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THE REGULATORS OF NORTH CAROLINA (1765–1771).

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XI.—THE REGULATORS OF NORTH CAROLINA (1765-1771).[1]

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The recent publication of The Colonial Records of North Carolina must lead to the rewriting of much of the State's colonial history. The several writers who, before the appearance of these volumes, have written on The War of the Regulation have been handicapped by having to use as sources of information narratives that have been prepared by one or the other of the parties to the struggle. They have not had access to the now published mass of documents, which, as might have been expected, throw new light on many features of the movement. The desire to use this light has inspired the present paper. It

[1] The Regulation is one of the best written about subjects of North Carolina history. Caruthers treats it extensively in his Life of Dr. David Caldwell (1842). He went carefully over the ground and obtained a great deal of his material from old men who had once been Regulators. He is entirely on the side of the Regulators. Caruthers also treats of the subject, but not extensively, in his Revolutionary Incidents (first series), pages 24 et seq. Dr. F. L. Hawkes has a sketch in Cooke's Revolutionary History of North Carolina (1853), pages 13 et seq. It deals chiefly with Husband's Sermons to Asses. Jones treats the matter in his Defence of North Carolina (1834), pages 34-56. Wheeler publishes Husband's book under the heading of Orange County (see his History of North Carolina, Vol. II, pp. 301-331), and Martin and Williamson, in their histories, have treated it as fully as the nature of their works would admit.

Dr. T. B. Kingsbury published several short articles on the subject in Our Living and Our Dead (see Vol. II, p. 434; Vol. III, pp. 39, 314, and 629). The subject is also treated in the North Carolina Journal of Education, October and November, 1859, and in Wiley's Sketch of North Carolina.

All the above, except Martin and Williamson, are apologists of the Regulation. At first in the history of the State everyone seems to have followed the accounts of Tryon and his followers as set forth in these two histories. It was about the time that Jones's Defence was published that there came a change in sentiment. Since that time nearly everything written has discovered in the Regulation a worthy struggle for liberty.

One book recently published, Colonel Waddell's Colonial Officer and His Times, is an exception to this rule. Writing from the standpoint of the

is believed that at least two new points in regard to the Regulation may now be taken as historical truth.

(1) The Regulation was not attempted as a revolution. It was rather a peasants' rising, a popular upheaval. This is a chief new point which, it seems, a study of the records should reveal. A revolution involves a change of the form or principles of government. It is constitutional in its significance. A peasants' rising aims at a change of agents who administer, or of the manner of administering, affairs under principles or forms that remain intact. It is a matter of party, chiefly. A revolution may embrace a popular rising, and a popular rising may run into, or in a manner partake of the nature of, a revolution; but we may always find the general difference just mentioned. Could it have had any other fate than it did have, the Regulation might possibly have run into a revolution; but at the time when it was crushed it had not reached that stage.

(2) Another fact that the records emphasize is this: The Regulation was not a religious movement. It was rather of an economic and political nature. It was not only not religious, but it had the opposition of at least four of the five leading denominations in the disaffected district. The Established

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biographer of one of the chief men who joined in suppressing the Regulators, Colonel Waddell has been led to form an opinion unfavorable to them. Many of his points are well taken.

There are two contemporary accounts of the movement. The more important of these two is An Impartial Relation of the First Rise and Cause of the Recent Differences in Public Affairs in the Province of North Carolina, 1770, pages 104. This work, on what seems very good grounds, is usually attributed to Hermon Husband. It is a well-written statement of the first part of the struggle. It contains many documents and is usually reliable. It is reprinted in Wheeler's History of North Carolina, II, 301–331. The other book is A Fan for Fanning and a Touchstone for Tryon, by Regulus, Boston, 1771. The author of this work is unknown. It has been ascribed to Husband, but the internal evidence is against such a view. Governor Swain thought it was written by Shubal Stearns, a Baptist preacher from New England, who was living in Orange in 1771. It is not nearly so exact a statement of facts as the Impartial Relation, being characterized by wordy complaints against Tryon and the other officers. It was reprinted in the North Carolina University Magazine, Vol. VIII, 193 and 289. The most valuable of all sources is The Colonial Records of North Carolina, Vols. VII and VIII. They contain the documents of the Regulators, the records of the courts and of the assembly, the reports of Tryon to the home government, and many other documents bearing on the subject. They have been freely used in this paper.

Church, of course, opposed it. The Presbyterian pastors united in a letter to the governor, in which they assured him of their "abhorrence of the present turbulent and disorderly spirit that shows itself in some parts of this Province." They also wrote a circular letter enjoining all good Presbyterians to have nothing to do with the Regulation.[1] This letter was read at a muster in the Presbyterian county of Rowan, and perhaps in Mecklenburg, and was of good service in securing volunteers to march against the Regulators in 1768.[2] It was signed by David Caldwell, Henry Patillo, Hugh McAden, and James Creswell, names of the highest respect in the history of this denomination in North Carolina. The Baptists were perhaps the strongest in numbers in the vicinity. Morgan Edwards, who in 1772 traveled through this region gathering materials for a history of the Baptists, could hear of but seven Baptists who had joined the movement, and these, in accordance with a regulation of the Sandy Creek Baptist Association, were excommunicated.[3] In 1768 Governor Tryon attended divine service at a German church in Mecklenburg County, and the minister "recommended with warmth a due obedience to the laws of the country."[4] This same minister accompanied the troops to Hillsboro and preached before them there. The Quakers were the only other considerable sect in the vicinity, and they took practically the same position that the Baptists took.[5]

It is not to be thought, however, that members of these separate churches did not join the Regulation. They joined freely, but all the evidence goes to show that it was not from religious motives. Hermon Husband declared that they were of all sects, and that the leaders were of the Established Church.[6]

To understand properly the struggle which we are about to investigate, we must first acquaint ourselves with the physical

[1] Colonial Records of North Carolina, VII, 813–816.

[2] Ib., VII, 822 and 886.

[3] Ib., VIII, 655–656.

[4] Ib., VII, 821.

[5] Dr. S. B. Weeks, whose forthcoming work on Southern Quakers and Slavery is announced as this monograph goes to the press, is authority for this statement. With such excellent verbal authority, the writer does not hesitate to print the above assertion in advance of the published work.

[6] Wheeler: History of North Carolina, II, 315. See, also, Purefoy's History of Sandy Creek Association, pages 69–73, where Morgan Edwards is freely quoted.

characteristics of the locality, the social condition of the inhabitants, and the political institutions of the colony. To these preliminaries we turn.

THE BACK COUNTIES.

The topography of North Carolina reveals on the east a broad alluvial plain. This is intersected by numerous rivers, along whose banks lies much rich low ground. West of this section is a broken region of red clay soil thickly netted by small streams, which makes the head waters of the larger rivers of the plain. Farther west are high, mountain-studded plateaus, which modern railroad facilities are showing to be perhaps the grandest scenery on our eastern Atlantic Slope.

It was in the second of these divisions that the Regulation had its home. At the time of which we write this region was usually known as "the back counties" or "the back country." It is hilly upland, and its fertile soil is well suited to the growth of grains, grass, and fruit. At the middle of the eighteenth century it was covered by large forests of oak and hickory, broken here and there by open prairie-like tracts of good grass. To a passing observer the country is much like that of eastern Pennsylvania or central Maryland. Indeed, it is part of a continuous geological formation which lies just east of the Appalachian foothills and extends in a southwest direction from Pennsylvania to northern Georgia.

As the Keystone State marked the beginning of this formation, it was also the gateway through which came most of its population. The fertile soil and the liberal government of the Quaker drew to his colony at an early day a strong tide of immigration. So great was the stream that there was soon an overflow. Newcomers willing to pay good prices for land induced the former owners to sell their holdings and seek others from the cheaper lands of the wilderness. Thus began a stream of humanity very much as the water in a natural depression rises till at last it breaks over the hills and cuts a channel through the plain. The course taken was to the southwest. The Virginia valleys were filled. Across the boundary into North Carolina[1] poured the tide. But here there was a halt.

[1] Mr. Woodmason, who seems to have visited North Carolina in 1766, writes: "Africk never more abounded with new monsters than Pennsylvania with new sects, who are continually sending out their emissaries

Along the lower western valleys of the Yadkin a counter current from the South was met. The home seekers scattered themselves around in all directions, carefully picking out the best land. They moved to the west till they reached the mountains. A few hunters ventured across and found wide, sloping stretches of luscious grass. With alacrity the mountain gates were thrown open and the conquering host marched through. It was the beginning of "the winning of the West." When viewed in its entirety the whole movement seems a romance.

The people who led this movement were of pioneer lineage. While still in Europe they had behind them a century of frontier life. Early in the seventeenth century James I moved many Scotchmen to Ireland with an idea of converting the country to Protestantism. In this he failed. The Protestants lived separate from, and often hostile to, the natives. The tide of Puritanism that swept over the country left them mostly Presbyterians. The country was not a home for them. The soil was poor, and consequently many of them turned their faces to the New World. From their association with the two countries they were called Scotch-Irish. They made ideal frontiersmen. While others came in their rear and settled close upon them, they were still usually the ones to push on to the next stop, ever restless and fearless.

It was shortly before 1740 that this tide reached North Carolina. Coming down from Virginia, it ran along the head waters of the Yadkin, Haw, Neuse, Tar, Catawba, and Deep rivers, until the whole country from what is now the vicinity of Raleigh on the east to the neighborhood of Morganton on the west was taken up. So rapid was the movement that Governor Tryon reports that in the summer and winter of 1765 more than 1,000 immigrants' wagons passed through Salisbury, most of which were bound for parts of North Carolina.[1] Among those who came one can easily distinguish Scotch-Irish, Germans, Moravians, Welsh, and many Englishmen.

around." His narrative, though utterly untrustworthy in regard to most that he says, shows that it was generally understood that the newcomers, especially the Baptists, were from Pennsylvania. (Colonial Records, VII, 286, 287.)

[1] Those that went on were for Georgia and Florida. Some of these came back to North Carolina. (Colonial Records, VII, 248.)

Besides those who came through the Pennsylvania doors, there were considerable numbers from New England, New Jersey, and Maryland. They came by families or by friendly bands, and occasionally by congregations. They placed themselves as chance or association directed. The Germans settled in the district now embraced by Cabarrus and parts of the adjacent counties. The Moravians took in common ownership the beautiful tract near Salem which they now hold in severalty. The Welsh settled chiefly in Duplin. The New Jersey people located in what is now Davie County, and the Quakers placed themselves in what is now Randolph and Guilford. Around Hillsboro there were many people, but they seem to have been drawn from many different localities.

The eastern plain had been the first part of the colony to be settled. Convenience of transportation and the desire for fertile river shores operated to group the earliest settlers along the water courses. In the extreme east streams were so numerous that the whole country was practically on water routes. This region was soon settled. Conditions here were favorable to slave labor,[1] and by the end of a century's growth the coast region was fairly full of fine estates and wealthy families. Although there were many of the middle class settled around them, these older families were the influential factors in the State and in society. Old settlers, with traditions of their own, and connected chiefly with the State religion, they had no sympathy for the new men of the hills.

There was also a natural barrier between the two sections. This was a sparsely settled region of pine forest, stretching monotonously from the valley of the Roanoke on the north to that of the Cape Fear on the south. It was so far from the coast that it was traversed by few rivers, and those were hardly navigable. It contained but little "bottom" land and had to wait for the day of railroads and cotton cultivation before it was developed.

Cut off thus from the men of the east, the men of the "back counties" felt no more sympathy for the former than they received from them. The merchants to whom they hauled

[1] There were very many more slaves in the east than in the west. In 1766 in Orange there were 33 whites to every 6 blacks. In Johnston there were 10 to 5. In Perquimans there were 5 to 10, and in Brunswick there were 2 to 11. (Colonial Records, VII, 288, 289.)

their produce at Cross Creek[1] were either Scotchmen or had come from Pennsylvania with the rest of the country. The Presbyterians received their first ministers from the Synod of New York and Pennsylvania, and later on sent their own ministerial students to Princeton College. Hermon Husband corresponded with Dr. Franklin. The author of the Fan for Fanning printed his work in Boston.[2] Indeed, it is likely that the inhabitants of this region knew more about Philadelphia at that time than about Newbern or Edenton.

The life of the people was that of the pioneer. The necessaries of subsistence were plentiful, but luxuries were few. Some old men who had been Regulators told Caruthers that about the time of the Regulation there was not a plank floor, a feather bed, a riding carriage, or a side saddle within the bounds of their acquaintance.[3] Yet at this time considerable advance had been made toward the cultivated habits of older communities. Many churches had been built, though they were often but rude structures. In Orange there was a regularly settled parish clergyman who had his church in Hillsboro. Farther out in the county were several chapels which were served by readers.[4] In Rowan a clergyman had been provided, but the Dissenters were making it difficult for him to enter into his living.[5] Within this district the Presbyterians had four pastors, each of whom had more than one charge. The Germans had pastors there also.[6]

The Baptists had been organized for some years. In 1758 the Sandy Creek[7] Association was formed. Only two of the churches in it were within the district of the Regulators, but

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[1] Now Fayetteville.

[2] This same author shows his feeling for the east as follows: "And such has been the fate of Newbern and other places in North Carolina that for many years they were erected an asylum for all such as fled from their creditors and from the hand of justice, and such as would not live by working elsewhere, men regardless of religion and all moral obligation. Hence it was refugees from the western governments and from Connecticut, found a safe retreat in North Carolina, particularly on the seacoast and places adjacent." (Quoted by Swain in Univ. Magazine, Vol. IX, p. 465.)

[3] Life of Caldwell, pp. 139, 140.

[4] The site of one of these chapels was selected afterwards for the seat of the University of North Carolina.

[5] Colonial Records, VIII. 202–210, and 502–507.

[6] Ib., VIII, 727–757.

[7] Sandy Creek was in what is now Randolph County. It was the central field of the Regulation.

there were more churches ten years later.[1] The Quakers erected their meetinghouses almost as soon as they arrived. Schools were beginning to be built up. Some of the pastors were pedagogues as well. Still, it is well to remember that these schools were new and had been in operation hardly long enough to influence materially the adult population. The slight glimpse that we have into the religious life of all of these people shows them to have been honest, sturdy, and independent, and perhaps not always easily managed by their pastors. Coming from a land of liberal ideas of government, they expected to maintain their share in public affairs. Without broad political information, without communication or sympathy with the predominant element in the government of the province, and with strongly impetuous natures, they were just so conditioned that they were likely to redress grievances by other than constitutional measures.

The political institutions were not of a nature to suit a people like these. The constitution left them a very small share in government. The exercise of the executive, the judicial, and, to a large extent, the legislative functions was in the hands of the central royal officeholders.

The governor was appointed by the King, and represented the royal prerogative. With the council, he was the chief executive agent. The councilors were appointed by the Crown, usually on the recommendation of the governor, and they could be relied on to take the side of the prerogative. The chief justice was regularly named by the Crown. The governor in council appointed the county justices and the chief justice, temporarily, when there was a vacancy, and the two associates.[2] Out of council he appointed the officers of the militia, and selected the sheriff from three freeholders whose names had been submitted by the county court. He must also approve a bill before it became a law, and he was commander of the militia. It was thus that his influence was paramount. Not being paid by the people's assembly, he was not afraid of it.

There were two systems of courts, the superior and the inferior. The former was divided into six circuits, which were traveled twice a year. The chief justice and the two associates

[1] See Purefoy's History of Sandy Creek Association, 62–65.

[2] Colonial Records, VII, 690, 691.

held it. Its ministerial officers were appointed by some agent of the central authority. The inferior court was the county court. It was held by the justices of the county and was in nearly every respect the sole unit of local government. The sheriff executed its command, usually through his deputies, of which there was a liberal supply. He also collected all the taxes. The county and parish taxes were levied by the county court, and the sheriff returned the same to them. The appointing of the clerks of county courts was unfortunately arranged. There was a clerk of the pleas, a relic of a past office, whose position was now a sinecure, and he appointed the clerks of the thirty-four county courts. The salaries of these clerks ranged from £50 to £500 a year. The clerk of the pleas let out the county clerkships to those who paid him the most rent for them. By this means he had an office which paid him without the least labor £560 a year. Governor Martin said, in 1772, that the county clerks used their influence to get into the assembly, where they were able to keep this arrangement from being abolished.[1]

The assembly was bicameral. The upper house was the council. The lower house was elected by the freeholders. Elections were held by the sheriff, but there seems to have been no strict oversight of the polls. Furthermore, there were no party lines. The influential men brought out a man as candidate, and he usually received the election. When a bill had been passed in both houses and signed by the governor, it must be approved by the board of trade before it was a permanent law.

The result of all this was that in each county there were a certain number of men who were likely to have in control all the offices. This is suggestive of what we to-day are accustomed to call "court-house rings." The disadvantage was that the continued effectiveness of government depended too much on the personal honesty of these officeholders. In many of the eastern counties this state of affairs seems to have worked well. But in the remote sections there is much evidence that the officers were selfish and mercenary, and that they were mutually leagued together to forward their own selfish ends. It was to try to clean out this Augean stable that Regulation had its existence.

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[1] Colonial Records, IX, 264-266.

THE GRIEVANCES OF THE REGULATORS.

The grievances of the Regulators were excessive taxes, dishonest sheriffs, and extortionate fees.[1] Each of these was made more intense by the scarcity of money. The stamp-act trouble does not seem to have had any immediate influence on this movement. That the people of the back country sympathized with the Sons of Liberty and could have been aroused to help them had the discontent spread from the Cape Fear inward is undoubtedly true, but this whole movement passed over before the Regulation came into existence.[2]

The charge of excessive taxation was only relatively true. Taxes were apportioned by the poll. A taxable was an adult white man or an adult black man or woman. A rich man thus paid no more than a poor man in actual money. This injustice was emphasized as between the east and the west by the fact that the wealthy gentlemen of the former section relied on slave labor, while slaves were comparatively few in the west.

