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

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DAUGHTERS OF THE REVOLUTION

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THE CONVENTION OF 1835.

BY HENRY GROVES CONNOR,
One of the Associate Justices of the Supreme Court of North Carolina.

The Convention which met in Raleigh, June 4, 1835, was one of the "Great Events in the History of North Carolina." It was the result of a long, sectional controversy which had divided the people of the State for more than fifty years, growing out of the Constitution of 1776.

At the Provincial Congress of April, 1776, the question of forming a Constitution was considered and a committee was appointed to draft one, but the delegates could not agree on a plan and the matter was postponed until the next session. The next Congress met, at Halifax, in November, 1776, and the delegates to it were elected with special reference to the adoption of a Constitution. In some of the counties full instructions were drawn up and given by the people to their delegates in respect to those particular points on which they were to insist in the formation of the Constitution. William Hooper, a delegate to the Continental Congress, addressed a letter to the Convention giving his opinion, in regard to the proposed Constitution. Among other things he strongly urged that the Legislature should be composed of two branches, saying: "A single branch of legislation is a many-headed monster which, without any check, must soon defeat the very purpose for which it was created, and its members become a tyranny, dreadful in proportion to the numbers which compose it." At the opening of the Congress, November 12, 1776, a committee, composed of the ablest men in the body, was appointed to report a "Bill of Rights" and "Constitution or

Form of Government." When this report came in it was "debated, amended," passed its several readings and adopted on its third reading.[1] It would be interesting to read the discussions of the delegates, some of whose letters and other writings have been preserved, that we might see what their views were in regard to the making of a written Constitution.[2] The vote by which the report of the committee, with the amendments thereto, was adopted, is not given in the Journal of the Congress, but it is certain that there were wide divergencies of opinion among the delegates upon the most important phases of their work. While in its general provisions the Constitution is a model in style, clearness and adaptability to the conditions existing, like all things human, it was, in some respects, imperfect. It is probable, however, that but few changes would have been made for many years, but for the basis upon which representation in the Legislature was fixed. The Constitution as adopted, allowed each county one senator and two members of the House of Commons. The State at that time was divided into thirty-five counties, twenty-nine of which were east of the present capital. Six borough towns were permitted to send one representative each to the House of Commons, and this privilege was afterwards [1789] extended to Fayetteville. It was based upon the theory that by reason of the trade and commerce in which they were engaged these towns had interests peculiar to themselves which entitled them to representation. The qualifications of a senator differed from those of a member of the House of Commons only in regard to the number of acres of land which he was required to own. Both were to be freeholders. An elector was required to be a freeholder in order to vote for a senator, while to be a freeman, if his taxes were

[1] Colonial Records of North Carolina, X 974.
[2] Much light is thrown on the subject in McRee's "The Life and Correspondence of James Iredell".

paid, entitled him to a vote for a commoner. It was provided that the Legislature should consist of two branches, but there is nothing in the Constitution suggesting that represenation in the Senate was based upon wealth, and in the House of Commons upon population. It is probable that it was deemed wise, in the conditions then existing, to make only such changes as were necessary to organize the State government. While the statesmen of that time were laying the foundations of States, based upon the sovereignty of the people instead of the Crown, they wisely avoided making radical changes in matters of administration. They were State-builders rather than scholastic theorists discussing abstract "rights of man," and were not seeking to cut loose from, but rather to build upon the experience and lessons of the past. They were familiar with the principles of English Constitutional liberty and the rights secured by Magna Carta, and other guarantees of liberty, including the common law. It was because these rights and liberties guaranteed in their charter had been denied to them, that they separated from the Mother Country. The "Bill of Rights" and "Form of Government" were not adopted hastily or without consideration.

So soon as the War for Independence was over and the State began to increase in population, friction arose between the larger counties which were being formed in the central and western parts of the State and the smaller counties in the east. As population moved westward there was a demand for the formation of new counties in the west which was met by a counter demand for a corresponding increase in the east, without, however, there being any such increase in population. The East, upon the basis of county representation, held controlling power in the Legislature and refused to permit any amendment to the Constitution. The question, originally one of political power, soon became, because of increased interest in improved modes of transportation and other internal

improvements, one of industrial and commercial importance. The East, content with its waterways, slave labor, and the produce of its rich soil, cleared into large plantations, opposed State aid to schemes for internal improvements. Judge Murphey originated a movement for improved methods of transportation, "by deepening the inlets from the ocean, opening the rivers for navigation, connecting them by canals, and constructing turnpikes or macadamized roads, so as to concentrate all the trade at two or three points within the limits of the State." The plans of this wise, far-seeing statesman and of those coöperating with him, were changed and given a new impulse by the invention and introduction of the locomotive engine and railroad for transportation and travel. Other States embarked in the construction of canals, and the building of railroads, whereas North Carolina, with no large cities, no canals or other modes of transportation, and no manufactories, made but little progress in industry, wealth or population.

It is not difficult to see that these conditions not only intensified the complaints of the West, regarding the distribution of power, but created a positive antagonism of interest between the two sections. For many years the East successfully resisted every demand for a change in the Constitution, or compliance with the demands of the West for internal improvements, which became more pronounced each year. In 1821 resolutions were introduced in the House of Commons by Charles Fisher, of Salisbury, declaring "that the representation of the people of this State, in both branches of the Legislature, under the Constitution, was greatly unequal, unjust and anti-republican; that the Constitution ought to be so amended that each citizen should have an equal share in the right of representation upon the principle of free white population; that a Convention, therefore, should be called to amend the Constitution." The debate on the resolutions clearly

marked the line of division. It was ably conducted and at times aroused much bitterness of feeling. The western members showed that thirty-three counties, containing one-third of the free white population, sent ninety-nine members, being a majority in each branch of the General Assembly; thus one-third of the white population controlled the law-making department, and, as the Constitution then provided, elected the Governor and other executive and the judicial officers. If the representation had been based upon population Rowan County would have been entitled to send *nine*, and Orange *seven* members, whereas they sent only six, two senators and four representatives. Six eastern counties, with about the same population, sent eighteen members. Twelve eastern counties, with a population of 38,037, sent as many members as the same number of western counties, containing 156,726. The State, at that time, contained sixty-two counties.[3] The resolutions were defeated in the House by a vote of 81 to 47, while in the Senate they were rejected, without discussion, by 36 to 23. Meetings were held by the western people, "addresses" were sent out, and continued agitation kept up for a Convention. At the session of 1831 resolutions were introduced by Mr. Whitaker, of Macon, calling a Convention for the purpose of amending the Constitution, and after a full discussion were defeated by a vote of 69 to 56. It is not difficult to see that, in a government based upon the consent of the people, discord and dissension would continue until some change was made. The State government was developing into an aristocracy based upon county representation without regard to the right of the majority of the people to make the laws under which they lived.

In 1831 the State Capitol was burned. The question of rebuilding was complicated by a movement to make Fayetteville the capital. Of course the old controversy in regard to

[3] Debates of 1821.

amending the Constitution came to the front and entered into the discussion. The people of the State were divided in sentiment, mainly along sectional lines, involving sectional feelings and interests. The divisions, and their combinations are thus set forth in a letter from a member of the General Assembly:

"We are distracted—rent asunder, by factions, and the result of the legislative discussions and dissensions will be (I fear) that we shall separate in anger, after having proved most unprofitable servants. There are five parties here. The largest—but it does not quite constitute a majority—is for rebuilding the capitol and is opposed to a Convention in every form. This may be termed the Eastern party. The next, in point of magnitude, is the Western party—they want a reconstruction of our Constitution with respect to political power and want no more, but will either keep the government at Raleigh or remove it to Fayetteville, as the one or the other will favor their great end. The third, in point of size, is the Fayetteville party; their main object is removal—but they are willing, also, to go for a general Convention. The two others are of about the same magnitude—the Northwestern and Southwestern parties. The former want a modification of the Constitution, but are utterly opposed to a removal, and the latter want a removal, but resist alterations of the Constitution."

The outcome of this somewhat complicated condition was the rebuilding of the capitol at Raleigh, followed at the session of 1834, after an unsuccessful effort to make amendments to the Constitution by submitting them directly to the people, by the passage of an act submitting to the people the question of calling a Convention.

The act provided that, if a majority of the votes cast were for "Convention," elections were to be held in the several counties for the election of delegates, each county sending

two. The act further provided that only such amendments as were named therein should be submitted. The Convention was *directed* to form and submit an amendment providing for the election of not less than thirty-four, nor more than fifty senators, to be elected by districts, which were to be established on the basis of the amount of taxes paid into the public treasury; and not less than ninety nor more than one hundred and twenty members of the House of Commons distributed among the counties on the basis of the "Federal population," *i. e.,* of all free men and three-fifths "of all other persons," excluding Indians, not taxed. Each county, however, was to have at least one member. This basis of representation was adopted by the General Assembly as a compromise. At that time the State contained sixty-five counties and seven borough towns, making the total number of senators and members of the House two hundred and two. The Assembly met annually. Other amendments, in the discretion of the Convention, might be submitted. The most important of these were: whether borough representation should be abolished, or restricted; whether the right of free negroes to vote should be abolished or restricted; whether the Governor should be elected by the people and for what term; whether there should be biennial sessions of the General Assembly; whether the capitation tax on free whites and slaves should be equal throughout the State; whether the salaries of Judges should be decreased during the term for which they had been elected, and whether they should be eligible to any other position while retaining their judicial office, except the Supreme Court Bench; whether, in the election of officers, members of the Legislature should vote *viva voce;* and finally, whether the 32d Article should be amended. Each delegate was required to take an oath, prescribed by the act, to observe these limitations.

The proposition to call a Convention was approved by a

vote of about 27,000 out of 49,224. This, according to Governor David L. Swain, was, with one exception (the election of 1828), the largest vote cast at any election in this State. He also stated that he did not think that the population of the State had increased between 1830 and 1835 so much as three per cent, and was not sure that it had increased at all. As a general rule the counties sent as delegates their ablest and most experienced citizens. Warren sent Nathaniel Macon, who, after a long and distinguished service in both branches of the National Congress, had voluntarily resigned in 1828, and retired to private life. His associate was Weldon N. Edwards. From Buncombe came Governor Swain; from Burke, Burgess S. Gaither and Samuel P. Carson; from Caswell, Calvin Graves; from Cumberland, Judge John D. Toomer; from Granville, R. B. Gilliam and Josiah Crudup; from Guilford, John M. Morehead; from Lincoln, Bartlett Shipp; from Richmond, Alfred Dockery; from Rockingham, E. T. Broadnax; from Rowan, Charles Fisher; from Wake, Judge Henry Seawell; from Wilkes, James Wellborn and Edmund Jones; from Craven, Judge William Gaston and Richard D. Spaight; from Greene, Jesse Speight; from New Hanover, Owen Holmes; from Washington, Josiah Collins; from Sampson, W. B. Meares; from Martin, Asa Biggs; from Edgecombe, Louis D. Wilson; from Halifax, Governor John Branch and Judge Joseph J. Daniel; from Perquimans, Jesse Wilson; from Pasquotank, John L. Bailey; from Chatham, Hugh McQueen; from Chowan, J. B. Skinner; from Bertie, David Outlaw; from Hertford, Kenneth Rayner; from Cartaret, James W. Bryan; from Cabarrus, Daniel M. Barringer; and from Lenoir, Council Wooten.

