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Vol. IX. OCTOBER, 1909. No. 2

The North Carolina Booklet

GREAT EVENTS IN NORTH CAROLINA HISTORY

PUBLISHED QUARTERLY
BY
THE NORTH CAROLINA SOCIETY
DAUGHTERS OF THE REVOLUTION

CONTENTS

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The North Carolina Booklet.

Great Events in North Carolina History.

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MISS MARY HILLIARD HINTON. MRS. E. E. MOFFITT.

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Gen. Joseph Graham.

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

Published by
THE NORTH CAROLINA SOCIETY
DAUGHTERS OF THE REVOLUTION

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

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GENERAL JOSEPH GRAHAM.

BY MRS. WALTER CLARK.

If, as Pope declares, "the proper study of mankind is man," where can be found more ennobling and inspiring subjects for this study than our Revolutionary patriots? Where can the youth of the present day find characters more worthy of emulation, or a greater stimulus to bravery, honor and loyalty than in the lives of those who, like the subject of this sketch, risked their all in defense of their country, gave her their best services in peace, and laid the foundation of our present liberty?

Joseph Graham was born in Berks County, Pennsylvania, October 13, 1759. His father, James Graham, was of Scotch-Irish descent, and came from near Carlingford Bay, County Down, on the eastern shore of Ireland. The tide of emigration was at its flood in 1729, and the years immediately following, as many as 6,000 coming in one year from Ireland alone. Many of these settled in Pennsylvania, and we can well understand how an adventurous youth of nineteen would be led to cast in his lot with them, to try his fortunes in this new world.

He was twice married, the first wife leaving six children. The second wife was a widow, Mrs. Mary McConnell Barber, who became the mother of five children, Joseph, the subject of this sketch, being the youngest. At the time of James Graham's death, in 1763, affairs had become very unsettled in Pennsylvania, political dissensions had arisen, and general dissatisfaction existed. The "Land of Brotherly

Love" was proving an unpleasant abiding place. The climate, too, was severe, and the Indians still aggressive. All these causes combined to induce the sturdy Scotch-Irish to seek again to better their condition. From about the year 1745 there had been a tide of emigration from that section to the South, and reports of a milder climate and more fertile lands and the hope of better political conditions had led many to follow. Soon after James Graham's death a party of these emigrants came to the Carolinas, and the plucky little widow with her fatherless children accompanied them, and came to try her fortune in this Southern country, as her husband had done, leaving the Old World for the New, thirty years before. As we picture in our imagination this emigrant train, and follow it on its toilsome journey, as it winds its slow way along, over hills, through valleys, following the rough and often almost impassable trail, through Virginia and North Carolina to its ultimate destination in Lancaster County, S. C., we can form some idea of the feelings of Mary Graham as she left the old home and the old life behind and with five children, the oldest not more than fourteen years of age, journeyed many hundreds of miles to seek a home in a new and untried country. And the little Joseph, what impressions must have been made upon his childish mind, and how wild and strange it must all have seemed to the child, as the shadows lengthened and, weary with the long, rough journey of the day, they gathered around the camp-fire in the wilderness and prepared the evening meal, keeping a vigilant watch, both for the wild animals of the forest and the cruel savage whose blood-curdling war-whoop was the incarnation of all that was evil and horrible.

At last their destination was reached, but not to find a permanent abiding place, for in a few years Mary Graham removed to Mecklenburg County, N. C., and purchased a

home about four miles from Charlotte. Here she rested at last, and continued to reside until her death.

Small of stature, modest and unassuming, she must yet have possessed many of the sterling traits which form the character of the ideal woman. Widowed and alone in a strange country, except for the few friends and perhaps relatives who had accompanied her in the removal to the South, she had soon succeeded in purchasing a home where she gathered her little flock around her, and with her indomitable spirit still unbroken, devoted herself to training them for lives of usefulness. She instilled in them habits of industry, endurance and self-control, with strict adherence to duty and a love and reverence for religion. She gave them the best education the times afforded, fortunately having the advantage of being near one of the best schools in the State, located at Charlotte and called Queen's College. The name was afterwards changed to Liberty Hall, as being more consonant with Revolutionary ideas. The diploma of John, the oldest son, at this college is still preserved, and is perhaps the only one now in existence. It is a worthy ambition to strive that the world may be better because we have lived in it. and nobly in her narrow sphere did Mary Graham fulfill this ambition. Her contribution to its betterment and progress was the lives of these children, and well was she rewarded for her loving care. Her daughters became women of fine character and honored heads of families. Each of her three sons served his country well, holding offices of trust and responsibility and enlisting under her banner in time of war. John, the oldest, studied medicine under Dr. Rush, of Philadelphia, and was a surgeon in the Revolutionary army, and George bore an active part in the Continental line, and participated in many engagements until debarred by a severe attack of illness. He was present at Charlotte, Cowan's Ford, Hanging Rock, etc. He was Sheriff of Meck-

lenburg County for many years, and afterwards Clerk of the Superior Court till forced by ill health to resign.

Joseph grew to manhood living on his mother's farm and attending school in Charlotte, where he "was distinguished among his fellow-students for talents, industry and a most manly and conciliatory deportment." "He took part in the manly sports of the day, was an expert swordsman, a man of much nerve and considerable surgical knowledge, which on many occasions he used for the benefit of those in need. He had also a practical knowledge of civil engineering and surveying. His interest in learning was great, and when grown to manhood he was ever ready to aid the boy of limited means in obtaining an education. He took great delight in reading history, especially, which he perused always with a geography and dictionary at hand, saying that 'every reader should know just *what* the writer said and *where* he was.'"

While still a youth he was eye-witness to a momentous event which marked an epoch in his life. He was a youth of thoughtful habits and alert mind, and took a keen, active interest in the political situation, which became more and more alarming as events succeeded each other. Two or more meetings of indignation and protest had been held during the spring of that year in the county of Mecklenburg, but it was not until the 20th of May, 1775, after news of the battle of Lexington was received, that affairs reached a climax. On the 19th of May a committee, composed of two men from each militia company in the county, met in the court-house at Charlotte, and after a session lasting far into the early hours of the 20th formally renounced allegiance to the British Crown.

Resolutions were passed declaring:

"That we, the citizens of Mecklenburg County, do hereby dissolve the political bonds which have connected us with the

mother country, and absolve ourselves from all allegiance to the British Crown; abjuring all political connection with a nation that has wantonly trampled on our rights and liberties, and inhumanly shed the innocent blood of Americans at Lexington." These resolves were six in number, one declaring that "The Crown of Great Britain can not be considered hereafter as holding any rights or privileges or immunities among us," etc., all breathing a spirit of defiance and determination to be free and independent. This was the first absolute declaration of independence in America, and all honor to the brave men who dared to throw down the gauntlet in the struggle for freedom!

Joseph Graham was present, an intensely interested spectator, and the event made so deep and ineffaceable an impression that he was able many years later to write a full and detailed account of the transaction at the request of his friend J. Seawell Jones, who was then preparing a history of the State. It was through the instrumentality of Joseph Graham, about the year 1816, that this great historic event was rescued from oblivion. Among the papers of an aged German neighbor, whose will he was requested to write, he found an old contemporary newspaper, the *Cape Fear Mercury,* containing the proclamation of the royal Governor, Martin, August 8, 1775, denouncing "a set of resolutions purporting to be a Declaration of Independence by Mecklenburg County." This discovery of Joseph Graham was the only copy of Governor Martin's proclamation then known to exist, and to Joseph Graham alone belongs the honor of rescuing from oblivion this long past occurrence.

On May 20, 1835, a notable celebration was held in Charlotte, and a newspaper account says, "General Graham gave an interesting historical sketch in response to the sentiment 'Our honored guest.'" In 1832 at the close of Joseph Graham's personal recapitulation of his military

services, made under oath when applying for a pension, he states: "Was present in Charlotte on the 20th day of May, 1775, when the committee of the county of Mecklenburg made their celebrated Declaration of Independence of the British crown, upwards of a year before the Congress of the United States did at Philadelphia." Is it surprising that those who believe in the truth and honor of Joseph Graham, who was eye-witness to what he describes, should believe *also* in the *Declaration of Independence of May 20, 1775?* Like other claims made by North Carolina to precedence in things military and historic, many years had elapsed before this was formally set up. But does any true North Carolinian believe the less in "First at Bethel, Farthest at Gettysburg, Last at Appomattox" because years had elapsed, many of the participants had passed into the Great Beyond, and crops of waving grain had covered the erstwhile battle-fields, for many an autumn before the claim was formally made. It has been said that "North Carolina has been too busy making history to write it," and it seems that these sons of Mecklenburg resumed their daily avocations when once they had boldly made their "Resolves" and dispatched them by a trusted messenger to the representatives in Philadelphia who, blind, it would seem, to their true value and deeming them premature, gave them scant recognition. But soon the time came to prove these words by deeds, and then right nobly did they come up to the mark.

