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JULY, 1917

No. 1

The North Carolina Booklet



GREAT EVENTS
IN
NORTH CAROLINA
HISTORY



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

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Editor North Carolina Booklet,

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The
NORTH CAROLINA BOOKLET

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

Published by
THE NORTH CAROLINA SOCIETY
DAUGHTERS OF THE REVOLUTION

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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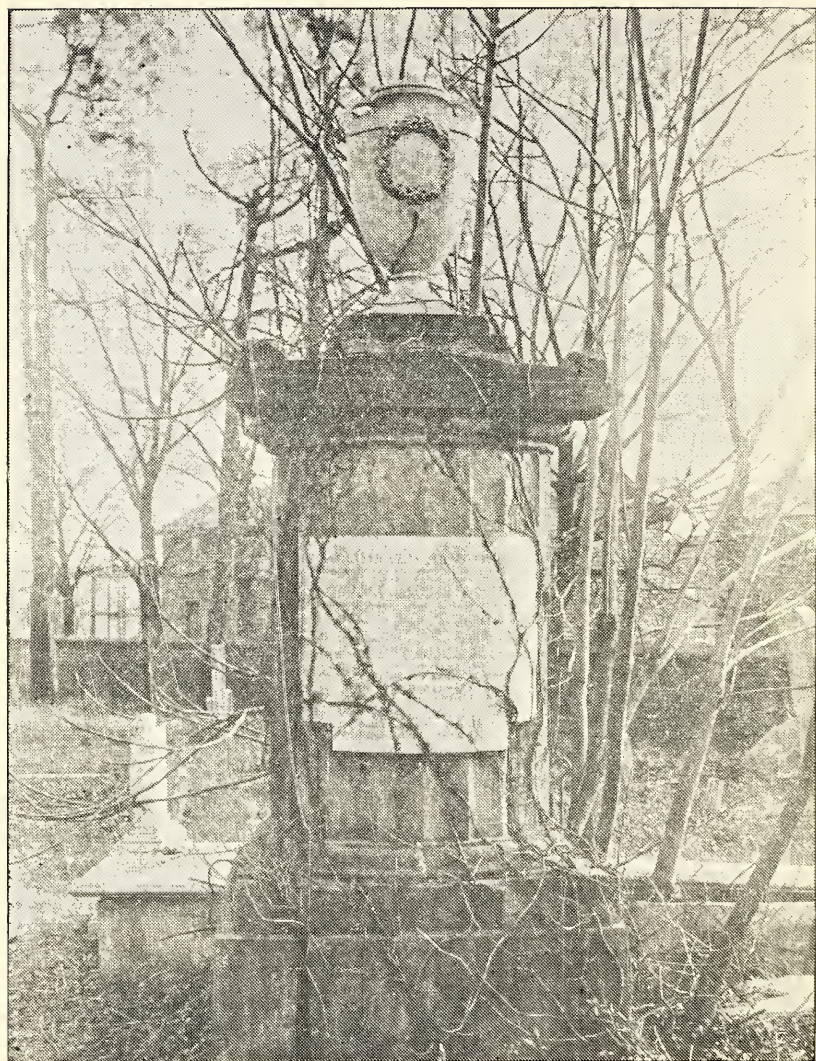
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MONUMENT TO ARCHIBALD HENDERSON AT SALISBURY, ERECTED BY THE
BAR OF NORTH CAROLINA.

The North Carolina Booklet

Vol. XVII

JULY, 1917

No. 1

A Federalist of the Old School

By ARCHIBALD HENDERSON.

"The most perfect model of a lawyer that our bar has produced."
ARCHIBALD DEBOW MURPHEY.

I.

Some years ago, Colonel Richard Benbury Creecy in a fascinating article entitled, "Our Old Lawyers," expressed the wish that some writer might "place his State and its coming sons under a debt of gratitude to him" by preparing "an elaborate memorial of the great lawyer, Archibald Henderson, who for many years led a profession in North Carolina, which has always been foremost in its annals and its patriotic work." The obituary which was published by his friend, Judge Archibald D. Murphey, presents in classic form and high relief his character as publicist. "I venture to think," says a distinguished jurist,* "that we have had no finer setting forth of the qualities of a great lawyer and citizen, his relations to his profession, the court and the public, than the essay of Judge Murphey on Mr. Henderson." Diligent research has demonstrated, nevertheless, that no consecutive or detailed biography of Archibald Henderson has ever appeared in print. Memorials of him linger only in that dim region of tradition, where lies obscure so much of North Carolina's past.

The present monograph, slight though it be, has been undertaken in the attempt to supply in some measure an answer to

*Henry Groves Connor.

the wish expressed by the late Colonel Creecy. Nothing more is attempted than to enable the reader to see this man as he was viewed by his contemporaries. Authentic biography alone can achieve the miracle of illuminating the past with the search light of truth and throwing into just perspective the temperament, character and genius of those who have lived memorably. Perhaps no one, save he were prompted by sentiments of filial respect, would have attempted a task which offered so many difficulties, especially to one not of the legal profession, and promised so little in tangible results after the lapse of a century. While this brief biography falls far short of the "elaborate memorial," of which Colonel Creecy spoke, it at least sets forth in ordered form and truthful narrative the story, in so far as that story may at this late day be rescued from the past, of the life of a man whose name was once known in North Carolina.

II.

That daring spirit of adventure and the passion for exploration which drove the early settlers of America to plunge into the wilderness and to press resolutely westward across the continent, was but the natural expression of the inquisitive and acquisitive instincts which brought Captain John Smith to Jamestown in 1607, and ultimately gave to this continent the inestimable blessings of civilization, freedom, and religious liberty. One of these early adventurers in trying a daring hazard of new fortunes upon the American continent bore the name of Thomas Henderson. He emigrated to Jamestown from the neighborhood of Dumfries, Scotland, and settled near Williamsburg, Virginia, in the early years of the seventeenth century. Somewhat later he removed to a settlement known as Yellow Springs near Jamestown. Here he fixed his residence, was married, and became in time the father of a family of children. One of his sons, Richard, was married to Margaret Washer, believed to have been the daughter of Ensign Washer, who, together with Captain

Christopher Lawne, represented in the Virginia House of Burgesses in 1619 Captain Lawne's Plantation, afterwards known as "Isle of Wight Plantation."* Richard Henderson subsequently removed to Hanover County, Virginia, where he and his wife reared a family of children: one daughter, who was married to a Mr. Trevelyan and emigrated to South Carolina; and four sons, Edward, Samuel, Nathaniel, and Leonard.

One of these sons, Samuel, who was born in Hanover County on March 17, 1700, passed the first period of his life in this section made famous in later years through the fervid oratory of Patrick Henry and the devoted ministrations of the Rev. Samuel Davies. Among his neighbors was the demure young girl, Elizabeth Williams, whose father, John Williams, born on January 26, 1679, was a prosperous emigrant from Wales. Mary, Elizabeth's mother, who was born on September 26, 1684, reared a family of eight children of whom Elizabeth was the sixth. No recollections of the courtship of Elizabeth Williams by Samuel Henderson are preserved; yet the sentiment of the bride is expressed in the pretty incident that she insisted that the day of her coming of age, her eighteenth birthday, November 14, 1732, should be her wedding day. At their home, simple as the times, the young couple lived the sane and frugal life characteristic of the period in Virginia.

About the year 1740, Samuel Henderson with his family emigrated to Edgecombe County, North Carolina. They were among the very earliest settlers in that region. This section, known as Nutbush, from the creek of that name which ran through it, was so called, says William Byrd, "from the many hazle trees growing upon it." Some idea of the beauty of the country is conveyed by Byrd's description of the site of their camp four miles from Nutbush Creek, where the North Carolina-Virginia dividing line crossed Great Creek. "The Tent

**Annual Report, American Historical Association, 1893: W. W. Henry's "The First Legislative Assembly in America," p. 308.*

was pitched upon an Eminence, which overlooked a wide Piece of low Grounds, cover'd with Reeds and watered by a Crystal Stream gliding thro' the Middle of it. On the Other Side of this delightful Valley, which was about a half a Mile wide, rose a Hill that terminated the View, and in the figure of a Semicircle closed in upon the opposite Side of the Valley. This had a most agreeable Effect upon the Eye, and wanted nothing but Cattle grazing in the Meadow, and Sheep and Goats feeding on the Hill, to make it a Compleat Rural LANDSCAPE." Little more than a decade after the vision of this "compleat rural landscape" dawned upon Byrd's lively imagination, the fancy became a reality with the coming to this beautiful country of the Hendersons, the Williamses, and the Bullocks from Virginia. When Byrd penned these words, the buffalo still roamed at will through the canebrakes of Craven; skilful hunters, like "Epaphroditus Bainton, the famous Woodsman," spent all their time in ranging the woods and making "great Havock among the Deer, and other inhabitants of the Forest, not much wilder than themselves"; and the Virginia and Carolina traders, following the course of the Great Trading Path and crossing the Yadkin at the Trading Ford, finally reached the towns of the Catawba Indians, whom they supplied with "Guns, Powder, Shot, Hatchets, (which the Indians call Tomahawks,) Kettles, red & blue Planes, Duffields, Stroudwater blankets, and some Cutlary Wares, Brass Rings and other Trinkets."*

In 1733, Edgecombe County was erected out of Craven County by Governor Burrington and Council. So rapid, however, was the emigration from Virginia into this section during the period after 1740 that in 1746 a new county, named Granville in honor of John Carteret, Earl Granville, and a new parish, named St. John's Parish, were erected out of Edgecombe. The reason assigned in the act is: "Edgecomb being a frontier county, is now so extensively settled, that the public business of the said County and Parish becomes very

*J. S. Bassett: *The Writings of William Byrd.*

difficult to be transacted.”* In the *South Carolina Gazette*, of March 8, 1768, it is stated: “A letter from Williamsburgh, Virginia, dated October 18, 1767, says: There is scarce a history, ancient or modern, which affords such a rapid and sudden increase of inhabitants in a back frontier country as that of North Carolina.” Within a decade, Granville’s population rose from nothing to some three thousand; and in 1746 the courts were organized. One of the very first in the county convened at the house of Mr. William Eaton, at which were present Doctor James Payne, John Martin, Gideon Macon, Samuel Henderson, Justices, March 3, 1746 (O. S.). For many years Samuel Henderson served as Justice of the County Court; and on March 6, 1754, he received his commission from the Governor of the Province, Arthur Dobbs, as High Sheriff of Granville County. His assistant in the office in the capacity of sous-sheriff was his eldest son, Richard, who was born in Hanover County, Virginia, on April 20, 1735.

III.

Richard Henderson’s son, Archibald, whose life and career here especially engage our interest, was born in Granville County, North Carolina, on August 7, 1768. From his father, the pioneer and expansionist, President of the Colony of Transylvania, founder of Boonesborough and Nashville, he doubtless directly inherited the legal acumen and forensic brilliance which elevated Richard Henderson at the age of thirty-three to the highest court in the colony, and won for him the title of the “Patrick Henry of North Carolina.” An English contemporary and acquaintance, in speaking of Richard Henderson’s practice and advocacy as a lawyer in the North Carolina Superior Court, pays him this elevated tribute: “Even there, where oratory and eloquence are as brilliant and powerful as in Westminster Hall, he soon became distinguished and eminent, and his superior genius shone forth with great splendor and universal applause.” From his mother,

*State Records of North Carolina, XXIII, 249.

Elizabeth, the daughter of an Irish nobleman, Lord George Kelynge, Archibald derived that refreshing simplicity of manner and dignity of demeanor which were signal traits of his personality.

