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Vol. XVIII

JANUARY, 1919

No. 3

# The North Carolina Booklet



## GREAT EVENTS IN NORTH CAROLINA HISTORY



PUBLISHED QUARTERLY  
BY  
THE NORTH CAROLINA SOCIETY  
DAUGHTERS OF THE REVOLUTION  
RALEIGH, N. C.

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SINGLE NUMBERS 35 CENTS

\$1.00 THE YEAR

Entered at the Postoffice at Raleigh, N. C., July 15, 1905, under the Act of Congress of March 3, 1879

# The North Carolina Booklet

## Great Events in North Carolina History

Volume XVIII of THE BOOKLET will be issued quarterly by the North Carolina Society, Daughters of the Revolution, beginning July, 1918. THE BOOKLET will be published in July, October, January, and April. Price \$1.00 per year, 35 cents for single copy.

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Editor North Carolina Booklet,

"Midway Plantation," Raleigh, N. C.

*The*  
**NORTH CAROLINA BOOKLET**

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*"Carolina! Carolina! Heaven's blessings attend her!  
While we live we will cherish, protect and defend her!"*

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Published by  
**THE NORTH CAROLINA SOCIETY**  
DAUGHTERS OF THE REVOLUTION

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The object of THE BOOKLET is to aid in developing and preserving North Carolina History. The proceeds arising from its publication will be devoted to patriotic purposes.

EDITOR.

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JOHN STEELE

Member First and Second United States Congresses ;  
Comptroller of the Treasury under Washing-  
ton, Adams, and Jefferson

# The North Carolina Booklet

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## John Steele

BY ARCHIBALD HENDERSON

“North Carolina has produced few individuals,” says that astute judge of men and affairs, David L. Swain, in speaking of John Steele, “whose public services offer more interesting topics for history and biography.” Modest to a fault, exceptionally sensitive in disposition, he was at once rarely versatile and efficient. In the earliest years of the Republic, with his hand upon the nation’s pulse, he numbered among his friends and familiar correspondents such figures as Washington, Adams, Jefferson, Hamilton, Oliver Wolcott, Albert Gallatin, Joseph Habersham, James Iredell, Alfred Moore, Nathaniel Macon, and William R. Davie.

### I

John Steele, named after his father’s brother, was born at Salisbury, North Carolina, on November 16, 1764. His mother was first married to Robert Gillespie, who was murdered by the Indians in March, 1760. Her second husband was William Steel, Commissioner of the Borough Town of Salisbury. Known to history as Elizabeth Maxwell Steel, she endeared herself to her country by presenting to General Nathanael Greene, in the darkest hour of his career, her savings of years for the public service.

John Steele received his early education at the “English School” in Salisbury of which his mother thought so highly. An important influence was exerted upon young Steele during his earlier years by Dr. Samuel Eusebius McCorkle, the husband of his half-sister, Margaret Gillespie. As a youth, Steele attended the famous Latin School, Clio’s Nursery, near present Statesville, North Carolina, opened by the Rev. James Hall about 1775. Under the influence of McCorkle

and Hall, who were inspired by the teachings of Nassau Hall and the Revolutionary zeal of John Witherspoon, Steele early exhibited a deep love of country and a flaming passion for liberty. At the age of thirteen, against his mother's will, he enlisted in the Continental Army; and soon afterwards his mother is writing to him as follows: "Since you have chosen that manner of life, it would give me the greatest pleasure to hear of your acquitting yourself with honor and faithfulness to your country."

After the expiration of his military service, young Steele returned to Salisbury and established a mercantile business, which doubtless often sent him on business visits to Cross Creek, near present Fayetteville, the economic center of the Scotch mercantile trade. Here he formed the acquaintance of the well-known merchant, Robert Cochran. Attracted by the charms of Mr. Cochran's daughter-in-law, Mary Nesfield, he successfully pressed his suit and was married to the woman of his choice on February 9, 1783. In a letter to his uncle, Ephraim Steele, at Lancaster, Pennsylvania (Salisbury, April 24, 1787), John Steele writes: "Mr. McCorkle's family, my mother's and my own are well. I have had two children but was unhappy to lose one last summer, as well as my old friend and benefactor, Robert Cochran of Fayetteville, with whom I was concerned in trade. Since his death I have conducted the business alone with tolerable success. Goods retail high in this place. The great quantity of paper money which circulates through this state is a heavy drawback upon our prosperity."

John Steele early displayed not only unusual capability in commercial enterprise, but also marked talent as a student of public affairs. On May 5, 1784, he was chosen Assessor for the Town of Salisbury; on March 12, 1787, he was qualified as Town Commissioner; and for many years he held the office of Justice of the County Court of Rowan. His conspicuous interest in public affairs, together with his general popularity, soon brought him into public notice. In 1787,



at the age of twenty-two, he was sent to the House of Commons as the representative of the Town of Salisbury. "Though his attention had been devoted to mercantile and agricultural pursuits," observes Moore, the historian, "he developed a strength and clearness in his address that were astonishing." The public confidence reposed in young Steele was demonstrated by his election to represent the town in the convention, held for the purpose of considering the propriety of adopting the new Federal Constitution, begun at Hillsborough on July 21, 1788. A remarkable testimony to Steele's ability is the fact that, in a membership of two hundred and eighty, he is ranked by Iredell's biographer with the great leaders, James Iredell, William R. Davie, Samuel Johnston, Richard Dobbs Spaight and Archibald Maclaine, as one of the half-dozen most prominent Federalists in the convention. "He was universally regarded," says McRee, "as a very enlightened politician, and accomplished gentleman." By Hubbard, Davie's biographer, Steele is described as diligent, clear-sighted, and for his knowledge of men and skillful marshaling of their forces a valuable ally of the cause of the Constitution. When Steele was instrumental in having the new county formed out of Rowan named Iredell, James Iredell wrote him a letter of hearty thanks (Edenton, February 7, 1789), in which he said: "My opportunities of rendering any public service have been very few; but no man's heart is more warmly disposed to the public interest than mine. I think neither you nor myself could give stronger proofs of it, than in supporting with all the earnestness in our power a Constitution which, in my opinion, gave us the only chance of being rescued from the dreadful evil of universal anarchy, which is as far removed from true liberty as despotism itself." Again Steele represented Salisbury, both in the Legislature of 1788 and in the Convention of 1789, which met at Fayetteville in November and by a large majority ratified the Federal Constitution.

## II

On account of the prominent part he had played in political affairs, Steele was put forward by the people generally, irrespective of faction, in the Salisbury District, and at the age of twenty-five elected to the First United States Congress, which convened at Philadelphia on March 4, 1789.<sup>1</sup> During the two terms of his service in Congress, Steele won real and merited distinction. His speeches were marked by great earnestness, delivered with dignity, and stamped with the authority which rests on knowledge. Popularly classed as a Federalist, who had won his seat as an active supporter of the Constitution, he showed himself to be neither a partisan supporter of administrative measures nor a colorless recorder of Federalist opinion. In reality, his was the attitude of the statesman who is above party. The great veneration he felt for Washington was tempered by the consciousness that Congress, out of an excess of admiration for this great man, had "by law invested him with powers not delegated by the Constitution, which would have been intrusted to no other." Steele greatly admired the genius of his friend, Alexander Hamilton, as administrator and financier. Yet he was by no means an unqualified adherent of Hamilton; and on important occasions, he opposed measures of Hamilton's which he regarded as unwise and impractical. Supported by his colleagues, he opposed Hamilton's plan of the assumption by the Union of all the debts of the States contracted in gaining American independence, on the ground that it was impossible to adjust the account equitably. In conformity with well-considered views, he supported the bill for establishing a national bank, which was so vigorously fought by Jefferson and his followers on the ground of unconstitutionality. In the fight on the Secretary of the Treasury, he voted uniformly

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<sup>1</sup>As North Carolina did not ratify the Constitution of the United States until November 21, 1789, the State had no representation until the second of the three sessions of the first Congress. John Steele took his seat on April 19, 1790. His colleagues in this Congress were John Sevier, Timothy Bloodworth, John B. Ashe, and Hugh Williamson, the last a Federalist. Both the Senators from North Carolina, Samuel Johnston and Benjamin Hawkins, were Federalists.

in indorsement of Hamilton, being supported by Williamson and opposed by Ashe and Macon. In recognition of the legal insight of Steele, he was appointed, along with Gerry and Williamson, to bring in a bill to adapt to the State of North Carolina the judiciary laws of the United States.

