

Justice Moore One Of Founders Of University

(Continued From Page 2)

challenge for the governorship from the moderate Martin, kept soulmate Moore "out of sight...What other reason could induce him to drop Moore for the Senate after so hard a struggle was made for him as a Senator four years ago, and the Idea of his offering again has been uniformly kept up?"

VII

Whatever the condition of Moore's popularity in the General Assembly may have been as the 18th century neared its end, it had been high indeed a dozen years before, in the Revolution's wake. "So popular was he," wrote the historian Ashe, "that when a new county was cut off from Cumberland, in 1784, it was named in his honor." Moore then was 29 years old, and had been attorney general for just two years. (Ashe, who lived until 1938 and was the last of the Confederate commissioned officers, must have especially appreciated Moore's honor. He too was a member of the Cape Fear rice-planting aristocracy, and Ashe County was named in 1799 for his grandfather, Governor Samuel Ashe.)

If Moore ever visited his namesake county, there is no record of it. But he frequently was in the vicinity, traveling from his plantation to the State's courthouse towns, including Hillsborough. At Hillsborough he built "Moorefields," a summer residence for his family, in 1785. The eight-room Georgian Colonial house, with hand-hewn timbers fastened with wooden pegs and hand-wrought nails, was restored privately about 20 years ago. The Moores usually arrived there in May and stayed until frost, in the manner of all the malaria-country planters who could afford to beat the heat.

At about the time the Hillsborough house was finished, Moore figured in one of the most famous cases in North Carolina's judicial history—one that would provide an interesting twist to his closing career. It concerned an act that Radical Whigs pushed through the 1785 legislature.

Of all the states, North Carolina was the most divided in loyalties during the Revolutionary period. The Confiscation Acts of 1777 and 1779 did not eliminate Tories or dissolve sympathy for them, no matter

how much Tory wealth they netted the state.

The 1784 Treaty of Paris advised the states to restore to Tories all property seized from them. Governor Alexander Martin, the moderate who in a dozen years would fail against General Davie in a comeback attempt, urged the General Assembly to respond kindly. A compromise resulted.

But it was a harsh compromise, and North Carolina continued to sell confiscated Tory property to bidders. Then the 1785 legislature passed a law denying the courts a right "to entertain suits for the recovery of property" with title based on the Confiscation Acts.

Nevertheless, a suit (Bayard v. Singleton) was brought by a daughter of Samuel Cornell, a wealthy Tory merchant of New Bern, to recover property willed her by her father that had been claimed by the state and sold to a man named Singleton. Attorney General Moore and Abner Nash, counsel for the defendant, moved for dismissal under the 1785 statute. The plaintiff also had able counsel—General Davie, Samuel Johnston, and James Iredell.

Those three argued that the North Carolina Constitution of 1776, guaranteeing trial by jury, took precedence over any legislative act. The court—Judges Samuel Spencer, John Williams, and Samuel Ashe—deferred action to see if the next legislature would repeal the act and render the case moot.

But the legislature convening in November 1786 instead brought charges against the judges for failure to dismiss the suit and ordered "an enquiry into the present state of the administration of justice in the Superior Courts." Judges Spencer and Williams appeared at committee hearings. Judge Ashe, declaring himself "righteous and therefore bold," kept his distance.

The committee upheld the court in a report adopted by the legislature on the first day of 1787. Emboldened, in November the court ruled that the 1785 law was "unconstitutional and void."

But it also held that Cornell and his daughter, who were British subjects, as aliens could not hold land in the state and that no alien enemy had any political rights. A jury in consequence found for the

defendant Singleton. Twenty-seven cases of a similar nature were dropped from the court docket.

"The significance of Bayard v. Singleton," wrote Hugh Lefler and A.R. Newsome in "The History of a Southern State: North Carolina" (1954), "is that it was the 'first decision under a written constitution' declaring a legislative act unconstitutional—a principle applied by Chief Justice Marshall in Marbury v. Madison in 1803, and now considered a fundamental principle of American law."

Alfred Moore joined John Marshall in the Marbury decision. In the New Bern suit he had argued the opposite side of the judicial-review issue. But as attorney general he had no choice; it was his sworn duty to represent the state's position.

