

by Michael E. Telzrow

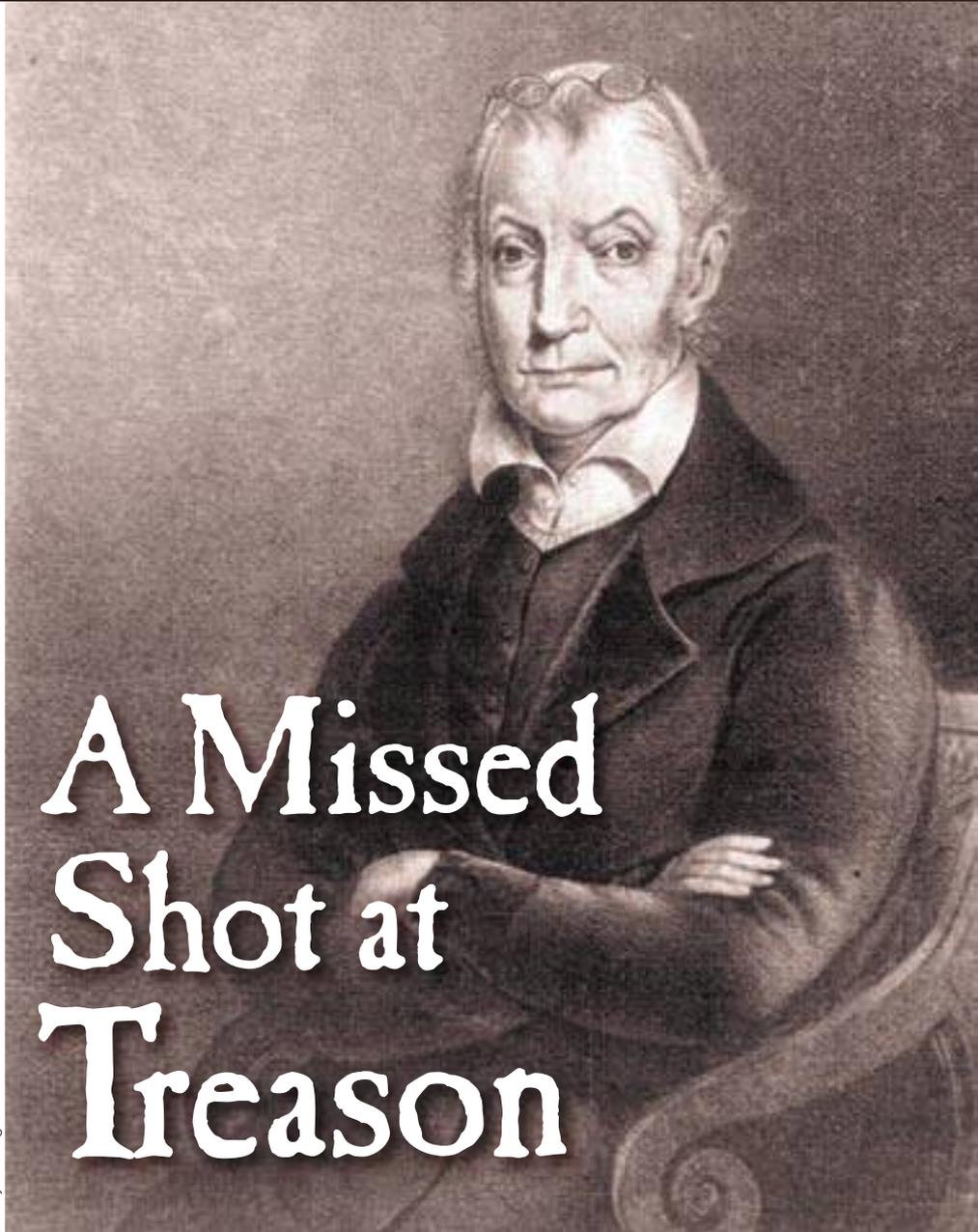
It was a cold February night in 1807, in the village of Wakefield, Alabama. Two young men — Nicholas Perkins, a lawyer, and Thomas Malone, clerk of the court — were absorbed in a game of backgammon beside the fireplace when the sound of horses approaching the cabin caught their attention. It was past 10:00 p.m., an odd hour for travelers to be out in this sparsely populated region near the West Florida border.

Two strangers rode up to the cabin and one of them asked directions to Colonel John Hinson's farm. Perkins pointed the way, explaining it was some seven miles distant, over a rain-swollen creek and rugged terrain. As the travelers rode off, Perkins raced to the home of Sheriff Theodore Brightwell and roused the lawman out of bed. The young lawyer was sure that one of the visitors was none other than the famous fugitive whom all the territory was buzzing about.