The manner of collecting taxes made the burden still heavier. The tax bills, although questioned by the Regulators, seem to have been correct.[3] In a frontier region, where money was scarce and local trading was confined almost entirely to barter, it was not always convenient for the farmers to keep money in their homes. But throughout the country there were men who lent small sums to the countrymen when there was a sudden demand for cash. Consequently, when the

[1] In 1771 Governor Martin said that he was told on every side that a chief cause of these troubles was the fact that Earl Granville had no agent in the colony who would give deeds for his lands. The settlers accordingly took possession of the lands, but refused to pay taxes for the same. This caused trouble with the sheriffs. (Colonial Records, IX, 49.) Granville's land office was closed from 1765 (Ib., VIII, 195), and it is likely enough that the result was as just stated, but the fact that in the many statements of the questions at issue no prominence is given by either side to this cause is the author's justification for not putting it into the body of his text.

[2] It is well to remember, also, that the leaders of the resistance to the stamp act were among those who afterwards were most active to suppress the Regulation.

[3] The tax bill for 1767 was 7s., besides county and parish dues. This is what Tryon told the Regulators (Colonial Records, VII, 791), and from the items in the bill for 1768 it foots up the same amount. (Ib., VII, 772, 773.) Here it seems there are two bills, the latter of which is that for 1768. The items in the bills were referred to the laws authorizing them.

sheriff would come unexpectedly to the taxpayer, the latter would propose to get the money if the officer would accompany him to the home of this neighborhood banker. The officer usually refused to do this and proceeded to distrain on some property, taking a fee of 2s. 8d. for the same. The taxpayer would then hasten to his neighbor's, secure the needed money, and hurry after the sheriff. That officer would take a different route than the one he had promised to take, and the luckless pursuer would arrive in Hillsboro in time to see his property sold to some friend of the officer's for much less than its value. The Regulators charged that officers played into each others hands for this purpose, and that there were men in Hillsboro who had made large sums by dealing in such business.

The sheriffs were thought to have taken another step in defiance of popular justice when the assembly in 1768 passed a law requiring the sheriffs to attend five different places in each county, at least two days in each place, during January and February of each year, in order to collect the taxes. If the officer found it necessary to call at the home of the ratepayer for his due, he took an extra fee for doing it. The people of Orange regarded this law as passed at the instigation of the sheriffs. Husband declared[1] that the sheriff insulted the people in it, and added that the officer "might have said the asses were obliged to bring their burdens to him in order that one of his deputies might collect the whole in ten days, sitting on his breech, at ease, in five places only."[2]

[1] Wheeler, History of North Carolina, II, 305, and Colonial Records, VII, 771, 772.

[2] It has been stated that the tax for the governor's palace, which was erected in Newbern in 1765–1770 at a cost of £15,000, had much to do with working up the discontent that culminated in the Regulation. There is, however, no evidence that the palace deserves so much distinction. Among all of their complaints the Regulators refer to it only rarely. They seem to have considered this a slight abuse as compared with other matters. (Cf. also Caruthers: Life of Caldwell, p. 106.) It is also stated at times that the expense of running the Cherokee boundary line was a cause of the Regulation; but there is very slight reference to it in the published complaints of the Regulators. The fact that Maurice Moore in his "Atticus" letter arraigned Tryon for these two pieces of extravagance seems to have led most writers to assume that these were important causes of the troubles that came later. Moore served against the Regulators, and his letter indicates that he hardly understood the movement. He certainly does not say that the Regulators considered the two occurrences just cited as efficient causes of their oppression. (Colonial Records, VIII, 718.)

Another very prominent grievance was the dishonesty of the sheriffs, who failed to pay into the hands of the public treasury the money they had collected. The public accounts were most inefficiently kept. There was a prevalent opinion among all classes that there was fraud just here. In 1767 Governor Tryon declared it as his opinion that "the sheriffs have embezzled more than one-half of the public money ordered to be raised and collected by them."[1] This, he said, was due to the remissness of the treasurers, who feared to sue the sheriffs, lest the friends of these latter should combine to defeat the treasurers of re-election. He made several attempts to secure a statement of all such arrears, and finally in 1769 John Burgwin was appointed to prepare a statement of the condition of the public accounts.[2] In the following year he made his report,[3] when it appeared that the several sheriffs were in arrears to the extent of £49,000.[4] Many counties were in arrears for ten years, and some accounts reached back to 1754. A good deal of this was reported as worthless. In some instances neither principal nor securities were worth anything, and at times they had all run away. More than half of the amount in arrears, however, was reported good. This was especially true of the eastern counties, which were generally paid up until 1765. The bad debts and the long arrears were mostly in the frontier counties—that is to say, in Anson, Orange, Johnston, Rowan, Cumberland, and Dobbs.

The failure to pay into the treasury the amount collected led to an irritating misunderstanding between the governor and the assembly. In 1760 the provincial government issued £12,000 in currency, to be redeemed by a poll tax of 1s. levied each year till the whole amount was sunk. The following year £20,000 was issued, to be redeemed by a poll tax of 2s. In 1768 the assembly, after trying in vain to get a new issue of

[1] Colonial Records, VII, 497; also, VIII, 105.

[2] Ib., VII, 984.

[3] Ib., VIII, 278-281.

[4] This is the amount due for years preceding 1770. There was about £15,000 due for that year, but the report being made out in that year many sheriffs, especially those inclined to pay slowly, had perhaps not had full opportunity to settle with the treasurers when the report was gotten up. To include the amount for this year is therefore hardly fair to the sheriffs. The assembly of 1771, second session, decided to distribute in the counties printed copies of Burgwin's report. (Ib., IX, 124.) At the same time they ordered the treasurers to prosecute the delinquents. (Ib., IX, 217.) As a result a fair proportion of the arrears was collected. (Ib., IX, 572-576.)

paper currency, resolved that enough money had been collected to redeem these two issues, and that consequently the sheriffs should no longer collect these two items in the tax bill.[1] By this means they thought they would lessen taxation and prevent the volume of currency from decreasing. The governor, however, vetoed this resolution, because, as he said, he had not seen a statement of the moneys paid into the sinking fund.[2] Two years later such a statement was prepared, and it shows that at the time in question but little over £25,000 had been burnt since 1760,[3] so that if they had devoted all moneys collected for the sinking fund to redeeming the two issues just mentioned there would still have been nearly £7,000 unredeemed.[4] The failure of the governor to agree with the resolution to cease to collect the 3s. as indicated caused a clash in the authority of government and gave rise to a great deal of misgiving among the people.[5] Had the sheriffs paid in their arrears this trouble would have been avoided.

Extortionate fees was perhaps the greatest grievance of all. Nearly all the officers were paid in fees. The people of the back counties complained heavily of their officers, and in support of their complaint the Orange County Regulators produced affidavits sufficient to satisfy the most skeptical that they were right.[6] As soon as counties were organized on the frontier sheriffs, clerks, registers, and lawyers swooped down upon the defenseless inhabitants like wolves. Further than this, the people charged that the superior and county courts conspired to aid the officers in escaping punishment. The fee of a lawyer was fixed by law, but, like usury laws of our own day, it was difficult to enforce this law. The officers would manage to resolve a service for which a fixed fee was due into two or more services, and for each they would demand a fee. Both lawyers and court officials were thought to be in collusion to postpone cases in order that they might get more fees.[7] The court business was sadly behind, much to the incon-

[1] Colonial Records, VII, 922, 923.

[2] Ib., VII, 986.

[3] Ib., VIII, 213–215.

[4] The sinking fund received money as follows: 1s. to sink two issues in 1748 and 1754; 1s. for the issue of 1760; 2s. for that of 1761, and 4d. a gallon on imported liquors. Perhaps not more than one-half of this fund should have been devoted to the sinking of the two issues in question.

[5] See Husband's account, Wheeler, II, 311.

[6] Colonial Records, VII, 771–782.

[7] Governor Martin, in 1772, supports the charge of malpractices by the lawyers. (Ib., IX, 340.)

venience of the people, who often were obliged to attend at a distance of from 30 to 60 miles. This was true to such an extent that in 1766 there were nearly 1,000 cases on the docket of Halifax superior court, and no civil causes had been tried in any court in the province for six months.[1] The governor issued frequent proclamations to prevent illegal fees, but without avail.

Connected with and influencing each of these grievances was that of the general scarcity of money. The English colonial policy had the effect of withdrawing from the colonies as much gold and silver as possible. So scarce did this money become that in 1765 Governor Tryon said that there was only enough of it in the colony to pay for the stamps which under the Stamp Act would be required on the instruments of writing used in one year in the superior courts of the province.[2] The people desired to issue a paper currency sufficient in amount for the demands, but were restrained by an act of Parliament made for the protection of British merchants, which forbade the colonies to issue legal-tender paper. The assembly petitioned the King for a relaxation of this injunction, but was unsuccessful. Distress was everywhere; but in the east, where there were public warehouses for receiving commodities, it was less than in the west, where there were none; because the people used the warehouse certificates as a medium of exchange among themselves. An inhabitant of Orange related that at this time he had accompanied his father with a load of wheat to Cross Creek, now Fayetteville, where they received 5s. a bushel for the grain, but could get only one-fifth of the price in cash. His father returned home with 40s. and was able to pay his tax, which was more than his neighbors could do.[3]

All this was caused chiefly by a most shortsighted financial policy on the part of the provincial government. During the times of the French and Indian war the colony had made repeated issues of currency. After peace was declared in 1763 this began rapidly to be redeemed. So sudden and wide an extension of the money medium was bad in itself; but when in the face of an immense tide of immigration the currency began rapidly to contract the effect was calamitous. An idea of this

[1] Colonial Records, VII, 200, 201.

[2] Ib., VII, 144.

[3] Caruthers's Life of Caldwell, page 113. Colonel Saunders, with a singular lack of insight, says that this wheat was sold for a shilling a bushel. Why he should have said nothing of the 4 shillings in barter given also for each bushel is incomprehensible. (Cf. Colonial Records, VII, p. xix.)

may be gotten from the fact that in 1768 while the amount of money was decreasing about 10 per cent a year the population was increasing about 7 per cent a year.[1]

The inhabitants of the back counties, isolated from, and out of sympathy with, the dominant class in the province, were thus ready material to the hand of the political agitator. Weighed down by improperly adjusted taxes, dishonest officers, excessive fees, and an insufficient currency, the people only awaited the appearance of a leader under whom they might range themselves in opposition to their oppressors. The first man to appear in this capacity was Hermon Husband.[2]

THE LEADERS.

Husband was born in Cecil County, Md., October 3, 1724.[3] His family were Episcopalians, but Hermon with some other members of the family became Quakers.[4] He moved to North Carolina and settled at Sandy Creek, then in Orange County, but now in the northeastern part of Randolph. Here he accumulated considerable property. Our knowledge of him indicates that he was industrious, shrewd, honest, and much more intelligent than the average man of his neighborhood.[5] By his neighbors he was reported to have been either related to, or connected with, Dr. Benjamin Franklin. It is in evidence that he kept up a correspondence with this patriotic Quaker through John Wilcox, a merchant of Cross Creek, who went to Philadelphia twice a year to buy goods. In this way he received many political pamphlets of a patriotic character which he reprinted and circulated among the people. He got the credit of writing some of these, but it does not appear that he claimed the authorship of any of them.[6] The only one of these of which we have any definite account is a collec-

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[1] Cf. Colonial Records, VII, 145, 288, 289, and 539, with VIII, 215.

[2] This spelling is used advisedly. Mr. Jacob L. Husband, of Baltimore, a relative of Hermon Husband, has a deed written and signed by Hermon Husband on January 7, 1769, in which the spelling is as here given.

[3] Penn. Mag. of Hist. and Biog., April, 1886, p. 119.

[4] Dr. S. B. Weeks, who has examined the records of the Quakers, has informed the writer that Husband was expelled from that organization, not because he was immoral, but because of divergence of views. This statement is also in advance of Dr. Weeks's forthcoming book.

[5] The deed referred to in note 1 was written by himself and is in good form, showing some legal knowledge.

[6] Caruthers's Life of Caldwell, pp. 119, 120.

tion called "Sermons to asses." It is adapted from a production of an English clergyman of republican tendencies and was published without the name of the author or editor.[1] Two sermons were on the nature of asses. One was from the text: "Issachar is a strong ass, crouching down between two burdens. And he saw that rest was good, and the land that it was pleasant; and he bowed his shoulder to bear and became a servant to tribute." The other was based on the biblical story of Balaam and his ass. Each contained homely truths vigorously stated.[2]

Husband's part in the Regulation has been overestimated. He was essentially an agitator, and his plan seems to have been to effect reform by means of public sentiment. When it became evident that the movement was running into violence he held aloof from it, only exerting himself to restrain excesses and to make peace.[3] His activity as a pamphleteer had given him such a reputation that it was impossible to convince the provincial government that he was not the chief leader of the popular side. The officeholders produced affidavits to show that he was in the crowd that perpetrated the Hillsboro riots;[4] but whether or not he helped to administer the thrashings that some received the deponents did not say. The fact that when a short time afterwards he was expelled from the assembly for printing a libelous letter to Maurice Moore no charge was made in connection with this riot may, perhaps, be owing to lack of evidence on this subject.[5] Had it been at all sure that he was concerned in the riots. he would likely have been so charged in the indictment. He was with the Regulators on the morning of the battle on the Alamance endeavoring to bring about an adjustment. When he saw that this was impossible he mounted his horse and rode away. Some have attributed this to cowardice, but it is noticeable that none of the writers who have talked with surviving Regulators have said that the Regulators accused him of deserting their

[1] It was erroneously supposed to have been adapted from Dr. Franklin's tract, "State affairs."

[2] These two sermons are abridged in Revolutionary History of North Carolina (W. D. Cooke, ed.), pages 19–28.

[3] In 1768 the Regulators declared that he was a "gentleman that had never joined the Regulators, had never been concerned in any tumults, and whose only crime was being active in trying to bring on the intended settlement." (Colonial Records, VII, 765.)

[4] Ib., VIII, 245–247.

[5] Ib., VIII, 268, 269.

cause. It is more probable that his whole conduct was in keeping with his Quaker principles of not actively participating in a fight. He was twice elected to the assembly, being expelled during his second term, and when the officers of Rowan County agreed to leave the dispute between themselves and the Regulators to a committee of arbitration he was put on that committee.[1] To escape Tryon's wrath he fled the colony and spent the remainder of his life in western Pennsylvania, where he was prominently implicated in the whisky rebellion. He was captured, tried, and condemned to death, but was released through the intercession of friends. He died before he could reach his home.[2]

There is no one who can be called a preeminent leader of the Regulation. Perhaps this is one cause of its failure. On the morning of the battle, when no one was found to command the people, some asked James Hunter to take command. His answer was characteristic both of himself and of the movement: "We are all freemen, and everyone must command himself."[3] Rednap Howell, James Hunter, and William Butler were leading spirits; yet there were, perhaps, others as prominent as themselves. Hunter was spoken of as their "general."[4] Rednap Howell deserves to be mentioned as the bard of the movement. He was from New Jersey and was a schoolmaster. With his homely songs he soon set the entire countryside singing at the expense of Fanning, Frohock, and others of their associates.[5]

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[1] Colonial Records, VIII, 521.

[2] See Caruthers: Life of Caldwell, pages 166–168.

[3] Ib., p. 163.

[4] Colonial Records, IX, 269.

[5] The following will suffice as specimens:

When Fanning first to Orange came
  He looked both pale and wan,
An old patched coat upon his back,
  An old mare he rode on.

Both man and mare wa'n't worth five pounds,
  As I've been often told,
But by his civil robberies
  He's laced his coat with gold.

—Life of Caldwell, page 116, note.

Also this:

Says Frohawk to Fanning, to tell the plain truth,
When I came to this country I was but a youth;
My father sent for me; I wa'n't worth a cross;
And then my first study was to steal for a horse.
I quickly got credit, and then ran away,
And hav'n't paid for him to this very day. —Ib., page 130, note.

All that is known of the Regulators' rhymes is reprinted in the *Raleigh Register*, June 2, 1825.

The most prominent leader on the opposite side was Governor Tryon. Much has been said to this man's discredit, but perhaps not all of it has been deserved. So far as the records show he was a man of decided executive ability, great tact, broad ideas, and much firmness. Like Strafford, his public character seems to be summed up in the word "thorough." Like most English gentlemen who were then sent to govern colonies, he expected to make money by the office, and he doubtless did it.[1] He was a genuine believer in the King's prerogative, and as governor he felt bound to permit nothing that would detract from it. From his standpoint it was enough for the people if they submitted to the benign rule of the fatherly King. He came to enforce this kind of government and at the same time to build up his private fortune. He found that the officeholders in the counties were the friends on whom he might rely to accomplish both purposes. He felt drawn to them, and when the people criticised them he interfered in their behalf. As representatives of his ideas of government he felt that they must be sustained. To accomplish his object he shrewdly, and perhaps heartlessly, used the means that politicians of the day were accustomed to use. To his mind a triumph of the Regulators would have been the first step toward undermining the royal authority. He came to North Carolina with an ambition to have a tranquil administration in what had hitherto been a troublesome colony. His very ideas doomed him to failure. It was his misfortune to be the governor just at the time when quiet was impossible.