Before appending the interesting enumeration of Joseph Graham's services given by R. H. Morrison it may not be amiss to say a word as to the military regulations of that day. Among the N. C. troops much of the service was largely voluntary. Their term of enlistment and mode of support were unique, and differed greatly from that of soldiers of the line to-day. Though enrolled for a certain term of months, the agreement was that when not in active service they should re-

turn to their homes, ready for an instant response to the call to arms. Thus it was with Joseph Graham and his fellow-patriots, and thus were his military services performed. Modestly retiring to his farm and occupations there when his services were no longer needed in the field, he bravely went forth again at the call of duty, on more than one occasion when enfeebled by recent severe illness, or partial recovery from dangerous wounds, or, as at the battle of Charlotte Cross Roads, when by the terms of enlistment his services could not legally be required, he rallied around him his friends and neighbors, and when their homes and loved ones were threatened by a hostile invasion led them in the resistance which they made so bravely and persistently as to earn for that section the soubriquet of "Hornets' Nest," as they, a little handful of determined men, annoyed, harassed and delayed the British army on its march through the State. Again at Cowan's Ford he had scarcely recovered from almost fatal wounds, when he raised a company of cavalry and took a prominent part in this engagement.

Dr. Morrison says:

"He enlisted in the Continental army in May, 1778, at the age of eighteen years. He joined the 4th Regiment of North Carolina regular troops under Col. Archld. Lytle, acting as an officer in Captain Gooden's company. They were ordered to rendezvous in Maryland, but just at this time occurred the battle of Monmouth; the British retreated to New York, and the services of these troops were not needed, so they returned to their homes on furlough. He was again called into service on November 5, 1778, in the command of General Rutherford, was with the troops under General Lincoln in the trying and painful struggles against General Prevost, and took part in the battle of Stono, June 20, 1779. During this campaign he acted as quartermaster. In July, 1779, he had a severe and dangerous attack of

fever, and after an illness of two months was compelled to accept a temporary discharge.

"While at his home he received intelligence of the surrender of Charleston and the defeat of Colonel Buford at the Waxhaw, and feeling that his services were needed he at once rejoined the army, and was appointed adjutant of the regiment from Mecklenburg, which was engaged in opposing the British troops under Lord Rawdon.

"When it was understood that the British were marching to Charlotte he was commanded by General Davidson to repair to that place, take command of the American force which should collect there, and join Colonel Davie, which he immediately did. The British army entered Charlotte on the 26th of September, 1780. Joseph Graham was assigned to the command of those troops which sustained the retreat of General Davie, and harassed and opposed Tarleton's cavalry and a regiment of infantry for four miles on the road leading to Salisbury. Finding his numbers inadequate to oppose their progress he withdrew his men and, forming again on an adjacent farm, made another gallant but ineffectual attack on the advancing enemy. Again at Sugar Creek another bold stand was made, on a hill just above the stream, but all in vain as reinforcements joined the already far superior British forces, and the Americans were compelled to retreat. Col. Francis Locke, of Rowan County, was killed just beyond this point, and Joseph Graham soon after was cut down and severely wounded. He received nine wounds, six with the saber, and three with lead. Four of these were deep saber cuts over his head, one in the side, and three balls were afterwards removed from his body; a large stock buckle, which broke the violence of the stroke on his neck, alone saved his life. Being much exhausted with loss of blood he was left for dead on the field, but afterwards, reviving during the night, crawled with infinite difficulty

and suffering to the house of Mrs. Susannah Alexander, where he received every attention, and when somewhat improved was taken to the hospital.

"Thus, at the age of twenty-one, we see this gallant officer leading a band of as brave men as ever faced a foe to guard the ground first consecrated by the Declaration of American Independence, and when the foot of tyranny was treading it, and resistance proved unsuccessful, leaving his blood as the best memorial of a righteous cause and of true heroism in its defense.

"Thus, while the whole country was in distress, its property pillaged, its houses forsaken and its defenseless inhabitants flying from the shock of arms, a few noble sons of Mecklenburg compelled Lord Cornwallis to designate Charlotte as the Hornets' Nest of America.

"As soon as his wounds were healed he again entered the service of his country. Having raised a company of fifty-five men in two weeks, he was placed in command by General Davidson. It showed not only his energy of purpose but his great influence, that in this difficult and hazardous period of defeat and depression he could accomplish this. This company was composed of mounted riflemen, armed also with swords and pistols. They furnished their own horses and equipments, and entered the field with every prospect of hard fighting and little compensation.

"At this time the plan of opposing Lord Cornwallis in crossing the Catawba River was arranged by General Greene, and its execution assigned to General Davidson. Feints of passing were made at different places but the real attempt was made at Cowan's Ford. The company commanded by Joseph Graham was the first to commence the attack on the British as they advanced through the river, but in spite of such brave opposition they as bravely advanced, gained the opposite bank, and returned a galling fire upon the Ameri-

cans. Two of Graham's men were killed. General Davidson had fallen at the beginning of the action as he was standing sword in hand cheering on his handful of brave men, so valiantly opposing the advance of the enemy. The North Carolina troops under General Pickens continued to pursue the British as they advanced toward Virginia. Joseph Graham with his company and some troops from Rowan County surprised and captured a guard at Hart's Mill, one and a half miles from Hillsborough, where the British army then lay, and the same day joined Colonel Lee's forces. The next day they were in an engagement with Colonel Pyles in command of 350 Tories on their way to join Tarleton. Shortly after Graham's company took part in the battle of Clapp's Mill, on the Alamance, and within a few days also in that of Whitsell's Mill, under the command of Colonel Washington.

"During the summer of 1781 but little military service was performed in North Carolina, as the British had retired to Wilmington. In September General Rutherford, who had been a prisoner, was released and immediately gave orders to Joseph Graham, in whose military prowess and great influence he had unbounded confidence, to raise a troop of cavalry in Mecklenburg County. The legion being raised, Robert Smith was appointed colonel and Joseph Graham major, and at once set out for Wilmington, the present headquarters of the British. South of Fayetteville an attack was made near McFall's Mill on a body of Tories who were signally defeated and dispersed, though headed by four colonels opposed to the youthful major. Next a band of Tories on Mr. Alfred Moore's plantation opposite to Wilmington was surprised and defeated. On the next day he with his troops made a resolute attack on the British garrison near the same place, and soon afterwards commanded the party

which defeated the celebrated Colonel Gainey near Lake Waccamaw.

"This campaign closed Joseph Graham's services in the Revolutionary War, as it was soon terminated by the surrender of Cornwallis at Yorktown.

"He had commanded in fifteen engagements, with a degree of courage, wisdom, calmness and success surpassed perhaps by no officer of the same rank. Hundreds who served under him have delighted in testifying to the upright, faithful, prudent and undaunted manner in which he performed the duties of his trying and responsible station. Never was he known to shrink from any toil however painful, or quail before any danger, however threatening, or stand back from any privations or sacrifices which might serve his country. To secure her liberties he spent many toilsome days and sleepless nights; for her he endured much sickness, fatigue and suffering without a murmur; for her his body was covered with wounds; to her welfare he consecrated his time and treasure and influence during a long, unblemished life."

At the close of the Revolutionary War Joseph Graham returned to life on the farm with his mother, and resided there until his marriage, in 1787, to Isabella, daughter of John Davidson, one of the signers of the Mecklenburg Declaration of Independence. She also was of Scotch-Irish lineage, her ancestors settling first in Pennsylvania, and then removing to North Carolina in 1740. They came first to Rowan County and afterwards to Mecklenburg, where the old homestead is still in the hands of descendants. After Joseph Graham's marriage he removed to what was then known as the Red House, near the Catawba River, and lived there for four years. He then engaged in the manufacture of iron with his brother and father-in-law in Lincoln County, where Vesuvius Furnace was erected, and his residence built near by. This was the family homestead where his children were

reared. It was located near the main line of road, and he had many visitors, men of letters with whom he delighted to converse, and others. The situation was very attractive at the head of three terraces, and approached through an avenue of cedars.

His marriage was most fortunate. His wife possessed not only great beauty of person but loveliness of character, and was a devoted wife and mother. Her true kindness of heart was shown in the motherly care and consideration she gave to the orphaned son of Gen. Wm. Lee Davidson, who married her sister, and fell at the battle of Cowan's Ford. The characteristics which had made Joseph Graham the stay and comfort of the brave little mother as years advanced upon her, made him now the excellent husband and father. Tradition says that when her useful life was nearly spent, and she became too feeble to walk, he would lift her in his strong arms and tenderly place her out on the old-fashioned "settle" (as the wooden bench or lounge of that day was called) under the shade of the trees where she loved to lie during the long summer days.

Joseph Graham's wife died in 1807, leaving a large family of children: Mary, who afterwards became the wife of Rev. R. H. Morrison, D.D., and William, only three years old, being the youngest. To them especially he was both father and mother, and showed the greatest tenderness and care. When he left home to command the brigade against the Creek Indians little William rode with him on his horse as far as a certain rock which is still pointed out. Here the motherless child bade him adieu and gave him up to the uncertain fortunes of war. This war was unexpectedly ended, however, and the father's absence was not long protracted. This was in 1814. The Creek Indians in Alabama had become so aggressive that more troops were needed, and President Madison made a requisition on the Governors

of North and South Carolina each for a regiment. These formed a brigade to the command of which Joseph Graham was appointed by Governor Hawkins, with the rank of brigadier-general. By exasperating delays of the War Department in furnishing supplies this brigade did not reach the seat of war until the battle of Horse Shoe had forced the Indians into submission, and after this there were only a few skirmishes and the final surrender of these hostile Indians. This was his last military service. He served several terms as major-general of the State militia. At that period these officers were elected by the Legislature for a term of three years. Joseph Graham led an active life, interested in all public questions, always a patriot, with the welfare of his country at heart in peace as in war. He was Sheriff of Mecklenburg County after the war and several times a member of the Court of Common Pleas and Quarter Sessions, which was composed of five members elected by the justices of the peace. He was a member of the first convention of the State to consider the proposed Constitution of the United States, which met at Hillsboro July 21, 1778. In November of that year we find him a member of the State Senate which met at Fayetteville. This was the last Legislature in which the members wore their hats, the Speaker alone being uncovered, and they laying aside their hats only while addressing the Chair. He served several terms in the Legislature and was much interested in all bills in favor of internal improvements and general education. He voted for the establishment of the State University in 1788-9, and was made a member of the first board of trustees of this great State institution, as he had been of the first academy established in Lincoln County. At the request of a mass-meeting of the citizens of Morganton he presented a memorial urging the establishment of a military academy in the State and proposing a plan therefor which

was favorably received and complimentary resolutions passed, but no final action taken.

