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*Case of a notorious American defector from the viewpoint of his handler.*

**JOHN ANDRÉ, CASE OFFICER**

**Robert Amory, Jr.**

In May of 1779, two and a half years before its decisive victory at Yorktown, the Continental cause was in a precarious state. Stalemate in the north and almost uninterrupted British success in the south had brought not only despair to General Washington's forces and dissension among the revolutionary politicians, but also disenchantment to our French allies. At the same time, however, England was war-weary and Parliament was buffeted by Whig demands for a settlement on the colonists' terms. Thus all hung in balance, and it seemed one brilliant military stroke on either side could be enough to make the other give up the struggle. Raids and forages might go on endlessly, it was thought at Sir Henry Clinton's New York headquarters, but the capture of a critical position and a major corps of the rebels would bring elusive victory within grasp.

Captain John André, who a month earlier had been made Clinton's intelligence chief, certainly saw it thus, and he apparently felt the situation as a personal challenge and opportunity. His professional competence, along with his social graces and artistic talents, had made him eminently successful at 28, but he was still consumed by ambition. His new responsibilities included that of encouraging defection among the enemy, and so his spirits must have vaulted when at this juncture there came into his office a man purporting to be an emissary from Major General Benedict Arnold.

*A Prize Walk-In Parlayed*

Consider how Arnold must have loomed to the G-2 of His Majesty's expeditionary forces. The dossier would record: lower middle class background; vigorous entrepreneur; pre-war captain of a superior company of militia; early in the war the brains of the seizure of Ticonderoga; energetic admiral

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who swept Lake Champlain; conceiver and executor of the late '75 campaign in which André himself had been taken prisoner, the epic effort to take Quebec (which ended in disaster but might have been a success of historic watershed proportions had Arnold been permitted to commence it in mid-summer as he wished). The record would also show Arnold's major if not unique contribution to the capture of Burgoyne at Saratoga and a crippling wound suffered there. It would note his rise in three short years from Captain to Major General and his current position as commandant of recaptured Philadelphia, benign to the Tories and neutrals.

Undoubtedly, however, Arnold's dossier would also record his present ill repute with the Congress for this same benignity, along with other quirks, and his demand for a general court martial to clear his reputation. And finally, if full and subtle, it would disclose acute financial embarrassment and the probable Tory leanings of his beautiful young bride Peggy Shippen (whose name had once been linked with André's own during the hedonistic winter André spent in occupied Philadelphia after a prisoner exchange had liberated him in time to take part in Charles Grey's surprise attack on Mad Anthony Wayne's corps, opening the way to the rebel capital).

Arnold, making this first approach in the pseudonym of Monk, after the roundhead whose rallying to Charles Stuart made the Restoration possible, had sent his emissary, a trusted Philadelphia Tory, through the lines to see André personally. The terms of his proposition can only be reconstructed from the response André sent back by the same intermediary; it was apparently an offer, in exchange for cold cash and the promise of a high position in the King's service, to defect immediately. André answered with a proposal that he "defect in place," supply intelligence and hold off changing sides until it would have a significant effect on the progress of the war. After all, at this time Arnold had no combat force command and his influence had suffered under the bitter hostility of the left-wing Whigs and his many enemies among the militia officers less competent than he. Let him stew a while, one reads between the lines of the reply.

André included a set of communications instructions, complete in professional detail. Correspondence was to be main-

tained through intermediaries or drops, so that no telltale addresses would be disclosed. Pseudonyms would further mask the parties. A code was prescribed—numbers keyed to pages, lines, and words of a specified dictionary. Auxiliary acid and heat-type secret inks would be used as necessary. And finally, as a last line of defense should counterintelligence penetrate the coded veil, the whole contents of the correspondence were to be disguised as concerning a harmless illicit business transaction between two merchant adventurers or as "observations on the complexion of an old woman's health."

André also spelled out the intelligence requirements of the British command: "Contents of dispatches from foreign abettors—number and position of troops—concerting the means of a blow of importance . . . etc., etc." All he promised in return was that "liberal acknowledgments will infallibly attend conspicuous services."

