

THE BLACK HORNET

*Robert M. Galbraith, Esq.
Former Chancellor-General,
Life Member of Council,
General Society of Colonial Wars*

The biographies of the man of whom I wish to write are primarily eulogies written at the time of his death. Frequently, one gets the impression that they are not so much concerned with the man himself but use their accounts of his life to advance some religious or political views of the authors rather than depict the true sum and substance of the man.

It is only when one reads the monumental work of the man himself entitled "Notes of the Northwest Territory", which was the labor of many, many years and of infinite detail, that one catches a glimmer of the full sum and substance of the true personality of the man himself. The writer only regrets that the time and energy were not available to him to permit an exhaustive and extended dissection of the "Notes". In the writer's opinion, it is only by such a dissection that the fascinating and intricate facets of this man can be properly developed.

It will be the writer's endeavor by the relation of portions of his "Notes" to illustrate what the writer considers to be some of the contradictions in this character that, as far as the writer's limited research goes, have not been perceived by others.

Jacob Burnet, known during one of the four phases of his life as the "Black Hornet" was born in Newark, New Jersey. He was the sixth son of a doctor whose father had emigrated from Scotland with his wife to Elizabethtown in the then Province of New Jersey. His father was a member of the second graduating class of the College of New Jersey. The father practiced medicine in the private sector until 1775 and the outbreak of the Revolutionary War. His father was elected a member of Congress under the Articles of Confederation in the fall of 1776 when the "Hornet" was five years old. From then until the peace of 1783, he spent his time in the public service. He was Chairman of the Committee of Public Safety, member of Congress, physician and surgeon general of the Eastern District of the United States and later judge of the Court of his native county, and president of the State Medical Society. The son of such a father during such stirring times at such an impressionable age obviously had the opportunity to benefit from contact with the great leaders of the time, from Benjamin Franklin on down. In his home and in the community in which he lived and in the perusal of the many publications of which, "The Federalist Papers" are perhaps the most notable, he was exposed to the arguments and discussions of the

best thinkers of the colonies. The spiritual agonies and self examination of the framers and signers of the "Declaration of Independence" which made them irrevocably subject to the charge of treason could not have failed to move a young boy's heart. The words with which it was terminated "and to this end, we pledge our lives, our fortunes and our sacred honor", have the power to this day to send a thrill to our hearts.

During the period of his young manhood, he was therefore exposed to the exciting events of the Revolution, and the many verbal and printed pamphlets and discussions evoked by the defects of the "Articles of Confederation", which finally resulted in the adoption of the original Constitution of the United States and the amendments to it, which were simultaneously adopted and referred to as the "Bill of Rights". He was present at the inauguration of George Washington as the first president of the United States.

The subject of this paper became a student at Nassau Hall, Princeton, New Jersey, under Dr. Witherspoon and graduated with honor in September, 1791. After a year there as a resident graduate, he studied law under Richard Stockton and Judge Boudinot. He was admitted to the bar by the Supreme Court of New Jersey in 1796. Our subject had then completed the first of the four important phases of his life.

At the time of his admission to the bar, his health had become seriously impaired and he was inflicted with a "bleeding of the lungs" and other ailments. One would suppose that this would have induced him to remain in some civilized spot where he could have enjoyed the comforts of such civilization as existed at the time, the company of other educated men and the best medical care. Perhaps some native instinct or insight made him realize that neither the civilization which then existed nor the state of the medical arts were likely to be of much benefit to him.

At any rate he immediately repaired to the wilderness city of Cincinnati. The general court of the old Northwest territory was a circuit court which met in Marietta, Cincinnati, Vincennes and Kaskaskia. Fortunately, it was in Cincinnati where our friend arrived and he was apparently immediately admitted to the bar. According to his own "Notes", there were only about 1,500 settlers in the whole territory, about 500 of whom were at Cincinnati. At this time, Fort Washington had been constructed and was commanded by William H. Harrison, a captain in the regular army but later President of the United States. According to the "Notes", idleness, drinking and gambling prevailed in the army as the result of their long disassociation from any other forms of diversion and entertainment. At this time there were no libraries, nor refined male or female society. Men of polished or literary minds were rarely to be met, either in the settlements or the wilderness within the territory. As a consequence, the bad habits of the military infested the other residents. As proof of this, Burnet states that when Mr. Burnet came to the bar of the territory there were some ten

lawyers engaged in the practice of law of whom he was soon the only survivor, since the others all became confirmed sots and descended to premature graves.