These citizens had won at that time, or thereafter won distinction in the service of the State and Nation. They and their colleagues constituted a strong, patriotic body of men, who recognized the importance of the work to which they

were appointed, and approached it with a determination to remove from the Constitution the source of discord and dissention. Macon was unanimously elected President; E. B. Freeman, Principal Clerk, and Messrs. Gales and Son, Printers. The question was raised regarding the power of the Legislature to impose limitations upon the delegates representing the people, or to prescribe a form of oath to be taken by them. This objection was disposed of by the pertinent suggestion that the people had, by adopting the act as their own, themselves prescribed the limits within which the delegates were to submit amendments. The Convention decided to discuss proposed amendments in Committee of the Whole before final adoption. It is impracticable, within the limits of this paper, to give more than the outlines of the debates on the most important amendments.

The first question discussed was a proposition to abolish borough representation. The debate took a wide range and gave indications of the views of the delegates upon other questions which were to engage the attention of the Convention. Judge Gaston favored retaining the right of the borough towns to send representatives, and gave an interesting account of the origin of the right, and the reasons upon which it was based. Mr. Smith, of Orange, opposed retaining them, as did Mr. Fisher and several others representing counties which contained borough towns. A number of delegates took part in the debate. Governor Swain, although from the extreme west, from which there were no such representatives, noticed that the votes of the borough members had joined with the West in calling the Convention. He said: "The united vote of the borough members was the *fiat* which called this Convention into existence, and their constituents were the only aggregate portions of eastern communities that sustained the measure. Are they to be immolated upon the Altar of their own patriotism?" In this speech Governor

Swain outlined the policy of the western people. Internal improvements, education, general progress in the development of the resources of the State, and encouragement to immigration were the purposes of this strong, patriotic leader from the mountains. His speech drew fire from Mr. Macon, and the lines were soon drawn. Mr. Macon said that he could go hand in hand with the gentleman from Buncombe as regarded education, but he differed with him in his notions about internal improvements. He doubted the capacity of North Carolina to become a great commercial State, but they could diffuse the blessings of education and become a virtuous if not a great people. The opponents of borough representation were in the majority, and passed the amendment abolishing it. As the principle of representation based upon population was to be engrafted into our Constitution, the action of the Convention was logical and doubtless wise. To have retained it would have been a source of dissension outweighing its advantages.[4]

The Convention next discussed the proposition to deprive "free persons of color" of the privilege of voting. Judge Daniel favored giving to each of them the right to vote for members of the House of Commons provided he owned a freehold estate of $250. In an interesting speech he traced the origin of the privilege which they had enjoyed, which he thought was useful to them as a means of protection and a stimulant to good behaviour, because it gave them a status which appealed to their pride and manhood. He did not think that the right to vote was secured in the Bill of Rights. That embraced only free white men. He had observed that they uniformly voted for men to represent them of the best character and talents. Mr. Macon was utterly opposed to any free person of color having the right to vote. He did not

[4] Nash: "The Borough Towns of North Carolina," in THE NORTH CAROLINA BOOKLET. Vol. VI. No. 2.

think they ever had such right under the Constitution of 1776. Mr. Crudup, a man of great wisdom and large views, wished to see these people raised from their present degradation, but did not think giving them the right of suffrage would do so. His remarks upon this, and other subjects before the Convention, were conservative and well considered. Mr. Gaston did not think it wise to make any change in the Constitution in respect to these "unfortunate people." If they had not enjoyed this privilege they would not at that time aspire to it. "The hardship," he said, "lay in depriving them of what they had been in the enjoyment of. * * * Let them know that they are a part of the body politic, and they will feel an attachment to the form of government and have a fixed interest in the prosperity of the community, and will exert an important influence over the slaves." Mr. Wilson, of Perquimans, did not believe "free blacks qualified to vote." He gave expression to the opinion then held by many Southern men. He said that he had heard almost everybody saying that slavery was a great evil. He believed it was no such thing, but thought it a great blessing to the South. Our system of agriculture could not be carried on in the Southern States without it. The Southern people might as well attempt to build a railroad to the moon as to cultivate their swamp lands without slaves. It is interesting to note that Mr. Wilson thought there were, at that time, about five hundred and seventy-five "free persons of color" voting in Halifax and several neighboring counties. He feared that "if we foster and raise them up they will soon become a majority and we shall have negro justices, negro sheriffs," and other negro officials. The western men took no part in the discussion, leaving the question to be settled by the eastern delegates, and the amendment depriving negroes of the privilege of voting was adopted. Branch, Daniel, Gaston, Rayner, Toomer, Holmes, Seawell from the East, and Swain, Carson,

Morehead with others from the West, voted in the negative. How little the wisest know of the operations of the industrial, political and social forces, and what disturbances they work in the "nice adjustments" of human governments.

Having disposed of these "side issues," the Convention grappled with the paramount issue, the question which had disturbed the peace and retarded the growth of the State for more than a generation. The proposition submitted to the Convention was that the Senate be composed of fifty members. This was easily decided in the affirmative with but little debate.

The next proposition, that the House of Commons be composed of one hundred and twenty members, met with opposition from Mr. Speight, of Greene, who saw in this number a majority from the West with internal improvements, railroads, and all manner of evils for the East. He was of the opinion that to make a railroad from Beaufort to the mountains would be incurring an expense which could never be repaid by the intercourse between these distant portions of the country.

Mr. Wilson, of Perquimans, also opposed any change in the Constitution which would give power to the West to impose upon the East taxes for internal improvements, saying: "But what benefit would accrue to the West? Very little; for nine-tenths of their lands are exhausted, and not worth cultivating, contrasted with hundreds and thousands of acres annually brought into market in the Southwestern States. None complain so much of the want of a market as those who have little or nothing to carry to it."

Mr. Macon was opposed to any plan of internal improvements in which the government was to take any part. All improvements of this kind, he said, ought to be the work of individuals as they could always have it done at cheaper rates than the government.

In response to the arguments of Governor Swain, Messrs. Fisher, Wellborn, Morehead, Carson and others, Mr. Speight said that he need not assure the committee that he was the friend of internal improvements, such as would afford a facility to the farmers of our country in getting to market; but he equally deprecated those wild and visionary schemes on which the demagogue always mounts to power. "The gentlemen talk about a railroad from the seaboard to the mountains. Why, sir, such a scheme is not only idle and visionary, but perfectly impossible." To convince the Convention that he favored internal improvements, Mr. Speight assured the delegates that, if he ever had the honor to be again a member of the Legislature he would "bring forward a plan, and the only one which can improve our condition, viz: a railroad from Beaufort to New Bern, and one from Fayetteville to some central point in the West."

Judge Gaston discussed the question in all its aspects, in a spirit of moderation, with thoroughness and convincing argument. He favored the number of senators and members agreed upon by the report of the committees. Among other things he said, "It should be borne in mind that governments are formed for practical purposes, and not to present themes for the exercise of schoolmen and declaimers." Conceding that the West had cause for complaint, and combatting the conservatism of the extreme eastern men, he said: "The principle which the gentleman from Greene professes, that of equal representation by counties, is supported by no reason whatever—is upheld by nothing but existing usage—stands condemned by the people and has had its day." He showed by calculations made by himself, the original of which are before the writer, that by adopting fifty as the number of senators, distributed upon the basis of taxable property, and one hundred and twenty as the number of the House of Commons, distributed upon the basis of Federal population, the

East would have a small majority in the Senate, and the West in the House. He insisted that while by this plan the result was satisfactory, at the time, it was also based upon a correct principle. Said he: "Make it right, so that it may last. Make it right, for the effect of it will be to obliterate those very sectional divisions which have heretofore prevailed." In conclusion, deprecating the dissensions which had divided the people and retarded progress, he said: Who but must wish that the disconnected fragments of the State may be brought together by those facilities of communication which will make her people and act as one people in interest and affection. Much, very much, may be done for the improvement of the State's physical condition. But there was another point of view in which he most earnestly desired the improvement of the State. If the only secure foundation of rational liberty be the virtue of the people, the best safeguard of that liberty is to be found in their intelligence. This alone could secure them against the wicked acts of oligarchs and demagogues. Not a little had lately been done in the cause of education; and he hailed with delight the institutions which were springing up in various parts of the country for the instruction of youth. But no efficient plans had yet been adopted for diffusing information throughout the land, and bringing it home to the poor and humble. If righteousness exalteth a nation, moral and religious culture should sustain and cherish it. It was in vain to hope that what ought to be done for the physical or intellectual and moral advancement of the State, could ever be accomplished, without the united efforts of the good and the wise, without liberal councils, and systematic coöperation. Many an anxious, many a painful hour, had he spent in reflecting on the divided and distracted state of his country. Earnestly had he wished that he might live to see the day when, instead of wasting their energies in sectional broils—instead of waging against each other a foolish and

wicked contest, in which victory was without glory, and defeat without consolation, they could, like a band of brothers, devote all their aspirations and all their efforts to their country's cause. He would not—he could not abandon the hope, that harmony and good will were about to be restored. He did hope that under this new order of things—under these favorable auspices, his beloved State was about to become all that her sons could wish her to be—that retaining the excellencies she now possessed—her love of liberty and order—her steady, kind, republican and industrious population—her simple and unobtrusive virtues, there might be added to her whatever was fitted to raise, and decorate, and ennoble her character.

Mr. McQueen, of Chatham, followed in a very able and patriotic speech, advocating the same views. After an enthusiastic discussion he concluded: "I am impressed with the belief that the meeting of this convention holds out a more sublime and beautiful spectacle than ever has been before presented to the moral or intellectual vision in North Carolina. And as I firmly believe that it will reveal brighter and more animating prospects than ever flushed Carolinians' hearts with joy, my heart now swells with rapture at the imperfect glimpse which I have caught of the bright beams that have occasionally darted upon the consultations we have held for the benefit of our country. I think that when this convention surrenders its powers at the feet of those who gave it, we will perceive the morning sun of a brighter day beaming in the firmament of our prosperity."

The motion to strike out 120 members was defeated by a vote of 76 to 52. The affirmative vote came entirely from the eastern counties. Among the eastern delegates voting in the negative were Bonner and Tayloe, of Beaufort, Arrington of Nash, Faison and Meares of Sampson, Macon and Ed-

wards of Warren, Gaston and Spaight of Craven, Holmes and Marsteller of New Hanover, Ruffin and Williams of Franklin, Toomer and McDiarmid of Cumberland, Williams and Joyner of Pitt. The number of representatives fixed upon at that time has never been changed. The center of population has moved far westward, and the present indications are that it will continue to do so, but happily the conflict between the sections is now confined to friendly contests for office.

It is an interesting problem for the student of North Carolina to forecast the basis of political power in 1935. With the negro eliminated, as a political factor, and the industrial growth of the Piedmont and West, it may safely be assumed that a convention in 1935 would present a very different line of division from that of 1835. The number of senators and representatives will hardly be interfered with unless, as is not probable, the present number of counties is increased to more than one hundred and twenty.

The proposed amendments providing for biennial sessions of the General Assembly, and the election of the Governor biennially by the people alarmed Mr. Macon, and he strongly opposed them. He said, "Democracy is dead in North Carolina"; predicted all manner of tyranny, and the destruction of popular rights. He quoted Mr. Jefferson as saying, "Where annual elections end, tyranny begins." He offered as a safe analogy the custom of a good farmer who, he said, always hired his overseer for one year. Judge Daniel quietly observed that he had lately seen a gentleman from Tennessee, where they elected the governor by the people, who told him that "candidates were traveling through the State on an electioneering campaign at expense and trouble to themselves and great annoyance to the people." Mr. Macon expressed the opinion that "this was a talking government," and he apprehended that the proposed change would destroy this safeguard of liberty.