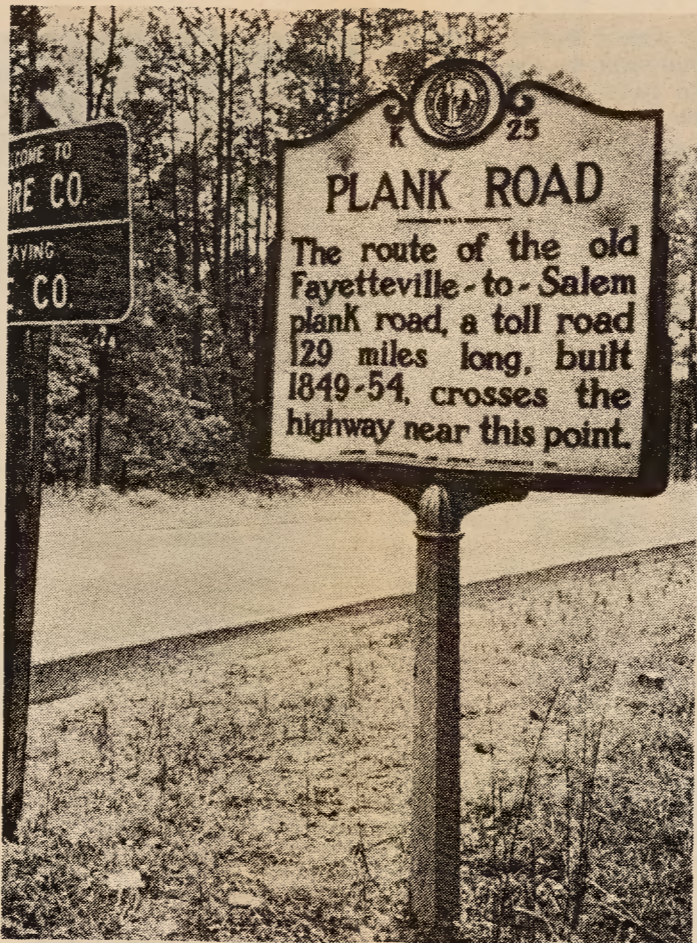
IX

Public life after being attorney general of North Carolina was uneven for Moore. He represented Brunswick County in the General Assembly's House of Commons in 1792. Upon the passage that year of a bill for the appointment of North Carolina commissioners to settle a long-standing boundary dispute with South Carolina, he was among the four chosen. No action having been taken by 1796, he was named to a second commission with extended authority. The dispute remained unresolved when he resigned.

President John Adams nominated him in January 1798 to conclude a treaty with the Cherokees. He withdrew before the task was completed in October.

If his tenure as a state judge was too brief to be productive, the office must have enhanced his renown as a legal scholar nevertheless. Upon the death of James Iredell, who admired him, he was nominated by President Adams for Iredell's seat on the Supreme Court on December 7, 1799.

Iredell and Moore to this day remain the only North Carolinians to have ascended to the High Court. The moderate John J. Parker was nominated to it by President Herbert Hoover but rejected by the Senate, the victim of a youthful identity with "lily-white" Republicanism and of a decision he wrote for the Fourth U.S. Circuit Court of Ap-



Moore's First Court

The first Moore County Court was held in the dwelling house of Kenchion Kitchen beginning the third Monday, August 20, 1784.

For a year before the first courthouse was constructed, court was conducted in the homes of citizens of the county, the dwellings of Kenchion Kitchen and William Seal were said to have been the most used for that purpose.

Present at that first court session were Thomas Matthews, William Seal, Richard Feagan, Charles Crofford, Phillip Alston and William Barrett, justices.

The above being duly qualified as the law decrees, they took their seats accordingly.

That first session ordered that John Gillmore be appointed constable to attend court and was qualified accordingly. It then adjourned to the next day, Tuesday, August 21, 1784.

Present on that second day of court were: Charles Crofford, John Robertson, Phillip Alston,

William Seal and William Scoggin.

The court then proceeded to appoint a clerk.

Phillip Alston being unanimously chosen as clerk entered into a bond with John Robertson and Charles Crofford, securities, and was qualified accordingly and appointed George Glasscock his deputy, which the court accepted.