A surprisingly large portion of the André-Arnold correspondence survives.<sup>1</sup> Sixty-eight separate letters or decryptions covering forty tightly leaded printed pages are available for study, containing every type of classical artifice and mistake. The scholar has endless conundrums to solve—which message crossed which, which was drafted but not sent, what meaning was conveyed by what double talk.

Arnold promptly started to produce a miscellany of intelligence information, much of it of current value to Clinton and his staff, but at the same time pressed his side of the bargain, demanding 10,000 sterling as lump sum payment. He asked to be informed of Clinton's plan of campaign so that he could conform his activities to it, a disclosure Clinton and André could of course not make to an agent. Neither would they get down to specifics on the price they were prepared to pay for mere defection. Instead, André urged that Arnold "Join the army, accept a command, be surprized, be cut off—these things may happen in the course of manoeuvre, nor you be censured or suspected. A complete service of this nature involving a corps of five or six thousand men would be rewarded with twice as many thousand guineas." This letter of his also makes the fateful suggestion that the two of them

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<sup>1</sup>Much of it in the Clements Library of the University of Michigan.

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arrange the final details in a face-to-face meeting under a flag of truce.

Through the summer of '79 the case officer alternately encouraged and chided his agent. Arnold, in his volatile state of mind, was not easy to handle. His demands, said André, were too high, the information he supplied of but "very indirect influence here." "Permit me to prescribe a little exertion." Constantly he reverts to his main objective, that Arnold deliver up with himself a sufficient body of Washington's army to inflict a grievous if not mortal wound on the Continental cause. "Sir let us not lose time or contract our views . . . we cannot think you would on your side confine to general intelligence whilst so much greater things may be done . . ." But Arnold was not to be rushed; his wound still stood in the way of his taking a field command, and the court martial he had invited failed to vindicate entirely his actions as military governor of Philadelphia. The correspondence languished during the fall except for occasional spot reports from Arnold.

Firmly in back of André's subornation of Arnold was not only General Clinton but also the government in London. War Office advice to Sir Henry urged him not "to hesitate at any expense, promises, threats . . . that may tend to disarm the rebellion" and approved specifically of bribery. Romantics or moralists may decry such methods of achieving military objectives, but throughout the ages and in every civilization far-sighted commanders have employed silver bullets to obviate the expenditure of blood and greater treasure. Hamilton, adverting specifically to André's plot, later philosophized: "The authorized maxims and practices of war . . . countenance almost every species of seduction as well as violence, and the General who can make most traitors in the army of his adversary is frequently most applauded."

In October '79 André was made Acting Adjutant General to the British Army in America—in today's terms Chief of Staff and even more. Exulting, he wrote home: "You may well conceive how much I am flattered at being called in the space of three years from a Subaltern in the Fusiliers to the employment I hold and the favor in which I live with the Commander in Chief." A contemporary called him the general's

"first friend . . . best adviser . . . bosom confidant." Who can blame the 28-year-old officer if he conjured up visions of a brigadier's brevet and a baronetcy as his recognition if this conspiracy succeeded? But now for several months he was far away from Arnold and New York, assisting Sir Henry in the siege and capture of Charleston.

*The Treason Takes Shape*

In the spring of 1780 the conspirators became active again. By May Arnold was ready to comply with André's urgings: he appears by then to have made up his mind to obtain command of West Point and, after strengthening its garrison to a remunerative size at £2 a head, to turn over the works and all to the British. Through his old patron General Schuyler he hinted to Washington that the post at West Point would enable him to play a worthy role in the summer's campaign and would be within the physical endurance limits set by his wound. At the same time he resumed his correspondence with New York and for the first time disclosed really vital strategic secrets about Washington's and Rochambeau's summer plan of operations and the feints that were to disguise them. In June a journey to Connecticut gave him the opportunity to inspect the West Point works in detail, and he sent Clinton a description of how plausibly a quick stroke abetted by treachery might capture the position.

