

VOL. IV

AUGUST, 1904

No. 4

THE
NORTH CAROLINA BOOKLET



GREAT EVENTS IN
NORTH CAROLINA HISTORY

THE CONVENTION OF 1788-'89
AND THE FEDERAL CONSTITUTION—HILLSBOROUGH AND
FAYETTEVILLE.

BY

JUDGE HENRY GROVES CONNOR.



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"CAROLINA! CAROLINA! HEAVEN'S BLESSINGS ATTEND HER!
WHILE WE LIVE WE WILL CHERISH, PROTECT AND DEFEND HER."

RALEIGH
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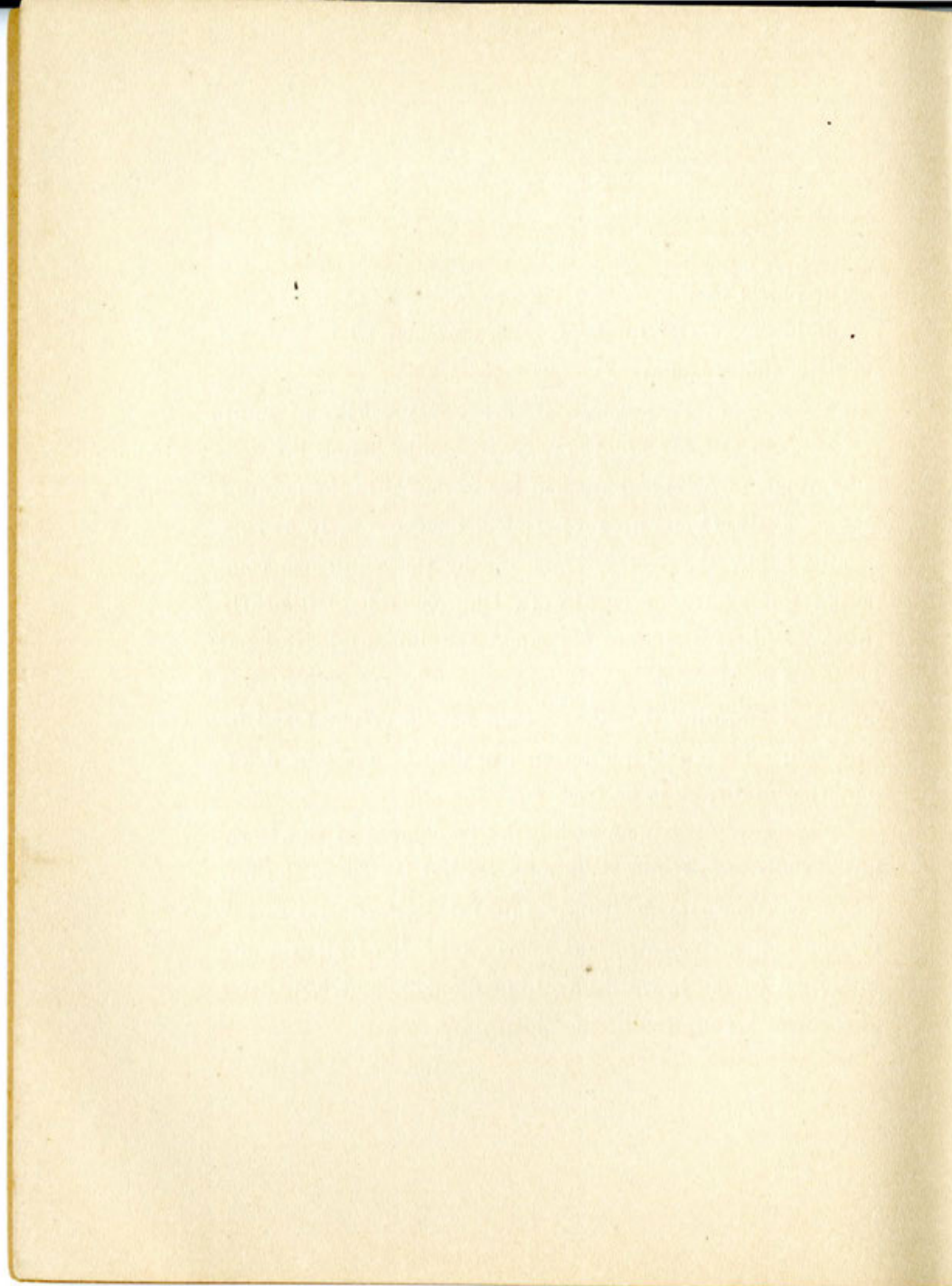
PREFACE.

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

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

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

MRS. D. H. HILL.



THE CONVENTION OF 1788-'89 AND THE FEDERAL CONSTITUTION—HILLSBOROUGH AND FAYETTEVILLE.

BY HENRY GROVES CONNOR,

(Associate Justice of the Supreme Court of North Carolina).

