

The Louisiana Purchase.

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June 13, 1901.

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Excepting the Declaration of Independence there is no event in the history of America which has been more potent in shaping the course of the Republic than has the Louisiana Purchase. From this has arisen the great political and social problems which have agitated our country for the last hundred years. And, altho it has placed before our people grave questions, upon the decision of which hung the fate of the nation, it has conferred upon us untold wealth and power.

This Thesis is but a brief history of the negotiation and ratification of this great Treaty of Louisiana and the events leading up to it, together with the reasons for the sale in so far as the writer is able to assign them.

The Louisiana territory was explored by De Soto in 1552, by Marquette in 1673 and by La Salle in 1682. It was thru Marquette and La Salle that France established her claim. Marquette planted a colony but at his death it perished. Charters were issued to Crozat and the Western Company under the head of John Law, but both of these adventurers made miserable failures in attempting to colonize the territory and relinquished their charters to the crown. France remained in possession until the close of the French and Indian war when she ceded the territory to Spain, her ally, to remunerate her for the loss of the Floridas.

which England claimed as indemnity.

During all this time the population of the United States had been constantly spreading. Our pioneers had penetrated as far west as the Mississippi and soon their industry began to replace the wilderness with growing crops. The rich soil combined with their efforts increased production until they found it conducive to their interests to solicit the trade of Europe and the Atlantic States. But the Mississippi, the only water-way by which they could reach these markets, was controlled by Spain. Accordingly, this government, in 1795, negotiated a treaty with Spain by which we were given the free navigation of the Mississippi and allowed the port of New Orleans as a place of deposit. This port was to be used for three years in this capacity by our ships and, at the expiration of that time, it remained with Spain to leave the place of deposit at New Orleans or to designate an "equivalent establishment."

On October 16, 1802, Morales, the Spanish Intendant at New Orleans, suspended the rights of deposit without warning an "equivalent establishment". The indignation of the United States and especially the western territory was great. The West demanded war but the more conservative insisted upon negotiation first.

A short time before this reliable information of the treaty of St. Ildefonso had reached our government. By this treaty the whole of Louisiana was ceded to France, for which

consideration Napoleon agreed to create the kingdom of Etruria, place the Duke of Parma on its throne and obtain its recognition by the European powers. Thus was introduced a new aspect in the foreign affairs of the United States well worthy of our consideration. France was a powerful neighbor and the ambition of her ruler made her a most dangerous one. We might be involved in war upon some petty pretext and fall a prey to the resistless and unprincipled Napoleon. Beyond a doubt we would lose all control of the western water-ways, and this would lead to dissatisfaction among our frontiersmen. Under such circumstances it would seem more than probable that they would bind themselves to a more powerful government or, at least, form a confederacy under the protection of France. Talleyrand had certainly anticipated this. In 1795 he had traveled thru the United States and, upon returning to France in 1797, published a memoir on the American Colonial System. He said that the United States were wholly English and France could expect nothing from them. "We must build a colonial system of our own," said he, "but to announce to much of what one means to do is not the way to do it at all." It was his policy to obtain possession of Louisiana and build a great empire in the West. He could thus keep down the commercial spirit of the United States which was so distasteful to him. Had Talleyrand succeeded, the United States would have been in a perilous position, and it is probable that our history would have been brief.

Sentiment in the West was strong for war. The

question was agitated in both houses of congress, but the friends of the administration stood with the president in attempting to reach an amicable settlement. It was contended by the war party that, unless we made an armed demonstration, all negotiation was useless for, said they, what is there to induce the French government to make a sale of territory so long as our envoy does nothing but request. The opposition contended that to raise an army to compel France and Spain to fulfill their obligations was equivalent to a declaration of war. It was said that the action of the Spanish Intendant did not have official sanction, that he had acted without orders and that the Spanish government would probably disavow his action when it learned the circumstances.