Fort Washington had been constructed prior to Burnet's arrival in Cincinnati but in his "notes" he advances a reason for its construction at Cincinnati rather than North Bend, which is novel to me. North Bend because of its elevation and commanding view of the Ohio River was apparently a much more favorable location for a military installation than Cincinnati. But it would appear, according to the "Notes" that the Major in command of the troops assigned the duty to erect it, was possessed with broad powers to choose the site where it was finally to be built. Among the settlers then at North Bend was a married lady who equaled if she did not exceed the beauty of Helen of Troy, the famous lady, who legend had it moved a thousand ships and brought about the destruction of ancient Troy. The husband of the lovely lady of North Bend, fearing the influence of the dashing Major, resolved to remove her from his grasp. He accordingly changed his residence to Cincinnati believing that in so doing he had removed her from the influence and attentions of the Major.

Unfortunately for the husband of the fair lady, however, the enamored Major decided that Cincinnati was a much better place for the location of the fort, although the topography of North Bend and Cincinnati hardly supported this conclusion. Nevertheless, the Major immediately moved his troops to Cincinnati and the strong post known as Fort Washington was immediately constructed. This insured that Cincinnati would become the leading settlement of the territory.

For a time, after settlement had first been attempted the Indians in the area had been relatively peaceful. But as more and more land had been appropriated and cultivated and the Indians were shamefully defrauded by traders, who were apparently responsible to no one, the Indians became hostile. In this they were encouraged by the British troops who still had a base at Fort Detroit although this was later surrendered to the Americans when the boundary between the United States and Canada was finally established by treaty. The British themselves had their troubles because of the encroachment of the settlers and all of their posts except Detroit had been destroyed by Pontiac.

Because of the hideous depredations of the Indians and the equally barbarous retaliations of the white men, it became extremely important that the people coming to the territory live near a strong fort where they could come with their families and livestock in times of trouble. This was particularly true after the disastrous defeats of Governor St. Clair and General Harmar which resulted partly from the lack of training of the militia and miserable equipment.

After the battle of "Fallen Timbers" in which General "Mad" Anthony Wayne not only killed a great many Indians but destroyed their crops, the Indian menace was pretty much eliminated since most of the Indians removed either to Canada or to the Western side of the Mississippi River.

We now come to the second phase of Burnet's life during which he practiced law. It seems unbelievable that he was able to ride the circuit with the judges and other lawyers, often sleeping in the snow or standing all night propped against a tree in a cold icy rain. He and his companions often found themselves at nightfall in what amounted to a bog and in travelling to Vincennes in the springtime, almost up to their necks in flood waters. There were no bridges over the streams which they either had to ford or swim across. Burnet gave some thought to establishing an office in Vincennes but the difficulties of travel and the unavailability of clients there decided him against it. He attended Court in Detroit also, Detroit having been surrendered under the provisions of Jay's treaty to General Wayne, and here his largest clientele developed. In any event, the rigors of out-door life restored his health and he soon had perhaps the largest clientele in the territory. He was what we would call today a "plaintiff's lawyer". He always dressed in black and his penetrating cross-examinations earned him the title of the "Black Hornet", hence the title of this paper. He was also remarkable for owning a horse which was an unusually good swimmer and made it a very valuable asset in a territory of many rivers and streams and no bridges.

The third phase or facet of his career, which was pretty much concurrent with his practice as a lawyer, was his employment in various legislative and judicial bodies both state and national.

In 1799, it was ascertained that the territory contained five thousand free, white male inhabitants and was entitled by the ordinance of 1787 to advance to the second grade of territorial government. The territory was now authorized to have a General Assembly consisting of a Legislative Council appointed by the President, with the advice and consent of the United States Senate, and a House of Representatives chosen by the people, in which the legislative power was vested, subject to the unqualified veto of the governor.