Edmund Fanning, the local leader of the opposition to the Regulators, was born in Connecticut and was educated at Yale College. He was a man of fine address and superior ability. For some time he was one of the leading men in the assembly, and seems to have won the confidence of such men as Ashe, Harvey, Waddell, Harnet, Caswell, and Maurice Moore, all men of the greatest reputation for patriotism, and whose parts in the Revolution have secured for them consideration as the fathers of the Republic. Unfortunately for him he

[1] In 1769 Lord Hillsboro told Tryon that the reason he had not named him for the governorship of New York was that he had learned that he (Tryon) was getting more in North Carolina than the New York place paid. (Colonial Records, VIII, 190, 191.)

belonged to the office-holding class, and, like his associates, stretched his authority as much as possible, so as to take more money from the people. He said that he thought he had a legal right to take all he did take, and when he had been convicted the best experts of the law acquitted him of any criminal intent. Still, it is improbable that he fooled himself in such a manner as his claim would imply. He was most likely a full-fledged office-holding bird of prey, no better and no worse, except as he had more native ability, than the other members of the political cliques in the back counties.

EARLY DISPUTES.

The early history of North Carolina was not a quiet one. Besides the so-called Culpepper and Carey rebellions, which occurred under proprietary rule, there had been several disputes between the people and the royal authority.[1] While these difficulties have no direct connection with the Regulation, they show that the spirit of independence was abroad in the colony a long time before the day of the Regulators.

A notable outbreak of this spirit occurred in Mecklenburg County on the 7th of May, 1765. George Selwyn held a large tract of land in this region, on which he had settled many men who had not received deeds for their holdings. In 1764 Henry Eustace McCulloch was appointed agent for Selwyn, with instructions to survey these parcels of land, and either to close bargains for the same or to eject those who held them. McCulloch announced the price at which he would receive payment for the land, and in February, 1765, went up to have a settlement. The settlers indignantly refused to accept the proposition, offered him a smaller price, and when he refused to take it they forbade the surveyors to lay out the holdings. They also terrorized those who were willing to pay the price demanded, and declared that they would allow no sheriff to eject a settler for not paying it.[2] Finally, as John Frohock, Abraham Alexander, and others were about to survey a piece of the disputed land they were beset by the enraged settlers and most severely thrashed.[3] This brought

[1] See Colonial Records, VIII, pages vii–x.
[2] Ib., VII, 14–31.
[3] Ib., VII, 32–34, 37.

out a proclamation from the governor, which, so far as we know, brought quiet, and perhaps the success of McCulloch.[1]

The evidence we have in this case is all on the side of the agent, and it is accordingly unsafe to say who was in the wrong. At its face value, it indicates that McCulloch was acting entirely within his legal rights.[2] The incident is of importance only as revealing the turbulent spirits of the backwoodsmen and their vigorous method of redressing grievances.

This same spirit was strong in Granville and Halifax counties, where it was directed against extortioning officers. On June 6, 1765, it took a long forward stride when a gentleman of the Nutbush section[3] of Granville issued what has been known as "The Nutbush paper." It contained "an account of the deplorable situation we suffer * * * and some necessary hints with respect to reformation." The grievances of the people are stated as follows:

> A poor man is supposed to have given his judgment bond for £5, and this bond is by his creditor thrown into court. The clerk of the county has to enter it on the docket and issue execution, the work of one long minute, for which the poor man has to pay the trifling sum of 41s. 5d. The clerk, in consideration he is a poor man, takes it out in work at 18d. a day. The poor man works some more than twenty-seven days to pay for this one minute's writing. Well, the poor man reflects thus: At this rate, when shall I get to labor for my family? I have a wife and parcel of small children suffering at home, and here I have lost a whole month, and I don't know for what, for my merchant is as far from being paid yet as ever. However, I will go home now and try and do what I can. Stay, neighbor, you have not half done yet. There is a d——d lawyer's mouth to stop yet—for you empowered him to confess that you owed this £5, and you have 30s. to pay him for that, and go and work nineteen days more; and then you must work as long to pay the sheriff for his trouble; and then you may go home to see your horses and cow sold, and all your personal estate for one-tenth part of the value, to pay off your merchant. And lastly, if the debt is so great that all your personal estate will not do to raise the money—which is not to be had—then goes your lands the same way to satisfy these cursed hungry caterpillars that will eat out the very bowels of our commonwealth if they are not pulled down from their nests in a very short time.

[1] Colonial Records, VII, 38.

[2] When the settlers petitioned to the governor and council for justice, that body decided that the affair was not cognizable before them. (Ib., VII, 34, 35.)

[3] The name Nutbush is employed now to indicate a township, a Presbyterian church, and two streams—Nutbush and Little Nutbush creeks—in the northern part of what is now Vance and Warren counties. Nutbush Township was divided by the boundary line of these two counties. It was formerly in Granville. (See Schaeffer's map of North Carolina.)

The author called on all the gentlemen of Granville to help in changing this condition of affairs. All were cautioned that if they tried they must "be careful to keep sober, nor do anything rashly" or "against the known established laws of our land." Who this author was is not known. He succeeded in getting up a petition to the assembly for redress of grievances, but nothing came of it. The officers retorted by suing the subscribers for libel and by having the author of the paper indicted and imprisoned. When Husband wrote, perhaps 1769, the suits were still in court.[1] Of so little consequence was the whole affair that knowledge of it did not reach Orange, the adjoining county, until 1767. It is chiefly important as illustrating the political condition of the back country in the time just preceding the outbreak of the Regulation.

This was not the only manifestation of the spirit of discontent. According to Husband, Brunswick, Cumberland, and other counties refused to pay their taxes as early as 1766. Of the results of these refusals we know nothing. From 1766 on all minor discontent is swallowed up by the events which soon called the attention chiefly to Orange and adjacent counties. It is to these events that we shall direct our attention.

THE SANDY CREEK ORGANIZATION.

What is usually spoken of as the Regulation in Orange is really two distinct movements. The one we may call the Sandy Creek Organization because it originated chiefly with Sandy Creek men; the other is the Regulation proper. The former represented a mild but firm protest against the wrongdoing of the officers and its transactions are summed up in the papers usually known as the Regulators' Advertizements I, II, and III.[2] The latter replaced the former. It was first known as "The Mob," but soon took the name "Regulation," from a South Carolina organization. It grew up when the former had failed and was dominated by a more turbulent spirit than was countenanced by the Sandy Creek organization. It eventually ran into such excesses that the militia of the province was called out twice against it.

The Sandy Creek movement began late in August, 1766, when at a county court there was issued a call for each neighborhood to send delegates to a meeting "at some place where

[1] Wheeler: History of North Carolina, II, 301, 302.

[2] These are found in Wheeler, II, 302, 304 and Colonial Records, VII, 249, 251, 252.

there is no liquor (at Maddock's Mill, if no objection), at which meeting let it be judiciously inquired whether the free men of this county labor under any abuses of power or not, and let the same be notified in writing if any is found, and the matter freely conversed upon, and proper measures used for amendment."[1] This call was read in court, whereupon the officers present acknowledged that it was reasonable, and Thomas Lloyd, one of the assemblymen of Orange, "declared his approbation of it" and suggested October 10 as a convenient day for the meeting.[2]

It is of advantage to note the relation of this movement to the stamp-act resistance. The call begins:

> Whereas that great good may come of this great designed evil, the stamp law, while the Sons of Liberty withstood the lords in Parliament in behalf of true liberty, let not officers under them carry on unjust oppression in our own province.

In closing, the paper says:

> Take this as a maxim, that while men are men, though you should see all those Sons of Liberty (who has just now redeemed us from tyranny) set in offices and vested with power, they would soon corrupt again and oppress if they were not called upon to give an account of their stewardship.

This passage indicates the sympathy between the Sandy Creek men and the Sons of Liberty. This was possibly due to the influence of Husband, whose correspondence with Franklin made him a center of patriotic ideas of a revolutionary nature. There is no evidence of any connection between the Regulation proper and the stamp-act troubles.

The idea of giving an account of their stewardship gave the officers an excuse for not going to the meeting at Maddock's Mill; for although they had at first promised to go, yet when on October 10 twelve delegates were met there the officers sent a messenger to say that they had decided not to attend, because the meeting claimed the authority to call them (the officers) to account. The messenger further announced that Colonel Fanning considered the meeting an insurrection.

The meeting, however, proceeded to draw up a paper, the chief features of which were as follows: Since the county was so large that not more than one-tenth of the voters could know in a reliable manner the qualifications of any man, it was

[1] Colonial Records, VII, 250.

[2] Husband. (See Wheeler, II, 303.)

deemed right that there should be an annual meeting similar to the one then convened, so that the people might investigate the actions of their representatives, and that the representatives might know the wishes of their constituency. Inasmuch as the matter was new in Orange, "though practiced in older governments," it was hoped that the officers would in time be more willing to submit their conduct to these meetings, and that the people could be brought to support the movement more firmly. This paper was read to the messenger, who "said that it was so just and reasonable that no man could object to it." A copy was given to him, which he agreed to deliver to the officers.[1]

The claim that representatives are responsible to their constituencies was at that time an innovation in the politics of the "back counties" of North Carolina. From the point of view of the officeholders it could not be allowed. Accordingly Colonel Fanning, either at the next county or general muster, read a paper "in repugnance to our requests." Husband did not know its contents. Fanning claimed that he had served it on the Sandy Creek men, but Husband says none of them ever saw it. It was probably but a more formal statement of Fanning's charge that the measures proposed were insurrectionary. Further than this, the officers made threats against the chief men of the movement, and when £50 had been collected to prosecute the offending officers it was found that the only lawyer on whom they could rely declined to take the case. In 1767 two men, one a justice of the county court, purchased jointly a copy of the revision of the laws of the province.[2] Two others copied from it the fees for registering conveyances and went before the court to register some deeds. The fees charged they thought to be illegal. They protested, but being threatened with arrest for contempt of court, they thought best to desist. The justice who was half owner of the law book then went to his partner, who had brought the book to the court, and asked him to be cautious how he lent it out. This he did, because there were so few of these books in this section that the court would easily know who had lent one of them. To this statement Husband adds: "Thus we may see how he apprehended himself under a necessity to conceal his good

[1] Colonial Records, VII, 251, 252, and Wheeler, II, 304.

[2] Davis's Revision, 1765.

offices and honesty to secure himself in office, but I suppose he was found out, for he was soon afterwards put out of commission." All these obstacles so discouraged the people that the Sandy Creek men abandoned their association.[1] Thus terminated the first movement against the officers.

THE REGULATION PROPER.

It was not till the spring of 1768 that any further organized resistance was made to Fanning and his associates. The immediate cause of this resistance was a notice posted by the sheriff of Orange, stating that he would, according to law, receive taxes at five specified places, and for all not paid there he would distrain at a cost of 2s. 8d. for each distress.[2] Many people considered this a misinterpretation or a violation of the law. Along with it came the rumor that the assembly had given the governor £15,000 for the purpose of building a residence.[3] The two affairs combined to bring about a new association, at first known as "The Mob," but later called "The Regulation."[4] The movement did not begin in the Sandy Creek neighborhood, but it spread rapidly. The Sandy Creek men refused to join, "because it was too hot and rash, and in some respects not legal." They tried to guide the movement and to modify

[1] This account follows Husband. See Wheeler, II, 302, 303.

[2] A careful examination of the law then in force fails to show any authority for this assertion. Laws of 1768, ch. 6.

[3] Affairs were further aggravated by the fact that the sheriff at first demanded 8s. 4d., which some paid. Later Fanning arrived and said that the tax should be 10s. 8d. Many paid this with much complaining. The people had lost confidence in their leaders, and not being able to find in the law books the specified tax bills, declared they were being defrauded. (Colonial Records, VII, 763, 764.) This was an error. Colonial Records, VII, 772, gives the items of this tax of 10s. 8d., and a comparison with the laws in Davis's Collections of 1765 and 1771 shows that the items as given in the posted notice were correct. (Collection of 1765, Vol. I, 146; Vol. II, 22, 192, and 222.) The tax to defray contingent expenses is cited incorrectly. Instead of being 1718 it should have been 1767–68. It was passed in 1759 for four years. In 1761 it was supplemented by 2s. tax. The original tax was continued in 1764 (chap. 8) and again in 1767–68 (chap. 18).

[4] The name Regulation was taken from a South Carolina organization formed to protect the people against the depredations of a lawless band known (from their leader, Colonel Schovel) as Schofilites. The affair was settled when the province established courts in the back counties, thus allowing the Schofilites to be brought to justice. (Quoted by Governor Swain from Johnson's Traditions and Reminiscences. University Magazine, X, 134, 135.)

its intemperance. A violent paper had been prepared and sent to the officers,[1] but these milder men persuaded the angered people to have another meeting, at which a new agreement was drawn up, as follows:

We, the subscribers, do voluntarily agree to form ourselves into an association, to assemble ourselves for conference for regulating public grievances and abuses of power, in the following particulars, with others of a like nature that may occur: (1) We will pay no more taxes until we are satisfied that they are agreeable to law, and applied to the purposes therein mentioned, unless we can not help it, or are forced. (2) We will pay no officer any more fees than the law allows, unless we are obliged to do it, and then to show our dislike and bear open testimony against it. (3) We will attend all our meetings of conferences as often as we conveniently can, etc. (4) We will contribute to collections for defraying necessary expenses attending the work, according to our abilities. (5) In case of difference in judgment we will submit to the judgment of the majority of our body.[2]

The former of these papers was received by the officers with a storm of indignation, the burden of which fell on the Sandy Creek men, who, from their association with the other affair, were never able to separate themselves, in the minds

[1] This paper read as follows: "Whereas the taxes in the county are larger, according to the number of taxables, than adjacent counties, and continues so year after year, and as the jealousy still prevails amongst us that we are wronged, and having the more reason to think so as we have been at the trouble of choosing men and sending them after the civilist manner that we could to know what we paid our levy for, but could receive no satisfaction. * * * We are obliged to seek redress by denying paying any more until we have a full settlement for what is past, and have a true regulation with our officers, as our grievances are too many to notify in a small piece of writing. We desire that you, our assembly men and vestrymen, may appoint a time before next court at the court-house and let us know by the bearer, and we will choose men to act for us. * * * We desire that the sheriffs will not come this way to collect the levy, for we will pay none before there is a settlement to our satisfaction, and as the nature of an officer is a servant to the publick, we are determined to have the officers of this county under a better and honester regulation than they have been for some time past. Think not to frighten us with rebellion in this case, for if the inhabitants of this province have not as good a right to enquire into the nature of our constitution and disbursement of our funds as those of our mother country, we think it is by arbitrary proceedings that we are debarred of that right; therefore, to be plain with you, it is our intent to have a full settlement of you in every particular point that is matter of doubt with us, so fail not to send an answer by the bearer." (Colonial Records, VII, 699, 700.)

[2] Wheeler: History of North Carolina, II, 306.

of the officers, from the later movement.[1] The Regulation proper was now fairly launched, and the launching was with such violent language from the officers that many who had not before concerned themselves with the affair joined it outright.

On April 4 the Regulators met again and requested the late sheriff and a vestryman to meet a committee of Regulators, on a day to be selected, with a list of the taxables for each year and a list of insolvents, together with a statement of all disbursements of the public money. They desired also that their assemblymen would be at the same time and place "to show us law for the customary fees that had been taken for deeds," etc. Two men were appointed to convey this request to the officers, but before they could set off there occurred such a storm of popular fury that the whole matter took an entirely different aspect. A Regulator's mare, saddle, and bridle were seized and sold on account of one levy. A party of angry Regulators at once rode to Hillsboro, where they rescued the mare[2] and where some of the most uncontrolled spirits fired some shots into the roof of Fanning's house, by way of venting their spite. The Regulators claimed that they were provoked to this by a gentleman who came to the door with a pistol and threatened to fire on them.[3]

Colonel Fanning was at that time attending the superior court at Halifax. Lieutenant-Colonel Gray, who commanded the militia in his absence, reported the matter to his senior officer and was ordered to embody at once seven companies of militia to oppose the Regulators. At the same time Fanning sent a warrant from the chief justice for the arrest of William Butler, Peter Craven, and Ninian Bell Hamilton, who had been leaders of the rescuing party.[4] The militia assembled at once, but it was found that of the seven companies only 120 men presented themselves with arms in their hands,[5] and that

[1] It was perhaps due to this fact that the officers were not able to dissociate Husbands from the Regulation proper.

[2] Some old men, "of great respectability," told Caruthers that the mare was sold to an officer for the amount of the levy and that the Regulators repaid this and restored the property to the former owner. (Life of Caldwell, pp. 118, 119.)

[3] Colonial Records, VII, 764.

[4] Ib., VII, 705–707.

[5] The others gave as an excuse the bad weather and said they would rather pay the fines than attend muster. (Ib., VII, 743.)

very few of these could be relied upon to act against the people. It was the opinion of the officers that not over 150 men could be found in the county who could be depended on in the emergency. At this time, according to Husband, not more than one-half of the people had joined the Regulation.[1] The remainder, it seems, were so strongly in sympathy with the Regulators they would not fight against them. The officers were also, perhaps, a little frightened. They decided to make a truce. This, so they wrote Fanning, was solely to gain time. They appointed three men to meet the leaders of the Regulators on April 20. Whether this meeting was held or not we do not know; but through the influence of the parish clergyman, Rev. George Micklejohn,[2] a further meeting was appointed for May 11, at which it was promised that matters would be definitely settled.[3]

On receiving this news Fanning set off at once for Hillsboro to take command of his regiment. Arriving there he reported the condition of affairs to Tryon. His ideas of the Regulators were based entirely on the paper which they had hastily sent to the officers, but which they had afterwards modified. He accused them of swearing to pay no more taxes, to kill all officers who tried to collect taxes, to prevent the execution of the decrees of the courts, and to arraign all officers before "the bar of their shallow understanding," as well as of desiring to become the "sovereign arbiters of right and wrong."[4] He thought, however, that he should be able to manage the situation and said that inasmuch as the succeeding week was court week he should wait till it had passed, and then on May 1 proceed to arrest the ringleaders of the opposition, sending them to Hillsboro for safety. He said that the insurgents had appointed May 3 a day on which they would surround the town, which, if their demands were not satisfied, they would burn. On this day he proposed to make a brave stand. It had been reported that they could bring large reenforcements from Anson, Mecklenburg, and Rowan counties. If these

[1] Wheeler: History of North Carolina, II, 308.