The convention did not share the fears of their venerable president, and adopted both amendments. Time has justified their wisdom. Certainly our liberties are in no danger from the change.

The convention next entered upon a long and in many respects an able and interesting discussion on the proposition to amend the 32d Article of the Constitution. This Article provided: "That no person who shall deny the being of God, or the truth of the Protestant religion, or the Divine authority either of the Old or New Testament * * * shall be capable of holding any office of trust or profit in the civil department of the State." The only proposition seriously discussed, although several others were considered and voted upon, was whether the word "Protestant" should be stricken out and the word "Christian" inserted; and it is difficult at this day to understand how so able a body of men could have spent so much time and taken so wide a range of debate on such a simple proposition. For many years different opinions had been held in the State whether the Article, as it stood, excluded Roman Catholics from holding office, but the question had never been brought to a practical test. Judge Gaston had been elected to the Legislature a number of times, and two years prior to the meeting of the convention had been elected by a practically unanimous vote of the General Assembly a justice of the Supreme Court, and commissioned by Governor Swain, without any question other than the expression of private opinions. He was on the bench at the time of the convention.

The debate indicated a wide range of opinion in regard to whether any, and if any, what religious test should be applied. The objections to any change were based upon a number of reasons. Some thought that to admit Roman Catholics would meet with much opposition from the people. Mr. Smith of Orange thought that in some indefinite way he was

instructed "by his constituents not to remove the test." It is quite interesting to note how, by unanswerable facts and arguments his difficulty was removed, but his mind and conscience not satisfied.

Mr. Macon said that so far as he was individually concerned it mattered not what provisions were incorporated in the Constitution. His time had nearly come. But this article was the only feature in the old Constitution which he had ever heard objected to outside of the State; and the objection was always coupled with an expression of surprise that it could have got a foothold in a State where the principles of liberty were so well understood. There were times when a man must stake himself for the good of his country. The present was a crisis of this kind. To him it appeared too plain a question to argue that every man may worship God according to the dictates of his own conscience. But it is a practical denial of its truth to debar a man from office be cause he may entertain certain religious opinions. You might as well attempt to bind the air we breathe, as a man's conscience—it is free—liberty of thought is his inalienable birthright. Referring to Judge Gaston, Mr. Macon said: "There was one member of this Convention whose father had been inhumanly murdered by the Tories in our Revolutionary struggle—he begged pardon for the allusion, but it was history—and shall it be said that his son, baptized, as it were, in the blood of his father, is unworthy a seat in the Legislature of our country?"

As one of the many instances in which men have used language, in making constitutions and laws, capable of many different constructions, numerous and widely divergent views were expressed in respect to the purpose and meaning of the Constitution. Some thought that it was intended to exclude Roman Catholics—some that it had no reference to persons of that faith and was not intended to exclude them, while

others insisted that by reason of the uncertainty of its meaning it was incapable of enforcement.

Judge Gaston, the only member of the Convention to whom it could be supposed the article had any personal application, discussed the subject in all of its aspects in the last, and probably the greatest speech made by him in any deliberative body. While expressing his views strongly, and explaining the circumstances upon which he went upon the bench, he said: "But as an individual I beg it to be understood, that I am utterly indifferent as to the determination of the Convention and of the people, except a desire that the consitutional provision be made explicit. If it be thought essential to the State that a monopoly of offices be secured to certain favored religious sects, let it be so disclosed. He who now addresses you will not feel a moment's pain, should such a decision render it his duty to return to private life. Office sought him—he sought not office. An experience of its cares, its labors and its responsibilities has not tended to increase his attachment to it."

Mr. Smith said that he wished this section to be laid aside as sleeping thunder, to be called up only when necessary to defeat some deep-laid scheme of ambition.

Mr. Swain disliked to keep the "sleeping thunder" of this section, as the gentleman from Orange termed it, to be used in some emergency hereafter. He did not like to leave it in the hands of men in power, who might hereafter abuse it by

> "Dealing damnation round the land,
> On all they deemed their foe."

After rejecting a number of proposed amendments, the Convention, by a vote of 74 to 52, struck out the word "Protestant" and inserted the word "Christian." The negative vote included a number of delegates who were opposed to retaining any religious test. Upon the final test the Convention by a vote of 76 to 32 refused to strike out the word "Christian," Gaston voting with the majority.

Upon the question of submitting the amendments to the people, Mr. Macon said that he could not give them his approval as he had two decided objections to them—the one was the doing away with annual elections, which he considered a fundamental principle of Republican liberty; the other was the change made in the election of Governor. He was sorry that he could not concur in approving the work of a body of men from whom he had received uniform kindness and attention.

The vote on this question stood 81 to 20, the latter being generally from the East.

The closing scenes of the Convention were peculiarly interesting. Judge Gaston, Governor Swain being in the chair, offered a resolution "respectfully tendering thanks to the Honorable Nathaniel Macon, their venerable President, for the distinguished ability, dignity and impartiality with which he has discharged the duties of his station." Mr. Macon, after returning his thanks for "all your kindness," said: "This I expect will be the last scene of my public life. We are about to separate; and it is my fervent prayer that you may, each of you, reach home in safety, and have a happy meeting with your family and friends, and that your days may be long, honorable and happy. While my life is spared, if any of you should pass through the county in which I live, I shall be glad to see you.[5]

"On the President's resuming his seat and the applauses of the Convention having ceased," according to the Journal, "Mr. Carson, of Burke, arose and said that he was about to leave old North Carolina to reside in the far West, where he should be happy at all times to see any friend from the old State—to be a North Carolinian, would be sufficient recom-

[5] Mr. Macon's prophecy was not fulfilled. He was an Elector on the Van Buren ticket of 1836, and presided over the Electoral College. He died, June 29, 1837.

mendation—his house and corn crib should be at the service of his friends."

Judge Gaston, from the Committee on Enrollment, reported that the Amendments to the Constitution correctly enrolled on parchment had received the signature of the President and Secretary. After Reverend Dr. McPheeters had offered prayer, the President announced that the business was finished, and on motion of Judge Gaston the Convention stood adjourned.

The amendments were ratified by a vote of 26,771 for, and 21,606 against, the majority being 5,165.

The votes in the following counties are of interest:

Burke, for the amendments,		1,359;	against,	1
Buncombe,	"	1,322	"	22
Iredell,	"	1,184	"	18
Lincoln,	"	1,887	"	42
Rutherfordton,	"	1,557	"	8
Rowan,	"	1,570	"	18
Wilkes,	"	1,757	"	8
Edgecombe,	"	29	"	1,334
Brunswick,	"	0	"	466
Tyrrell,	"	1	"	459
Washington,	"	14	"	409
Martin,	"	14	"	795
Hyde,	"	2	"	431
Warren,	"	46	"	580
Craven,	"	131	"	270
Wake,	"	243	"	1,124

This is a fair average of the vote of the eastern and western counties. They are interesting figures, and shed much light on the history of North Carolina. They also show that the Convention was called none too soon. The question which called the Convention into existence was that upon which the

line of division in the vote upon the amendments was formed, representation in the House of Commons based upon population. The other questions were of but little importance in the opinion of the people. Notwithstanding the apprehension of Mr. Smith in regard to the "instruction" given him, the county of Orange ratified all of the amendments by a vote of 1,131 to 246.

The limitations necessarily imposed upon the length of this paper render it impossible to refer to many interesting discussions in the Convention which exhibit a very high order of learning, eloquence and patriotism on the part of the delegates. They are worthy of and will repay study by any person interested in our history.

THE LIFE AND SERVICES OF BRIGADIER GENERAL JETHRO SUMNER.

BY KEMP P. BATTLE, LL.D.

[Abridged from his Guilford Battle Ground address, by the author.]

The President of the Guilford Battle-Ground Company, the eminent Judge Schenck, who, with wonderful energy and success, made green the memories of the warriors, who. on the 15th of March, 1781, 127 years ago, inflicted on the disciplined army of Cornwallis the blow which saved the Carolinas from slavery, caused to be transported the remains of General Jethro Sumner from the wilds of Warren County to the battle-field. The heavy stones, which by the care of his daughter, were over his dust, were reverently taken down and as reverently reerected here.

The task of writing his history has not been an easy one. The facts of his career were only obtainable by diligent research through many manuscripts of a public nature and through numerous volumes relating to the history of Virginia and the Carolinas and the United States. We know nothing of General Jethro Sumner's family in England, whence it came. It must have been one of respectability and substance, for we find his grandfather, William Sumner, becoming a freeholder of Virginia soon after William and Mary ousted from the English throne Mary's tyrranical father, James II. He came about the time of the removal by the choleric Governor Nicholson of the capitol from Jamestown to Williamsburg and of the founding of the second college in America, the noble old William and Mary, named in honor of the new sovereigns, (1691). On his plantation, called Manor, (for English ways and English names were then much liked) one mile from the town of Suffolk, he

raised his tobacco and his corn and wheat, and after the fashion of the day, his blooded horses and fat cattle, while a family of five boys and one daughter grew up around him.

The name of the daughter has not come down to us. The names of the five boys were, Jethro, John, James, William and Dempsey. It is altogether probable that Jethro was the oldest. The right of primogeniture then existed and was dear to the landholders, who had not lost their English love of aggrandizing the family name by entailing the principal homestead on the oldest son. I find that Jethro Sumner was in 1743 one of the first vestrymen of the Episcopal church at Suffolk, and his oldest son, Thomas, was in his stead four years afterwards. General Sumner in his will refers to the "Manor plantation" of his brother in Virginia. These facts seem to show that Jethro, the elder, inherited the paternal land.

Jethro Sumner, the elder, died early, leaving three children, Thomas, already named, Jethro and Sarah. Thomas lived many years and died a bachelor, though not childless. General Sumner's will shows that he did not devise his "Manor plantation" to him, but bequeathed him only a legacy in money.

Sarah married a man with the singular name of Rushworm, whose family seems to have become extinct.

Jethro Sumner, the younger, was born in 1733 and was probably about twelve years of age at the death of his father. How long he had been deprived of a mother's care we do not know. There is a tradition that he was well cared for by his mother's mother.

The East Virginia planters of Colonial days were a race of striking virtues, but with many defects both as to character and conduct. They were high spirited, brave and truthful. They were loyal to the English Crown, but they understood their rights and were always ready to defend them. They

were devoted to horses, and boasted justly that they owned scions of the best racers of England. They had frequent races and both sexes thought it no harm to bet on them, the men heavily, often to the impairment of their fortunes, the ladies seldom venturing beyond a pair of gloves.

The young men learned the art of horsemanship not only in fox-chases, but by constant habit of visiting and traveling on horseback. So deep-rooted was this fashion, that a traveler of that day avers that he has often seen men walk five miles to catch a horse in order to ride one.

The use of firearms was learned by practice in hunting deer, wild turkeys and squirrels, and other game so numerous as to seriously threaten the existence of food crops. Shooting matches, too, were common, the victor not only winning the stake, but receiving the plaudits of admiring neighborhoods.

There was little of what we call education. A few boys received college training at William and Mary. Still fewer were sent to the great schools or universities of England, but the greater part were content with reading and writing and a little arithmetic. The writing was invariably legible, but much liberty in spelling was allowable. In General Sumner's will the county of "Isle of Wight" is spelled "Ilewhite." The gallant Murfree writes of "legenary coors" (legionary corps). Uniform spelling came in with Webster's blue-back spelling-book. The colonial gentleman was likewise too proud to be willing to submit himself to the strict grammatical rules of the solemn pedant who posed as the predecessor of Lindley Murray.