This time it was André's turn to be cautious and dilatory. To make sure he was not being made the victim of a deception operation, he set spies on Arnold's trail in Connecticut. When Arnold returned to Philadelphia he still had no response from the British. He became feverish in his importuning, pleading for confidence and stating as fact what was yet only a hope, that he had been assigned the West Point command. The most he got out of André was general encouragement, along with insistence on a face-to-face encounter to arrange details and confirm his bona fides. Not until August 24, three weeks after he had actually taken over the hoped-for command, did he get a firm offer of £20,000 for delivering up the post, provided the bag included 3,000 men and specified quantities of ordnance and stores. He then set busily about arranging means for a meeting with André.

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Such a meeting presented obvious problems. The American garrison commander could have no legitimate private business with the British adjutant general. Either's absence from his post would be soon remarked. There was no safe neutral ground for the rendezvous. Conscious primarily of the dangers to himself, Arnold proposed that André enter the rebel lines as a civilian, thus risking death as a spy. André, guided by Clinton's affectionate prudence, counterproposed the relative safety of the Hudson River under the protection of British gunboats and meeting under a flag of truce.

As in previous correspondence, but even more particularly because these letters passed through the hands of a patriotic American officer in charge of Arnold's outpost, the conspirators wrote as though they were merchants arranging illicit traffic through the lines. "Mr. Anderson" wrote from New York:

I shall be happy to meet Mr. G. Should I not be allowed to go, the officer who shall command the escort between whom and myself no distinction need be made can speak on the affair . . . I trust I shall not be detained but should any old grudge be a cause for it I shall rather risk that, than neglect the business in question or assume a mysterious character to carry on an innocent affair . . . and get into your lines by stealth.

Only Arnold would know that Mr. Anderson and the escorting officer were one and the same.

This did not satisfy Arnold, for how could he avoid raised eyebrows if his ostensible "agent" in New York dealt with him through a British officer? He cautioned his correspondent not to be "so imprudent as to trust a British officer commanding a flag with our private concerns" and concluded, "I do, by all means, advise you to follow the plan I propose of getting to our lines by stealth . . . I will engage you shall be perfectly safe here."

One Colonel Beverly Robinson, a Tory attached to British HQ, had a house near West Point and had on occasion been allowed to pass the lines to look after his establishment. Clinton was inclined to make him the intermediary with Arnold, but André was bursting with eagerness to undertake the mission himself. Though he'd now been made full adjutant general, old Lord Amherst had refused to promote him

appropriately in the regular establishment because he was such a junior captain. With a personal feat of derring-do he felt he might break out of the ruck. Clinton, after some importuning, gave him permission to accompany Robinson with a flag to Dobb's Ferry and there complete his clandestine business ostensibly as escort for the Tory. So on September 11 André and Robinson proceeded upstream, but an overzealous patrol boat from the British flotilla fired on Arnold's approaching barge and caused the meeting to abort.

Nearly a week passed, during which Arnold made various suggestions for another meeting and betrayed to André the highly confidential information that Washington and his staff would cross the Hudson with no escort at a given time and place on his way to confer with Rochambeau. André was busy laying the groundwork for the coup de main that was to capitalize on Arnold's treachery. His spirits must have been high. He had been recommended again to Lord George Germain for the rank befitting his position as Adjutant General, and it is said he hoped to command the corps which would effect the capture of the citadel at West Point. With the now added possibility that Washington and his staff might be taken in the trap, his vision of a blow that would gloriously end the rebellion was almost within his grasp.

For never were the fortunes of the Continental Army at lower ebb since Valley Forge. Washington was writing Congress, "Every idea you can form of our distresses will fall short of the reality. . . . The patience of the soldiery . . . begins at length to be worn out and we see in every line of the army the most serious features of mutiny and sedition. . . . All our operations are at a stand." The loss of the Colonies' most famous and expensive fort would accomplish what Burgoyne and Howe had failed to do three years before, would divide the rebellious colonies in two; and the defeat might well convince the soured French that the time had come to cut their investment in the feckless revolution. A member of Clinton's staff witting of the conspiracy wrote home to London, "Since 1777 I have not seen so fair a prospect for the return of the revolted provinces to their duty."