There were plenty of clues to support his suspicion. First of all, the attire of the man who had asked directions betokened a disguise: the dingy felt hat, rough homespun coat, and ragged pantaloons were at odds with the man's elegant, polished boots, fine saddle, and splendid horse. And his cultured voice and accent belonged to an educated urbanite, not the rustic farmer he was pretending to be. Moreover, the man's diminutive size, striking features, and luminous eyes matched the description of the fugitive recently issued by the governor of the territory. The mysterious visitor, Perkins told the sheriff, must be the former vice president of the United States, Aaron Burr, now charged with treason!

Perkins and Sheriff Brightwell set out for the Hinson farm. When they arrived, at close to midnight, Perkins stayed in the woods, while the sheriff went inside. As Perkins shivered outside in the cold, the sheriff seemed to be enjoying a pleasant supper party, which was punctuated by frequent laughter. After a long time, the candles went out, and it appeared the sheriff was going to spend the night in the Hinson home.

Perkins headed for Fort Stoddert and notified Lieutenant Edmund Gaines, the officer in charge, of the fugitive sighting. Lt. Gaines gathered several of his men



A Missed Shot at Treason

Aaron Burr is known for killing Alexander Hamilton during their infamous duel, but it is not so well known that Burr also aimed to foment a revolution against the United States.

and, together with Perkins, headed for the Hinson residence. At around 9 o'clock that morning they came upon two men on horseback. One was Aaron Burr, still in disguise. The other was Sheriff Brightwell, who, fascinated by the ex-vice president, was guiding him on the road to Pensacola to escape pursuit of the law! This was not the first time, nor would it be the last, that Burr's storied wit and charm had worked its Svengali-like magic. Men and women

alike, and from all stations of life — soldiers, aristocrats, merchants, and farmers, barmaids, and countesses — were susceptible to his allure.

Burr was then taken on an arduous thousand-mile trek, from Ft. Stoddert to Richmond, Virginia — the designated venue for what would become known as “the great treason trial” — in 21 days. There, in Richmond, would assemble a dramatic persona of distinguished legal minds and

orators as would ever grace an American courtroom: U.S. Supreme Court Chief Justice John Marshall, John and Edmund Randolph, John Wickham, Charles Lee, Luther Martin, Ceasar Rodney, George Hay — and President Thomas Jefferson directly participating in the background, if not in the courtroom itself.

Treason is one of only a few crimes mentioned in the U.S. Constitution. The crime against the nation ranks as one of the most despised offenses and carries with it a stigma like no other — traitor! But relatively few Americans have ever been charged with treason, and even fewer have ever been convicted.

The most famous American ever tried for treason was Aaron Burr, a man known more for his role in the killing of Alexander Hamilton than for conspiring to create a nation within a nation. Burr's plot to foment a revolution and create a separate nation out of the newly acquired lands of the western United States during the early 19th century reads like a fantastic novel and challenges the assumptions of political-conspiracy skeptics.

Infamous Duel With Hamilton

After a failed run in the 1804 New York State gubernatorial race, Vice President Burr set his sights on a bigger prize — bigger than the governorship and possibly even the presidency. But first he would settle old scores with his nemesis, Alexander Hamilton. It was Hamilton's behind-the-scenes machinations that swung the 1800 presidential election in Thomas Jefferson's favor when the contest had to be decided by the House of Representatives. And it was Hamilton's opposition and public insults that derailed Burr's gubernatorial race, after Burr decided that his party would replace him with another candidate in the upcoming presidential election.

On July 11, 1804, Burr and Hamilton, the two high-priced New York lawyers, met near the top of the New Jersey cliffs overlooking the Hudson in the wilderness of Weehawken, New Jersey, to put an end to their rivalry. When it came time to duel, Hamilton did what he could to avoid the inevitable, but there was no way out. Burr had his honor to defend and the two found themselves facing each other 10 paces apart, each armed with a .56-caliber flintlock pistol. At the appropriate command

each duelist raised his arm and fired his pistol. Hamilton fired high and to the right, completely missing the mark. Burr's round entered Hamilton's stomach, shattered a rib, and tore through his liver and diaphragm, coming to rest in a lumbar vertebra. He died the next day.