But while there was little education from books, there was a most valuable training from the exigencies of life in a country full of natural resources, but requiring for their development incessant watchfulness and incessant toil. The

carrying the chain and the compass through thickets almost impenetrable and swamps almost impassable, the felling of forests, the defense from floods, the war of extermination against wild animals, the occasional march to help the settlers of the mountain lands to repel the hostile, or to barter for furs with the friendly Indians, the rough sports on horse or on foot—all these, joined with watchful criticism and a discussion of their rights by charter and by inheritance, made a hardy, self-reliant, independent, proud and daring people. They were, as a rule, respectful to those in authority, friendly and courteous to their equals, kind and considerate to their inferiors, but equally ready when angered by encroachment upon their rights to resist fiercely, to avenge insults, to crush insubordination even with cruelty.

In depicting the habits and the character of the people among whom young Jethro Sumner was trained up to manhood, I have pictured him. His removal to North Carolina did not change him for the better or for the worse.

Hardly had Jethro Sumner reached maturity before a contest broke out, of far-reaching influence on the destinies of this country. This was the struggle between the French and the English for the ownership of the magnificent territory, drained by the Mississippi and the Great Lakes and their tributaries. The French sought by connecting Quebec and New Orleans with chains of forts, and by gaining the alliances of powerful Indian tribes to confine the English between the ocean and the Alleghanies.

In the early stages the plans of the French were crowned with success. Our colonies had been designedly kept in a state of pupilage to the mother country. While there was great individual capacity, they had not been taught to organize into armies. Looking each to England for their commerce, and most of them for their chief executive and judicial officers and their clergy, they knew little of one another.

Their laws were subject to the royal veto. They had not learned the immense value of union among themselves. Their levies of soldiers were badly supported and badly armed. At first too, the English government supported them in a manner feeble and actually tending to cripple their efforts. The officers sent were stupid and arrogant, as full of conceit of their own importance as contempt for the colonists. There was disaster almost everywhere, while ruthless savages were laying waste the entire Northwest frontier of the British colonies.

In 1757 the genius of Pitt changed disaster into victory. He gained the confidence of the colonies by consulting their legislatures about the conduct of the war. He promised arms and ammunition, tents and provisions, the colonies to raise, clothe and pay the twenty thousand troops called into service with promise of reimbursement by parliament. Incompetent officers were replaced by competent officers. Amherst captured Louisburg and superceded Abercrombie, who had lost two thousand troops in a rash assault on Ticonderoga. Bradstreet captured Oswego. Forbes, aided by Washington, seized Fort Du Quesne, and on the 13th of September the great contest was virtually won by Wolfe's heroic capture of Quebec. The French power was broken and in the following year (1760), which witnessed the death of old King George II and the succession of his grandson George III, also witnessed the final conquest of Canada and the end of a glorious dream of a dominating New France in the New World. Three years later the English flag waved over all the land from the ocean to the Mississippi.

Jethro Sumner was an actor in this great struggle. Bearing a letter of commendation from Governor Dinwiddie to Colonel Washington, he was in 1758 appointed a lieutenant in a Virginia regiment of which William Byrd was Colonel, General Joseph Forbes being Commander-in-Chief. Wash-

ington had been endeavoring with insufficient means, to defend the long frontier from the terrible savages, whose destruction of property and slaughter and torture of the settlers, old and young, male and female, had been inconceivably horrible. The winter was coming on. The fierce winds began to blow; the snow began to whiten the hills. The General and his council of war talked of delaying the march till spring. Washington begged to be allowed to lead the van with his provincials, who were clamoring for an onward move. Through all difficulties, watching against ambuscades, infusing his indomitable spirit into his men, he pressed on. The French officer saw that he had an officer of brains and daring in his front, and, setting fire to the woodwork of the fort, he fled with his troops down the Ohio. On the 25th of November, 1758, Washington and his brave troops marched into the ruined fortress. Jethro Sumner was one of those daring men, who gained for the Anglo-Saxon race the control of the Ohio, and started their onward march, which from that day has had no backward move, and ninety years later climbed the lofty Rockies and planted the starry flag on the shores of the Pacific.

His were likewise among the kindly hands which, after the victory was gained, reverently and tenderly gathered the bones of Braddock's men, whitened by the sun, and amidst the solemn silence of the interminable forest, gave them Christian burial. A great city, whose smoke from a thousand factories overshadows the scenes of those old fightings, commemorates by its name of Pittsburg the sagacious and daring war minister who prepared the victory.

Sumner remained in service until his regiment was disbanded in 1761. He was evidently an officer of merit. An order published in the Colonial Records of our State, dated November 26, 1760, from Colonel Bouquet, his superior, shows that he was entrusted with separate command at Fort

Bedford. His regiment marched twice into the Cherokee country as far as Holston River, while Colonel Grant with an army of twenty-six hundred men terribly avenged the massacre of the garrison of Fort Loudon. For their services grants of land were authorized to be given to the discharged officers. Sumner having reached the grade of captain, received three thousand acres.

This war prepared the way for American Independence. It taught the colonies their own strength. It taught them how to fight, and what is of still more importance, that they could fight. They learned the value of union. They learned the value of organization and discipline. The war was a training school for their officers—for Washington and Mercer, Sumner and Montgomery, Putnam and Morgan and many others.

After his return to Nansemond the young officer determined to change his home. Probably his long service among the hills and mountains had given him a distaste to the dreary flatness of the lands which adjoin the great Dismal Swamp. Only an imaginary line separates our State from Virginia. There has been for two centuries a steady movement of population from the dearer lands of the valley of the James to the cheaper lands drained by the streams which flow into the Albemarle and the upper waters of the Tar. The Sumners, the Eatons, the Mannings, the Smiths of Scotland Neck, the Ransoms, the Armisteads, the Riddicks, the Norfleets, the Saunderses, the Lewises, the Ruffins, the Camerons, the Battles, the Plummers, the Bakers, the Pughs, the Winstons, the Winbornes, the Hunters, the Bridgerses, the Thomases, the Taylors, and hundreds, perhaps thousands of others, were all old Virginia families. Some changed their homes because, being younger sons, they had no share in the paternal lands; others, because high living or losses by gaming had worsted their estates; others to exchange few acres for larger

plantations equally fertile, or old fields for virgin forests; others to escape by settlement among the rolling hills of Bute and the country westward, the miasmatic diseases of the low country. But for whatever causes they migrated they changed neither their opinions nor their practices, nor their business habits. They still sent their produce to Virginia markets—Richmond, Petersburg, or Norfolk. Returning wagons brought back the tea and coffee and sugar and ladies' finery. They kept their accounts in both Virginia and North Carolina currency. Visits to these cities for shopping or pleasure were the *summun bonum* of the aspirations of young men and maidens.

Most of these emigrants from Virginia became true North Carolinians. Occasionally would be heard arrogant boasting of Virginia superiority, as from the old man, mentioned to me by my mother, who answered all who disputed with him, "Weren't I born in Jeems (James) River, and ough'nt I to know?" But most of them, as Jethro Sumner did, devoted their affections and their energies to their adopted State.

Captain Sumner settled at the court-house of the new county of Bute (pronounced Boot), named in honor of the first instructor and minister of George III, who became so odious that a favorite amusement among the populace was with groans of derision to throw an old jack-boot, often accompanied by an old petticoat, to illustrate, falsely, I think, his suspected intimacy with George's mother, into a bonfire and dance around the crackling effigy. An early General Assembly of free North Carolina expunged the name of the odious Marquis from the map and substituted Warren and Franklin as names of the new counties carved from the old. The court-house of Bute was a few miles to the south of the present county seat of Warren. Here Jethro Sumner set up his household gods. We do not know the exact date of Sumner's settlement in Bute. It was certainly prior to 1769.

Mr. William J. Norwood has donated to the Battle-Ground Company an account book kept with all the neatness of penmanship and durability of black ink so remarkable among our ancestors. It contains the dealings of the neighbors with the keeper of the tavern at Bute Court-house. It shows among many others the account of General Sumner from November, 1769, to November, 1774. It effectually contradicts the statement of Captain Smyth, author of Smyth's tour, as to his occupation. He says that Sumner pursued the business of tavern-keeper, and that more than one-third of the officers of the American army had the same occupation, and were chiefly indebted to that circumstance for their rank. He gives as a reason that by this public calling their principles became known, and their ambitious views were excited by the variety of the company they entertained. Smyth's book shows violent false prejudices throughout. In his opinion Washington was a very poor general, but a most cunning demagogue, his moderation and disclaimer of desire for office being only for electioneering purposes. The book is valuable in many respects, but utterly unreliable in its statements about the officers of our army. It would have been no discredit to Sumner if he had been the keeper of the only inn at the court-house, but this account book shows that he was the owner of it and rented it to one Elliott for thirty-six pounds per annum. Smyth states, as we learn from other sources, that he had married "a young woman of good family, who brought him a handsome fortune."

Captain Sumner was appointed sheriff in 1772. The office was a very dignified and responsible one. The appointment was by the Governor of one out of three nominated by the justices of the county. I have a copy of his commission, signed by Governor Jo. Martin at Hillsborough at August Term, 1772. It is a proof of the high character and business habits of Sumner, that while there had been great uprisings of

angry people in some of the counties almost adjoining Bute, and loud complaints of extortion and embezzlement in those and many others, there were no charges of such criminal conduct in Bute. There were no Bute militia, however, in Tryon's Army which marched against the Regulators in 1771.

The account book of Bute court-house tavern confirms my statement that Sumner and his neighbors retained the habits and feelings of Eastern Virginia. The New Light and Great Revival, if they made any impression on them, it was only transitory. We see glimpses of the same high living and love of fun. We see notices of a court-house ball, of a "bull-dance," the progenitor probably of the modern "stag," of a game of pitch, (quoits, probably, of which Chief Justice Marshall was especially fond); of games at cards, at which one of the players "got broke" and borrowed money of the landlord, of ten pounds paid by Sumner for the erection of a battery, which was a wooden wall for playing the good old game of "fives"; of a barbecue costing six pounds, seven shillings, and three pence, given by William Park; and of fox-hunts of course. All these were accompanied by drinking of liquor in some shape. Sometimes it was rum pure and simple, or as we say "straight"; more seldom it was brandy, never whiskey, but usually it was some mixture. The most common is bumbo, composed of rum, water, sugar, and nutmeg; but we have also juleps (spelt julips) and frog and flip; sometimes we see wine and sangaree and cider too (spelt cyder). There is an entry which the rising generation hardly understands. After a "rousing frolic" there is a charge for "broke glasses." This suggests the foolish custom of winding up the feast with some jolly toast and, after drinking it, smashing the tumblers against the ceiling, typifying that having conferred a pleasure so divine, they should never henceforth be debased to any ignoble use.

And in this account book we detect William Person (called

Billy Parsons) and Green Hill, members of the General Assembly, engaged in what we consider a crime, but was then expected of all candidates—that is, treating at elections. They are charged with their proportions of "liquors expended in the court-house while voting, ten shillings"; also toddy one shilling and three pence. Rum one shilling and six pence.

There was a strange hallucination in regard to spirituous liquors in the "good old days." The men of that generation thought that they were drinking health and joy and long life. In truth they were drinking down gout and dropsy, and liver disease, and kidney troubles and short life. There were few old men of that generation.

