The People’s Law: Popular Sovereignty and State Formation in North Carolina, 1780-1805

Dissertation

Presented in Partial Fulfillment of the Requirements for the Degree Doctor of Philosophy in the Graduate School of The Ohio State University

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Graduate Program in History

The Ohio State University

2011

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Abstract

Between 1780 and 1805 North Carolina’s government struggled to define the parameters of statehood through its policies. In the creation of the state, petitions from ordinary citizens played a central role in the debate over the people and their relationship to the government. Courted by emerging Federalists in the late 1780s, the people found themselves elevated to a central role in the political life of the state through their petitioning power. By the late 1790s, however, lawyers turned away from the people as a source of power through petitioning and tried to channel grievances through a court system whose rules would protect the purity of process over the substantive claims of petitioners.
Dedication

To Shawn

Ἡ ἁγάπη σουδέποτε ἑκπίπτει
Acknowledgments

The hard-working staff of the North Carolina Division of Archives and History retrieved the more than two hundred boxes of archival material upon which this dissertation depends for its life-blood. Their help and the work of the archivists in saving and organizing the mundane documents of North Carolina’s early government after the Revolution deserves not only my thanks but the generous applause and support of every citizen of the state. Archivists and staff at the Southern Historical Collection at the University of North Carolina Chapel Hill and Duke University’s Manuscripts and Special Collections library have also earned my gratitude for their help. The librarians at the Ohio State University who worked hard to obtain inter-library loan materials allowed me to continue my research when away from North Carolina.

As a scholar, I’ve benefitted from the trail blazed before me by so many other scholars of North Carolina history. Two deserve special thanks: Alan Watson and Milton Ready. To Milton Ready I owe my penchant for metaphor and analogy in argumentation and the injunction to not forget western North Carolina. To Alan Watson I owe a deep appreciation for looking over previously used sources and coming up with something new to say. Both have been excellent mentors and models.

At The Ohio State University, I have found intellectual communities who have nurtured my interests, quirky though they were. Dr. Margaret Newell gracingly honed
my sloppy thinking about state formation in two papers while Dr. Alan Gallay has
provided helpful feedback; both provided excellent commentary and suggestions for
improvement for this project. From Dr. Stephen Kern I learned all the joys of
phenomenology though I can hardly say that I practice it well. Dr. Ken Andrien taught
me much about state formation in Latin America. And my comrades in the program—
Melissah, Colin, Katie, Joseph, and Glenn—you kept listening (or at least I think you did)
when I wouldn’t shut up about state formation. I have learned much from all of your
projects.

Without generous support from the Department of History, this dissertation could
not have taken shape. I benefitted from several department grants which paid for
research trips to North Carolina. The exceptionally liberal Kauffman Summer Research
Award allowed me to do most of the counting of petitions that form the core of this book.

John Brooke has nurtured and encouraged this project from my early interest in
the public sphere in early America to the moment on April 21, 2008 at 3:30 pm when the
idea behind this dissertation bubbled up during a conversation. Then, and since, he has
played the roles of critic and nurturer with grace. I could not have asked for a better
adviser.
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1865.” Civil War History 57:3 (December 2011).

Fields of Study

Major Field: Early American History
Minor Field: Atlantic World
Minor Field: Modern American History
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List of Abbreviations

GASR, General Assembly Session Records (NCDAH)
GLB, Governor’s Letterbooks (NCDAH)
GPSS, Governor’s Papers, State Series (NCDAH)
JSH, The Journal of Southern History
NCDAH, North Carolina Division of Archives and History
NCHR, The North Carolina Historical Review
PLD, Perkins Library, Special Collections, Duke University
SHC, Southern Historical Collection, Wilson Library, University of North Carolina, Chapel Hill
WMQ, The William and Mary Quarterly
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North Carolina’s state of affairs in 1786 vexed James Iredell. Just five years after Americans had worn down the British Army under Lord Cornwallis, Iredell’s countrymen bickered over property rights, reintegration of Loyalists, taxes, paper money, and the miniscule powers of the prostrate central American government. Iredell’s own state leaders, sitting in their sovereign capacity as the General Assembly, precipitated much of the public acrimony by intervening in the relationships between creditors and debtors and by denying jury trials to Loyalists seeking the return of their state-confiscated property under the terms of the Treaty of Paris, 1783. A lawyer by training, James Iredell considered North Carolina legislators’ interposition between the fundamental law of the land and the individual unjustifiable; putting his analytical mind to the task of guarding against “abuses of unlimited power,” Iredell proposed three solutions to the problem of legislative tyranny. First, he supposed that the right of direct resistance always remained an option, though it could result in regrettable acts of “heat and passion.” Next, Iredell investigated the potential of petitions to the legislature, but supposed that petitioning by its nature implied subordination and obsequious dependence. Finally, Iredell seized upon the courts as the only means left to a free people for defending their rights, arguing that
the law—fundamentally enshrined in the state constitution—governed all, even the legislature.¹

While Iredell had placed his faith in the state courts, Jane Spurgin could not. Petitioners like Spurgin differed with Iredell on the right remedy for a grievance, appealing to the legislature to correct the messes of local officials. A Rowan County resident and mother of eight, Jane found herself destitute after her loyalist husband William fled the state, leaving his property to merciless confiscation commissioners. Spurgin requested legislators to return her widow’s third—reserved to her by the state’s own confiscation laws—on which she hoped to subsist and raise her family. Lawsuits resulted in attachment of her remaining property to pay her husband’s debts and the courts executed judgment, snatching from her what she conceived the law had given. It “... cannot be expected that any government would place any individual or set of individuals in a better situation than the whole community, nor would they she hopes after giving her a right to a sufficiency clear from the publick do it for the purpose of satisfying some individuals who had a claims against her husbands estate...” Jane called upon legislators to keep her family from ruin by following their own laws. That legislators ultimately did not agree to her request does not diminish the time her petition took up in debate, the way it forced legislators to weigh the merits of confiscation in the light of the property rights of creditors or public support for hungry women and children, or the fact that Jane boldly called upon the state to give her justice.²

² Scholars will, of course, recognize that as a woman, Jane Spurgin already held a less powerful social and political position than men did in her day. But the language of her petition does not suggest a meek supplicant but rather an intelligent woman who knew the law and hoped to exploit its ambiguities for
Jane’s problem—the difficulty of obliging a state to enact the will of the majority while respecting individual rights—has remained a dilemma for republican governments. The will of the majority presumably did speak with the voice of the General Assembly, though that voice crackled in the fractiousness of war-torn years as state leaders forged institutions to resolve problems raised by people like Jane Spurgin. James Iredell’s analysis of proposed solutions reflected the interests of his coterie of lawyer-statesmen in elevating the power of the courts to mediate between the individual and the state while rejecting the weak and dangerous options available to his contemporaries. For those who

the purpose of aiding her family. Whether she had help in preparing her arguments is impossible to know. See Petition of Jane Spurgin, GASR, Nov-Dec 1785, Box 1.

3 The difficulty of translating the idea of the people as sovereign into workable policy has been ably explored in Christian G. Fritz, *American Sovereigns: The People and America’s Constitutional Tradition Before the Civil War* (Cambridge: Cambridge University Press, 2008).
could afford it, Iredell’s courts provided individuals the means to pursue politics through the medium of the law, built on English traditions slowly enrobed in republican garb.