In death, Hamilton became a saint; Burr became a villain. Almost immediately a hue and cry arose for indicting the vice president. Although eventually indicted in New York and New Jersey, Burr was never tried in either state. Still serving his term as vice president, he fled to South Carolina to avoid the increasingly agitated public, but returned in the fall of 1804 to resume his duties. Despite his noteworthy performance during his last months as vice president, Burr found it impossible to remain in the East. Politically and professionally he was finished in that part of the country. Like many others of his age, he looked for a new beginning and set his eyes on the newly acquired lands lying to the west.

A Western Kingdom

The Western Country seemed to offer Burr just what he needed. Westerners inured to vicissitudes of life simply were not that

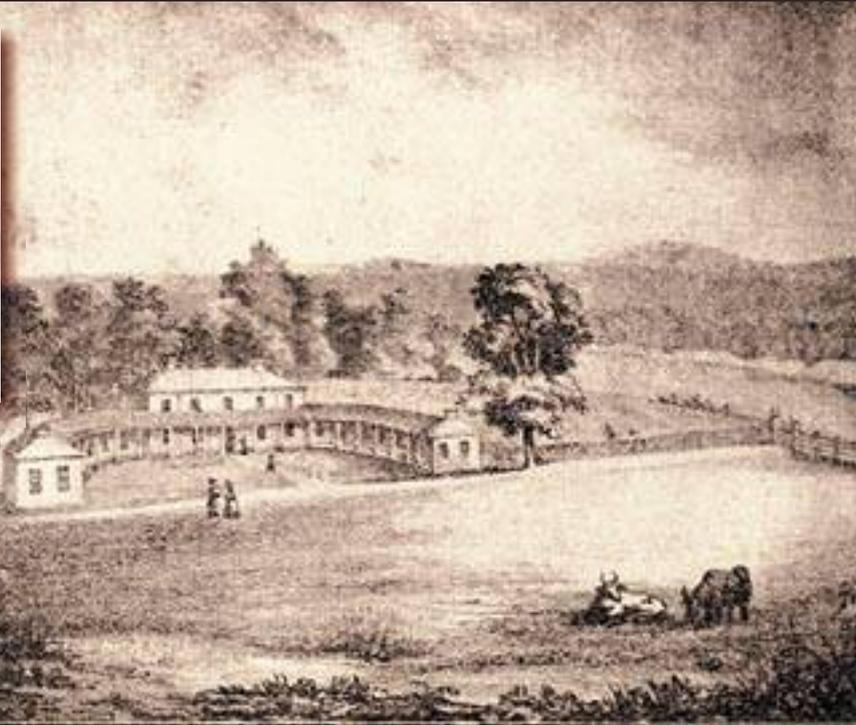
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bothered by Burr's killing of Hamilton — a hated Federalist no less. They were a tough lot and thought nothing of defending their honor when offended. Why should they hold it against Burr for doing the same? The rough and rugged land of the Western Country and its equally hard-edged inhabitants, some of whom were separatists at heart, would provide Burr with a theater of operations for the next three years to implement a plan he had conceived.

Burr's plan originated when he was in the office of the vice president. Knowing that the British would favor a split Union, Burr approached Anthony Merry, a British minister plenipotentiary of His Majesty's government, with his proposal to split the Western territories from the East. On August 6, 1804, Merry wrote to Lord Harrowby at the Foreign Office that he had

The duel: Burr sealed his political fate when he shot and killed Alexander Hamilton on July 11, 1804. He would never regain his former stature among New York's political elite.





Blennerhassett mansion: The site of Harman Blennerhassett's estate, Blennerhassett Island served as the operational staging ground for Burr's conspiracy.

"just received an offer from Mr. Burr the actual vice president of the United States to lend his assistance to His Majesty's Government in any manner in which they may think to employ him, particularly in endeavoring to effect a separation of the Western part of the United States from that which lies between the Atlantic and the mountains (Alleghenies), in its whole extent." Merry's letter was hard evidence of what Burr had been thinking even before he vacated the office of vice president.

After leaving Philadelphia in 1805, Burr arrived in Pittsburgh where he took possession of a river vessel measuring 60 feet by 14 feet in beam. Accompanied by a few friends and a black servant named Peter, Burr floated down the Ohio River until he reached the Muskingum, where he came across the home of Harman Blennerhassett situated on an island in the Ohio River. Blennerhassett, an Irish émigré of some refinement, was not at home but Mrs. Blennerhassett invited Burr to dinner. Although Burr did not meet Mr. Blennerhassett at the time, he soon forged a close relationship with him that included informing Blennerhassett of his secret plan to establish a new western country completely separate from the United States.