The president's message of December 15, 1802 was almost indifferent in regard to the retrocession. He said: - "The cession of the Spanish province of Louisiana to France will, if carried into effect, make a change in the aspect of our foreign relations which will doubtless have a great weight in any deliberation of the Legislature connected with this subject. But the government, as a whole, was peaceably disposed, and it soon began to dawn upon the administration that something must be done and that immediately, for the West would not long suffer the loss which the suspension of deposit was causing there without making an independent attempt to obtain justice. The Legislatures of the western states adopted resolutions declar-

for war. The President soon awakened to the fact that conditions demanded action. In his own words, "something sensible must be done". In his message of January 11, 1803 he said that the suspension of the right of deposit and the cession of Louisiana to France are "events of primary interest to the United States". He that it necessary to send a fully instructed minister to France, and he therefore nominated Monroe Minister Extraordinary and Livingston Minister Plenipotentiary to be sent to the court of Napoleon. They were given power to negotiate a treaty with the First Consul for the purpose of enlarging and more effectually securing our rights and interests on the Mississippi and in the territories eastward thereof. But providing France had not gained control of the territory, Monroe and Pinckney were instructed to negotiate a treaty with Spain identical with the one proposed with France.

On March 2nd Monroe received his commission. He and Livingston were instructed: first, to purchase New Orleans and the Floridas for which they were to pay a sum not exceeding 50,000,000 francs; second, failing in this they were to purchase New Orleans; Third, if this was denied they were to obtain control over a place on the Mississippi large enough to build a commercial town; fourth, as a last resort they were to obtain the assurance of a place of deposit, not only upon the Mississippi but upon all the rivers emptying into the Gulf from the north.

But this was not the only means that the President

used to accomplish his object. Dupont de Nemours, a French gentleman, who was returning home from a tour of the United States was made the bearer of an unofficial communication from Jefferson to Napoleon. Napoleon was given to understand that the United States would ally herself with Great Britain in the next war if her demands were not conceded. The President even proposed the question of an alliance with England to his cabinet. He submitted to their consideration the following propositions which might be offered to his Majesty as inducements to make common cause with America against France: first, we would agree not to make a separate peace; second, if successful we would give Louisiana to our ally; third, we would grant commercial privileges. The second and third propositions were rejected but in case of war it was decided to invite England to an alliance.

Whatever might have been the apparent attitude of the President, it was not his intention to involve the United States in war. Monroe was appointed rather to insure peace than to make a purchase, and all his threats of forming an alliance with England were simply strategy, for in his own words it was his policy to "palliate and endure". When it was found that Spain had closed the Mississippi Jefferson, in a letter to Livingston, October, 1802, declared himself not in favor of war unless there was no alternative. He said: "No matter at present existing between France and ourselves is important enough to risk a breach of the peace. All this was very inconsistent with his threatening attitude toward Napoleon, and

the French minister at Washington. Pichon was thoroly frightened by the statements Jefferson and others made to him. Monroe advised him that negotiation had been carried further between England and America than was admitted. Pichon informed his government that the Americans were in a bad temper and there was a tendency toward hostility. He said that they were extremely bitter over the matter and he feared they would be driven into an alliance with England. After a conference with Madison he wrote Talleyrand that the Americans were throwing themselves into the arms of Great Britain. The President wrote to De Bow stating that the use of the Mississippi was so indispensable that we would hazard our existence to gain it.

In the meantime Livingston had not been idle. In June, 1801, Madison had informed him of the treaty of Eldefonso, and instructed him to work for France's recognition of our rights. He was told that, if he could obtain West Florida and New Orleans from France, it would be evidence of that country's good will and would reconcile the United States to seeing Napoleon the ruler of Louisiana. On October 15, 1802, Madison wrote Livingston that, if it were possible, while he was urging the spoliation ~~claim~~ ^{to} improve the opportunity by purchasing, upon reasonable terms, Florida and New Orleans. About this time our London minister provided Livingston with a copy of the treaty of Eldefonso, but Talleyrand persistently assured him that there was no such treaty. Livingston made several propositions to Talleyrand but he was told that all offers were premature; that the French government would take possession before considering them. He could obtain no satisfaction in regard to boundaries nor

when Napoleon would take possession, but Talleyrand assured him that the claims of the United States would receive his highest consideration. On January 10, 1803, Livingston sent a note to Talleyrand in which, after reciting our grievances, he expressed his fears that our citizens would think the Spanish Intendant had acted in concurrence with the wishes of France. The note proposed that France cede New Orleans, West Florida and the territory north of the Arkansas river. He said the United States ~~should not~~ ~~abandon~~ the right of deposit and intimated that we would be driven to an alliance with Great Britain if our rights were denied. He said that such an alliance would eventually give England political supremacy and monopoly of trade in America. On February 27, 1803, Livingston sent a note directly to Napoleon, reminding him of his obligations to the American citizens. A few days later this note was answered by Talleyrand. He assured Livingston that, upon receiving a full and verified statement of the amount of these claims, they would be immediately paid. Talleyrand wished him to understand that the French government was under no financial strain.