[2] The Regulators spell this name McEljohn. As a Scotchman he possibly had some influence over them. (See Colonial Records, VII, 764, 765.)

[3] See ib., VII, 710–712, for officers' letter.

[4] Fanning said that he was informed that the movement originated in Anson County. There is no evidence to support this. Fanning was loath to have the governor think his county had been so badly managed as to originate such resistance.

should come he desired the authority to call out the militia of other counties, though he was desirous of restoring order if possible without going out of his own county[1] for resources.

To this letter the governor replied in the most cordial manner. He offered to go himself to aid Fanning if the latter should think it necessary. He ordered the militia of Burke [Bute], Halifax, Granville, Rowan, Mecklenburg, Anson, Cumberland, and Johnston, to be held in readiness to march at the command of the Orange colonel, and instructed that gentleman to call out his own regiment "to repel all insurrections." He inclosed a proclamation to the people, which was to be published before decisive measures were taken.[2] Along with this letter came another of the same date, but in a milder tone. It was more conciliatory and was evidently intended to be read to the people. The council approved of this action of the governor, and declared the Orange trouble an insurrection.[3]

As to the charge of Tryon that the Regulators intended to burn the town on May 3, it is right to say that they denied it emphatically. Parson Micklejohn had induced five of their leaders to sign an agreement not to go to Hillsboro until the 11th of May unless there should be a distress for a levy.[4] These five had stipulated that this paper should be void if the majority dissented from it. The majority did dissent, because, as the Regulators declared, "it insinuated a falsity as though we intended violence, whereas in fact no such thing was designed, whatever private papers might be handed about by particular persons."[5] It was perhaps these "private papers" and other individual action that rashly brought the Regulation into trouble, making it very difficult for its more cool-headed leaders to manage it.

On April 30 the Regulators met and elected thirteen delegates to attend the meeting on May 11. They selected men in whom they could place confidence, regardless of membership in the association. One of the men chosen was Hermon Husband, who was not a Regulator at this time. The thirteen "settlers" were instructed to procure a list of the taxables for the terms of office of the two late sheriffs, with the number of insolvents and delinquents; to procure a fair account of the

[1] Colonial Records, VII, 713-716.
[2] Ib., VII, 717, 718.
[3] Ib., VII, 719-722.
[4] Ib., VII, 716.
[5] Ib., VII, 765.

taxes collected and the citation of the laws authorizing them; to obtain especially an account of the province, county, and parish taxes of 1767; to examine the fee bill to learn the cost of registering certain instruments. They were also required to take an oath pledging themselves to do justice between the officers and the people according to their capacity.[1] This paper was ordered to be sent to the officers. They also drew up and signed a petition to the governor and council which they laid aside to be used in case the officers should disappoint them in the proposed settlement. This petition came not as from Regulators, but as from "inhabitants of Orange County." It was signed by some not Regulators, notably by Husband, and there were more than 400 signatures.[2]

An unfortunate event here interrupted matters. On the same day the governor's secretary, one Edwards, arrived in Hillsboro and set up the proclamation mentioned above. On the next day Fanning put his preconceived plan into operation. Collecting twenty-seven armed men, mostly from the officeholders, he set out for Sandy Creek. He arrived there on the morning of the 2d of May, when the sheriff, thus supported, arrested William Butler, one of the Regulators, and Hermon Husband, who was not a Regulator, who had not joined in any tumult, and "whose only crime was his being active in trying to bring on the intended settlement."[3] The charge was inciting to rebellion.[4] The prisoners were taken to Hillsboro at once, where they were thrown into prison after a trial before a justice of the peace. Husband was ordered to be taken to the Newbern jail for safe-keeping.[5]

This so aroused the fears as well as the indignation of the people, both Regulators and non-regulators, that next morning 700 men were on their way to the town to release the prisoners. The officers, thoroughly frightened, were glad to release the two men and to send them out to turn back the mob. This, however, was not till Husband had been terrorized into giving a promise that he would not concern himself any more in the abuses of the officers.[6]

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[1] Colonial Records, VII, 731–732.

[2] Ib., VII, 733–737.

[3] For Husband's own account of his arrest and trial see Wheeler, II, 316 *et seq.*

[4] Colonial Records, VII, 742.

[5] Ib., VII, 743.

[6] Wheeler, II, 317.

They also sent out Secretary Edwards, who read a proclamation to the excited people, and delivered a verbal message from the governor to the intent that if the Regulators would petition the governor for redress and go to their homes he would see that entire justice was done them. This was exactly what they had decided upon as their next step in case the meeting on May 11 should fail, and they consequently gladly accepted the proposition. The officers also accepted the offer, and to the people the case was put as if the governor and council had been called in to arbitrate between the contending parties.[1]

The Regulators called a meeting to prepare the proposed petition. This was not in keeping with the plans of their opponents. Fanning had already written to some of the most pacific of the Regulators, offering, if they would meet him in Hillsboro, to prepare a petition to the next assembly for relief, which petition he agreed to present himself as a member from Orange.[2] By this it seems that he wanted to get a petition worded in a manner inoffensive to his interests, which he could present as the petition of the discontented people of his county. His plan was thwarted now that the petition was to be regularly prepared by the organization. The officers did not give up hope, however; for through Ralph McNair they sent Husband a paper of their own framing, which, it was confidentially said, was the only petition that would "go down with the governor."[3] Husband was asked to induce the people to adopt this as their petition. It was a dastardly attempt at bulldozing. The Regulators were, by this paper, to denounce their past conduct as "illegal and unwarrantable," to declare that they had been mistaken in their charges against the officers, and to throw themselves entirely on the mercy of Tryon. McNair wrote coaxingly enough, but he did not hesitate to employ threats. He warned Husband that if the proposed petition was not adopted Fanning would represent the case to Tryon as treason. At the meeting a clergyman and a merchant[4] appeared, who tried to influence the people to the same end. The very inexperience of the Regulators saved them.

[1] Colonial Records, VII, 765, 766.

[2] Ib., VII, 741.

[3] McNair's letter and the petition referred to can be found in Colonial Records VII, 767–771.

[4] The names of these two men are not given. (See Wheeler, II, 309.)

Confused by the threats of the officers, they appointed a committee, who should lay before the governor and council all the papers of the association, and who should transmit with them a statement of the history of the movement, together with a request for pardon for anything they had done contrary to the King's peace and government.[1]

At the same meeting they procured affidavits to support their charges against the sheriff, clerk, and register in twenty cases of alleged illegal fees. These affidavits were most probably sent to the governor along with their other papers. They undoubtedly make out a very strong case against the officers. Moreover, we have no evidence in rebuttal of them.

The reply[2] of Tryon to the Regulators was cold. He denied that he had authorized Edwards to pledge his interference to them. He frowned at their proceedings, darkly hinted at treason and its punishment, hoped that his proclamation had brought them to submission, indorsed the vigorous action of Fanning and the loyal militia, directed the dissatisfied to desist from all further meetings, and to allow the taxes to be collected. Said that he had authorized Edwards to say no more than this communication implied. He assured them that he should order the attorney-general to prosecute upon due application all who were charged with taking illegal fees, and promised for himself that a proclamation should be issued against the same abuse. For their better information he told them that the poll tax, exclusive of county and parish taxes, was, for the year 1767, 7s.[3] The governor read this reply in the council, where it was ratified. Then, at his suggestion, Fanning was called into the room, and the thanks of the body formally expressed to him and his men "for their prudent and splendid behavior" in the recent troubles.

While affairs were assuming this shape in Orange they had come almost to as bad a condition in Anson. Here the office-holding influence was very strong, and the people complained of the same abuses that were charged against the Orange officers. Abundant evidence will be forthcoming in this paper to show how thoroughly county government in North Carolina was then in the hands of an office-holding oligarchy. In Anson

[1] Colonial Records, VII, 759–766.

[2] Ib., VII, 792–794.

[3] This is what it was announced by the sheriff for 1768, when there had been no change by the assembly since the previous year.

the abuse was marked. Samuel Spencer was at once clerk of the county, assemblyman, and colonel of the county militia. Anthony Hutchins had formerly been sheriff, and as such was behind with his accounts, and was charged with having fraudulently conveyed his land to escape payment. He was now a justice of the county court. Charles Medlock had also been sheriff, and was behind with his accounts. He also was a justice. These three men managed the politics of the county. The sheriff, justices, and other officers were all appointed on their recommendation.[1]

Against these the people in 1768 formed an association, the members of which agreed to unite to prevent the collection of the tax for that year, which they thought unreasonably high, to rescue any fellow-member who should be imprisoned, to retake property distrained on account of nonpayment of taxes, and to aid in repaying any member the cost in a lawsuit incurred by reason of his membership in the association. Leading this movement was Charles Robinson, whom Spencer described as a chronic candidate for the assembly, who had worked up this movement in order to aid his political fortune. Robinson had been in the assembly once and there seems to be no reason why we should not believe him an honest champion of the cause of the people.

In April, 1768, the discontented in Anson gathered at the county court about one hundred strong and interrupted the proceedings. They drove the justices off the bench, held a meeting in the court-house at which Robinson was indorsed for the assembly, swore to an oath of their own making, and then dispersed.[2] Spencer forthwith sent Mr. Hooper, possibly William Hooper, to Tryon with a letter, asking for orders in the emergency. The governor, in reply, gave Colonel Spencer the authority to call out the county militia, in order to apprehend the leaders of the insurgents. He promised that if the people would present their grievances to him or to the assembly they would be redressed, and pointed out that if they would apply to the attorney-general that officer would prosecute all persons charged with extortion. In addition to this letter the council issued a proclamation against the disturbers.[3]

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[1] Colonial Records, VII, 806–808.

[2] This is Spencer's account of the affair. (Ib., VII, 722–726.)

[3] Ib., VII, 751.

The Anson Regulators, however, wrote to their brethren in Orange, asking for information as to the methods of organizing. The latter responded with alacrity, sending a copy of their proceedings on May 21, "to prevent speedily their running into any errors," and promising to send other papers.[1] It was, perhaps, due to this advice that three months later the Anson people changed their method from violence to the friendly petition. In August they delivered to the governor a statement of their grievances. They acknowledged that they should have addressed him before their proceedings of the past April, but pleaded that oppression had made them rash. They asked that most of the justices of peace in the county might be removed and others appointed in their stead. To this paper 99 names were signed.[2] Governor Tryon replied in a conciliatory tone, promising that officers charged with extortion should be prosecuted, and intimating that the insurgents had been fortunate in securing lenity by their timely submission.[3] The people had not submitted to any great extent, however, as we shall see them later on aiding their brothers elsewhere. It seems very evident that Tryon was trying to divide the Regulators in Anson from those in Orange, so as to deal more successfully with the latter.

When the Regulators of Orange referred their case to Tryon for arbitration they did so with full confidence in his disinterestedness. The cold reply to that appeal had destroyed much of this confidence. Just about this time a report was circulated that about £30,000 had been collected more than was necessary to sink the outstanding public currency. This was given as merely a suspicion; but in popular disturbances a suspicion is often as potent as a fact. The Regulators had been forbidden to assemble themselves in any more meetings,[4] and consequently there was much private talking of no submissive nature. A proclamation against illegal fees had been set up at Hillsboro, but it had not brought relief. Husband says that it was followed by higher rather than lower fees.[5]

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[1] Colonial Records, VII, 759.

[2] Ib., VII, 806–809.

[3] Ib., VII, 809, 810.

[4] Governor Tryon says they did meet in spite of this injunction. (Ib., VII, 819.)

[5] Wheeler: History of North Carolina, II, 311, 312.

In the meantime Tryon went to Hillsboro, arriving there on July 6. He remained until August, hoping that the country would be induced to submit. The people refused as stoutly as ever to pay taxes. On August 1 they met to consider, as Husband says, the answer to Tryon's reply to their petition. At this meeting there appeared the sheriff of the county, bearing a letter and proclamation from the governor, the import of which was that the attorney-general had been instructed to prosecute officers charged with extortion, and that the Regulators should quietly submit to the collection of taxes by the sheriff. Both the sheriff and his deputy deposed that after the public reading of this letter the people refused to pay the taxes and threatened to take the life of the said deponents if they attempted to distrain property.[1] Husband says they merely told the sheriff that they had decided to refer the matter to the assembly and the whole council, and declared that no insult was offered.[2] They also sent a reply to Tryon's answer to their formal petition, in which they claimed that the officers paid no attention to the proclamation against illegal fees,[3] and added: "Seeing that these sons of Zerniah are like to prove too hard for your excellency, as well as for us, * * * we have come to the resolution to petition the lower house, as the other branch of the legislature, in order to strengthen your excellency's hands."[4]

Immediately after this the Regulators were alarmed by rumors to the effect that runners were out arousing the militia, and that the Indians were about to be called down upon them. A great multitude of the people—over a thousand—collected about 20 miles from Hillsboro on August 11 and selected eight men to interview the governor. To these the governor replied that he had not had an intention of enlisting the Indians or of leading the militia "to break in upon any settlement, as has been falsely represented;" that he was ever ready to do them justice; that Fanning had agreed to submit his case to the next supreme [superior] court, by whose decision he would abide, and finally that the sheriff's accounts with the county had been examined and approved. Tryon

[1] Colonial Records, VII, 798–799.

[2] Wheeler, II, 312.

[3] This proclamation is found in Colonial Records, VII, 795–796.

[4] Wheeler, II, 13, 14; also Colonial Records, VII, 801–803.

also appointed August 17 as a day for a meeting of Regulators, when, as Husband says, the sheriff should settle with them, by which he probably meant that on that day the sheriff would give them an opportunity of examining the public accounts.[1]

The governor seems not to have called together the militia till the town was thought to be in danger. Then he could gather only 400 men, to whom he administered an oath of allegiance to the King and to the North Carolina government before he dismissed them.[2]

On the 17th, the day set for the meeting, the old sheriff did not appear, but John Lea, the new sheriff, appeared with a letter from Tryon, the tone of which was unexpectedly severe. This letter had been indorsed by a council of three members which had been gotten together at Hillsboro. In it the Regulators were told that their measures were criminal and illegal; that they had made every man of property and probity in the county consider them as bent on insurrection rather than as desiring a legal process against those whom they accused. It was the governor's chief concern that they should not trust the courts of law, and in this he felt was implied the insufficiency of his power to see that justice was done them. To relieve him of the necessity of calling out the militia to protect the next term of court, at which Butler and Husband were to be tried, he demanded that by the 25th of August twelve of the prominent Regulators should meet him at Salisbury and become surety in a bond of £1,000 that at the said court no attempt should be made to rescue the two men in question.[3] This letter was delivered on the 17th; on the same day Tryon set out for Salisbury.

Two days later the Regulators replied that for two reasons they could not enter into the proposed bond: (1) The most pacific of their number were their leaders, and these could govern the men and prevent outrages, whereas if they entered into such a bond it would destroy their influence over the more violent; and (2) they had never intended to rescue the prisoners, but to ask the governor to dissolve the assembly, a procedure which they thought would stop every complaint. The

[1] Colonial Records, VII, 819–821; and Wheeler, II, 312–313.

[2] Colonial Records, VII, 804.

[3] Ib., VII, 805, 806.

governor's plans were already made and he was acting with his customary promptness. His design was, if the Regulators should not be submissive, to get as many forces as he could raise in Rowan and Mecklenburg counties and then to march back to Hillsboro just before the term of the superior court, which met in September. He arrived in Salisbury on the evening of the 18th. On the 19th he appointed a review of the Rowan militia for the 26th, gave orders that ample entertainment should be provided on that occasion, and passed rapidly on to Mecklenburg.[1] Passing through the German settlement he stayed on Sunday with Maj. Martin Phifer, a member of the assembly from Mecklenburg. Here he won the people by hearing a sermon by their minister, Mr. Suther, who "recommended with warmth a due obedience to the laws of the country." He cajoled the Presbyterians also, whose ministers, Hugh McAden,[2] James Creswell, Henry Patillo, and David Caldwell, sent the governor a letter full of loyalty to government and maledictions for the Regulators,[3] while at the same time the Presbyterian pastors, presumably the same ministers, wrote a letter to the North Carolina Presbyterians condemning the Regulators in the strongest terms.[4] He also utilized the feeling of respect for their neighborhood leaders, which was still strong with the Scotch, by appointing as captains and justices of the peace the influential men of the different communities. These were able to bring many soldiers to his side.[5] The organization of the Baptists was also against them.[6]

From Major Phifer's he proceeded to review the Mecklenburg militia on the 23d. Here also he had entertainment provided for men and officers. Nine hundred men came to the review, but when he tried to get them to take the oath that he had administered to the loyal in Orange some objection was made, so that, as night was coming on, it was not possible to call for volunteers. He accordingly ordered the captains to

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[1] Tryon's journal shows all of his proceedings on this trip. (Colonial Records, VII, 819–838.)

[2] The spelling in the letter is McCaddon, but Foote gives it uniformly McAden. (Sketches, pp. 175–176.)

[3] Colonial Records, VII, 813–814.

[4] Ib., VII, 814–816.

[5] See "Fan for Fanning," Univ. Mag., IX, 465.