It was principally through the instrumentality of John Steele and Judge Spruce Macay, the Mayor of the town, that President Washington, on his tour of the South in 1791, was so elaborately greeted and hospitably entertained by the municipality of Salisbury. In his diary, May 30, 1791, Washington records: "In about 10 miles at the line which divides Mecklenburg from Rowan Counties, I met a party of horse belonging to the latter, who came from Salisbury to escort me on. . . . I was also met 5 miles from Salisbury by the Mayor of the Corporation, Judge McKay, and many others;—Mr. Steele, Representative for the District, was so polite as to come all the way to Charlotte to meet me. . . . Dined at a public dinner given by the Citizens of Salisbury; & in the afternoon drank tea at the same place with about 20 ladies, who had been assembled for the occasion." In his address of welcome, the Mayor voiced the delight of the inhabitants in Washington's visit and instanced "the fervor of the universal welcome which the grateful people gave him." Washington's reply, which expressed by indirection his satisfaction over the action of the people of the Salisbury district in sending Steele, a Federalist, to the first United States Congress, contains these words: "The interest you are pleased to take in my personal welfare excites a sensibility proportional to your goodness. While I make the most grateful acknowledgment for that goodness, allow me to observe that your own determination, coöperating with that of your fellow-citizens throughout the Union, to maintain and perpetuate the federal government, affords a better assurance of order and public prosperity, than the best meant endeavors of any individual could give."

The following letter, which Steele wrote to Governor Alexander Martin (New York, May 17, 1790), during the session

of the first Congress, is interesting as throwing light upon important political questions of the day :

SIR :—A great variety of business at present occupies the attention of Congress, and tho the sessions commenced with the year, there is little probability of adjourning previous to the 1st of August.

The President is dangerously ill of a pectoral complaint, the opinion of the faculty is against a recovery. Before this attack he was engaged in extending his appointments to the several departments of No. Carolina and the ceded Territory, but the secrets of his cabinet are retained in such absolute darkness, that were I to attempt to give you information, it would be mere conjecture. If this stroke should unfortunately prove fatal, the Vice President will be in office, by virtue of his present appointment, until the 4th of March, 1793. An event melancholy indeed. Shou'd it happen, perhaps it wou'd have been better for the United States, that Gen'l Washington had never been chosen; for relying on his virtue and abilities, Congress have in repeated instances, by law, invested him with powers not delegated by the Constitution, which I suppose would have been intrusted to no other man. These powers can never be recalled without the consent of his successor in office, or an union of sentiment, which in these factious times, is not to be expected.

The assumption of the State debts, we are told, will be brought forward next week in a new dress. This is intended, either to gull some of the more moderate members; or by delaying the progress of public business constrain some of the Georgians or No. Carolinians (who are anxious to return) to obtain leave of absence. Or the Eastern members have been tampering with the Pennsylvanians, by offering the permanent residence of Congress to Philadelphia. This surmise I have taken occasion to speak of to those who are most zealously attached to the interest of that city, holding out as a threat that if they did desert us, we shou'd most assuredly desert them; so that eventually Philadelphia might lose more by the bargain than she would gain.

A bill has lately been passed by the Senate, and sent to us for concurrence, designed to prohibit any further intercourse with Rhode Island, until she shall ratify. It is tyrannical and arbitrary in the highest degree, and the author of it, indeed the Senate by passing it, seem to have lost sight of that political connection which once existed, and of that spirit of moderation, and mutual forbearance, which ought forever to subsist between governments related as they are to us, as well as between individuals. That State, tho' comparatively small, was not backward in the late Revolution. She performed essential services in the common cause. She sustained important sacrifices, and is therefore entitled to respect. How far in her present politicks she has been wrong, or how far right, are questions which time only can decide.

I hope the bill will not pass our house. If it shou'd, there will be a proof given to the world, of the sandy foundation of all human friendship, or political connections.

I have the honor to be,

Sir,

With sincere attachment,

Your Excellency's

Most Humble Servant,

J<sup>N</sup>O. STEELE.

As an evidence of the popular appreciation in which his services in the first Congress were held, may be read today the following account in the *North Carolina Chronicle*; or, *Fayetteville Gazette*, of November 8, 1790:

On the last day of the supreme court at Salisbury, the grand jury appointed their foreman, William Dent, esquire, Major John Crump and Major Henry Terrell, a committee to wait upon John Steele, esquire, with the following address:

SALISBURY DISTRICT, SUPERIOR COURT,  
September Term, 1790.

The grand jury for the district aforesaid, sensibly, and deeply impressed with the importance of the duties of their representatives in the congress of the United States, return their thanks to the honourable John Steele, esquire, for his spirited support, and faithful attention, to the interests of this state, during the last session of congress.

The grand jury would conceive themselves wanting in attention to the proper interests of the government in general, and this State in particular, should they withhold this testimonial of their approbation of Mr. Steele's conduct, as the representative of a free people.

WILLIAM DENT, *foreman*.

JOHN CRUMP.

HARRY TERRELL.

JOEL LEWIS.

WILLIAM BETHELL.

THOMAS KING.

JAMES COTTON.

JOHN HOWEY.

WILLIAM KINDALL.

ZACHARIAH RAY.

JACOB T. LONGINO.

WALTER BRALEY.

CHARLES POLK.

OBEDIAH W. BENGE.

JOSEPH HAYDEN.

JACOB CLINARD.

JOHN (illegible).

JAMES ADAMS.<sup>2</sup>

During his two terms in Congress, Steele took an active part in debate. Upon the question of the ratio of representa-

<sup>2</sup> For this account I am indebted to the courtesy of Mr. R. D. W. Connor, Secretary of the North Carolina Historical Commission.

tion, he made extended speeches, advocating one Representative for every thirty-five thousand persons; and pleaded for a recognition of the lessons taught by experience in America, rather than the following of precedents from Great Britain, which did not properly apply to American conditions. He spoke in favor of Nathaniel Macon's plan for protecting the "infant industry" of cotton raising; and in view of the fact that this "infant industry" was one day to become the greatest industry in America, it is interesting to recall Steele's declaration that at this early date "the farmers of North Carolina had gone largely into the cultivation of that article."

