however, was the problem of determining exactly what they were buying in the name of the United States. In simple terms, of course, we were to get what France had gotten from Spain in the Treaty of San Ildefonso. But what was that? Article three of the Treaty of San Idlefonso included a description of the land as ". . .the colony or province of Louisiana, with the same extent that it now has in the hands...of Spain, and that it had when France possessed it. . ." That language was incorporated in the Treaty of Purchase, but it really didn't help much in determining exact boundaries. In 1803, despite three hundred years of attempted exploration by both the French and Spanish, the physical dimensions of Louisiana were still couched in the most general terms. Louisiana ended in the far west at "the height of the land", what we today would call the continental divide in the Rocky Mountains. In the far north the boundary ended at the source of the Mississippi River, which was unknown. In the south it ended at the Red River, more or less, but the Red River beyond Natchetoches was unexplored and unknown. More pertinent to the immediate concerns of the United States, however, was the status of East and West Florida. In 1800 Talleyrand had tried to get those territories specifically included in the land France was to receive from Spain, but Godoy had refused. Yet West Florida and the strategically important Mobile Bay region had been French in 1699, and thus would seem to fall under the clause "that it (Louisiana) had when France possessed it." But who could say? Certainly not the French, who hoped that obscurity might at some time create boundary disputes between Spain and the United States which France might use to her own advantage. Surprisingly, it was only after the treaty was signed that

there was any substantive discussion of the boundaries of Louisiana. Livingston reported that he asked Tallyrand, "What are the eastern boundaries of Louisiana?" Talleyrand claimed not to know, saying, "You must take it as we received it." Livingston then asked, "But what did you mean to take (from Spain)?" Again Talleyrand said, "I don't know." Livingston then responded, "You mean that we should construe it in our own way?" Talleyrand: "I can give you no direction. You have made a noble bargain for yourselves, and I suppose you will make the most of it." So much for the property description! A noble bargain it certainly was, but Livingston and Monroe certainly could not claim detailed knowledge of just what they had bargained for! It would take nearly two decades of negotiation and additional treaties with both England and Spain before anyone could say with relative assurance just what it was that Livingston and Monroe had actually purchased in the names of President Jefferson and the American people.

To add to the irony, whatever it was that had been purchased was purchased in the name of a president who was firmly committed to the belief that it was unconstitutional for the United States to purchase any land at all! As a person who believed in the strict - or literal - construction of the Constitution, Jefferson could find in it no language specifically authorizing the extension of the boundaries of the United States beyond those in existence when the Constitution was ratified. Even when contemplating the possible purchase of New Orleans and West Florida, Jefferson had anticipated the need to go to the states for an amendment to the Constitution specifically authorizing such an acquisition. Now he was faced with the purchase of half the continent, and facing a deadline for ratification of the Treaty of Purchase by October 30, 1803. It is interesting to note that when he issued his call for Congress to meet October 17th for purposes of ratification and the enactment of legislation to put the treaty into effect, he did not even hint of the grave constitutional issue that was troubling him. Perhaps his shrewd political sense already told him what he must eventually do, but nevertheless throughout July, August and September, in meetings with his Cabinet and in letters to his political allies, he continually raised his doubts as to the legality of the purchase without an amendment, and his fears for the future should Louisiana be purchased on the grounds that any nation has an inherent power to acquire territory or that such a power could be implied from another, constitutional power, such as the power to make war or the power to make treaties. As he expressed in a September letter, "Our peculiar security is in the possession of a written Constitution. Let us not make it a blank paper by construction. I say the same as to the opinion of those who consider the grant of the treaty-making power as boundless. If it is, then we have no Constitution. . ."

On August 30, 1803, Jefferson proposed specific constitutional amendment language to his Attorney-General, Levi Lincoln, and twice submitted his propose'd amendment to his Cabinet. He found no support there, nor, I suspect, did he really expect to. All, including Jefferson, were well aware of the fact that there was no time to secure a Constitutional amendment, for the treaty had to be ratified by October 30th. In addition, Monroe had sent warnings of the likelihood that Napoleon would change his mind once again should ratification be delayed . Even beyond that, there were compelling political problems, expressed very clearly in a September 3rd letter from Senator Wilson Cary Nicholas of Virginia: "I should think it very probable if the treaty should be by you declared to exceed the constitutional authority of the treaty- making power, that it would be rejected by the Senate, and if that should happen, that great use wou'd be made with the people, of a wilful breach of the constitution." And in the end, Jefferson never publicly demanded an amendment. As fore-shadowed in his July call for the convening of the Congress, the issue was not raised by him. As he put it, in his reply to Senator Nicholas, after again expressing his personal wish that an amendment were possible, "If . . . our friends think differently, certainly I shall acquiesce with satisfaction; confident that the good sense of our country will correct the evil of construction when it shall produce ill effects." And, in due time, the Senate handily ratified the treaty by a vote of 24 to7. The bitter opposition of the Federalists crumbled when Senator John Quincy Adams of Massachusetts supported the treaty. "True," he said, "the negotiators had exceeded their powers; true, certain stipulations had been made that were beyond the Constitution; but the cause was right and a constitutional amendment to meet all necessities should be proposed. Propose it, and it will be adopted by the Legislature of every State in the Union." Of course no such amendment was ever added to the Constitution, and the assumed power of Congress became a fait accompli, later confirmed by the Supreme Court in the 1828 case of American Insurance Company v. Canter. There was even a final irony in that. Chief Justice Marshall, the bitter political foe of Thomas Jefferson, confirmed the constitutionality of the purchase of East and West Florida in the Adams-Oxis Treaty of 1819, a treaty which had been negotiated by John Quincy Adams, the same man who admitted the unconstitutionality of the Louisiana Purchase. In 1803, however, the potential gain was so great that men like Adams and Jefferson could mute their constitutional scruples and pray that it would turn out all right in the end.

