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THE  
NORTH CAROLINA BOOKLET

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GREAT EVENTS IN  
NORTH CAROLINA HISTORY

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TRIAL OF JAMES GLASGOW,  
AND THE SUPREME COURT  
OF NORTH CAROLINA,

BY  
KEMP P. BATTLE, LL. D.



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# THE NORTH CAROLINA BOOKLET.

GREAT EVENTS IN NORTH CAROLINA HISTORY.

VOL. III.

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THE  
NORTH CAROLINA BOOKLET

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WHILE WE LIVE WE WILL CHERISH, PROTECT AND DEFEND HER."

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## PREFACE.

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The object of the NORTH CAROLINA BOOKLET is to erect a suitable memorial to the patriotic women who composed the "Edenton Tea Party."

These stout-hearted women are every way worthy of admiration. On October 25, 1774, seven months before the defiant farmers of Mecklenburg had been aroused to the point of signing their Declaration of Independence, nearly twenty months before the declaration made by the gentlemen composing the Vestry of St. Paul's Church, Edenton, nearly two years before Jefferson penned the immortal National Declaration, these daring women solemnly subscribed to a document affirming that they would use no article taxed by England. Their example fostered in the whole State a determination to die, or to be free.

In beginning this new series, the Daughters of the Revolution desire to express their most cordial thanks to the former competent and untiringly faithful Editors, and to ask for the new management the hearty support of all who are interested in the brave deeds, high thought, and lofty lives of the North Carolina of the olden days.

MRS. D. H. HILL.



# THE TRIAL OF JAMES GLASGOW, AND THE SUPREME COURT OF NORTH CAROLINA.

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BY KEMP P. BATTLE, LL. D.,

(Professor of History, University of North Carolina).

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The territory, now occupied by the counties of Lenoir and Greene, was cut off from Johnston in 1758 and was called after the royal Governor of that day, Dobbs, whose Christian name was Arthur. He was a Scotch-Irishman of Castle Dobbs in the county of Antrim, a member of the Irish Parliament, High Sheriff of Antrim and Surveyor-General of Ireland. He was an author too, but his books were of ephemeral interest. He was industrious and, I believe, honest, but was so lacking in tact that he had many quarrels with his Assembly. He did not, however, deserve the insult of having his name expunged from our map. As early as 1759 he was enthusiastic in resisting the encroachments of the French and showed his statesmanship by urging on the great English war minister, William Pitt, the importance to the American colonies of expelling them entirely from our continent.

Still in 1791 the name of the good old fussy Governor, possibly because his nephew, Richard Dobbs Speight, then a Federalist, was in bad odor politically, gave place to Lenoir and Glasgow, the former in honor of a King's Mountain hero, then Speaker of the Senate, the latter after the Secretary of State.

This Secretary, James Glasgow, was one of the most trusted men of the Revolution. In conjunction with Alexander Gaston, the father of Judge William Gaston, and Richard Cogdell, grandfather of George E. Badger, he was one of the Committee of Safety of the Newbern District. He was major of the militia regiment of the county of Dobbs. When North Carolina, on the 18th December, 1776, adopted its Constitution and took its place among the free States of the earth, Richard Caswell was its first Governor, Memucan Hunt its first Treasurer and James Glasgow its first Secretary of State. He was one of the venerable men who formed the first lodge of the noble order, hoary with age and crowned with honor, the Free and Accepted Order of Masons. His autograph is side by side with those of William Richardson, Samuel Johnston, Richard Caswell, Richard Dobbs Speight, John Stokes and others like them.

Behold the reward of dishonesty and official corruption!

The name of the great general, who saved our State from subjugation after Gates' tragic defeat at Camden, Nathaniel Greene, has supplanted that of the obliterated Glasgow, the worthy William White took his place in the office of Secretary of State, and on the records of the Masons the dismal lines of disgrace are drawn around the signature of the poor wretch, who was weighed in the balance and found wanting.

The same love of lucre, which often in our day drags to ruin public officers, entered the breast of Glasgow. It was in 1797 discovered with horror that he had been issuing fraudulent grants of lands in Tennessee and mountainous



North Carolina. He had been cheating the State for whose liberties he had suffered. He had been cheating the ignorant, who had relied on his integrity. He had disgraced a high and honorable office. He had many accomplices, men of pluck and daring, who hesitated not to cut through difficulties with the knife of the assassin, or to destroy incriminating evidence by fire or poison or the rifle ball.

Eminent public services, high official position, extensive family connections could not among our ancestors screen criminals from punishment. Glasgow was indicted for misdemeanor in office. It was more convenient to have the trial in Raleigh, where the public records were kept. A special tribunal was constituted by the General Assembly for the trial of the accused. The act was drawn by the eminent Judge John Haywood, a cousin of the popular State Treasurer of the same name. At least two of the Judges were to meet in Raleigh and hold the Court. While so convened they were authorized to hear and determine on appeal causes which had accumulated in the District Courts. They were to meet twice a year, and to sit not exceeding ten days at each term. Both the Attorney-General, Baker, and Solicitor-General, Jones, were ordered to prosecute, and a special agent was authorized to prepare and arrange the evidence and attend the trial. This is the solitary instance in our history of the employment of a public "attorney," charged with the functions of an English attorney, as distinguished from the barrister. The act was to expire in the beginning of 1803.