Petitioning, a medieval right associated with supplication of the Crown, seemed less republican to Iredell, though the more than fourteen hundred petitions in the legislative papers of the General Assembly in the 1780s indicate that Iredell’s contemporaries, like Jane Spurgin, invested petitioning with far greater import than the Edenton-based lawyer cared to accept.\textsuperscript{4} Petitions, as much as the politics of the assembly and courts, assumed a vital role in the formation of the state of North Carolina.\textsuperscript{5}

More than eighteen thousand signatures litter petitions intended for the perusal of the General Assembly in the 1780s. Petitioners formed a motley assemblage: slave, free,


male, female, rich, poor, Eastern, Western, citizen, non-citizen. As many as two hundred petitions besieged the General Assembly each time it met, usually generating the bulk of the business of legislators. Each petition envisioned its own ideal of justice, laying out specific reasons why the General Assembly ought to act on behalf of an individual or a group. These ideas, no less than the politics discussed in the letters of the state’s legislators, shaped the development of state governance. Petitioners relied on the rhetoric of the supplicant, substituting “General Assembly” where old formulae had placed the name of the King, but grew increasingly insistent on the right to demand redress from legislative authorities, even throwing the law and the constitution in the faces of legislators. As such, petitioning in the early republic often blurred the lines between remonstrances, instructions, and memorials: all provided a means for citizens to communicate their wishes to governments based in their consent.

The legal and constitutional underpinning for the right to petition came from the state constitutions as well as from experience. In North Carolina, leaders of the pre-Revolutionary Regulator movement had asserted the right of the people to petition for redress of grievances; even as the General Assembly squashed the Regulators’ insurrection, they proclaimed the right of the people to remonstrate in a “separate or

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6 See Appendix A for methodology used in this study.
7 Cynthia A. Kierner, ed., Southern Women in Revolution, 1776-1800: Personal and Political Narratives (Columbia: University of South Carolina Press, 1998), xxii-xxiii. The concept of deference has been reconceived in recent overviews of the subject. See Gregory Nobles, “A Class Act: Redefining Deference in Early American History,” Early American Studies (Fall 2005), 286-302 and Michael Zuckerman, “Endangered Deference, Imperiled Patriarchy: Tales from the Marchlands,” Early American Studies (Fall 2005), 232-252. A note on terminology: petitions and remonstrances, by their nomenclature, refer to requests for a body to solve a problem while instructions technically refer to directions for policy making given to a legislator. A memorial may involve a problem to be solved or it may simply present a policy proposal to be considered. Other terms include addresses (like a memorial) and presentments (issued by a grand-jury). Sometimes these terms were interchangeable because they all provide the people with a means to express their ideas about government policy.
collective capacity . . .‖ Petitioners also had practice making requests before county courts, usually for changes in roads or exemption from taxes. But petitions to the newly independent state government differed from colonial predecessors in their recognition of state power and a language of rights shared by all citizens. North Carolina’s constitution of 1776 affirmed citizens’ self-governing powers in declaring the General Assembly to be “dependent upon the People.” In the Declaration of Rights, the state’s constitution framers further averred that “all Political Power is vested in and derived from the People only.” Another proviso of the declaration explicitly linked free assembly to petitioning and the right of issuing instructions to legislators, undermining the deferential nature of petitions by elevating them to the rhetorical level of citizens’ instructions. When citizens decided to petition for redress, the state’s fundamental law emboldened their requests.

Like North Carolinians, citizens from other states claimed the explicit right to petition and instruct representatives, indicating that North Carolina’s post-revolutionary experience was by no means unique. Northern states such as New Hampshire and Massachusetts often reminded petitioners that their rights had to be exercised in an “orderly and peaceable manner,” implying fears of the people assembled out-of-doors in riotous and unlawful combinations. Nonetheless, such limitations on rights do not

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8 For examples, see the petitions in the Thomas David Smith McDowell Papers, Box 1, SHC. County court minutes for the period also document petitions (though they do not print them).
10 As Pauline Maier has shown, the right of resistance by a mob exercising extra-legal authority was invoked in cases of last resort, though such activity frightened elites who worried that mobs could prove difficult to control. See Pauline Maier, From Resistance to Revolution: Colonial Radicals and the Development of American Opposition to Britain, 1765-1776 (New York: W. W. Norton, 1972), 3-26.
appear to have stifled petitioners’ requests for adjudication, even in states in which the right of petitioning had no explicit guarantee in the state constitution. New York, with no written provision for petitioning in its 1777 constitution, nevertheless responded to more than three hundred petitions in just one of its 1785 sessions. As part of the inheritance of the rights of Englishmen, petitioning in early republican states formed a part of the assumed constitutional expectations of citizens. Petitions, instructions, remonstrances, and memorials deluged all post-Revolutionary legislatures, forcing lawmakers to wrestle with citizens’ demands for justice.\(^\text{11}\)

Post-Revolutionary petitioning often framed solutions to political problems resulting from state policies that only a state legislature could solve. Individuals and communities called for the intervention of state law in local affairs where local officials lacked the authority to act or had willfully violated state law. Furthermore, local groups could bind their particular legislators with instructions—in an attempt to direct the formation of state law—though instructions usually demanded the enactment of a specific benefit to the community. Communities sometimes made their wishes known through grand jury presentments, which also focused state attention on local grievances. Expectations for state involvement in local affairs through petitions, grand jury presentments, or instructions testify to citizens’ recognition of the authority of laws established by their own representatives. Though this study does not claim to describe how well state law arising from petitions functioned in local settings, we must not miss

\(^{11}\) For data on petitioning in other legislatures, see Appendix A, Tables 11, 12, and 13. The states with explicit guarantees of the right of petitioning and instruction were New Hampshire, Vermont, Massachusetts, Pennsylvania, Maryland, and North Carolina. Other states still welcomed petitions as petitioning was a birthright of English liberty, long established in the law. On early state constitutions see Francis Newton Thorpe, ed., *The Federal and State Constitutions, Colonial Charters, and other Organic Laws*, 7 vols. (Washington: Government Printing Office, 1909).
the significance of popular demands for the exercise of state power. Citizens wanted the benefit of a state legal order that protected their lives and property from the occasional misuse of power by those preserving local consensus. Moreover, we should not dismiss the reach of state power into local communities just because local officials could frustrate the designs of state leaders. Even local officials had to recognize state authority, grounded in a constitutional settlement and annually re-fashioned through electoral consent.12

From the perspective of laws and constitutions, the daily concerns of petitioners seem hardly the brick and mortar required for state-building. After all, state formation has usually concerned management of warfare, the maintenance of territorial borders, and the erection of coercive mechanisms—both in terms of an internal police and taxing powers—to compel obedience.13 In the wake of popular sovereignty rhetoric employed in the Revolution and the already greater participation of people in governance vis-à-vis English experience, ordinary citizens saw state formation in a different light.14 Even the memories of the Revolution itself encouraged the notion of commonplace citizens as creators and defenders of the state. After all, a band of over-mountain men—not Continental soldiers—had handed the British a spectacular defeat at the Revolutionary

12 On the ascendance of the “people,” see Edmund Morgan, Inventing the People: The Rise of Popular Sovereignty in England and America (New York: W. W. Norton, 1988). Morgan views popular sovereignty as something of a fiction in the hands of elite leaders but that fiction also had real consequences for the people’s participation in all levels of government.


battle of King’s Mountain in 1780. Regular people contributed to the war through taxation and impressment of goods. From their vantage point, they had ensured North Carolina’s survival. The war’s end bought them the chance to enjoy the uninterrupted fruits of peace, the reestablishment of justice: a peace that allowed every man to sit under his “own vine and fig tree, with no one to make him afraid.” In short, American post-Revolutionary state formation primarily concerned the distribution of justice to citizens both through law and the governing routines that the law created.