His contributions to literature were mainly on military matters, many of them written at the request of Judge Murphey. The correspondence between them, which is reproduced in "Joseph Graham and his Revolutionary papers," is full of interest. Judge Murphey, about the year 1820, decided to write a history of North Carolina, and with that intention, corresponded with those he thought competent to furnish information. His first intention seems to have been to cover only the Revolutionary period, and to correct mistakes concerning North Carolina troops. But on Joseph Graham's suggestion that he make it a complete history of the State he changed his plan. He had collected much material for this purpose, but died before completing the work. Murphey wrote him: "I have been kindly aided by a few of the officers and soldiers of the North Carolina line, but by none so liberally as yourself." In 1827 Joseph Graham writes a correction of various misstatements which had found a place in history regarding North Carolina troops. Major W. A. Graham says: "The fact that the troops which gained such distinction under the command of General Pickens were from North Carolina, and mainly from Mecklenburg and the adjoining counties in North Carolina, had until recently like the Mecklenburg declaration escaped the attention of our best informed writers. For the preservation of this and other interesting events in our Revolutionary history we are indebted entirely to the careful pen of General Graham."

If the testimony of Joseph Graham is to be accepted on all these points of history which he was requested to settle, mainly from his own personal knowledge and recollection after the lapse of many years, and if his decision was received as the *ultimatum* by Judge Murphey and other stu-

dents of history of acumen and discrimination where dates, figures and numbers of troops engaged were in question, then why should the testimony of the same witness be discredited when the Mecklenburg Declaration of the 20th of May is the point in question? Why should it be imagined he would "mix" the dates of the 20th and 31st of May more than those of the days on which the battles of King's Mountain, Pyle's Massacre or Moore's Creek occurred? Why one "style" of reckoning for them and another for the 20th of May just before? Is it credible that he could not discriminate between two separate and distinct events of such different tenor, occurring on such different dates as the 20th and 31st of May?

Joseph Graham's writings comprise, first, a chronology of military events beginning with the battle of Ramseur's Mill, 20th June 1780 (as he was too young to have participated in any campaign previous to that time); second, Hanging Rock; third, expedition against the Tories in the forks of the Yadkin; fourth, affair at Colson's Mill; fifth, engagement at Rocky Mount; sixth, engagement at Charlotte Cross Roads and events preceding and following; seventh, McIntyre's farm; eighth, Royal Governor Martin's proclamation; ninth, retreat of Cornwallis to Winnsboro; tenth, Cowan's Ford; eleventh, Shallow Ford; twelfth, Hart's Mill; thirteenth, Pyle's massacre; fourteenth, Dickey's farm; fifteenth, Clapp's Mill; sixteenth, Whitsell's Mill; seventeenth, closing scenes of the Revolution in North Carolina. Many of these were accompanied by maps drawn by himself from personal observations made at the time, as in the battle of Cowan's Ford and others; or by careful measurements under the supervision and direction of actors in the scene, as in that of King's Mountain, from which he was absent on account of severe and almost fatal wounds

recently received. Like the Confederate veteran of to-day his greatest joy was in recalling the deeds of the past, and this literary work was to him a great pleasure.

In the year 1834, as age advanced upon him, he gave up to his two sons the business of manufacturing iron in which he had been engaged for many years, and which had proved very lucrative, and built a residence on an adjacent farm about a mile distant. His daughters were by this time all married, and he resided here with his unmarried son James, who for several years represented this district in Congress until his death, November 10, 1836. This place is now the family homestead of Maj. W. A. Graham, and called "Forest Home." The original house was burned some years ago and has been replaced by a modern and commodious structure. Joseph Graham is buried in the cemetery of Machpelah Church, which he and others of the family like Abraham of old "purchased for a possession of a burying place" soon after his removal to Lincoln County.

In closing I can give no better summary of his character than that made by one who had known him long and intimately, Rev. Robert Hall Morrison, D.D., himself a man of most exalted character. In the obituary printed immediately after Joseph Graham's death he thus describes him:

"His intercourse with others was marked by great dignity of deportment, delicacy of feeling, cheerfulness of spirit, and equability of temper. Men of learning and high standing have often expressed much gratification of his company and surprise at the extent and accuracy of his knowledge. In the circle of private friendship his excellencies were strikingly displayed. He was far—very far—removed from all those feelings of selfishness, vanity, suspicion or envy which unfit men for the duties and joys of social life. His eye was always open to the virtues of his friends; his heart was always ready to reciprocate their kindness, to sympa-

thize with their sorrows and overlook their infirmities. His hand, his time, his counsel and his influence were all at the command of those who shared his confidence and deserved his affection.

"But there was another circle nearer to his heart in which he was still better prepared to shine and in which true excellency displayed is a brighter and surer evidence of worth. Justice could not be done to his character without being known in the family circle. As a husband, a father and a master those alone who were the objects of his attachment, forbearance and tenderness could duly appreciate his conduct and demeanor.

"His life was a bright pattern of those virtues which are essential to the purity and peace of society. He possessed a lofty and delicate sense of personal honor and virtuous feeling. His presence was always a rebuke to the arts and abominations of evil speaking, profanity and defamation. If he could not speak well of his fellow-men he was wise and firm enough to say nothing. He regarded the reputation of others as a sacred treasure, and would never stoop to meddle with the private history or detract from the good name of those around him. He felt that the sources of his enjoyment and the causes of his elevation were not to be found in the calamities of his fellow-men, and hence his lips were closed to the tales of slander and his bosom a stranger to the wiles of calumny. Did all men act on the principle which governed him in this respect a hideous train of evils which mar the purity and disturb the peace of society would cease to exist.

"But General Graham did not believe when he had served his country, his family and his friends, his work on earth was finished. With an unwavering conviction of the truth and importance of religion, he professed to serve God and to seek for salvation by faith in Christ. For a long period

of time he was a member of the Presbyterian church, and for ten or twelve years previous to his death he was a Ruling Elder of Unity under the pastoral care of Rev. Mr. Adams. He cherished a most profound respect for the ordinances and duties of Christianity, and attended with deep interest and uniform punctuality upon the means of grace. He delighted much in reading the word of God and in hearkening to the instructions of ministers of the gospel, for whom he always manifested the greatest regard. In selecting his library he proved how high an estimate he placed upon Christian instruction, and in his most unreserved intercourse with pious friends his deep and pervading concern for *true and undefiled religion* was apparent. No circumstances would deter him from manifesting the most decided contempt for the groveling spirit of infidelity and irreligion.

"By a life of temperance and regular exercise, with the blessing of God, he enjoyed remarkable health and vigor of constitution. On the 13th of October, 1836, he made the following minute in his day-book, 'This day I am seventy-seven years of age and in good health, *Dei Gratia.*'

"As the disease which terminated his life was apoplexy, its paralyzing stroke was sudden and unexpected. He rode from Lincolnton on the 10th of November, and on the evening of the 12th closed his eyes upon the cares and trials of a long, useful and honorable life."*

* It gives me pleasure to acknowledge here the invaluable assistance I have found, in the preparation of this sketch, in "The Life and Revolutionary Papers of Gen. Joseph Graham," by Maj. W. A. Graham; and also in the excellent obituary by the Rev. R. H. Morrison, D. D.

STATE RIGHTS IN NORTH CAROLINA THROUGH HALF A CENTURY.

BY H. M. WAGSTAFF.

North Carolina emerged from the Revolution with two distinct factions in her Whig party, factions that had been held in partial harmony during the war by the necessity of presenting a solid front to the British and Tories. One of these factions was led by Willie Jones, and may be known as the popular, democratic, or radical party. It had sought to enthrone democracy in the State Constitution in 1776. It emphasized State individualism and stressed the principle of decentralization in the relation of the States to the government of the Confederacy. The other faction was directed by Samuel Johnston, and showed a tendency toward class government in State politics. It was duly appreciative of the benefits arising from common action between the States and desired proper deference from the States to the authority of the Confederate government. With the pressure of war and Toryism removed, these factions became separate parties, animated by strongly opposed sentiments.

The first issue of large interest between them was the treatment to be accorded the defeated Loyalists, this, by its nature, leading to the larger question of the amount of authority the Congress of the loosely-jointed Confederacy was to be allowed to exercise. Congress's peace treaty with England had provided for the rights of return to Loyalists and the restitution of their confiscated property. Jones and his followers held that Congress had exceeded its authority in incurring such an obligation and on this account it need not be respected.

