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Biography of
Ephraim Kirby
By
Theodatus Garlick.





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WESTERN RESERVE
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TRACT NO 58.

Cleveland, Ohio, January, 1883.

BIOGRAPHY OF EPHRAIM KIRBY,

Director in the Connecticut Land Company in 1795.

BY DR. TH. ODATUS GARLICK,
Member of the Society.

Dear Sir: In accordance with your often expressed wish, I herewith present your society with a very brief biography of the Hon. Ephraim Kirby, of Connecticut. I regret that it is not more full and complete, but it embraces the more prominent events of his life. During my mother's lifetime she had in her possession a large package of papers and letters relating to Ephraim Kirby. After my mother's death they were taken by Mrs Ann Kirby Barnum, of Baltimore, (my mother's and E. Kirby's sister,) and sent to St. Augustine for Major Belton to compile, but they never reached him, being lost at sea. I shall therefore have to depend mainly on other sources than family records and family correspondence for information and facts.

And, first, I find in Drake's Biographical Dictionary, the following notice of Ephraim Kirby: "Ephraim Kirby, born in Litchfield, Connecticut," (this is an error, Kirby was born in Woodbury, Conn.) "February 23, 1757; died at Fort Stoddard, Mississippi, October 2, 1804; appointed United States District Judge 1804 by President Jefferson; was in the battle of Bunker Hill, and continued in the service to the end of the war. He was in nineteen battles and skirmishes, receiving thirteen wounds, seven of which were saber cuts, and left on the field for dead. The degree of Master of Arts was conferred on him by Yale College in 1787; a lawyer of eminence in Litchfield in 1789; first reporter of the Supreme Court of Errors in the State of Connecticut; in the State Legislature from 1791 to 1801. His son, R. M. Kirby, a major in the war of 1812."

The following biographical sketch was written some twenty or more years since by an old lawyer of Litchfield for Mrs. Ann Kirby Barnum, and sent by her to Hon. Samuel Starkweather, of Cleveland. The name of the writer is missing with the date:

"Hon. Ephraim Kirby was born in Judea Society, Woodbury, Conn., on a farm now owned by Andrew Hines, Esq. The cellar, over which the house stood still remains. It is situated about eighty rods from General Daniel B. Brinsmade's dwelling house, and to this day is known as the Kirby farm. His father was a farmer in moderate circumstances, and Ephraim was employed on the farm during his boyhood. At the age of sixteen, fired with the patriotism which burst into a flame throughout the country on the news of the battle of Lexington, he shouldered his musket and marched with the volunteers to the scene of conflict in time to be at the battle of Bunker's Hill, and remained in the field until independence was achieved, with only a few intervals, when driven from it by severe wounds. He was in nineteen battles and skirmishes, among which were Brandywine, Mounmouth, and Germantown, and received thirteen wounds, seven of which were saber cuts on the head, inflicted by a British dragoon at Germantown, where he was left for dead on the field. These honorable scars he carried with him through life. At the close of the Revolution he rejected with indignation the offer of assistance to speculate in soldiers' certificates by which he might have amassed wealth without labor, but preferring to be penniless as he was than by thus taking advantage of

the necessities of his comrades in arms. By the labor of his own hands he earned the price of his education. He was for some time a member of Yale College and in 1787 the honorary degree of master of arts was conferred on him by that college. Mr. Kirby studied law in the office of Reynold Marvin, Esq., of Litchfield, who had been King's attorney before the war and who relinquished that office for the purpose of engaging in the great struggle for independence. After Mr. Kirby was admitted to the bar he married Miss Ruth Marvin, the accomplished daughter of his distinguished preceptor and patron. In 1791 Colonel Kirby was elected for the first time a representative to the Legislature, a post of honor and responsibility to which he was subsequently re-elected at thirteen semi-annual elections. As a legislator he was always distinguished for the dignity of his deportment, for his comprehensive and enlightened views, for the liberality of his sentiments, and for his ability, firmness, and decision. On the election of Mr. Jefferson to the Presidency in 1801, Colonel Kirby was appointed supervisor of the National Revenue of the State of Connecticut. About this period he was for several years the Democratic candidate for Governor, but as a matter of course, he was always beaten. Upon the acquisition of Louisiana, Mr. Jefferson appointed him district judge of the newly acquired territory of Orleans. Having accepted the office, he set out for New Orleans, but he was not destined to reach that place. Having reached Fort Stoddard in the Mississippi Territory, he was taken sick with yellow fever, and died October 2, 1804, aged forty-seven years, at a period when a wide political career seemed opening upon him. His remains were interred there with the honors of war and other demonstrations of respect. While engaged in the practice of law at Litchfield, in 1789, he published a volume of reports of the decisions of the Superior Court and Supreme Court of Errors of Connecticut. This was a novel undertaking, being the first volume of law reports ever published in America. It was executed with ability and faithfulness, and is still regarded as authority in all our courts. Colonel Kirby was a man of the highest moral as well as physical courage, devoted in his feelings and aspirations, warm, generous, and constant in his attachments, and of indomitable energy. He was withal gentle and winning in his manners, kindly in his disposition, and naturally of an ardent and cheerful temperament, though the

last few years of his life were saddened by heavy pecuniary misfortunes.