The tribulations of North Carolina’s Revolutionary experience certainly provided petitioning citizens with much fodder for their requests. The political battles of the war continued in the post-war period: a series of paper money emissions designed to fund the war pitted creditor interests versus debtors while wartime confiscation of Tory property provoked fierce court battles in the 1780s. North Carolina emitted paper money in 1775, 1776, 1778, 1780, 1781, 1783, and 1785, fueling a massive depreciation of currency even as tax rates soared and military impressments confiscated goods-in-kind to feed and clothe soldiers. A number of citizens expressed varying degrees of disaffection from the Revolutionary cause, from engaging in passive resistance to committing depredations on Whig citizens. State leaders estimated that at least two-thirds of the Highland Scots


16 These are the themes of Governor Alexander Martin’s 1783 opening address to the General Assembly. See Clark, *State Records*, 19:241. The quote from Micah 4:4 is often found in letters from the period.

residing in Cumberland County would not take the loyalty oath to the state. And the state’s Attorney Generals repeatedly found that county juries rarely convicted their fellow men of the crime of treason; nearly eighty-two percent of treason cases under Attorney General Waightstill Avery ended in acquittal.  

North Carolina leaders desperately sought to establish the state’s legitimacy through loyalty by inflicting punishment on the state’s enemies. A series of Confiscation Acts—repealed, suspended, amended, and finally enforced—ultimately named sixty-eight individuals who forfeited their property to the state. Only one-third of these Loyalists owned fifteen hundred acres or more; few, like Henry E. McCulloch and Nathaniel Duckenfield, owned more than six thousand acres. Confiscation commissioners like General Griffith Rutherford could earn two to three percent in commission on the sales of confiscated land after the General Assembly created the machinery for land sales in 1782. Owners of confiscated property employed the state’s leading attorneys—James Iredell among them—to seek the return of their lands but found the courts and the General Assembly opposed.  

The traumas of war bred innumerable local hatreds as they sapped the foundation of state authority. North Carolina representative to Congress William Sharpe told James Madison that the state’s affairs were “inconceivably deranged.” With commerce

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crippled, tax revenues dwindled, leaving the state unable to pay its citizens “an immense unfunded debt” and enervating the foundations of “public credit.”

Local officials mocked the state’s pretensions to authority, misapplying state laws to further local ends or ignoring breaches of the peace. Governor Alexander Martin reminded Wilmington lawyer Archibald Maclaine in October 1782 that “inter arma silent leges” after Maclaine endured a beating in the Bladen County court for daring to represent a Loyalist. Governor Martin admonished Wilmington Major John Walker that the support of the courts gives “life and existence to Civil Government.”

State leaders struggled to establish state authority and pretensions to legitimacy, but encountered resistance from citizens who conceived their consent necessary to the process of making law function at the local level. On occasion, locals could and did interfere with state law.

North Carolina’s state formation in the midst of war mobilization necessitated a conservative approach to the structural questions of governance. A committee of Eastern-dominated large property owners, lawyers, and merchants took less than a month to create and implement the state constitution of 1776. The constitution reflected the interests of propertied men in requiring land ownership for holding public office and for voting for senators, as well as in taxpaying requirements for voting for members of the lower house. The Fifth Provincial Congress that created the constitution also did not

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22 Barbara Clark Smith, Freedoms We Lost: Consent and Resistance in Revolutionary America (New York: The New Press, 2010), 15-21, 39-44.
submit it to the people of the state for ratification, indicating their faith in their own
selection as the enlightened representatives of the people at large. That the framers of the
state’s government intended for the legislature to assume supreme power can be inferred
from the number of sections that define the characteristics, powers, and duties of the
General Assembly. The new government granted extensive power to the legislature,
making the Governor dependent on the General Assembly and leaving the creation of
courts to future meetings. Ordinances of the Convention temporarily established the
authority of the courts, pending forthcoming legislation.23

Smarting from encounters with royal governors during the colonial period, North
Carolina’s framers made the state governor little more than a secretary of the General
Assembly. Legislators selected seven men to serve on a Council of State to advise the
governor and allowed the governor to issue only commissions for offices already granted
by legislative fiat. The need for executive action and the general inability of the
legislature to meet consistently during the war led to a strengthening of the governor’s
executive powers, especially in military affairs, but most governors found their authority
limited. As a conduit of information—both state and national—the governor sometimes
increased his stature by suggesting, in imitation of colonial governors, general legislation
for the entire state. Nonetheless, the real legislative agenda of the General Assembly
originated in the powerful committee on public bills, whose lists of necessary laws

23 Koesy, “Continuity and Change,” 77; MacDonald, “Griffith Rutherford,” 97-99; Robert L.
Ganyard, “North Carolina during the American Revolution: The First Phase, 1774-1777,” (Ph.D. diss.,
formed the backbone of state policy proposals.\textsuperscript{24} Governors often introduced petitions into the legislature if those petitions received the approbation of his council, providing the governor another avenue of exerting influence in the process of lawmaking.\textsuperscript{25}

North Carolina’s court system continued its colonial structure into the Revolutionary era, undergoing periodic modification. At the base of the court system sat a single justice of the peace who could hold a magistrate’s court in limited circumstances. Any three justices of the peace convened the County Courts of Common Pleas and Quarter Sessions, exercising extensive authority over wills, estates, orphans, roads, and local taxes. County courts maintained the peace of the community, in which local knowledge, personal credit, and intimate relationships assumed significant roles in determining legal disputes. Governance in the county courts, however, was never autonomous nor insulated from the legal control of the state legislature. Above the county courts sat a superior court system, created in 1777, to which the decisions of individual justices and county courts could be appealed. Three judges oversaw the superior court system composed of six judicial districts. The law that created the superior courts also required the county courts to follow the same judicial procedures as the superior courts, forcing the regularity of learned law upon local courts. By 1782, the General Assembly granted the superior courts the right to judge cases in equity—a power

\textsuperscript{24} Ralph Volney Harlow, \textit{The History of Legislative Methods in the Period Before 1825} (New Haven: Yale University Press, 1917), 80-89. Harlow exaggerates the extent to which the committee on public bills was a tightly-knit legislative caucus but grasped that the group set the Assembly’s agenda.

\textsuperscript{25} Koesy, “Continuity and Change,” 80-81; Ganyard, “North Carolina,” 424-427. For petitions to the Governor, see Petition from Inhabitants of Carteret County Concerning Recruitment of Troops to Governor, November 6, 1780, in Clark, \textit{State Records}, 15:146-147; Governor Burke to the General Assembly, April 22, 1782, in Clark, \textit{State Records}, 16:292-295; Inhabitants of Pitt County to Governor Burke, April 1, 1782, in Clark, \textit{State Records}, 16:580-581; and Governor Martin to General Assembly, April 21, 1783, in Clark, \textit{State Records}, 16:777.
once held by the colonial courts of chancery—and thus increased the justiciable workload of the courts.\textsuperscript{26} Lawsuits in the new system soon multiplied after the Revolution, testifying to citizens’ pent-up demands for justice.