On the other hand the party under Johnston was suffi-

ciently imbued with ideas of international honor to demand the execution of the treaty. The party was now in the minority, however, despite the fact that in its ranks were found Johnston, James Iredell, Alexander Maclaine, Wm. R. Davie and Wm. Hooper, the men most state prominent during the Revolution. All these deprecated the tendency to individualize the State and place its interests paramount to those of the Confederacy. It was this party, therefore, that in 1786 eagerly supported the movement to reform the Articles of Confederation. A demand was growing strong throughout the Confederacy for a closer union of the states as a means of ending the confusion into which the whole country was falling.

But in North Carolina the movement for creating a more effective union gathered force slowly. Despite the chaos in finance, in justice, in interstate commercial relations, and a general failure to realize the blessings that independence had seemed to promise, the majority party in North Carolina by no means despaired of the state or showed signs of a loss of faith in independent state democracy. State politics absorbed all its interests. Delegates were chosen to Congress but their seats for the most part remained vacant,[1] the State being totally unrepresented a number of times between 1783 and 1786.

Nevertheless, despite the indifference manifested by the majority party in North Carolina and other of her sister states, the American Confederation was now on the eve of a radical political change, a change the more significant in that it was not generally demanded by the thirteen independent sovereignties affected. The action which proved to be the first step in the reorganization of the Confederation was the call by Virginia of a trade convention to meet at

[1] Chairman of Congress to Governor Caswell. N. C. Colonial Records, XVIII, 515, 659, *et seq.*

Annapolis in September, 1786. Though public opinion in North Carolina appeared indifferent Governor Richard Caswell, standing midway in state politics between the radicals and conservatives, appointed five delegates to represent the state at Annapolis. Only one of the number, Hugh Williamson, made an effort to attend, he reaching the Maryland capital on the day the convention adjourned. But before adjournment the body had recommended to Congress the call of a constitutional convention for the purpose of amending the Articles of Confederation in the interest of more perfect union. Congress, already convinced of the imperfections of the Constitution and its own impotency, acted upon the suggestion within the same month.

The North Carolina General Assembly responded to the call by the appointment of a delegation of five, consisting of Governor Caswell, Willie Jones, Alexander Martin, Richard Dobbs Spaight and Wm. R. Davie. It was understood[2] that three of these, Caswell, Jones and Martin, were state rights men. Davie and Spaight were avowedly favorable to the idea of greatly strengthening the Federal government.[3] The preamble to the act[4] of appointment, however, embodied the sentiment of the conservatives and seems to have been due to their exertions. It was perhaps as much on this account as for his lack of sympathy with the whole movement that Jones at once declined to serve. The Governor, so empowered by the act, filled the vacancy by the appointment of Hugh Williamson, and also named William Blount in his own stead. Both these classed as advocates of stronger union, hence the political complexion of the delegation was entirely changed. Only one radical, ex-Governor Martin, remained in the delegation.

[2] McRee's Life of James Iredell, II, 151. Iredell to Mrs. Iredell, Sept. 30, 1786.

[3] *Ibid.*, II, 168. Spaight to Iredell.

[4] Public Acts of N. C., 1786, 412.

The delegation as completed was in full attendance upon the Philadelphia convention soon after its organization in May, 1787. Martin showed himself pliable. Practical harmony prevailed among them and the delegation bore its proportionate part in making the great instrument of government that was produced. The views of the North Carolina delegates as to the nature of the government in process of formation are clearly indicated in their attitude upon the various compromises that were found necessary between conflicting interests in the convention. In advocating the choice of senators by the state Legislatures Mr. Davie said that the government forming was partly federal, partly national: "It ought in some respects to operate upon the States, in others upon the people." [6] Alexander Martin said: "United America must have one general interest to be a nation, at the same time preserving the particular interests of the States." [7] The delegation stoutly supported the southern demand that at least three-fifths of the slaves should be counted in apportioning representatives to the states, Davie saying, in the debate, that "If the Eastern States mean to exclude them altogether then the business (of confederation) is at an end." [8] As to the continuation of the slave trade the delegation was lukewarm, but finally voted with South Carolina and Georgia, apparently from a fear that those states would reject the Constitution if the trade was abolished at once.

When the Constitution was completed only three members signed for North Carolina, Davie and Martin having re-

[5] N. C. State Records, XX, 637, 683.

[6] Madison Papers, Supplementary to Elliot's Debates on the Federal Constitution, V, 265.

[7] N. C. Records, XX, 753. Martin to Governor Caswell. With Martin, however, the political pendulum had swung so far away from particularism that events were soon to prove he had lost the confidence of his party.

[8] Madison Papers, Sup. Elliot's Debates, V, 303.

turned home near the end of the convention to meet business engagements. Both, however, would very probably have signed had they been present.

The great struggle in North Carolina, as in a number of the other states, was yet to come over the question of ratification. Apparently the trend of public opinion in the latter part of 1787 was toward a sanction of the new Constitution. This was due to the effective campaign carried on by Johnston's party followers, now calling themselves federal men, or federalists. The party was determined to win a majority in the General Assembly, to elect their party chief as Governor, and call a state convention to pass upon the Constitution. The program was carried out. The new Legislature on joint ballot was able to elect Johnston and call a state convention to meet at Hillsboro in July of the following year (1788).

But the battle was not yet half won. Early in 1788 Jones, aided by such able lieutenants as Timothy Bloodworth, David Caldwell, Judge Samuel Spencer and Maj. Joseph McDonnell, of King's Mountain fame, began to marshal the forces of the opposition. North Carolina has probably produced no abler party strategist than Jones. The party cue was given by him at Halifax.[9] The federal judiciary, he said, would play havoc with the authority of the state's courts; the poor were to be ruined by money collections and federal taxation; there was no provision for freedom of conscience, the states were to be absorbed by the central government. These ideas and others of like tenor were potent arguments to the average North Carolinian against surrendering his dearly-bought liberties to an untried form of government. The anti-federalist propaganda rapidly began to have effect. The State judiciary was practically unani-

[9] McRee, II, 217. Davie to Iredell, outlining Jones's position. Davie was neighbor to Jones at Halifax.

mous[10] in its opposition to the Constitution. Party lines were closely drawn in the election of delegates to Hillsboro. On account of his compliant attitude at Philadelphia, Alexander Martin was now rejected by his former constituents for a seat in the convention. The eastern counties, where most of the federalist leaders resided, were closely contested, the Cape Fear country was generally favorable, and the western country decidedly opposed to the Constitution. The elections were very exciting in many places in the east, but took place generally without fraud or violence, scoring a heavy victory for the antis or state rights party.

So clear a verdict from the voters at first decided the antifederal leaders to reject the Constitution absolutely and finally. But before the Hillsboro convention met, July 21, 1788, ten states, among them influential Virginia, had ratified. This had a certain weight with the opponents of the Constitution in North Carolina. Jones, therefore, announced[11] his purpose of procuring rejection in order to give weight to the amendments which the states generally were preparing as they ratified. This program was altered slightly toward the end of the convention under pressure from the strong array of federalist leaders who found seats in the convention. But the utmost concession the antifederal majority would make was non-adoption instead of direct rejection. To the final resolution,[12] referring the question to a possible later convention, was appended a declaration of rights and a list of twenty-six amendments[13] to be laid before Congress at its first session. The first of these guaranteed the reserved rights of the states; the remainder were for the most part restrictions upon the federal executive

[10] *Ibid.*, II, 183. Maclaine to Iredell.
[11] McRee, II, 230. Davie to Iredell, July 9, 1788.
[12] Elliot's Debates, IV, 242.
[13] Elliot's Debates, IV, 244.

and judiciary and an enlargement of the powers of Congress at the expense of the other two branches. The decisive vote showed the opponents of adoption an even hundred in the majority. The convention adjourned *sine die* on August 4.

But the example of the other states began at once to work like leaven. News of New York's ratification came immediately after the adjournment at Hillsboro. This left only Rhode Island and North Carolina without the federal pale. Public opinion grew uncertain. The federalist leaders renewed their activity, determined to secure a majority in the new Assembly that would meet in November. Governor Johnston also aroused the friends of the Constitution everywhere to prepare petitions[14] to lay before the Assembly for a new convention.

The swing of the political pendulum was now toward federalism. Jones exerted all his powers to stay its momentum, but the opposition made large gains everywhere except in his own district. When the Assembly met, its membership was found to be almost evenly divided between the parties. The petitions came in in large numbers. It was evident that public opinion now demanded that the Constitution should be considered anew. North Carolina, completely out of relation with the other states, evidently felt lonely. Moreover, she feared trade discrimination by the new-formed Union. A convention bill was, therefore, prepared and passed; but the anti-federalists were strong enough to fix its date of meeting six months later than that upon which the first Congress of the new Union was to convene.