General Sumner was like the rest—he kept the prevailing fashion. Smyth says that he was a "facetious" man. Doubtless he told good stories about his experiences in the army, and the peculiarities of the unlettered backwoodsmen with whom as sheriff he had dealings. He was "of person lusty and rather handsome", says Smyth, that is he had a strong body and vigorous health, and a fine, manly bearing. The cynical Englishman of a nation of grumblers, chronicles that his dinner was excellent. We can easily call to our mind the Jethro Sumner of that day, at the age of forty-two, his long hair combed back so as to fully expose his rubicund face, tied in a cue behind him, his countenance frank and open, looking one straight in the face with a clear, bright eye, his body inclining to portliness, as became the devourer of good cheer; vigorous from out-door exercise, on foot or on horse, in sport and on business, having the air of authority as became the executive officer of a county in those monarchical days when official station inspired far more awe than at present; as became too a man who had learned the art of command in actual service in an army where officers and men were widely separated by social as well as by army rank, as became, too, the owner of a great estate and many laborers.

At the dinner-table in the familiarity of social intercourse with a young military officer of wealth and good blood, he showed appreciation of a good joke, a quality which has not yet died out in North Carolina. I think better of him for that. Capt. William Biggs, an admirer of Chief Justice Merrimon, and Col. Henry A. Dowd, an admirer of Senator Vance, were once rather heatedly discussing the relative excellencies of their favorites; "I admit," said Biggs, "that Vance can tell a joke better than Merrimon"—"Stop right there", shouted Dowd, "I tell you no man but a smart man can tell a good joke." It is a pleasant picture—these two—the Bute County sheriff and the English officer, exchanging their army anecdotes over their nuts and wine, or rather, I should say, over their hickory nuts and bumbo, in the beautiful month of November, 1774, both too polite to discuss the angry questions which will in three years array them in opposite armies at Germantown, thirsting for each other's blood, the host an American colonel, the guest a British captain. Notwithstanding Sumner's desire to be agreeable to his guest, Smyth notices that he was a man "of violent principles" in regard to the pending quarrel between the mother country and the colonies.

No part of the State was more unanimous in resistance to English aggressiveness than the county of which Sumner was sheriff. "There were no Tories in Bute" was the proud boast. And few families contributed as much to the common cause as the descendants of William Sumner. One of his grandsons, Luke Sumner, repeatedly represented his county, Chowan, in the State Congresses before and the State Senate during the war, and was the highly trusted chairman of the committee of safety from Chowan, member of the eminent committee which reported the Constitution of 1776, and many other important committees, such as those for the purchase and manufacture of arms. David Sumner was a mem-

ber of the State Congress of August, 1775, and of the committee of safety of Halifax and Lieutenant Colonel of Militia, James Sumner was lieutenant in a company of Light Horse. Robert Sumner was a member from Hertford of the convention of 1776 which formed the State Constitution, and of the Senate afterwards, while Elizabeth Sumner's husband, Elisha Battle, was representative from Edgecombe in the State Congresses of 1775, 1776, and State Senate under the Constitution.

But the most eminent of all the family was Jethro Sumner, whose "violent principles" were noticed by Smyth. As sheriff it was his duty to hold the elections, and he could not himself be elected to the convention of 1774 and of March, 1775, but after the flight of Governor Martin to the Royal ship Cruiser, we find him member of the Hillsboro Congress, 1775. The congress proceeded with firmness and wisdom to inaugurate a provisional government and prepare for war. The militia was organized, a special force of five hundred minute-men for each of six judicial districts was ordered to be raised, besides two regiments of five hundred each for the continental army. Bounties were offered for the manufacture of articles most needed.

Captain Sumner was chosen major of the minute-men of the Halifax District. They were in effect volunteer militia, with the privilege of electing their company commissioned officers. He at once showed the superiority natural to one who had learned the art of war under Washington. Occasion was now had for his services. Within a few weeks after the adjournment of Congress the following order was issued:

IN COMMITTEE OF SAFETY,
November 28th, 1775, Halifax.

Ordered that Major Jethro Sumner raise what minute-men and volunteers he can, and follow Colonel Long with the utmost dispatch.

By order OROON DAVIS, Clerk.

A copy.

Most probably Colonel Long had marched to the defense of Norfolk, and Sumner followed with the minute-men of Bute. Colonel Howe, afterwards General Howe, hurried forward the second regiment of Continentals, and took command of them and of the North Carolina minute-men. He arrived two days after the victory of the Great Bridge, but he and his troops so gallantly defended Norfolk that the baffled Dunmore on the first day of January, 1776, burned the town and sailed away. Howe was emphatic in his praises of the troops under his command and the legislature of Virginia thanked him and his men for their services.

The Congress of 4th April, 1776, at Halifax, looked the great issue boldly in the face, discarded their hope of friendship from the English King or the English people, and, first of all the colonies, authorized its delegates in the Continental Congress to vote for Independence. The militia was ordered to consist of all between sixteen and sixty years of age. A brigadier-general for each distrtict was elected. Four additional regiments were voted for the American continental army, and four hundred thousand pounds, or one million dollars in bills of credit, were ordered to be issued for the purpose of paying all expenses. The name of Provincial Council for the supreme executive power was found to be inappropriate, as the word "Provincial" implied a recognition of dependence on Great Britain. The name Council of Safety was substituted. Large executive and judicial powers were given, care being taken, however, that they should not be despotic. Three vessels of war were ordered to be built and officers appointed for them.

So highly appreciated was the conduct of Major Sumner that at the next meeting in April of the Provincial Congress he was promoted to the colonelcy of the third regiment of the Continental troops. His field officers were William Alston, lieutenant-colonel; Samuel Lockhart, major. His captains

were William Brinkley, Pinkethman Eaton, John Gray, William Barrett, Jacob Turner, George Granbury, James Cook and James Emmett. The enlisting of men was voluntary, and the following instructions to recruiting officers are interesting: They were to accept "able-bodied men only, capable of marching well and of undisputed loyalty." Regard must be had as much as possible to "moral character, particularly sobriety." The Colonel was authorized to reject those not fit for service. No soldier under five feet, four inches high must be enlisted. They must be healthy, strong-made and well-limbed. The character of disqualifying bodily infirmities sounds strange in our day. They must be "not deaf or subject to fits, or ulcers on their legs, or ruptures." The last-mentioned may have been frequent on account of log-rolling matches, and other violent exercises, but what caused the prevalence of ulcers and fits is a mystery. The recruit took an oath to be faithful and true to the united colonies.

About the middle of July, 1776, the recruits were carried to Wilmington, where Gen. Francis Nash was in charge of the brigade of six regiments. Lillington was too old to go on parade and Lieutenant-Colonel Lambe was substituted. Recruiting had been very successful and the regiments were full. About the middle of November the troops were marched north to join Washington, but were stopped for three weeks in Halifax on the land of Col. Nicholas Long, now Commissary-general of this State. They were marched back to participate in a campaign against Florida. They paused on their journey near the boundary line of South Carolina, about three weeks, "making excellent beds of the long moss on the trees." Here a squad of men claimed that they were enlisted for only six months, and, on being refused their discharges, deserted. "Three of them were colored people," so it appears that free colored men helped to gain American Independence. From this camp they marched to Charleston, and

lay in camp opposite to Fort Sullivan until the middle of March, living on fresh pork and rice as their constant diet, the expedition to Florida being abandoned.

It has always been thought that only the first and second regiments under Colonels Moore and Martin, brigaded under Brigadier-General Howe, participated in the brilliant defense of Charleston on the 28th of June, 1776, Charles Lee being general-in-chief, and that they only of the North Carolina soldiers were entitled to the splendid praise of General Lee, all the more valuable since he had been an officer in the English army. "Their conduct is such as does them the great est honor; no men ever did and it is impossible to ever behave better," and again in his report to the Virginia Convention, "I know not which corps I have the greatest reason to be pleased with—Mecklenburg's Virginia's or the North Carolina troops; they are both equally alert, zealous and spirited." But a letter from Col. Jethro Sumner to Lieut.-Col. William Alston, printed in the tenth volume of our Colonial Records, page 790, shows, I think, that Sumner and his regiment were at the defense of Charleston.

The letter places Sumner in the most favorable light. He states that General Lee had given him leave to return to North Carolina for the purpose of providing necessaries for the troops in view of the coming winter. He urges Lieutenant-Colonel Alston to be particularly careful of the discipline and to keep a good understanding among the officers and soldiers. He wishes them informed of the cause of his leaving, that it is to their benefit. He says, "You are at all times to keep up a strict discipline, but to reserve a mode of clemency as among young troops; now and then to throw something of a promising hope among them of a quick return to North Carolina, which I doubt not but some time hence will be the case. It will engage the mind and will for a time dispense with inconvenience. Be careful in seeing that no fraud is done

them by the commissaries, and their pay regularly to a month delivered by their captains."

We see here a kind, fatherly and careful heart. Soldiers with such a sympathetic commander were sure to reciprocate his watchfulness for them by attention to duty in camp and on the battle-field.

At the same time that Colonel Sumner went to North Carolina, Lee was ordered north to join Washington. At the urgent request of the authorities of Georgia and South Carolina, the North Carolina troops remained for the defense of those States during the fall and winter following the Declaration of Independence. They were on the fifteenth of March, 1777, ordered to join Washington's army. The route was by Wilmington, Halifax and Richmond. The story of their brilliant victory over the British fleet had preceded them. Their progress through Virginia was an ovation. They could, says the chronicle, hardly march two miles without being stopped by ladies and gentlemen who flocked to see them. At Georgetown those, who had not suffered from smallpox, were inoculated with such success that not a man was lost. They reached Washington's camp at Middlebrook about the last of June. They were placed under the command of General Alexander, Lord Sterling.

Washington met the enemy on the eleventh of September at Brandywine. Sterling's division, including Nash's brigade, was under the command of Sullivan. They showed praiseworthy courage. The flight of Sullivan's own division exposed the flank of Sterling and of Stephen. As Bancroft says, "These two divisions, only half as numerous as their assailants, in spite of the unofficer-like behavior of Stephen, fought in good earnest, using their artillery from a distance, their muskets only while within forty paces." They were forced to yield to superior numbers. Sullivan redeemed his want of generalship by personal bravery, and Lafayette

fought by their side as a volunteer and was shot through the leg.

Within five days Washington was ready for another fight, but the conflict was prevented by a furious rain-storm, which damaged the powder of both armies. On the fourth of October he formed an excellent plan for attacking the enemy at Germantown. The brigades of Maxwell and Nash under Sterling, formed the reserve in the most difficult attack—that on the British left. This attack was successful and if it had been supported properly by the other parts of the army would have won the victory. North Carolina lost some of her ablest men—General Nash, Col. Henry Irwin, Jacob Turner, a captain in Sumner's regiment, and soon afterwards the noble-hearted Col. Edward Buncombe, who was wounded and fell into the hands of the enemy, died at Philadelphia.

The North Carolina brigade went through with fortitude the heart-rending suffering at Valley Forge in the winter of 1777-78. When the news of the Alliance of the United States and France and the sailing of the French fleet to America induced the British commander to retreat to New York, giving up Philadelphia, they did faithful service at Monmouth on the twentieth of June—a victory which would have been most signal for the Americans but for the misconduct of the traitor, Gen. Charles Lee. They were posted on the left flank of the army and prevented the turning of that flank by Cornwallis.