[6] Purefoy: History of Sandy Creek Association, pages 69–73.

call for volunteers at private musters and to report the number they could furnish to their colonel by the 27th. On the 26th he was in Salisbury, where the reading of the letter of the Presbyterian pastors and a liberal supply of beer and toddy handed around in the ranks of the volunteers had the desired effect. By this means he was able on the 13th of September to set out for Hillsboro with 195 men from Rowan and 310 from Mecklenburg.[1] He met with no opposition save a harmless threat from the Regulators that they would, on the pretense of the fear of disease, stop a drove of cattle which were being driven to him, and on the 19th he arrived at his destination. Two days later this body was joined by the Orange forces, 699 strong, and by the Granville detachment of 126 men. These, with two small companies of gentlemen, an artillery company, and the general officers, made up a force of 1,461 men, all called out to protect the Hillsboro court from the Regulators.[2]

One peculiarity of this force was the number of officers in it. There were six lieutenant-generals, two major-generals, three adjutant-generals, two majors of brigades, seven colonels, five lieutenant-colonels, four majors, and thirty-one captains. Of the entire force only 1,153, about three-fourths, were privates. Another noteworthy feature was the number of politicians among the officers. Robert Palmer, a member of the council, was present as adjutant-general; John Rutherford, president of the council and receiver-general of quit-rents, was a lieutenant-general; John Sampson, Benjamin Heron, Lewis H. De Rossett, and Edmund Strudwick, all members of the council, were likewise lieutenant-generals;[3] John Ashe, assemblyman from New Hanover, was a major-general, and James Moore, his colleague, commanded the artillery, with the rank of colonel; Edmund Fanning and Thomas Lloyd, representatives of Orange, held military office, the one as colonel of the Orange regiment and the other as a major-general; Robert Harris, representative from Granville, commanded that county's militia, with the rank of colonel; John Frohock, the lieutenant-colonel of Rowan's regiment, was a member of the

[1] Colonial Records, VII, 889.

[2] The return of the troops is given in Colonial Records, VII, 889.

[3] Ib., VII, 833.

assembly, and Alexender Osborn, the colonel, was a justice of the county court;[1] Martin Phifer was an assemblyman from Mecklenburg and was here a major; Thomas Polk held the same civil office from the same county and was here a captain; Abner Nash, a prominent politician of Halifax, was a major of brigade; Samuel Swann, jr., assemblyman from Pasquotank, was a captain of artillery; Alexander Lillington, an old and influential politician, was a colonel; Maurice Moore, an assemblyman and an associate justice of the superior courts, was present as a colonel; Robert Howe, a member of the assembly, was a major of brigade: Moses Alexander, an influential Presbyterian of Mecklenburg, was present as a lieutenant-colonel and as commissary for his regiment: Thomas Hart, the obnoxious ex-sheriff of Orange, filled the office of commissary of the Orange and Granville forces, and Samuel Spencer, who held several offices in Anson, was present as colonel. At a council of war held in Hillsboro, which no military officer lower than a major attended, but to which 6 members of the assembly were invited, there were present in all 34 members. Of these, 18 were members of the lower house and 6 were members of the upper house of the assembly, making a total of 24 out of 34.[2] Thus, to guard the superior court a military force was called out which embraced, either as high officers or as gentlemen volunteers, one-fourth of the members of that body to which the Regulators had decided to appeal.[3] The above contrast indicates how completely the forces of central and local government, both civil and military, were in the hands of a small officeholding class, which was distributed throughout the counties. As we contemplate such a state of affairs we are struck with the fact that nothing short of a popular upheaval could have brought redress to the Regulators.

Before this array of force the simple farmers were not prepared to make a stand. They assembled on September 22, about half a mile from the town, to the number of 3,700, and sent proposals to the governor "desiring to know the terms on

[1] Colonial Records, VII, 856.

[2] These facts have for the most part been obtained by comparing Tryon's journal with the list of assemblymen, to be found in Colonial Records, VII, p. 342.

[3] There were 72 members in the assembly at that time, it seems. (Ib., VII, 342.)

which their submission would be accepted."[1] This proposition was received by a council of war at which the governor, who was sick, could not be present. The council of war proposed to pardon insurgents if they would give bond to pay their taxes and for the future not to obstruct the officers. The governor suggested that the council consider the advisability of sending troops "to compel the Regulators to submit themselves to government," but that body would modify its views only to the extent that the Regulators should be required to take the oaths of loyalty and allegiance which had been administered to the troops. Accordingly the people were told that if they would surrender 5 of their leaders from Orange, 2 from Anson, and 2 from Rowan, lay down their arms before the army, and promise to pay taxes in the future they would be pardoned. Husband and Butler, it was stipulated, were not to be included in the 9 excepted persons. About thirty of the people accepted this offer; the others went to their homes. The next day Tryon sent a body of troops to arrest those who were especially wanted. Some submitted to arrest, others resisted, but all who were taken were soon released because a true bill could not be found against them. The militia remained in the town during the session of the court. On the 28th they began to be discharged, and on the 2d of October the last of the several detachments marched away. On the 3d, Tryon, by proclamation, pardoned all but 13 of the insurgents.[2] The Regulators soon subsided, and on October 29 Tyree Harris wrote to the governor that on visiting them in in their homes but a short time before he had found them disposed to pay the taxes.[3] Thus ended Tryon's first military expedition against the Regulators. It had cost the province £4,844[4] and not a drop of blood, but it quieted for some time the turbulent members of the Regulators and it gave the pro-

[1] Husband says they offered to pay levies, etc., as usual if the governor would let them come into town to testify against the officers, and if he would pardon their past breaches of the peace, the cases of Butler and Husband excepted. The minutes of the council, which we have followed, say nothing of this, although, as they do not contain the written proposal of the Regulators, it is possible that Husband is correct. (See Colonial Records, VII, 840–842, and Wheeler, II, 316.)

[2] Colonial Records, VII, 850.

[3] Ib., VII, 863, 864.

[4] Ib., VII, 887–888.

vincial magnates an easy and safe means of acquiring military titles.[1]

In the meantime the court had taken up the cases against Husband and Butler as well as the cases against the officers. Husband was indicted for a rout in four cases; the grand jury returned three of these "ignoramus;" on the other he was tried and acquitted.[2] Butler was tried on two counts and found guilty on each. He was sentenced to pay a fine of £50 and to be imprisoned six months. Two others, Phillip Hartso and Samuel Devinney, were tried for the same act, convicted, and sentenced to pay a fine of £25 and to be imprisoned three months. Dennice Bradley, who was indicted for burning the jail of Granville, was acquitted, and three true bills that had been made out against the leading Regulators who had been arrested were ordered to be quashed because of irregularities, and the attorney-general was ordered to bring in others. Tryon's policy was now to be as lenient as possible, in order to bring the people back to submission, and it is doubtful if it was intended that these indictments should have been revived at the next court. Indeed, he wrote to Lord Hillsborough, the secretary for the colonies, that he "imagined" that "these will take their trial next March." The three prisoners, as mentioned above, he released[3] and suspended the payments of their fines for six months.[4] On September 9, 1769, Tryon, acting on advice from the King, pardoned, by proclamation, all those who had been found guilty on these charges.[5]

[1] While the troops were in Hillsboro, Rev. Henry Patillo, one of the leading Presbyterian ministers of the early history of that denomination in North Carolina, preached to the troops. Mr. Suther was ordered also to preach to the Germans in the army; whether he complied or not does not appear; he doubtless obeyed. At the same time Rev. Mr. Micklejohn, the parish clergyman, was "desired" to preach before the troops. The first and the last were publicly thanked for their services (Colonial Records, VII, 835, 836, and 886), and the next assembly ordered the sermon of Mr. Micklejohn to be printed at the public expense. (VII, 983.) This sermon was preached from Romans, xiii, 1 and 2, that text which has so often been made to hold up the temple of tyranny, and the preacher said in it that the governor should hang at least twenty of the rebels, and that they could not hope to escape hell. (See Foote, Sketches, p. 67.)

[2] Wheeler, II, 321, 322.

[3] Husband says two of them escaped and a discharge was sent after them. The other, Butler, was discharged also. (Ib., II, 322.)

[4] See Colonial Records, VII, 844–846 and 884, 885.

[5] Ib., VIII, 17 and 67.

The one half of the business of the court, that is to say, to try Regulators, was easily accomplished; the other half, to try the officers, was a harder task. Husband says the troops asked the business of every man who went into the court. If any owned that they came to complain of officers they were bulldozed by the guards, so that many were scared away. Those who persisted in staying were ordered out of town. One of the prisoners, very likely Husband himself, induced several to come back, and these brought charges against Fanning and Francis Nash. The former was register, and on five counts he was found guilty. He pleaded a misconstruction of the law. For each offense he was fined 1 penny. Nash, according to Tryon, was also convicted, but if he was convicted he must have gotten a new trial, for the court records show that he gave his bond to appear at the next court.[1] On being convicted Fanning at once resigned his position as register.

The case against Fanning is worthy of a fuller statement. The fee bill allowed the register 2s. 8d. for registering a conveyance "or any other writing, or giving a copy thereof." A deed was brought to be registered, which, besides being a mere conveyance, had indorsed on it the certificate of the examination of a feme covert, the certificate of the person examining, and the oath of execution. To the people this was one instrument of writing, but to Fanning it was four. Also, it was in evidence that it was the custom for the officers in general to consider it as more than one. Fanning claimed that for registering the paper he was entitled to 6s. and some pence, but charged only 6s. The attorney-general, on being consulted, gave it as his opinion that for recording every deed a register was, within the meaning of the statute, entitled to 8s. 7d. Fanning pleaded, also, that not being certain as to this matter he had, on assuming his office, taken the opinion of the justices of the county court, who had told him that he had a right to 6s. and some pence for every deed. This, it was claimed, removed from the defendant the imputation of a "tortious taking," and so the court held. With such a ruling there was nothing for the jury to do but impose a merely nominal penalty. The matter was referred for an opinion to the attorney-general of England, who gave it as his opinion that the deed in question entitled the register to three fees. He also stated the question of criminal intent so that with the facts in the case as

[1] See Colonial Records, VII, 847 and 884.

claimed Fanning could not legally be held guilty of extortion.[1] The matter was also referred to a Mr. Morgan,[2] of the Inner Temple, whose official capacity, if he had any, is not given. He gave a decided verdict in favor of Fanning, stating that the latter was entitled to four fees, and that he could not be guilty any way; because he took 6s., "not with intent to extort, but through an involuntary mistake." He closed by advising that Fanning move for a new trial.[3] The whole matter was in a sad state, and the best remedy was, as the English attorney-general suggested, to pass an explanatory act to the fee bill.

At the next superior court at Hillsboro, March, 1769, there were no troops in the town and many Regulators came to prosecute the officers. We have no official records of this court, but Husband tells us that the people met with small success. Husband himself was tried and acquitted, while Hunter's case was continued.[4] Fanning was tried on the same old charge. As the offense was committed before the previous trial, he made the same plea he had formerly made and was, no doubt, formally convicted. If we make full allowance for any exaggeration that Husband's bias may have led him into, it will still appear that the condition of affairs in the courts of justice must have been far from good. The judge's charges were partial, and the jury was unreliable.[5]

In Rowan County, in the same year, the Regulators attempted to prosecute the officers for extortion. When the plaintiffs arrived at court they found that the grand jury was composed of their enemies, there being not more than three men on it who were not officers. They applied to William Hooper, recently appointed deputy attorney-general, who drew up a bill against John Frohock for extortion. This was returned ignoramus. Three other indictments were made out, but they met the same fate. The Regulators learned on good authority that the grand jury had been packed, the members sitting not being those who had been at first chosen.[6]

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[1] Colonial Records, VIII, 27–29.

[2] Morgan seems to have been merely a consulting attorney retained in behalf of Fanning.

[3] Colonial Records, VIII., 33–36, 223, and 225, 226.

[4] Ib., VIII, 32.

[5] Wheeler, II, 323.

[6] Colonial Records, VIII, 68–70.

The next step taken by the Regulators was in the line of practical politics. Until recently no suspicion had been cast upon the members of the assembly. The people were accustomed to leaders and willingly trusted their affairs in their hands. With no widely circulating newspapers and no political aptness, they formed themselves into no parties, but usually accepted the candidate put forward by the officeholders, who was generally either a member of or closely associated with the officeholding class. When they first began their agitation the Regulators had been content to aim at the local officers. They were told to apply to the courts, where justice should be done them. They complied, and found that the laws were in favor of the officers. They concluded that the laws should be changed. At the same time, since the issue had been sharply defined, they saw that the assemblymen were ranged on the side of the county officers. They now determined to attack this office, and here they were more successful than they had been in any of their other undertakings.

In the summer of 1769[1] the governor dissolved the assembly and ordered the election of a new one. Immediately there came out in Orange an address, written perhaps by Husband, though not signed, which recounted the wrongs of the people, declared that the remedy lay with the people themselves, and called on all to arouse themselves from their "own blind, stupid conduct."[2] This idea, as we have seen, had taken shape in Anson when the Regulators had nominated Charles Robinson as their candidate for the assembly, making, perhaps, the first political nomination in America.

The Regulator spirit was not confined to Orange, Anson, and Rowan. In other counties it was strong enough. Tryon, in 1768, stated to Lord Hillsborough that a party of 30 men from Edgecombe County had tried to release from Halifax jail an insurgent leader who was confined there, but that they had failed. In August of the same year a party of 80 had tried to break up the court of Johnston County, but they were repulsed also.[3] These were attempts by the rasher element of the people. That they were supported by such small numbers indicates that violence was not countenanced here as much as in

[1] Husband says July 10, 1768, but this is an error. The new election was held on July 18, 1769. (Cf. Colonial Records, VIII, 54.)

[2] Wheeler, II, 325–327.

[3] Colonial Records, VII, 884, 885.

Orange. That there was a strong feeling against the officers throughout the province is attested by the results of the election for assemblymen. Carteret, Beaufort, Anson, Halifax, Bladen, Edgecombe, Tyrrell, Orange, Granville, and Hyde changed their entire delegations.[1] Other counties changed their delegations in part. Out of the 78[2] members of the new house, 43 were new men.[3] That all these new men represented a change in the political sentiments of their electors is not probable. Not in all the counties was the issue made. In Orange, Granville, Anson, and Halifax, where the Regulator sentiment was strong, the change was complete. In Rowan, a strong Regulator county, Griffith Rutherford, considered a moderate friend of the people, was retained, but his yokefellow, Frohock, was dropped and in his place Christopher Nation, an ardent Regulator, was returned. Perhaps the opinion of Henry Eustace McCulloch was but representative of the ideas of eastern families when he wrote from London soon after the election: "The madness of the people must be great, indeed, to trust such wretches as Hermon Husband and Christopher Nation as their representatives."[4]

The cause of this political change is to be found in the action of the assembly that met in November, 1768. This session left as a memorial of its incompetency several defunct bills. One of these was a bill to allow the recovery of debts of less than £5 in value before one justice merely. This measure had been asked for in a petition from Orange,[5] and it was approved in the address to the Orange voters already mentioned. By order Fanning brought in the bill in the lower house, and it safely passed its several readings, until finally on its third reading in the upper house it was attempted to add a "rider" to the effect that persons indicted for riot might be tried in any one of the superior courts of the province, whereupon the other house objected, and as each party remained steadfast the bill

[1] The list of assemblymen in Colonial Records, VIII, 106, 107, should be exchanged for that on pages 303, 304, as may be readily seen by comparing pages 303, 304 with pages 145–147.

[2] There were 80 members in the new house, but two of these represented Tryon, a county erected after the former assembly met, and they are, of course, not competent in such a comparison as we are now making.

[3] Husband says thirty-odd were left out this time, and he hoped to lose more the next election. (Wheeler, II, 330.)

[4] Colonial Records, VIII, 183.

[5] Ib., VII, 874 and 929, 911–912, 914, and 915.

fell through. Other rejected measures that the Regulators would have welcomed were bills to erect a new county out of Orange and Johnston, and another out of Orange and Rowan; a bill for triennial assemblies, which was rejected in the upper house,[1] and a bill to relieve taxation. The last was introduced by Fanning, passed its first reading, but was killed on its second reading in the lower house.[2] The bills to erect new counties were especially desired by the people, many of them, as they said, having to go as far as 60 miles to attend court as it was. An act, however, to erect Tryon County out of Mecklenburg was safely passed. The assembly was also concerned with providing pay for the forces that had gathered at Hillsboro in the preceding autumn. The province had for some time been trying to get an issue of paper money, but had been prevented by orders from the English Government. It now occurred to them that this was their opportunity. A bill was brought in voting an issue of £30,000 in paper to be used in paying the troops and for other purposes. The cost of the preceding campaign had been only £4,844.[3] The vigorous protest of the governor and the upper house caused the bill to be recast, and it finally passed as an act authorizing the issue of £20,000 to pay the troops collected at Hillsboro, to provide for the public claims, and for the easier collection of taxes.[4] It was thus that the governor was induced to allow the passage of a bill that increased the paper currency of the colony to a large extent. There was one proviso, however, which robbed the victory of half of its fruits; it was provided that this paper should not be a legal tender. In writing to the English authorities Tryon confessed that he had been induced to sign this bill because the militia declared that if their pay was not forthcoming they would not assemble again at the call of the government. For this same reason the British Government approved the bill.[5] It has been claimed that the cost of the campaign of 1768 was a great burden to the province. So

[1] Colonial Records, VII, 911.

[2] Ib., VII, 908, 961, and 962.

[3] Ib., VII, 888.

[4] Ib., VII, 915, 916, and VIII, 5 and 6. This amount was to pay the troops, to pay for running the Cherokee boundary line, to pay the charge for a garrison at Fort Johnston, to pay arrears of salaries, to pay the salaries, etc., of the assemblies of 1767 and 1768, and to provide £1,200 due for bounties on hemp. (Ib., VII, 916.)