When the first Congress met, in April, 1789, there was some disposition manifested to treat North Carolina and Rhode Island as actual foreign States. Impost and tonnage bills introduced early in the session contained proposals to

[14] These petitions are in manuscript in the N. C. Archives, office of Secretary of State, Raleigh.

lay discriminatory duties upon their trade with the Union. Hugh Williamson, accredited agent of North Carolina to the government of the Union, memorialized Congress against such a course and urged forbearance.[15] Only a little time, he said, was needed to bring his state into the Union. The proposed hostile clauses, however, were never pressed, the attitude of the Union toward the states outside being one of courteous invitation. Some of the states already in perhaps felt as did the fox in the fable: having lost their own tails they wished others to dispense with brushy adornment. Already southern public men had begun to recognize a "southern interest" as opposed to northern interests and now devoutly wished for the accession of North Carolina as a means of preserving the balance of power.[16]

The second North Carolina convention called to consider the federal Constitution met November 16, 1789, and five days later passed an ordinance of ratification by a majority of 118 votes. The journal[17] of the six days session contains the bare outline of the proceedings, hence it is impossible to determine the spirit of the debates unless extant correspondence of federalists be accepted. Governor Johnston wrote that the opposition was "still violent and virulent," and Davie upon the first day was doubtful whether ratification could be effected.[18] But Davie had signally failed to correctly estimate the rapidity with which sentiment for union had ripened since the adjournment at Hillsboro, now more than a year past. Moreover, the position the federalist leaders themselves had taken in defense of the Constitution had labeled them as thorough State rights men provided they had the state once inside the Union. Their speeches in the

[15] Williamson to Congress. Ms. State Archives.

[16] Pierce Butler, of S. C., to James Iredell. McRee, II, 263.

[17] Journal of the Fayetteville Convention, 1789, in N. C. State Records, XXII, 36-53.

[18] McRee, II, 271. Davie to Iredell.

Hillsboro convention, the propaganda they had industriously circulated after the convention, and their general attitude toward union conclusively shows that they regarded the Constitution as a mere federal compact and the general government as but the agents of the states creating it. With this view held persistently before the anti-federalists, enough of them bowed their heads to enable the state to give sanction to the Constitution.

Whatever form of government the logic of subsequent events may have shown the Constitution to have created, no one could become familiar with the spirit prevalent in both parties in North Carolina in 1789 without reaching the conclusion that adoption there was based on a belief that it created a governmental compact with powers given superior to the old Articles of Confederation only for the purpose of efficient administration. Though North Carolina entered the Union only after hesitancy and mature deliberation, yet her subsequent history conclusively proved her loyalty to it as long as its government represented her original interpretation of the Constitution.

Ratification in North Carolina had been effected during a surface reaction from the tendencies toward state individualism represented by Willie Jones. It was inevitable that a moderate reaction in the opposite direction should now occur. Adjustment to the new order of things could not be without certain jars and friction between federal and state authority. The anti-federalists soon formed themselves into the Republican party and assumed the role of critic. When excitement arose in the last months of 1790 over Alexander Hamilton's scheme for federal assumption of state debts, the popular branch of the North Carolina General Assembly, much opposed to assumption, refused[19] by a vote of 55 to 26 to take the oath to support the

[19] Journal of the House. N. C. State Records, XXI, 1021.

Constitution prescribed by Congress for such state officers as governors, members of legislatures and others. A second incident concerned the adjustment of the federal judiciary. A *writ of certiorari* was issued from the federal district court of North Carolina by direction of three of the United States Supreme Court Judges (Blair, Rutledge and Wilson), directed to the Court of Equity in North Carolina, for bringing up an equity case.[20] The state judges denied the Supreme Court's authority in the case and refused obedience to the *writ*. The General Assembly at once passed a vote of thanks to the judges for their defiance. The case was allowed to rest by the federal authorities and with the early reform of the judiciary was thrown out.

The General Assembly passed strong resolutions[21] against the assumption and funding measures of Hamilton and peremtorily instructed the state's senators, Samuel Johnston and Benjamin Hawkins, to oppose any excise or direct tax by the federal government. It so happened that North Carolina's delegation to Congress, arriving late, was found to hold the balance of power relative to these measures. Hence the assumption program was laid aside for the time. Later it was brought forward and yoked with the question of a site for the federal capital, the well-known compromise resulting.

The federal excise laws of 1791, from which the assumptionists purposed to derive the funds to carry out their measures, occasioned great ferment in all the frontier regions of the United States. The greatest storm center was western Pennsylvania, the trouble there culminating in 1794 in the "Whiskey Rebellion." In western North Carolina, if resistance to the excise laws was less organized, it was none the less effective; federal collectors were powerless and dis-

[20] Dallas, U. S. Supreme Court Reports, II, 412.
[21] N. C. State Records, XXI, 1054.

creetly remained out of the excited localities.[22] The spirit of resistance spread also to the eastern counties[23] and the ferment did not abate until the excise laws were amended.

A general discontent with the measures Congress had deemed necessary for adjustment of the new regime now developed in North Carolina. The first political victim of the reaction was Samuel Johnston, who, regarded as the most uncompromising advocate of strong national powers, failed to secure reelection to the United States senate when his term expired in March, 1792. Alexander Martin, again in the confidence of the Republican party, was chosen as Johnston's successor. In the congressional elections of 1793 this party was successful in every district save one, the Scotch district in the Cape Fear region. With Johnston retired to private life the remaining federalist leaders now quietly supported the same state rights principles as the Republican party. James Iredell, whom Washington had appointed to the Supreme Court bench, set them the example in his dissenting opinion in the case of *Chisholm v. Georgia.*

This famous case sharply brought the states to consider anew the question of just what powers they had given up to the federal government. The issue involved, the right of suit of a state by a citizen of another state, was decided affirmatively, only one justice, James Iredell, dissenting. In his cogently reasoned opinion[24] Iredell argued that the individual states were successors to the sovereignty wrenched from the British crown. Upon this premise he built up his theory of divided and delegated sovereignty, holding that every state in the Union, in every instance where its sovereignty had not been delegated to the United States, was as completely sovereign as were the United States in respect

[22] McRee, II, 330, 335. Davie to Iredell, Aug. 2, 1791.

[23] Johnston to Iredell, April 15, 1791.

[24] Dallas, U. S. Supreme Court Reports, II, 419-480.

to the powers conferred upon them by the federal compact. A state, therefore, remaining sovereign, could not be sued. Georgia acted upon Iredell's theory and defied the federal authority. The judgment remained unenforced until the eleventh amendment to the Constitution, ratified in 1798, removed such questions from the cognizance of the court, thus sanctioning Iredell's view.

The Republican party throughout the country had received Iredell's argument as an exposition of its own theory of a definite line of demarcation between the rights reserved by the states and those delegated to the federal government. The opinion is the more interesting in this connection because of Iredell's influence upon the ratification of the Constitution by North Carolina. His interpretation of the Constitution in the *Chisholm v. Georgia* case was in the same state rights spirit with which he had defended it in 1788-89.

The Alien and Sedition acts, passed by Congress in June and July, 1798, gave the Republicans their next opportunity to raise the state rights issue. Virginia and Kentucky protested vigorously in legislative resolutions characterizing the acts as a usurpation of power on the part of the federal government and therefore void. Wm. R. Davie, a federalist with mild state rights proclivities, was Governor of North Carolina at the date of reception of the Virginia and Kentucky resolutions. His zeal for the safety of the Union caused him to take the ground that at this juncture the Union's existence was in more danger than the rights of the states.[25] He therefore threw all his influence against any legislative cooperation with Virginia and Kentucky. Feeling ran high throughout the state. In a sharp party fight in the lower branch of the state legislature Davie's followers were successful in preventing action.[26] But the attitude of North

[25] McRee, II. Davie to Iredell, June 17, 1799.

[26] Journal of the N. C. House of Commons, 1798, p. 78.

Carolina toward the "doctrine of 1798" was one of friendliness. Her non-action was due to disinclination on the part of the state administration to encourage dissension at a time of such high party feeling.

The federalist party in North Carolina practically expended the last of its strength in the presidential election of 1800. General apprehension for the safety of the Union aroused by the Jay treaty, the Alien and Sedition Acts, and the "Resolutions of '98" enabled them to carry four electoral districts, but after this election the party became disorganized and had no leaders of note. The Republican party now had practically uncontested control of the state with indications predicting a long tenure of power. Nathaniel Macon, a worthy disciple of Willie Jones and with even more ultra-democratic principles than his preceptor, became the party chief. His position in national politics as speaker of the House of Representatives from 1801 to 1806 did not lessen his interest in state party affairs. Through the decade of national humiliation at the hands of England and France he held the state in firm support of the Republican administration. When the New England federalists met at Hartford in 1814 and threatened to secede as a protest against the war with England, North Carolina republicanism, mindful of its cardinal doctrine, state rights, conceded their right to speak. But the concession was coupled with the demand that they should speak through their legislatures and at a time when all were not endangered by a public enemy; in short, that "they should speak like Americans." [27]

From 1815 to 1820 North Carolina, in common with the rest of the Union, enjoyed a period of political quiet. The Union, now that it had stood the test of a foreign war, became

[27] *Raleigh Register*, Dec. 8, 1814, and Jan. 27, 1815. This paper was the official organ of the Republican party in N. C.

a fixture in the political conceptions of the people. Sentiment, as well as political wisdom and experience, was beginning to form a bulwark for its protection.[28]

The period of calm was soon broken, however, by the development of a serious political contest between the North and the South over slavery extension. The issue was joined over the admission of Missouri as a slave state, ending in the well-known Missouri Compromise. Though the North Carolina legislature gave no official utterance to the state's sentiment upon the question, the newspapers earnestly thrashed the matter over and thus we are able to learn the general state of public opinion. The *Raleigh Register,* official mouthpiece of the Republican state organization, decidedly opposed as unconstitutional any restrictions upon Missouri.[29] The *Minerva,* claiming no party affiliations but representing the known sentiment of certain detached groups,[30] and undoubtedly a respectable minority, assumed a very different attitude. It said, January 28, 1820: "We doubt whether it be possible to answer Mr. King's speech of the last session against granting to this new State (Missouri) the privilege of holding our fellow-men in bondage. Yet our Northern brethren will generously remember that it is not always possible for the most honest to be just." A month later the same paper asserted the constitutionality of restriction,[31] and added: "It is equally certain that true policy forbids the *extension,* as it submits to the *toleration* of slavery." Two weeks later the *Minerva* declared an open and definite

[28] 17 *Nile's Register,* 31, has a very interesting account at this date of a fervent prayer for the preservation of the Union, uttered by a North Carolina Revolutionary patriot upon his death bed.