Court then proceeded to appoint a sheriff, proclamation being first made, the following names were offered to wit: William Scoggin, Kenchion Kitchen and James Maples.

William Scoggin being unanimously chosen entered into a bond with John Robertson, Charles Crofford and John Cox, sureties and was qualified accordingly.

It also ordered that a number of persons be appointed to superintend the polls at the next election and the sheriff was to summon the names.--WOODROW WILHOIT.

peals that angered organized labor.

The only opinion that Mr. Justice Moore wrote was Bas v. Tuigy (1800), followed seriatim by opinions of other justices. The Court held that a state of

"limited, partial" war existed with France—a position hailed by Federalists and deplored by Jeffersonians.

Weary and ill, Moore resigned in 1804. Old and worn out at 55, he died at his daughter's home in

Bladen County on October 15, 1810.

A North Carolina historical marker was placed at his grave in September 1963. Fittingly, it was sponsored by the bar of the county that bears his name.

Moore Historical Markers

There are 12 Historical Markers in Moore County, according to the "Guide to North Carolina Historical Markers," published by the State Division of Archives and History.

The markers, their locations and inscriptions are as follows:

WALTER HINES PAGE
Ambassador to Great Britain during World War, journalist, editor, publisher. Tomb one mile east.

US 1 in Aberdeen, Moore County.

MECHANIC'S HILL
Site of extensive gunsmithing operations in 18th and 19th centuries. The Kennedy family led in producing long rifles.

SR 1002 in Robbins, Moore County.

BENJAMIN WILLIAMS
Four times Governor; Revolutionary officer; congressman. Grave is 9 1/2 miles north.

Junction of US 15-501 and NC 24-27 east of Carthage, Moore County.

ALSTON HOUSE
Philip Alston's Whigs were defeated there by David Fanning's Tories, 1781. Later the home of Benj. Williams, Governor, 1800-02. Is 9 1/2 mi. No.

Junction of US 15-501 and NC 24-27 east of Carthage, Moore County.

PLANK ROAD
The route of the old Fayetteville-to-Salem plank road, a toll road 129 miles long, built in 1849-54, crosses the highway near this point.

US 1 near Cameron, Moore County.

PLANK ROAD
This street is the route of the Fayetteville-to-Salem plank road, a toll road 129 miles long, built 1849-54.

Main Street in Carthage, Moore County.

JAMES BOYD
(1888-1944)

Author of "Drums" and "Marching On" and other historical novels. His home is three-tenths

of a mile east. Intersection of May and Vermont streets in Southern Pines, Moore County.

ALEXANDER McLEOD
Colonel in command of loyalist forces in battle of Moore Creek Bridge, Feb. 27, 1776. His home, "Glendale," was 1 1/2 miles west. US 15-501 south of Carthage, Moore County.

SAMARCAND
State home and industrial school for girls, opened 1918. Academic and vocational training. Is three miles south. NC 211 north of Samarcond, Moore County.

TORY RENDEZVOUS
Before going to battle of

Moore's Creek Bridge, Feb., 1776. Tories of this area met in Cross Hill, at Alexander Morrison's home, 125 yards S.W.