While many North Carolinians turned to the courts for resolution of conflicts, others could only supplicate the General Assembly for redress through the process of petitioning. After 1779, the average volume of petitioning increased by more than three hundred percent, increasing the legislators’ workload and forcing the General Assembly to organize more effectively to handle the higher volumes of requests.\textsuperscript{27} As colonial legislatures had seized upon petitions (particularly in the lower houses) as means of extending their authority, so did the General Assembly of the newly birthed state find petitions an excellent vehicle for promoting its legitimacy.\textsuperscript{28} North Carolina’s Bill of Rights effectively established the expectation that petitions would be welcome by explicitly guaranteeing the right of application “to the Legislature for Redress of Grievances” along with the rights of consulting for the common good and issuing instructions to legislators.\textsuperscript{29} While petitioners may have expressed “particularistic” views


\textsuperscript{27} See Appendix A. Between 1770 and 1779, the Assembly adjudicated 294 petitions. Between 1780 and 1789, the General Assembly considered at least 1486 petitions.


\textsuperscript{29} Clark, State Records, 23:978.
of justice in their petitions, they also partook of an emerging state culture of petitioning. North Carolina’s leaders effectively shaped this culture by defining the principles that resulted in acceptance of a given petition even as politicians argued over the various definitions of justice presented in every request. The cycle of petition and response created through annual meetings of the General Assembly thus provided the raw material for the growth of the administrative apparatus of the state as it also created a state legal culture defined by general—but mutually-agreed upon—notions of justice.

Quests for individual and community justice in the 1780s addressed all areas of the state’s governance. Petitioners aired unease about tax policy, boundaries, Indian policy, defense, political offices, and even the structure of the state constitution. From the perspective of the individual, the state existed not necessarily for those functions considered important by elites—like war, finance, and trade—but for the provision of justice. In a short summary of the function of government, westerner William Evans lectured the General Assembly in 1789 that “Governments were instituted amongst mankind for the protection of life Liberty & property.” The numerous claims that came before the General Assembly, therefore, though riddled with minutiae as they are, partook of citizens’ fundamental preoccupation with property. The hundreds of requests for changes in boundaries and election sites, as repetitive as they are, grasped tightly to

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30 Laura Edwards uses the phrase “particularistic” and notes that petitioners merged legal principles with community understandings of justice. See Edwards, People and Their Peace, 60.

31 I have borrowed the notion of states as cultural systems seeking to shape their societies’ cultures from Philip Corrigan and Derek Sayer, The Great Arch: English State Formation as Culture Revolution (New York: Blackwell, 1985). The growth of administrative and institutional mechanisms for dealing with petitions reflects a use of the neo-institutionalist perspective on state formation. See the essays in a recent forum in Polity, “Polity Forum: Politics, History and the State of the State,” Polity 40:3 (July 2008), 321-386. For the sense that citizens negotiate with their states, I have borrowed from Mallon, Peasant and Nation and Nugent and Joseph, Everyday Forms of State Formation.

32 Petition of William Evans, GASR, Nov-Dec 1789.
the promise of the exercise of liberty. And every request for pardon, no matter how mundane, asked the state to protect the life of a citizen who might be restored to his family and community. We must not reduce petitioners’ seemingly local and commonplace concerns as peripheral to the state’s formation. What citizens wanted and expected from their government made the state.

As much as ordinary petitioners helped to make state policy in their search for justice, they could not solely direct the making of law.\(^{33}\) For every petitioner who sent a document now extant, there were numerous citizens who spoke directly to legislators in town meetings and other venues. Those lost conversations shaped the legislature’s sense of problems that required adjudication and the likely policies that would answer citizens’ needs. From his vantage point as a collector of intelligence from across the state, the governor too recommended to the General Assembly the need for certain policies, though he did so in the vaguest of terms.\(^{34}\) Because the governor collected correspondence from Congress and the other states, he also held vital information that he passed to the General Assembly for its perusal in the making of policy.\(^{35}\) As North Carolina belonged to a

\(^{33}\) Marc Kruman argued in *Between Authority and Liberty: State Constitution Making in Revolutionary America* (Chapel Hill: The University of North Carolina Press, 1997), 76-81, that instructions formed a vital check upon legislative authority as intended by constitution framers. While North Carolina certainly protected petitioners’ rights to ask and communities’ rights to instruct, they did not necessarily acquiesce in the notion that all policy would be formed by legislators acting as mere empty containers filled with constituents’ requests. It is important to recognize that legislators were making state law, not just passing statutes for communities.

\(^{34}\) The governor frequently received petitions but had to submit them to the General Assembly since he held no formal role in their adjudication. See Clark, *State Records*, 15:146-147, 16:292-295, 580-581, 777. A similar review of the South Carolina executive has also concluded that the legislature was more prompted “by petitions from the people than by the governors’ requests.” See Christopher F. Lee, “The Transformation of the Executive in Post-Revolutionary South Carolina,” *The South Carolina Historical Magazine* 93:2 (April 1992), 99.

\(^{35}\) See, for example, Governor Martin’s speech to the General Assembly in 1783 in which he recommended an act of pardon and oblivion for inoffensive loyalists, more efficient tax collection, payment of the national debt, a reform of the laws, and prosecution of malfeasance in office. Clark, *State Records*, 19:240-243. Martin suggested general areas for legislation, not specific policies. The General Assembly...
confederation of largely autonomous republics with a shared sense of common purpose and experience, the directives and requests emanating from the nation’s weak center also influenced lawmaking. State leaders, nonetheless, exercised wide latitude in how they responded to Congressional laws and resolutions. All of these various sources of information and demands meant that the formation of North Carolina as a state could not simply be a bottom-up affair through petitioning.

Petitioners had to bolster their claims as best they could, knowing that their requests for legislative interposition represented but one item in a sea of information, conflicting reports, pressures from Congress, other petitions, and legislators’ own ideas of proper policy. Petitioners had to settle for making their petitions speak plainly for their circumstances; by the end of the eighteenth century, they learned what words caressed the ears of legislators, what evidence might be required for proof of need or claim, and how multiple petitions could secure their requests against summary dismissal from either house. Collectively, then, petitions grounded the fashioning of a legal discourse of rights and governance in the post-Revolutionary South in the experiences of ordinary people.

usually referred the Governor’s letters and dispatches to a standing committee on the state papers, sometimes called a committee on the governor’s papers, committee on public bills, or simply the “Grand Committee.”


Once subjects, now citizens, North Carolina’s petitioners participated in the evolution of law as the expression of community values to the creation of state-wide bodies of systematized law. The first wave of post-war petitions generally focused on individual claims against the state for services rendered during the war but, by the end of the 1780s, waves of petitions and counter-petitions from the same locales forced the General Assembly to reconcile the divergent interests of the people. Legislators frequently adjudicated the demands of organized bodies of petitioners offering visions of justice in property rights, state fiscal policy, and participation in local governance. As petition campaigns helped to politicize ordinary citizens, legislators struggled to systematize their responses to frequent requests for new muster locations, new sites for elections, and changes in county boundaries. The state, ironically, had attempted to foster loyalty to itself through the vehicle of petitions only to find that local requests made the General Assembly the site of acrimonious debates over parochial issues.