On January 1, 1780, the admirable boarding school in Warren (old Bute) County, known as Springer College, threw open its doors. The number of pupils was thirty; the terms were £100 a year, Virginia money, for tuition, £200 a year for board, and £14-6s-0d paid "towards the schoolhouse, firewood, &c."* This famous academy, situated in an ideal spot and healthy locality, drew pupils from points as distant as Edenton. In this select school Archibald Henderson received his early training; and among his schoolmates were John Haywood, afterwards famous as lawyer, jurist, and historian of Tennessee, and Robert Goodloe Harper, afterwards the distinguished Federalist, Henderson's colleague in Congress, and one of the ablest political leaders of his day. With a touch of quiet humor, Judge W. H. Battle in his *Memoir* of Leonard Henderson, Archibald's brother, makes the following observation upon the conditions of rural life in North Carolina in that early day: "It may not be amiss to mention here, as an evidence of the simplicity and frugality of the times, as well as of the prudence and industry of the matrons of that day that his mother, though the wife of one of the highest officers of the province, taught her eldest sons, as well as her daughters, to card and spin. Why Leonard was not instructed in the same housewifely accomplishment we are not informed. The splendid professional career of one of his elder brothers, Archibald, shows that though it might not have advanced, it certainly would not have obstructed his upward course to fame and fortune."†

Following the example, and no doubt the counsel of his father, Archibald Henderson studied law under his close relative, Judge John Williams. In the unusually fine library

*G. J. McRee: *Life and Correspondence of James Iredell*, I, 433-4.

†*North Carolina University Magazine*, IX, 4; November, 1859.

for that day of Judge Williams, a library especially rich in legal literature, he acquired a love of biography, history, and general literature. His preceptor was pronounced by the courtly James Iredell "one of the most agreeable men in the world"; and Elkanah Watson, after speaking of "the elegant seat of Judge Williams, at Nutbush," which he visited in 1786, describes Judge Williams as "an accomplished gentleman, possessing high talents, and genuine Southern hospitality."*

IV.

The distinguished jurist, Spruce Macay, remembered conspicuously as the legal preceptor of two of North Carolina's greatest men, William Richardson Davie and Andrew Jackson, was married to Archibald Henderson's sister, Fanny, in Granville County on May 27, 1785. It was through his influence that Archibald Henderson was induced to remove to Rowan and begin there the practice of the law. As a youth in Salisbury, whither he removed from Granville about 1790, he has been described by his acquaintance of that period, the singular genius, Dr. Charles Caldwell. In the matured opinion of Caldwell, recorded in later life, Archibald Henderson was "possessed of splendid talents and commanding eloquence." He has left the following interesting and graphic pen-picture of Henderson as a young man:

"Classically and carefully educated from his boyhood, he was a man of fine literary taste, an excellent Shakespeare scholar, and well versed in English poetry in general; especially in that of the highest order.

"Instead of joining clubs, to eat, drink, joke, and frolic, as most of the other men of Salisbury did, he and myself met on stated evenings in our studies, to read, converse on, and criticise specified works in polite literature, and sometimes manuscript articles of our own production. And, from that

**Men and Times of the Revolution*, 252.

source, we derived not only rational and high gratification, but also valuable improvement in letters.”*

The town of Salisbury in 1786, as described by Elkanah Watson, was “a pleasant village, containing fifty dwelling houses. . . . The road to Charlotte, in Mecklenburg County, was equal to any English turnpike and traversed a beautiful level.” The population shortly after the time of Archibald Henderson’s removal thither is given by George Washington in his *Diary* (1791) as “about three hundred souls . . . and tradesmen of different kinds”; and an indication of its gracious social culture is given in Washington’s words: “Dined at a public dinner (May 30, 1791) 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.” Distinguished figures in the social circle in Salisbury, in which Archibald Henderson moved, were General John Steele, sometime Representative in Congress and later Comptroller General of the Currency under Washington, Adams, and Jefferson; General Matthew Locke, of titled ancestry, who represented the district in the third, fourth, and fifth Congresses; Judge Spruce Macay, who presided over the Western Circuit, determined and fearless in discharging the difficult duties of his office; Dr. Samuel Eusebius McCorkle, graduate of Princeton, eminent Presbyterian divine and famous teacher; Maxwell Chambers, Commissioner of the Borough; William Lee Alexander, student at Nassau Hall and veteran of the Revolution; Captain John Beard and Lewis Beard, prominent citizens who had been Revolutionary soldiers; the able Adlai Osbornè, and Dr. Charles Caldwell, afterwards eminent as physician and teacher.

Archibald Henderson displayed the most genial interest in the development of the ambitious young men of his acquaintance in Rowan. In particular, he freely extended to them the benefits of the admirable and carefully selected library

**Autobiography of Charles Caldwell*, '78-9.

which he began early to collect. In an authoritative account of his own career, prepared under his immediate supervision, John Hardy Steele, who was born in Salisbury and in middle life became Governor of New Hampshire, pays him the following graceful tribute of gratitude:

“Young Steele’s mother being a widow, and in straightened circumstances, he had no time for the amusements common to childhood, and but little for study and reading. He is greatly indebted to Archibald Henderson, Esq., at this time and for years after a successful and highly esteemed lawyer, for a taste for reading and a thirst for practical knowledge, which has been not less remarkable in after life than his thorough devotion to the sterner labors, which he was never known to neglect. The Governor has been often heard to say that there are no more pleasant and grateful recollections connected with the trying years of his early life, than those which cluster around the office and ample library of Mr. Henderson, where a benevolent smile and word of encouragement were always sure to greet him.”*

V.

During the closing decade of the eighteenth century, while he was forging to the forefront of the legal profession in North Carolina, Archibald Henderson was rapidly developing those mental powers which caused him to be described by the late Col. R. B. Creecy as “the foremost advocate and orator at our bar.” After his first removal to Salisbury and a sojourn of a few years there until 1795, he returned to Granville, where he served as Clerk and Master in Equity of the County Court in 1795-6-7-8. In 1798 he once more removed to Rowan and made Salisbury his permanent home.

There is no record of any likeness of him having ever been made. He would doubtless have regarded such a thing as a weak concession to personal vanity. From the personal reminiscences of his acquaintances, we know that he was a

*For this sketch of Governor Steele I am indebted to Judge Benjamin Smith, of Clinton, Mass.

large man physically, with noble forehead, aquiline nose, compressed lips, firm-set jaws, somewhat elongated chin, and an open countenance kindly and benignant in expression. "Rhetorical," "winning," "ready," "eloquent," and "effective" are the precise adjectives which his acquaintances have employed to describe his qualities as an advocate. Endowed with the temperamental geniality which distinguished his father, he readily won the good-will as well as the admiration of his acquaintances. His wide popularity was in no small measure due to his firm belief, frequently expressed and habitually put into practice, in the wisdom of "forming an intimate acquaintance with mankind, and particularly with the middle and lower classes of people, their passions, feelings, prejudices, modes of thinking and motives of action."

Before the age of thirty, he came to be widely known, not only in the Salisbury District, but throughout the State, as an ardent Federalist. For Washington he cherished boundless reverence; the brilliant qualities of Burr excited his profound admiration; and Adams found in him a staunch adherent. With strong and outspoken convictions, he quickly became a marked man; and he was urgently petitioned by his friends to present himself as a candidate for Congress—a step not a little contrary to his natural inclination. Pitted against an able opponent, the Hon. Matthew Locke, who had served as Representative in Congress since 1792, he was elected to Congress at the age of thirty in the summer of 1798. The following letter from President Adams to General John Steele furnishes an interesting, if brief, comment on the political situation:

Quincy Sept 4 1798

Sir

I have recd your favour of Aug. 29 inclosing the Resolutions and Address of Bladen County in N. Carolina. A more excellent address has not appeared. A few words in answer I return to you with the Address that you may publish them in the Papers, if you please.

The Election of Mr. Henderson is very honourable to him and his Constituents. If the inveterate Phalanx should be broken our Country will triumph.

With sincere Esteem I have the honor
to be Sir your obliged servant

JOHN ADAMS.

John Steele Esqr.
Comptroller of the
Treasury at Trenton.

At this election five other men were elected as Federalists from North Carolina: William Barry Grove, Joseph Dickson, William H. Hill, Richard Dobbs Spaight, and David Stone. The Hon. Charles Lee, Member of Congress from Virginia, writing to James Iredell in September, 1798, observes: "The change in North Carolina is most pleasing, and with so good an example before Virginia, I trust this State will amend her representation also." The North Carolina Federalists won a signal success in electing as Governor of the State the distinguished William R. Davie, who was inaugurated on January 1, 1799. This triumph of Federalism in North Carolina was to prove but short-lived; the star of Jefferson and Democracy was steadily rising. On this account, it is especially deserving of remark that the strong Federalist rally in Western North Carolina was principally due to the powerful personal influence of Archibald Henderson. A cooperative influence was the recrudescence of the historic antagonism of the whole western portion of the State to the political domination of the "East."

VI.

On December 2, 1799, Mr. Henderson appeared at Philadelphia, presented his credentials, and took his seat at this, the first session of the sixth Congress of the United States. He carried to Philadelphia with him his attractive little niece, who afterwards became the wife of the Hon. William C. Love, of Salisbury. In token of his solicitude for the little Elizabeth Macay, his sister Fanny's daughter, these words from a letter to Spruce Macay, her father, of March

23, 1800, are deserving of quotation: "I am now sitting in my chamber with Betsy at my side. She is very well and has made handsome progress in her studies. I have frequently taken her to the theatre, and it would astonish you to see how she is pleased with the performances. I had anticipated your wishes in placing her to a dancing school before the receipt of your letter. I propose to set off with her to Bethlehem next Saturday week." Doubtless Betsy was placed in some noted school, perhaps under Moravian control, at Bethlehem.

From the very beginning of his term in Congress, Mr. Henderson exhibited a lively interest in public questions and busied himself actively in the duties of his office. On December 5, 1799, he was appointed a member of the important Committee of Elections; and on January 13, 1800, he was designated a member of the committee instructed to examine into the political system by which the Mississippi territory was governed. The subject which especially engaged his attention was the reform of the judiciary system then under consideration. This matter had been forcibly brought to his attention when President Adams, in addressing the Congress upon its opening (December 3), had impressively said: "To give due effect to the civil administration of government, and to ensure a just execution of the laws, a revision and amendment of the judiciary system is indispensibly necessary. In this extensive country it cannot but happen that numerous questions respecting the interpretation of the laws of the rights and duties of officers and citizens must arise. On the one hand, the laws should be executed; on the other, individuals should be guarded from oppression. Neither of these objects is sufficiently assured, under the present organization of the judicial department." On December 9, the question of "a revision and amendment of the judiciary system" was referred to a committee with leave to report by bill; and the general problem of the better establishment and regulation of the courts of the United States assumed great importance at this and the next session of Congress. The commit-

tee consisted of Mr. Robert Goodloe Harper, of South Carolina; Mr. Chauncey Goodrich, of Connecticut; Mr. James A. Bayard, of Delaware; Mr. John Marshall, of Virginia; and Mr. Samuel Sewall, of Massachusetts.

In speaking of the discussion set for March 24, 1800—at which time the House resolved itself into a committee of the whole House on the bill—Henderson writes to Macay:

“We shall enter upon the consideration of the Judiciary Bill tomorrow. Those persons who are best informed are of opinion it will not pass at this session of Congress. I am fearful it will not, but I think the chance by no means desperate. We have a number of gentlemen here who do not make the expediency and propriety of a measure proposed the rule of their political conduct, but are calculating what effect the plan proposed will have on the people. They will acknowledge that the thing itself is wholesome and necessary for the publick good but they are apprehensive that the sovereign people will not be pleased. I confess for my own part that I am tired of this dismal clamor about the people. I respect them as much as any man but I am not for sacrificing my own judgment and opinion together with their essential interest to the intemperate howlings of a few demagogues. I believe that the dearest Interests of our Country require that a radical change be made in the mode of administering Justice. That change will no doubt create some additional expense at which the popular leaders of the day will eagerly lay hold of to render the measure odious. I conceive myself legislating on this important occasion not for the pursuit of only bare popularity. It is of the utmost importance to the interest of America that it should establish a system of administering Justice which will secure a speedy and impartial determination of causes brought into the courts and which will make the expense incident to litigation as small as possible. I am of the opinion that the plan proposed is the result of deep reflection and much labor, and is admirably calculated to promote these desirable objects.”