Burnet was appointed by President Adams, with the consent of the Senate, to the Legislative Council. He was active in its affairs and a large part of the actions taken by it were initiated and reported by him until a state government was established in the winter of 1802-03.

He took no part in favor of the state constitution because its adoption was made subject to conditions by congress. These limitations were made because the part of the territory to become a state did not have the population required. The intricacies

of the constitutional questions involved would only be of interest to lawyers. I will, therefore, not bore you with them. It is sufficient to say that Burnet was a strict constructionist and his position being opposed to the political majority, he devoted his time almost completely to the practice of law. He is quoted as saying, "I retained the confidence of the community in all other matters: my business therefore increased and kept me constantly employed. I delighted in that branch of it which is called the drudgery of the profession". If he is quoted correctly this is in direct conflict with what he himself had to say when he abandoned the practice of law to which later reference will be made.

In any event he seems to have acquired sufficient public support to be elected to the legislature in 1814 and was re-elected in 1815. He withdrew his name from consideration in the year 1816. In 1821, he was appointed by the governor of Ohio to the Ohio Supreme Court which office he held until December, 1828 when he resigned his office and was a few days thereafter elected to the Senate of the United States, to fill the vacancy created by the resignation of General Harrison, who had been appointed minister to the government at Bogata. As an aside, it is interesting to note that after the ignominious and disgraceful surrender of General Hull, commanding general of the armies of the northwest, to the British and the Indian confederation under Techumseh with its accompanying massacre of the garrison of Fort Dearborne and at other places, Harrison had exceeded the achievements of General Wayne and had crushed the power of the English and of the Indians east of the Mississippi River.

Illustrating the fact that human nature is after all human nature and that we learn little from history, by 1821 the residents of the territory had managed to speculate in the sale of government lands to the extent that the amount owed was so great as to make its payment literally impossible. For more modern examples consider Iowa in 1924, Florida in 1929 and the United States in 1984.

Burnet with great acumen which strangely enough he did not always display in his private affairs was able to come up with a solution which was satisfactory to the United States Government and the speculators. Installment sales were quite in vogue, even in those days, and most of its purchasers who had expected to quickly resell at a higher price found themselves unable to sell or make more than one or two payments on the land they had contracted to purchase. It was stated that if the government attempted to collect it might cause civil war. (Shades of the dust bowl). Burnet himself had been caught up in the speculative fever which may have been a further inducement to him to find a solution. Find one he did and was able with the help of friends in the Bank of the United States and in the postal department, remember Jim Farley, was able to sell it to Congress.

The plan in essence provided that the claims would be cancelled but that each landowner would retain what he was able to pay for. The rest of the land would revert to the United States. Rufus King of New York exerted all the influence he could in the Senate in favor of the bill. He pointed out that it served the dual purpose of extinguishing the existing debt and of preventing the accumulation of another.

The plan was adopted except that it further provided that the price of public land was reduced from \$2.00 to \$1.25; and to subdivide the surveys into tracts of eighty acres. This made it possible for any man who was not completely lazy to become a landowner.

It had been recognized for some time that a direct and easy connection by water between the great lakes and the Ohio was extremely desirable. There was access by water from the south as far north as Dayton and from the north to the Auglaize River. Congress made a grant to the State of Ohio for the purpose of constructing the Miami Canal, but on the condition that in the event the canal was not completed in twenty years the state would have to pay to the United States the price of the land. This condition was unacceptable to Ohio and the matter was dropped.

In 1830, however, Burnet, having now become a member of the Senate of the United States, offered a resolution, instructing the committee on public lands "to inquire how far it was expedient to alter and to modify the act entitled an act to aid the State of Ohio in constructing the Miami Canal from Dayton to Lake Erie, and to grant a quantity of land to the State to aid in the construction of the canals authorized by law;". His resolution also proposed that the twenty year provision which was so objectional to the State be eliminated.

The bill submitted by Burnet was passed and the grant was increased by about 250 sections. Burnet's term expired in 1831 and he retired to private life.