The accused sought for one of their counsel the man of

greatest reputation as a criminal lawyer in the State, Judge Haywood, who drew the act constituting the Court. They paid him a fee of \$1,000, then considered enormous, to resign and take their case. The people generally much blamed him for what they considered a desertion of his post for a pecuniary consideration. His emigration to Tennessee, where he was elevated to the Supreme bench, is thought to have been caused by the popular disapprobation, which was intensified by his attacking the constitutionality of the act, which he himself had drawn.\*

Glasgow and his accomplices were not content to trust to the eloquence and skill of Haywood. Certain documents in the Comptroller's office were evidence necessary to conviction. It was determined to abstract them and to burn the Capitol, in which they were deposited. The plot was laid in Tennessee in a room in the inn adjoining that in which lodged Judges McNairy and Tatom. They overheard the plans of the conspirators, and, after consulting with the District Attorney, afterwards President Jackson, determined to prevent them.

Samuel Ashe, of an eminent family, ancestor of one of our ablest Supreme Court Judges, Thomas Samuel Ashe, was Governor of the State, after long and able service as Judge. A messenger was despatched in hot haste to warn him of his danger. The task was difficult and perilous. The roads over the mountains were little better than Indian trails.

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\* While non-professional men may have been of opinion that Judge Haywood violated propriety, I think that lawyers do not consider him blameable. K. P. B.

Over precipitous cliffs, in the sharp winds and snows of winter, through swollen torrents, through the dense primeval forests he sped his way. He carried in his bosom the letter which would save our archives and ensure that there should be no miscarriage of justice. If his object had been known his murdered corpse would have fed the hungry wolves of the Alleghanies. Governor Ashe was prudent, and to this day the students of history know not whom to thank for saving our early records. A trusty watch was set, and soon a slave of one of the accused, Phil Terrell by name, was caught in the act of breaking into the Comptroller's office. The prosecutions were successful, the accused were convicted and punished, while the poor negro died a felon's death on the gallows-tree.

#### THE SUPREME COURT.

But what has the crime of Glasgow to do with the creation of the Supreme Court? Our legislative history shows that this great tribunal was indirectly caused by his fall.

By the 1777 Judiciary Act of the State of North Carolina, following that of the Province, in 1767, the State was divided into six Judicial Districts, of from four to eight counties each, the courts being held in the borough towns of Edenton, Newbern, Wilmington, Halifax, Hillsborough and Salisbury. In 1782 the District of Morgan (now called Morganton) was added; in 1787 that of Fayetteville. There were three Judges only. The courts corresponding to our Superior Courts were held in the towns named. Any two of the

Judges could hear appeals. In 1790 the eight districts were divided into the Eastern and Western "Ridings," and a fourth Judge added. Two of them in rotation were required to hold the courts in each Riding. While the new arrangement was more convenient to the Judges, their appellate functions were less satisfactory to litigants than under the old. Harassing delays and diverse decisions of the same questions of law were not only possible but frequent. And the tired Judges, worn out by tedious travel over almost impassable roads, were unable to give to the subjects thorough and satisfactory attention. All lawyers and their clients were keenly desirous of obtaining a more uniform appellate tribunal.

The Glasgow Court was in the right direction. Pressure was brought on the General Assembly to continue longer the parts of the act providing that there should be a meeting of the Judges to hear appeals. That body, economical to stinginess, at a time when land was taxed by the acre and the State revenue was less than \$100,000 a year, doled out another three years' existence, but with the childish provision that no attorney should speak or be admitted as counsel in the Court. In 1804 it was made a Court of Record, and the opinions ordered to be reduced to writing. In the following year the name was changed from the Court of Conference to the Supreme Court, and the limit to its duration removed. In 1806 our present system of having Superior Courts in every county was adopted, and two more Judges added. In 1810 those who held the Supreme Court were required to write

out their opinions at length, for which they were allowed extra \$100 each. They were also required to elect a Chief Justice, the choice falling on John Louis Taylor.

Although the meeting of the Judges at Raleigh to hear appeals was a great improvement on the preceding plan, in 1818 the General Assembly was induced to give us the priceless institution of a Supreme appellate tribunal, composed of learned Judges whose sole business was to decide questions of law on appeal. They were fortunate in securing men of highest character and recognized ability, Chief Justice Taylor and Judges Hall and Henderson. The Court has had a most useful and honorable career, and is firmly fixed in the confidence of the people of our people.

I have shown how a great and valuable institution grew out of a notorious malfeasance in office in the Executive Department of our State, even as Samson's honey flowed out of a lion's carcass, dried by the desert wind. While we should not hesitate to chronicle our short-comings, we should felicitate ourselves on the fact that such acts of misconduct by our public officers have been exceedingly rare, and that those appointed directly by our people, or by their legislative agents in the General Assembly, have as a rule been very fair representatives of the intelligence, the honesty and incorruptibility of the State.

THE LORDS PROPRIETORS OF THE PROVINCE OF CAROLINA, 1663:

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