On Friday, March 28, after several sessions of the committee of the whole House, the bill was re-committed to the original committee. The bill which was reported by this committee became the foundation of the act that was adopted in 1801.

VII.

It was Mr. Henderson's fixed intention to return to the practice of the law, to which his genius was best suited, at the expiration of his first term in Congress. In pursuance of this intention, he published the following notice in *The North Carolina Mercury and Salisbury Advertiser*, issue of June 5, 1800, and several succeeding issues :

To the Citizens of the counties of Rowan, Iredell, Mecklenburg, Cabarrus and Montgomery.
Gentlemen,

A period is fast approaching when you will be called upon to elect from among yourselves, a person to represent you in the next Congress of the United States. And as it may be supposed that I shall again offer my services unless a declaration to the contrary is made, I feel myself bound thus early to inform you that I shall not be a Candidate at the ensuing Congressional Election. It is not necessary that I should detail the reasons which have led to this determination; I assure you Gentlemen, that they have not originated in a want of a due appreciation of the distinguished honor you have conferred on me in a measure so flattering. nor from disinclination to devote my time to the service of a people whose peace and happiness are the first wish of my heart.

I have the honor to be,
Gentlemen,
with great respect,
Your most obedient,
humble servant,

A. HENDERSON.

Philadelphia, 15th April, 1800.

The candidates for the seat were Mr. Henderson's competitor in 1798, the Hon. Matthew Locke, and a Mr. Mussendine Matthews, who for ten years had represented Iredell County in the lower house of the General Assembly. In the

above-mentioned newspaper, issue of June 12, appeared a letter signed "A Country Farmer's Son," urging the election of Locke:

"At a time as critical as the present, my fellow-citizens, we ought to be extremely cautious who we elect to fill that important trust. We ought to send the man prone to virtue, the man of experience, and the man of sense. Let us state a question with regard to Mr. Locke. Is not he the Gentleman possessed of these charming qualifications? Yes certainly he is. Has he not served his country in the General Assembly of this state almost ever since the American war until the year '93? Since that until Aug. 4, 1799, he has served in a higher capacity, viz. a member of Congress six (?) successive elections he was the choice of the people, and by his goodness and wisdom conducted so, as not to merit a frown from a single individual. At the election of '98, when Archibald Henderson, Esq., opposed Mr. Locke, and for sentiments, and policy, which ought to have done our representative immortal honour, he was ousted from an office which he had served with dignity and unfeigned goodness. But such is human nature—not long contented with the same, as fond to elect him in, and as apt to elect him out. A number of the ignorant were under a gross mistake with regard to Mr. Locke's politics. They supposed him a friend to the French and its government in defiance to his own."

This unknown champion highly praised the "wisdom, experience and virtue" of Mr. Locke, and vehemently repelled the insinuation that he had been a "traitor to his country."

In explanation of the grounds for his candidacy, Mr. Locke issued an "Address to the freemen of the Counties of Rowan, Iredell, Cabarrus, Mecklenburg and Montgomery," saying among other things:

"I declare myself a real friend to the Federal government, and a zealous defender of the Constitution, which I have often sworn to support, but do not implicitly rely upon a belief that all the present measures of Government have been wisely adopted, and impartially administered; but do believe that millions of dollars have been expended that ought to have been saved."

He declared his consistent opposition to all measures which have "a tendency, unnecessarily to oppress the citizens or

enslave posterity," and expressed the belief that "on a fair investigation of my political conduct, whilst in your service, I shall stand acquitted from the calumny raised against me in my absence, to which I impute the result of my last unsuccessful attempt."

The reasons which actuated Mr. Henderson to reconsider his original decision not to be a candidate are set forth by him in a letter to Mr. Walter Alves of Hillsborough (July 28, 1800), recently discovered. Clearly the desire to strengthen the Federalist party was the controlling motive in his final decision. For in the perfervid language expressive of the vehement political feeling of the time, he says to Alves: "Let us, my dear Sir, exert ourselves not only to save our common Country from impending ruin but to raise our own state from that low point of depression to which she has been sunk by the acts of factious and designing men. Every vote which Jefferson will get in this state is a blot upon our reputation." More explicitly concerning his own candidacy he says:

"Since my return I have been prevailed upon by the solicitations of a number of respected men in this district to suffer my name to be held up as a candidate for a seat in the next Congress. I am opposed by Matthews and Locke. It is supposed by my friends that I shall be elected; for my own part, I think it doubtful. The district is Federal and would have elected me by a large majority had it not been for the public declaration which I made, expressive of my intention to decline to hold a poll. This circumstance, together with that of General Smith* having offered his service and then withdrawing in my favor, are taken hold of by my opponents and managed with much dexterity to my disadvantage."

The return of the poll, as published in Francis Coupee's newspaper of August 21, was as follows:

*Presumably General John Smith, whose son Robert had represented Cabarrus County in the lower house of the General Assembly in 1794, 1795, 1796, and 1799.

	Henderson.	Matthews.	Locke.
Rowan -----	867	341	265
Iredell -----	211	498	58
Mecklenburg -----	346	126	294
Cabarrus -----	94	125	214
Montgomery -----	404	41	14
	<hr/>	<hr/>	<hr/>
	1922	1131	845

Majority for Henderson, 791.

VIII.

During the closing months of John Adams' administration there was passed (February 13, 1801) the act known as the Circuit Court Act or the Judiciary Act of 1801. The necessity for relieving the justices of the Supreme Court from the arduous duties incurred in riding the circuit had been urged for a decade. It was vigorously maintained by the Republicans that the amount of business before the courts of the United States had actually begun to decline; and it was therefore urged by them that the increased expenditure provided for was not warranted by existent conditions. The charge was forcibly made that the enlargement of the judiciary "was only effected for the purpose of keeping the Federalists in control of the judiciary for a long time to come." Adams came in for severe censure, both for the character of the appointments and the making of "midnight appointments" during the closing hours of his term of office. While the number of districts having a court presided over by a district judge was increased from seventeen to twenty-two, no provision was made for the appointment of new judges. Sixteen additional judgeships were provided for under this act—three each in five of the six circuits into which the twenty-two districts were classed, and one in the remaining district. Instead of involving an additional cost of \$137,000, as assumed in the later debates on the judiciary act, the sixteen new judgeships represented an increase of less than \$50,000.* The Repub-

*For a succinct contemporary account of the measure and the reasons advanced by the leading Federalists for its adoption, compare "Robert Goodloe Harper to his Constituents," February 26, 1801:

licans certainly had some ground for the feeling that the increased expenditure was unnecessary; and factional feeling ran high over the uniformly partisan character of the appointments. Mr. Henderson, who fully endorsed the measure, says in a printed "Letter to his Constituents," issued from Washington, February 28, 1801:

"By the late judiciary system, the judges of the supreme court were required to hold, in every year, two courts at the seat of government, and two courts in each of the states. To perform this duty, it was necessary for them to be almost continually traveling; they had no time for study and reflection, and the fatigue was so great, that it is impossible for men advanced in life, to continue long equal to the task. It was found that we must either drive from our service the most able and experienced men in the nation, or so modify our judicial system as to make it less burdensome to the judges. When we reflect that all which is dear to man, his liberty, his property, his reputation, are placed in the hands of the judges—when we reflect that the character of the nation is intimately connected with the prudence and ability of its courts, it is confidently believed, that few men can be found who will hesitate to say that it is of the first importance that this high trust should be confided to men pre-eminent for talents and virtue. It is moreover to be observed, that under the former system, some of the districts were so large as to render it very inconvenient and expensive for suitors, jurors, &c., to attend the courts. This evil has, in some measure, been remedied by dividing the large districts. The law divides the United States into six circuits; in each of those circuits three judges are to be appointed, who are called circuit judges, and are to hold courts twice a year in each district in their respective circuits. In all cases above the sum of 2,000 dollars, an appeal lies to the supreme court, which is to set twice a year at the seat of government. This court is to be composed of the present judges of the supreme court, who are not to perform any circuit duties, but are to try all cases where, by the constitution of the United States, the supreme court has original jurisdiction, and appeals which may be brought up from the inferior courts. Courts of admiralty and maritime jurisdiction are established in the several districts. In the district of North Carolina they are to be holden at three different places, three times a year, to wit: at

Annual Report American Historical Association, 1913, II, 137-140. Writing to Walter Alves of Hillsborough on March 30, 1801, Henderson says: "I have put into the hands of Mr. (Duncan) Cameron for your use a Letter from Mr. Harper to his constituents. It certainly merits the attention of every American Patriot." See also Max Farrand; "The Judiciary Act of 1801," *American Historical Review*, V, 6S2-6.

Wilmington, Newbern, and Edenton. This duty, in most cases, is to be performed by the district judges, though in some instances the circuit judges will hold admiralty and circuit courts. This is an outline of this important law—and I am sure that the additional expense will be cheerfully paid by the people of the United States, when they consider the immense advantage of having an able, pure and impartial administration of justice, and that to attain this great object throughout our extensive country, a considerable expense must necessarily result.”

IX.

The first great national issue in Congress which Henderson was called upon to meet arose in connection with the famous conjuncture over the tie between Jefferson and Burr, which was announced to both Houses on February 11, 1801. Whereas both men were professed Democrats, Burr was believed by the Federalists to be far nearer in spirit to them than his political designation would indicate. Moreover, they believed him to be possessed of sufficient ambition to prompt him to accept with complacency the office of the presidency at the hands of his political opponents. Writing from Washington to Walter Alves of Hillsborough on January 2, 1801, Henderson interestingly sets forth the views of the Federalists at this critical juncture:

“You have learned that Jefferson and Burr have an equal number of votes. The great business of making a President devolves upon the house of Representatives. The Federalists view the election of Jefferson as the most serious evil which can happen to America. In fact I am every day more and more convinced that he is altogether unqualified to be at the head of a great nation. I assure you Sir that it is impossible to give you a correct idea of the serious and alarming state of things. The friends of order, religion, and government fear that all is lost and that America is to see another proof of the fallibility of Republican governments. We mean to make a stand and endeavor to elect Burr. He is not our choice, but we think him infinitely preferable to Jefferson. He is a bold, practical, energetic politician of great talents and unbounded ambition—and is at *heart no democrat.*”

Considerable excitement prevailed throughout the country during the course of the long intrigue and the series of successive ballots that were taken. In the event, there was a

general feeling of satisfaction—the conviction that substantial justice had been done—when Jefferson was finally elected, by ten States, on the thirty-sixth ballot. On the first ballot, the vote of North Carolina was cast for Jefferson; and three of the Federalists from North Carolina voted for Jefferson. After the first ballot, the North Carolina Federalists generally voted for Burr. It has been stated, in authoritative publications, that Henderson, although elected as a Federalist, supported Jefferson for President.* Nothing could be further from the truth. After describing in detail the progress of the balloting, Henderson says in a letter to his constituents:

“The federalists supported col. Burr, and the democrats Mr. Jefferson; it is known that neither of those gentlemen are acceptable to the federalists; but of the two they prefer col. Burr.

“The supporters of Jefferson declared they would continue to vote for him until the 4th of March, and risque the consequence of having no President, or in other words, that they would dissolve the government if the man of their choice were not chosen. The federalists think that a weak and inefficient government is better than no government at all, and preferred having Mr. Jefferson President, exceptionable as he is, to anarchy and confusion. It is certainly my duty to inform you, and from it I shall not shrink, that through the whole of this transaction, I uniformly voted for col. Burr. I did so under a conviction that he was the best qualified of the two candidates to promote the honor, peace and happiness of the nation. I shall forbear to say what I think of Mr. Jefferson; he is now on the eve of being chief magistrate of the nation; respect for the office he is to fill, and not for the man, forbids me to make any comments on his character. It is possible that I may have formed a false estimate of his worth. A few years will convince the American people, whether those who have heretofore conducted their national affairs merit their confidence and esteem, or not.”

X.