In May, 1778, on account of the diminished numbers, the North Carolina battalions as they were called after joining Washington's army, were consolidated. The sixth was put into the first under Col. Thomas Clark, the fourth into the second under Col. John Patton, and the fifth into the third under Col. Jethro Sumner.

Sumner was promoted for his faithful services to be brigadier-general on January 9, 1779. The North Carolina regu-

lars, dwindled to only seven hundred men, were ordered to the south for the defense of South Carolina and Georgia. General Howe had been disastrously defeated near Savannah, and Congress had superceded him with General Lincoln. General Sumner and his brigade had the post of honor in the attack on the intrenchments of the enemy at Stono Ferry on June the twentieth, 1779. The troops were ordered to trust to the bayonet only, but meeting with a heavy fire, they could not be restrained from returning it. They behaved with great spirit, but as Moultrie, who had been charged with this duty, was unable for the want of boats to prevent the arrival of reinforcements to the British, Lincoln withdrew his men with small loss and in good order. Soon after the battle active operations ceased, on account of the heated air laden with malaria. Sumner's strong constitution, which had resisted the fierce cold of a Pennsylvania winter, could not save him from the prevailing fever. He was forced to ask leave of absence, expecting a speedy recovery in the highlands of Warren. His presence in North Carolina was needed to aid in forwarding recruits to his depleted brigade. His request was granted early in July, and he was therefore not engaged in the disastrous assault on Savannah by the French and American forces on October the ninth, 1779.

In November, 1779, General Sumner was again with Lincoln and joined in the advice to cross the Savannah into Georgia, a movement rendered of no avail by the defeat of General Ashe. On account of his great personal influence in North Carolina he was detached to raise four new regiments of regulars and so escaped being captured at Charleston.

Baffled in the attempt to conquer the Middle States the British ministry determined to transfer the theater of war to the South. The policy seemed for a while successful. In 1779 occurred the disastrous failure by the Americans to capture Savannah. In May, 1780, Charleston capitulated, and

by the blundering policy of General Lincoln, urged on by the governor and other officers of South Carolina, two thousand of our best regular soldiers, the heroes of many hard-fought battles, including the North Carolina brigade under General Hogan, were lost. Georgia and South Carolina were overrun, only a few small partisan bodies, under Marion and Sumter and others, keeping alive the slumbering fires of patriotism.

To make matters worse, Congress which had already inflicted one unwise general on the South, now sent another still worse. The defeat of Gates at Camden left North Carolina open to invasion.

General Sumner was one of the most active and efficient officers in the movement which led to the salvation of the Carolinas. As said before, the North Carolina regulars, except those who were absent on leave, were captured under Lincoln at Charleston. General Greene on account of the unreliability of short term troops earnestly desired the organization of another brigade of regulars. He was ably seconded by the General Assembly, whose determination like that of senators of old Rome, rose higher as the invader drew nigher. As the Roman senators did in times of extreme danger, they appointed a dictator—a Council-Extraordinary—composed of the Governor (Nash), ex-Governor Caswell and William Bignal, of New Bern, and for fear that the Assembly would be prevented from meeting, gave it all the powers vested in the Board of War and Council of State, the powers of the purse and of the sword, the power "to do and execute every act and doing which may conduce to the security, defense and preservation of this State."

Conscription, the last resort of a self-governing people, was adopted. A law to raise two thousand, seven hundred and twenty men for filling up the Continental battalions was enacted and great bounties offered. All runaways and desert-

ers, all who harbored deserters, all who failed to appear at the time of drafting, were to be *ipso facto* privates in the Continental army for twelve months.

Other strong measures were authorized, such as power of impressment for supplies for the army, the confiscation of property of Tories, and a specific tax of one peck of corn or the equivalent in other provisions, for each one hundred pounds of property. This was afterwards increased to one bushel. These were stern measures, and could only have been enacted by those who valued freedom over property and life.

Prior to the battle of Guilford, March the fifteenth, 1781, there seems to have been small success in recruiting. Greene was forced to replenish his small army with militia. Seeing this state of things, Sumner, with the full approval and at the request of Greene, offered his services as a commander of a brigade of militia, but the offer was not accepted on account of the influence, it is said, of Caswell, who dreaded the despotic influence of officers of the regular army.

Governor Alexander Martin differed widely from Caswell. On the first day of January, 1782, he made an urgent request to General Sumner for Continental officers. He writes, "With your leave Major Hogg accepts a command of Light Infantry of five hundred men with Major McCree; Captain Tatum in command of a troop of horse attached to Major Hogg. Captain Dixon also will command such of the State troops as are now at Warren Court-House until the corps can be organized under Lieutenant Marshall. I flatter myself with the great advantage this State will derive from having the honor of Continental officers in its service at this important period which may finally blast the hopes of a despairing enemy and cause them to fall an easy prey to our arms."

Col. John Armstrong, in a letter to Sumner, gives graphic account of his trials. He says: "The General (Greene)

seems very uneasy about the delay of the draft of the Salisbury district and of the desertions that frequently happen by reason of the forced number of Tories into the service, and as soon as they receive the bounty, they desert. I have received nigh three hundred men and will have not above two hundred in the field. I did everything in my power to bring out the drafts of this district, but all to no purpose. There is one-half at home yet, and remain without molestation. As for clothing, there was little or none sent fit for a negro to wear, except from Rowan. I am sorry that I ever had anything to do with such slothful officers and neglected soldiers. There is a number of them now almost naked, and when cold weather sets in they must be discharged, for no officer would pretend to put them on duty. The neglect we have labored under heretofore, together with the present, makes the service very disagreeable to every one in camp. We are without money, clothing, or any kind of nourishment for our sick; not one gill of rum, sugar or coffee, no tents or camp kettles or canteens, no doctor, no medicine. Under these circumstances we must become very inefficient."

"I am afraid that in a short time you will have but few officers in the field, by reason of the shameful neglect of the State. We seem rather a burden than a benefit to them; we are tossed to and fro like a ship in a storm."

The one thing praised by Armstrong is the pleasantness of the situation of the camp, "plenty of good water." "But," he adds, with a groan, "It has one failing—it will not make grog." Armstrong says that if Sumner had known of the sad condition of the soldiers a remedy would have been found. This is a confirmation of what I have already mentioned of his tender care of his troops.

Although the required number had not been raised, yet Sumner was able on the fourth of July, 1871, to march from Salisbury for Greene's camp in South Carolina, to take command of a thin brigade of one thousand men, distributed into three battalions.

In the pleasant hills of the Santee the raw soldiers, many of whom were conscripted on account of their desertion from their militia duties, were taught the drilling and discipline of soldiers. The enemy under Stewart, was near the confluence of the Wateree and Congaree, each army in sight of the watch-fires of the other. Two large rivers ran between them, effectually preventing surprises, and the operations were confined to cutting off convoys and foraging parties, in which the infantry was not employed.

Greene was the first to move. On the twenty-second of August he marched up the Santee, and Stewart, divining his intention to cross, fell back forty miles nearer his supplies at Eutaw Springs, where the battle occurred. In this stubborn conflict, in which both sides displayed the lofty qualities for which the Anglo-Saxon race is distinguished, Sumner and his brigade, although the soldiers were new levies with only three months' training, and most of them had never before been in a battle, made such a brilliant charge as to win from General Greene the strong commendation, "I was at a loss which most to admire, the gallantry of the officers or the good conduct of the men." And again, "The North Carolina brigade under Sumner were ordered to support them, and though not above three months men, behaved nobly." Governor Martin wrote, "I congratulate you on the honor you have gained at the head of the North Carolina army at the Eutaw." And such was the general verdict. Captain Smyth, the British officer, heretofore mentioned, after peace speaks of Sumner's having "distinguished himself in the course of the late war, being the General Sumner of the American army, who has been so active in the Carolinas."

Although the glory of a conceded victory was denied the Americans, the British forces hurried off to Charleston, and Greene, weakened by the expiration of the term of service of so many of his men, retired to his camp among the hills of

the Santee, soon to rejoice over the glorious news from Yorktown. Here he waited for recruits and watched the enemy.

As soon as the camp was reached, Sumner at Greene's request returned to North Carolina for the second time for the thankless business of raising new forces and urging the supplying of his brigade with food and clothing. Colonel Armstrong wrote on February the thirteenth, 1782, from camp at Colonel Shivers, thirty miles from Charleston: "Your officers and soldiers are very naked and no hopes of being better."

There was universal apathy. The currency became worthless and people in defiance of stringent laws began to refuse to accept it. Specie began to make its appearance at the North, but very little found its way to our State. There was no provision made for the soldiers when recruited. One officer writes that he has men, but no food, another that he has not a single blanket to his company. Another that his drafted men have not come in, and if he obeys Sumner's orders to march he will go alone. Another says that the men came in slowly, and that numbers desert, "we are very scarce of provisions and under the necessity of impressing from the inhabitants who have been greatly disturbed,"..... "The people will make very little corn in this (Caswell) county."

It is impossible at this late day to trace with any minuteness the actions of General Sumner during the last eighteen months of the war. As no great movements of the armies were inaugurated it is probable that he remained in North Carolina, prosecuting his duty of raising troops. In this, his efforts, as were similar efforts in other States, had little success. The ravages of disease in the low lands of South Carolina, where the operations were carried on, had been so great that each recruit, as he turned his back on his home, felt that he was marching to suffering and death. Drafting was the only remedy, and this became so odious that only one-third of those liable in North Carolina were procured.

On the twenty-third of April, 1783, furloughs were granted to the North Carolina soldiers, and they returned gladly to their homes. Large grants of the fertile lands of Tennessee were made them, including twenty-five thousand acres to General Greene, while General Sumner's share was twelve thousand acres. A commission was appointed to settle and pay the just dues, which the Continental Congress had failed to discharge.

In the closing years of the war only the energy generated by fears of defeat and ruin had kept up the people to the fighting point. After the capture of Cornwallis there was a universal feeling that war was practically over. The exertions which were the fruit of terror and despair, gave way to supineness and lethargy. The poor soldiers, far from home, seemed to have been forgotten. In some commands there were mutinies and threats to enforce their rights at the point of the bayonet. An Alexander, a Cæsar, a Napoleon, might have urged the fierce discontent of the army for the organization of a military despotism. The great and good Washington, by the union of kindly feeling and occasional force, quieted these troubles. The brave soldiers who encountered all the sufferings which can afflict mankind—hunger, thirst, nakedness, disease, wounds, separation from loved ones, apparent ingratitude and neglect from those in civil authority—officers whose fame will never die, and their humble followers, "unnamed demigods of history," hung up their swords and their muskets on the bare walls of their ruined dwellings, and addressed themselves manfully to repairing their shattered fortunes and laying the foundation of the Great Republic of the world. As S. S. Prentice so beautifully said to the returned soldiers of the Mexican War: "Thus the dark thundercloud at Nature's summons marshals its black batallions and lowers in the horizon, but at length, its lightning spent, its mission finished, its dread artillery silenced, it melts

away into the blue ether, and the next morning may be found glittering in the dewdrops among the flowers, or assisting by its kindly moisture the growth of the young and tender plants."

General Sumner was exempt from some of the trials suffered by his compatriots. He was a man of large possessioons. His home was not in the track of the armies and suffered no injury from the rude soldiery. His neighbors were all loyal to America and we find no depredations of Tories or deserters in Bute. His prudence kept him from debt. In the midst of admiring friends, enjoying the satisfaction of a well-earned reputation, he spent the residue of his days in the management of his estate, the care of his slaves and his blooded horses, the training of his children and the exercise of a generous hospitality. His wife probably died during the war, as she seems to have been living in 1781, and was not living in 1785.