From Blennerhassett Island, Burr moved on to Tennessee and stayed at Andy Jack-

son's Hermitage. After four days, he journeyed down the Cumberland to the Ohio River to retrieve his ark and continue on to Fort Massac, where he hoped to recruit into his conspiracy General James Wilkinson, commander of the Army of the United States. Wilkinson was once described by Virginia's John Randolph as "the most finished scoundrel that ever lived."

Wilkinson had become involved in a movement that came to be known as the Spanish Conspiracy. Wishing to foment discord between Eastern and Western Americans, Spain took actions starting in 1786 to manipulate commerce on the Mississippi. Congress' refusal to press U.S. claims to free navigation raised the ire of Westerners. In stepped James Wilkinson, who arrived from Kentucky to directly negotiate with Spanish officials. He ended up on the Spanish payroll and took an oath of allegiance to Spain.

Burr's meeting with Wilkinson went well. He knew that he needed the support of the Army's commanding officer, and he got it. On June 25, 1805, Burr arrived in New Orleans. Among the polyglot population comprised of Creoles, French, Spanish, Irish, and American, he met with members of the Mexican Association, a group of 300 or so prominent residents whose goal was to aid an invasion of

Mexico. For Burr, this must have bolstered his confidence. Perhaps he could enlist their help in his plan to establish an independent nation, especially if it were to include Texas, then a province of the Spanish colony of Mexico. Most Americans felt war with Mexico was inevitable given the vagueness of the Louisiana Purchase boundaries. But Burr was not ready. He needed money to raise an army.

Enlisting Recruits

Over the next year, Burr met again with Wilkinson and made concerted efforts to recruit former naval officers to

his cause, including Stephen Decatur, the hero of Tripoli. The naval officers were not interested. Still, he was able to enlist (to varying degrees) the likes of Comfort Tyler of New York, a former assemblyman who had fallen on very hard times; Colonel Julien de Pestre, a veteran of both French and British armies; and General Andrew Jackson, the future president of the United States.

Jackson was then commander of the West Tennessee Militia and openly favored war with Spain. However, the impetuous Jackson, like so many others who favored Burr's designs on Mexico, apparently had no inkling of Burr's treasonous plans against the United States. He helped Burr procure boats and hosted him in Nashville's society circles. But Burr had spoken more bluntly to others, and soon rumors reached Jackson. Had Burr deceived him? Jackson wrote to Governor William Claiborne, proclaiming his unswerving loyalty to the United States: "I love my country and Government — I hate the Dons [Mexico's Spanish rulers] — I would delight to see Mexico reduced; but I will die in the last ditch before I would yield a foot to the Dons or see the Union disunited."

Jackson addressed a letter to Burr in which he referred to charges concerning

Burr's alleged hostile designs against the United States. If there were any truth to these charges, he averred, he would hold no further communication with him. If untrue, however, and his intentions were to proceed to Mexico, then he, along with his entire Tennessee division, would join him. Burr responded that he had never entertained any design whatever "inimical or hostile to the United States." Henceforth, Jackson became and remained one of Burr's staunchest defenders.

Perhaps no one embraced Burr's plan more fervently than Blennerhassett. Incredulous by nature, the Irishman assumed that Burr had the blessings of the national government for his ad hoc secession-

ist plan and conquest of Mexico. Burr, after all, was formerly vice president. How could someone of his stature operate seemingly in the open if it were not for the tacit approval of the U.S. government? Blennerhassett dutifully directed the acquisition of boats, recruits, and materiel for the expedition.

Wild rumors began to circulate regarding Burr's plan. Some suggested that he had 30,000 men ready to move. In reality, a mere 50 men occupied Blennerhassett Island in advance of the "campaign." In late fall of 1806, a detachment of Virginia district militiamen landed unopposed on Blenne-

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rhassett Island and destroyed the contents of the Blennerhassett mansion, but Blennerhassett and his small band of adventurers had escaped for the moment.

Burr had begun to attract the attention of Joseph Hamilton Daveiss, a young U.S. Attorney for the Lexington, Kentucky, district, who petitioned Federal Judge Harry Innes for an arrest warrant to charge Burr for conspiracy. Judge Innes ruled that it was a grand jury issue, and on December 2, 1806 the charges were brought before a jury.

Burr retained a young lawyer and freshman U.S. senator named Henry Clay. It was a brilliant move. Clay had a stellar reputation for squeaky-clean integrity. Burr assured him that he had no plans to foment secession or invade Mexico. Burr acquitted himself well in court. Clay was brilliant, and the motion to charge Burr was denied.