[29] *Raleigh Register,* March 3, 1820, *et seq.*

[30] These groups were the Quaker counties—Guilford, Randolph, and Chatham; the Moravian center at Salem, and much of the mountain country.

[31] Minerva, Feb. 11, 1820.

hostility to slavery extension and began to advocate[32] some form of gradual emancipation in the states.

Such sentiment, however, was unorganized and ineffectual and by no means represented the controlling forces within the state. Nathaniel Macon, now in the United States senate, represented as always the state rights republicanism of the eastern North Carolina slaveholder. He opposed to the end the whole plan of the compromise on the ground that it would mean an admission on the part of the South that Congress could set metes and bounds to slavery.

During the tariff and nullification controversy of 1828-33 North Carolina pursued the course she felt best fitted to secure a repeal of the obnoxious tariff and at the same time preserve her original attitude toward state rights, without endorsing the radical activity of South Carolina. Just after the tariff bill of 1827 so nearly became a law, Governor Iredell, anticipating that the protectionists would again bring forward their measure at the next session of Congress, recommended[33] to the North Carolina General Assembly to put on record some form of protest. Accordingly at this time a resolution[34] was passed which declared that any increase of import duties by Congress was inexpedient and unwise. That this simple resolution might the more effectively gain the ear of Congress a preamble was attached which admitted the constitutionality of such duties but declared nevertheless that "interest, either pecuniary or political, is the great point of union from the smallest association up to the Confederacy of American States: that whenever a system is adopted by the general government which does not equally conserve the interests of all the states, then the right rests with any state

[32] *Ibid.*, Feb. 25, 1820.

[33] Message, Nov. 29, 1827, Executive Letter-book. Governor Iredell was the son of Judge James Iredell, of the U. S. Supreme Court. The father had died in 1799.

[34] Journal of N. C. Gen. Assy., 1827-28, p. 101.

or States to question whether the benefits of the Union are not more than counterbalanced by its evils." This had the ring of Hartford convention doctrine, but was unavailing, Congress passing the "tariff of abominations" one month later.

A storm of protest was raised at once throughout the South. But with Adams's defeat by Jackson in November, 1828, the belief became current in North Carolina that the tariff would be repealed almost immediately.[35] Events drifted, however, and nothing was done. The Hayne-Webster debate occurred in January, 1830, and intensified interest in the strained situation. Though not yet quite ready for action, the course South Carolina would pursue was a foregone conclusion. The question before the Union, therefore, was how far that state would be supported by the other southern states.

For North Carolina this question was answered directly by the people on Independence Day, 1830. Fourth of July celebrations were held in nearly every county in the state and were made the occasion of a plebiscite on the South Carolina doctrine. At Asheboro the following theme inspired the orator of the day and evoked the applause of the people: "The union of the States—united we stand, divided we fall! He who wantonly engenders a feeling of hostility between the States instead of soothing it to harmony is a traitor to his country. Let no such man be trusted." At Hillsboro: "State Rights and Federal Powers—if the line of demarcation between them, as drawn by the framers of the Constitution, be preserved unobscured by the refinements of construction, our Union will stand throughout time as the proud monument of a free people to govern themselves." At Fayetteville: "Our Sister State—South Carolina. We

[35] This view was expressed by the newspapers, and in Governor Owen's message to Assembly, Nov. 19, 1829. Ms. Letter-book.

esteem her worth but deprecate her example. We therefore hold her *in union* a friend, in *disunion* an enemy to our political institutions." [36] Speaker vied with speaker everywhere in expression of dissent from South Carolina's doctrine of nullification, though at the same time care was taken to soundly rap the tariff. Calhoun's reasoning might be without a flaw, but just now the blessings of union seemed dearer to North Carolina than statesmen's logic.

When the annual Assembly met in November it was expected to register officially the will of the people upon the subject of nullification. Accordingly resolutions[37] in the following form were introduced by Jonathan Worth, a Quaker member, and, after heated debate and slight amendment, passed the lower branch by a vote of 87 to 27: "Resolved, by the General Assembly of North Carolina: That although the Tariff Laws as they now exist are in the opinion of this Legislature unwise, unequal in their operation, and oppressive to the Southern States, yet this Legislature does not recognize as constitutional the right of an individual state to nullify a law of the United States." The twenty-seven members who opposed this resolution were extreme state rights men and were actuated by a fear that the repudiation of nullification might mean the first successful assault upon particularism. They therefore preferred to make no concession, even as to the questionable doctrine of nullification. The senate agreed with the house minority and refused to commit itself. The larger freehold qualifications required for membership in the senate made this branch of the legislature less responsive than the house to popular sentiment, therefore, more representative of the old par-

[36] These toasts are chosen as typical of a great many reported by the press throughout the State. See *Raleigh Register* and *Carolina Watchman* of July 12, 1830.

[37] House Journal, Dec. 31, 1830, p. 257.

ticularism of the east. The senate favored resolutions which emphasized the reserved rights of the states and condemned the tariff as a usurpation of power by the Federal government.[38] But it was not prepared to antagonize the popular branch and public sentiment further than to remain silent.

The famous Nullification Ordinance of South Carolina, the result of a state convention in 1832, brought the controversy to a crisis. The North Carolina legislature was in session when the ordinance was received. The senate could no longer stay the tide of dissent. The pressure for anti-nullification resolutions was too strong to be resisted. Some attempt was made by the senate to link the tariff with the question of internal improvements and make the two together a cause for requesting all the states to meet in a federal convention for the purpose of giving an authoritative interpretation of all the constitutional questions in dispute. This plan failed, however, and the two houses then came to an agreement and passed anti-nullification resolutions.[39] These resolutions contained both the declaration that the tariff was unconstitutional and that nullification was revolutionary and subversive of the Constitution. They were thus a compromise between the senate and the house, between the old state rights dogma and the new sentiment.

But the repudiation of the doctrine of nullification by North Carolina can in no sense be interpreted as a repudiation of the doctrine of state rights as held at the time of the formation of the Union. Numerous mass-meetings in the counties attest the people's endorsement of the legislature's final action, but only one has been discovered by the writer in which the sentiment was expressed that the United States constituted one great political society and the govern-

[38] The Senate favored the "Sawyer Resolutions." These were of a strong state rights tone. See N. C. House Journal, 1830, 175.

[39] N. C. Senate Journal, 1832-33, 99; and House Journal, 1832-33, 224-225.

ment thereof essentially a national government.[40] On the other hand, there was abundant evidence in mass-meetings, in the press, in the correspondence of public men, and in the Legislature which shows a spirit anxious to find a way to repudiate nullification and at the same time save the original state rights doctrine. A letter to a party friend from the aged Nathaniel Macon, now in voluntary political retirement, probably expresses as accurately as could be done the attitude of the thinking public. He said: "I have never believed a State could nullify and stay in the Union, but have always believed that a State might secede when she pleased, provided she would pay her proportion of the national debt; and this right I have considered the best safeguard to public liberty and public justice that could be required."[41] It was in consistency with this theory and under its impulsion that North Carolina left the Union in 1861.

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[40] Such resolutions were passed in the town of Wilmington, which, strange to say, was later the strongest secession center in the State. For resolutions see *Raleigh Register*, Jan. 4, 1833.

[41] Dodd. Life of Nathaniel Macon, 385. Macon to Samuel P. Carson, Feb. 9, 1833.

THE NAG'S HEAD PICTURE OF THEODOSIA BURR.*

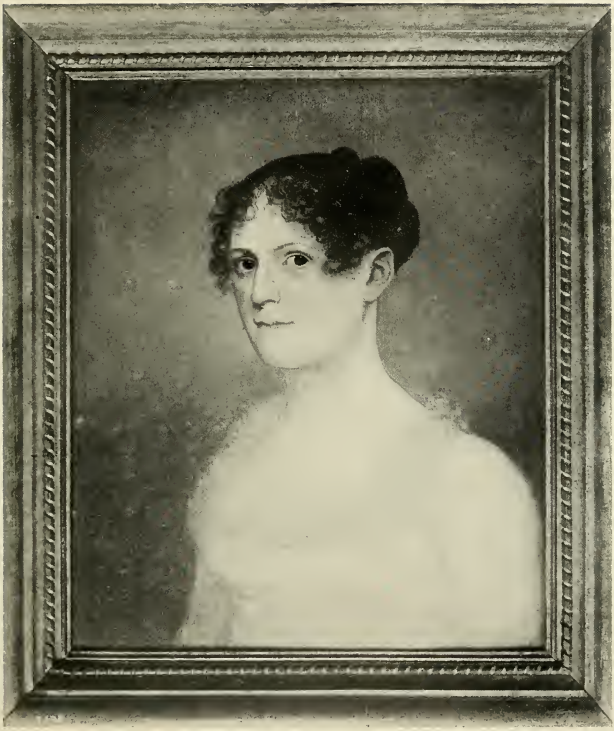
BY BETTIE FRESHWATER POOL.