The General Assembly of North Carolina, at an adjourned session in January, 1787, appointed Governor Caswell, Alexander Martin, General W. R. Davie, Richard Dobbs Spaight and Willie Jones delegates to the Convention which had been called to meet at Philadelphia on May 14, 1787, for the purpose of proposing amendments to the Articles of Confederation. Willie Jones and Governor Caswell could not attend, and pursuant to the power vested in him the Governor appointed Hugh Williamson and William Blount. On the first day of the Convention Messrs. Martin, Spaight, Davie and Williamson were present. Mr. Blount took his seat June 20, 1787. After a session of four months, the Convention, on September 17, 1787, reported to Congress a plan of government which, when ratified by nine of the thirteen States, was to become "between the States so ratifying the same the Constitution of the United States." A government was to be organized pursuant to its provisions. The Convention adopted a resolution expressing the opinion that, after being submitted to Congress, the Constitution should be submitted to a convention of delegates chosen in each State by the peo-

ple thereof "under the recommendation of its Legislature." Accompanying the Constitution was an open letter signed by George Washington, President.

Messrs. Blount, Spaight and Williamson signed the Constitution in behalf of this State. General Davie left Philadelphia for his home upon the final vote, and before the Constitution was prepared to be signed. Mr. Martin was also at home, as we learn from a letter to Governor Caswell, in which he says that he is compelled to be at Salisbury Superior Court. He further says: "My absence may, I think, be the more easily dispensed with when I have the pleasure to inform your Excellency the Deputation from the State of North Carolina have generally been unanimous on all great questions." In the same letter he explains to the Governor the reason why he has not had "particular information respecting the Convention," etc. On September 18, 1787, Messrs. Blount, Spaight and Williamson sent to the Governor an interesting letter regarding the several parts of the Constitution in which the State was specially interested.

In accordance with the recommendation of the Convention, the proposed Constitution was submitted to the Legislatures of the several States. On November 21, 1787, the Governor sent to the Legislature of North Carolina a message with certain "Papers respecting the Federal Convention." The two Houses of the General Assembly fixed the 5th of December as "a time at which they will enter on the important business of the Federal Constitution." On that day a message was sent to the Senate by the House announcing that

they were ready to meet in conference "on this business in the Commons room immediately." The Senate being ready, the two Houses met in conference and resolved themselves into a Committee of the Whole "to take into consideration the proposed Federal Constitution." The Committee, after some debate, adjourned, reporting progress. On the next day the Committee again met and adopted a series of resolutions recommending that a Convention be called for the purpose of "deliberating and determining on the said Constitution," etc. Provision was made for the election of five delegates for each county and one from each borough town. The third Monday of July, 1788, was fixed as the time of meeting. The place was afterwards agreed upon at Hillsborough. The Convention was also authorized to fix upon a place for the Capital of the State. The delegates were elected on the last Friday and Saturday in March, 1788.

Upon the adjournment of the Philadelphia Convention, the friends and opponents of the new Constitution began a spirited and, in some States, a bitter controversy in regard to its merits, etc. The conditions are well described by Mr. Fiske. He says: "And now there ensued such a war of pamphlets, broadsides, caricatures, squibs and stump speeches as had never yet been seen in America. Cato and Aristides, Cincinnatus and Plain Truth were out in full force. What was the matter with the old Confederation? asked the Anti-Federalists. Had it not conducted a glorious and successful war? Had it not set us free from the oppression of England? That there was some trouble now in the country

could not be denied, but all would be right if people would only curb their extravagance, wear homespun clothes and obey the laws. There was government enough in the country already. The Philadelphia Convention ought to be distrusted. Some of its members had opposed the Declaration of Independence," etc. Complaint was made that Hamilton and Madison were "mere boys," while Franklin was an "old dotard," a man in his second childhood. Washington, they said, was "doubtless a good soldier, but what did he know about politics?" Some went so far as to say that he was a "born fool."

Thomas Iredell, in a letter to his brother, May 22, 1788, says that "Mr. Allen read me a part of a letter he received from a gentleman of his acquaintance, who mentions a conversation he had with General Person, the substance of which was 'that General Washington was a damned rascal and traitor to his country for putting his hand to such an infamous paper as the new Constitution.'"

"Letters from a Federalist Farmer," by Richard Henry Lee, pointed out that the author saw "seeds of an aristocracy and of centralization" in the Constitution. That it created "a National Legislature in which the vote was to be by individuals and not by States."

Many of those who opposed the proposed Constitution admitted the necessity for amendment to the Articles of Confederation, but saw in the new plan danger to the integrity of the States and the destruction of local self-government. The defenders of the Constitution were by no means silent

or idle. Hamilton, Madison and Jay published over the name "Publius" a series of essays explaining and defending the Constitution, which, when bound in a volume, were known as "The Federalist." Mr. Lodge says: "The 'Federalist' throughout the length and breadth of the United States did more than anything else that was either written or spoken to secure the adoption of the new scheme." Mr. Fiske says: "The essays were widely and eagerly read and probably accomplished more toward insuring the adoption of the new Constitution than anything else that was said or done in the eventful year." Mr. McRee, in his "Life of Judge Iredell," which Mr. Bancroft says "for instruction is an invaluable work," says: "Contemporaneous with the meeting of the Convention at Philadelphia, the two great parties into which the people were divided began to be known as 'Federalist' and 'Anti-Federalist,' or 'Republican.' The former in favor of a more intimate union of the States, and fully prepared to receive the new plan of government; the latter either content with the Confederation, or content to submit to slight or partial amendments alone." William Dickson, a very intelligent and observant man, living in Duplin County, gives us a very clear and interesting description of conditions in the State. On November 30, 1787, he writes: "During the course of the last summer a grand Convention of delegates from the several States were assembled at Philadelphia. The only production of their councils which I have yet seen published is a Constitution for the United States of America to be submitted to the Legislature of each State for their appro-