As petitioning politicized ordinary voters, it underscored the volitional nature of being a citizen in the new republic. While colonial creole elites created and controlled

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The transformation from subjects to citizens has been amplified in Douglas Bradburn, The Citizenship Revolution: Politics and the Creation of the American Union, 1774-1804 (Charlottesville: University of Virginia Press, 2009). Bradburn focuses on how citizenship is defined, not on what citizens necessarily can do with their rights.

the new state government, ordinary citizens at the county level exercised their rights to participate in politics through petitions, instructions, and grand juries.\textsuperscript{40} Normally, electoral turnout has measured the health of democracy in the new nation but, with data limited for the 1780s, electoral turnout proves a poor proxy for measuring the exercise of citizenship.\textsuperscript{41} Petitioning, on the other hand, required no ownership of property for participation; judging from the more than eighteen thousand names on petitions from the 1780s, it also did not require literacy. Additionally, we cannot assume that voters select a candidate for the position he takes in legislative activity after the election; voters elect representatives for a variety of reasons that have nothing to do with political views. Petitions, however, provide a window directly into the thoughts of ordinary citizens as they put their names to paper in support of specific issues.

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Petitions, then, allow us to strip back the layers of political rhetoric of elites to see what ordinary citizens wanted from their new state governments. North Carolina’s leaders, seeking to bolster identification with the state, both curtailed local autonomy and encouraged petitioning in trying to respond to those ordinary citizens. In the earliest years after the Revolution, state leaders had little difficulty in justifying compensation for claims for war-time service in exchange for loyalty to the new regime. By the late 1780s, however, the escalation of conflicting requests coming from the local level, combined with growing pressure to create a stronger national government, called for state leaders to

\footnotesize{\textsuperscript{40} Sheldon Koisy documents the continuity of leadership from the colonial era through the creation of the new state but notes that “new” men started appearing in the county committees of safety. Koisy, “Continuity and Change.”}

\footnotesize{\textsuperscript{41} Estimates for turnout range from thirty-one to seventy-four percent, but only include data from four elections. See Robert J. Dinkin, \textit{Voting in Revolutionary America: A Study of Elections in the Original Thirteen States, 1776-1789} (Westport, CT: Greenwood Press, 1982), 127.}
reassess petitions as a vehicle for promoting loyalty to the state. More nationalist oriented politicians—soon to be denominated ‘Federalists’—increasingly deprecated the preoccupation of the General Assembly with purely ‘local matters’ even as they turned to a massive petition campaign to spur acceptance of the new Federal Constitution. Federalists re-discovered the power of organized bodies acting the name of ‘the people’ even as they promoted reforms designed to bring adjudication of issues raised in petitions under the cognizance of the rationalized body of law in courts. Those politicians opposed to increasing federal power worried over national intervention in state sovereignty, especially after the leaders of the abortive state of Franklin, located in modern-day Tennessee, appealed to Congress in an attempt at self-creation that mocked North Carolina’s sovereignty. Petitions from below continued to collide with politics from above to shape the course of state formation after North Carolina joined the new federal union, despite initially rejecting that membership.

The story of various forms of citizens’ interactions with government as a vehicle for state formation in the 1780s forms the first half of this book. The first chapter explores the significance of petitions and instructions in shaping the evolution of

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42 The petition campaign is suggested by correspondence between James Iredell and Archibald Maclaine. See Archibald Maclaine to James Iredell, October 27, 1788, in Kelly, Papers of James Iredell, 3:444-445.

43 I have borrowed the term invention from Morgan, Inventing the People. A recent attempt to demonstrate that Federalists “invented” the people in politics-out-of-doors has located such campaigns in the Jay Treaty crisis of 1795. See Todd Estes, The Jay Treaty Debate, Public Opinion, and the Evolution of Early American Political Culture (Amherst: University of Massachusetts Press, 2006). Fritz, American Sovereigns, argues that the people as a sovereign body was not just a fiction, but had clear implications for how ‘the people’ governed and were governed. See also Jason Frank, Constituent Moments: Enacting the People in Postrevolutionary America (Durham: Duke University Press, 2010).

44 Leaders of the so-called state attempted to form their own independent political unit in 1784 by seceding from North Carolina. The most comprehensive, recent survey of the state of Franklin is found in Kevin Barksdale, The Lost State of Franklin: America’s First Secession (Lexington: University Press of Kentucky, 2009).
legislative methods in the years before North Carolina joined the new federal union. It aims to characterize the general features of petitions and the rhetorical stances of the petitioners as ordinary citizens exercised popular sovereignty annually in their requests to legislators. Relevant comparisons to legislative politics in other states highlight similarities as well as the distinctive political culture emerging in North Carolina. The three chapters that follow take a chronological approach to the intersection of petitions and legislative politics, allowing us to see how petitioning intersected with other pressures in the shaping of legislation, particularly pressures from nationalists who wanted North Carolina to contribute financially to the support of the union. A chronological approach also shows how petitioning evolved over time, moving from the heavily claims-oriented requests of the immediate post-war years to the increasingly community-dividing requests of the late 1780s.

By the opening of the 1790s, North Carolina embarked on its second stage of state formation, one marked by more weighty conflict and collaboration with the new federal government. While the volume of petitions decreased slightly under the Federalists as they enjoyed their halcyon days in power, they acquired a tone of rising acrimony as individuals increasingly asked the General Assembly to adjudicate domestic conflicts. The state’s lawyer elites, having awakened the ‘people’ to political participation, wanted to shift petitions for divorce, alimony, and name changes to the courts. Partisans of localism wanted to keep such matters in the General Assembly, preventing nationalists from shifting the business of the legislature to more state-wide and national concerns. National politics, particularly the see-sawing of conflict from Britain to France, soon captured the attention of ordinary people, many of whom participated in the first
campaigns to express local opinions on topics of national concern. Neither instructions nor petitions, statements of local opinion gave assent or disapproval to national policies regarding President Washington’s handling of the Jay Treaty or President Adams’ response to the Quasi-War crisis. By the end of President Jefferson’s first term, coteries of citizens who had once gathered to sign a petition for a new county or for protection of fishing rights now gathered to support nascent national political parties. National politics since 1787 had legitimated collective activity for political purposes, while the Federalists’ use of ‘the people’ as a political body helped to insure the belief that the opinions of ordinary people mattered.