Not given by disposition to indulgence in oratorical flights, or perfervid declarations that he was a champion of the "Liberties of the People," Steele showed himself to be singularly fairminded and impartial. He was an independent in politics at the moment when political parties were just beginning to assume definite confrontation. A striking illustration of his independence and his transparent honesty is afforded in the case of his firm opposition to Clark's resolution for calling out the militia to protect the Southwestern frontiers. Familiar with conditions on the Indian border, Steele did not hesitate to tell the truth, espousing the unpopular side without regard for the effect such action might have upon his own political fortunes. His subsequent defeat for a third term in Congress was probably due to the speech in which the following veracious though unpopular assertion was made:

That the white people are sometimes and often the aggressors (in conflicts between the whites and the Indians on the frontier) did appear from documents then on the files, that some such instances had come within my own knowledge, and as the information then to be acted upon only came from one of the parties, a recollection of what human nature is under the influence of passion, should cause the house to receive it with caution.

On December 19, 1792, Steele introduced a resolution for reducing the military establishment of the United States, assigning two motives for his action: to afford more effectual protection to the frontiers; and to obviate the necessity for

new taxes. On December 28, 1792, and on January 5, 1793, he made able and extended speeches in advocacy of his resolution. Drawing illustrations from flagrant instances of the failure of army regulars, who were only mechanical in their discipline, to cope successfully with Indian tactics, Steele eloquently asserted the superiority of the frontiersmen as militia in engaging and conquering the savage foe. Worthy of record is his tribute to the militia, and in especial to the great Indian fighters of the Old Southwest:

Who fought the battle of Bunker Hill? Who fought the battles of New Jersey? Who have fought the Indians so often with success, under Generals Wilkinson, Scott, Sevier, and others? Who marched in 1776 under General Rutherford, through the Cherokee nation, laid waste their country, and forced them to peace? Who fought the battles of Georgia, under Clark and Twiggs? Who fought the battles of South Carolina, under the command of an honorable member now present?

Who fought the ever-memorable battles of Cowpens, Kings Mountain, Hanging Rock, Blackstocks, the pivots on which the Revolution turned in the Southern States? In short, who fought all the battles of the Southern States, while we had a mere handful of regular troops, scarcely the shadow, much less the reality of an army?

They were all fought by freemen, the substantial freeholders of the country; the men attached to the Revolution from principle; men who were sensible of their rights and fought for them.

### III

While the North Carolina representatives were unanimous on the motion to reduce the army, as amended by Williamson, and in opposition to extending the Indian war, Steele's advocacy of these measures was adduced against him to his damage by political opponents in proof of his alleged lack of sympathy with the people of the West and indifference to the sufferings of the borderers at the hands of the Indians. During his stay in Congress, he wrote numerous political letters to leading men of his district, irrespective of party; and transmitted a wealth of information on national affairs to his constituents through the medium of Dr. John Sibley, editor of the *Fayetteville Gazette*. In answer to the charge of having been independent in politics, Steele vigorously

retorted: "I represented the division, and was not elected by or for any particular party. Being the representative of all, I attempted to give information to all . . ." In the days of his congressional service in Philadelphia, Steele became a close friend of Alexander Hamilton; and through this connection, his acquaintance with Washington, by whom he was held in high regard, and the bent of his own political ideas and convictions, he gradually became more deeply imbued with Federalist principles. His correspondence with Hamilton is rich in historical interest; and the following extract from one of his letters (Steele to Hamilton, Salisbury, March 17, 1793) is illuminating:

To support a constitution which has cost the best people in the Union so much pains to establish, to counteract the nefarious designs of its enemies, and to rally round the Federal government as a Standard where our most precious liberties are well secured, is the duty of men who possess talents, property, reputation, or influence. Of this, if ever I doubted, my doubts have been removed by late political occurrences, none of which are more alarming to the friends of systematic and stable government, than the unwise, indecent, and poisonous opposition, to the declaration of neutrality. The decided and patriotic part which the President took on that subject, has raised him some enemies here, as well as in Philada.; but it has increased the veneration and love of all the *sober-minded well-wishers* of national prosperity.

Our state elections are over. I have accepted a seat in the Assembly. Colo. Davie, whom you have often heard me speak of, is also in, and if there can be a necessity for such a measure, I am sure the Legislature wou'd express in decided terms an approbation of the wisdom which dictated that Proclamation. Though I am sure that success wou'd attend such a motion through both houses, yet I cannot help questioning the propriety of an individual state interfering at all, either to approve or censure the administration of the general Government.

No step shall be taken in relation to it without due deliberation, and advice wou'd not be unacceptable. Neutrality is the wish of every good man in this State who has sense enough to know his country's *solid interest*, and the president may be assured of this, without our troubling him to answer a profusion of addresses.



## IV

In a letter to the Grand Jury of Salisbury in 1792, Steele gave an account of his stewardship in Congress, and expressed his intention of permitting his name to be presented before the Legislature as a candidate for the United States Senate. At the session of the Legislature at New Bern in November and December, 1792, he was a prominent candidate for Senator, along with William Blount and Alexander Martin. Largely as the result of violently partisan accusations by Montford Stokes, to the effect that Steele had fashioned his views "on the political complection of his correspondents," that his principles were "all aristocratical," and that he was the devoted adherent of Alexander Hamilton, Steele was defeated—Martin winning the seat by a small majority.

In 1795, Steele was put forward as the candidate of the Federalist party for United States Senator. His Republican opponent was Timothy Bloodworth. It was locally urged against Steele by leading opponents, in especial by Joseph McDowell of Quaker Meadows, that he "was considered by a great many members from the Southern States . . . to have joined the aristocratical party" and to have become an ardent adherent of Alexander Hamilton. In addition to this local opposition, outside influence, notably that of Pierce Butler of South Carolina, was brought to bear against Steele in question of his "steady Republicanism." Much to the chagrin of the Federalist leaders, who had a poor opinion of Bloodworth's ability, Steele was defeated in consequence of the charges so dexterously advanced by his opponents. During this period, Steele remained prominently in the public eye. On January 8, 1794, he was appointed, by Governor Richard Dobbs Spaight, Major General of the Fourth Division of Militia of North Carolina. In 1794 and 1795, he represented the Salisbury District in the North Carolina House of Commons, and played an influential part in the proceedings.

## Thomas Benbury—A Brigadier General of the American Revolution

BY EMILY RYAN BENBURY HAYWOOD

(MRS. HUBERT HAYWOOD)

Thomas Benbury was born in 1736, at his father's home, "Banbury Hall," five miles from Edenton on the Albemarle Sound. He was the son of John Benbury, born 1707, died 1774, his wife's name being Mary. He was a member of the court in 1756, and also a vestryman of St. Paul's Parish, Edenton.

The grandson of William Banbury, who married Jean or Jane Minsey, and is first mentioned in the court records of Chowan County in 1684, when he had a deed recorded as a gift from his mother-in-law, Mrs. Dorothy Minsey, at which time he was said to be twenty-one years old. This was about twenty-five years after the first permanent settlement of North Carolina. He was a member of the first vestry of the Church of England ever held in North Carolina, which was that of St. Paul's Parish, Edenton, on which he served continuously until 1708, and was also a member of the first vestry in North Carolina, that of 1705, which ever voluntarily assessed itself for the benefit of the Church.