bation and concurrence, a copy or a pamphlet of which, for amusement, I herewith enclose you. Our General Assembly for this State are now convened and have it under consideration. We hear that debate runs high concerning it, also the populace in the country are divided in their opinions concerning it. For my own part, I am but a shallow politician, but there are some parts of it I do not like."

Judge Iredell published in 1788 an "Answer to Mr Mason's Objections to the New Constitution," signed "Marcus." In this very able paper he states Mr. Mason's objections and proceeds to answer them *seriatim*. This paper was published in connection with an "Address to the People," by Mr. MacLaine, signed "Publicola."

That the "Federalist" was circulated in this State is shown by letters referring to it from Davie and MacLaine to Iredell. But Iredell was unanimously elected a delegate from Edenton to the Convention, Davie secured a seat from the town of Halifax, and MacLaine, Governor Johnston and Spaight were also selected. The election in a large majority of the counties showed much hostility to the proposed Constitution. William Hooper writes Iredell from Hillsborough: "I fear those who favor the new Constitution will be far outnumbered by their adversaries. The Western Country in general is decidedly opposed to it. Mr. Moore and myself essayed in vain for a seat in the Convention. Our sentiments had transpired before the election." MacLaine writes that while he hears that many of the people are changing their opinions in favor of the Constitution, that it is not very good

sign that such men as General Allen Jones, William Blount, Mr. Hooper, Mr. Moore, General Martin and Judge Williams have been rejected

The Convention met in the Presbyterian Church at Hillsborough on July 21, 1788, with two hundred and eighty-four members. Governor Johnston, although a strong supporter of the Constitution, was unanimously elected President. Mr. John Hunt and Mr. Joseph Taylor were elected Secretaries. Among the delegates, besides those named, were John Steele of Rowan, "laborious, clear-sighted and serviceable for his knowledge of men"; General Davie, who had won renown as a soldier in the Revolutionary War, served many times in the Legislature, a man of eminent ability and destined for high honors in the service of the State and nation.

Of James Iredell, Mr. Bancroft says: "Foremost among the Federalists, the master mind of the Convention was James Iredell, who before he was forty years old was placed by Washington on the Supreme Bench of the United States." He was at that time thirty-six, and had not before served in a parliamentary body. Moore says: "He was as ready in debate as he was profound in legal and constitutional knowledge."

Archibald Maclaine was a learned and able lawyer and ardent patriot, and had rendered eminent service in the Cape Fear section in the struggle for independence. He was strong in debate, but impatient and at times gave way to a hasty temper

Richard Dobbs Spaight had been a member of the Phila-

delphia Convention. He was a man of great ability, and was afterwards Governor of the State

Among the leaders in the opposition, by far the most influential was Willie Jones of Halifax. Of this remarkable man, Mr. McRee says: "Willie Jones was the most influential politician in the State. Although democratic in theory, he was aristocratic in habits, tastes, pursuits and prejudices; he lived sumptuously and wore fine linen; he raced, hunted and played cards. He was proud of his wealth and social position and fastidious in the selection of associates of his family. A patriot in the Revolution, he was now the acknowledged head of a great party. * * * He was a loving and cherished disciple of Jefferson, and was often taunted with his subserviency to Virginia 'abstractions.' He seldom shared in discussions. His time for action was chiefly during the hours of adjournment; then it was that he stimulated the passions, aroused the suspicions and moderated the ardor of his followers; then it was that, smoking his pipe and chatting of ploughs, stock, dogs, etc., he stole his way into the hearts of honest farmers and erected there thrones for himself."

Judge Spencer, of Anson, was probably the ablest debater in the ranks of the opponents. He spoke more frequently and at greater length than any other on that side. While he strongly advocated guarantees against apprehended dangers, he recognized the necessity for a stronger and closer union of the States. His temper was good and his language moderate.

Timothy Bloodworth was one of the most interesting men

in the body. McRee says of him: "By no means one of the least among them, he was one of the most remarkable men of that era, distinguished for the versatility of his talents and his practical knowledge of men, trades, arts and sciences. The child of poverty, diligence and ambition had supplied the place of patronage and wealth. Preacher, smith, farmer, doctor, watch-maker, wheelwright and politician. * * In the social circle, good-humored, gay and full of racy anecdotes, as a politician he was resolute almost to fierceness and almost radical in his democracy. He was a member of Congress and United States Senator.

Dr. Caldwell, a Presbyterian minister, was learned and intelligent. Among his people "he discharged the triple function of preacher, physician and teacher, and for all these various offices his industry and sagacity had so qualified him that he had no rival."