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*Fated Venture Afield*

Now Admiral Rodney was apprised of the plot and requested to provide the necessary transport for the dash up the Hudson. On September 20 André proceeded upstream with Robinson on HMS sloop of war *Vulture* in a second attempt to meet Arnold. When no contact was made that night, André, concerned lest Arnold doubt his presence, took advantage of a shelling of his truce-flag vessel to send a protest ashore in his own handwriting, countersigned in his pseudonym Anderson. Arnold, thus informed, sent out a boat the next night with an unwitting intermediary—a local gentleman of dubious affiliation named Joshua Smith—to bring André ashore for the long-sought rendezvous. After some hesitation, when credentials had been verified and he had examined the pass made out for him, André consented to go ashore—in his full regimentals but no longer carrying a flag of truce. As he subsequently wrote Washington: “I had fairly risked my person.” Smith observed later that “Mr. Anderson, from his youthful appearance, the softness of his manners, did not seem to be qualified for the business of such moment. His nature seemed fraught with the milk of human kindness.”

From one to four a.m. the case officer and his defecting agent conferred in a grove in Haverstraw on the Hudson. No record exists of the negotiation save Arnold's later self-serving memorandum citing the sum André promised him in the event of failure of the venture. Presumably the last loose ends were tied up and the assault on West Point, the simulated defense, and the surrender were all arranged. Arnold pressed on André an estimate of his ordnance and the defense forces, their battle plans, and diagrams of the works and their approaches to take back with him to convince Clinton of the merits of the scheme. When the meeting concluded Arnold said that daybreak was too close for André to be rowed the six miles back to the *Vulture*; he must hide out until the next night. So he rode with Arnold to Smith's house, and to his alarm passed a sentry post; he was within the American lines.

During the day André spent in Smith's house chance dealt ill with him. The Yankee commander on the opposite shore decided, out of pure cussedness, to wheel up a four-pounder and a howitzer and bombard the *Vulture*. The sloop, after



being holed six times, retired twelve miles downstream. Smith's rowers refused to go so far, and thus André's chances of returning the way he arrived disappeared. That night, although André still preferred to try rowing down river, Smith, left in charge after Arnold's departure for West Point, insisted on crossing the river and moving overland through Westchester to the British outpost near White Plains.

Arnold, to protect himself, had told Smith that André was a merchant masquerading in false pride as a British officer and that for his ride through American-held terrain he must dispense with his uniform. Irked but not really downcast, André set out in civilian clothes with Smith, hoping to cover the entire distance in one night. But before nine o'clock, after only eight miles, an American picket detained them, warned them of Tory partisans operating to the south, and insisted that they spend the night. Obviously André couldn't evince a lack of fear for raiders of the other side, so perforce he turned in and spent a restless night.

The next morning the travelers proceeded seven miles together, breakfasted, and then parted, Smith afraid of the partisans and André happy to ride alone the last 15 miles to the British pickets. The country he had to traverse was a genuine no man's land alternately raided by Tory cowboys, so-called, and rebel skinnners, both interested strictly in the profits of brigandage.

About nine o'clock André was halted by such a party, of which side he could not tell, and questioned who he was. Since he carried Arnold's pass, he had nothing to lose by claiming to be in rebel service: if his accosters were rebels they would honor the pass; if they were Tories they would treat him as a prisoner and transfer him through the chain of command until he came into hands that would recognize him. But his wits deserted him. Probably influenced by the British uniform coat on one of his captors, a recently escaped prisoner, he blurted out that he was of the loyalist part—in fact, "I am a British officer on particular business."

When his captors declared themselves Americans, he tried to satisfy them with Arnold's safe-conduct; but too late. They saw him as a simple captive whose equipage was fair booty, and they particularly cottoned to his boots and hose.

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In stripping him of these, they stumbled onto the incriminating papers Arnold had given him to carry back, and so they took him to the nearest rebel officer. This officer had earlier been alerted by Arnold to expect a line-crosser named Anderson coming from the British side. When the man now came from the wrong direction and bore most suggestive documents, he grew vaguely suspicious. He sent him under escort toward Arnold's headquarters, but dispatched the documents by separate messenger to intercept Washington, who was en route to West Point at this time.