Tradition says that the family of Banbury, as it was originally called, settled first on the James River, later moving to Nansemond County, Va.; finally migrating to Albemarle, in the Province of Carolina, as this whole section was then known. The supposition is that the family originally emigrated from in, or near, the town of Banbury, in England, which is only a short distance from London and the town of Oxford. Just when the final change in the name was made is not known, but it must have been during the life time of William, for in 1701, as a member of the vestry of St. Paul's Parish, it is written Banbury, but in his will he signs himself William Benbury, and, so far, there appears to have

been no further use of the original form. It was a common custom among the early Colonists to vary the spelling of a name. For more than a hundred years Banbury or Benbury Hall remained in the family, until finally in the course of time it passed into other hands, and its name was changed to "Athol," by which name it is now known. It is owned by Mr. Julian Wood, of Edenton, N. C., whose wife is the granddaughter, seventh in descent, from its original owner.

Thomas Benbury married Thamer Howcott in 1761, who lived only a few years, dying in 1765, leaving two children, Samuel, who died early, and Richard. In 1769 Thomas Benbury married Betty ----- for his second wife. She lived only a short while and left no children. As were his father and grandfather before him, he was a churchman and a vestryman of the Parish of St. Paul's, also a member of the Edenton Lodge of Masons. He was connected by ties of kinship and association with all the leading men of the State, and by his intimate friends was called "Old Tom." He was a zealous and active member of all public affairs, and as the people were growing restive under British rule and "Taxation without Representation" was growing to be an ever-increasing anxiety and cause of unrest among them, he became an early and ardent advocate of their cause and aligned himself with them at the earliest opportunity, and from that time until the final independence of the American Republic he was one of the most zealous and ardent of patriots.

In 1774, August 22, a call was issued by the freeholders of the Parish for a meeting to be held at the courthouse in Edenton, for the election of delegates to the first Provincial Congress, to be held in New Bern on the 25th of the same month in defiance of the royal authority. This meeting was well attended, and resolutions were passed expressing in no uncertain terms their indignation against the Government of Great Britain, the British Parliament, the imposition of taxes, duties, etc.

The Boston Port Bill was also denounced. The delegates appointed were Samuel Johnston, Thomas Oldham, Thomas Jones, Thomas Benbury, Thomas Hunter, and Joseph Hewes, all of whom attended.

At this Congress Thomas Benbury, Governor Johnston, and Joseph Hewes, were appointed from this district to present these resolutions to the General Congress in Philadelphia. Thomas Benbury was also a delegate to the other Provincial Congresses held in New Bern, Hillsboro, and Halifax. He was a member of the vestry which wrote and signed what was called the famous "Declaration of Independence" of St. Paul's Parish, Edenton, June 19, 1776, but which was afterwards said to be a copy of one prepared by the State Congress in 1775, though many have doubted this. The following is a copy, as it appears on the Church Register in Edenton:

ST. PAUL'S PARISH, 1776.

Be it remembered that the Freeholders of St. Paul's Parish, met the Sheriff at the Court house in Edenton, on Monday, the eighth of April, then and there pursuant to an Act of the Assembly, did elect the following persons to serve as Vestrymen for one year. (Agreeable to resolve of the Provincial Congress, held at Halifax on the second of April, and qualified agreeable thereto), Vizt, Thomas Bonner, William Boyd, Thomas Benbury, Jacob Hunter, John Beasley, William Bennett, William Roberts, Richard Hoskins, David Rice, Aaron Hill, Peletiah Walton, William Hinton.

We, the Subscribers professing our Allegiance to the King, and acknowledging the Constitutional executive power of the Government, do solemnly profess, testify and declare that we do absolutely believe that neither the Parliament of Great Britian, nor any member or Constituent Branch thereof, have a right to impose Taxes upon these Colonies, to regulate the internal Policy thereof, and all attempts by Fraud or Force to establish and exercise such Claims and Powers, are Violations of the Peace and Security of the People, and ought to be resisted to the utmost, and that the people of this province, singly and collectively, are bound by the Acts and Resolutions of the Continental and Provincial Congresses, because in both they are freely represented by persons chosen by themselves, and we do solemnly and sincerely promise and engage under the Sanction of Virtue, Honor and the Sacred Love of Liberty due our Country, to Maintain and support all and every, the Acts, Resolutions and Regulations, of the said Continental and Provincial Congresses to the

utmost of our power and ability. In Testimony whereof we have hereto set our hand this 19th day of June, 1776.

RICHARD HOSKINS.  
 DAVID RICE.  
 AARON HILL.  
 PELETIAH WALTON.  
 WILLIAM HINTON.  
 THOS. BONNER.  
 WILLIAM BOYD.  
 THOMAS BENBURY.  
 JACOB HUNTER.  
 JOHN BEASLEY.  
 WILLIAM BENNETT.  
 WILLIAM ROBERTS.

In 1778, we find him acting with a friend, Rob Smith, in the capacity of agent for the State, in the reception of some cannon which had been ordered from France by the General Government, at the request of the two States, Virginia and North Carolina; though judging from the interesting correspondence which follows, Mr. Benbury and Mr. Smith acted first, and sought permission of the Governor afterwards. The two cannon, now mounted and placed on either side of the Washington Monument in the southern end of the Capitol Square in Raleigh, are a part of that consignment. The correspondence between Governor Caswell, Thomas Benbury and Rob Smith relative to the same, found among the letters taken from the Governor's letter book and published in the Colonial Records, will prove interesting:

EDENTON, 19th November, 1778.

Captain Berritz of the ship named the "Heart of Jesus," arrived here some time in the month of July last. On his arrival, he wrote a certain Mr. Holton, he says, indeed we know he did. He likewise wrote to Congress what he should do with the cannon he had on board, say twenty eight 24 pounders, to which he never received any answer; but about a month ago, a gentleman from Virginia produced an order for one half, or twenty two of the cannon, for that State, and at the same time exhibited an extract of a Resolve of Congress, by which it appears the contract for the cannon had been applied for by the delegates of the two states, Carolina and Virginia, and was granted. The State of Virginia are to have twenty two of the cannon, and our State Twenty-three. The contract made by the Agents in France is to pay 150 lbs. of tobacco, for

every 100 lbs of iron cannon, for the credit of the State, we have thought it our duty to receive the cannon. The Captain proceeds with the other two and twenty that is ordered to South Quay, where the tobacco is ready for him, for the Virginia half or share. We wish to know if we have acted right in what we have done (we have told your Excellency our motives). What should be done with the cannon, and to know what way the Captain can be paid the tobacco. His time has been some time out, and he will lay after his return from South Quay, at the demurrage, we believe of 50 lbs per day. We hope we will be excused for the freedom we have taken, and are with every sentiment of respect and regard and esteem,

Your Excellency's mo' ob'. and very humb. srvts,

ROB SMITH.

THOS. BENBURY.

In reply is an order from Governor R. Caswell to Robert Smith, Esquire, Kinston, 3d of December, 1778:

SIR: Please to deliver Captain Willis Wilson eight 18 pounders for the use of Fort Hancock, and if there are any among the guns purchased for the State and received by you and Mr. Benbury, any which will suit his ship, please also deliver them. I have not yet been favored with the account of the weight of the Guns, or any of your favors, since the return of your Express respecting the cannon,

I am, sir,

Your most obedient servant,

R. CASWELL.

Judge Clark, in the Colonial Records, says:

The ship referred to was the Caswell, Captain, John Easton. She was ordered to proceed immediately to Ocracoke. "You are to receive from Mr. Robert Smith eight 18 pounders, lately imported there from France, and received by Messrs. Smith and Benbury for the use of this State. If there are any other Guns in Mr. Smith's possession that will be useful in your ship, apply to him and he will deliver them," etc., and this letter from Thomas Benbury and Robert Smith to Gov. Caswell, in reply, dated Edenton, 10th of December, 1778:

SIR: We received yours of the 24th November. The reason of your not hearing from us before is explained in Mr. Smith's letter. Captain Barrets proceeding to South Quay with his vessel left us no Invoice of the Cannon left here. We have examined the Cannon, but from the Swedish marks we cannot determine the quantity of Tobacco that the State will have to pay, but as near as we can guess, we have to pay from one hundred and sixty thousand weight of tobacco. As to that part of your Excellency's letter relative to

purchasing Tobacco, we can only answer that we can purchase none here, but as the meeting of the General Assembly is near at hand, we doubt not but they will be able to remove every difficulty, and prevent the demurrage, if any, from being considerable against this State. The cannon shall be delivered as your Excellency ordered, and your commands in every other respect concerning them shall be faithfully obeyed.

