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SOME DID CALL IT TREASON

And perhaps it was. Two were convicted of high treason and sentenced to death. All they really wanted to do was to continue the traditions of their ancestors in England, Ireland and Scotland. At that time, their product was what some called hard liquor, some called it moonshine whiskey and later some would come to call it bourbon.

Kentucky is more famous internationally for its bourbon than any other single product. H. L. Menken suggested that we rename the state after bourbon rather than our blue grass. But why Kentucky? Why not Virginia, South Carolina, or even Pennsylvania where the story started?

It appears that an argument can be made that the bourbon industry of Kentucky is in Kentucky because of the Internal Revenue Service.

On March 3, 1791, the United States Congress passed the very first Internal Revenue Statute in the United States of America. This new statute, which was an excise tax, was to take effect on July 1, 1791. This new law levied a tax of fifty-four cents per gallon on each whiskey still plus a tax of seven cents for each gallon of whiskey made. The statute set up each state as a district and in every district there was a supervisor who was responsible for collecting the tax. This new law demanded that the tax be paid in cash by men who had no cash and did not deal in cash but who lived by barter and paid their debts in the

product that was now being taxed for the first time in the United States of America. This new tax left many of these fine men and former Revolutionary War soldiers with a bitter image of their government. Many said the new law was unjust, many said it was unreasonable, many said it discriminated and many simply said it was stupid. Apparently some things never change. One thing is for certain, it left them outraged.

It is said that a man named Albert Gallatin became the leader of this disgruntled group of farmers located principally in Western Pennsylvania, an area known as the golden triangle, and they desperately sought to make their position concerning this tax understood. For three years they sent protest petitions and explanations of their position but the only response they received was word that the law was to be enforced. (Apparently none of them thought to make contributions to their congressman's favorite PAC). Excise men would come among them at regular intervals to collect the tax and warrants would be issued for the arrest for any who did not pay and pay in cash. Still, the farmers did not give up. They formed committees to fight the statute and they also considered the possibility of secession from the United States. They posted notices on trees, taverns and other buildings denouncing the excise tax and urging people not to pay it. They made, in the words of some, inflammatory and treasonous speeches. Preachers in the area encouraged non-compliance with the tax and pointed out that Jesus Himself

had equated tax collectors with sinners, quoting Matthew 9:10-14 as their authority for this position.

Unfortunately, things came to a head on July 16, 1794. By this time an organized group of farmers who were now known as the Whiskey Boys surrounded the home of General John Neville, the Pennsylvania supervisor. When General Neville asked what these men were doing at his home they answered that they were guards sent from Washington to protect him. However, he knew that they were lead by the Whiskey Boys and that their motive was probably violence and he ordered them to stand off and fired a shot at them. A skirmish followed during which five of the rebels were shot and wounded, one dying from his wounds, the men then withdrew and the General sent a servant to Fort Fayette for help. Seventeen soldiers arrived that evening but by the next morning six of those had deserted. The next day, five hundred whiskey rebels lead by Major James McFarlane, a veteran of the Revolution, returned to Neville plantation. It was late afternoon and the General was not in the house. The women and children of the family had fled to nearby relatives. Servants tried to defend the property and there was another battle during which McFarlane was killed. Soon afterward, the rebels burned the handsome home and the buildings around it, set fire to the harvest and divided among themselves Neville's fine plantation made whiskey, which they consumed at once. It was said that by nightfall they were a brawling, drunken mob. It is interesting to note that General Neville did not approve of the new tax and

had, in fact, voted against it. Nevertheless, once it was made a law and he was appointed to collect it, he set about his duties in a strict and determined manner. He offered rewards to informers and deputy collectors and issued warrants which would permit his men to search premises for contraband whiskey wherever they went. Any settler found making or hiding untaxed spirits (moonshine) was arrested and ordered to appear in court in Philadelphia, a journey of some 300 miles. Not only were the farmers upset that they would have to make this arduous and difficult journey to Philadelphia to be tried for something they thought to be inherently wrong, they simply did not understand why the government could not see that the tax was causing such a severe hardship on them.

On August 1, five thousand armed rebels met at Parkinson's Ferry lead by Albert Gallatin, David Bradford, John Holcroft and John Brackenridge. They then proceeded to march upon Pittsburgh, which at that time had a population of twelve hundred people. Here they threatened to burn the city if certain officials were not ejected from it. However, the men of Pittsburgh handled them with cool confidence and diplomatic skill and provided them with plentiful supplies, including fine whiskey. Thus, cooling their tempers and saving the city. However, the federal authorities now became very concerned.