Federalist lawyer elites did win a significant victory in their battle for court reform by the time Thomas Jefferson took office. A scandal involving land speculation and North Carolina’s Secretary of State directly fostered the creation of a weak, but resilient, state supreme court. North Carolina’s partisans of localism begrudgingly handed over control of many concerns once the purview the General Assembly to the evolving system of state courts. Before too much control over local matters slipped away, however, they preferred to systematize and organize the handling of petitions within the General Assembly through reforming of the system of standing committees. Ironically, their efforts only bolstered the resolve and logic of the lawyers who argued that such purely local matters should not take the time of a body like the General

45 The North Carolina Supreme Court, though so-named, did not actually exist as a separate body sitting in appellate jurisdiction over the Superior and County Courts. It was composed of judges of the Superior Courts who met to render written judgments on difficult cases from the lower courts. However, the General Assembly’s willingness to sanction the body as a ‘supreme court’ in 1805 marked a departure that culminated in a true appellate tribunal with separately-elected judges in 1818. See Russell Koonts, “‘An Angel has fallen!’: The Glasgow Land Frauds and the Establishment of the North Carolina Supreme Court” (MA Thesis, North Carolina State University, 1995).
Assembly. Multiplying petitions for divorce and alimony seemed to be beneath the concerns of legislators who should have their attentions on issues of state-wide import.46

The 1790s, forming the core of the second half of this book, illustrate how changing the structural terms of union diverted the channels through which popular interaction with government once flowed. Chapter five provides a thematic overview of the period, highlighting the increasing presence of petitions relating to domestic, private issues such as divorce and alimony. At the same time, the existence of structurally more powerful federal government provided an alternate arena for petitions, and North Carolinians approached the new Congress in their petitioning as they had the General Assembly. Other states in the union dealt with the same problems as North Carolina—Revolutionary war claims, encroaching federal power, growth of political parties—and their petitioners share a fundamental preoccupation with the same problems that beset Carolinians. After chapter five, the narrative once again turns chronological, exploring the rise of party politics as an alternate means of structuring the interaction of individuals—acting in collective capacity—with their government. At the same time, the expansion of the superior courts and the growing professionalization of a state body of law increasingly constituted citizens’ relations with governance.

North Carolina’s formation as a state between 1780 and 1805 certainly revolved around development of coercive economic and civil authority, the policing of boundaries, and provisioning for defense. Petitioners had much to say about these elements but the

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other visions of statehood that captured their attention proved no less important in the
shaping of the state. So many visions of justice emanating from the local level fostered
debates over mill dams, fishing rights, county boundaries, and name changes. Citizens
demanded equal justice—rights given to some belonged equally to all. They justified
their requests in the name of common justice, the rights bestowed by the Creator to all
mankind in common. Petitioners requested legal justice, asking the state to abide by its
own laws or to adhere to its own constitution. Conflicts erupted between individual and
community justice, pitting the rights of the individual against the wishes of the entire
community. And citizens demanded compensatory justice, arguing that their services to
the state and community deserved protection and reward. All of these visions of justice
contributed the creation of a common legal discourse in the South, to the formation of
North Carolina as a state, and to the politicization of ordinary people both as individuals
and groups.

As much the story of petitions, remonstrances, and memorials reminds us of how
ordinary people interacted with state legal systems, it also recalls a lost world in which
citizens engaged directly with legislators outside of organized parties and without the
intermediation of courts, executive branches, and administrative agencies. Whether
asking for redress or commenting upon public affairs, the people who negotiated with
their governments through petitions, addresses, memorials, grand jury presentments, or
remonstrances helped to make real the Revolutionary talk of popular sovereignty. They
leaned heavily upon rhetorics of rights to participate in the formation of early American
states, adding their voices to a dissonant but vibrant discourse on the true and wise
policies of good governments.
Chapter 1 \(\subseteq\) Ask, And It Shall Be Given You: Petitions and State Formation

The business of governance in post-revolutionary North Carolina took legislators some thirty-five days each year, though some sessions lasted as long as fifty days.\(^1\) Deluged with petitions, assemblymen worked long days, meeting in general sessions and then in committees to read over requests, hear testimony, and analyze mountains of depositions and affidavits. In 1786, the House of Commons, recognizing that completing assembly business would take additional time, resolved to continue working at night by candle light; squeezing more time from each day, the legislators could end their sessions in a timely fashion and avoid overburdening the state treasury.\(^2\) General Assembly expenditures already accounted for almost forty percent of the state’s budget by 1784 and legislators could ill-afford increasing that total by sitting in longer sessions.\(^3\) Work-weariness, probably no less important than fiscal pressures, accounted for legislators’ reluctance to sit for long assemblies and thus also explained why politicians sometimes did not adjudicate every petition or remanded a few back to county courts. The business of hearing petitions just seemed overwhelming.

To some legislators, a localist frame-of-mind deserved blame for the persistence of mundane, parochial concerns in the legislature. Congressional delegate Willie Jones lamented to Governor Abner Nash in 1780 that the General Assembly failed to do its

\(^1\) I have calculated the average length from the available journals for the 1780s.
duty on account of “the Multiplication of Business before them . . . but no Apology in my Opinion can justify those Gentlemen who undertook to serve their respective Counties, and neglected to attend & discharge their Duty, when the critical Situation of the State so pressingly demanded their Labours & abilities.”

Jones’ lament about the unwillingness of legislators to attend, in addition to the burden of resolving a host of petition-oriented problems, proved so enduring that attempts to punish absent legislators failed until lawmakers enacted a compulsory attendance law in 1787. Other legislators attended late and left early—with the permission of the chamber in order to avoid censure—leaving the consideration of petitions to others after they had already secured legislation favorable to their constituents. The concerns of the county elites, not the wider problems of state governance, seemed paramount to many assemblymen. Localism in post-revolutionary North Carolina referred to counties, not the state as a whole. A ‘state-wide localism’ would have made little sense to anyone but the most influential politicians whose cosmopolitan contacts structured a vision encompassing the entire state.

County-oriented localism, however, did prove receptive to the adjudication of petitions. As legislators traveled to the meeting of the General Assembly—at a location

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6 Clark, *State Records*, 21:209 (a resolution suspending pay for any days on which a legislator does not attend); 21:387 (committee on excuses of House members who arrived late); and 19:411 (granting two Senators the right to absent themselves at a future date).

7 References to the term localism in the scholarly literature have been uninformative because the term cannot bear the explanatory weight it is given. Many scholars have described something like a state-wide mentalité of localism but the primary operating institutions of governance—the county courts—had been the central arena of politics before the Revolution. State leaders had to construct a state-wide culture of goals and policies in the interest of North Carolina as a whole during the war and they did so with the true localists in the counties exercising considerable ability to disregard state policies. On local law and the struggle to create a state-wide body of law, see Edwards, *People and Their Peace*. 26
set by the previous legislature—they carried with them affidavits, letters, memorials, petitions, and depositions from their constituents. As Gregory A. Mark has observed, petitions formed an important means of binding together inferiors and superiors in an organic society; the county elites elected to the legislature brought local problems with them, seeking legislative solutions to keep the peace of the community. At the same time, legislators bearing petitions served their constituents’ interests, thereby cementing their elite status in the community as arbiters of power beyond the county boundaries. As the state’s reach grew during wartime, extending into the economic and political lives of citizens, legislators bore increasingly heavier burdens in dealing with petitions from their constituents. The General Assembly adjudicated accounts of state officials, handled war claims, granted requests for new counties and towns, and responded to criticisms of state policy; petitions both helped to make the state by giving legislators something to do even as the workload often overwhelmed assemblymen.