Archibald Henderson's most conspicuous achievement during the period of his congressional service, which came in his second term, was his speech on the repeal of the Federal Judiciary Act, delivered in the House of Representatives on February 16, 1802. The indignation of the Republicans over

**National Cyclopaedia of American Biography*, VII, 215.

the passage of the Judiciary Act of 1801 found vigorous expression at the very beginning of Jefferson's administration. As early as March 16, 1801, William Branch Giles, of Virginia, advised Jefferson that "the only check upon the judiciary system as it is now organized and filled, is the removal of all its executive officers indiscriminately." Again, on June 1, he informed Jefferson that, in his judgment, "no remedy" was "competent to redress the evil, but an absolute repeal of the whole judiciary system, terminating the present offices, and creating an entire new system defining the common law doctrine, and restraining to the proper Constitutional extent the jurisdiction of the courts."* The most powerful demand for the repeal of the act came from Kentucky; and John Breckinridge, who then represented Kentucky in the United States Senate, was deluged with letters from his constituents, urging a change in the judiciary system. Upon his solicitation, the brilliant John Taylor of Caroline, set forth at length, in a private letter recently published, the arguments which became the basis of the repeal of the act of 1801.†

Because of his signal ability as an advocate, his great eloquence, and his reputation as a student of constitutional law, Archibald Henderson was chosen to lead the debate for the Federalists, among whom were such distinguished figures as James A. Bayard, of Delaware, and Roger Griswold, of Connecticut. The argument foreshadowing the outlines of Henderson's speech are tersely expressed in his letter to Samuel Johnston, a leading North Carolina Federalist, of January 24, 1802:

"The Independence of our Judges is about to be destroyed and the Constitution of our Country trampled under foot. The Law passed at the last session of Congress for the better organization of the Courts will be repealed and the Judges stript of their office. If any

*Jefferson MSS., Library of Congress. Cited in D. R. Anderson: *William Branch Giles*.

†Breckinridge MSS., Library of Congress, Dec. 22, 1801. Cited in W. S. Carpenter: *Repeal of the Judiciary Act of 1801*. "American Political Science Review," IX, 3. Aug., 1915.

one political truth has been established by experience it is that life and property can only be safe under a system of Government, in which the Judges are placed above the influence, which results from a dependence on the will of others for their continuance in office. No part of the Constitution is expressed in more simple, plain and appropriate language than that which establishes this independence. How daring then, how criminally daring must that hand be which to gratify the spirit of Party and to satiate revenge can pollute the sacred Charter containing this principle so replete with human happiness and so admired by the wise and virtuous of all nations?"

Mr. Henderson's speech on the repeal of the Judiciary Act of 1801 was one of the "selections" in the *Readers* used by school children in the South in ante-bellum days; and it was often chosen as a subject for declamation in the school exercises. This speech has been described by the biographer of Nathaniel Macon as "the ablest speech that had ever been offered by a North Carolinian on the floor of Congress."* So powerful was the impression produced in Congress by this speech that it drew from Nathaniel Macon, a North Carolinian of the opposite party, the longest and most representative speech ever delivered by him in the course of his extended political career. In regard to the action of the North Carolina Assembly, in instructing its Senators and recommending to its Representatives to have the Judiciary Act of 1801 repealed, Henderson resolutely proclaimed his refusal to be instructed, averring that he did not pray "thy will, not mine, be done" to the North Carolina Assembly. Professor Dodd describes the closing remarks of his speech as "worthy of Fisher Ames." In speaking of Henderson's public career, Dr. Charles Caldwell says: "He once allowed himself to be elected a representative to Congress, where he greatly distinguished himself, especially by his speech on the judiciary question." The position taken by Henderson, as exponent of the Federalist view, possesses exceptional interest in view of the extraordinary fact that down to the present time, no judicial review of the repealing act has even been had; and

*William E. Dodd: *Nathaniel Macon*, 402.

indeed, the constitutionality of the act has been challenged by so eminent an authority as Justice Story.*

The situation, as viewed by the Republicans, was most effectively stated by Jefferson himself: "They (the Federalists) have retired into the judiciary as a stronghold. There the remains of federalism are to be preserved and fed from the Treasury; and from that battery all the works of republicanism are to be beaten down and destroyed." Actuated by such a belief, the Republicans passed the repeal bill by a majority of one in the Senate and by a vote of fifty-nine to thirty-two in the House. The dejection of the Federalists is expressed in the letter of James A. Bayard, the Federalist leader, to Andrew Bayard, January 21, 1802: "This decision (repeal of the judiciary law) I consider as an event which cannot be too much lamented. It establishes a principle fraught with the worst consequences under such governments as exist in the United States. The independence of the judiciary power is prostrated. A judge instead of holding his office for life will hold it during the good pleasure of the dominant Party. The Judges will of course become Partizans, and the shadow of Justice alone will remain in our Courts."† Archibald Henderson was profoundly shocked by this "work of destruction," as he termed it. He found a congressional career little congenial to his tastes; and, also influenced by the fact that his wife preferred Salisbury to Washington as a place of residence, he followed his original intention expressed at the expiration of his first term, and declined to stand for Congress again as the representative of the Salisbury district at the next election. His feelings at this time, voiced in the effusive language of the period, are betrayed in a letter to Samuel Johnston of April 27, 1802: "I hope their sitting (Congress) will long be remembered by the American People. The work of Virtue, the toil of Wisdom—the American Government—has fallen into ruin. The

**Story on the Constitution*, II, 401.

†Correspondence of James A. Bayard: *Annual Report American Historical Association*, 1913, II, 146.

fatal blow is struck. I fear it is now impossible to arrest the arm of power. It is probable that I view the acts of the Majority with a prejudicial eye; perhaps the conflict of party and irritation of debate may have disqualified me from taking a calm survey of their measures. But my impressions are that nothing but ruin and misery await the deluded people of this once happy Country."

XI.

Another important issue arose during the period of Henderson's service in Congress, in connection with the continuing in force of the Sedition Act. Ever since 1798, when the Alien and Sedition Acts were passed, the Republicans led by Jefferson had vehemently protested against them as instrumentalities designed by the Federalists to centralize the government, if not to establish a monarchy. Protests came from many parts of the country, notably from the Middle States and the South, in behalf of "freedom of speech" and "liberty of the press." On February 21, 1801, in anticipation of the expiration of the Sedition Act on March 3, an attempt was made to renew and continue the most effective portion of the act. Men of the stamp of Henderson and his boyhood school-mate in Granville, Robert Goodloe Harper, regarded the Act as "the one barrier that stood between Democratic fury and public liberty."* In an "Address to his Constituents" of February 28, 1801, which is a model in political exposition and forthright candor, Henderson lucidly sets forth his views concerning the subject:

"A bill to continue in force that part of the act commonly called the Sedition Law, which declares, 'that if any person shall write, print, utter or publish, or shall cause or procure to be written,

*"I wish," said Harper, on January 21, 1801, in one of his last speeches in Congress, "to interpose this law between the freedom of discussion and the overbearing sway of that tyrannical spirit by which a certain political party in this country is actuated, which arrogates to itself to speak in the name of the people, knows neither moderation, mercy, nor justice, regards neither feeling, principle, nor right, and sweeps down with relentless fury all that dares detect its follies, oppose its progress or resist its domination." The party referred to is, of course, the Republican party. Compare C. W. Summerville: *Robert Goodloe Harper*.

printed, uttered or published, or shall knowingly and willingly assist or aid in writing, printing, uttering or publishing, any false, scandalous and malicious writing or writings against the government of the United States, or either house of the Congress of the United States, or the President of the United States, with intent to defame the said government, or either house of the said Congress, or the said President, or to bring them or either of them into contempt or disrepute, shall be liable to punishment,' has been rejected by the House of Representatives. As I am one of those who voted for a continuance of this law, I shall take the liberty of offering my reasons for this conduct. The law punishes only those who write or print malicious falsehoods against the government, or its officers. It is said that this law is a violation of that part of the constitution which says, 'That Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press.' Gentlemen opposed to the law contend, that any restraint upon the press is an abridgement of its freedom. The words *freedom of the press* mean, in their true technical import, an exemption from any controul previous to its publication; or in other words, that every person may be at liberty to publish anything he pleases, without consulting the will of any person. In this manner the phrase has been understood for ages; its meaning is as well ascertained as that of any word in our language; but it was never contended until lately, that the person who was thus at liberty to write and publish, was not answerable for the abuse of this liberty. As well might a man complain that the LIBERTY of speech was abridged, because he could not be at LIBERTY to tell scandalous and malicious falsehoods of his neighbor; or that the freedom of action was restrained, because he could not be permitted to beat, wound, and abuse every man he meets on the highway. No man can be punished under this law who does not publish a wicked, malicious and scandalous falsehood, with intent to bring the government of the United States into disrepute, and knowing it to be false at the time of its publication. Is there an honest man in the nation who wishes for this privilege?

"I am sensible there is not.

"It is then said, by gentlemen inimical to the law, that though it may be true that Congress have the power of passing such an act, it is inexpedient and improper to exercise this power; that the government cannot be injured if its acts are just and proper, by any misrepresentations or falsehoods. This doctrine would be true were all the people placed in a situation to judge correctly for themselves. But you know Sir, this is impossible; the people must be informed through the medium of the public prints, and if those prints teem with falsehoods and malicious abuse, they will be deceived; and instead of forming just opinions they will be constantly led astray. Will it be said that they can tell what is false and what is not?

How, I beseech you, are they to distinguish; facts are stated in the papers as true, and we are gravely told, that citizens five hundred miles distant from the seat of government are able to know that they are false. I am convinced that no government can exist for any length of time if it is continually abused by malicious slanderers, without having the power of punishing them. I believe it is as essential to its existence to have this power, as it is to have the power of suppressing insurrection or repelling invasion; under this impression, I voted for making the law perpetual. You, sir, and my constituents will judge of the propriety of this vote.”*

XII.

The author of “The Defence of North Carolina,” in the introduction to that work, vigorously maintains that Thomas Jefferson ruthlessly smothered the highest public spirit in North Carolina. “Mark the history of his influence among us. In 1801, the period of his boasted victory, what was the condition of our State? Who were her great men?—who her political leaders? Governor Johnston, General Davie, James Iredell, Alfred Moore, Archibald Henderson, were among the signs of our political zodiac, whose lustre was obscured by the ascent of this most ‘malign influence.’ The virtue and ability of the State, which had opposed the elevation of Mr. Jefferson, were overlooked and thrust aside, to make way, let history say for whom.” Somewhat more than a modicum of truth lurks in the exaggerated statement of Jo. Seawell Jones. The movement set on foot by General Davie, in correspondence with General John Steele, in 1801, was designed to establish a firm basis for Federalism in North Carolina. As

*In this connection should be read a similar “Letter to his Constituents” of February 26, 1801, written by Henderson’s childhood friend and schoolmate, Robert Goodloe Harper, in which he says: “I voted for this continuation (of the Sedition Act) and supported it with all my might; because I considered the law as highly proper and beneficial, in respect both to the government and the people; for while, on the one hand, it provides for the punishment of those who publish false, scandalous and malicious libels against the government, on the other, it enables persons who are indicted for libels, to give the truth of the matter in evidence for their justification, which the common law forbids, and limits the fine and imprisonment, which by the common law is wholly in the discretion of the court.” For the full text of this and many similar letters by Harper, compare *Annual Report American Historical Association, 1913, II.*

the result of Federalist activities, the Raleigh *Minerva* became the party organ in 1802; and a fund was to be raised for its maintenance through the efforts of such Federalist leaders and supporters as Archibald Henderson, Duncan Cameron, William R. Davie, William Barry Grove, John Moore, and others. This plan, as stated by Cameron, had "for its end the noble objects of suppressing falsehood and disseminating truth, of subverting the wild and visionary projects and opinions of Democracy and advocating in their place sound, substantial, practical principles of Federalism."* The four Federalists in Congress, Archibald Henderson, William Barry Grove, John Stanly, and William H. Hill, in accordance with a position which had been that of the North Carolina Federalists since the adoption of the Constitution, refused to be instructed by the Republican legislature to support the plan for the repeal of the Judiciary Act of 1801; and this refusal was voiced in Congress by Henderson.† General John Steele, North Carolina's leading Federalist at Washington not in Congress, who had held the position of Comptroller General of the United States Treasury under Washington and Adams, and was retained in office by Jefferson, withdrew from his post late in the autumn of 1802, against the protests of both Jefferson and Nathaniel Macon. In the summer of 1803, General Davie "stood for Congress" against Willis Alston, a pronounced Democrat; and a vigorous contest ensued. And yet, as Professor Dodd observes, "the newspaper plans of Duncan Cameron and others, the 'hue and cry,' as Macon says, raised in defense of the Constitution, which was so endangered; the retirement from tacit support of Jefferson of Gen. John Steele, and the violent campaign in favor of so prominent a man as General Davie, all came to nought in 1803."‡ Davie was defeated and retired from politics; while Grove, Stanly and Hill, who had

*Nathaniel Macon Correspondence. *John P. Branch Historical Papers*, III, No. 1.