Plot Exposed

But things were not as they were depicted in court by Clay and Burr. By 1806 the conspirators procured boats, men, and supplies and moved on to Natchez, Mississippi. But Wilkinson decided that it was in his best interest to bail out of the conspiracy. Perhaps it was the death of British Prime Minister William Pitt that convinced him. It was unlikely that the new prime minister, Charles Fox, would provide financial support for such an action. Most likely, Wilkinson realized that the conspiracy had been too dangerously compromised and his best protection was to turn on his fellow conspirators and denounce them, arrest them, and prosecute them as aggressively as possible.

On October 8, 1806, Wilkinson received a ciphered letter from Burr informing him that the campaign was underway.

The trial: Chief Justice John Marshall's constitutional interpretation, and the prosecution's inability to place the defendant at the scene of the crime, saved Burr from a guilty verdict.



Having been acquitted of treason, Burr spent some time in Europe before returning to America in 1812 to practice law again. Aaron Burr, former vice president, slayer of Alexander Hamilton, and schemer extraordinaire, died on September 14, 1836.

Wilkinson delayed action. He refused to help Burr but did not inform Jefferson of the plot. But when it became clear that Wilkinson's position as commanding officer was in jeopardy, he struck like a viper. He informed President Jefferson in a letter that he had discovered "a deep, dark, and wicked conspiracy" to attack New Orleans and separate West from East. The arch conspirator then brazenly assumed the patriot martyr's pose, assuring the president that "I shall glory to give my life to the service of my country; for I verily believe such an event is probable."

Upon receiving Wilkinson's florid letters warning of the massive conspiracy, Jefferson issued a proclamation that urged Western military and civilian officials to arrest all persons engaged in the plot to lead a military expedition against Spanish possessions. By February 1807, Burr fled but was arrested in Spanish Florida and extradited to Richmond for trial. Blennerhassett and Comfort Tyler were seized in Natchez, Mississippi, but released. The former was re-arrested in Kentucky.

Tried for Treason

The indictment against Burr as read at his trial on August 17, 1807 accused the former vice president of "being seduced by the instigation of the devil," and "intend[ing] to raise and levy war, insurrection, and rebellion against the said United States." The smoking gun for the prosecution was the gath-

ering on December 10, 1806 of 30 unknown armed persons on Blennerhassett Island who had "joined themselves together against the United States," and who had moved on the following day with the intent of taking possession of New Orleans.

A number of witnesses were called, some of whom testified as to Burr's intent, but none could place him at Blennerhassett Island on December 10 or

11, 1806 — the dates on which, the government claimed, he had assembled troops for the purpose of levying war on the United States. He was, in fact, at Frankfort, Kentucky.

Burr, the attorney, was well prepared for the trial. At his commitment hearing he read a statement before Chief Justice John Marshall. He cited the investigation in Frankfort, Kentucky, correctly pointing out that he had been cleared by a grand jury. He claimed that his intent in assem-

bling boats and equipment was peaceful, and that his "designs were honorable, and would have been useful to the United States."

Regarding his flight into Spanish Florida, he had this to say in his statement (written by him in the third person): "He knew that there were military orders to seize his person and property, and transport him to a distant place.... Was it his duty to remain there thus situated? That he took the advice of his best friends, pursued the dictates of his own judgment, and abandoned a country where the laws ceased to be the sovereign power."

In the end, Burr's fate came down to Chief Justice John Marshall's interpretation of the Constitution and the definition of what it meant to "levy war." Marshall wrote in his opinion: "The attorney for the United States having admitted, that the prisoner was not present when that act, whatever may be its character, was committed, and there being no reason to doubt but that he was at a great distance, and in a

different state, it is objected to the testimony offered on the part of the United States to connect him with those who committed the overt act, that such testimony is totally irrelevant, and must, therefore, be rejected." In layman's terms, Marshall said that the U.S. Constitution confirmed that "no man can be convicted of treason who was not present when the war was levied."

Burr was acquitted, but the public had found him guilty despite the Supreme Court decision. Burr did what was natural to him. He left for Europe in 1808, slipping out of New York under the name H.E. Edwards. But he returned via Boston on May 12, 1812, and a few months later was back in New York practicing law again. Whatever people thought of Burr, he was in the end a very good lawyer. Aaron Burr, former vice president, slayer of Alexander Hamilton, and schemer extraordinaire, died on September 14, 1836. ■



General Wilkinson never fully recovered from his association with Burr and his dealings with Spanish officials in the West. His scandal-ridden career was finally derailed by a dismal battlefield performance during the War of 1812. He died in 1825.