Even after they had fought a long war together and the colonies had become states, they still quarreled. They squabbled sometimes about boundaries, sometimes about trade. Men in

Massachusetts and Connecticut deplored the Rhode Islanders' practice of admitting all sorts of alleged religious fanatics-Catholics, Baptists even Jews. New Jerseyites clucked their tongues and shook their heads over the madhouse that was their neighbor, Pennsylvania, where Mennonites, Moravians, Amish and other foreigners were granted citizenship privileges just as though they were Americans. Southerners were shocked by the New Englanders' levelling practices. Virginia and Maryland had long standing boundary disputes with Pennsylvania as well as one with each other. New York and New Hampshire again and again approached a full scale shooting match over Vermont which both claimed. The most conspicuous split or quarrel from the beginning was the North-South one. Here were predestined enemies. Neither side ever made an effort to understand the other and the differences were loud. Apparently one of the main reasons Washington was chosen as Commander-in-chief of the Continental Army was that he was a Southerner. After the war many claim that the only reason Adams was chosen as Vice-President was that he was an Easterner (Northerner). Thus, no one really knew if men from one state would invade the territory of another state to preserve the authority of the federal government.

Thomas Jefferson convinced George Washington in 1792 that in order for the union to survive, he would have to run for a second term as President and he specifically told Washington that the North and South will hang together if they have you to

hang on to. At the same time Jefferson was urging Washington to run again for President, Alexander Hamilton was starting to push for his national bank and had a bill introduced into Congress to establish one. He was acutely aware of the South's opposition to banks in general and did everything that he could to circumvent it. Of the twenty votes against the bill in the house, fifteen were from the south and one prominent Southern Congressman was wont to assert with a snort that he would as soon be seen going into a whorehouse as going into a bank.

It is interesting to note that while Hamilton actively pushed for the national bank, he knew that the funding ~~of the federal government and the funding~~ of the bank had to come from some source within the country. In two of The Federalist papers, both of which were written by Hamilton, Americans had been virtually promised that under the new constitution no land or excise tax would be levied.

In Federalist paper Number 12, Hamilton wrote, "The genius of the people will ill brook the inquisitive and peremptory spirit of excise laws." In other words, "Read my lips".

However, in 1794 this new tax became law. The new tax was to be seven cents per gallon and to many it would cause severe financial problems.

Now back to Pennsylvania. Most of these people were Scots or Scotch-Irish and most had been brought up on tales of the wickedness of the tax collector. Taxes on spirits in England

in 1626 and in Scotland in 1659 caused furious outbursts. The tax in Scotland was denounced even by the church as a foul and evil deed and inspired by the devil. They were soon repealed. At this time in the history of our country almost seventy percent of our population came from Scotland, Ireland or England.

It is written that these men were hard headed, grim, touchy and tough. The only thing that they produced in any quantity then, the only crop that they could depend upon, was grain, mostly rye, and for the sternest economic reasons the form that this grain took for them was whiskey.

To say that whiskey was their life blood would be physiologically inaccurate but poetically sound. Their livelihood was dictated by their geographical position, something that they alleged that the grabby, greedy Easterners simply could not get into their heads. The hillbillies, as they were called, were halfway over the mountains and what they grew they must either ship down the Ohio or the Mississippi, or send back over almost unbelievably rocky roads to the east. The river route was very risky and therefore, the grain went eastward. A horse, and horses were expensive, could carry only four bushels of grain, but that same horse could carry twenty-four bushels of rye once it had been transformed into sixteen gallons of whiskey, that is an eight gallon keg on each side of the horse. The stills used to produce this whiskey cost very little and any of these "hillbillies" could make and operate one. The Scotch and Irish were proud of their old country whiskey making traditions.

So whiskey was money in Appalachia, where there was no cash. It was the people's way of life and that is why when the federal government enacted the tax, the Whiskey Boys felt that they must fight, just as their ancestors had done in the old country. Other than General Neville, who was mentioned earlier, two other tax collectors in this area were set upon by the Whiskey Boys, beaten and hot tarred. A post rider (mailman) was held up and the mail he carried was rifled in the hope of learning the plans of the men in Philadelphia. Depending upon the historical source, there is some apparent disagreement over the organization that the Whiskey Boys set up. As I have mentioned earlier, some say that Albert Gallatin was the leader, others simply say that there was no accepted leader or group of leaders. It is also said that the Whiskey Boys never pledged themselves to one code of conduct unlike the Black Patch Raiders and that they never in so many words or by any action actually defied the central government. It is true that they held mass meetings and passed resolutions petitioning Philadelphia for relief. This process lasted from the time the tax was enacted until 1794 when the shooting started. Of course, by this time the Constitution itself stated very specifically that we as citizens have the right to peaceably assemble and to petition government. The Whiskey Boys argued strenuously that this is in fact what they were doing. They did make many fiery speeches and off the record they admitted that they were pinning their hopes on two beliefs. One, that the regular army which was scattered

throughout the Northwest Territory where it was desperately needed to face up to the British and Indians would not be used against them and two, that the Pennsylvania militia knowing what a tough nut their mountain positions would be to crack would refuse to fight their neighbors.