†*Annals of Congress*; 7th Congress, 1st Session, 530.

‡W. E. Dodd: *Life of Nathaniel Macon*.

voted against the repeal of the Judiciary Act in 1802, were all defeated, each being superseded by a Republican. This overwhelming defeat dealt Federalism in North Carolina a blow from which it never recovered.*

"During his two terms in Congress," says Judge W. H. Battle in speaking of Archibald Henderson, "he attained a distinction scarcely inferior to that which he had at the bar." Firmly grounded in the principles of Federalism, he remained in the faith to the day of his death. After his service in Congress, where he was succeeded in 1803 by his brother-in-law, Nathaniel Alexander, of Mecklenburg, he never again held high public office, State or national, although his name was put forward on more than one occasion. Being of the "prescribed sect of Federalists," to employ William Gaston's apt phrase, he could not aspire, with any expectation of success, even had he been animated by political ambition, to the office of Governor or United States Senator, no matter how conspicuous or eminent his talents and merits might be. "In 1814," for example, as pointed out by Mr. William Henry Hoyt, "probably no Republican in the State except Macon was so well fitted for public office as Henderson, Grove, Stanly, Steele, Pearson, and Gaston, yet none of these men could hope" for high political preferment—"except Gaston, who had recently gone to Congress from a Federalist stronghold after meeting defeat in the elections of 1810."†

In truth, Archibald Henderson cared little for public office, a fact well known to his friends and contemporaries. The legal profession, that severe and exacting mistress, received the full measure of his devotion; and the best years of his life were zealously dedicated to the service of the law. In spite of his indifference to public position, he was again and again called upon to represent the town of Salisbury and the county of Rowan in the General Assembly of North Carolina. With conscientious fidelity, he served in the legislatures

*See H. M. Wagstaff: *Federalism in North Carolina*. "James Sprunt Historical Publications," IX, No. 2.

†*The papers of Archibald D. Murphey*, I, 76, foot note.

of 1807, 1808, 1809, 1814, 1819, and 1820. No record of that service need be set forth here. Suffice it to say that, during his various terms in the legislature, questions relating to the reform of the judiciary were constantly referred to him as an established authority.

XIII.

Memorable among the intimacies between public men in North Carolina during the early years of the last century was the friendship which existed between Archibald Henderson and William Gaston. The principles of Federalism, in which both were firmly grounded, was a close bond of intellectual sympathy. Each cherished an unbounded admiration for Washington as the ideal statesman, and an ineradicable distrust of Jefferson as a philosophic dilettante in politics who was subservient to French influence. Acting with him in the Legislature and in important suits before the Supreme Court, Henderson came to recognize in Gaston qualities which he revered—transparent purity of purpose, nobility of spirit, profound legal learning, and a mastery in eloquent exposition. In his turn, Gaston found in his friend attributes which he equally revered—innate modesty of disposition, a lofty conception of his duty as a citizen, habitual deference to the law and its votaries, and genius in the art of advocacy.

The personal and political association of these two commanding figures, warm friends and leading Federalists, finds striking exemplification in the memorable speeches which they delivered in the North Carolina General Assembly, on December 11, 1807. These speeches, which are memorable as discussions of the principle of States' Rights and criticisms of Jefferson's administrations, were made in opposition to the Address to the President of the United States, proposed by John Hamilton, of Pasquotank County. The Address, crassly partisan in its politics, expressed extravagant approbation of Jefferson's administration, in particular with reference to the stand he had taken in the impressment controversy with

Great Britain; and, in an almost servile manner, requested Jefferson to be a candidate for re-election. The original resolution, which had been introduced three weeks earlier, contained the sentence: "The General Assembly beg leave to solicit you to permit your name to be held up as a candidate at the next presidential election"; and the bitter animus against the Federalists was expressed in an amendment, in which it was declared "that the safety of the nation was endangered by the machinations of a party who seek to subvert because they cannot direct the government."

In his speech Gaston, who did not flinch from arousing the clamors of some, described himself as belonging to "the proscribed sect of Federalists." In the course of a spirited debate, he vehemently opposed the address on the ground that the legislature of North Carolina was "not authorized to sit in judgment on the conduct of the national executive"; and he further maintained that, even were it authorized to do so, the right should be exercised only in cases of great emergency. The speech delivered by Henderson traverses the position of the Federalists and embodies searching criticism of Jefferson and his administration. As the result of the speeches of Gaston and Henderson, the Address to the President of the United States, after being considerably improved by the omission of offensive political allusions and the abandonment of its servile tone, was finally passed by a vote of eighty-three to thirty-five, both Gaston and Henderson voting in the negative.

The speech delivered by Henderson on this occasion is reproduced in part below:

"I regret extremely that the resolution which is the subject of debate, was introduced to the consideration of this House. . . . It speaks a language which in my conscience I cannot approve, because I believe it is not true. It in the most unqualified manner approbates the whole of Mr. Jefferson's administration; and every man in this House who votes for its adoption, declares to his constituents and the world, that no single act of the President meets his disapprobation.

"I do not feel disposed thus far. I do not believe that his conduct merits this unbounded applause. Those gentlemen who really

believe that the whole of the President's administration has been founded in the most enlightened policy, and has guarded the honor and promoted the interest of the nation, will vote for the adoption of the resolution; those gentlemen, on the contrary, who think that there are objections to some part of his conduct, and though they may approve of other parts, will, I apprehend, be compelled to give their negative to the measure proposed. We are therefore forced, Mr. Speaker, by the very nature of the question, to examine the general features of Mr. Jefferson's administration. It will be recollected that this necessity has been imposed upon us much against our wishes: every mode in our power has been attempted to avoid this unpleasant discussion. If the motion of my friend from Newbern (Mr. Gaston) to postpone the further consideration of the whole of the resolutions had have prevailed, the House would have been relieved from much trouble, and the debate we are now engaged in, avoided. . . . I know, full well I know, that what I am about to observe, will not be pleasing to a number of gentlemen on this floor. But when imperious duty points the way which I should tread, and timid policy directs another, I hope I shall always have firmness enough not to hesitate for a moment what course to pursue; regardless of the frowns of the majority here, or the tumultuous cries of a deluded populace out of doors.

"One of the greatest blessings which a nation can enjoy is an able, upright and independent judiciary. This judiciary, Sir, we had in its utmost purity when Mr. Jefferson was called on by the voice of his country to fill the presidential chair. Scarcely had he taken the reins of government into his hands; scarcely had the members of Congress taken their seats at their first session after his election, when the chief magistrate of the nation, in terms too unequivocal to be mistaken, recommends a repeal of a law under which judges had been appointed, and had actually performed judicial duties. The doctrine was new in America. Before this period it was believed that a judge, once appointed, was secure in his office as long as he *behaved well*, and that no power on earth could deprive him of it. I will not now enter into an argument to show the gross absurdity of construing the words *during good behaviour to mean at the will of the legislature*. Enough on this subject has already been said; and to that understanding which can yield assent to the miserable arguments which have been used to prove the power of Congress to displace their judges by the repeal of a law I am sure it is useless at this day to say a single word. But I must be permitted to say, that the time will come, of necessity, it must come, when the bitter effects of this passionate act of the President and of Congress, will be severely felt and deeply lamented by the American people. Their judiciary is now prostrated at the feet of the legislature: The independence of their judges is gone I fear forever: A great department

of government is destroyed; a department which engaged the anxious attention of the convention which framed our constitution, and which ought to be more dear to the people than any other; because in times of faction and tumult, it is the only one on which they can rely with confidence and safety. I think it unnecessary to press this subject farther on the House, for I conscientiously believe this legislature could not be induced by any consideration, to pass a law which should deprive their judges of their offices. . . . So deeply rooted is the opinion that our judges are independent of the legislature so long as they behave well. I ask gentlemen if they approve of this act of the chief magistrate? I implore them calmly and dispassionately to give their opinion. Is it their wish that their rights should be tried by men perfectly free from bias? Can that man be supposed to be free from bias who holds his seat at the will of another? We know it is natural for man to be indisposed to thwart the views of those on whom he is dependent. Whatever may be the conduct of others, I for one will never give my confidence or express my attachment to a man who has been the great cause of producing an evil more extensively mischievous to the American people, and which is to entail upon them more lasting misery than any act of the bitterest enemy, of this nation.

“When Mr. Jefferson came into power, we had a flourishing navy, and the means were provided for making it respectable. What has become of our vessels? Either sold for a sum far less than they cost, or suffered to rot in their harbors. It is confidently believed at this day, few men can be found, possessing the smallest share of political information, and not blinded by party spirit, who do not see the necessity of keeping up a navy, sufficient at least to protect our coast. It is childish to suppose that our rights will be respected by foreign nations, unless we are prepared to protect them by other means than proclamations.* Is it believed that we should be insulted in our ports and harbors by almost every nation with whom we have connections, if we were prepared to repel force by force? Let every candid man in this House answer the question, and if he will suffer his understanding, unclouded by passion or prejudice, to make the answer, I do not fear the result.

“Mr. Speaker, I have other objections to Mr. Jefferson’s administration, which it is difficult to delineate, because they do not arise from any particular act of his, but from the general cast and complexion of his whole conduct. I have ever held it to be the first duty of a great magistrate, to instil into the people a pride of character, a dignity of sentiment, an inviolable attachment to the honor as well as the interest of the nation. It ought to be impressed on them that a wholesome, energetic government is the greatest blessing which Providence in his mercy has given to man; but that it ought to com-

*This observation has been made innumerable times during the past two to three years (1914-1917).

mand their reverence and excite their attachment. They ought to be told in a bold, manly and open language, that taxes are indispensably necessary to support their government and to secure them the inestimable blessings flowing from order and legitimate power. I appeal to the wise and dispassionate of this House, and ask them if the general character of the President's administration has not been to corrupt and demoralize the public mind. By corruption I do not mean that he has made them thieves or robbers; I mean to say that he has suffered to evaporate that manly pride and spirit of independence which conducted us through the revolutionary war, and at last gave us rank among the nations of the earth. The people have become impatient of governmental restraint, and have lost all reverence for established usages and the settled order of things. Honor, virtue and talents give no claim to public confidence. Few men can get into power who do not devote themselves to the caprice of the people: and, Mr. Speaker, there is a laxity in government which is truly alarming, and threatens, if not corrected, to destroy the political fabric. There is also a wretched thirst for gain, which has absorbed every other passion, and bids fair to make us what foreigners have said we are—a *nation of shopkeepers*.* Go into any company, the enquiry is not, Has our honor and character been protected? Has reparation been made for insult and injury? Are our ports and harbors protected? But the question is, Has our national debt been diminished? These symptoms, Sir, are the sure presages of impending ruin: they evidence a general debility, which if not soon corrected, must end in a premature death. I am not disposed to assert that all these have been produced by Mr. Jefferson, but I do say his general conduct has had a tendency to produce them.