"As a lawyer, he was remarkable for frankness and downright honesty to his clients, striving to prevent litigation and effecting compromises. He enjoyed the friendship of many of the sages of the Revolution; his correspondence with whom would form interesting materials for the history of his times, but unfortunately almost all of it was lost at sea between New York and St. Augustine some twenty years since. A few letters to and from President Jefferson are still preserved by his son, Colonel Edmund Kirby, of Brownsville, N. Y., which are interesting as showing the relations of confidence existing between that great statesman and the subject of this sketch.

"Mrs. Ruth Kirby, the widow of Ephraim Kirby, died at Litchfield in October, 1817, aged fifty-three years."

The foregoing sketch is in error as to Kirby's being left for dead on the field at the battle of Germantown. The place where he was so badly wounded and left for dead was at Elk River, in the month of September, 1777, previous to the battle of Germantown. Kirby was engaged in a great many battles and skirmishes, and received many wounds, but his worst wounds, the saber cuts in his head and arms, were received in a skirmish at Elk River, if butchering surrendered prisoners of war without arms in their hands can be called a *skirmish*. In all other respects the foregoing sketch, I have no doubt, is entirely correct. The circumstances attending Kirby's entering the army and being so terribly wounded have been so often related to me by my mother and by my aunt, Mrs. Barnum, that I cannot be mistaken about the time when, and the place where, he received those saber cuts in his head. Many years ago Mrs. Barnum and myself were going to Havre de Grace on a steamboat, and as we were passing the mouth of Elk River, my aunt called my attention to that river, saying: "Doctor, there is the place where your uncle Ephraim Kirby was so terribly wounded, and left on the field for dead." She then related to me all the circumstances of the affair, as my mother had often done before. Ephraim Kirby, with other young men of Litchfield county, formed a company of cavalry, and equipped themselves, and furnished their own horses, and went into the service as volunteers. I do not remember at what place they joined the army, but that company of cavalry was engaged in several battles and a great many skirmishes, one of which being

when Kirby was wounded and left for dead. Nearly all the members of this company lost their lives before the close of the war. At the time when our army lay somewhere south of Philadelphia, perhaps on or near the Brandywine, the British under Lord Howe sailed up the Chesapeake and landed a little south of Elk River on the 25th of August, 1777. Some of our troops were left in the rear of the main army north of Elk River for the purpose of keeping Washington advised as to the whereabouts of the British army under Lord Howe. Among the troops so left was the company of cavalry of which Kirby was a member. A portion of this company, I do not recollect how many, were ordered to cross Elk River for the purpose of reconnoitering, and to ascertain, if possible, the whereabouts of Lord Howe's army. This was in the fore part of September. They had to swim the river, and after crossing, dismounted, and were engaged in getting the water out of their boots. Many of them had drawn off their boots for that purpose when they were surprised by a large force of British dragoons and captured. After giving up their arms they were robbed of what little money they had, and also of their watches, and every man except Kirby and a man by the name of Lewis were killed in cold blood. Kirby was supposed to be dead, and Lewis, like old Jack Falstaff, fell on the ground in the melee, and feigned death so well that he escaped. Kirby stood by and under his horse's head, while a British dragoon was belting away at his head with his sword, Kirby dodging the blows as best he could, and fending off with his arms, which were badly wounded. The wounds on his head were fearful, cutting through both tables of the skull and into the brain, a portion of which was lost. Thirty odd pieces of his skull were removed by the surgeon. After the British dragoons left, Lewis got up, and after examining his comrades, he found every one dead except Kirby, who was breathing, but unconscious. Not far from the place where this happened was a log cabin, in which resided an aged widow, who consented to let Lewis bring Kirby to her house, and leave him there until a surgeon could be sent to dress his wounds. Word was immediately sent to his father at Litchfield, that his son was mortally wounded, but contrary to all expectations, his wounds healed kindly, and rapidly, though he still remained unconscious. In the month of December following his father went after him (a great journey in those days), and

took him home to Litchfield. His wounds had all healed, but he still remained unconscious, and no one supposed he would ever recover his mental faculties. But some time in the following May he suddenly sprang from his bed, exclaiming, "Where is Eagle?" meaning his horse. From that moment he was all right in his mind, and remained so until his death. Very soon after this he re-entered the army, and remained in it until the close of the war. Kirby could not have been in the battles of Brandywine and Germantown, as he was lying insensible from his wounds received at Elk River at the time these battles were fought, remaining so until the following month of May. The battle of Brandywine was fought September 11, 1777; the battle of Germantown, October 4, 1777; the battle of Monmouth, June 28, 1778. I have no doubt he was engaged in this last battle, as he re-entered the army very soon after he recovered from his wounds.