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The very ubiquity of petitioning—the steady and constant stream of requests and memorials—hampers perceiving just how central petitions became to the daily routine of the General Assembly’s two houses. If we place ourselves at the vantage point of legislators, we can see a torrent of business created by citizens seeking legislative

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9 Though I accept the bellecist model of state formation’s claims about states growing during times of war, I do not necessarily think that the model explains why individuals react to changes in state policy. As Florencia Mallon argues in Peasant and Nation, states seek alliance with ordinary people in the stress of war but do not necessarily determine how groups of ordinary citizens broker their participation in state-building. See Mallon, Peasant and Nation, 1-20.
judgment. Using the legislative journals as a rough guide, we can re-imagine the world
of petitions made.\footnote{What follows is a re-creation of the daily activities of the House of Commons based on legislative journals. We have no other contemporary descriptions, with two exceptions, of the daily flow of business. The two outside descriptions—which will be considered later in the chapter—provide a limited window into a very small part of the legislator’s business. The year 1785 was selected simply because it fell nearly in the middle of the decade. The procedure in the Senate would have been the same as the House of Commons, so the House journal is taken as a proxy for the Assembly as a whole.}

\textit{Saturday, November 19, 1785.} After enough members have appeared to form the lower house, legislators organize themselves, take oaths, select a speaker, and agree to the usual rules of order. \textit{Monday, November 21, 1785}. After respectful observance of the Lord’s Day, legislators meet again at ten o’clock in the morning. A few more commoners arrive, take their oaths, and wait to hear the Governor’s message. Hugh Williamson, the member from Edenton, presents the first bill, a proposal to incorporate religious societies in the state. The Speaker reads the Governor’s address and presents a large packet of papers—some eighty-three documents—with intelligence on the state of Carolina and the union. Philemon Hawkins, Thomas Person’s colleague from Granville, proposes a nine-member, joint committee to examine the state papers.\footnote{Clark, \textit{State Records}, 17:264-276.}

\textit{Tuesday, November 22, 1785}. Business begins in earnest. Commoners meet at ten o’clock and learn that the Senators have proposed committees of claims and propositions and grievances to be made up of members from each superior court district. They turn over three petitions they have already read and referred to the committee of propositions and grievances; members of the Commons read them and agree to refer them. Then four members present the records of executed slaves and their masters’ requests for compensation to be sent to the committee of claims. Hugh Williamson reads
a memorial from the inhabitants of Edenton. Two more petitions are sent to the committee of claims. A memorial from Martin and Company, state printers. Three bills are presented. Two committees are appointed—one for adjudicating soldier’s accounts and the other to examine a model boat by Dr. McClure. Adjournment until four. More members show up after the legislators reconvene and send messages to the Senate regarding information about state finances. Finally, the members of the Commons adjourn until tomorrow morning.12

Thursday, November 24, 1785. Fourteen petitions were presented – most going to the committee of propositions and grievances but some to claims and others to special joint committees. Each one must be read for information to the members. The members read two bills from the Senate for the first time and pass both. Friday, November 25, 1785. James Richardson, representative from Bladen, appears to take his seat. Mr. Bonds and Mr. Hanley obtain a leave of absence until next Tuesday. Five new petitions are read and endorsed petitions from the Senate, which the commoners read the day before, come back to be given to the appropriate committees. Several resignations from justices of the peace are accepted and legislators decide to adjourn until next Monday, ten in the morning.13

Wednesday, December 21, 1785.14 Meeting for twenty-eight days, every day except the Lord’s Day, legislators start to grow anxious to return home. Sixteen committee reports on petitions and memorials crowd the schedule, each one requiring the concurrence of the House. Half of the petitioners received favorable reports on their

12 Clark, State Records, 17:283.
14 I have jumped toward the end of the journal to illustrate how reports on petitions took up legislative time.
requests, though they will have to wait for the Senate to approve the reports as well. Two members moved for leave to write bills to answer the prayers of two of the petitioners. Members of the Commons then appointed a committee to draw up a bill on methods of impeachment and then passed a bill on its second reading before adjourning until four p.m. After returning, legislators pass four bills and agree to adjourn until the next day until half past nine.\footnote{Clark, \textit{State Records}, 17:370-379.}

\textit{Thursday, December 29, 1785.} The end of this session is in sight. Thirty-five days have gone by since the Assembly started. Time is up for committee meetings, for the introduction of bills. Everything is done by resolution: fourteen resolutions in all, most of them granting sums of money for claims against the state. What cannot be handled in resolution will be held over until the next General Assembly or rejected, the fate of a letter from General Howe and two pieces of legislation. After fixing their pay for this session, legislators thank the speaker and adjourn. For the 1785 session, they have passed sixty-seven pieces of legislation, with one out of five laws relating to petitions. The representatives of the people responded to one hundred and twenty-three petitions, approximately one-half of which went to one of four standing committees. Only the most penurious of persons could say that they did not work for their pay.\footnote{The end of the journal shows the rush to complete business, the heavy reliance on resolutions, and seeming desire for a quick exit on the part of legislators. Clark, \textit{State Records}, 17:422-426.}

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Even if a legislator had kept a journal for the 1780s, it seems unlikely he would have recorded a summary of petitions, resolutions, and legislation, for such business characterized the ebb and flow of an unperceived pattern of events. Time allows us to
describe with greater fixity the statistical patterns made by petitions. The number of petitions after 1779 demonstrated a stark-contrast with pre-revolutionary petitioning. Petitioning related to wartime measures first peaked in 1779 with more than one hundred items sent to the General Assembly; prior to that date, petitions presented in a single session did not even reach fifty. By 1789, the number of petitions littering the assembly journals had increased nearly seventy percent since 1780, with the median number of petitions at 139 per session. Whereas the assembly adjudicated only 294 petitions between 1770 and 1779, legislators struggled with responding to the 1,328 petitions that swamped the assembly between 1780 and 1789.\textsuperscript{17} Two results came of the increased petitioning. First, the legislature multiplied the amount of private legislation originating in petitions by a factor of five during the 1780s. Second, the volume of petitions forced legislators to create a system of procedures for handling petitions in the most efficient way possible, with assemblymen coming to rely increasingly on standing committees to handle the majority of citizens’ grievances.

Other states similarly confronted enormous piles of requests from their citizens, pushing them toward systematization and streamlining of procedure. The General Court of Massachusetts in 1784 adjudicated an average of six petitions per day, referring them to \textit{ad hoc} committees who reported results that became resolutions. New York’s legislature certainly outstripped North Carolina in the quantity of petitions received as well as the number of petitions per population; the 1785 legislature of New York received, on average, one petition per 586 residents while North Carolina’s ratio in the same year was one to 2,196. As Edward Countryman has observed, New York’s

\textsuperscript{17} For data, see Appendix A, Table 2.
legislators quickly learned to handle petitions quickly and efficiently, sending important petitions to committees of five and less important ones to committees of three.\textsuperscript{18} The same story could be told of other states and it is probably no exaggeration to suggest that, in any given year of the 1780s, the thirteen legislatures of the United States collectively responded to more than two thousand petitions.\textsuperscript{19}

Citizens’ involvement in their government through petitioning manifested itself in increases in private legislation, petition-related legislation, and an increase in total number of statutes. In the decade before 1780, North Carolina’s General Assembly enacted twelve private laws solving the problems of individuals in specific circumstances.\textsuperscript{20} Such private acts account for little more than three percent of the legislative output of that ten year period. In contrast, the General Assembly enacted fifty-seven petition-related private acts dealing with individuals in the 1780s, counting for nine percent of all legislation passed within that decade. The increase of private law during the 1780s suggests not only that petitioners required the attention of legislators in greater numbers, but also that both groups esteemed the power of state law. The individual who could lay claim to a private law carried a powerful reminder of state authority when he stood before his community, statute in hand.