McDowell had won distinction at the battles of King's Mountain and Cowpens. He was a strong man, and always spoke with clearness and vigor. "He was throughout his life the idol of the people of Western North Carolina."

General Thomas Persons strongly supported Willie Jones in his opposition to the Constitution. Like him, he spoke but seldom.

Among other names prominent in our State's history were Elisha Battle, Stephen Cabarrus, Josiah Collins, John Sitgreaves, William Barry Grove, Thomas Owens, Thomas Brown, Joseph Winston, John Macon (brother of Nathaniel),

William Lenoir, James Kenan, John Branch, Joel Lane, Matthew Lockes.

Bancroft says: "The Convention organized itself with tranquility and dignity and proceeded to discuss the Constitution clause by clause." McRee says: "A Mr. Robinson attended as stenographer. The Federalists were desirous that the debates should be published, trusting that their dissemination would produce a salutary change in the opinions of the people. At their instance, Iredell and Davie assumed the responsibility and care of their publication. The debates are to be seen in Elliott's collection, and do so much honor to the State and compare so well with the debates on the same subject in other States, that no North Carolinian can fail in grateful recollection of the energy and industry of the two eminent men to whom he is indebted for their preservation." They lost money on their publication. The usual Committees on Rules and Credentials were appointed and reports adopted. The election in Dobbs County was declared invalid because of a riot and disturbance, the box being taken away by violence. After hearing the proposed Constitution and other papers read, Mr. Galloway moved that the Constitution be discussed "clause by clause." This was promptly opposed by Willie Jones and General Person, both of whom said that they supposed every delegate was prepared to vote at once; that the condition of the public treasury was such that no more expense should be incurred than was necessary. Judge Iredell said that he was "astonished at the proposal to decide immediately, without the least deliberation, a question which

was perhaps the greatest ever submitted to any body of men." He said that the Constitution was formed after much deliberation by honest and able men of "probity and understanding"; that ten States had ratified it. He urged with much ability and in excellent spirit a full consideration. Mr. Jones said that he was prepared to vote and supposed others were, but if gentlemen differed with him he would submit. The Convention, without coming to a vote, adjourned. The next day, upon the suggestion of Mr. Galloway, the members of the Convention went into Committee of the Whole for the purpose of discussing the Constitution, Mr. Elisha Battle presiding, Mr. Caldwell submitted some "fundamental rules or principles of government" and proposed that the Constitution be compared with them. This proposition was rejected as impracticable. The preamble being read, Mr. Caldwell at once opened the discussion by attacking the language "We the People," saying "if they mean by 'We the People' the people at large, that he conceived the expression was improper." He contended that the delegates who formed the Constitution represented the States and had no power to act for "the people at large." Mr. Maclaine, admitting that they were "delegated by the States," insisted that when adopted the Constitution became the work of the people. General Davie said that he was called upon to speak because it was charged that the delegates had exceeded their powers, which he denied. Judge Iredell came to General Davie's aid, but neither of these able men could satisfy the troubled mind of the Presbyterian preacher, who, at the conclusion, simply said that "he

wished to know why the gentlemen who were delegated by the States styled themselves 'We the People'; that he only wished for information." Mr. Taylor, in a remarkably clear and forceful manner, expressed the thought of the Anti-Federalists. He said that by the use of the words "We the people" the delegates assumed a power not delegated. "Had they said 'We the States,' there would have been a federal intention in it, but it was clear that a consolidation was intended." He said that he was "astonished that the servants of the Legislature of North Carolina should go to Philadelphia and instead of speaking of the State of North Carolina should speak of the people. I wish to stop power as soon as possible." Mr. Maclaine expressed "astonishment" at the objection. He showed impatience by referring to it as "trifling," but the hard-headed Scotch preacher mildly said that he "only wished to know why they had assumed the name of the people."

Although, during the century or more that has passed since these men in Hillsborough, Patrick Henry and George Mason in Virginia, and others who were inquisitive in regard to the use of the expression, demanded an answer to their question, high debate, learned discussion and long treatises have been had and written, and grim war has played its part in the argument, it has not been answered satisfactorily to the minds of men like Mr. Caldwell. It certainly was not answered to the satisfaction of Willie Jones and his disciples.

The first section of article one, vesting all legislative power

in Congress, was read and passed over with but little discussion, Mr. Maclaine making some observations in regard to biennial elections. Mr. Shepherd remarked that he could see no propriety in the friends of the Constitution making objections when none were made by the opponents, whereupon Mr. Jones said that he would suggest that one of the friends of the measure make objections and another answer. General Davie said that he hoped personal reflections would be avoided as much as possible, that he was sorry to see so much impatience "so early in the business." Mr. Jones made no reply and said nothing until the end of the discussion. Mr. Bloodworth spoke for the first time, saying that any gentleman had a right to make objections, and that he was sorry to hear reflections made.

The status of negroes in making up the basis for representation was discussed by Mr. Groudy, who "did not wish to be represented with negroes." General Davie said that they were an unhappy species of population, but they could not then alter their situation; that the Eastern States were jealous in regard to giving the Southern States representation for their slaves. He expressed the hope that the gentleman from Guilford "would accommodate his feelings to the interest and circumstances of his country." Mr. Spaight and Governor Johnston spoke with much good sense and temper.