[5] Ib., VIII, 266, 267.

far from this being true, it may be asserted with confidence that it was considered by a large class of people as a positive blessing.[1] It afforded a welcome opportunity to increase the volume of currency. This assembly also voted to repay Rev. George Micklejohn, the Orange clergyman, for printing a sermon which he had preached before the troops at Hillsboro, and in which he had declared that the governor ought to have executed at least twenty of the Regulators. Such actions as these were calculated to arouse the opposition of those who were dissatisfied with the officers throughout the colony. This class protested. That protest was measured by the political change in the composition of the assembly.

Pending the meeting of the new assembly there was but little activity on the part of the Regulators. A few of the leaders, however, were not subdued. In the spring of 1769, when John Lea, the sheriff of Orange, went to serve a capias on Ninian Hamilton and others, he was taken by Hamilton, Samuel Devinney, Jesse Pugh, and their friends and severely thrashed.[2] The parties who did the whipping were indicted, and the council instructed the attorney-general to use all legal means to punish them.[3] In Rowan all was not serene. The sheriff appointed in 1769 could get no one to go on his bond, his friends giving the unsettled state of the county as their justification.[4]

The Anson Regulators prepared a petition to the assembly. It contained a remarkably well-prepared statement of their grievances, and to it were more than two hundred and fifty signatures. It recounted seven kinds of political hardships and proposed seventeen points of redress. The former are but the grievances we have seen alleged all along. The noteworthy items of the latter are as follows: At all elections the vote should be given by ballot; taxation should be apportioned on a property basis and not per capita; taxes might be paid in commodities; paper money should be issued and loaned on land; debts above 40s. and under £10 should be sued for without lawyers, and before a county justice and a jury of six; the chief justice should have no fees, but should be given a salary;

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[1] Colonial Records, VIII, 9.
[2] Ib., VIII, 32.
[3] Ib., VIII, 37.
[4] Ib., VIII, 64.

the fees of the clerks should be restricted, and the assembly should inform the King that the governor and council granted land without regard to the legal "head rights,"[1] by which means it had come about that all the best land was in the hands of a few people, and poor men were obliged to cultivate poor land. By this means, it was alleged, members of the council and their friends had gotten large tracts. They asked for reforms in regard to quitrents, the issuing of land warrants, and the valuing of the improvements on land. They also asked that all denominations have liberty to conduct the marriage ceremony according to their respective rites; and, finally, that Dr. Benjamin Franklin, or some other known patriot, be appointed agent of the colony in London.[2]

This petition, it may be said, is the nearest approach of the Regulation to the Revolution. Several of its proposed reforms hinted at a decided change in government, and its hitting on Franklin for an agent looked toward bringing it into close relation with the larger movement, which it is well known that Franklin was then leading. The mention of this patriot's name was perhaps due to Husband, who, though not a Regulator, was doing all he could to spread among the people a greater love of liberty, and who was in frequent communication with Franklin. It is a tribute to the wisdom of the Anson Regulators that many of these reforms were afterwards, when North Carolina had become a State, put into laws.

Orange and Rowan united in another petition. It asked that lawyers and clerks of the court should not be allowed to become members of the assembly;[3] that clerks and other officers should be paid a salary; that lawyers should be made to take only their legal fees, which were to be reduced to one-half in compromised cases; that all clerks should be removed and "gentlemen of probity and integrity" put into their places; that ministers of all denominations might perform the marriage ceremony; that taxes be based on property; that small debts be recovered before one magistrate and a jury of six, from

[1] Fifty acres for each person brought into the colony was the legal amount that could be granted. By law, unless in special cases, only 640 acres could be granted to one party. (See the author's Constitutional Beginnings of North Carolina; Johns Hopkins University Studies, 12th series, p. 110, note 1.)

[2] For the petition see Colonial Records, VIII, 75-80.

[3] Sheriffs were already forbidden to be assemblymen.

whom there should be no appeal; that inspectors' certificates for the storage of imperishable commodities be made legal tender; that the county be divided; that the public accounts be investigated; and, lastly, that the "yeas" and "nays" in the assembly should be recorded.[1] Besides this petition the Rowan Regulators sent Husband a statement of their wrongs, and begged him, as a representative, to do what he could to obtain relief for them.

A very significant petition on the other side came from the Presbyterians of Mecklenburg. They declare themselves a thousand freemen, "who hold to the Established Church of Scotland, able to bear arms;" that they are faithful and loyal subjects; that they "uphold the courts of justice that the law may have its free course and operation;" and, they add, "We appeal to his excellency the governor how ready and cheerful we were to support government in time of insurrection." They then go on to demand for the counties of Mecklenburg, Rowan, and Tryon the repeal of the vestry and marriage acts, so that in this region the Scottish church may be on the same footing with "our sister church of England."[2]

Two other petitions are worthy of note. One came to Tryon from the Presbyterians of the new county of Tryon, and asked that the ministers of that faith be allowed to perform the marriage rites.[3] The other came from twenty-five "friends of government," as Tryon had called them on a former occasion, and asked that an inspector of hemp and tobacco be appointed for Hillsboro. It was signed by such antiregulating spirits as Francis Nash, Rev. Henry Patillo, Ralph McNair, and Capt. James Thackston.[4]

The assembly met on the 23d of October.[5] In his message the governor informed them that a petition of the former assembly to the King, asking for an issue of paper money, had

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[1] Colonial Records, VIII, 81–84.

[2] Ib., X, 1015–1017.

[3] Ib., VIII, 80*b*.

[4] Ib., VIII, 80*a*.

[5] Fanning was recognized as a member of this assembly, but by what right it is difficult to imagine. (Colonial Records, VIII, 107.) He had been defeated in the preceding election, and although Tryon created the borough of Hillsboro that he might be returned from it, this was not done until 1770. (Ib., VIII, 215–217.) His connection with this assembly was short, however, for he soon set out on a visit to New York.

been unsuccessful, and urged them to regulate in a business-like manner the method of keeping the public accounts.[1] The upper house kissed the governor's hand with accustomed facility, but the reply of the lower house was curt and a little surly.[2] Bills to regulate attorneys' fees and to provide an easy means of recovering small debts were introduced at once, but their course was cut off by an event unrelated to them. On November 2 the lower house passed unanimously some spirited resolutions on the questions then at issue between the Colonies and the Royal Government.[3] On November 6 Tryon, who had been ill, called the assembly to him, expressed his disapproval of the resolutions, and dissolved the body. Only five bills were passed, and these were of no constitutional significance.[4] Just before it adjourned the lower house passed a resolution declaring that any person who opposed the due collection of taxes should be rigorously prosecuted as an enemy of the country; and at the same time it declared in another resolution that any officer who should take more than the lawful fee should have the censure of the house.[5] Four days later the council decided to issue writs for a new election in the following March.[6]

The result of the elections of 1770 shows a slight reaction in favor of the friends of government, although it seems that the majority of the assembly were of Regulating spirit.[7] Husband and Pryor were reelected from Orange, and to repair the loss of Fanning, the governor erected Hillsboro into a borough, from which Fanning was promptly returned.[8]

As soon as the assembly met it took up the work of reform. Some progress was in a fair way of being made when the whole legislative body was thrown into terror by news from Hillsboro. The Regulators in that section had become well-nigh

[1] Colonial Records, VIII, 86–89.

[2] Ib., VIII, 91, 92 and 113–115.

[3] For these resolves see Colonial Records, VIII, 122.

[4] Ib., VIII, 139–141 and 170, 171.

[5] Ib., VIII, 139.

[6] Ib., VIII, 150, 151.

[7] Ib., VIII, 270.

[8] Ib., VIII, 215. The Regulators claimed that it was due to Thomas Hart that Fanning was elected. Hart was rewarded by having a bill passed giving him £1,000 for losses, which, it was said, Hart never sustained (Caruthers's Life of Caldwell, p. 117; see also Colonial Records, VIII, 230).

desperate. They had tried petitions to the governor and the assembly, and they had tried the courts. From neither had they gotten relief. During the summer of 1770 they prepared a petition to the officers of the superior court in which they again recounted their wrongs.[1] They prayed for unprejudiced juries, for fair trials of the extortionate officers, and for a proper settlement of the public accounts by the sheriffs. The frame of mind to which they had come is best shown by the following sentence:

> Our only crime with which they can charge us is vertue in the very highest degree, namely, to risque our all to save our country from rapine and slavery in our detecting of practices which the law itself allows to be worse than open robbery. * * * As we are serious and in good earnest, and the cause respects the whole body of the people, it would be a loss of time to enter into argument on particular points, for though there is a few men who have the gift or art of reasoning, yet every man has a feeling and knows when he has justice done him as well as the most learned.[2]

This had an ominous sound.

The superior court at Hillsboro met on September 22, which was Saturday. On that day James Hunter presented the above-mentioned petition to Richard Henderson, the only justice who was on the bench at that term. The matter was deferred till the following Monday. On Monday the court had hardly met when about 150 Regulators, among whom were Hunter, Howell, Husband, Butler, Hamilton, and Devinney, crowded into the room. Jeremiah Fields, one of their number, rose and asked the court for leave to speak. Permission was given, and Fields began by saying that the Regulators had understood that the judge had decided not to try their causes at that term; that they were determined to have them tried, and that if the court would take them up it might prevent mischief. They insisted, also, that the jury that had been selected by the county court should be changed. After about half an hour of this talk, during which the judge tried to pacify them, they retired from the room for consultation. They nearly all carried switches or sticks, and while they stood around the court-house an unfortunate lawyer, John Williams,[3]

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[1] Colonial Records, VIII, 231-234.

[2] Ib., VIII, p. 234.

[3] Williams, judging by entries on the docket, received a good share of the business at this court. He was probably the same lawyer with whom we afterwards find Nash transacting business (ib., IX, 363), when he appears as Col. John Williams. If so, he made his home in Surrey, and later moved

started to enter the building. This was too much for the angered crowd. They fell upon him and administered a severe thrashing until he took refuge in a neighboring house. Peaceful methods were now cast aside. The crowd rushed into the court-house for Fanning, who, in terror, sought for protection on the bench. This did not help him. They seized him, dragged him into the street, and beat him until he, as Richard Henderson said, "by a manly exertion miraculously broke holt and fortunately jumped into a door that saved him from immediate dissolution." From this retreat he was brought out, but was allowed to go to his home on his promise to surrender himself the following morning. Thomas Hart, Michael Holt, Alexander Martin, "and many others" were also whipped. Several who were wanted saved themselves by flying.

The next morning Fanning gave himself up. The Regulators, after some deliberation, announced to him that they would release him on condition that he would agree to take the road and keep running till he was out of sight, conditions with which he most likely complied in a satisfactory manner. They then repaired to his new and pretentious dwelling, which was especially detestable to them as being built out of what they held to be illegal fees. They surrounded it, burned the papers, broke the furniture found in it, and finally demolished the structure. It was charged that they took a sum of money from it, but this they emphatically and indignantly denied.[1]

No indignity had been offered to the judge, except some threats by the more unruly of the crowd. In the beginning James Hunter had assured him he should be protected. In the afternoon of Monday he was allowed to adjourn court until next day, and was then escorted, with some parade, to his lodging. The Regulators demanded that he should proceed

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to Tennessee. (Ib., IX, 370, and Wheeler, II, 409.) His going to Tennessee was due to his appointment as agent for the company which in 1774–75 was attempting to organize the Transylvania tract. (Colonial Records, X, 256, 382.)

[1] Colonial Records, VIII, 260. In 1773 Fanning was suing to recover damages for this loss. He was induced by Governor Martin to withdraw his suits and trust to an appeal to the assembly. Martin made the appeal. The lower house replied that to pay the claim would create discontent in the back counties, and refused to vote indemnity. The governor protested, pleading his promise to Fanning, but the assembly remained unmoved. (Colonial Records, IX, 548, 551–552, 560–562.)

with their cases, without allowing any lawyers but the attorney-general in the court room, and that the jury should be changed. The judge promised this with alacrity, but about 10 o'clock at night he mounted a fast horse and quietly stole away, leaving the court adjourned in course.[1] After venting their fury on Fanning's property, the crowd, seeing that the judge was gone, went to the court room, secured the docket, and called over the cases, entering their own judgment or comments on each case. There on the pages one finds to this day the memorials of their futile protest against what they knew was wrong, but knew not how to remedy. One reads such expressions as the following: "Damned rogue;" "Fanning must pay;" "Hogan pays and be damned;" "Fanning pays, but loses nothing;" "Judgment by default, the money must come of the officers."[2]

Whatever we may think of the justness of the cause of the Regulators, we must readily agree that their conduct on this occasion was illegal. As it turned out, they could do nothing but obstruct the court. The fault lay in the system of government in force in the colony. With such a strongly centralized government, there was no avenue by which the people had access to reform. The ideas of government held by the royal agents and their numberless hangers-on who swooped down on the defenseless colonists made it impossible that these agents should ever understand even the point of view of the protesting people. Their action here can but seem like a mad rush against fate. The people seem so to have regarded it. In 1768 from three to four thousand had come down to rescue the two prisoners, but now not so many hundred took part in the proceedings.

News of this trouble sent a chill of fear throughout the province. The officers in Orange asked that the assembly be convened at once,[3] and the attorney-general advised the same thing,[4] but inasmuch as that body was already to meet on November 30, and as Fanning reported the country quiet, the council decided that there was no need for an extra session.

[1] We have here followed chiefly the narrative of Richard Henderson, which bears evidence of being impartial in its essential points. (Colonial Records, VIII, 241-244.)

[2] Ib., VIII, 236-240.

[3] Ib., VIII 246, 247.

[4] Ib., VIII, 252.

The governor asked the attorney-general to say whether or not the action of the Hillsboro mob could be dealt with as treason. The reply was in the negative. All that could be made of the case was a riot and, because it was an insult to the court, a misdemeanor. It was pointed out that, under existing law it was necessary to try the offenders in the superior court district in which they resided, where, it was evident, no process could be served on account of the feeling of the country. It was suggested that in each county the militia be mustered in order to learn who would serve against the insurgents.[1] This suggestion was adopted by the council.[2] Also the justices of the peace throughout the province were commanded by proclamation to take and transmit to the governor all depositions that might be had in connection with the above disorders.

To add to the alarm felt by the government at Newbern there came the tidings of another outrage. In Granville, on the night of the 12th of November, Richard Henderson's barn and stables were burned, and two nights later his dwelling was also destroyed. It was believed by the government party that the Regulators had fired these buildings. Straight upon the heels of this report came the rumor that the insurgents were preparing to come down to Newbern at the coming session of the assembly in order to overawe it. The panic-stricken council offered a reward for the discovery of the incendiaries and called on the counties intervening between Hillsboro and Newbern to hold their militia in readiness to intercept the threatened march.[3] Eleven days after this happened the assembly was called to convene, but it was only on December 5 that a quorum was present. On the day before this a report came from Pitt County that the Regulators of Bute and Johnston were marching on Newbern to prevent Fanning from taking his seat for the pocket borough of Hillsboro. The council, trembling with terror, called out the Craven regiment to guard the town.[4]

While these reports were flying the assembly met.[5] Born as

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[1] Colonial Records, VIII, 251, 252.

[2] Ib., VIII, 253.

[3] Ib., VIII, 258–260.

[4] Ib., VIII, 262. Newbern was in Craven County.

[5] Caruthers prints a story, which is possibly true, though the records do not mention it. It was to the effect that when Husband went to the assembly he carried with him the amount which the Regulators claimed was their just taxes. When his name was called the governor asked why

it was in terror, it is not surprising that it should have passed away in blood. Its first object of vengeance was Husband, who was one of the members from Orange. He was pounced on for a circular letter addressed to Maurice Moore, one of the associate justices of the superior courts and a member of the assembly. This letter was signed "James Hunter," but Husband was declared to have written it. It was branded as "a false and seditious libel," and Husband was charged with publishing it. Other charges against him were falsehood before the committee on propositions and grievances, and a threat that if imprisoned he would bring down his friends to release him. The result was that Husband was expelled the house.[1] The council thereupon sent for the minutes of the assembly, and, satisfying themselves as to the expulsion of Husband, unanimously resolved that it would be disastrous for him to rejoin the Regulators. They requested the chief justice to have him arrested, which was accordingly done.[2]

This was not what had been expected. Iredell says that on December 15 the "majority of the house were of Regulating principles."[3] Then why were they so easily influenced? This change was wrought by two agencies: (1) Fear, incident to the alarming reports that, whether true or false, were brought to Newbern; and (2) an agreement with the Presbyterians by which a college was to be chartered in Mecklenburg County, and by which Presbyterian ministers might perform the marriage ceremony,[4] in exchange for the support of that denomination in measures against the Regulators.[5] The majority did not go over entirely to the other side. They still held to their position of regulating the abuses of government, but they joined the

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the King's subjects in Orange had not paid their taxes. Husband replied that the people owed his excellency, as they believed, so much butter, but, as that was apt to stick to the fingers to prevent waste they had sent it by their representative, who was ready to pay it to the treasurer if he could get the proper receipt. He then walked to the speaker's table and, placing a bag of coin on it, said: "Here are the taxes which are refused to your sheriff." (Cf. Life of Caldwell, pp. 134, 135.)

[1] Colonial Records, VIII, 268, 269, and 330, 331.

[2] Ib., VIII, 269, 270.

[3] Ib., VIII, 270.

[4] Ib., VIII, 486 and 526.