We are with respect, sir,

Your Mo. ob. humbl Srvts.,

THOS. BENBURY.

ROB. SMITH.

Thomas Benbury was a member of all the Provincial Congresses and Speaker of the House of Representatives from 1778 to 1782. He was a member of the Edenton District Committee of Safety, Major of State Troops, and Paymaster of the Fifth Regiment and Commissary General. In 1779 he was made Brigadier-General, and it is said that he took part in the Battle of Great Bridge. These were very trying times to the colonists, and the following letters also from the Colonial Records, reflect in part, at least, a portion of their anxieties, and are therefore worthy of being reproduced.

The first is from Colonel Alexander Martin and Thomas Benbury to Governor Nash:

HILLSBOROUGH, August 23rd, 1780.

*To his Excellency ABNER NASH, Esquire, Captain General, Governor, etc., etc.*

SIR: In answer to your Excellency's message of this Day. We, the members Convened, beg leave to hint to your Excellency as our private Sentiments the following Important Objects First, That we advise your Excellency to call out from such Districts and Counties such a Body of the Militia, not exceeding one half to be proportioned as you think necessary, and that they march immediately, by the shortest and most convenient route to join Gen'l Caswell, or to any other post you shall please to appoint, their serving three months, to commence from their rendezvous at Headquarters, or such post as may be Directed, unless sooner disbanded, shall be recommended to the General Assembly as a Tour of Duty.

We further advise your Excellency to order the Commanding Officers of the several Counties, out of which you may order the Militia, to appoint Contractors or Commissioners to provide provisions, spirits, and other necessaries for the use of the Militia to be called into Service, and the members here present engage their Faith

and Honor, to use their Influence in the General Assembly that an adequate, full and ample satisfaction be made for the same, and that Col. Long be directed to immediately purchase, or in case of refusal, to impress all the Iron pots and Kettles now at Wilcox's Iron Works and forward them immediately to Camp.

That your Excellency be requested to issue a Proclamation requiring all Deserters and Refugees belonging to this State, to repair to Headquarters, and that the Commanding Officers of the respective Counties, exert themselves in carrying the purport of such proclamation into Effect, in apprehending and forwarding such persons immediately to Headquarters.

We shall continue a few days at this place, for the purpose of forming an Assembly, in which Time we will gladly and cheerfully advise your Excellency, in any matter that may tend to the Defense of the State.

In the present Critical Conjunction, we submit to your Excellency's prudence, all other matters respecting the Defense of this State. By order and in behalf of the members present,

ALEX MARTIN.  
THOMAS BENBURY.

Again we find in the Colonial Records, this correspondence from Thomas Benbury to Governor Nash, in which he signs himself in his official capacity as Brigadier-General:

EDENTON, 22nd October, 1780.

*To His Excellency,* ABNER NASH,  
*New Bern, N. C.*

SIR: I have at this moment received information that the Enemy are landing forces at Kemps Landing in Virginia. I have in consequence of this information sent an Express in order to learn their movements. I have also dispatched letters to the different Colos. in my district, requiring them to have their regiments equipped in the best manner they can, and to hold themselves to march on the shortest notice. I have likewise written to Col. Long for one thousand stand of arms, if to be spared, we not having one Hundred good Muskets in the district. I hope all this will meet your Excellency's approbation and that you will direct how I am further to proceed. My information says there are sixty Sail of vessels, but the number of troops not known.

I am to inform your Excellency that last Monday, two large Gallies, with sliding Gunter mast, as was judged, about sixty men in each, came over Roanoke Bar, and went through the marshes. On receiving this information, the town of Edenton sent out a Boat to reconnoitre, which is not returned. The town have been under an alarm ever since this information came up. We this moment learn



that firing was heard last night, the occasion of which we know not, but Conjecture it to be some of the homeward bound vessels, who have fallen in with these Gallies. I shall keep your Excellency informed from time to time of what happens in this quarter.

I have the Honor to be, Sir,

Your most obedt and very humble Servt.,

THOS. BENBURY,—B. G. P. I.

Again in a few days this letter follows:

EDENTON, 30th October, 1780.

*To Governor ABNER NASH,*

SIR: I have this moment by the return of one of my Expresses received a Letter from Colo. Senf, a copy of which I take the liberty to inclose. You will see by that letter we are in a fair way to be overrun by the Enemy. This morning I was informed by express that three hundred last evening of the Enemy had marched for South Quay and that one thousand were under march for this place from Suffolk. We have made a stand at Norfleet's Mill, about thirty five miles from this place, with the few Militia that will turn out, but I am sorry to say, I never saw, or expected to see men so backward, they seem ready made slaves. The town turn out pretty well, but they are worn out, they expect all to be ruined. I left camp this morning, and am this moment to set out on my return. For God's sake, for the sake of that Liberty we are contending for, give us every aid you can.

I have the Honour to be,

Your Excellency's Most Obedt Servt.,

THOMAS BENBURY, B. G.

With the close of his services as Representative to the General Assembly in 1782, General Benbury was succeeded in 1783 by his son Richard, while he took a much needed rest and enjoyed the quietude of his home for a few years, until 1790, when he was appointed Collector and Inspector of the Port of Edenton by General George Washington, who was then President. This was at that time a position of great importance, though today it hardly seems possible. This position he held until his death February 5, 1793, in the fifty-seventh year of his age, leaving one child, his son Richard. He left a large estate and was the owner of a number of slaves, as we learn from the first census of the Government, taken in 1790, in which he is registered from the Edenton

District as the head of a family and the owner of eighty-eight slaves. His burial place is not known, but is supposed to be at "Banbury Hall" where a portion of the old graveyard is still preserved.

Several of these commissions, signed by Washington, and countersigned by Thomas Jefferson, also an autograph letter from Alexander Hamilton, informing him of the appointment, are still preserved by the family.

With the story of patriots such as Thomas Benbury—and there were many others—it would be disloyalty if we of later generations did not give to North Carolina "Our hearts' utmost devotion," as Judge Gaston wrote in his beautiful hymn to our State, and unite with him in saying:

Carolina! Carolina! Heaven's blessings attend her;  
While we live, we will cherish, protect and defend her.

Bibliography—Family Bibles, Wills, Letters and Traditions; Church Register of St. Paul's Parish, Edenton; Court Records; Colonial Records; Wheeler's History of North Carolina; Hathaway's Historical and Genealogical Register; Marshall Delancey Haywood; Church History of North Carolina; Government Census of 1790.