"I am of opinion, Mr. Speaker, that the President has been highly blameable in not endeavoring to discover the true interest of the country, and pursuing that with inflexible perseverance. But we know he has almost invariably waited to discover the temper and disposition of the people, and then shape his measures according to their wishes. So that instead of being guided by wisdom and enlightened policy, he has been governed by *town meetings* and *popular assemblies*.†

"It has been said by a gentleman whom I do not see in his seat, (Mr. Hamilton) that the President has purchased Louisiana, to obtain which the Federalists were anxious to go to war. Permit me, Sir, to correct that gentleman. When the king of Spain withheld the right of deposit at New Orleans, which had been solemnly granted to us by treaty, the Federalists were willing to seize by force that island

*This is the term applied by Napoleon to the English. A. H., June, 1917.

†This characterization of Jefferson, by a political opponent, serves as justification of the title accorded Jefferson to-day: the founder of American democracy. A. H., 1917.

and compel a performance of that stipulation which had been guaranteed by contract: they saw in the conduct of the Spanish Court, a determined hostility to this country; and if justice could not be obtained by friendly means, they thought the character and interest of the nation so deeply concerned that they were anxious to enforce it by an appeal to arms. But, Sir, it was the right of deposit alone that they claimed. We then had no right to Louisiana, nor do I believe it was their wish to obtain it on any terms. I have ever viewed the purchase of that immense territory highly pernicious to this country, and a damning evidence of the disposition of Mr. Jefferson to please the multitude, though he should sacrifice the permanent interest of the nation. . . . When this territory shall be added, disunion must be the consequence. . . . The consequence of a separation of these United States is big with calamities, easily foreseen, but difficult and perhaps improper to describe.

"It will be recollected, Mr. Speaker, that Aaron Burr has recently been tried in the Circuit Court of the District of Virginia, for high treason, and after the most able and patient investigation, which was ever made in this, or perhaps any other country, acquitted under the direction of the Chief Justice. . . . What, Sir, has been the conduct of the Chief Magistrate? Congress has been called on to review this decision, and to ascertain whether there is a defect in the evidence, in the law, or the administration of the law. Is it possible to suppose that Mr. Jefferson really believed that Congress has a power to correct the decisions of the courts of the United States? No sir, he knows they have no such power, and that they cannot interfere except there is ground to impeach the judge. The papers which he has laid before Congress, cannot furnish matter even to institute an inquiry. I have understood that these papers contain nothing more than the documents and evidence which were offered to the court and jury on the trial of Burr. It is impossible to collect from them anything which might justify a criminal prosecution; at most they could only prove that the Chief Justice had mistaken the force of the evidence, or had drawn from it incorrect legal deductions; and we all know that this furnishes no just cause of impeachment. Then I ask, What was the object in making this communication? Was it to impair the confidence which the nation had in the integrity of this distinguished man? . . . Whatever was the object, I will venture to say it strikes a deadly blow at the independence of your courts. If every judicial opinion which is not pleasing to the President, is to be brought under the revision of Congress, and the judge in effect denounced who gives this opinion, we may bid a long farewell to an independent judiciary."*

**The Minerva*, Raleigh, N. C. No. 612. Dec. 24, 1807.

As a brief memento^o of the friendship between Gaston and Henderson, the following extract, affording an interesting sidelight on the feelings of the hour, is quoted from a letter of Henderson to Gaston, March 7, 1810:

My dear Gaston:—

. . . I am tired, seriously tired, of attending these County Superior Courts. Nothing but noise, confusion and ignorance. The profit is nothing, the honor nothing. I find I am in a fair way to get rid of what legal learning I possessed and in a few years expect to be as well qualified for a Judge as any Democrat in the State. . . . What can I say on the head of Politicks—will not the doings of this Congress be remembered, long remembered, with horror and astonishment. The dismissal of Jackson will and must lead to war. . . . Is it not strange, passing strange, that the administration should for a moment have believed that the wise of the nation could be imposed on by the miserable tale of British insult. I boldly say there was no insult offered by Jackson, at least the documents published do not show it.

. . . I am gloomy—pray write to me and tell something that will rouse my spirits. If you can tell me nothing new let me know that you are well and expect better times.

God bless you, my dear Gaston, and be assured that I am yours, etc.

Sincere regards,

A. HENDERSON.*

One incident, bearing upon Henderson's life as a public character, is deserving of mention, as an illustration of his self-effacing modesty. In 1818, the Supreme Court Bill became a law; and on December 9, when the nominations for judges were made, the names of both Archibald Henderson and Leonard Henderson, his brother, were presented, along with the names of Judges Taylor, Hall, and Seawell, and Messrs. Bartlett Yancey and Archibald D. Murphey. Although assured of election, Archibald Henderson withdrew his name in favor of his brother. He is quoted by the Hon. Hugh Waddell as saying that "one of the family on the Supreme Bench was quite enough."† An interesting and

*For a copy of this letter I am indebted to Judge H. G. Connor.

†In a letter from Raleigh, Dec. 9, to Judge Thomas Ruffin, describing the details of the contest, Archibald D. Murphey says: "One of the Hendersons (it is not settled which) is to be withdrawn. The other will be elected . . ." W. H. Hoyt: *The Papers of Archibald D. Murphey*, I, 122.

authentic anecdote is told of Archibald Henderson in this connection. With all his great powers of reflection, Leonard Henderson was not very practical in matters of business, and made no especial financial success out of the rough hurly-burly of law practice. His brother, Archibald, on the other hand, was conspicuous for practical wisdom and business sagacity. Furthermore he enjoyed a very lucrative practice as a lawyer. When the two brothers were nominated for the Supreme Court Bench, Archibald laughingly remarked: "I am going to withdraw in Leonard's favor—because I can make a living at the law, and Leonard can't."

Our North Carolina Indians

By COLONEL FRED A. OLDS.

Few subjects are more fascinating than the Indians of North Carolina, yet it has required three hundred years and more of study by noted experts to develop their true story, so that one does not have to depend upon tradition, which is all too often mere misinformation.

There were many tribes of Indians in North Carolina, but only two large ones, the Cherokee (really Tsalagi, or Cave-people), and the Tuscarora (really Skaruren, or Hemp-gatherers, because they gathered the *Cannabis Indica*, or wild hemp, for various uses); the Cherokee taking their name from the caves in their high mountain country. Both of these have a written language and considerable literature, books, newspapers, etc.

There have been strong arguments by certain persons to the effect that the Indians of America are the descendants of the "Ten Lost Tribes" of Israel. The Indians were called by the Spaniards *Indios*, because they thought this country was part of India. The Indians had no term or name for all of their people. Their names for individuals, for tribes and for towns, for streams and other things, were all taken from something they observed or which affected the person or locality. Take the word "hominy," for example: it comes from two Indian words, *aham* (he beats), and *min* (grain). The coast Indians in 1586 called those in the interior of North Carolina *Renapoak*, meaning "true men."

It has been proposed by some scientists to call the Indians of this country "Amerind," a contraction of "American Indian," but this is not yet agreed on.

There were more than a score of Indian tribes worth mentioning in North Carolina, the greatest being the Cherokee and the Tuscarora, already referred to, and perhaps the first tribe to be mentioned in history has a curious record. This

was the Roanok, which means, "Northern people," who were found on the island of Wococan (which means curved or bent) by Amadas and Barlowe in 1584. These explorers thought Roanok was the name of the island and Wingandacoa that of the country, but their mistake is now known. The meaning of Roanok, which by custom of speech has become Roanoke, is wampum, peak, or money, made of bored shells strung on strings. The village of Roanok, or Roanoke, was one of those of the Secotan tribe, which in 1584 was found in the peninsula between Albemarle Sound and the lower Pamlico River and its adjacent islands. The word Secotan means "burned place." Later this territory was occupied by the Machapunga, Pamlico and Hatteras tribes, possibly descendants of the Secotans. It is interesting to know that the Secotans had complete belief in the immortality of the soul.

The Tuscarora lived on the Roanoke, Taw (or Torhunta, or Narhontes); and Pamlico rivers. They were much set upon by the whites, and under their chief, Hencock, joined forces with the Coree, Pamlico and others, and tried in 1711, in two wars, to destroy the whites, but were overcome. They went back north, whence they had come, and were adopted politically by the great tribes in northern New York, known as the Five Nations. They were thus given asylum on motion of the Oneida tribe, in the federal council, and it is strange how this was done. First, the Tuscarora were made a baby, next a young man, then a man, then an assistant to the official woman-cooks, then a warrior, and last a peer or chief in the great council, all of these successive stages being passed, each with impressive ceremonies.

And this brings up the point that it was the woman who was, and is in most tribes today, the head of the household and the real head of affairs generally. To her the children belong, and not to the father, and she has all the rights in most tribes that the women of the United States are striving for—in some tribes even more.

The first story told about the Indians in North Carolina

was of course, by Amadas and Barlowe, and from that time until a very recent period there has been no end of misinformation in many ways. The writer will undertake to call the roll of the tribes, and give a word about each:

Moratoc; lived near the Virginia line, about 160 miles from the mouth of the Moratoc or Roanoke River; an important tribe in 1586, but would hold no communication of any sort with the Englishmen.

Cape Fear; lived up that stream, near its mouth, in Brunswick County, of it very little being known except the location.

Choanoc (They of the South, the Southerners); a small tribe in Chowan County, which took its name from them.

Machapunga (bad dust); an affiliated tribe of the Algonquian family, which lived in Hyde County, and which in 1701 had thirty warriors, it and the Coree living together at one village, named Mattamuskeet, lying on the north shore of the lake of that name.

Pamlico; a small tribe, of the Algonquian family, living on the sounds.

Bear River; a tribe which in 1701 had fifty warriors and only one village, Raudauquaquank, this being in Craven County, on the bank of the Neuse River.

Coree; possibly Algonquian, living on the peninsula of the Neuse River in Carteret and Craven counties. In 1686 this tribe had been reduced greatly by bloody wars, its barbarity being noted among the other Indians. The Coree were also called Coranine and Connemoc, and they had one town in 1701, Raruta, with a population of 125. They went into the war of 1711 with the Tuscarora, and in 1715 they and the Machapunga were given a tract of land on Lake Mattamuskeet in Hyde County, where they lived until they became extinct.

Catawba; these were South Carolina Indians, but in 1841 many of them removed to the country of the Cherokee in western North Carolina, but all except two became dissatisfied and returned.

Neuse; lived where New Bern now is, their town being named Chattooka, and removed, after Baron DeGraffenreid burned it, to the Tuscarora, with whom they were specially intimate.

Hatteras; an Algonquian tribe, living on the sand banks about Cape Hatteras in 1701, and frequenting Roanoke Island, their only town being known as Sand Banks, and having 80 inhabitants. These Indians were mixed white and Indian, and claimed that some of their ancestors were white.

Secotan; an Algonquian tribe in 1584, on the peninsula between Albemarle Sound and the lower Pamlico River.

Cape Fear; a little tribe, possibly Siouan, near the mouth of the Cape Fear River in 1661. A New England colony settled there and sent away a number of the Indian children, claiming these were to be educated. The Indians drove off the colonists, but others came and bought lands of the Indian chief, Watcoosa. There were several villages, Necoos being the principal one. In 1665 a second colony of whites settled at Oldtown, in Brunswick County. In 1715 the Cape Fear had 206 people, living in five villages, and that year they took part in the war with the Yamasi Indians, from south of Charleston, and suffered terribly. In 1751 South Carolina asked the Iroquois Indians to be at peace with the Cape Fear, which were then spoken of as a "small friendly tribe."

Keyauwee; a small tribe, near the center of North Carolina, affiliated with the Saponi, Tutelo and one or two others, and found in 1701 near where High Point now is. These Indians had a very strange habit of wearing whiskers and mustaches, and their chief was Keyauwee Jack. This tribe and their affiliates, seven tribes in all, mustering 750 souls, went just over the line into South Carolina and settled on the Pee Dee River.

Neusioc; unclassified tribe, perhaps of Iroquoian stock, found in 1584 in Craven and Carteret counties, which in 1701 had only 15 warriors and two villages, Chattooka and Rouconk.