Only once was he induced to leave his privacy. In 1784 was formed the Society of the Cincinnati, composed of the officers of the Continental army. Its name was taken from the personification of Washington, called, like Cincinnatus of old, from his farm to the salvation of his country. It was designed to perpetuate the feelings of patriotism and brotherly affection engendered by the long struggle together for Independence, and provide for the indigent in their ranks. Washington was its president-general. General Sumner was president of the North Carolina division and presided over a meeting of the delegates at Hillsboro on April the thirteenth. As delegates to the general body he appointed Archibald Lyttle, Reading Blount, and Griffith J. McCree. As in the original incorporation the primogeniture principle was contemplated, fears entered the public mind that the society was an entering wedge for the introduction of an aristocracy into our country. This hostility, coupled with the difficulty of

communication in this large but thinly settled State gave it a short life here. In some of the States it still flourishes, and has been successfully revived in North Carolina. From it is derived the name of one of the most flourishing cities of the West.

We have the inventory of General Sumner's effects, returned by his executors. Including the bounty lands in Tennessee, he left over twenty thousand acres of land, besides town lots in Halifax, Louisburg and Smithfield, in Virginia. He owned two valuable farms in Warren County, one called his "Manor Plantation" and the other his "Bute Court-House Plantation." On them were thirty-five slaves, nearly all able to work, and seventeen horses, some of them racers, and about two hundred and forty hogs, twenty sheep and eighty-six head of other cattle. The possession of this large amount of stock, together with one hundred and fifty barrels of old corn and a quantity of bacon and beef and six hogsheads of prized tobacco and about two to prize," as late as the fifteenth of March, after the winter was passed, is a pretty good showing for his management. The mention of a "quantity of quart bottles, some rum, brandy, cyder and wine," five large China bowls, and four small ditto, shows that he kept up the convivial habits which distinguished Warren society for so many years, while the "one chamber chair" suggests that the war-worn veteran, after leaving his active army life, may have contracted by too generous living that affliction, formerly called the aristocratic disease, the gout, exceedingly common in that day. There is an enumeration of a large quantity of earthenware and china, silver and ivory-handled knives and forks, "two square tables, two round tables, and two tea ditto," which shows that he was accustomed to show bountiful hospitality. As mementos of his army experience we find two thousand, three hundred and seventy-four pounds, nine shillings and six pence of army

certificates, his silver-handled sword, bequeathed to his eldest son, and "his camp-beds, bedsteads and furniture," which he gave to his daughter. The division of his "printed books" between his two sons, in that day when books were quite rare, indicates that he had some taste for literature.

The end was much nearer than the age of fifty-two years would seem to make probable. The exposures of war from the bitter cold of Valley Forge to the fever swamps of South Carolina, undermined his strong constitution. His will is dated March fifteenth, and he died March the eighteenth, 1785.

I regret that I can ascertain nothing satisfactory about General Sumner's wife. Smyth states, as I have mentioned, that she was young at the time of the marriage, of good family and of a handsome fortune. Wheeler says that she was a widow Heiss, of New Bern, but none of the old inhabitants of that town know anything about her. General Sumner bequeaths to his daughter the "clothing and jewels of his wife, now in possession of Mrs. Long, of Halifax." Mrs. Long, of Halifax, the widow of Col. Nicholas Long, the commissary-general, was a notable lady, whose maiden name was McKinnie, and from the fact that Mrs. Sumner's clothing and jewelry were left with her, coupled with the fact that one of her sons was named McKinnie Hurst, and further that it appears from an act of the General Assembly, disentailing some lands, that the McKinnies and Hursts were related, the presumption is that she was either a McKinnie or a Hurst, nearly related to Mrs. Long. The presumption is strengthened by the fact that one of the devisees of Sumner's lands, in the case of the death of all his children in their minority and without issue, was Nicholas Long, Jr., a son of Mrs. Long.

General Sumner left three children, all minors. We do not know the dates of his marriage or of the birth of any of his children, except Jacky Sullivan, who married Thomas

Blount, a brother of Col. Reading Blount, one of Sumner's colonels. She changed her name to Mary Sumner Blount, and died in 1822. She was born in 1778 and was probably the youngest child. The two sons were Thomas Edward and McKinnie Hurst. To the former, doubtless the oldest child, was devised his Manor Plantation. To McKinnie Hurst the Bute Court-House Plantation. In case either should die in their minority the other was to have the whole. If all his children should die in their minority his lands were to go to Nicholas Long, Jr., and the oldest son of Benjamin McCullock and James Gray. His executors nominated were Benjamin McCullock, John Baptista Ashe, Young McLemon, and James Grey, but only McCullock and Grey qualified. McKinnie died young and Thomas, after being a member of the legislature of North Carolina, removed to Tennessee and died childless, and so all the property finally vested in Mrs. Mary Sumner Blount and was scattered by her among sixty legatees, including the Episcopal Church of Raleigh, and friends who had been kind to her. Her husband was a member of Congress of the United States, and one of the commissioners to locate the capitol, and also the University.

From the foregoing sketch, we are able to estimate what manner of man Jethro Sumner was. He was not a genius; he had little education derived from books. But he had a generous nature and a big heart. One of his colonels writes: "Dear General, you are no stranger to our sufferings; we have our eyes upon you as our support in our hour of need." They did not lean on a broken reed, but on a sturdy oaken staff. He had a strong head and sound common sense. General Greene and Governor Nash and scores of military leaders in the dark hours of a desolated State, of civil strife, of ruined currency, of despondency and of terror, asked the aid of his sagacity and pluck, and asked not in vain. He had a long experience in actual military service, in fierce

battles, in laborious marches, in dreary encampments, in thankless recruiting service, from a Lieutenant to a Brigadier-General's place. He was a loyal, brave, true, gallant soldier. He did his whole duty and made no boast. He left no posterity to keep his fame burnished. Let us join in thanks to the giver of all good, because of His gift to North Carolina of *"Jethro Sumner, one of the Heroes of 1776."

* This is the inscription on Sumner's monument.

THE SIGNIFICANCE OF THE MECKLENBURG DECLARATION OF INDEPENDENCE.

BY BRUCE CRAVEN.

The Mecklenburg Declaration of Independence, May 20, 1775, was tremendously significant in that it was a logical fruition of and a striking keynote to the unconquerable and indomitable free spirit of the people of North Carolina. It was not the effect of sudden passion. It was not an ill-advised act of fanatics. It was instead an extraordinarily noticeable outcropping of a pure vein of sturdy independence that extends from the beginning to the end of the history of North Carolina. This heart of the matter has been neglected in the intricate efforts to prove or to disprove that the event occurred as claimed. The simple fact of this long drawn-out discussion which has continued unabated for nearly one hundred years is evidence of the importance of the act, the genuineness of which can not be doubted by any unbiased mind in possession of the uncontrovertible testimony. The desire here, however, is not to present proof of established history, but to penetrate the outward semblance and analyze the motives and purposes of the spirit so powerfully manifested in advance of the other American colonies and at a time when the Continental Congress was declaring fealty to George the Third and denying any desire for national independence.

Freedom of thought and speech is the foundation of the American Republic and is engrafted into every American constitution, but this immortal fundamental element of true democracy was born in North Carolina. It was the first declaration of the first settlers and in their first laws it was first legally guaranteed to mankind with equal rights to all and

special privileges to none. The desire for freedom of mind and conscience was directly responsible for the settlement of America, but the Puritans and Cavaliers who sought and won freedom for themselves, denied it to others, thereby sacrificing the principle of it. Never was it guaranteed by any people to all other people in good faith until in 1653 the gentle peace-loving pioneers left Berkeley's tyranny in Virginia and came southward and settled around Albemarle Sound. Of these people Bancroft said "they were the freest of the free," and further, "If you would study man's capacity for self-government, study the history of North Carolina." These settlers included many nationalities, but they were united in a common cause in a sincere and abiding belief in the natural and inalienable rights of pure liberty. When in 1663 the King granted the territory to the Lords Proprietors, the first inducement held out to new settlers was this guaranty of religious and industrial freedom, and though the promise was not held sacred by some of the British Governors, the rights were never surrendered by the people who submitted gracefully to British rule so long as it protected them, and resisted it boldly and defiantly when it trampled upon their rights.

In 1678, when the government was fifteen years old and the colonists numbered twenty thousand, they accomplished the first successful armed resistance to the encroachment of British tyranny. The trouble began with the philosophic but impossible "Model Constitution" prepared by Locke and Shaftsbury, and which provided for high-sounding titles and civic and military dignitaries intended to captivate the people. Nothing ever failed more completely. The offer of Dukedoms and Earldoms had no more attraction for these free people who had builded their homes with their own hands out of the rough-hewn logs of the forests than the offer of toys would have for full-grown men. The fantastic document was scorned with unanimity, the people thus showing their innate

repugnance to undemocratic government. They feared God and loved the brethren, were willing to bear their own burdens and to help others, but never to presume to add to the neighbor's burden by any assumption of superiority warranted or unwarranted. Relieved from this handicap, they were subjected to an attempt to rigidly enforce the odious navigation act which stipulated that the colony could only trade with English vessels. This would have destroyed a chief source of wealth in preventing trading with the other colonies, and as it was plainly an infringement of national rights, the people, headed by John Culpepper, threw the officials into jail and *conducted their own government in actual independence for two years,* until their just demands were satisfied in the repeal of the law.

In 1688 the colonists became incensed at Governor Seth Sothel (also one of the Proprietors) for his tyranny and extortion, arrested, tried and convicted him and drove him from the State in disgrace. The authorities in England decided that the only hope of maintaining the rule over the North Carolinians was to send one of their own number over as Governor, so they sent the one England could spare the best. He was captured at sea by Algerine pirates, who might have atoned for many misdeeds by keeping him, but they released him at the end of two years, during which time he no doubt added much to his store of knowledge in wicked ways. In his five years' administration of the colony's affairs he set the pace for all time for corruption in office. He was a shameless libertine, briber and taker of bribes, and thievery and all species of corruption were as natural to him as drawing breath. The people endured his misdeeds until patience ceased to be virtue and then gave a fitting example of the way to deal with such abuses, even though the object of their wrath was the sole representative of the power of the greatest nation on earth.

In 1704 a law was promulgated making the Established Church of England the State church for North Carolina. Delegations were sent to Queen Anne protesting that they paid their own preachers and would pay no others, and declaring their unalterable determination to resist the injustice even unto death. The struggle was fierce but short and the authorities saw that discretion was the better part of valor. *The people won and the obnoxious law was repealed.*

In all history there is no finer example of the spirit of freedom than in the open defiance of England by these few thousand colonists living in their rude log cabins. The Lords Proprietors, perceiving the impossibility of conquering the spirit, turned the colony over to the King in 1729, and the people entered no protest. They recognized the English government as the seat of authority and offered no resistance until the government abused its power. Gabriel Johnston was Governor from 1734 to 1752, and though he was a faithful servant of the King he was an able and conscientious man and the people enjoyed peace and were never more friendly disposed toward the mother country. In these years the rushing tides of immigration were settling the State as far west as the foot of the Blue Ridge Mountains, but the spirit of the population remained unchanged. In 1749 the printing press was introduced into the State and the progress and prosperity were so noticeable that there was no suspicion of the storm that in twenty years was to follow the calm.