During all this time France was pressing Spain for possession of Louisiana and Spain, with no less persistency, was delaying the transference until Napoleon should fulfill, to the last item, the conditions of the cession. But the Consul did not allow the objections of Godoy to deter him. Several expeditions were fitted out with the purpose of effecting the transference. But happily for America, France had made enemies in another quarter of the New World. The San Domingan patriots had rebelled against

Napoleon's tyranny, and here the armies of France succumbed to disease and the arms of Toussaint L'Ouverture's desperate band. The daring deeds of this dusky hero seemed to mimic those of Napoleon. The Consul was exasperated. He resolved to overthrow this rival at any cost, and consequently, the armies intended to take possession of Louisiana were consumed in the torrid clime of San Domingo. At last an expedition was formed whose success, it seemed, nothing could prevent. Victor was appointed commander of the expedition and Saussat was to be made prefect of Louisiana. Victor was instructed to remain on friendly terms with the United States but, at the same time, to prepare for any emergency. But unforeseen circumstances were yet to arise which would prevent the execution of this plan.

About this time Leclerc, the governor of San Domingo, died, and, with his death the colonial system of France met difficulties not to be overcome. The island was lost, and with it was lost the object for which Louisiana was to be developed; the fortification and sustenance of San Domingo. Rochambeau took command but it was well understood both by Napoleon and himself that he could not cope with the situation.

On March 12, 1803, Napoleon said to the English ambassador, Lord Whitworth, "I see your nation wants war." Whitworth assured him to the contrary that England was very desirous of peace, whereupon Napoleon answered, "I shall either have Malta or war".

It was about this time that Napoleon called two of his ministers, who had previously resided in Louisiana, to a conference. He told them that England would probably attempt the conquest of the

province at once and that it would be impossible to prevent her from occupying it. He thought it best to cede the whole country to the United States and thus retain that nation's friendship. He said, "I consider the whole country lost and I believe, in the hands of this rising power, that it will be more useful to the political and commercial interests of France than if I should attempt to retain it." With this he dismissed the conference. The next day he commissioned his chief minister to confer immediately with Livingston. He reminded the minister that he was in need of funds to carry on the war, and that France and Spain had incurred great expense in improving Louisiana for which they had never been indemnified. He said, "It is fair that I should require payment for this. Were I to regulate my demands by the importance of the territory to the United States they would be unbounded. Still, remember that I must have 50,000,000 francs and will consent to take no less. I should rather make a desperate effort to reserve this fine country." On April 11th Napoleon summoned Marbois and said to him, "I renounce Louisiana. It is not only New Orleans that I cede but the whole territory without reserve. I direct you to negotiate the affair. Have an interview this very day with Mr. Livingston."

A few hours after Talleyrand had received his instructions he suggested the proposition to our minister. Livingston was astonished and embarrassed. He was not prepared to make an answer but that he could give 20,000,000 francs. Talleyrand assured him that he must consider what had been said as merely a suggestion for no one was authorized to make an offer. Livingston decided not to act until Monroe should arrive. The next day at dinner Marbois

hinted that he knew something of the matter. He told Livingston that the Consul had remarked to him: "Well you have charge of the treasury. Let them give you 100,000,000 francs and pay their own claims and I will give them the whole country". Livingston then said that he would give 50,000,000 francs and satisfy the American claims to the amount of 20,000,000 francs. Marbois answered that the Consul would consider no less than 50,000,000 francs. And this was what was finally agreed upon, 60,000,000 francs going to the French treasury and 20,000,000 to satisfy the claims of American citizens.

The treaty and conventions were hastily drawn by Livingston, Monroe and Marbois. Napoleon inserted the third article of the treaty which provided for the incorporation of the territory into the union of the United States. Livingston drew up the claims convention but it was altered by Monroe and Marbois.