[5] This is generally charged by all the writers on the subject, and the facts of the case make the charge a probable one. (See Colonial Records, VIII, 527.)

governor's side in passing a bill against the illegal acts of the Regulators. On this point their position was enunciated in their reply to the governor's message. They said: "The late daring and insolent attack made on the superior court at Hillsboro by the people who call themselves Regulators we hold in the utmost detestation and abhorrence."[1]

On December 15 Samuel Johnston, of Chowan, one of the oldest counties, brought in a bill for suppressing riots. It was an emergency law and was to expire in one year. It gave the attorney-general authority to try charges of riot in any superior court as he saw fit, declared outlaws those who avoided for sixty days the summonses of this court,[2] and authorized the governor to call out the militia to enforce the law.[3] As soon as this bill was read it was tabled, and the house immediately appointed a committee to prepare a bill regulating officers' fees.[4] All efforts were then bent to passing reformatory laws, until, on December 31, the Regulators themselves precipitated action. On that day it was reported that a large body of Regulators were assembled with wagons and provisions at Cross Creek preparatory to marching on Newbern. The governor asked for an appropriation to meet the attack and received £500 to protect the town.[5] Two days later the lower house took from the table Johnston's riot bill and pushed it so rapidly that just a week later it was passed for the third time by the upper house and ordered to be engrossed.[6] At the same time the committee on propositions and grievances reported at length on the state of the country. They condemned extortionate fees, denounced as "a real grievance" the opposition of the Regulators to the sheriffs and the courts, and recommended that the leaders of the insurgents be brought to sum-

[1] Colonial Records, VIII, 312.

[2] Such an outlaw might be killed with impunity. It was this feature, and not, as Saunders seemed to have thought, the entire law, that the English Government objected to. They declared that it was not fit for the British Kingdom, and, although they thought some severe law might be justified in the condition of affairs in North Carolina, they still advised the assembly, if it intended to reenact the law, to leave out this clause. (Colonial Records, IX, 238, 248, 285, 289, and 366.) The law expired in a year and was not renewed.

[3] The text of the act is given in Colonial Records, VIII, 481–486.

[4] Ib., VIII, 319, 320 and 270.

[5] Ib., VIII, 345–346.

[6] Ib., VIII, 356, 388 and 390.

mary punishment.[1] The legislature then went on to pass a bill to amend the act for appointing sheriffs and to direct their duty in office; a bill to ascertain attorneys' fees; an act more strictly to regulate officers' fees; an act for the more speedy collection of debts under £5; an act to grant the chief justice a salary, and acts to erect the counties of Wake, Guilford, Chatham, and Surry, all lying in the region infected with the Regulator spirit. All these laws contained reforms sought by the Regulators.[2]

Tryon did not wait to see what effect these laws would have. The first law he signed was the riot law. He at once ordered the arrest of the leaders of the mob concerned in the Hillsboro riots. Had he waited for a time the new laws might have worked the reform that was necessary to quiet the discontented. Four days after the act was ratified he informed the council that the Regulators were still assembling in Orange, and asked for counsel. He was advised to call a special term of the court of oyer and terminer at Newbern under the recent act. This court met on February 2, 1771. It first took up the case of Husband, who had lain in the jail at Newbern since his arrest on December 20, 1770, no one, as Tryon said, offering to go on his bond.[3] The case went to the grand jury, who found "no bill," and the prisoner was released.[4]

Tryon's procedure in this matter has been pronounced ex post facto. There is in his favor this modifying circumstance: The act in question was not a new law in the strict sense; it was merely an attempt to make more effective the English riot law, which held in all the British colonies. No new offense was created by it, but only the method of procedure was changed. The fact that the whole provincial judiciary supported the governor in his position indicates that it was generally considered a good law at that time. The point at which the governor is most at a disadvantage is that he should have kept Husband in prison for so long a time on a charge which the grand jury at once pronounced insufficient.[5] The people of

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[1] Colonial Records, VIII, 388, 389.

[2] For list of bills passed see Colonial Records, VIII, 428, 429, and 477, 478.

[3] Ib., VIII, 494.

[4] Ib., VIII, 511, 516.

[5] The records show plainly that Husband was imprisoned really to keep him away from the Regulators. The charge of libel was merely a subterfuge. (Ib., VIII, 269.)

Orange were convinced of the injustice of the imprisonment, and when the prisoner was released they had already assembled to march to Newbern in order to liberate him. When they received the news that he was at large they quietly dispersed.[1] This had caused a paroxysm of terror, and the government had hastily called out the regiments of Dobbs, Johnston, and Wake counties.

Tryon, as he says, was not satisfied with the temper of the grand jury just mentioned and was "unpleased with the discharge of Husband." He dismissed that term of the court and called another for March 11. The sheriffs of the several counties in the district were directed to select as jurymen only "gentlemen of the first rank, property, and probity in their respective counties."[2] This the governor admits with the frankness that indicates that he considered his attempt to influence the course of justice as within his prerogative. By strenuous efforts witnesses were also brought down from Orange. As a result everyone of the sixty-two indictments that were presented was returned "a true bill."[3] The witnesses that went before the grand jury in these cases were all on one side, most of them being officers. The riot law declared that these defendants would be considered outlaws if they did not appear for trial within sixty days. Accordingly another court was called for two months later, and to it these bills were made returnable.

This grand jury was composed, as Tryon wrote, "of the most respectable persons," that is to say, of the colonial aristocracy. They met the governor by appointment in the palace and "unanimously and thankfully accepted" his offer to go at the head of an armed force to suppress the insurgents. At the same time they signed the "association"[4] themselves. The gentlemen on the Cape Fear River entered into "an association of similar purpose and intent."[5]

In the meantime energetic preparations were made for a

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[1] Colonial Records, VIII, 500.

[2] The juries of the superior court were chosen from names sent in by the sheriffs of the counties in the superior court district.

[3] For lists of indictments and of witnesses see Colonial Records, VIII, 530–532.

[4] The association was an agreement of loyalists, bound by oaths, that they would support the King's Government in the colony. (Cf. Colonial Records, VIII, 549.)

[5] Ib., VIII, 546–548.

military expedition to Orange. Two columns were to move at once on Hillsboro. One of these was to be composed of the men of the Cape Fear section under the command of Gen. Hugh Waddell. It was to march first to Salisbury and thence to Hillsboro, where it was to be joined to the second column, which was to be commanded by the governor in person, and was to march directly from Newbern to that place. Tryon was distinctively a military man and no doubt delighted in the work now before him. He was the more anxious to make the expedition a success inasmuch as it was likely to be his last official action in the province. In February he had been appointed governor of New York, with instructions to proceed at once to his new post of duty.[1]

Love of campaigning was not Tryon's only reason for this expedition. During March a letter from Rednap Howell to James Hunter, both leading Regulators, had been intercepted. In this it was stated that it would have been no trouble to raise the country in the region of Halifax for the release of Husband; that the Regulation was about to be established there, and that if once there it would soon run into Edgecombe, Bute, and Northampton counties. Howell also wrote that he was told that the militia of Craven and Dobbs would not fight against the Regulators.[2] He had heard that the clerks' places in the new counties "are parceled out among the quality; * * * but if you suffer any rascal to come there may eternal oppression be your lot." He closed by saying: "However, if this be true, the day is ours in spite of Lucifer. I give out here that the Regulators are determined to whip everyone that goes to law, or will not pay his just debts,[3] or will not agree to leave his cause to men where disputes [sic]; that they will choose representatives, but not send them to be put in jail; in short, to stand in defiance, and as to thieves, to drive them out of the country." However friendly one may be to the Regulators, he must see in this a movement which the British Government of the time could not allow to proceed. At the same time the chief justice and his associates in reply to an inquiry reported: "We submit it to your excellency as our opinion

[1] Colonial Records, VIII, 498.

[2] He was misled in this respect, as these counties furnished considerable detachments in the campaign that was then beginning.

[3] An illustration of the Regulators' method of doing justice may be had by consulting the Colonial Records, X, 1018, 1019.

that we can not attend" the March term of the Hillsboro court "with any hopes of transacting the business of it, or, indeed, with any prospects of personal safety to ourselves." These two letters were read to the council, and it was resolved that the governor should immediately raise a body of militia and march against the insurgents.[1]

As indicated by Howell's letter, the spirit of the Regulators was more defiant than ever. Their meetings were kept up with much restlessness. On March 6 Waighstill Avery, a lawyer of note, came upon one of these assemblages, containing more than 200 men, in Rowan. These people, disappointed in the revenge they had expected in releasing Husband, had now turned their steps toward Salisbury court.[2] Avery was arrested and held some hours in their camp. He heard their dire threats against the officers. They swore that since the riot law was passed they would kill every clerk and lawyer. They declared that the governor was a friend of the lawyers, that the assembly had worsted the Regulation and that they would pay no fees. They seemed especially angry at Maurice Moore and Richard Henderson, and declared that after the 22d of March Fanning should be considered an outlaw, whom any Regulator might kill on sight. To all these statements Avery made affidavit.[3]

Rowan court was then in session and it was so alarmed that it adjourned and the loyal militia of the county was called out. Three companies responded, and these were afterwards joined by 70 or 80 men from Mecklenburg. This was a small defense against the force the Regulators could bring, and the neutrals cried out for relief from this constant recurrence of terrorism. The officers decided to capitulate. It was agreed to leave the matter at issue to arbitrators, and that if these should decide that illegal fees had been taken the officers should refund the excess. The Regulators chose as referees Hermon Husband, James Graham, James Hunter, and Thomas Person. The other side chose Matthew Locke, John Kerr, Samuel Young, and James Smith. Alexander Martin and John Frohock reported the matter to Tryon. Their eagerness to put the matter before him in a favorable light is apparent.

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[1] Colonial Records, VIII, 536–539.

[2] Ib., VIII, 534.

[3] For Avery's affidavit see Colonial Records, VIII, 518–520.

They said they felt confident of his approval.[1] If they meant this they were rudely disappointed. Tryon wrote with fine sarcasm that of course if they had abused their trust they ought to make restitution. To that he was entirely willing, but he did not approve of their action in entering into negotiations with insurgents and binding officers who were responsible to government alone. He added that he was about to march with an army into the country of the Regulators, and he thought this would be a more effective means of settlement than the Rowan agreement.[2] The arbitrators were to have met on May 21, but the battle of Alamance coming on the 16th, the result was in favor of Tryon's method.[3]

The Regulators for their part protested to the governor against raising an army to produce commotions. They said they had resolved that if he did come every man would take his horse from his plow and meet the governor "to know for certain whether you are really determined to suppress all the disturbers of the public peace and to punish according to their deserts the original offenders in government." If so, they would help him, but if he designed to support "that tyranny which has so long been premeditated by some officers of the province we will contend for our just rights and humbly entreat you, sir, to return with your men where there may be more need of them—our civil liberties are certainly more dear to us than the good opinion of a ruler, though both are desirable." They accused the assembly of violating the British constitution in that they "paid very little regard to that bulwark of life, the habeas corpus, when they enacted for a law the court of oyer, to be held at Newberne for the trial of riots, where the accused persons must attend, though living in the most remote parts of the province."[4]

Tryon paid no attention to this protest, but continued to levy troops. On March 19 he called on the colonels of the counties to secure volunteers. He gave orders to raise 2,550 men.[5]

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[1] Colonial Records, VIII, 533–536.

[2] Ib., VIII, 545.

[3] It was told to Caruthers that such a meeting did actually take place in West Guilford and that restitution was made there. Another meeting was arranged for East Guilford, but failed to occur for the same reason that the Rowan meeting failed. (Cf. Life of Caldwell, p. 143.)

[4] Colonial Records, VIII, 543, 544.

[5] Ib., VIII, 697.

To get these was not an easy thing. In Bute not a man could be enlisted.[1] According to Howell other counties were reluctant. A bounty of 40s. was offered to each volunteer, and this had its effect. The 20th of April was fixed as the day on which the eastern column should leave Newbern.[2] Three days later than that the march began. When the body had reached Johnston Court House there were present detachments from Craven, Carteret, Orange, Beaufort, New Hanover, Onslow, Dobbs, and Johnston,[3] besides an artillery company. At this place the Wake militia presented themselves, but with no arms. This seems to have been a ruse to keep from serving. A smaller detachment, however, joined the army next day and was detailed to assist the sheriff in collecting taxes in Wake.[4] The majority of this force came from Orange and Dobbs, each having four companies. Craven came next with three. In all there were 917 rank and file and 151 officers.[5] The western column, which at that time was going its allotted course under General Waddell, contained 236 rank and file and 48 officers, besides an artillery company. They came from Anson. Rowan, Mecklenburg, and Tryon counties.[6]

On May 9 the governor reached Hillsboro without any inconvenience. On the same day General Waddell, who had just left Salisbury, crossed the Yadkin, where he was met and stopped by a large body of Regulators.[7] A council of officers decided that in view of the numerical superiority of the enemy, and because their own men could not be relied on to fire on

[1] Colonial Records, VIII, 552. The colonel was removed from command of this militia because he did not raise volunteers. (Ib., 671, 672.)

[2] Ib., VIII, 540, 541.

[3] Ib., VIII, 574.

[4] Ib., VIII, 577.

[5] After the battle of Alamance the detachment from Wake and a company of light infantry rejoined with 100 rank and file and 16 officers. (Colonial Records, VIII, 677.) The order of battle seems to contradict this. (Ib., 583–584.)

[6] Ib., VIII, 607.

[7] Caruthers says that the Regulators surrounded Waddell and took many of his men and that he finally escaped across the Yadkin to Salisbury with but few followers. (Life of Caldwell, p. 145.) Neither Waddell's own journal nor Tryon's reports of the campaign mention anything which could be construed into such an occurrence. Caruthers's information was verbal and was secured seventy years after the events described. He was doubtless misinformed.

them, it would be prudent to fall back to Salisbury. This they did.[1] This column had been seriously hampered by the loss of its ammunition. Nine young men, later known as "The Black Boys of Cabarrus," disguised themselves and fell upon a convoy that was taking some powder from South Carolina to General Waddell, beat off the guards, and burnt the powder.[2]

On May 11 Tryon moved from Hillsboro in order to relieve his beleaguered lieutenant. His route took him through the heart of the country of the Regulators. He halted on Sunday at Colonel Mebane's for divine service and then marched to Haw River, where he was joined by 23 mounted men under Captain Bullock. This constituted his sole cavalry.[3] For the sake of justice or of discipline, or for policy, he issued strict orders against the taking of property by the soldiers, an abuse that was getting frequent now they were among their foes. On the 14th he reached the banks of the Alamance. Here he rested a day, and on the 16th formed his army in line of battle and marched to find the enemy, who were assembled about 5 miles farther on. He had formed his army into two lines about 200 yards apart. In the first were the companies from Carteret, Orange, Beaufort, and New Hanover, and three companies from Dobbs, as well as the artillery. In the second were the companies from Onslow and Johnston and the remaining company from Dobbs.[4] Two companies from Orange and a number of sick had been left at Hillsboro, and a small company had been left to guard the camp on the Alamance. It is likely, therefore, that the army contained on that morning some less than 1,000 men and officers.

The Regulators in the meantime had assembled to the number of 2,000. It is difficult to say how many of these had arms. Caruthers thinks that not over 1,000 had them. They had neither definite aims nor efficient organization. Their leaders seem to have thought that by making a show of force they would frighten the governor into granting their demands. They had much trouble in holding the people under restraint. There was a considerable element in their camp that could

[1] Colonial Records, VIII, 608 and 610.

[2] Ib., VIII, 622; Wheeler, II, 65.

[3] Ib., VIII, 581.

[4] In this arrangement the company from Pitt was mentioned. This must have been an error, as the return shows no such company in the expedition. (See Colonial Records, VIII, 583, 584, and 677.

not be kept quiet. These, against the wishes of the leaders, caught Col. John Ashe and Captain Walker on the morning of the 15th, while they were out scouting, and whipped them severely. This action, says Caruthers, "was strongly censured by the great body of the Regulators, and some of them were so much disgusted that they threatened to give up the cause entirely if such acts were repeated."[1] The two men were, however, held prisoners.

On the same day Dr. Caldwell, who had come along in the interest of peace, went to Tryon in reference to an agreement on the points at issue. A petition was also sent. Possibly Dr. Caldwell carried it.[2] He was promised a reply the next morning. On the 16th, as the army was put into motion to move up to the Regulators, the reply was sent. It offered no concession, but required that the people should submit to government and disperse, and gave them an hour in which to comply with the conditions.[3] The ill-fated people seem not to have realized their position. They remained waiting while Dr. Caldwell again sought the governor. They had not the least idea of what a battle was, and when their envoy returned to report his failure and to advise them to go to their homes they stood stolidly in their places. Husband, who, true to his attitude as peacemaker, had come along hoping to help make a compromise, now saw that there was no hope and quietly rode away.[4] Dr. Caldwell sadly did the same. So unconscious were the men of their danger that they were engaged in wrestling matches, when an old soldier who happened to be among them advised them to look out for a volley. It was but a few minutes before the firing began. Just how the first shot was fired is matter of dispute. All agree that it came from the governor's side.[5]

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[1] Life of Caldwell, p. 147.

[2] Colonial Records, VIII, 640, 641.

[3] Ib, VIII, 642.

[4] Knowing his danger, Husband fled to his old home in Maryland. Not stopping long there, he went on to Western Pennsylvania, where he made his future home. He was concerned in the whisky rebellion and was taken and condemned to death for his part in it. Through the interposition of friends he was pardoned, and died a few day afterwards at a tavern in Philadelphia. (Caruthers's Life of Caldwell, pp. 167, 168.)

[5] The story of the battle as told by Tryon's friends may be found in Colonial Records, X, 1019–1022. This account seems to have been in line with that of the early historians of the State.