I failed to mention, because of trying to keep this paper within reasonable limits, that at about the time of his appointment to the Supreme Court of Ohio, he was appointed a professor at the law school connected with Transylvania University, Lexington, Kentucky which he was unable to accept. Nevertheless, he was awarded the honorary degree of Doctor of Law. Not to be outdone, a short time later, he was awarded the same degree by his old Alma Mater at Princeton, New Jersey.

It should be noted that although after the year 1816, he devoted a considerable part of his time to legislative and judicial matters and after having practiced only 20 years with the most brilliant future as a lawyer before him, he left the practice and never returned to it. He is quoted as having stated that "his heart was not in the profession, ... that he practiced law from a sense of duty".

Upon his retirement from public life having amassed a considerable fortune, he engaged in various commercial endeavors some which prospered but many did not. He had an interest in the Miami Exporting Company which failed, but subsequently a bank was established by it which was possible under its charter and this apparently was successful. He attempted with others to create a development on the north bank of the falls of the Ohio but this failed. In 1817, he was elected President of the Branch Bank of the United States, at Cincinnati and continued in this office until 1821.

One incident illustrative of his personal financial ups and downs was the sale of his estate at the southwest corner of Fourth and Vine Streets in 1825 to the Bank of the United States for \$25,000.00. It was later subdivided and the parcels resulting from this were sold at various times and a part of the southerly portion was ultimately sold at the corner of Third and Vine Streets to Manley Chapin and others. These gentlemen erected on this lot a hotel known as the Burnet House which stood there for three quarters of a century. At the time of its opening, it was considered the finest hotel in the country. It was visited by many famous personages. Jenny Lind, Adalina Patty and other famous singers stayed there. It was ideally located as a meeting place for the President and his generals. It is said that Lincoln, Grant and Sherman stayed there at various times. Later the Hungarian patriot, Louis Kossuth, Madame Sarah Bernhart, the Prince of Wales, who later became Edward the VII and many other well known personages as well as many, many others of less distinction used its facilities. In 1926, it had become the property of the Union Central Life Insurance Company and the tract is now occupied by the Annex of the Central Trust Tower. But I have digressed much too far from my original biography. Perhaps I may be forgiven, since my mother was asked to speak at the ceremonies on the day its demolition began. Also taking part in those ceremonies were Murray Seasongood, our beloved fellow member and Joseph Wilby, then president of the Historical and Philosophical Society of Ohio, now the Cincinnati Historical Society.

On the philanthropic side, Burnet was for many years president of the Medical College of Ohio, at least two of his contemporaries say he was, president of the Colonization Society, and of the Ohio Historical and Philosophical Society. He also was president of the Cincinnati College and was president of the local Astronomical Society. In the latter role, he rendered assistance to Professor Mitchell in establishing the observatory. In addition, he was a member of the Society for the Cultivation of Sacred Music. There were a few other organizations in which he took an active part but I am sure that you have some idea of the variety of his interests and it is noteworthy that, on the application of General Lafayette, he was elected a member of the French Academy of Science which up to this time had admitted few foreigners to its membership. This may have been prompted in part by his close personal friendship with Daniel Webster, Henry Clay, William Henry Harrison and other national figures

of the day. In 1847, he published *Notes on the Northwestern Territory*, a most voluminous history of the Old Northwest Territory.

Now we come to the last and perhaps most curious aspect of Burnet's character and one which illustrates his independence of mind and the sincerity of his beliefs. He believed in the truth of Christianity and the inspiration of the Bible, which he studied critically as is demonstrated by his "Notes" referred to above. He was essentially a Presbyterian both from conviction and preference. The republication form of government of the Presbyterian Church apparently had great appeal to him. He was a faithful attendant at church services, when they were available to him and insisted on walking, on Sunday, to church, even in his eightieth year, twice a day. But, he never completely accepted all the teachings of the church or was confirmed as a member. He is quoted as having stated a few months before his death on May 10, 1853 at the age of eighty-three that he had difficulty in respect to the institution of the Lord's Supper on which he differed from the Church and for this reason never had become a communicant. So now let us leave this brilliant, independent, and versatile man, one time known as the Black Hornet, to the judgment of his Maker.

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