The treaty did not do justice to the diplomatic skill of our ministers. The negotiation was pursued so hurriedly that there would have been no record of the proceedings had it not been for Monroe's private memorandum. The property was not defined. Louisiana was ~~ceded~~ "with the same extent that it had in the hands of Spain and that it had when France possessed it and such as it should have after the treaties subsequently entered into between Spain and France and other states". This definition of boundaries had satisfied France and Spain but the Americans insisted upon something more definite. Neither Napoleon nor Talleyrand would give them any satisfaction. While they were pressing Talleyrand upon this subject his instructions to Victor delamare

the boundaries, lay in his desk but he calmly assured them that he did not know. When Marbois was asked about it he replied, "You have made a noble bargain. Now you are at liberty to make the most of it." Neither were the conventions agreeable to the American ministers. They were not signed until a week after the treaty. Livingston in a letter to Madison said; "The moment was critical. The question of peace and war was in the balance and it was important to come to some conclusion before either ~~scale~~ preponderated. I considered the convention as a trifle compared with the other great objects and, as it had already delayed us many days, I was ready to take it under any form.

On July 29th Madison wrote to Livingston and Monroe that he had received the treaty and conventions and that, altho it was not a part of their instructions to purchase Louisiana, they were justified in the action, and the President had charged him to say that the treaty had his entire approbation.

The treaty was promptly ratified by the Senate but the difficulties did not end here. The territory as yet was not Napoleon's to cede. He had never fulfilled the conditions of the treaty of Tordesillas. Spain immediately protested against the sale on the grounds: first, that Napoleon had not secured the recognition of the king of Etruria by England and Russia which condition was one of the stipulations of the treaty. Napoleon had never taken possession of the territory nor had he any right to do so as long as the conditions of the treaty remained unfulfilled. But unhappily for Spain, when the United States minister, had applied at that court to purchase

New Orleans he was informed that the entire province of Louisiana had been retroceded to France and that he must apply there. This, the United States held, was sufficient proof of France's ownership. And it was further maintained that, since Spain had placed the Duke of Parma upon the throne which Napoleon had created for him, there could remain no doubt that Spain had approved the treaty. Second, it was claimed by Spain that Napoleon had made a solemn promise never to alienate Louisiana. But this had not been included in the written instrument. Napoleon never hesitated to break a vow when he thought it necessary and he did not blush at this. He scorned the protests of Spain. The only answer that he gave to these complaints was that Spain had granted the Americans permanent privileges (that is the restoration of the right of deposit) upon the Mississippi which rendered the territory worthless to France. On October 14th Pickens wrote to Madison informing him that France was determined to carry out the treaty despite the protests of Spain which, he claimed, were unfounded.

But Napoleon did not even have the consent of his own government. When his brothers, Lucien and Joseph, heard of the treaty they immediately sought Napoleon and found him at home in his bath. They remonstrated with him but Napoleon assured them that he asked the advice of no one whatsoever. Joseph persisted and said he flattered himself that the Chambers would not give their consent. Napoleon burst into a brutal laugh and consoled them by remarking that he would negotiate, consent to and ratify the treaty himself.

The dissatisfaction of the French people was evident.

It was even ~~that~~ that Napoleon had repented his action and that, if any modification was made conditional to the ratification by the United States, he would seize upon this as a pretext to annul the whole work. Livingston urged the unconditional ratification of the treaty so as to leave the French no loop-hole for retreat. But, notwithstanding this warning, both Congress and the executive raised many constitutional objections to the treaty.

Jefferson was much alarmed because of its unconstitutionality. He proposed two amendments, either of which, if adopted, would have settled the question of constitutionality. He wrote to Breckenridge and Paine in regard to the matter but upon receiving a letter from Livingston, expressing fears of a change of mind in the First Consul, he immediately warned these gentlemen and his cabinet that nothing should be said in regard to the matter. He seemed to be wavering between his pet doctrine of strict construction and his desire to successfully close the treaty. He wished to insert the last proposed amendment but it was met coldly by his friends. Nicholas gave as his opinion that the treaty making power was not limited except by the general limitations placed upon other powers granted, and the evident object for which the government was created. Jefferson was deserted by his closest friends. He maintained that the limits of the United States were fixed by the treaty of 1783 and that the constitution declared itself to be made for the United States. "Shall rather ask an enlargement of power from the nation," said he, "where it is found necessary than to assume it by a construction which would make

our power boundless. If the treaty making power is boundless we have no constitution. If, however, our friends shall think differently I shall acquiesce with satisfaction, confiding that the good sense of our country will correct the evil of construction when it shall produce evil effects." From thence forward Jefferson remained silent but he never did change his mind.