But there was yet another problem. The purchase price was fifteen million dollars, and we simply did not have that kind of money. Indeed, that sum exceeded the value of all the specie in circulation in the entire country! As a nation, we were still deeply in debt from the days of the Revolution and the Confederation. The annual revenue of the federal government was only about

$10,000,000, three-fourths of which was dedicated to servicing the national debt. Was the price set by the treaty too high? Certainly the die-hard New England Federalists, who opposed the purchase on partisan political grounds, thought so. They gleefully rang the changes. Why fifteen million dollars was the equivalent of 433 tons of solid silver! Why that much silver would fill 866 wagons, which lined up would stretch a distance of five and a third miles! Why a stack of fifteen million silver dollars would reach three miles high! Or we could hire an army of twenty-five thousand men for twenty-five years for $15,000,000 - or give three dollars to every man, woman, and child in the United States. The price for Louisiana was ridiculous! Or was it? Proponents of the treaty could point to half a continent acquired without the shedding of one drop of blood, the addition to the country of a hundred thousand people who would not be cursing their conquerors. And how much blood and treasure would it have cost to fight a war just to gain possession of New Orleans? Furthermore, one could argue that, from a business point of view, the acquisition of land at a cost of something under three cents an acre at the very time the federal government was selling land to settlers for one dollar an acre represented a real bargain.

But despite the arguments somewhat analagous to the two drunks arguing over whether the bottle was half full or half empty, that fact remained that we did not have fifteen million dollars to spend. The $3,750,000 to be paid American ship owners to settle the spoliation claims did not present too large a problem. Years would go by before each and every claim was adjudicated, and then when finally paid, the money would remain in this country. But what about the $11,250,000 that was to go to France? Congress authorized the issuance of that amount in bonds, bearing a 6% interest rate. The interest was payable semi-annually with one-third of the principal to be paid in 1819 and the remainder in two successive years. But Napoleon needed gold, not paper, to fuel his war machine. French banks were unwilling to try to sell such a huge bond issue in France, and therefore, at the suggestion of Livingston and Monroe, the French sold the bonds, at a substantial discount, to Hope and Company of Amsterdam, and Francis Baring and Company of London. And thus comes the final irony in this tale. Though Napoleon received less than nine million dollars in gold from this trans- action, it was, nevertheless, largely British gold - British gold that had to be granted a special export permit by the British government, British gold that was clearly to be used to strengthen French military might,. British gold that might conceivably tip the balance of power between France and England who at the time of the transaction were already at war!

And so one might say that in the Louisiana Purchase of 1803 we were buying land from a country that had no right to sell it, represented by two

diplomats who had no right to buy it and who didn't even know the boundaries of the land they were contracting for, representing a president firmly convinced it was unconstitutional to add to the territory of the United States by purchase, and with money we didn't have but indirectly borrowed from England so that France could use it to buy guns and ammunition with which to kill British soldiers. An unlikely set of circumstances had produced an improbable conclusion - yet it was a conclusion that determined the future of the United States - and perhaps the world - as few others have. While the immediate goal - and the immediate benefit - was the removal of a foreign power from our Mississippi River border, the long term consequences of the addition of the Louisiana Territory to the United States were so immense as to require separate treatment. Just the most obvious - the vast and fertile plains which would become our breadbasket , the incalculable mineral wealth that would fuel our industrial revolution, the seemingly limitless space that would provide room for millions of future immigrants, the extension of liberty and freedom under Constitutional government - just these almost boggle the imagination. Of course, one could argue that without the addition of the Louisiana Territory there might never have been a Civil War, but if the young nation had been able to survive at all, limited and hobbled by its post-Revolutionary boundaries, it would have been as a second-rate power at best. Certainly the potential of the United States was secured by the Louisiana Purchase.

And yet, that "noblest work" of Livingston and Monroe would never have been culminated had the unlikely set of circumstances recited here not occurred. But they did occur, and the Louisiana Purchase became one more illustration of America reaping benefit from Europe's distresses. That, at least, is the standard interpretation of historians. Or, perhaps, these unusual events occurred as they did because, as that ubiquitous gentleman named "Anonymous" once said "God looks after fools, drunkards, and the United States." Our problems of today, when world distresses seem to compound our own distresses, may only mean that we lack the Jeffersons, the Monroes, the Livingstons who can see opportunity in crisis. Or it may simply mean that God - deservedly - has forgotten us. But that final interpretation I leave to you.

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