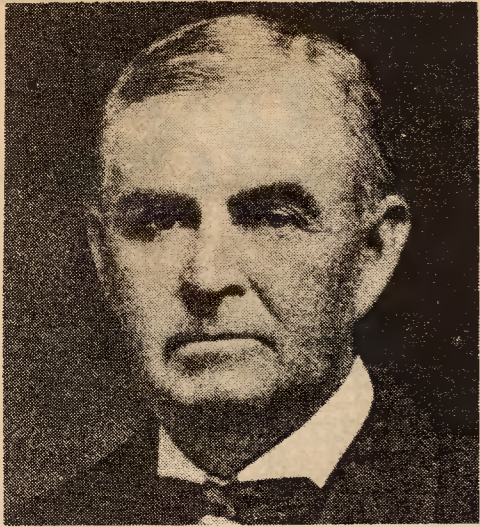
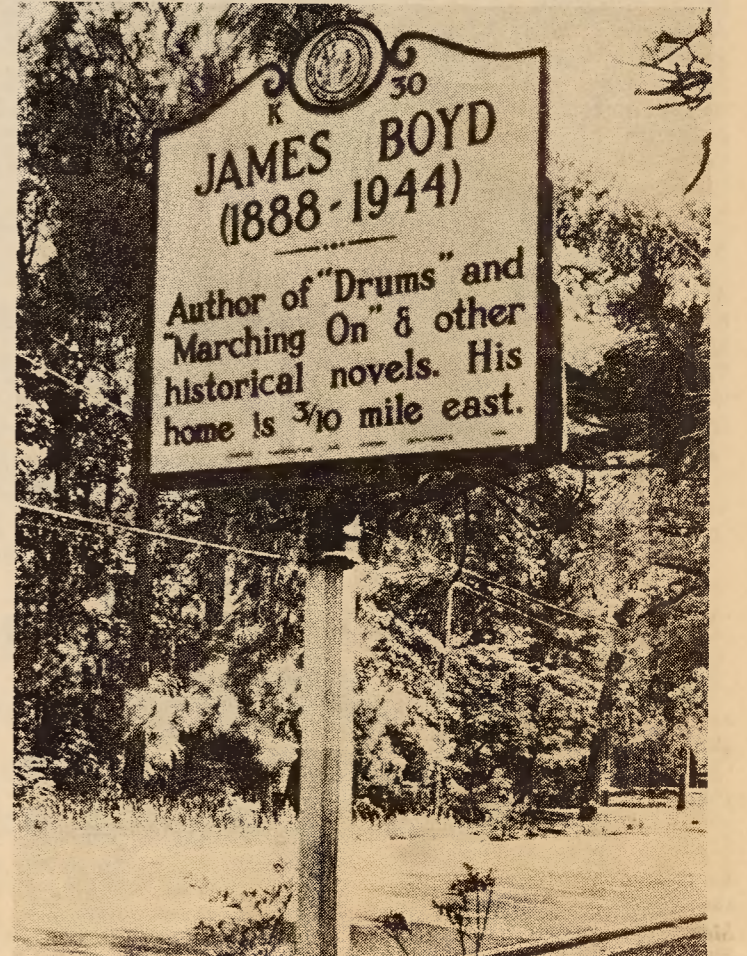
NC 22-27 north of Carthage, Moore County.

JOHN MACRAE
Gaelic poet. Emigrated from Scotland in 1774. Loyalist during the Revolution. His home stood 2 1/2 miles south.

Intersection of NC 24-27 SR 1262 of Carthage, Moore County.

JOHN BETHUNE
Early pastor for Scots in N.C.; chaplain for Loyalists at Battle of Moore's Creek Bridge, 1776. First Presbyterian minister in Ontario. Lived 4 mi. S.

Intersection of NC 24-27 SR 1264 east of Robbins, Moore County.



JOHN BLUE

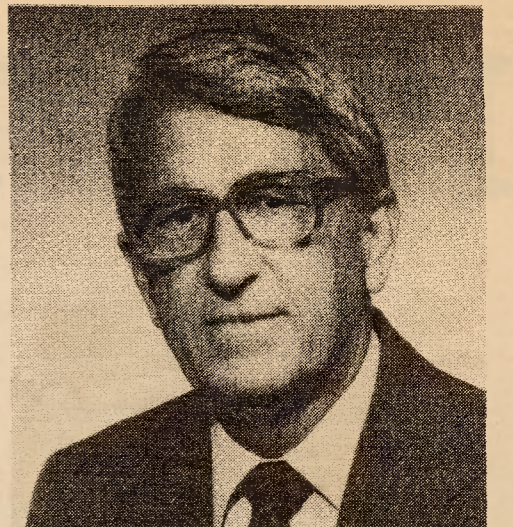
ABERDEEN and ROCKFISH RAILROAD

"The Road of Personal Service"

1892



1984



ROBERT VEASEY

Serving: Moore County
Hoke County
Cumberland County

Serving: Industry of N.C.

Serving: Ft. Bragg and National Defense

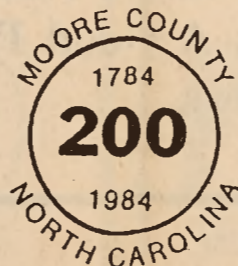


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