Apparently, the Whiskey Boys did not realize that in Philadelphia what they were doing was considered to be unconstitutional and treasonous and this was even before any shots were fired or any post riders robbed or any tax collectors tarred and feathered.

It is said that the Federalists, and especially the so called High Federalists of which Hamilton was the leader, became frightened. They are the ones who literally cried bloody murder and black treason. They apparently blamed the most convenient boogy-man they could find, they blamed the organizations called Democratic Clubs which were scattered across the country. These clubs they said had been paid by the French Revolutionary atheists to do one thing - to split the country in half. There were only three democratic clubs in the western Pennsylvania area and only one of those three, the Mingo Creek Club, had made any protest about the tax on whiskey. However, the High Federalists did not know this or chose to ignore it. The High Federalists called for an army to put down these rebels to prevent them from holding mass meetings and to prevent them from passing resolutions.

There is no question that when the Federalists did this they turned their backs on the Constitution, specifically the First Amendment which reads, "Congress shall make no law . . . abridging . . . the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." Alexander Hamilton has been blamed for this outcry against the Democratic Clubs. It is argued that he did this for a number of reasons. One was to raise money for the National Bank and the other was because he was known to favor a large standing army which he still hoped some day to lead and third he wanted to use the tax issue to show federal supremacy. Hamilton knew that the whiskey rebellion was a threat to his financial system. It was a direct confrontation of the masses against the federal government. Whether this was petty or not, was not the point. He considered it to be treason, he considered it to be a revolt and if it was a revolt it must be put down and it must be put down emphatically, immediately and in overwhelming force. To this end, he had a plan. As mentioned, the full time professional army was tied up in the wilderness and could not be used to put down the revolt in western Pennsylvania. However, the militia could be used and not just the Pennsylvania militia. The Governor of Pennsylvania had previously refused to call out the Pennsylvania militia. Hamilton vigorously argued that the militia from Pennsylvania, New Jersey, Maryland and Virginia be used. Hamilton suggested that the President himself should take command in person, that he should take the field and lead the

four state militias against the Whiskey Boys. Washington agreed and issued a proclamation against the Whiskey Boys ordering them to their homes. Washington, who at this time was sixty-two, was the sitting President of the United States, and it is my belief that it is the only time in the history of this country that the sitting President actually took the field in charge of soldiers and lead them into battle.

Orders went out to the four Governors of Pennsylvania, New Jersey, Maryland and Virginia on August 17, 1794. There would be twelve thousand nine hundred fifty soldiers in all, eleven thousand infantry, one thousand five hundred cavalry, four hundred fifty artillery. The Pennsylvania militia now consented to joint in. It was planned that the four units would merge and meet at Bedford, Pennsylvania, on September 10. Even though Washington agreed with the plan and agreed to lead the troops, apparently he did it without much enthusiasm. Also during this time, Washington consulted with Henry Knox who was the Secretary of War but Knox had been given a large grant of land in Maine by the government of his native Massachusetts, Maine was then a part of Massachusetts, as a thank you for his war services and he was eager to get there and survey it and perhaps sell it, but he offered to discard his plans of going to Maine and go to Pennsylvania with the Commander-in-Chief if Washington thought this was necessary. Hamilton argued with Washington that he was familiar with the workings of the War Department. Hamilton and Knox were fast friends and Hamilton convinced Knox that he could

assist Washington in leading the troops. The President then appointed the Secretary of the Treasury, Alexander Hamilton, as Acting Secretary of War.

The first night out, at an inn, a courier arrived from the wilderness headquarters. The army out there had been badly mauled on two recent occasions under Generals Harmer and St. Clair, but now, under Mad Anthony Wayne, it had won a resounding victory at a place called Fallen Timbers. It had followed this success by scattering the Indians throughout the Northwest Territory. This did not mean that the United States Army was now available east of the mountains or that it could be counted upon to help put down the revolt of those red-eyed yahoos of Appalchia, but it apparently eased some of Washington's misgivings about this present endeavor.