## The Trial of Henry Wirz

BY SARAH W. ASHE

[Recently the fact that Henry Wirz was tried by a court-martial—or rather by a commission of military officers—and put to death for alleged cruelties to Federal prisoners confined at Andersonville, has been given prominence, and he has been held up as one who perpetrated outrages against the rules of civilized warfare and in disregard of the dictates of humanity. Because of the revival of that slander on him that likewise involves the fair name of the Confederate Government and of the people of the South, we devote space at this time to a true statement of the matters connected with his trial.—EDITOR.]

In the fall of 1865, several months after the overthrow of the Confederacy, there took place in Washington City two judicial murders, which will ever stain the annals of the conquering states—that of Mrs. Surratt, hung for complicity in the assassination of Lincoln, and that of Henry Wirz—a physician and man of high character—who, six months after the war was ended, was tried by court-martial, convicted and hanged on the charge of having conspired with Jefferson Davis and other Confederate leaders to torture and murder prisoners under his care.

The innocence of Mrs. Surratt has been fully shown in the account of her trial written by her lawyer, the Hon. Reverdy Johnson of Maryland; but the facts in regard to Wirz are not generally known.

When in the shadow of death Captain Wirz was offered life if he would implicate Jefferson Davis in these alleged atrocities. He preferred death to a life won by such means, and died pleading that his name be rescued from infamy.

The highest officers of the Confederacy were indicted with him; and through them, the Southern Confederacy. As a sacred duty to itself, therefore, the South should bear always in mind the truth concerning the trial and death of the martyred Wirz—a stranger in our land—who threw in his lot with us, served the Confederacy faithfully, and paid for his fidelity with his life.

That there should have been any suffering among prisoners on either side during the war must ever be deplored; that there should have been any prisoners to suffer is entirely due to the war policy of the North.

The conduct of the Confederate Government towards its prisoners is above reproach and was ordered by the truest feelings of humanity. Its policy was fixed by law. By act of Congress passed at the beginning of the war, it was provided that prisoners of war should have the same rations, in quality and quantity, as Confederate soldiers in the field. By an act passed afterwards, all hospitals for sick and wounded prisoners were put on the same footing with hospitals for sick and wounded Confederates. This policy was never changed. Whatever food or fare the Confederate soldiers had, whether good or bad, full or short, the Federal prisoners shared equally with them.

Although deprived of medicines through the policy of the Federal Government, and with but a scant supply of provisions and clothing, her ports blockaded and her resources exhausted, the prison records of the South were better than those of the North. The death rate in Southern prisons was less than nine per cent; that in Northern prisons was twelve per cent. And, great as was the mortality at Andersonville, it was four per cent less than at the Federal prison of Rock Island, Illinois, notwithstanding the fact that the Northern authorities had abundant means of alleviating the sufferings of their unfortunate prisoners. From the first the South desired an exchange of prisoners. The Federal Government, on the other hand, affected to consider the secession a rebellion, upholders of the Confederacy as rebels and traitors, her men-of-war piratical vessels, and her sailors pirates, and, as such, the latter, when captured, were loaded with irons and condemned to be hanged. Only by the protests of European governments and threats of retaliation by the Confederate Government was it deterred from its proposed course.

While in 1862 a cartel was arranged, by which all pris-

oners were to be exchanged man for man, and the excess on either side paroled, by which all prisoners would have been released—after the battle of Gettysburg, when the North held the majority of prisoners, this was discontinued. From this time it became the fixed policy of the Federal authorities to make no exchanges.

“If we begin a system of exchange,” wrote General Grant, “which liberates all prisoners taken, we will have to fight on until the whole South is exterminated.”

In the spring of 1864 the Confederate Government found itself, in consequence of this policy of nonexchange, overburdened with prisoners, and established a large camp for them at Andersonville, Georgia, a spot selected on account of the mildness of climate, abundance of water, and the absence of malarial conditions.

Every provision possible was made for the health of the inmates. The law requiring prisoners and guards in all southern prisons to fare in food alike was rigidly observed, the rations issued daily being the same in quantity and quality as those issued to our soldiers in the field. They consisted principally of corn meal and beef or bacon, the only food obtainable at the South at that time. This food, even at best, was unpalatable to men who had never used corn meal in any form before, and diarrhea, the usual result of its use by those unaccustomed to it, was produced. This disease, hard to arrest at best, became unmanageable for want of proper remedies, and the sufferers fell easy victims to more serious troubles—camp gangrene and scurvy. These diseases attacked guards and prisoners alike—the officers, Wirz, Winder, Colonel Gibbs, and Dr. Stephenson, all having gangrene. To cope with these diseases medicines were necessary, and the Union Government had made medicines contraband of war. Medical stores, even when the private property of physicians, were destroyed in conquered sections, and persons attempting to send medicines South were arrested and cast into prison, and we pleaded in vain to be permitted to buy them with gold or cotton.

All that humanity could suggest was done. Wheat, sugar, coffee, and other luxuries, when obtainable, were provided for the use of the sick, and well prisoners were billeted on the families near Andersonville, where they would be in less danger of contagion.

The Confederate War Department took steps for a thorough inspection of the camp. All well prisoners were removed to other places and by September only the sick were left at Andersonville. By this time the virulence of the diseases had begun to abate, the death rate having been greatest during August.

In charge of this hospital was Dr. R. R. Stephenson, surgeon in chief, with a staff of thirty assistants. Colonel Gibbs was commandant of the post, and Capt. Henry Wirz had charge of the prison proper.

Henry Wirz, the officer in charge of the Andersonville prison, was a physician by profession, and was born in Zurich, Switzerland, in 1822. He emigrated to America in 1849, and first settled in Louisville, Kentucky, removing subsequently to Louisiana, where he practiced his profession until the beginning of the war between the States. When the war broke out he was one of the first to enlist in the Southern cause. He served as a private in the memorable battle of Manassas, where he received a wound in the arm, injuring the bone, from which he suffered up to the day of his execution. After leaving the hospital in Richmond he was placed as a clerk in Libby Prison. Afterwards he was commissioned as captain in the Confederate Army, and was appointed deputy marshal, and in 1862 he visited all the prisons in the South as inspecting officer.

The high esteem in which he was held at Richmond is evidenced by the fact that he was appointed in the latter part of 1863 by President Davis to carry secret dispatches to the Confederate Commissioners—Mr. Mason in England and Mr. Slidell in France—and to all the financial agents of the Confederate Government in Europe. On his return, in

January, 1864, he was assigned to duty under Brig.-Gen. John H. Winder, who, on April 4, 1864, placed him as superintendent of the Confederate States military prison at Andersonville, Georgia, where he was still on duty at the close of the war.

A man of tried integrity and much experience in prison work, he was well fitted for a position of such responsibility. Indeed, he was appointed to that post on account of the efficiency shown while engaged in like work at Richmond.

He had been from the opening of the war a loyal subject to the land of his adoption, and had from the first been called to positions of trust and high honor, requiring delicacy in handling, to which he was particularly adapted by reason of his foreign birth, high character and other qualifications, and in all of these he had served satisfactorily.

In his private life Captain Wirz is described as being an affectionate husband and father, and the kindest of men, one careful of the comforts of his servants and of the animals about him, and so solicitous about the welfare of the prisoners in his charge that he often deprived his children of their daily cup of milk—one of their few luxuries—for the benefit of the sick in the hospital.