Ephraim Kirby's children were Major Reynolds Marvin Kirby, and Major Edmund Kirby, both of whom held commissions in the United States Army, and died during our war with Mexico, being with our army at that time. Kirby had two daughters, the eldest, Catherine, married Major Joseph Smith, of the United States Army, afterwards Judge Smith, of St. Augustine, Fla., the father of E. Kirby Smith, the rebel general in our late Rebellion. The youngest daughter, I forget her name, married Colonel Belton, of the United States Army, and both are still living, as I understand, in Florida. It will be seen by referring to the Early History of Cleveland, that Ephraim Kirby was one of the original thirty-five proprietors of our Western Reserve, of which we are all so proud. This company was known as the "Connecticut Land Company," Kirby being a member of the first board of directors, and, I believe, the company's legal adviser. The names of all the members of this company will be found in Whittlesey's Early History of Cleveland, and the amount of each subscription.

The foregoing sketch contains the most prominent events in the life of Ephraim Kirby. I will, however, add the following extract from a letter from my friend, the Hon. Samuel Starkweather, of Cleveland, as it relates to the genealogy of the Kirby family:

"CLEVELAND, January 2, 1874.

"Dr. T. Garlick:

"Dear Sir: I have received your letter saying you were about to write a short bio-

raphy of Judge Ephraim Kirby, and asking for some facts in relation to the genealogy of the family. His mother was Eunice Starkweather, the youngest child and daughter of John Starkweather, who settled in Stonington, Conn., about the year 1717, where he lived and died, and where he raised a family of eight children, his son Ephraim, my grandfather, being his youngest son, and Eunice, as I have said, his youngest daughter and child. Ephraim, my grandfather, was born September 1, 1733. Eunice, your grandmother, his sister, was born September 19, 1735. In what year she married Abraham Kirby, I don't know. It appears that she named one of her sons, the first-born I presume, after her favorite brother, Ephraim. I have heard him say that he could never have completed his studies at Yale College, where he graduated in 1755, without the help of his beloved sister Eunice. The said John Starkweather, of Stonington, the father of Ephraim and Eunice, was a descendant of Robert Starkweather, in the third generation, who emigrated to Boston, Mass., about the year 1630. From the John Starkweather, of Stonington, have descended all of the name of any note. The Kirby family have been the most distinguished. It is singular that I never heard my grandfather Ephraim speak in the way of boasting of any of his relations, except the Kirbys—the husband and the children of his sister Eunice.

"Of Ephraim Kirby and of his life and times, a most interesting paper could be written if all the facts could be procured. He was certainly one of the most prominent men in Connecticut. He was the champion of Jefferson, and brought down upon himself the whole weight of the Federal power, then dominant and overwhelming. On fast days, the magistrates and clergy of Connecticut would fulminate against Jefferson and his adherents—that day being a privileged day for them, and the clergymen in Litchfield would sometimes be so personal that all eyes in the meeting-house would be turned towards Kirby, as he sat in his pew, as being the one hit, and as he could not talk back, and unable to bear it longer, he left the church, and was one of the principal founders of the Episcopal church in Litchfield, now one of the strongest churches there, and the best

endowed; so true it is, that the blood of the martyrs is the seed of the church. I often detailed these facts to old Mrs. Barnum, your aunt. The part taken by Judge Kirby in the Revolutionary War would be most interesting if it could be written out. Yours truly,
SAMUEL STARKWEATHER."

The progenitors of the Kirby family, of Connecticut, emigrated from Warwickshire, England, in the sixteenth century.