"The sole power of impeachment" conferred upon the House of Representatives was objected to and fears were expressed that it might be construed to include the impeachment of State officers. Judge Iredell and Governor Johnston

fully answered the arguments of Mr. Bloodworth and Mr. Taylor, while Mr. Maclaine referred to them as "silly."

Mr. Cabarrus and Judge Iredell discussed the term of Senators, and explained the reason why they were fixed at six years. The sixth section, or clause, gave rise to an acrimonious debate, in which Mr. Maclaine referred to the objections as displaying "horrid ignorance." Mr. Taylor said: "If all are not of equal ability with the gentleman, he ought to possess charity towards us and not lavish such severe reflections upon us in such a declamatory manner." This brought from the rather impatient gentleman a prompt expression of regret, etc. Mr. Bloodworth observed that he was obliged to the gentleman for his construction, but expressed the apprehension that the same construction might not be put upon the clause by Congress. He said were he to go to Congress, he would put that construction on it. No one could say what construction Congress would put on it. "I do not distrust him, but I distrust them. I wish to leave no dangerous latitude of construction."

The first clause of the fourth section being read, Judge Spencer spoke for the first time, expressing apprehension that the power given to Congress to fix the time, place and manner of holding elections for members of Congress did away with the right of the people to elect their representatives every two years. He wished the matter explained. Governor Johnston frankly said: "I confess that I am a very great admirer of the new Constitution, but I cannot comprehend the reason of this part." After some discussion, he said that

every State which had recommended amendments had given directions that the provision be removed, and he hoped that this State would do the same. Judge Spencer here spoke at some length with force and in excellent spirit. He admitted that the Constitution had a "great deal of merit in it." He thought this clause "reprehensible." "It apparently looks forward to a consolidation of the government of the United States, when the State Legislatures may entirely decay away." He regarded the State governments as the "basis of our happiness, security and prosperity." Mr. Iredell said that he was "glad to see so much candor and moderation. The liberal sentiments expressed by the honorable gentleman" commanded his respect. He proceeded to show that this power given to Congress was "both necessary and useful to the continued existence of the government," but conceded that great jealousy existed in regard to it, saying: "I should, therefore, not object to the recommendation of an amendment similar to that of other States, that this power in Congress should only be exercised when a State Legislature neglected or was disabled from making the regulation required." After other remarks by several delegates, General Davie made an extended argument in defense of the power, to which Mr. Caldwell remarked "those things which can be and may be," protesting strongly against the clause. Mr. Maclaine entered the list with the somewhat testy observation that the objection made by the reverend gentleman from Guilford "astonished him more than anything he had heard. After making some criticisms upon references to the history of England, he con-

cluded: "It cannot be supposed that the representatives of our general government will be worse than the members of our State government. Will we be such fools as to send our greatest rascals to the general government?" Mr. James Galloway and Mr. Bloodworth spoke strongly against the clause, while Mr. Steele, speaking for the first time, presented the other side with great clearness and power. Among other things, he said: "If the Congress make laws inconsistent with the Constitution independent judges will not enforce them, nor will the people obey them." The debate on this clause elicited more learning and ability than any which preceded it, the opposition getting rather the better of the argument.

The clause empowering Congress "to lay and collect taxes, duties, imposts," etc., elicited considerable debate. Mr. Spencer opened the discussion, expressing apprehension that the extensive power conferred upon Congress would deprive the States of any source of revenue. The Anti-Federalists insisted that Congress should "not have power to levy taxes in the first instance, but should apply to the States, and in case of refusal then direct taxation shall take place." The friends of the Constitution contended that direct taxation would not be necessary; that custom duties and excise taxes would meet the ordinary expenses of the government. Governor Johnston led in the debate for the Federalists, aided by a strong speech by Mr. Hill, who spoke for the first time. Mr. Iredell spoke briefly.

Mr. McDowell objected to the clause regarding the importation of slaves and the power conferred upon Congress to

restrict it after the year 1808. Mr. Spaight, who was a member of the Philadelphia Convention, explained that this section was the result of a compromise. Mr. Iredell said if it were practicable it would give him the greatest pleasure to put an end to the importation of slaves immediately. He said: "When the entire abolition of slavery takes place it will be an event that must be pleasing to every generous mind and every friend of human nature; but we often wish for things that are not attainable." Mr. Galloway was not satisfied with the explanation. He said: "I wish to see the abominable trade put an end to." In conclusion, he asked the oft-repeated, never-answered question: "I apprehend it means to bring forward manumission. If we manumit our slaves, what country shall we send them to? It is impossible for us to be happy if, after manumission, they are to stay among us." With a few explanatory remarks, this ended, for the time, the discussion. Whether it will be ended in "the tide of time" is one of the unsolved problems—unanswered questions.

When the second article, without further discussion, was reached, General Davie, evidently understanding the tactics of Willie Jones and his followers, expressed his astonishment at the "precipitancy with which the Convention was proceeding." Mr. Taylor thought it a waste of time to make trivial objections.