The sand dunes of North Carolina have long been famous as the scene of marine tragedies. The bleaching ribs of some of the stateliest craft that ever plowed the deep bear testimony to the ravages of old ocean. The English merchantman, the Portuguese galleon, the Dutch brigantine, the Spanish treasure ship, the French corvette, the Norwegian barque, representatives of every maritime nation on the globe, are scattered over the beach, from Hatteras to Cape Fear, their grisly skeletons protruding from the sands like antediluvian monsters in some geological bed.

This narrow strip of sand winding like a yellow ribbon between the inland sounds and the sea, presents a curious study to the geologist. For years it has been gradually sinking, and at the same time becoming narrower, until now its average width is not more than a mile, and the libertine waters of the great sea not seldom rush across the frail barrier to embrace those of the Albemarle.

The slender divide has not always been able to withstand the matchless flood, which has, in times of unusual commotion, literally cut a pathway through the yielding sands. These form inlets, of which Oregon, Hatteras and New are the most important. Through the first Burnside's fleet of warships defiled on its way to the bombardment of Roanoke Island. The channels are constantly changing, and skillful pilots are required to guide vessels safely over the bar.

*This article from "The Eyrie and Other Southern Stories," by Bettie Freshwater Pool, is published by permission of the author.



Supposed Portrait of Theodosia Burr Alston.

The ornithologist may here find much to interest him, and the conchologist revel in a paradise of shells. But the nautilus, pale and pearly, and the delicate blush of the sea conch, have small influence on the rude nature of the native "banker." Isolated from the world on his barren waste of shifting sand the "banker" of a hundred years ago was almost a barbarian. His savage instincts not only made him consider all flotsam and jetsam his lawful property, but induced him to use every means to lure vessels ashore for the purposes of plunder. And when a wreck occurred, the wreckers held high carnival. The sparse population turned out *en masse,* and with demoniac yells, murdered without remorse the hapless victims who escaped the raging surf. Nag's Head, a favorite summer resort along the coast, was named from a habit the "bankers" had of hobbling a horse, suspending a lantern from its neck and walking it up and down the beach on stormy nights, impressing the mariner with the belief that a vessel was riding safely at anchor. Through this device many a good ship has gone down and much valuable booty secured to the land pirates.

The "bankers" of to-day are different beings from their ancestors of a century ago. Fellowship with enlightened people has had a humanizing influence, and they are now good and useful citizens. The North Carolina coast is provided with three first-class lighthouses—Hatteras, Whale's Head, and Body's Island. Body's Island is no longer an island, Nag's Head Inlet, which formed its northern boundary, having been completely closed up by the encroaching sands.

The dunes, for most part barren of vegetation, have in some places a stunted growth of forest trees, and in others large marshes covered with a rank growth of coarse grass, on which herds of wild cattle and "banks ponies" graze.

In the winter of 1812 there drifted ashore at Kitty Hawk, a few miles below Nag's Head, a small pilot boat with all sails set and the rudder lashed. There was no sign of violence or bloodshed; the boat was in perfect condition, but entirely deserted. The small table in the cabin had been spread for some repast, which remained undisturbed. There were several handsome silk dresses, a case of wax flowers with a glass covering, a nautilus shell beautifully carved, and hanging on the wall of the cabin was the portrait of a young and beautiful woman. This picture was an oil painting on polished mahogany, twenty inches in length and enclosed in a frame richly gilded. The face was patrician and refined: the expression of the dark eyes proud and haughty; the hair dark auburn, curling and abundant. A white bodice, cut low in the neck and richly adorned with lace, revealed a glimpse of the drooping shoulders, and the snowy bust, unconfined by corset.

Those who boarded the boat possessed themselves of everything of value on board. The picture, wax flowers, nautilus shell and silk dresses fell into the possession of an illiterate banker woman, who attached no especial value to them.

This picture, which has since attracted so much attention, hung on the wall of a rude cabin among the North Carolina hills for fifty-seven years. In the year 1869 it fell into the possession of the late Dr. William G. Pool, a prominent North Carolina physician. Dr. Pool was a man of marked individuality. He had the tastes of an antiquarian, was literary, cultured, and noted for his remarkable conversational gifts. While summering at Nag's Head, he was called upon to visit professionally the old banker woman referred to above. He was successful in his treatment of the case, and knowing the circumstances of his patient, would accept no payment for his services. In her gratitude for his kindness, the old woman insisted upon his accepting, "as a gift,"

the portrait hanging on the wall of her cabin. When questioned concerning its history, she related the facts above mentioned. This she did with apparent reluctance, possibly suppressing many interesting details that might have thrown more light upon the subject. Her husband had been one of the wreckers who boarded the pilot boat, and the picture and other articles referred to had been his share of the spoils. Her story was that the wreckers supposed the boat to have been boarded by pirates and that passengers and crew had been made to "walk the plank." The picture and its strange history became a subject of much interest and conjecture to Dr. Pool. Artists pronounced it a masterpiece, and the unmistakable portrait of some woman of patrician birth.

Chancing one day to pick up an old magazine in which appeared a picture of Aaron Burr, Dr. Pool was forcibly struck by the strong resemblance between it and the portrait in question. Like a flash it occurred to him that this might be a likeness of Theodosia, the ill-fated daughter of Aaron Burr. Eagerly he compared dates and facts until he became thoroughly convinced that he had found a clue to that mysterious disappearance, which is one of the most awful tragedies of history. A brief account of this discovery was published in the New York *Sun,* and immediately letters innumerable were received by him asking for more particulars.

Photographs of the portrait were sent to the numerous members of the Burr and Edwards families, and almost without exception the likeness was pronounced to be that of Theodosia Burr. Charles Burr Todd, the author, and Mrs. Stella Drake Knappin, descendants respectively of the Burr and Edwards families, visited Dr. Pool's residence on Pasquotank River for the purpose of examining the portrait. They were both convinced that it was a likeness of Theodosia Burr.

The wife of Colonel Wheeler, of Washington, D. C., who is a daughter of Sully, the famous portrait painter, and is herself an artist, compared a photo of the Nag's Head picture with a likeness of Theodosia Burr in her possession. She at once perceived that both features and expression were identical.

There was probably no woman in America at the time of Theodosia Burr's death more universally known and admired than she. Her high social rank, her beauty, her genius, her accomplishments, as well as her heroic devotion to her father in the dark days of his disgrace and banishment, had made her a prominent figure and had won for her the admiration of thousands.

When Aaron Burr, upon his return from exile, sent for his daughter to visit him in New York, she decided to make the voyage by sea. Her health had been almost completely wrecked by grief over her father's disgrace, and the recent death of her only child, Aaron Burr Alston. It was thought that a sea voyage might prove beneficial. She accordingly set sail from Georgetown, S. C., in the *Patriot,* a small pilot boat, December 30, 1812. Days and weeks passed, but Aaron Burr waited in vain for the arrival of his daughter. Months and years rolled away and still no tidings came. The *Patriot* and all on board had completely vanished from the face of the earth, and the mystery of its disappearance remained unsolved for more than half a century.

Governor Alston did not long survive the loss of his beloved wife, and Aaron Burr, in speaking, years afterwards of his daughter's mysterious fate, said that this event had separated him from the human race.

Let us now compare dates and facts: A pilot boat drifts ashore during the winter of 1812 at Kitty Hawk, a few miles below Nag's Head. There were silk dresses in the cabin

and other indications that some lady of wealth and refinement has been on board. There is a portrait on the wall of the cabin that has been pronounced by artists and members of her family to be a likeness of Theodosia Burr.

The *Patriot* was lost during the winter of 1812. On the voyage from Georgetown, S. C., to New York it would pass the North Carolina coast. The sea at this time was infested by pirates. A band of these bold buccaneers may have boarded the little vessel and compelled passengers and crew to "walk the plank." Becoming alarmed at the appearance of some government cruiser, they may, from motives of prudence, have abandoned their prize.

This theory is not mere conjecture. Years ago two criminals executed in Norfolk, Va., are reported as having testified that they had belonged to a piratical crew who boarded the *Patriot* and compelled every soul on board to "walk the plank." The same confession was made years subsequently by a mendicant dying in a Michigan almshouse. This man said he would never forget the beautiful face of Theodosia Burr as it sank beneath the waves, nor how eloquently she pleaded for her life, promising the pirates pardon and a liberal reward if they would spare her. But they were relentless, and she went to her doom with so dauntless and calm a spirit that even the most hardened pirates were touched.

I can not vouch for the truth of these confessions which have appeared from time to time in print. I only introduce them as collateral evidence in support of the banker woman's story. The *Patriot* was supposed to have been wrecked off the coast of Hatteras during a terrific storm which occurred soon after it set sail. This, however, was mere conjecture which has never been substantiated by the slightest proof.

It is not improbable that the *Patriot* during a night of

storm was lured ashore by the decoy light at Nag's Head, and that passengers and crew fell into the hands of the land pirates in waiting, who possessed themselves of the boat and everything of value it contained. This also, of course, is mere conjecture, but the all-important fact remains that a pilot boat went ashore at Kitty Hawk during the winter of 1812, and that in the cabin of this boat was a portrait of Theodosia Burr.