Colonel Hammond, one of the prison inspectors sent to Andersonville, made a special study of its commandant, Captain Wirz, and leaves us this description of him:

Major Wirz was at this time about forty years of age, and was a trained soldier; a little below medium height, slight of figure and lean almost to emaciation, with dark hair and brown eyes; direct in manner and expression, and active and alert in movement. He impressed me as one peculiarly fitted for the details of military administration and control. His right arm had been mutilated near the wrist, caused by a fragment of a shell in an engagement near Baton Rouge, Louisiana, incapacitating him for active field service. He was at my side during my visits to the sick and dying in the hospital and while passing among the scarcely less wretched inmates of the stockade. At night he went over the prison records with me, explaining minutely the needs and deficiencies of each department, and when I was on the point of leaving Andersonville he implored

me, with tears streaming from his eyes, to urge upon the authorities at Richmond the absolute necessity for more and better food for the prisoners, for medicines, tents and lumber, and recommended that I should advise that they should send as many of the prisoners as could be furnished with transportation to Richmond or Savannah, and there turn them over unconditionally to the Federal authorities.

Colonel Hammond mentioned how Wirz passed, unarmed and unattended, with him through every part of the stockade, without receiving any unkind expression or threatening gesture; and, when questioned whether he had no fears for his personal safety, he replied: "They know I am doing my utmost for them."

As the war proceeded and the death struggle of the Confederacy grew more tense, the difficulty of holding and caring for the prisoners at Andersonville became, of course, much greater. Again and again Commissioner Ould proposed that each government should send its own surgeons to care for its own men, and that these surgeons should distribute such money, food and clothing as might be provided for them. No notice was taken of these propositions.

On the appearance of disease in Andersonville Commissioner Ould was directed again to urge the exchange of these prisoners, and to offer to buy medicines from the Federal authorities exclusively for their use, making offer to pay cotton, gold or tobacco for them, and even two or three times the prices for them, if desired, agreeing also that these might be brought into the prisons by the United States surgeons themselves and distributed by them. No method was left untried to induce the Federals to accede to an exchange. Commissioners were sent; Lee and Vice President Stephens interceded. By advice of the prison officials the prisoners themselves memorialized the Federal Government, praying to be released—all without effect.

In the meantime some of the prisoners at Andersonville had been sent to Washington to plead their own cause. It was of no avail. President Lincoln refused to see them, and they were made to understand that the interest of the Gov-



ernment required that they should return to prison and remain there.

Offer was now made to release all these prisoners without any equivalent if the Federal authorities would receive them. In August the whole body of men, 6,000 in number, at Andersonville was offered without any equivalent, and they were delivered to the Federal commander in Florida, who declined to receive them, and so they had to be brought back to their prison camp.

To turn the attention of the northern people from this war policy the accusation of deliberate cruelty was brought against the South. At the end of the war, therefore, feeling against the South was very bitter, and to satisfy this demand for vengeance a victim was needed.

In direct violation of the terms of Johnston's surrender, Captain Wirz, a paroled Confederate officer, who, assured of safety, lay at home sick and suffering from an unhealed wound, was arrested, separated from his wife and children, whom he never saw again, and hurried to Washington City, where he was confined in the Old Capitol Prison:

After several months spent in arranging the court-martial and finding witnesses, Captain Wirz was arraigned on two charges: conspiracy and murder. Indicted with him as co-conspirators, in a plot to torture and murder prisoners of war, were Robert E. Lee, Jefferson Davis, Seddon and others, all of whose names, except that of Lee, appear on the findings of the court.

Arrangements having been completed, on August 23d the following order was issued:

SPECIAL ORDER No. 453.

WAR DEPARTMENT,  
ADJUTANT-GENERAL'S OFFICE,

WASHINGTON, August 23, 1865.

A special military commission is hereby appointed, to meet in this city at 11 o'clock a.m., on the 23d day of August, 1865, or as soon thereafter as practicable, for the trial of Henry Wirz and such other prisoners as may be brought before it.

## DETAIL FOR COMMISSION.

Maj.-Gen. L. Wallace, U. S. Volunteers.

Brevet Maj.-Gen. G. Mott, U. S. Volunteers.

Brevet Brig.-Gen. John T. Ballier, Colonel Ninety-eighth Volunteers.

Brig.-Gen. Francis Fessenden, U. S. Volunteers.

Brevet Brig.-Gen. G. W. Geary, U. S. Volunteers.

Brevet Gen. L. Thomas, Adjutant-General U. S. A.

Brig.-Gen. E. S. Bragg, U. S. Volunteers.

Brevet Col. T. Allcock, Lieutenant-Colonel Fourth New York Volunteers.

Lieut.-Col. I. H. Stibbs, Twelfth Iowa Volunteers.

The commission will sit without regard to hours.

BY ORDER OF THE PRESIDENT OF THE UNITED STATES.

Before the military commission thus convened in violation of the Constitution, which requires that every man held for a capital offense be tried before a jury and after presentment by a grand jury, Henry Wirz was tried on the charge as specified in the first Special Order, No. 524, of having conspired with Robert E. Lee, Jefferson Davis, James A. Seddon, Howell Cobb, John H. Winder and others, to torture, injure and murder the Federal prisoners held by the Confederates at Andersonville, Georgia. He was accused, under thirteen separate specifications, of shooting the prisoners, punishing them cruelly in irons and stocks, of poisoning them with impure vaccine matter, of pursuing them with bloodhounds, of using a dead line, of furnishing insufficient food and impure water, and of murdering, in cold blood and with his own hand, thirteen of these helpless men.

In answer to these charges Wirz put in pleas to the effect that he had been paroled by General Wilson; that he denied the jurisdiction of the court to try him; that, war being over and civil law restored, there was no military law under which he could be tried. He moved to quash the charges for vagueness as to time, place and manner of offense; that he had been put on trial on August 21st, and that the court had been adjourned without his agency or consent, and that he should not be arraigned as before; and, finally, he claimed discharge, because, as an officer in the Confederate Army, he was en-

titled to the terms agreed to between Generals Sherman and Johnston upon the surrender of the latter.

All these pleas being overruled except the second, the prisoner pleaded not guilty, and the trial proceeded until November 4, 1865, when, Wirz having been found guilty on all the specifications but three, the following order was issued:

GENERAL COURT-MARTIAL—ORDER No. 607.

WAR DEPARTMENT,  
ADJUTANT-GENERAL'S OFFICE,  
WASHINGTON, D. C., Nov. 6, 1865.

Before a military commission which convened at Washington, D. C., August 23, 1865, pursuant to paragraph 3, Special Order No. 453, dated August 23, 1865, and paragraph 13, Special Order No. 524, August 22, 1865, War Department, Adjutant-General's Office, Washington, D. C., and of which Maj.-Gen. Lewis Wallace, U. S. Volunteers, is president, was arraigned and tried Henry Wirz.

*Finding.*—The commission, after having maturely considered the evidence adduced, find the accused guilty, as follows:

Of specification to charge 1, after amending said specification as follows: In this, that the said Henry Wirz did combine, confederate and conspire with them, the said Jefferson Davis, James A. Seddon, Howell Cobb, John H. Winder, Richard B. Winder, Isaiah H. White, W. S. Winder, S. Reed, R. R. Stephenson, S. P. Moore, ----- Keer (late hospital steward at Andersonville), James Duncan, Wesley W. Turner, Benjamin Harris, and others whose names are unknown, maliciously and traitorously and in violation of the laws of war, to impair and injure the health and to destroy the lives of a large number of Federal prisoners, to wit, 45,000 soldiers, etc.

In like manner the court-martial found Wirz guilty on all the principal specifications on which he was tried, two-thirds of the court concurring.