When it became necessary for congress to pass an act enabling the President to take possession of Louisiana, a complication of inconsistency arose such as has never been seen in this country before nor since. The Republicans, who, theretofore, had been the radical advocates of strict construction shifted their position and came out unblushingly in favor of using all the implied and rumored powers of the constitution, while the Federalists, who had so strongly urged the conquest of New Orleans and the eastern bank of the Mississippi, now that their object had been accomplished thru peaceable means, boldly arrayed themselves on the opposing side and denounced the treaty with as much vigor as they would had they made the literal application of the constitution their life-long care.

"The inhabitants of the ceded territory shall be incorporated into the union of the United States", was taken to mean by the Federalists that the territory was to be incorporated as a state, and this, they held, the Federal government had no right to do. They argued that the union could not be enlarged without the consent of the states, the original contracting parties. It was said that an element would be introduced into our government whose

interests were foreign to those of the original states; that this element would eventually control politics, and that the conflicting interests would work a hardship upon the East. The Republicans maintained that the stipulations of the treaty would be fulfilled if the acquisition was held as territory. They construed the treaty to mean that the inhabitants would be made citizens as soon as possible and that "in the meantime we should bestow our protection. It was not intended, they said, that the territory should be immediately admitted to statehood. It was held that the claims of unconstitutionality were unfounded because the treaty would be complied with: first, by incorporating the purchase into the union as territory; second, by admitting the inhabitants to rights of citizens of the United States by some uniform rule of naturalization; third, by protecting their liberty, property and religion by rules and regulations to be "in the meantime" enacted by congress under a constitutional power extending to territories but not to states; fourth, by applying the treaty making power providing that these reasons were insufficient. However, it may be said that the constitution nowhere grants the power of acquisition, nor is it forbidden, but it provides that "Congress shall dispose of and regulate the territory belonging to the United States," which is a recognition of the right of the government to hold and acquire territory. But just how the Republicans were to comply with the treaty in admitting the inhabitants of the purchase to the rights and immunities of citizens of the United States without admitting them to statehood is beyond the writers comprehension. Nor was this the only objection. The constitution provides that "no preference

shall be given by any regulation of commerce or revenue to the ports of one state over those of another." But the treaty provided that, three months after ratification, a term of twelve years should begin during which time the ships of France and Spain, laden with products of their respective countries, should enter the ceded territory with no other duty than that imposed upon American ships. The Republicans cited the Treaty of London as a precedent where a like discrimination had been made. The Federalists declared that the treaty deprived Congress of the right of regulating commerce, which the constitution delegated to it, and placed this power in the hands of the President and Senate. It was maintained by the Republicans that the "no discrimination clause" was provided as a restraint upon legislation and could not apply to treaties and, even admitting that it did apply to treaties, it could not be construed as applying to territories since only states are specified.

After a long and bitter debate Congress passed the following bills: - On October 29, 1803, an act carrying into effect the convention of April 30th; on October 31st an act enabling the President to take possession of the ceded territory; November 10th an act creating a stock and providing for the payment and manner of payment of the purchase price, and on the same day an act providing for the payment of claims, which we had assumed, to our citizens.

Thus ended one of the greatest transactions to which our government was ever a party. The historical facts are indisputable but just why Napoleon decided to part with so valuable a possession can never be fully accounted for. A clear insight into the subtleness of his character would be required to fully explain

his action, and to attempt to fathom such a character is almost useless. Whatever the momentary impulse which prompted him may have been, there were certainly many deep seated reasons which, taken together, would partly justify his action.