In 1764 the North Carolinians forced Governor Arthur Dobbs to admit that the control of the State's revenue rested exclusively with the people who paid the taxes. Governor Dobbs, by his obstinacy and lack of tact, developed much friction and hard feeling between the people and the government. He claimed that the revenues belonged to England and that he, as England's representative, had the right to disburse them without recourse to the will of the people. The people

had no text-book of political economy and cared but little about theories of law and government; they knew this was an attempt to destroy their liberty and they refused to pay taxes until the Governor, facing open rebellion, yielded to their demands that no money should be appropriated from the public funds without the consent of the General Assembly.

William Tryon came into office in 1765, when the people were discontented and distrustful and fearful of British rule, and his services began with the duty of enforcing the Stamp Act, which required all legal papers to be written on stamped paper, for which a revenue tax was collected. The declaration was unanimous that there should be no submission to this unjust measure, and when the ship-of-war Diligence arrived at Wilmington with the hated paper, September 28, 1765, *Colonels Ashe and Waddell, leading armed men, told the ship's commander that the paper could not be landed,* and he probably knowing something of North Carolina history, made no attempt to carry out his task. Again the contest was fierce, brief and decisive. *The Stamp Act was annulled by the King, but only after it had already been annulled by the voice of the people, which was continuing to demonstrate its supremacy over Kings and Empires and Parliaments.* Governor Tryon tried to pacify the enraged people by giving a great public feast in Wilmington, but they would have none of it, and showed their contempt for such patronizing methods by throwing the roasted meats in the river and pouring the beer on the ground. It was an open declaration that peace could only be maintained by submitting to the people's will and guarding and protecting them in their just rights; but the government failed to profit by the hint, and from that time events led rapidly to the Revolution.

May 16, 1771, in the battle of Alamance, was shed the first blood in the war for Independence. After the repeal of the Stamp Act, the taxes were increased to the limit of en-

durance and the extortions of corrupt officials made the bad matters worse. This moved the people to organize to regulate the abuses, and this organization, under the leadership of Herman Husbands, became known as the "Regulators." They first appealed to the courts, which showed themselves to be mockeries of justice. Then they resisted the injustices of the extortionists, and the hostility prevailed to such an extent that Governor Tryon, always ready for military display, formed an army to intimidate the Regulators. Husbands, with his followers, many of whom were unarmed and none of whom were well armed, approached the Governor's troops for a parley, and the Governor, realizing his advantage, forced a battle. To Tryon, it gave the opportunity (which he desired) to send a message to the King proclaiming "a glorious victory over the rebels." The Regulators were completely routed and the organization was ended, but rapidly from this time the British authority in North Carolina tottered to its fall, and the shedding of patriot blood opened the eyes of North Carolinians to the sober fact that *though the issue had been before them for one hundred years, now they knew that British rule was not feasible in America and that the only possible permanent government in North Carolina must be founded on the consent of the governed.*

April 26, 1774, William Hooper wrote to James Iredell. "With you I anticipate the important share the colonies must soon have in regulating the political balance. *They are striding fast to independence,* and ere long will build an empire upon the ruins of Great Britain; will adopt its Constitution, purged of its impurities, and from an experience of its defects will guard against the evils which have wasted its vigor and brought it to an untimely end." It is no wonder that Thomas Jefferson wrote to John Adams that "No State was more fixed or forward than North Carolina in the struggle for independence." About the time Hooper's letter was written,

Governor Martin (who succeeded Tryon in 1771) dismissed the Assembly with the statement that it should not meet again until peace should reign. This was a practical declaration of war, and the people met it as they had met previous abuses. There was no legal provision for them to assemble at their own will, but these men were of the kind who make precedents when there are none sufficient to the needs. John Harvey, the aged leader, even then near death, drove in his gig to meet Willie Jones, Samuel Johnston and Edward Buncombe. *These fearless patriots consulted together and threw defiance to the King and his Governor by calling on their own authority an Assembly to meet in Newbern, August 25, 1774.* This Assembly, the first one in America to meet independent of British authority, elected Joseph Hewes, Richard Caswell and William Hooper delegates to the Continental Congress, and made it plain that further submission to the King was not possible.

In view of this unparalleled record for independent character, there is nothing inconceivable nor inconsistent in the action of the sterling patriots of Mecklenburg assembled in Charlotte May 20, 1775, and who, upon receiving the news of the Battle of Lexington, adopted resolutions declaring: "We do hereby dissolve the political bands which have connected us with the mother country," "absolve ourselves from the allegiance to the British Crown," and "declare ourselves a free and independent people." At a second meeting May 31, further resolutions were adopted and provisions made for self-government. The declaration simply described actual conditions, for *from May 20, 1775, North Carolina was independent of Great Britain.* The militia of the counties were under arms subject to the orders of the Provincial Congress, and early in June Governor Martin went on board a war-vessel at Wilmington and British authority was thereby forever brought to an end in the State. From the ship-of-war

Governor Martin sent to England a copy of the Resolutions of May 31, which had been published in the *Cape Fear Mercury* and the *Charleston Gazette,* and said they were the most treasonable publications he had yet seen. In August of 1775 the independent government was fully organized, with Cornelius Harnett as Governor. February 27, 1776, the battle of Moore's Creek Bridge was fought and the first American victory won. April 12, 1776, the Provincial Congress instructed the North Carolina delegates at Philadelphia to vote for national independence, and in this connection it is well to note that the three delegates from Mecklenburg went to the Provincial Congress with instructions to vote for the resolution of independence.

The story of the Revolution need not be detailed here. The North Carolinians left their own State unprotected in order to aid their sister States. Cornwallis entered the State in September of 1780 as a conqueror and in anticipation of a triumphant march to join the British troops in the North, but as a result of the fighting in Charlotte and the battles of King's Mountain and Guilford Court-House, he left the State in defeat only to go to Yorktown for unconditional surrender. Thus in the study of the character of the people we reach the logical conclusion that *the Mecklenburg Declaration of Independence was a rational manifestation of the will of the people and in perfect harmony with the history of the State from the beginning to the end of the tremendous struggle for free and independent government "of the people, by the people, and for the people."*

BIOGRAPHICAL AND GENEALOGICAL MEMORANDA.

COMPILED AND EDITED BY MRS. E. E. MOFFITT.

JUDGE HENRY GROVES CONNOR.

Judge Connor was born in Wilmington, N. C., July 3d, 1852; the son of David and Mary C. (Groves) Connor. He was educated in the town schools of Wilson; married in Wilson, Kate Whitfield, daughter of George Whitfield, afterwards his law partner; he practiced law at Wilson; was State Senator, 1885; Superior Court Judge, 1885-1893; Speaker of the House of Representatives, 1889; again member of the House of Representatives in 1901; was elected Associate Justice of the Supreme Court January 1, 1903, and still continues to perform the duties of that office.

Judge Connor has always been a consistent Democrat, and his party has shown appreciation of his value, in the high offices to which he has been chosen. For many years he was President of the Branch Banking Company, Wilson, N. C. He was President of the State Literary and Historical Association, 1901-1902. He delivered an address before the Law Class of the University of North Carolina in 1899; and at the Civic Celebration at Trinity College, February 22, 1899; before the Colonial Dames of North Carolina on their annual pilgrimage to Old Brunswick, 1902. He contributed to "Great American Lawyers" a sketch of Judge William Gaston; to the Biographical History of North Carolina sketches of Judges George Howard and Charles M. Cooke; to the North Carolina Booklet, Vol. IV, an article entitled "The Convention of 1788," and in the present number one on "The Convention of 1835."

In 1908 the State University conferred on Judge Connor the honorary degree of LL.D.

In preparing a sketch of such a man as Henry Groves Connor it is only just to mention his character as a man and a private citizen, which even more perhaps than his public record has made him beloved and honored in his own community and everywhere that he is known. Judge Connor has long been a member of the Episcopal Church. His residence continues in Wilson, N. C., while his office is in the Supreme Court Building in Raleigh.

KEMP PLUMMER BATTLE.

NOTE.—A sketch of Dr. Battle appeared in Vol. VII, October, 1907, of this Booklet. Since that time Dr. Battle completed the first Volume of *The History of the University of North Carolina,* and in consideration of its merit, the State Literary and Historical Association awarded to him, at the annual meeting in October, 1907, the "Patterson Memorial Cup."

BRUCE CRAVEN.

Prof. Bruce Craven, the author of "The Significance of the Mecklenburg Declaration of Independence," was born May 14, 1881, in Trinity. He is the son of the late James L. Craven, M.D., and Mrs. Nannie Bulla Craven; grandson of Rev. Braxton Craven, D.D., LL.D., founder and president of Trinity College, and of Hon. James Ruffin Bulla, who was for many years one of North Carolina's most noted lawyers; was educated in Trinity College, and since leaving college in 1900 has been superintendent of the graded schools of Murphy and Clinton and Morganton. He has achieved distinction as a clear and strong writer, is an excellent speaker, an active member of the Methodist Church and an ardent advocate of thorough and effective education. November 5, 1901,

he was married to Miss Clara Chaffin, daughter of Mr. and Mrs. M. R. Chaffin, of Mocksville, who was his classmate in college. In the year 1907 was superintendent of the public schools in Elizabeth City, and has been elected superintendent of the city schools of Lancaster, S. C. Mr. Craven has been active and prominent in educational work in North Carolina for several years and has achieved reputation in independent and fearless advocacy of genuine moral and intellectual training. For many years past he has been a close student of North Carolina history, particularly that of Mecklenburg County, and a frequent contributor of historical and educational discussions to leading newspapers and magazines. In the recent campaign for State prohibition he was one of the speakers for the cause. Though he has accepted the call to Lancaster, yet he remains a genuine North Carolinian for all time. His home people have watched with interest and pleasure his success in teaching and in literary and historical work.

The unveiling of a tablet to the "Ladies of the Edenton Tea Party of October 25th, 1774," will take place on October 24th, 1908, in the capitol of North Carolina.

INFORMATION

Concerning *the* Patriotic Society

"Daughters *of the* Revolution"

The General Society was founded October 11, 1890,—and organized August 20, 1891,—under the name of "Daughters of the American Revolution"; was incorporated under the laws of the State of New York as an organization national in its work and purpose. Some of the members of this organization becoming dissatisfied with the terms of entrance, withdrew from it and, in 1891, formed under the slightly differing name "Daughters of the Revolution," eligibility to which from the moment of its existence has been *lineal* descent from an ancestor who rendered patriotic service during the War of Independence.

"*The* North Carolina Society"

a subdivision of the General Society, was organized in October, 1896, and has continued to promote the purposes of its institution and to observe the Constitution and By-Laws.

Membershipand Qualifications

Any woman shall be eligible who is above the age of eighteen years, of good character, and a *lineal* descendant of an ancestor who (1) was a signer of the Declaration of Independence, a member of the Continental Congress, Legislature or General Court, of any of the Colonies or States; or (2) rendered civil, military or naval service under the authority of any of the thirteen Colonies, or of the Continental Congress; or (3) by service rendered during the War of the Revolution became liable to the penalty of treason against the government of Great Britain: *Provided*, that such ancestor always remained loyal to the cause of American Independence.

The chief work of the North Carolina Society for the past seven years has been the publication of the "North Carolina Booklet." It still continues to extend its work and to spread the knowledge of its History and Biography in other States.

This Society has its headquarters in Raleigh, N. C., Room 411, Carolina Trust Company Building, 232 Fayetteville Street.