The Regulators had no officer higher than captain, and each company now took command of itself. At first there was much confusion on their side, the artillery fire being very effective. Some hardy men, however, crouched behind rocks and trees and managed to drive away the gunners and to take the guns. They were not supported by their own party, and when the troops rallied against them they abandoned the pieces, which they had not been able to work. Long before this the remaining Regulators had taken to flight, and now the field was clear.[1] The action had lasted two hours, and the loyalists had lost 9 killed and 61 wounded,[2] while the loss of the Regulators was 9 killed and a great number wounded.[3] About 15 were taken prisoners. One of these, James Few,[4] was executed on the spot. He was a visionary man, who had been active in the Regulation. His execution was ordered with the idea of striking terror to the country. It was needlessly summary, as the movement was already crushed.

On the 21st the troops marched to Sandy Creek, where the governor remained a week collecting supplies from the people and imposing an oath of allegiance on them. On the day after the battle he pardoned by proclamation all those who should submit themselves to government and take the oath of allegiance, except those who were already captured and those who had recently been outlawed.[5] This proclamation was for four days, but it was extended at various times until all the country had an opportunity to take it.[6] The British Government gave its heartiest approval to the course that Tryon had pursued,

[1] We have followed for the chief events of the battle Caruthers's Life of Caldwell, pp. 145–158.

[2] The Regulators put this number higher, but these figures are official. (Colonial Records, VIII, 634.)

[3] This is the Regulators' own statement. Others vary. (See Life of Caldwell, p. 157.)

[4] Few had been indicted and consequently outlawed for participation in the Hillsboro riots. He was a carpenter, and lived just outside of Hillsboro. It is said that his mind had become unbalanced because Fanning had seduced the young woman to whom he was affianced. (Caruthers's Life of Caldwell, p. 158.) Fanning insisted that he should be executed on the spot because he had taken part in the destruction of his (Fanning's) house. The Regulators claimed that Few was not present when the house was destroyed. This claim, however, was not advanced by the most reliable authority. (Cf. Colonial Records, VIII, 648.)

[5] Colonial Records, VIII, 608, 609. There is no evidence that any of the sixty-two indictments of the court held at Newbern had come to trial.

[6] Ib., VIII, 613. About 6,000 had taken it on July 4; Ib., IX, 9.

and directed him to tender publicly the King's thanks to the troops for their loyal conduct during the campaign.

On May 29 the army moved westward. On June 4 it was joined by General Waddell's column, and on June 6 the united forces celebrated at the Moravian settlement the King's birthday and the recent victory.[1] On June 9 they marched away to Hillsboro, where they arrived on the 14th. Four days later a court-martial tried the prisoners. Some were convicted[2] of treason. On the next day the army was drawn up to witness the execution of six of these. The other six were pardoned by the English Government at the request of Tryon.[3] On the 8th of June General Waddell had led his forces back by the way he had come, and now, with the prisoners hanged as an example, nothing remained to be done but to march the governor's column back to Newbern.[4] This task Tryon left to Ashe. He himself hastened to Newbern, where on the 30th of June he embarked for his new government, and with his exit there disappeared the war of the Regulation.

Two features of this campaign should have further notice. One relates to the trial and execution of the six prisoners. This has been called cruel. All punishment is cruel. Looked at from Tryon's standpoint the prisoners were rebels. They were executed as traitors. It was hoped that their death would strike terror to the Regulators, and this seems to have been accomplished. They were tried at a special term of the superior court.[5] Two were acquitted and twelve condemned. One of those executed was Benjamin Merrill, formerly a captain in the Rowan militia. He died repenting his connection with the Regulation, and asking that his wife and children might retain his lands.[6] Tryon recommended that the request be granted. James Pugh, however, died steadfast in his principles. He read the governor a lecture from the barrel which served as a scaffold, and was going on to speak to Fanning when the barrel was overturned and the prisoner was strangled.[7]

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[1] Colonial Records, VIII, 592, 593.

[2] There had been several courts-martial for the trial of prisoners. (Cf. Colonial Records, VIII, 587, 594, and 598, 599.)

[3] Ib., VIII, 635, and IX, 274.

[4] Ib,, VIII, 649-650.

[5] Ib., VIII, 650, 712.

[6] Ib, VIII, 650 and 656. The request was granted (Ib., IX, 65-66.)

[7] Caruthers's Life of Caldwell, pp. 165, 166.

The other incident relates to Thomas Person, whose later prominent life demands that his connection with the Regulators be more fully stated. Just what this relation was does not appear. He was certainly a Regulator in spirit. He seems to have been such a one as Husband, not actively participating in the movement, but sympathizing with it and seeking to guide it. We usually find his name associated in it with Husband's. The two were appointed referees by the Regulators of Rowan when the officers there agreed to arbitrate,[1] and they were members of the assembly on behalf of the Regulators. Both were persecuted by the assembly, and some of the Regulators thought that both were expelled.[2] This statement is not true as regards Person. He was arraigned for perjury at the instigation of Richard Henderson, before the short assembly of 1770, but the matter was not decided.[3] The case was revived and the charge of extortion added in the assembly of 1771.[4] The matter was referred to a committee, which entirely exculpated Person, and declared that the prosecution was due to envy and malice.[5] The report was ordered to be printed, and Henderson was commanded to pay the cost of the prosecution, which was £117.[6] This action was taken just before adjournment. Tryon said that it was in a thin house, and that the verdict would be reversed by the next assembly,[7] and it is true that at the next meeting of the assembly that part of the above resolution which taxed the costs on Henderson was rescinded.[8] When Tryon was marching through the country he took Person and carried him a prisoner to Hillsboro. Whether he was tried there or not does not appear. There is a story[9] to the effect that evidence of his guilt was removed through the destruction, either by himself or by Rev. George Micklejohn, of certain papers at his house.[10]

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[1] Colonial Records, VIII, 533.
[2] Ib., VIII, 646.
[3] Ib., VIII, 118.
[4] Ib., VIII, 326, 333.
[5] Ib., VIII, 448, 449.
[6] Ib., VIII, 461, 467.
[7] Ib., VIII, 525.
[8] Ib., IX, 196, 208.
[9] Ib., VIII, p. xxviii.

[10] A letter was published in the Boston Gazette, August 11, 1771, in which an unnamed prisoner was said to have been taken to Wilmington and there released on bail. Saunders supposed that this prisoner was Person (Colonial Records, VIII, pp. xxviii, and 635, 636). This is an error. The letter itself contains the strongest evidence that the prisoner resided at Cross Creek (Fayetteville), and Tryon's letter book makes it certain that it was John Wilcox, a merchant of that place. (Ib., VIII, 718.)

Josiah Martin succeeded Tryon as governor. When he arrived in the colony he found that the work of his predecessor in subduing resistance had been effective. By July 4, 6,409 persons had taken the oath of allegiance.[1] The completeness of the change in Orange is shown by the election of 1771. John Pryor was dead and Husband was expelled, two vacant seats being thus created. To fill these the county choose Ralph McNair and Francis Nash, both strong anti-Regulators.[2] Most of the outlawed leaders were in hiding, some being in South Carolina.[3] Husband had fled to Maryland first and then to Pennsylvania.[4] They now begged for mercy. Either through friends or in person Jeremiah Field,[5] Ninian Bell Hamilton,[6] Matthew Hamilton,[7] James Hunter,[8] Thomas Welborn,[9] William Butler,[10] and John Fruit,[11] petitioned the governor for pardon. Martin was unwilling to act on the matter, inasmuch as Tryon had referred the whole affair to the Crown.[12] He recommended waiting, although the assembly had asked for the pardon of all but Husband, Butler, and Howell.[13]

In 1772, when the governor made a visit to the back counties, the outlawed leaders surrendered themselves, quietly giving bond for their future appearance at Hillsboro court.[14] This was, perhaps, not as submissive as it may seem. The riot law, having been made for one year only, was already expired, and it was a question whether or not the defendants could be tried under it. Martin called on the chief justice and the associates for an opinion on the matter. The consensus of the replies was that the defendants could not be treated as outlaws under the above act, but that they could be tried under any other law, as the law of treason.[15] This discouraged further prosecution of the suits, and so far as the courts were concerned

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[1] Colonial Records, IX, 9, 78.

[2] Ib., IX, 177. Fanning seems to have left the province by this time. He went to New York, where he was a Loyalist in the Revolution, and after the war removed to British America, where he was much honored as the governor of Prince Edwards Island. (Cf. Wheeler, II, 331.)

[3] Colonial Records, IX, 20.

[4] Ib., IX, 14.

[5] Ib., IX, 40, 41.

[6] Ib., IX, 38, 39.

[7] Ib., IX, 84.

[8] Ib., IX, 37, 85, 86.

[9] Ib., IX, 25–27.

[10] Ib., IX, 99, 100.

[11] Ib., IX, 93.

[12] Ib., IX, 57.

[13] Ib., IX, 169 and 173.

[14] Ib., IX, 313, 314, and 348.

[15] Ib., IX, 333–339.

the matter stopped there. A general amnesty act by the colonial assembly was all that was needed to close up the case. The British Government advised such an act, but in 1773 the provincial upper house rejected it because the proposed bill did not contain enough exceptions.[1] When the Revolution was beginning the King, as a matter of policy, had the governor to issue a proclamation of pardon for all who had been concerned in the Regulation, with the single exception of Husband.[2]

The attempt to secure reform in local government had thus failed most signally. The people had now either to submit or to move out into the wilderness again. Many of them choose the latter alternative. It was just at the time when the tide of immigration had broken over the mountains into that fertile part of North Carolina which afterwards became Tennessee. The hopelessness of their condition was to many a greater evil than the dangers of the western forest. Accordingly they joined the wagon trains for the west. A number left before the battle of Alamance, and many more after it. Morgan Edwards visited the country in 1772 and wrote: "It is said 1,500 departed since the battle of Alamance, and to my knowledge a great many more are only waiting to dispose of their plantations in order to follow them."[3]

The immediate remedial effect of the Regulation was slight, although some bills were passed that were in line with the purposes of the movement. The offensive county officers remained and in some cases the Regulators lost the representatives they had gained. It was abroad that the movement had its greatest effect. In Pennsylvania and Massachusetts, where the people were on the verge of revolution, lurid pictures of the struggle of the oppressed North Carolinians were given in the press.[4] For example, the Boston Gazette published the judicial sentence,[5] "That you, Benjamin Merrill,[6] be carried to the place from whence you came, that you be drawn from thence to the place of execution, where you are to be hanged by the neck; that you be cut down while yet alive; that your bowels be taken out and burnt before your face; that your head be cut off; your body be divided into four quarters, and

[1] Colonial Records, IX, 621, 622.
[2] Ib., X, 90 and 405.
[3] Ib., VIII, 655.
[4] Ib., VIII, 635–648.
[5] Ib., VIII, 643.
[6] Ib., X, 90 and 405.

this to be at His Majesty's disposal; and the Lord have mercy on your soul."[1] This was but the formal sentence for treason and does not indicate any particular cruelty in Tryon's official yet it was doubtless published for effect. A short while later the same paper said that a certain "glorious triumvirate should consist of Bernard, H——n, and Tryon."[2]

It has often been thought strange that the Regulators had but little to do with the Revolution. They were mostly Tories. Jeremiah Field was in the habit of saying in his old age that he had fought twice, once for his country and once for the King, and been defeated each time, and that he would fight no more.[3] This loyalty has usually been attributed to the Regulators' idea of the sanctity of an oath. They have been supposed to have realized in this the biblical ideal of the man who swears to his own hurt and changes not.[4] That the oath of Tryon had an influence on their conduct is very likely; but another strong influence was their distrust for the men who led the Revolution. The same men who had oppressed them, whom they had tried to turn out of office, whom they had fought, by whom they had been defeated, and who still kept the offices through which they had received their wrongs—these men now came to the Regulators asking aid in a movement which, to say the least, was of doubtful issue.[5] Among those who led the new movement only one man could be found who was of note among the Regulators: this was Thomas Person, a member of the provincial council. Many of the Revolutionary officers had led troops at Alamance. In 1775 two regiments were raised for the American service; of the first James Moore was colonel and Francis Nash lieutenant-colonel; of the second Robert Howe was colonel and Alexander Martin was lieutenant-colonel.

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[1] Colonial Records, VIII, 643.

[2] Ib., VIII, 639.

[3] Caruthers's Life of Caldwell, p. 177.

[4] Ib., p. 172.

[5] In January, 1776, Governor Martin reported that from 2,000 to 3,000 of the Regulators had given him assurance that they were ready to march to the aid of the King's Government wherever it was necessary. (Col. Recs., IX, 1228, and X, 406.) A month later they were preparing to join the governor, who was then on a ship at the mouth of the Cape Fear. (Ib., X, 452.) A body of Regulators and Highlanders was assembled and marched down the bank of the river. They were intercepted just before they reached Wilmington, at Moores Creek, and entirely defeated. Among the prisoners were several prominent Regulators. (Ib., X, 465, and 485, 486.)

In each superior court district a battalion of militia was formed. In Hillsboro district James Thackston was made colonel and John Williams lieutenant-colonel; while Adlai Osborne was made lieutenant-colonel of the Salisbury district. Caswell was colonel of the Newbern district and Edward Vail of the Edenton district. All of these had been prominently opposed to the Regulation. In civil affairs it was the same story. Samuel Johnston, the author of the riot law, exhibited himself at Hillsboro in 1775 as president of the provincial congress. This was a remarkable object lesson.[1] In the provincial council there were Samuel Johnston, who presided; Samuel Ashe, Abner Nash, Samuel Spencer, and Waighstill Avery, while William Hooper was a prominent member of the provincial congress and a representative of the State in the Continental Congress. All these the Regulators were accustomed to look upon as enemies.[2] The entire government was in the hands of the officeholding aristocracy of the several counties. For these the mass of the Regulators had little sympathy and less confidence, certainly not enough to induce them to break an oath which both policy and religious ideas prompted them to keep. In view of their past experience they doubtless asked themselves what good it would be to overthrow the existing government and set up another in which Samuel Spencer, James Thackston, Francis Nash, John Williams, Thomas Polk, John Ashe,[3] and Samuel Johnston were ruling elements.[4]

Did the Regulation begin the Revolution? Was Alamance the first battle of the struggle for American independence?

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[1] The Regulators were not indifferent to the sight. It seems that the congress actually apprehended violence at their hands. (See Waddell: A Colonial Officer, p. 155.)

[2] Wheeler, I, 71–82.

[3] Thomas Polk was a colonel and John Ashe was a brigadier-general. (Ib. 75 and 79.)

[4] In 1775 William Hooper and his associates in Congress wrote from Philadelphia to the provincial council of North Carolina, suggesting that two ministers be employed to go among the "Regulators and Highlanders" to teach that the cause of the Colonies was the cause of God and to neutralize, as far as possible, the effects of Tryon's oath. Congress had directed that this be done and had offered to pay the expenses. This, however, was before the American cause meant an assertion of independence, and Hooper appears to have contemplated only joining the Regulators with the others in a protest against British misgovernment. (Cf. Colonial Records, VIII, p. xxiii.)

We ought now to be able to answer this question. This investigation leads to the view that the Regulation could have no direct connection with the Revolution. I can see no continuity of influence. The Regulation did not make the later struggle inevitable. If it had never happened, the armies of Washington and Clinton, of Greene and Cornwallis, would have fought out their battles much the same as they did fight them. As was remarked at the beginning of this paper, the Regulation was aimed at agents of government; the Revolution struggled for principles. The one was organized and led by men who were almost entirely hostile to the leaders of the other. It is true that some Regulators were in the armies of the Revolution, but the great majority of them were Tories.

There is a sense, however, in which the Regulation influenced the Revolution. The struggle was a grand object lesson to the whole country. It set the people to thinking of armed resistance. Failure as it was, it showed how weak the British army would be in a hostile country.[1] It taught the North Carolina troops who served with Tryon to appreciate the feelings of such an army. The two campaigns of Tryon developed the military organization of the province. When the Revolution began, it was only necessary that this organization should be put into motion. It was thus that the brilliant little victory at Moores Creek was secured, with the result that the most loyal section of the South was kept from joining the British and thus opening a way to cut off from the Federation the three southernmost colonies.

History will often be questioned as to the justness of this matter. The answer will be chiefly on the side of the Regulators. The opinion of Governor Martin is worth quoting. He is generally conceded to have been an honest and sensible man, although he was, by unfortunate conditions, inevitably condemned to defeat. In 1772 he took a journey through the back counties, and while at Hillsboro wrote to the British Government: "I now see most clearly that [the people] have been provoked by insolence and cruel advantage taken of the people's ignorance by mercenary, tricking attorneys, clerks, and other little officers, who have practiced upon them every

[1] It is worthy of note that when the Revolutionary struggle was about to open, Tryon was one of the few British officials in America who warned the Home Government that to reduce the colonies was a serious task. (See Tudor's Life of Otis, p. 428.)

sort of rapine and extortion," and who had enlisted the aid of government in order to cover their own transgressions. This exasperated the people and "drove them to acts of desperation and confederated them in violences which, as your lordship knows, induced bloodshed, and, I verily believe, necessarily."[1] Three months later, after he had returned to Newbern, he modified his opinion slightly. He then wrote that he was fully convinced that the people had been—

> grievously oppressed by the sheriffs, clerks, and other subordinate officers of government, and exceedingly moved my compassion; but, on the other hand, I can assure your lordship there was not wanting evidence of most extravagant licentiousness and criminal violences on the part of that wretched people, which [being] provoked by the abuse I discovered, or by other causes that might be inscrutable to me, seems at length to have urged matters to a crisis that necessarily terminated in bloodshed. Upon the whole, I am not without hopes, my lord, that the vigorous measures taken by my predecessor under those circumstances may have a tendency to keep under the disorderly spirit.[2]

This view seems eminently correct, and with it we may rest our case.

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[1] Colonial Records, IX, 330.
[2] Ib., IX, 357-358.