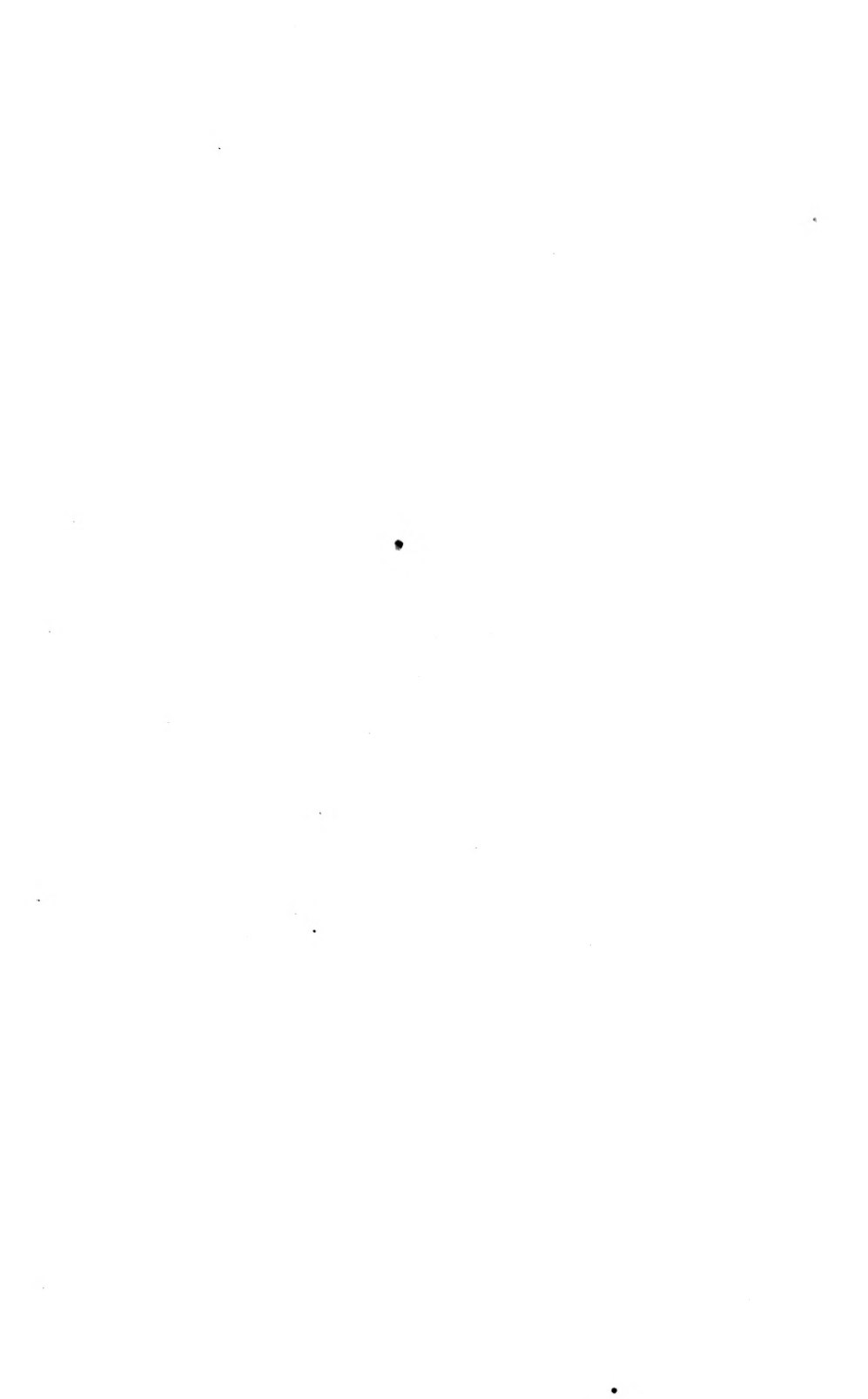
I have attempted to write out the above biographical sketch of Ephraim Kirby, while lying on my lounge and suffering severely most of the time. I am fully aware of its imperfections of style, but the statements, as corrected by myself, may be relied on, and accepted as historical facts.

THEODATUS GARLICK.

BEDFORD, CUYAHOGA COUNTY, OHIO,
January 16th, 1874.

NOTE.—The late Dr. Jared P. Kirtland had recollections of an enthusiastic State Democratic Convention held at Wallingford, Connecticut, at which Judge Kirby was nominated for Governor. It was held in the meeting house, and the crowd was so great that the galleries showed signs of giving way. Some rails were brought in as props, and the Convention proceeded to finish its work.

His name appears frequently on the U. S. Army Registers, generally through the descendants of the daughters. Major Edmund Kirby, an officer of the war of 1812, was his son; also Major R. M. Kirby, who died in 1842. Ephraim Kirby Barnum, who died in 1849, with the rank of Major in the Regular Army, was a grandson on the side of his mother. Ephraim Kirby Smith was another, a graduate of West Point; and a Major killed at Molino Del Rey, in Mexico. His son, J. L. Kirby Smith, graduated from the U. S. Military Academy as Lieutenant of Topographical Engineers, and was engaged on the Government surveys of the Lakes. He was Colonel of the 43rd Regiment of Ohio Volunteers, and killed at Corinth, Mississippi. His uncle, Edmund Kirby Smith, also graduated at West Point, entered the Army and served with credit in the Mexican war. In the Rebellion he turned traitor to his country, joined the Confederate Army, and rose to the rank of Lieutenant-General.



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