This trip was not a triumphal march because Washington knew that many of the Whiskey Boys were former revolutionary soldiers. However, his popularity with the troops seemed as great as ever and he was cheered everywhere.

With four governors in the party, each the head of his own army, not to mention the Acting Secretary of War, there was some confusion about the chain of command on several occasions, but this was not apparently a serious problem. Governor Mifflin of Pennsylvania got especially drunk one night and ordered an elite guard to fire upon any skulkers who looked as if they might be deserting, an order that could have caused a great deal of

trouble if it had been obeyed. Fortunately it was not and the governor apologized publicly the next morning.

To be sure from the beginning, the enterprise did suggest the use of a sledgehammer to swat a fly. The Whiskey Boys as soon as they heard that the government meant business and was approaching in force, seemed to evaporate. The few who might have been made to face serious charges disappeared down the Ohio and into the Kentucky Wilderness. The rest simply went home and remained there denying everything. But the army, as is the way with military machines, could not be halted or turned back once it was in motion and everything went according to schedule. Washington did not even go the whole distance to the Golden Triangle but turned back at Bedford. (He left in charge the senior ranking officer, Governor Henry (Light House Harry) Lee of Virginia.)

Eventually twenty prisoners were taken (some from their beds), charged with treason and taken back to Philadelphia (a trip of three hundred miles), where they were marched through the streets for several hours each with a sign on his hat reading, "Insurrectionist." Then they were tried. Eighteen were acquitted. Two were convicted and sentenced to death. (See United States v. Vigol, Case No. 16,621, 2 Dall 346; and United States v. Mitchell, Case No. 15,788, 2 Dall 348). One of these was a half-wit, the other was practically that. President Washington pardoned both. The whole business had cost the

government almost 1.5 million dollars, much more than Secretary Hamilton had estimated.

In 1792 Kentucky entered the Union as the fifteenth state. Settlers poured into the new state and many were Scotch-Irish. Many were Pennsylvania backwoodsmen who chose the wilderness area to set up their stills. They thought that the fruits of the stills would bring greater profits in the wilderness area of Kentucky. Many thought that tax collection would be more lax.

Back in Pennsylvania, rye had been the first choice of grain for making whiskey but soon corn became the first choice in Kentucky where the soil seemed better adapted to the growing of corn than to the growing of rye. There was also a year where the rye crop failed and farmers had to use the corn on hand for their mash or have none. To their astonishment, they found this whiskey superior to any they had ever made and afterwards based their distilling on corn by preference.

The first recorded production of true Kentucky whiskey was a small distillery in Louisville in 1783 but it was a few more years before the addition of rye to the mashing formula and further refinements yielded the great product so popular today known as Kentucky Bourbon. Bourbon whiskey was developed in Bourbon County, Kentucky, from which its name is derived. Bourbon County originally was a very large county in the north central part of the state. Bourbon County today represents only a small segment of its former area and oddly enough now contains

no distilleries. Credit as to who originated this great American whiskey varies with historians. Some claim it was a migrating Pennsylvania distiller named Jacob Spears. Others claim credit for Daniel Stewart or John Hamilton but most historians agree that the first true bourbon came from a fulling mill owned by a baptist minister, Elijah Craig in 1789. His mill was used for the processing of cloth but it apparently contained a still as well. Some say that the birth of bourbon whiskey in Kentucky may have been an historical accident stemming from economic needs of the settlers. It was indeed a lucky accident for the Commonwealth. The climate and the natural water supply in Kentucky were ideal for the making of good whiskey. Kentucky also has warm days and frost free nights for normally a full six months, from late April to late October, and generally the mild winters play an important part in making of bourbon whiskey. It is said, however, that the chief reason why Kentucky has always remained the home of the highest quality bourbon was due to the water supply. Kentucky's particular type of limestone water is essential. Apparently the use of any other kind would dramatically change the flavor or taste of the ultimate product.

It is interesting to note that the limestone water was also a chief reason for the location of many of the thoroughbred breeding farms in the central region of Kentucky around Bourbon and Fayette Counties.