Eno; a tribe different in physique from their neighbors, all their alliances being with Siouan tribes. They had well-built houses and barns, in which they stored grain and other supplies, and they were quite thrifty. They became incorporated with the Shakori, these two tribes being confederated in 1701. Their chief town was Adshusheer. They also became incorporated with the Saponi and their confederates to the northward, disappearing as a tribe in 1720, but in 1743 still retained the Eno dialect. They lived about the headwaters of the Tar and the Neuse rivers. The names Eno and Shocco, now remaining, tell the story of these Indians, who traded much with the Tuscarora. In 1714 the Eno, Tutelo, Saponi, Occaneechi and Keyauwee, numbering about 750 in all, moved toward the English settlements in the eastern section of North Carolina. Finally most of the Eno went to South Carolina, a few going with the Sapelo to Virginia.

Occaneechi; a rather small tribe found on islands on Roanoke River and later on the Eno River, and who were joined by the Saponi and Tutelo and by the Conestoga, the latter having come from Pennsylvania and taken shelter in North Carolina from the Iroquois. The Occaneechi had two chiefs, one in charge of war and the other of hunting and agriculture.

Cotechney; a small tribe, which has already been described in connection with the extreme eastern Indian septs.

Adshusheer; a tribe associated with the Eno and Shakori in 1711, with its chief town near where Durham now is, its ruler claiming territory and authority as far as the Haw and Reatkin (now called the Yadkin) rivers. It is doubtful that they were of Siouan stock. There is only one mention of them in history; this by John Lawson in 1701. Shakori, or Shocorri, their principal village, was near Hillsboro, its chief being Eno Will, who was a guide for John Lawson, the surveyor-general for the Lords Proprietors.

Saponi; one of the eastern Siouan tribes, now entirely extinct; its language being the same as that of the Tutelo,

and the words Siouan. The Saponi moved eastward, toward the coast country, to get away from Indian raids, and their town in this new location was near where Windsor, Bertie County, now is. In 1715 Governor Spottswood, of Virginia, took them, and other little tribes who had joined with them, to that colony, and from it in 1753 they went to New York and joined the Six Nations, but in 1779 fled to Canada, and so pass out from all knowledge.

Tutelo; almost the same as the Saponi in characteristics. The Iroquois called all the Indians in central North Carolina Tutels.

Cherokee; the best known of all the tribes, and the only one now remaining in the State; a powerful detached tribe of the Iroquoian family, which occupied the whole mountain region in the southern Alleghanies in southwest Virginia, North Carolina, South Carolina, Georgia, Tennessee and Alabama, and claimed the territory all the way to the Ohio River. The Cherokee had three dialects—the upper, middle and lower. They originally came to this part of the country from the north, and their language is undeniably Iroquoian. They were first met by DeSoto in 1540. They came here to escape attacks from the Iroquois and Delaware. They held their mountains against all comers. In 1838 the greater part of them were removed to the Indian Nation, but 2,000 remained, and the Eastern Band, as it is officially known, of the Cherokee Nation occupies 60,000 acres of land, held in common, in Swain and Jackson counties, numbering there 2,285, about 300 more being in Graham County. The Cherokee in North Carolina are given education by the United States in a most thorough manner, from primary school to college. They have served in nearly all of the wars on the side of the whites, having several hundred men in the North Carolina Confederate troops, their chief having been the colonel of the 69th North Carolina Regiment. They have men now in the 1st Regiment of the North Carolina National Guard. Their chief town is Yellow Hill, lying on the Oconalufty (Agwa-

nulta, properly meaning "by the river"), and here their fine school is located, which will in a few years be turned over to North Carolina. The Cherokee are the most widely distributed throughout the United States, the best educated and the most influential of all Indians. There are seven "clans"; wolf, deer, hawk, owl, and three not translatable. The Cherokee in the United States are now probably as numerous as at any time in their history.

Weapomeioc; a small tribe, found by Governor John White in 1586, its village being Chapanoc, on Albemarle Sound; this and the other little tribes referred to in those earliest days having later become known by other names and so passed out of existence.

Croatan; a so-called group of Indians, living mainly in Robeson County. James Mooney, the noted expert, who is regarded as the finest authority on Indian history, says the theory that the Croatan are descended from the "Lost Colony" of Roanoke Island is baseless. Mr. Mooney has spent much of his life in North Carolina, studying these matters, and was here in 1916. He says the Croatan "embrace the blood of the wasted native tribes, the early colonists or forest rovers, runaway slaves and other negroes, and that of a steady stream of the Latin races from coasting vessels in the West India and Brazilian trade." The Croatan applied for recognition by the United States as Cherokee, but it was denied and the Cherokee acknowledge no relationship, having visited the Croatan country on a tour of inspection. There is a queer offshoot of the Croatan known as "Malungeons," in South Carolina, who went there from this state; another the "Red-bones," of Tennessee. Mr. Mooney has made a careful study of both of these branches also.

One thing should be remembered in regard to the Indians of North Carolina, always excepting the Cherokee: In all the South, up to the time of the Revolution, Indian slaves were bought and sold and worked in the fields with the

negroes, and thus amalgamation to a greater or less degree was brought about, the negroes gaining more from the Indians than the latter did from the negroes.

So complete has been the annihilation or absorption of the Indians along the eastern coast that the assertion is made officially that there is now not a native full-blood all the way anywhere between Delaware and Pamlico Sound.

The Indians usually lived in houses made of mat or bark, and within the past seventy-five years the Cherokee had bark houses in their mountain territory. The chiefs of the various tribes had varying authority, and some of them used a baton as the emblem of it; such a baton, of hardwood, beautifully carved, being now in the North Carolina Hall of History.

It should be borne in mind that the Indians were not nomads, for each tribe claimed and lived in a certain tract or region, with well understood boundaries, handed down by tradition and not ordinarily relinquished save to superior force. The land was always held in common, never individually or by family. The fact that the early white settlers did not understand this fact caused trouble and bloodshed and war, again and again.

Many people have an idea that what we call corn, Indian corn or maize, was native here in North Carolina, while in fact it was brought here from Mexico, and its name came from the Arawak word "marish." The North Carolina Indians planted its grains four to the hill, it being thought bad luck for them to touch each other.

There are two other queer beliefs besides those about our Indians, and in conclusion one may be exposed which has prevailed a long, long time, this being that the scuppernong grape was first found on Roanoke Island by Amadas and Barlowe, and that the Indians there esteemed it greatly. As a matter of fact, this grape originated on what is now called the Scuppernong River, the Indian name of which was Askuponong, which means "at the place of the bay tree," this tree,

the North Carolina magnolia, being very abundant there. So on that river, near Columbia, Tyrrell County, this white variety of the dark muscadine or bullace grape, was found about 150 years ago by two men named Alexander, and the river gave the name. It was taken to Roanoke Island and everywhere else where this splendid grape will flourish.

The State Navy of North Carolina in the War of the Revolution

An Address delivered before the Summer School of the State College, at West Raleigh, N. C., July 2, 1917

By MARSHALL DELANCEY HAYWOOD.

LADIES AND GENTLEMEN :

In all the range of North Carolina history I doubt whether a single topic can be found about which so little is known, even by close students of our State's past, as the part borne by her sailors in furthering the cause of American Independence, and so I have decided to speak for a short while this evening on THE STATE NAVY OF NORTH CAROLINA IN THE WAR OF THE REVOLUTION.

At a meeting of the Provincial Council of North Carolina, held in the court-house of Johnston County during the month of December, 1775, it was resolved (on the 21st of that month) that a necessity existed for the fitting out of armed vessels for the protection of the trade of the province. The number of ships first provided for was three, and commissioners were appointed to carry into effect this resolution. One at Cape Fear (the ports of Wilmington and Brunswick), one at New Bern, and one at Edenton, were ordered to be "fitted out with all dispatch." Provision was also made for chartering other vessels at New Bern, Wilmington, and Edenton—and so the Navy of North Carolina had its beginning some months before the Thirteen American Colonies had declared themselves free and independent States. The aforementioned orders of the Provincial Council were promptly carried out, and it may be added that the local Committees of Safety, in the various sea-coast counties, sometimes had a more economical mode of acquiring ships than by purchase; for, when the *Defiance*, under the command of Captain John Cooper, and the *Belville*, under the command of Captain Vance, violated the maritime regula-

tions of North Carolina, while anchored at New Bern, the vessels were promptly seized. A similar fate was narrowly escaped by the sloop *King Fisher*, of which John Strange was owner and Lott Strange master. Another instance, somewhat similar, arose when it was made to appear to the Provincial Congress at Halifax that the brigantine *William*, then anchored in Beaufort Harbor, and of which Philip Westcott was master, was British property, for a resolution was passed by that body on April 10, 1776, directing her seizure and detention till further orders.

On May 9, 1776, the North Carolina Provincial Congress at Halifax opened up negotiations with Virginia for the purpose of securing the construction of two armed ships by that province to co-operate with the North Carolina vessels already on duty guarding Ocracoke Inlet, which could be used as a gateway by British ships in attacking either colony. The same State Congress at Halifax authorized the North Carolina Council of Safety to establish Courts of Admiralty at the ports of Edenton, Bath, New Bern, and Wilmington, and this was accordingly done on June 22, 1776. Admiralty Judges were duly appointed by the same authority and vested with power to commission marshals, registrars, and such other officers as might be necessary for the enforcement of the maritime laws of the province.

In the Summer and Fall of the year 1776 there were marked activities in North Carolina in constructing vessels of a variety of types—some being well-armed ships built by the State, some others being privateers sailing under commissions known as “letters of marque and reprisal,” a third class being fast-sailing small boats used for slipping through the British blockade and importing articles needed by the colonists (their cargoes ranging from cannon and gunpowder to French finery and West Indian rum), and still another type of craft being “row-galleys,” used for river fights and for unloading American ships which were too large to come into the inland waterways. Among the North Carolina ships

of that period were the *King Tammany*, commanded by Captain Sylvanus Pendleton (who later commanded the eighteen-gun ship *Bellona*); the *Pennsylvania Farmer*, commanded by Captain Joshua Hempstead; the *King Fisher*, commanded by Captain James Ducaine; the *General Washington*, commanded by Captain John Forster; the *Joseph*, commanded by Captain Emperor Moseley; and the *Polly*, commanded by Captain John Chase. Then there were the *Lilly*, whose name was later changed to the *Caswell* (Captain Willis Wilson), and the *Johnston* (Captain Edward Tinker)—these ships being namesakes of the Revolutionary leaders Richard Caswell and Samuel Johnston. A similar compliment was paid Thomas Burke in 1782 by naming a New Bern privateer the *Governor Burke*, Peter Raingenoire being her captain and William Savage owner. In thanking Mr. Savage for this token of friendship, Governor Burke wrote: "I am sorry you have determined to give your vessel a name so unfortunate as that you mentioned, and should be much concerned if her fate should in any way resemble his after whom you intend to call her—which is to have laboured much for the public, to his own irretrievable disadvantage."

Among the vessels owned by Henry Montfort, of Edenton (formerly of Halifax), was one called the *Willing Maid*, and another with a name somewhat less sentimental—the *Savage*.

The aforementioned Captain Hempstead seems to have had command of quite a flotilla of North Carolina ships, as we find an order of the State Committee of Safety directing him "immediately to proceed to sea with the armed vessels under his command" for operations in the West Indies, whence the "Jamaica Fleet" was about to sail for some of the neutral ports of Europe, with one twenty-gun ship as its only convoy.

In speaking of the *Pennsylvania Farmer*, it is worthy of note that on it was a detachment of marines, commanded by Captain Robert Turner. When this officer asked to be transferred to the land forces, Colonel Joseph Leech and Captain Hempstead, under date of June 3, 1777, wrote of him: "He

hath been out in the service of his country as a Captain of Marines on board the brig *Pennsylvania Farmer*, and always behaved well in his station." Captain Hance Bond succeeded to the command of the Marines on board the *Pennsylvania Farmer* after the transfer of Captain Turner. Another officer in the Marine service of North Carolina was Captain Samuel Gardner.