When André learned the next day what had been done with his papers, he for the first time dropped his disguise as Mr. Anderson and wrote Washington that "the person in your possession is Major John André, adjutant general of the British Army," who had been "... against my stipulation, my intention and without my knowledge . . . conducted within one of your posts . . . Thus become a prisoner, I had to concert my escape. I quitted my uniform, was passed . . . to neutral ground and left to press for New York . . . Thus was I betrayed . . . into the vile condition of an enemy in disguise within your posts . . . with no motive . . . but the service of my king as I was involuntarily an imposter."

A report of the capture and its disposition meanwhile reached Arnold just barely ahead of the revealing documents' delivery to Washington at Fishkill. Alexander Hamilton, as advance aide for Washington, had actually arrived to breakfast with Arnold when the latter learned of the disaster. With a brief farewell to his swooning, co-conspiring bride, he ordered out his barge and dashed down the Hudson to the *Vulture*, to live out the remainder of his days in the service and as pensioner of the Crown. Thus the defection originally contemplated was accomplished, to the shock and consternation of the continental army and the colonies; but it was only of one man. The big prize of the Commander in Chief, 3,000 soldiers, and a key defense position escaped the snare.

*Due Process, Doubts, and Death*

Washington took no chances, regrouping his field forces to shield West Point against the plotted British assault. At the same time he sent André under the tightest guard to his headquarters at Tappan. There on September 29 he convened all

available general officers as a board to examine André and "as speedily as possible to report a precise state of his case, together with your opinion of the light in which he ought to be considered and the punishment that ought to be inflicted." This board, headed by Nathaniel Greene, included Lafayette, Baron von Steuben, Henry Knox, and ten others. The relatively full abstract of its proceedings made by the Judge Advocate General was published by order of Congress and exists today in several editions.<sup>2</sup>

No defense counsel was provided; and André, although cautioned by the Presiding Officer and the Judge Advocate, almost blithely made damaging admissions of facts the prosecution could not have proved and described circumstances in a manner highly prejudicial to his case. For example, he admitted that the boat which brought him from the *Vulture* carried no flag and that his "surtout coat" concealed his regimentals. After concluding their interrogation of André, the board considered letters from Arnold, Clinton, and the Tory colonel who had accompanied André on the *Vulture*. All insisted that he had come under a flag of truce and thereafter acted in obedience to the commands of Arnold, the lawful American military authority in the locale.

There was no real question about André's having been in disguise when captured (but the precise spot of his capture was certainly in no man's land and nearer to the British outpost in Kingsbridge than to any position of the regular American forces) nor about his having had papers with intelligence for the enemy on his person. The critical issue was the truce flag, and on this André's admission easily outbalanced the ex parte letters from Clinton and Arnold. The verdict followed inexorably that "Major André, Adjutant General to the British Army, ought to be considered as a Spy from the Enemy; and that, agreeable to the law and usage of nations . . . he ought to suffer Death."

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<sup>2</sup> The six editions published in America in 1780 are all of considerable rarity. The Norwich edition exists in only one recorded copy, in the possession of the Harvard Law School Library. The British press was quick to reproduce the text, stopping only to change its title to *Proceedings of a Rebel Board of General Officers*, published by the end of November. Even the Irish published it: the Dublin 1781 edition has survived in five recorded copies.

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Such was the judgment, but as Lafayette later wrote, "All the court . . . were filled with sentiments of admiration and compassion for him. He behaved with so much frankness, courage and delicacy that I could not help lamenting his unhappy fate. This was one of the most painful duties I ever had to perform." Summing up what was undoubtedly the unofficial opinion of the board, Baron von Steuben growled, "It is not possible to save him. He put us to no proof, but in an open, manly manner, confessed everything but a premeditated desire to deceive. Would to God the wretch who drew him to death could have suffered in his place."

To my mind the case is not as open-and-shut as most writers consider it. A prisoner of war, or today a downed airman, is entitled to disguise himself in attempting to escape without making himself thereby a spy. In view of André's clear intention to act as an intermediary—a case officer—when he entered the lines wearing his uniform, he was not a spy until he began his return journey. It was at this point, after his expectation of being rowed back to the *Vulture* under a flag was thwarted, that he concluded, as he said, with "great mortification" that he was a prisoner and "had to concert my escape." The carrying of intelligence documents substantially weakens the argument that he was in the position of an escaping prisoner with attendant rights at dissimulation, but in rebuttal it can be urged that he had these in his capacity as negotiator-intermediary between Arnold and Clinton.