The several clauses in regard to the manner of electing the President and the powers conferred upon him were read and debated at considerable length, Mr. Iredell making an able and exhaustive defense of the mode of election, etc. The power to

make treaties with the concurrence of two-thirds of the Senate was strongly objected to by Mr. Spencer and Mr. Bloodworth and defended by General Davie and Mr. Iredell.

The article establishing and defining the jurisdiction of the Federal judiciary gave rise to a spirited and able discussion. The strong men on both sides took part, putting forth their best efforts. Judge Spencer opened the discussion, stating very clearly his objections to the article. He thought the jurisdiction conferred upon the Federal courts too extensive; that they would absorb the power of the State courts, leaving them nothing to do. He well understood the tendency of courts to extend by construction and implication their jurisdiction. He objected that men would be taken long distances from their homes to attend upon the courts, and there would be a horde of officers. He said: "If we consider nothing but the article of taxation, duties and excises, and the laws which might be made with reference to these, the cases will be almost infinite." He strongly protested because of the absence of any provision requiring trial by jury in civil cases. In the course of this discussion the objection that the Constitution contained no Bill of Rights was first made. Judge Spencer said: "There ought to be a Bill of Rights in order that those in power may not step over the boundary between the powers of government and the rights of the people." He was strongly supported by Mr. Bloodworth and Mr. McDowell. The friends of the Constitution joined in defending it and answering the objections. Judge Iredell, General Davie and their supporters were at their best, and Judge Iredell frankly

said: "I am by no means surprised at the anxiety which is expressed by gentlemen on this subject. Of all the trials that ever were instituted in the world, this, in my opinion, is the best, and that which I hope will continue the longest." He thought the right sufficiently guarded. The seventh amendment to the Constitution not only vindicated the wisdom, but removed the objection of Judge Spencer and his associates.

To the demand for a Bill of Rights, it was answered by Judge Iredell and General Davie that, as our government was based upon the principle that all political power was vested in the people, and that the government possessed only such as was expressly granted, it was unnecessary and would be incongruous to have a declaration or Bill of Rights. That in this respect our government essentially differed from the English, wherein all power was vested in the King and the people possessed only such rights as were expressly granted them. Theoretically, Iredell was correct, but practically and in the light of the struggle for the protection and preservation of civil and religious liberty, Bloodworth and Spencer were right in demanding that nothing, in this respect, be left to "mere construction or opinion." Bloodworth said: "I still see the necessity of a Bill of Rights. Gentlemen use contradictory arguments on this subject, if I recollect right. Without the most express restrictions, Congress may trample on your rights. Every possible precaution ought to be taken when we grant powers. Rulers are always disposed to abuse them." Mr. Bass, who spoke but once, said that he considered

the Constitution neither necessary nor proper; that gentlemen of the law differed about its meaning; that he could not understand it, although he had taken great pains to do so, and flattered himself with the possession of common sense and reason. He said that from the contrariety of opinion, he thought "the thing was uncommonly difficult or absolutely unintelligible." He apologized for his ignorance by observing "that he never went to school, and was born blind." He wished for information.

In regard to the fourth article there was no discussion, Mr. Iredell simply observing that the expression "persons held to service or labor" was used because the Northern delegates had scruples on the subject of slavery and objected to the use of the word slave.

Article five, in regard to the manner of making amendments, was passed over without discussion.

Section two of article six elicited much discussion. Mr. Iredell said that the declaration that the Constitution and laws of the United States should be the supreme law of the land was no more than saying "that when we adopt the government we will maintain and obey it." Mr. Bloodworth said this explanation was not satisfactory to him; that it seemed to him to "sweep off all Constitutions of the States." Just here was the pivotal point upon which the Federalists and Anti-Federalists differed in regard to the kind of Constitution they desired. One side saw in the supremacy of the national government the destruction of the States; the other side recognized it as essential to the maintenance of the

Union. The question of ultimate sovereignty, ultimate allegiance remained open until settled by a four years' bloody war, resulting in amendments to the Constitution. Mr. Bloodworth touched the sensitive point and expressed the apprehensions of Southern men by saying: "The Northern States are much more populous than the Southern ones. To the north of the Susquehanna there are thirty-six representatives and to the south only twenty-nine. They will always out-vote us." In the same connection he stated the fears and feelings of his people on another then vital question. "We ought to be particular in adopting a Constitution which may destroy our currency, when it is to be the supreme law of the land and prohibits the emission of paper money." Mr. Bancroft says of Timothy Bloodworth, that "as a preacher he abounded in offices of charity; as a politician, dreaded the subjection of Southern to Northern interests." He says of this State, "towards the general government it was a delinquent, and it had not yet shaken from itself the bewildering influence of paper money."

There was grave apprehension that the then existing public and private debts would be made payable in gold and silver. Much was said about assigning securities to citizens of other States and suits being brought in the Federal courts. Mr. Cabarrus made a strong speech showing that this could not be done, and Mr. Galloway called attention to the fact that our securities were at a low ebb; that they were taken as specie and "hung over our heads as contracts." If Congress

should make a law requiring them to be paid in specie, they would be purchased by speculators at a trifling cost. General Davie said that no such construction could be put upon that clause.