In following the history of the treaty many of these reasons were made apparent but I shall attempt to make them a little more conspicuous. Those conditions which seem to have contributed most toward its consummation are:—

First the Attitude of the United States. — The suspension of the right of deposit had thoroly aroused the inhabitants of the western territory. For the first time they fully appreciated how indispensable the free navigation of the Mississippi was to them and they declared their intention to maintain their rights at any cost. The French government was given to understand that the United States would ally herself with Great Britain against France if her claims were not recognized. The threats of the nation were concentrated upon Clichon at Washington and he, in turn, lost no opportunity to alarm his government at the hostile attitude of the United States. The Ross Resolutions were sent by Livingston direct to Talleyrand and these probably had great influence in hastening a decision. Napoleon had declared that upon receiving a verified statement of the amount of the Spoliation claims from our minister, he would pay them in full, but whether this had any weight in causing him to make the sale is doubtful, for promises were trifled with this man and only fear of consequences would prevent him from breaking them. But

Napoleon saw that he must concede something or run the risk of losing all. To give the United States permanent privileges upon the Mississippi would be to insure her a contented, loyal and prosperous people on its eastern bank, and this would subvert one of the very objects for which Talleyrand acquired the territory from Spain.

Second, the war with England. - When Napoleon made up his mind to precipitate a war with England and possess himself of Malta, he felt that he must forfeit Louisiana. He was satisfied that, if he attempted to retain the territory, England would invade it and that would forever seal all hopes of France, politically and commercially, in the new world. His jealousy of Great Britain would never permit him to see her further aggrandizement in America and he knew that it would only be a question of time until she would have supremacy. But just why he preferred Malta and war, to this vast and rich country, of which he had almost undisputed control, I cannot fully account for.

Fourth: - The unsettled condition of Europe compelled Napoleon to be vigilant. He did not know when he would be compelled to fight the nations which he had compelled to make peace on unsatisfactory terms. He did not know what complications he might have to deal with. It was necessary that he should concentrate his attention upon European affairs. In case of a doubtful war Louisiana would be but a source of irritation.

Fifth: - The condition of the French treasury was critical. The impending war with England necessitated an immediate supply of funds and the 60,000,000 francs that we paid for Louisiana

were appropriated for that purpose.

But why should Napoleon sell to the United States in preference to Spain or some other of his allies? Godoy was willing to pay more for Louisiana than was America and had the Spanish king failed to raise the money, he would have paid it from his own funds. The reasons why the United States was the fortunate nation were probably these:— First, Godoy was not an admirer of Napoleon, and he had a distasteful habit of considering the interests of Godoy and Spain before those of Napoleon and France. It was Godoy who had deferred the transference of Louisiana merely because Napoleon had not fulfilled the stipulations of the Treaty of Eldefonso. He had persistently fought every exaction Napoleon demanded of Spain. Of course the territory would have been sold to some other nation than Spain if for no other reason than to punish this offender. Second:— Napoleon wished to retain the friendship of the United States and he hoped to find in this country a powerful ally against England. Had he been a little more prudent his hopes might have been realized.

I have attempted to narrate in a simple manner the events leading up to and growing out of the Treaty of Louisiana. I have assigned the reasons for the sale in so far as my limited knowledge will permit. I might go further and show the political and commercial effects of the Treaty upon the American Republic, but this would not be within the scope of my subject. I might refer the

reader to the political and commercial progress of our country and say, without sensible error, this is the fruit. But the student of history, if he wishes to profit by his study, must go further than this. He must be able to assign the causes of existing conditions. He must learn to know the results toward which any cause or combination of causes tends. In short, he must add to his accomplishments the science of prevision.

Many are the lessons we may draw from the causes and sequences of this purchase and the circumstances attending the negotiation and ratification of the treaty. I will make but a few allusions hoping that they will stimulate the reader to deeper investigation.

We see here the impotence of a dissipated nation making a feeble and ludicrous attempt to sustain her rights and her honor, only to be spurned and betrayed by the ambitious despot who, drunk with success, cares naught for allies nor plighted oaths. We see, in turn, this same despot betray his own country to satisfy a whim, to display his power and show his authority; and, at last, we see that powerful nation plundered and vanquished because of the greedy arrogance of this unprincipled ruler. We can see how our own country immeasurably profited by not setting negotiation for force; how peaceable means enriched the nation as a resort to arms never could have done. We see how the implied powers of

our constitution were established; how that instrument must be construed when the general welfare of the country is at stake; how a close observance of strict construction might defeat the very object for which it was framed. And, finally, we cannot but see the evils which may arise from party jealousy and strife when the common good requires the united action of all citizens.