Whatever might have been accomplished along this line by competent defense counsel before a completely objective court, the fact is that no real lawyer-like effort was made in his behalf. The concept under which, without articulating it, the board adjudged him a spy was the well-known principle of trespass ab initio, whereby an originally lawful entry into a place becomes criminal by the subsequent commission on the premises of a criminal act. Moreover, the atmosphere of "bloody treason flourishing" surrounding the court must have been highly prejudicial to any chance that a member of the board would undertake on his own motion to exonerate the prisoner by involute legal analogy.

Although, as Washington wrote Rochambeau, "policy required a sacrifice," I do not wish to imply that André did not have a fair trial; and it can be flatly asserted that there is no

persuasive evidence to support the popular legend that he was railroaded in vindictive reprisal for the execution of Nathan Hale. What can be said is that the case involved fine points which ideally should have been argued by an aggressive defense judge advocate. On the other hand, under the usages of war, Washington would have been fully justified in summarily executing André, as the British had Hale.

During André's last weekend on earth a hectic correspondence flowed from New York to Washington's headquarters, alternately protesting, beseeching, and threatening reprisals against captive Americans if the execution were carried out. None of these had the slightest effect on the stern and embittered commander in chief. The one possibility left for André was exchange for Arnold. Hamilton proposed this in writing, whether with Washington's knowledge is obscure; but much as Clinton's heart and stomach must have urged him to such a course, his head obviously forbade, for to betray Arnold to certain death would completely doom his efforts to induce other rebels to return to allegiance to the Crown.

Meanwhile, ever since his admission of identity, André had been captivating his captors with his gentle charm and serene composure. His contemporary Tallmadge, one of Washington's most trusted espionage and partisan officers, was "entirely overwhelmed with grief that so gallant an officer and so accomplished a gentleman should come to such an ignominious end." Hamilton, who noted his "peculiar elegance of mind and manners, . . . his knowledge . . . without ostentation, embellished by a diffidence that rarely accompanies so many talents and accomplishments," wrote a few days after his death that "never, perhaps, did any man suffer death with more justice or deserve it less," that "he died universally esteemed and universally regretted."

André appeared to hope for a while that he might receive special consideration and escape capital punishment, but in the last days he apparently resigned himself to his fate and confined his hope to that of dying by a firing squad. He wrote Washington in quiet dignity, "Sympathy toward a soldier will surely induce your excellency to adapt the mode of my death to the feelings of a man of honor.—Let me hope sir—that I

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am not to die on a gibbet."<sup>3</sup> But the General adhered to the rules of war, fearing that any variation would cast doubt on the justice of the verdict. For if André were not a spy, he was an ordinary prisoner of war.

On Monday, October 2, André's servant brought him a fresh full-dress uniform, which he donned for a last self-portrait and then his final walk. As he came in sight of the gibbet and realized for the first time that Washington had denied his request, he recoiled momentarily and said aloud: "I am reconciled to my fate but not to the mode of it." He then composed himself, walked erect to the wagon and mounted it. With his own hands he adjusted the noose to his neck, tied his own handkerchief over his eyes, and swung off into eternity.

His outward tranquility, which indelibly affected all the multitude of soldiers who witnessed his passing, appears to have been matched by an inner peace of soul. The closing part of his farewell letter to Clinton said simply, "I am perfectly tranquil in mind and prepared for any fate to which an honest zeal for my King's service may have devoted me." And Tallmadge, who was constantly with him from his capture, wrote on the eve of the execution, "Tho' he knows his fate, he seems to be as cheerful as if he were going to an assembly. I am sure he will go to the gallows less tearful for his fate, and with less concern than I shall behold the tragedy." Washington commented, "André has met his fate, which we could not but lament, with that fortitude which was to be expected from an accomplished man and a gallant officer."

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<sup>3</sup> Original in Library of Congress; forged copy in New York Public Library.

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