The basic procedure of making bourbon whiskey has not changed from the earliest times. Certainly the commercial

distillery operations are much more sophisticated now than the hillbilly and his still but the process is basically the same. What we now call bourbon whiskey was not discovered until 1798 and there are many legends about this momentous event. One legend says that lightning struck a barn in which a barrel of whiskey was being kept and that this electricity charred the barrel, turned the whiskey red and improved its flavor. Another legend credits a farmer near Paris, Kentucky, with being the first to produce bourbon. He ran out of crocks the story says and so put his last run into the only container he had left, a barrel that had been charred by fire. When he opened it months later, he discovered that the whiskey was no longer colorless but had turned a rich amber red. Fearing that it might be poison, he would not taste it, but his slave offered to taste it in exchange for his freedom. The bargain was made and the slave not only found the whiskey free of poison but the best he had ever tried. It is said that this led to more charred barrels. However, the account which most authorities consider historical is that bourbon was discovered by accident by Reverend Craig. While the Reverend was heating white oak staves to form a barrel for his new made whiskey, his attention was diverted for a moment and the staves became charred. Being a frugal man and not wishing to waste the barrels, he used them anyway. Months later when he opened this particular barrel, he found the whiskey had turned a rich red color and had a far better flavor than that stored in

jugs or crocks and so began the cherished practice of aging corn liquor in charred oak barrels.

It was first called red liquor, then Bourbon County whiskey, then old Kentucky bourbon, this to distinguish it from the rye made in Pennsylvania and then as it is called now, simply bourbon. Its unique qualities were attributed not only to storing it in oak barrels which had been charred while green but to making it with the spring water which came from the huge limestone shelf under southern Indiana, northern Kentucky and northern Tennessee. The texture and flavor were enhanced, the settlers found out, if the bourbon was kept at a temperature of about ninety degrees while it aged so they buried it in the haystack in summer and in the manure pile during winter. By 1811 there were some two thousand stills in the state of Kentucky providing a livelihood for a good many types of laborers and craftsmen, among them millers, distillers, teamsters, coopers, farmers and boatmen who carried cargo down the Ohio River. In 1803, twenty-one years after Kentucky became a state, the Louisiana Purchase opened a new market and whiskey was shipped down to New Orleans to be loaded on ocean vessels.

When Thomas Jefferson became President in 1800, six years after the whiskey rebellion, the excise tax on whiskey became a political issue again. It was called an infernal revenue tax and it was said to be one that was hostile to the genius of a free people. It was then repealed and supposedly to be used again only as a war time measure.

In 1812 the United States again found itself at war. By this time Albert Gallatin, oddly enough the man who was alleged to be one of the leaders of the whiskey rebellion, was then Secretary of the Treasury. He suggested reviving the excise tax in order to meet the cost of the war and accordingly in 1813 a special session of Congress passed an act which imposed a tax on distillers. The next year more revenue was needed so in December, 1814, new taxes were levied not only on distilled spirits but on the right to sell them at retail. However, there was no public outcry over this in as much as the measure was for the defense of the nation. In 1817, the war of 1812 now being long over, all taxes on distilleries and distilled spirits were abolished. Customs duties provided the country with ample revenue as did the sale of public lands and the government was almost free of debt from this period until the time of the Civil War.

Whiskey, by definition, is an alcoholic beverage made from a mash of fermented grain and distilled at less than 190-proof with the proper taste, aroma and characteristics. It is withdrawn from the cistern room of the distillery at not more than 100-proof and not less than 80-proof and aged in new charred oak barrels. The charred oak barrels are used in the process to mellow the whiskey and to give it its rich color. Bourbon by federal regulations is a whiskey distilled at not more than 160-proof from a fermented mash of not less than fifty-one

percent corn. The rest of the mash may be any other grain but it is usually rye or barley malt.

Many whiskeys are bottled in bond and this has nothing to do with the quality of the product. It simply means that the whiskey is guaranteed by the federal government to be 100-proof. The proof of other whiskeys not bottled in bond may legally vary as much as three percent.

Even though we are not now at war we do have a huge national debt and presumably this is why those in Washington still choose to tax our beloved Kentucky bourbon (and all other whiskeys). The distilleries in Kentucky and Tennessee are bonded warehouses but this only means that each barrel is tagged by a revenue agent. This seal cannot be broken until the whiskey is bottled and at that time the tax is levied.

There are some sixteen distilleries in Kentucky and the largest Kentucky corporation, Brown-Forman, owns and operates distilleries in Kentucky and Tennessee and even internationally. Their most famous whiskey is ironically a Tennessee sour mash whiskey named Jack Daniels. The Jack Daniels Distillery has forty-six warehouses at the Lynchburg^{Jr.} distillery. In each warehouse there are 20,164 fifty gallon barrels or roughly one million gallons of Tennessee whiskey. At present tax rates, each warehouse represents \$18,000,000.00 in future excise taxes. (Federal - \$13.75 and State - \$4.25). Thus, the warehouses at Jack Daniels Distillery represent future excise taxes in the amount of \$828,000,000.00.