A very singular and spirited discussion arose over the clause prohibiting religious tests for holding office. Mr. Abbott had grave fear that the Pope of Rome might become President; while Mr. Caldwell thought there was danger that "Jews and heathens" would accept the invitation to come here and "change the character of our government." Some said that under the power to make treaties Congress might make a treaty "engaging with some foreign powers to adopt the Roman Catholic religion in the United States"; that all sorts of infidels "could obtain office," and that "the Senators and Representatives might be all pagans." Mr. Iredell said: "Nothing is more desirable than to remove the scruples of any gentleman on this interesting subject. Those concerning religion are entitled to particular regard." He spoke at length and with much ability. Among other things, he said: "There is a danger of a jealousy which it is impossible to satisfy. Jealousy in a free government ought to be respected, but it may be carried to too great an extent." He said that he had seen a pamphlet that morning in which the author stated as a very serious danger that the Pope of Rome might be elected President. With the only language approaching humor, coming from this virtuous, wise and thoroughly good man, he remarks: "I confess this never struck me before." In response to a request from Mr. Abbott he gave an interesting

history of the various forms of oaths. Judge Spencer agreed with Judge Iredell in regard to this question, and said that he wished that every other part of the Constitution "was as good and proper."

The reading and discussion of each clause of the Constitution being completed, Governor Johnston moved that the committee, having fully deliberated, etc., report that though certain amendments may be wished for, that they be proposed subsequent to the ratification and that the committee recommend that the Convention do ratify the Constitution. This motion precipitated a general discussion, opened by Mr. Lenoir, who charged that the delegates who were commissioned to amend the Articles of Confederation "proposed to annihilate it." He reviewed its different parts, and in conclusion said: "As millions yet unborn are concerned and deeply interested, I would have the most positive and pointed security." He urged that amendments be proposed before ratification. The discussion continued until July 31st, several delegates, who had not theretofore spoken, taking part. At the conclusion of quite a long speech by Mr. Lancaster, Mr. Willie Jones said that he was against ratifying in the manner proposed. He had, he said, attended with patience to the debate. "One party said the Constitution was all perfection; the other said it wanted a great deal of perfection." For his part, he thought so. After some further remarks he moved the previous question be put, upon a resolution which he held, expressing a purpose, if carried, to introduce certain amendments which he held in his hand. Governor Johnston

begged the gentleman to remember that the proposed amendments could not be laid before the other States unless we ratified and became a part of the Union. Mr. Iredell wished the call for the previous question should be withdrawn. Mr. Jones declined to withdraw it. He said the argument had been listened to attentively, but he believed no person had changed his opinion. Mr. Person and Mr. Shepherd sustained Mr. Jones. General Davie, referring to a remark reflecting upon the minority, said that "the gentleman from Granville had frequently used ungenerous insinuations, and had taken much pains out of doors to incite the minds of his countrymen against the Constitution. He called upon gentlemen to act openly and above-board, adding that a contrary conduct on this occasion was extremely despicable." He criticised the call for the previous question and pointed out the danger of a conditional ratification. Mr. Jones said that he had not intended to take the House by surprise. He had no objection to adjourning but his motion would still be before the House. "Here there was a great cry for the question." "Mr. Iredell (the cry for the question still continuing): Mr. Chairman, I desire to be heard notwithstanding the cry of 'the question'—'the question.' Gentlemen have no right to prevent any member from speaking to it if he thinks proper. Unimportant as I am myself, my constituents are as respectable as those of any member of this House." He continued speaking with much spirit and ability. At the conclusion of his speech the previous question was ordered by a majority of 99. On the next day the debate continued with

much spirit, as to whether the Committee would recommend adoption suggesting amendments, or postpone adoption until amendments were made. Governor Johnston led in the discussion. Mr. Willie Jones in his reply gave out the plan which he, as the leader of the majority, had mapped out in advance. Said he: "As great names have been mentioned, I beg leave to mention the authority of Mr. Jefferson, whose abilities and respectability are well known. When the Convention sat in Richmond, Virginia, Mr. Madison received a letter from him. In that letter he said he wished nine States would adopt it, not because it deserved ratification, but to preserve the Union. But he wished the other four States would reject it, that there might be a certainty of obtaining amendments." Mr. Jones, conceding that it would take eighteen months to adopt amendments, said: "For my part, I would rather be eighteen years out of the Union than adopt it in its present defective form." Mr. Spencer concurred with Mr. Jones. It was now evident that the end was drawing near and the result certain. Judge Iredell and General Davie made one last appeal to save the Constitution, but Willie Jones and General Person were the victors. The Committee rose and made its report to the Convention.