Naval activities in North Carolina increased still more as the war wore on. On May 16, 1777, Joseph Hewes wrote from Edenton to Governor Caswell, at New Bern, asking him to send some commissions signed in blank for the use of the ships being fitted out in that place. Hewes said: "There are several persons now here who wish to get commissions for armed vessels that they are fitting out. They can get good security here; but, being strangers at New Bern, might meet with some difficulty there." To the same effect, wrote Michael Payne, of Edenton, on that date: "Several merchants of this place are at this time fitting out armed vessels, and are desirous to have for them letters of marque."

Joseph Hewes, mentioned above (one of the signers of the Declaration of Independence), was for some years a member of the Continental Congress at Philadelphia, and his thorough knowledge of nautical matters gained for him a position of commanding influence in that body on committees considering subjects connected with sea-faring operations. I shall have more to say of him later on.

One noted North Carolina privateer bore the ludicrous name *Sturdy Beggar*. She was fitted out in New Bern and commanded by Captain James Campbell. She mounted fourteen carriage guns, and was manned by one hundred seamen and marines. That this ship was considered "beggarily" only in name we may infer from an advertisement in the *North Carolina Gazette*, on August 8, 1777, which declared that she "was allowed to be the handsomest vessel ever built in America." The *Pennsylvania Farmer*, already mentioned, was not a privateer, but one of the ships belonging to

the State Navy. She carried sixteen guns and eighty men. Among the ships in North Carolina, not already enumerated, were the *Heart of Oak*, commanded by Captain George Denison; the *Resolution*, commanded by Captain Joseph Meredith; the *Lydia*, commanded by Captain Appleton; the *Lord Chatham*, commanded by Captain John Cheshire; the *Rainbow*, commanded by Captain Martin Ferns; the *Fanny*, commanded by Captain Thomas Alderson; the *Betsey*, commanded by Captain Ishol Tinker; the *General Nash*, commanded by Captain Deshon; the *General Gates*, commanded by Captain Cunningham; the *New Bern*, commanded by Captain Cochran Amit (Amyett?), and the *Eclipse*, commanded by Captain Charles Biddle. These vessels brought a tremendous amount of needed supplies to the State, besides making themselves useful to the American cause by preying on the commerce of the enemy. Occasionally one had the misfortune to be captured or suffer shipwreck. Describing a calamity of the latter nature, in a letter to Governor Caswell, under date of December 10, 1778, Robert Smith, of Edenton, said: "I am sorry to inform you that the brig *General Gates*, Captain Cunningham, in the latitude of Bermuda, had the misfortune to be overset and totally lost. Whether captain and crew were saved or not we know not, but are anxious about their safety, as there were on board six young gentlemen of the first families and best expectations in this part of the country, who went volunteers to try their fortune."

The ships fitted out in North Carolina cruised over a much greater area than might be expected. They were continually going to the West Indies, and sometimes crossed the Atlantic to the neutral countries of Europe. In December, 1778, the North Carolina ship *Caswell* formed part of an American fleet raised for an attack on East Florida.

In July, 1778, a ship called the *Holy Heart of Jesus*, commanded by Captain William Boritz, came from some European country to North Carolina with a cargo of cannon. Twenty-three of these were purchased by North Carolina,

and twenty-two by Virginia. Some of these may still be seen in Edenton. Two were presented by that town to the State, and these interesting relics are now mounted on stone bases on the south side of the Capitol in Raleigh. A touch of Civil War history attaches to them from the fact that the United States forces broke off the trunnions for fear the Confederate troops might make use of them—an operation which would have been about as dangerous to the “man behind the gun” as the ones in front of it.

It is greatly to be regretted that so little record remains of the enterprise and prowess displayed by North Carolina seamen during the course of the war. Their operations were both on the high seas and in home waters. Josiah Martin, who still claimed to be Royal Governor of North Carolina, though he had been driven out of the colony, wrote to the home government, from his place of refuge in New York, that while British warships were watching the approaches to large sea-coast cities in America, “the contemptible port of Ocracoke” had become a great channel of supply to the rebels. This warning did not go unheeded, and the blockade around North Carolina was drawn tighter. The North Carolinians, however—who were familiar with the devious channels of the various sounds, rivers, and inlets of their State—were more than equal to the new difficulties by which they were beset. Sometimes they slipped by the British fleet, under the cover of night; sometimes outran their pursuers in an ocean race; and, when odds against them were not too large, would fight to a finish with the “pirates,” as they called the British sea forces. American victories were by no means uncommon occurrences, and occasioned great rejoicing. The naval forces, too, vied with the landsmen in annually celebrating the birthday of American Independence in a manner by no means “safe and sane.” On the Fourth of July, 1778, John Wright Stanly and Richard Ellis (large ship-owners of New Bern) had cannon placed on their wharves and fired all day, with the usual addition of “liquor given to the populace.” Colonel

Richard Cogdell, in referring to the celebration, wrote: "Stanly and Ellis seemed to vie with each other in a contest as to who should do the most honor to the day, but Mr. Ellis had the most artillery."

Of the individual acts of enterprise and heroism displayed by North Carolina seamen, the records tell but little. One marvelous case of spirit and fortitude, however, has been recorded and is well worthy of mention. John Davis—son of the old public printer, James Davis, of New Bern—was in the naval service of North Carolina and was captured in 1780 by the British, who held him captive on a ship off the coast of South Carolina. The captain attempted to compel the American prisoners to do duty on shipboard, and Davis peremptorily refused to obey his orders. Thereupon he was severely beaten, and then was told that the punishment would be renewed unless he would signify his obedience to the captain's orders by drawing a bucket of water from the ship's side. To this he defiantly replied: "If His Majesty's whole Navy was on fire, and one bucket of water, drawn by me, would extinguish the flames, I would not draw it." This answer so enraged the captain that he directed Davis again to be flogged, and declared that the beating should not cease until the prisoner agreed to obey the orders which had been given him. This command was carried out with such inhuman brutality that the body of Davis was almost torn asunder, but his Spartan fortitude never gave way under the prolonged torture, and he died from its effects in a short while. More than half a century after his death, some of the friends of Davis had a record of the circumstances of his heroic conduct entered on the minutes of Craven County, at New Bern.

Of Joseph Hewes, of North Carolina, member of the Continental Congress at Philadelphia, I have already spoken; and it may not be altogether amiss to add a few more words concerning him. He entered the Continental Congress as early as 1774, and (with one year's exception) served until his death in 1779. As member of the Naval Committee and

Marine Committee in that body, he had more to do with organizing those departments of the new government than any other man. The Philadelphia historian Judson, in his well-known work entitled *Sages and Heroes of the American Revolution*, refers to the Congressional services of Mr. Hewes as follows: "He was upon several of the most important committees. Upon the one for fitting out a naval armament he stood in the front rank. He was virtually the first Secretary of the Navy. With scanty funds he speedily fitted out eight armed vessels. He was very active in raising supplies in his own State to strengthen the sinews of war and oil the wheels of the general government." The severe labors of Mr. Hewes finally undermined his health and ultimately caused his death. When he obtained a temporary leave from the Continental Congress in September, 1776, his colleagues Hooper and Penn wrote of him: "After a long and diligent attendance in Congress and the different committees of which he has been a member, he is now upon his return home. From the large share of naval and mercantile business which has been allotted to his attention by Congress, his health has been much injured." It was Hewes who secured for the great naval hero, John Paul Jones, his first commission as an officer of the American Navy. Among the official letter-books of the Governors of North Carolina, now preserved in Raleigh, is one letter to Governor Samuel Johnston from Congressman Robert Burton, of date January 28, 1789 (during the lifetime of Jones), wherein the writer said: "As those men who have fought and bled for us in the late contest cannot be held in too high esteem, and as the Chevalier John Paul Jones is among the foremost who derived their appointment from this State, * * * I take the liberty of offering to the State as a present, through you, its Chief Magistrate, the bust of that great man." Governor Johnston replied: "I will readily accept it on behalf of the State, and will communicate your letter to the next Assembly." What became of this bust, if Colonel Burton ever carried out his intention of sending it, is

not known. It may have been destroyed when the old Capitol, at Raleigh, was burned in 1831. In the above connection it may be added that several most interesting autograph letters from John Paul Jones to Hewes are now preserved in the files of the North Carolina Historical Commission.

This closes the all too brief record I have been able to make of the hardy seamen whose enterprise, daring, and devotion, contributed so much to the important part North Carolina was able to play in the great War for American Independence. These old rangers of the ocean have long since been called from the labors and hardships of this life—some perishing by sea, amid the raging elements or crash of battle, and some resting in neglected and unmarked graves on the bosom of mother earth. It is true that they had their faults, as sailors are but human; yet, in view of all their patriotic services we, who are still permitted to enjoy the blessings of the liberty they helped to win, should let charitable oblivion cover their shortcomings (whatever they may have been), and wish for each brave voyager a safe and happy haven hereafter:

“At the piping of all hands,
When the judgment-signal’s spread—
When the islands and the lands
And the seas give up their dead.”

Review of *The Prince of Parthia*

By NINA HOLLAND COVINGTON.

The reputation of Dr. Archibald Henderson as one of the most brilliant of our modern literary critics extends into other countries than our own, and North Carolina is very proud of her distinguished son, but the most pleasing part to us about Dr. Henderson's literary work and researches is that he takes the greatest pleasure in writing about people and events of his own native State, and is never so happy as when he has brought out from obscurity and semi-oblivion some North Carolinian who has achieved something worth while.

We confess to a complete ignorance on the subject of *The Prince of Parthia*, and its author Thomas Godfrey, until we picked up that delightfully "gotten-up" edition of the play with its introductory monograph. With painstaking care the history of the life of the young author—Godfrey was only twenty-three when *The Prince of Parthia* was written—has been brought out by Dr. Henderson, and as we read the interesting narrative of this youthful genius we realize, for the first time, that Wilmington and North Carolina deserve prominent place on the literary map of America, for in Wilmington, the first American tragedy was written, and in Wilmington also its author, the young Godfrey, is buried.

Following the monograph—a model of clear style and interesting biography—is the text of the play itself and even a hurried reading of the production will show how important the play is. The work of a boy hardly out of his teens, it shows merit of no mean order, and causes us to regret the death of Godfrey at the age of twenty-six as a distinct loss to American drama, for *The Prince of Parthia*—his first production—would possibly have been followed by other plays, had not death ended the young poet's career.

Aside from the merit of the play and the interest of the narrative of Godfrey's life, the 1917 edition of *The Prince of Parthia* bears clear evidence to the statement made by the publishers in their announcement of the work:

The original and only edition of Godfrey's play ever published, which likewise includes his poems, was brought out by his fellow-poet, the Reverend Nathaniel Evans, in 1765. This edition is excessively rare and virtually unprocurable. The present edition is primarily due to the loving interest and elaborate researches of Dr. Archibald Henderson, one of the most distinguished of living dramatic critics. In an extended introduction, which is itself a monograph, he for the first time narrates the fascinating story of young Godfrey's life, and with deft strokes paints the artistic and literary background of society, in the cultured circles of Philadelphia and Wilmington, against which the figure of the young poet and dramatist stands forth radiant and distinct.

At this time when a concerted effort is being made by the Drama League of America and other forces, to project the American drama into the focus of national consciousness, the publication of the play is an event of importance.

Not only on the map of early American literature does North Carolina deserve place. With an O. Henry, a Dr. Henderson, a Margaret Busbee Shipp to boast of, besides many others whose excellent work in literature, the old North State is taking prominent part in the literary history of the Nation.

Not until recent years did North Carolina realize the richness of her agricultural resources. May the time soon come when she will estimate at full value the importance of literary achievements. The Patterson Cup—given by one of our public spirited women—is a step in the right direction.

It seems to us that there would be no better investment for some of our millionaires than for them to donate a few thousands (if no more) for the substantial aid of young writers struggling to gain foothold on the very treacherous and slippery Hill of Fame.