As the result of this trial Henry Wirz was, on November 6, 1865, sentenced to be hanged, and four days later, on Friday, November 10th, the sentence was carried into effect.

It will be noticed that, in both the charges and specifications and in the finding of this court, not Captain Wirz alone, but many of the most prominent officials of the Confederacy were included. Their fair name stands or falls with his.

Consider the language of Chipman, Judge Advocate, in summing up:

"Whilst the evidence adduced convicts Wirz of contributing directly to the death of over ten thousand Union soldiers, and, with his own hand and by his direct order, committing thirteen individual murders, the evidence also presents the horrible fact that he was but an instrument in the hand of Jefferson Davis, James A. Seddon and other prominent rebels, and, while Wirz suffered deservedly, there are those yet unpunished more richly deserving an ignominious death."

None of the others was ever brought to trial, though all could easily have been produced.

The court having been convened to convict, the ordinary forms of justice were dispensed with. All evidence against the defendant was received and that in his favor excluded. The defendant's counsel was denied access to records open to the counsel for the prosecution. Witnesses were intimidated, others forbidden to testify, and at the outset of the trial an important witness for the prisoner was arrested and sent to jail.

Men of high social standing from Georgia and other Southern States were subpœnaed by Wirz's counsel and went to Washington, ready and eager to testify to his character and humane conduct towards the Union prisoners, but were not allowed to do so.

The Confederate Commissioner of Exchange, General Ould, and the Federal Commissioner, General Mulford, were prepared to give evidence of the earnest desire of the Southern authorities for exchange of prisoners, but were not called upon.

On the trial the reports of Drs. White and Stephenson were suppressed, and garbled extracts from those of Dr. Jones and of others were used. The reports of Imboden and Hammond were taken from them and they were not permitted to testify.

As part of the defense it was intended to show the brutal treatment of prisoners in northern prisons, and that systematic cruelty was practiced for the purpose of forcing them to take the oath of allegiance. The names of witnesses by

whom it was intended to prove these things were handed to Mr. Baker, assistant counsel to Judge Advocate Chipman. None of these witnesses appeared; the subpoenas for them were never issued, having been suppressed by the Judge Advocate on the ground that "it was not proper that such testimony should see the light."

Chipman afterwards admitted that he refused to have subpoenas issued for some of the "rebel functionaries whose testimony was considered important to the defense." Among the men whose testimony was thus rejected was General Lee, whose simple word would have gone far to prove to the world the truth.

Still many of the prisoners desired to do him justice and would gladly have testified in his favor if permitted. A letter from one of these to the *New York News*, fully exonerating Wirz, may well stand as a type of evidence refused.

Of all the witnesses only fifteen could be brought to swear that Wirz was ever guilty of murder. It was proven that all of those swore falsely, some for money, some from malice, some from love of notoriety.

Of those men alleged to have been murdered, the names of very few were given, and not one man could be identified. Yet such testimony was received. Some swore to acts committed by Major Wirz at Andersonville when he was actually absent in Augusta on sick leave.

The chief witness, the man whose testimony was most relied on, a miserable, perjured wretch, received a Government appointment at the beginning of the trial in return for his evidence to come. He claimed to be a Frenchman, a kinsman of Lafayette. He proved to be a German deserter from a Federal regiment and probably never was at Andersonville at all. To such testimony did the unfortunate Wirz owe his death.

No crime was too horrible to be imputed to him; and the pictorial papers were ablaze with illustrations of his imagined atrocities. The South, impotent even to protest, looked on

in horror, while Wirz, conscious of having done only his duty as a humane officer and Christian gentleman, could find no words to express his amazement.

In Washington none dared to speak in his favor. His accusers were "patriots," his friends "traitors." So odious did those bent on his destruction make him that the consul-general from Switzerland refused to receive the money some offered for his aid, and the unhappy man was forced to ask assistance to meet the necessary expenses of the trial from the *New York News*. His lawyers at last resigned the case in despair of aiding him and unwilling to bear longer the odium attached to their position; and only one, the noble-hearted Louis Schade, remained faithful to him. He stood by him to the last, without expectation of reward or hope of saving him; and, two years after Wirz's death, when he thought the public mind might be calm enough to receive it, he published a letter, giving the most trustworthy account of the trial now in existence.

Captain Wirz, the man so foully calumniated, was in no conceivable manner responsible for the condition of things at Andersonville. A subaltern officer, placed as guard of a prison, he had no power to alter the existing conditions. The nature of the food, the number of inmates and the lack of comforts were as totally beyond his control as was the heat of the southern sun; and, far from being the fiend he was portrayed to be, the kindness and humanity of his nature are attested by all those who knew him. It is proved by the unimpeachable testimony of Dr. Stephenson, General Imboden, and others who were with him at Andersonville that he was always most solicitous for the welfare of the prisoners in his care; that he deeply deplored their sufferings and did all in his power to alleviate them. We find that, by letters and reports, he sought to bring the state of affairs at the camp to the notice of the proper authorities, suggesting and urging the trial of such remedies as occurred to him to be practicable. Except for about three weeks in August, 1864, when, gan-

grene having attacked an old wound in his arm, he was sent to Augusta by order of his physician, he was never absent from his post of duty, but was engaged day and night with the other faithful surgeons in attending to the needs of the sick and dying. Every prison inspector would have testified to these things had it been permitted.

Yet one last chance of life was to be offered Wirz. "On the night before the execution," says his lawyer, Louis Schade, "some parties came to the confessor of Wirz, Rev. Father Boyle, and also to me, one of them informing me that a high cabinet officer wished to assure Wirz that, if he would implicate Jefferson Davis with the atrocities committed at Andersonville, his sentence would be commuted. He requested me to inform Wirz of this. In the presence of Father Boyle, I told Wirz next morning what had happened. The Captain simply and quietly replied: 'Mr. Schade, you know that I have always told you that I do not know anything about Jefferson Davis. He had no connection with me as to what was done at Andersonville. If I knew anything of him I would not become a traitor against him, or anybody else, even to save my life.' With his wounded arm in a sling, the poor prisoner mounted, two hours later, the scaffold. His last words were that he died innocent. The 10th day of November, 1865, will, indeed, be a black stain upon the pages of American history. Not even a Christian burial of the remains of Captain Wirz was allowed by Secretary Stanton. They still lie side by side with those of another acknowledged victim of the military commission, the unfortunate Mrs. Surratt, in the yard of the former jail of this city."

Far from his native land and kindred, and apparently forsaken by the land of his adoption, surrounded by enemies whose every look spoke execration, Wirz lingered in prison alternating between hope and despair and hardly recognizing himself in the monster whose crimes were being blazoned to the world. His cup of woe was very full.

Near the end of his trial he wrote a letter of appeal to

President Johnson, in which his innocence of crime and his simplicity of soul speak for themselves. He protests his innocence. "I am charged with crimes so heinous," he says, "the mere thought of them makes me shudder. Truly when I pass in my mind over the testimony given I sometimes almost doubt my own existence. I doubt that I am the Captain Wirz spoken of. I doubt that such a man ever lived, such as he is said to be, and I am inclined to call upon the mountains to bury me and hide my shame. I have erred as all other human beings, but of those things of which I am accused I am not guilty."

No appeal could avail to save one doomed from the first to die—a vicarious sacrifice for the imputed crimes of the South.

Four days later Wirz was released from suffering, and he passed from the jurisdiction of an earthly tribunal, where malignity had usurped the place of justice, to that higher judgment seat, before which the unjust judge and the innocent victim must alike appear.