On Friday, August 1, 1788, the Convention met. Mr. Iredell arose and said: "I believe, sir, all debate is now at an end. It is useless to contend any longer against a majority that is irresistible. We submit, with the deference that becomes us, to the decision of a majority; but myself and my friends are anxious that something may appear on the Jour-

nal to show our sentiments on the subject." He then offered a resolution which he had in his hand, and moved that the consideration of the report of the Committee be postponed in order to take up the resolution, which he read and delivered to the Clerk. Mr. McDowell and others most strongly objected to the motion. They thought it improper, unprecedented and a great contempt of the voice of the majority. Mr. Iredell defended his motion and was supported by Mr. Maclaine and Mr. Spaight. Mr. Jones and Mr. Spencer insisted that the motion was irregular. They said that he could protest. General Davie criticised the course of the majority. After a warm discussion, it was agreed that Judge Iredell withdraw his motion that the resolution of the Committee be entered on the Journal, which had not been done. The resolution of the Committee of the Whole was then read and entered as follows:

"Resolved, That a declaration of rights, asserting and securing from encroachment the great principles of civil and religious liberty, and the unalienable rights of the people, together with amendments to the most ambiguous and exceptionable parts of the Constitution of government, be laid before Congress and the Convention of the States that shall or may be called for the purpose of amending the said Constitution, for their consideration previous to the ratification of the Constitution aforesaid on the part of the State of North Carolina."

Then followed a Bill of Rights containing the essential principles of the Bill of Rights contained in our State Con-

stitution, with twenty-six proposed amendments to the Constitution.

Mr. Spencer moved that the report of the Committee be concurred in. Mr. Iredell again endeavored to get a vote upon his resolution. "This gave rise to a very warm altercation on both sides, during which the House was in great confusion," Mr. Willie Jones, Mr. Spaight and Mr. Hill taking part. The latter "spoke with great warmth and declared that, in his opinion, if the majority persevered in their tyrannical attempt the minority would secede." After some further discussion, the motion of Mr. Spencer was withdrawn, whereupon Mr. Iredell offered his resolution, which ratified the Constitution, and offered certain amendments, which was defeated by a majority of one hundred. The Convention adjourned for the day.

On Saturday, August 2, 1788, the Convention, by a vote of 184 to 84, adopted the report of the Committee, which was a practical rejection of the Constitution. Eleven States having, at this time, ratified the Constitution, the organization of the new government was assured. North Carolina was, upon the dissolution of the Confederation, a sovereign, independent republic, having no federal relations with other States. Her political organism was intact and in full vigor. She therefore took no part in the first election or the organization of the new government.

At the session of 1788 (November 17th) the Legislature adopted a resolution calling a "New Convention" for the "purpose of reconsidering the new Constitution held out by

members, adopted by a vote of 195 to 77. General Davie completed the work by moving that the President of the Convention transmit to the President of the United States a copy of the ratification, etc. Mr. Galloway introduced a resolution recommending that certain amendments be sent to Congress, which was rejected. It was thereupon ordered by the Convention that the resolution offered by Mr. Galloway be referred to a committee and that the committee prepare and lay before the Convention such amendments as they deemed necessary. General Davie, Mr. Smith, Mr. Galloway, Mr. Bloodworth, Mr. Stokes and Mr. Spencer were named as the committee. The committee, on the next day, made a unanimous report recommending certain amendments, which was adopted.

The Convention, after adopting an ordinance giving to Fayetteville representation in the General Assembly, and thanking the presiding officers "for their able and faithful services in the arduous discharge of their duty," adjourned. Judge Iredell was not there to witness the successful completion of his labors to bring the State into the Union; nor was Maclaine to give the opposition a parting shot. Judge Spencer, Mr. Bloodworth and General Person left their testimony on record, voting at all times against the Constitution.

On December 4, 1789, Samuel Johnston, President of the Convention, sent a letter to "The President of the United States," transmitting the resolution, etc. It was filed January 12, 1790. The length of this paper precludes any com-

ments upon the record which it has undertaken to set out. Samuel Johnston was one of the first Senators sent from this State. Benjamin Hawkins was his colleague.

Notwithstanding the adoption of the Constitution by so large a majority, the sentiment of the State in its favor was far from unanimous. We get from Mr. Dickson's letters a fair view of the way it was regarded by many. He says, referring to the Constitution: "I will readily agree with you that a better could not be formed for the United States in general. I think it is formed so as to lay the foundation of one of the greatest empires now in the world, and from the high opinion I have of the illustrious characters who now hold the reigns of government, I have no fear of any revolution taking place in my day. * * * It was a matter of necessity rather than choice when the Convention of North Carolina received it about twelve months ago. * * * It appears to me that the Southern States will not receive equal benefit with the Northern States. * * * The Southern States will have their vote, but will not be able to carry any point against so powerful a party in cases where either general or local interests are objects," etc.

Governor Lenoir, in a letter to John C. Hamilton, written in 1834, says: "Our State had once rejected the Federal Constitution and had finally adopted it only as an alternative less fatal than absolute severance from the adjoining States. Those who had from necessity yielded their objections to the new plan of Federal Union still regarded it with great jealousy."

The most serious fears entertained by the people were in regard to slavery, which has happily passed away. Time adjusted the question of paper money. While the State has not kept her relative position in population or wealth, in the light of to-day we see in the views and opinions of James Iredell, General Davie, Governor Johnston and those who followed them a larger wisdom and clearer view than in Willie Jones, Judge Spencer, Timothy Bloodworth and Rev. Mr. Caldwell. They all served their day and generation with the lights before them, and we are their debtors for faithful service and wise foresight.

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