BIOGRAPHICAL AND GENEALOGICAL MEMORANDA.

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

MRS. WALTER CLARK.

The sketch of General Joseph Graham is written by his granddaughter, Mrs. Susan Graham Clark, who is the wife of Chief Justice Clark, one of the foremost historians of our State. She is the only daughter of the late Honorable William Alexander Graham, the learned lawyer and ripe scholar, who filled so many positions of honor and trust, notable among them being that of United States Senator in 1840, Governor in 1845, and Confederate States Senator in 1864. Mrs. Clark was born in Washington, D. C., while her father was Secretary of the Navy during the administration of President Fillmore. A suggestion made by Governor Graham to fit out an expedition to Japan resulted in one of the greatest events of the nineteenth century—the opening of the ports of that country to the world. Had he done nothing else, this alone would place him on the highest roll of fame.

Mrs. Clark received her primary education at the Misses Nash and Miss Kollock's School in Hillsboro, N. C., and afterwards at Mlle. Rostand's in New York City. She lived in Hillsboro, N. C., until her marriage in 1874, since which time she has resided in Raleigh, where she exerts a potent influence in her church and in other associations.

Mrs. Clark is Vice-Regent of the North Carolina Society of the Daughters of the Revolution, filling the place most acceptably, holding the meetings in the absence of the Regent, conducting and furthering with zest and conservatism such movements as are made for the preservation of our State history or the commemoration of important events.

Mrs. Clark has been repeatedly called to the office of Regent, the highest office within the gift of the Society, but a frail constitution forbade such active work as this position

would entail. Mrs. Clark belongs to such organizations as the Associated Charities, the Civic Department of the Woman's Club, and the Rescue Circle of King's Daughters.

"True to the kindred points of Heaven and Home," Mrs. Clark's daily life is an exponent of her character. She claims as her jewels five sons and two daughters.

HENRY McGILFERT WAGSTAFF.

Author of "State Rights in North Carolina Through Half a Century."

Born at Olive Hill, Person County, North Carolina, January 27, 1876.

Attended the public schools; was prepared for college at Roxboro Academy and by private instruction. Entered the University of North Carolina in 1895, and graduated 1899.

Taught three years (1899-1902) in high schools of the State.

Entered Johns Hopkins University in 1903 for graduate work in History. In 1905-6 was fellow in History at the Hopkins and received PhD. degree in latter year. 1906-7 was Acting Professor of History in Allegheny College, Pennsylvania. 1907-9 was Associate Professor of History in University of North Carolina, and in 1909 became Professor of History in this institution.

Professor Wagstaff has always taken a lively interest in all history, but has made an especial study of the history of North Carolina from a love for his native State. His ability and industry in this line entitle him to be grouped with those historians of the past and present who have made and are making "God and their country's right their battle cry."

MISS BETTIE FRESHWATER POOL.

Author of Article on "Nags Head Picture" Biographical Sketch.

Biographical sketch may be found in No. 4 of Vol. VIII, page 334.

ABSTRACT OF WILLS PREVIOUS TO 1760.

FROM SECRETARY OF STATE'S OFFICE.

Will of Lawrence Arnold, Dec. 14, 1690. Son John, wife, Lawrence Godfrey.

Will of Richard Ashell; executed Sept. 15, 1695. Wife, daughter Mary, child *in esse*, all my children, Wm. Privett and Wm. Charlton. (Note—Chowan names.)

Will of Peter Avelin, March 14, 1710; probated Nov. 1, 1712. Sons Henry, Peter and John, daughter Anne.

Will of Abraham Adams; Dec. 18, 1734. Son James Adams, son Joseph, daughter Sarah, wife Anne.

Will of James Adams; Feb. 17, 1733; probated July, 1734. Son Abraham, son James, son Emanuel, son John, son Thomas, daughter Martha, daughter Rachel, daughter Mary, child of Rachel.

Will of Abraham Adams; March 27, 1734. Son Abraham, son Richard, son William, son Willoby, wife Barthia.

Will of John Battle of Bertie County; probated May Court, 1740; son William, son Jesse, daughters Priscilla and Sarah, brother William Battle, wife Sarah Battle, John Brown, brother to my wife.

Will of James Burns, Bertie County; January 8, 1733; probated March 31, 1735. Wife Elizabeth, son-in-law John Wynn, grandson George Augustus Wynn, son-in-law Cullinner Sessoms, daughter Mary Wynn, daughter Elizabeth Early, grandson James Early, James Burke, William Burke, John Askew, goddaughter Martha Davis.

Will of William Boge; Dec. 20, 1720; probated April 11, 1721. Sons William and Josiah, wife Ellendor, daughter Elizabeth Hill, daughter Jane Boge, daughter Miriam Boge, daughter Rachel Boge, grandson William Hill, son Robert; Wm. Boge and Janet Hill, executors.

Will of John Bennett, of Currituck; Dec. 10, 1710. Sons Joseph and Benjamin, cousin Wm. Jones, of Northamptonshire, wife's grandfather Richard Nescut of South Pedecton in Somersetshire, adopted son Sampson Goddard, wife Mary executrix.

By Mrs. Helen deB. Wills,
Genealogist for N. C. Daughters of the Revolution.

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.

Membership and 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 eight years has been the publication of the "North Carolina Booklet," a quarterly publication on great events in North Carolina history—Colonial and Revolutionary. $1.00 per year. It will continue 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.

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"Indian Massacre and Tuscarora War," Judge Walter Clark.

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"Whigs and Tories," Prof. W. C. Allen.

"The Revolutionary Congresses," Mr. T. M. Pittman.

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"The Scotch-Irish Settlement," Rev. A. J. McKelway.

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"Genesis of Wake County," Mr. Marshall DeLancey Haywood.

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"First Settlers in North Carolina Not Religious Refugees," Rt. Rev. Joseph Blount Cheshire, D.D.

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"Biographical Sketches: Introduction; Maj. Graham Daves." By Mrs. E. E. Moffitt.

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"The North Carolina Society Daughters of the Revolution and its Objects."

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"The Battle of Rockfish Creek, 1781," Mr. James Owen Carr.

"Governor Jesse Franklin," Prof. J. T. Alderman.

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"Lock's Fundamental Constitution," Mr. Junius Davis.

"The White Pictures," Mr. W. J. Peele.

"North Carolina's Attitude Toward the Revolution," Mr. Robert Strong.

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Genealogical Sketches: Abstracts of Wills; Scolley, Sprott and Hunter, Mrs. Helen de B. Wells.

Vol. VII. (Quarterly.)

July, No. 1.

" North Carolina in the French and Indian War," Col. A. M. Waddell.

" Locke's Fundamental Constitutions," Mr. Junius Davis.

" Industrial Life in Colonial Carolina," Mr. Thomas M. Pittman.

Address: "Our Dearest Neighbor—The Old North State," Hon. James Alston Cabell.

Biographical Sketches: Col. A. M. Waddell, Junius Davis, Thomas M. Pittman, by Mrs. E. E. Moffitt; Hon. Jas. Alston Cabell, by Mary Hilliard Hinton.

Abstracts of Wills. Mrs. Helen DeB. Wills.

October, No. 2.

"Ode to North Carolina," Miss Pattie Williams Gee.

" The Finances of the North Carolina Colonists," Dr. Charles Lee Raper.

" Joseph Gales, Editor," Mr. Willis G. Briggs.

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"The Expedition Against the Row Galley 'General Arnold'—A Side Light on Colonial Edenton," Rev. Robt. B. Drane, D.D.

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"A Sermon by Rev. George Micklejohn," edited by Mr. R. D. W. Connor.

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"The Significance of the Mecklenburg Declaration of Independence," Prof. Bruce Craven.

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"Mr. Salley's Reply."

"Mr. Craven's Rejoinder."

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"Patriotic Objects."

"Information Concerning the Patriotic Society D. R."

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"Unveiling Ceremonies."

"Carolina," by Miss Bettie Freshwater Pool.

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PURPOSES.

1. "To have collected from the files of old newspapers, court records, church records, private collections, and elsewhere, historical data pertaining to the history of North Carolina and the territory included therein from the earliest times"

2. "To have such material properly edited, published by the State Printer as other State printing, and distributed under the direction of the Commission."

3 "To care for the proper marking and preservation of battlefields, houses and other places celebrated in the history of the State.'

4. "To diffuse knowledge in reference to the history and resources of North Carolina."

5. "To encourage the study of North Carolina history in the schools of the State, and to stimulate and encourage historical investigation and research among the people of the State." Section 2, Chapter 714, Public Laws of 1907.

The Secretary wishes to correspond with any person who is willing to assist the Commission, by gifts or loans or manuscripts, information of the whereabouts of such documents, or otherwise in carrying out the above purposes.

Address all Communications to the Secretary

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RALEIGH, N. C.

Published at the Capital City

JOSEPHUS DANIELS
EDITOR

Growth of Circulation

1894,	1,800 subscribers	1901,	6,500
1895,	2,400 subscribers	1902,	7,054
1896,	3,100 subscribers	1903,	8,201
1897,	4,200 subscribers	1904,	9,111
1898,	4,880 subscribers	1905,	10,000
1899,	5,200 subscribers	1906,	11,000
1900,	5,700 subscribers	1907,	12,000