\textsuperscript{19} For data cited in this paragraph, see Appendix A, Table 11. I have estimated the petitioning output of the thirteen legislatures by using the average number of petitions adjudicated by the eight states in the sample. For other studies that impressionistically confirm the centrality of petitions in the post-war period, see Michael A. McDonnell, \textit{The Politics of War: Race, Class, and Conflict in Revolutionary Virginia} (Chapel Hill: The University of North Carolina Press, 2007), 222-226; Jere R. Daniell, \textit{Experiment in Republicanism: New Hampshire Politics and the American Revolution, 1741-1794} (Cambridge: Harvard University Press, 1970), 197, 224.

\textsuperscript{20} I have focused only on private legislation as it affected individual citizens. Private law also technically included acts concerning individual counties and towns.
An increase in petition-related legislation, not just private law, also spoke to the direct access to the legislature citizens enjoyed. In total, petition-related legislation from the 1780s accounted for twenty-three percent of all statutes. The total increase in legislative output after the Revolution also highlights the increased authority of the state legislature. Compared to the 1760s, the General Assembly’s output in the 1780s increased by a factor of three; compared to the 1770s, legislators in the 1780s nearly doubled the number of statutes on the state’s law books. From the perspective of a single session, legislators in the 1760s could expect to promulgate a median of twenty-five acts per year while assemblymen in the 1780s more than doubled their predecessors’ output. The volume of legislation—both private and petition-related—testified to the new state’s predilection for legislative governance.  

Focusing only on statutes as responses to petitions, however, ignores another exceptionally useful means of resolving citizens’ problems: resolutions. Bills required three readings in each house before becoming a law but a resolution needed only to pass each house once. A resolution, however, only extended its effect until the next General Assembly met and thus did not have the permanence of a statute. Nonetheless, petitioners seeking compensation or remedies only requiring a one-time solution to resolve the problem often received redress through a resolution; so long as her request did not require legislative sanction on a yearly basis, a petitioner receiving a resolution had

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her concerns well-addressed. Resolutions typically piled up toward the end of a legislative session, as members of the House and Senate recognized that some laws needed more time to pass three readings. Occasionally, legislators in both houses utilized resolutions in favor of petitions rejected in committees. On average, resolutions addressed the problems presented in some seventeen percent of petitions submitted during a legislative session. Thus, in addition to the average fourteen statutes passed in a session in response to petitions, legislators also passed an average of twenty-five resolutions in favor of petitioners.

In terms of private laws and resolutions, North Carolina’s General Assembly tended to blend both methods of relief where other states clearly preferred one over the other. States like Massachusetts, Pennsylvania, and New Hampshire had a small legislative output per session—sometimes no laws at all—yet resolved hundreds of petitions through legislative resolution. The Pennsylvania legislature read each petition twice before determining what to do with it, making the adjudication process much too slow for the use of private laws. Implicitly recognizing that the “business” of the legislature had increased “since the revolution,” Pennsylvania lawmakers even authorized extra pay for the clerk and assistant clerk of the house in 1785. Maryland, unlike its northern neighbor, preferred the use of private law; forty-five percent of the state’s 1784

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22 Claims typically fell into this category. See, for example the 1781 resolution in favor of Major Thomas Harris for £5000 for his wounds in the war in Clark, *State Records*, 17:780. An example not involving claims is the 1781 resolution suspending the confiscation acts to allow William H. Harrington to proceed on original attachment against the property of loyalist John Legget. See Clark, *State Records*, 17:759.


24 Minutes of the First Session of the Tenth General Assembly of the Commonwealth of Pennsylvania (Philadelphia: Hall and Sellers, 1785), 155.
legislative output consisted of laws applicable only to individuals. South Carolina in 1785 surpassed Maryland in making fifty-two percent of its laws responsive to the needs of individuals.\textsuperscript{25} Whether by statute or resolution, post-revolutionary states turned their legislative machinery to the efficient handling of citizens’ requests.

The differences in numbers of petitions and legislative output in terms of private law among post-revolutionary states also owes much to how petitions came before legislatures. Slightly more than fifteen percent of all statutes passed during the 1780s in North Carolina dealt with individual problems, usually brought to the attention of legislators via a written petition. Another forty-three percent of legislation directly related to counties and towns, though there are fewer petitions extant to show the linkage between local desires and state law. It seems likely that citizens spoke directly with legislators on these occasions, perhaps even calling town or county meetings to issue instructions; such conversations or even scraps of instructions never made their way into the print record of the Assembly journals. On two occasions, sources do reveal that legislators came with instructions from their constituents.\textsuperscript{26} These now lost conversations, if they had been reduced to print and submitted to the General Assembly in formal terms, would doubtless increase the percentage of legislation that could be traced directly to petitions, instructions, remonstrances, or memorials. In any case, almost sixty percent of statute law framed in North Carolina between 1780 and 1789 originated in the concerns of communities and individuals, suggesting that post-revolutionary legislative ascendance proved strongly responsive to local concerns. The

\textsuperscript{25} For data, see Appendix A, Table 11.
\textsuperscript{26} See Archibald Maclaine to George Hooper, June 14, 1784 in Clark, \textit{State Records} 17:144-147 (discussed in chapter 2); Archibald Maclaine to James Iredell, October 27, 1788 in Kelly, \textit{Papers of James Iredell}, 3:444-445 (discussed in chapter 3).
pattern of legislating for localities holds true for other states, as a sample of state laws from 1784-1785 show that almost fifty percent of them responded to local or individual problems.  

To handle the increasing influx of petitions in the North Carolina Assembly, legislators moved away from the use of specially-appointed joint committees to the use of permanent standing committees. In 1781, more than ninety percent of petitions went to select, joint committees appointed by the speakers of both houses; while such select committees often adjudicated multiple petitions, more often than not they resolved the problems presented in a single remonstrance. By 1784, the volume of petitions had increased sufficiently to warrant the use of standing committees such as propositions and grievances, finance, claims, and elections. After 1784, about two-thirds of all petitions went to standing committees with the remaining one-third going to ad-hoc, specially-created committees. While standing committees had been borrowed as precedents from the British Parliament, they had never been used with great regularity until the piling mass of petitions necessitated such a shift. According to the House of Commons journal from 1784, not only did legislators anticipate turning over most petitions to the Committee of Propositions and Grievances, but they believed that incoming memorials would require the creation of a second Committee of Propositions and Grievances.

When needed, legislators divided such standing committees in future sessions as the

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27 For data, see Appendix A, Tables 8 and 11.
28 For data, see Appendix A, Table 10.
resolution of petitions threatened to overwhelm legislators.\textsuperscript{31} And, to make better use of select committees, legislators often sent petitions of a similar nature to the same committee.\textsuperscript{32} The increasing demands upon legislators for adjudication of petitions had therefore called for an efficient and intelligent division of labor.

Other states made use of \textit{ad hoc}, or select, committees to resolve petitioners’ complaints. Though the Pennsylvania legislature used five standing committees in 1785—accounts, minutes, rules, ways and means, and laws—almost all petitions went to special committees.\textsuperscript{33} Both New Hampshire and Massachusetts echoed Pennsylvania practice, though New Hampshire treated the petitioning process more like a day in court. Legislators gave petitioners a day to present their case, often directing that the time, place, and petition be published in a newspaper so that counter-petitioners might provide contrary evidence.\textsuperscript{34} Maryland, too, offered some petitioners the benefit of “counsel at the bar” so that petitioners might interact with legislators directly in the shaping of private bills.\textsuperscript{35} Only Virginia seemed to make the most use of standing committees to handle petitions. In the 1785 legislative session, Virginia’s assemblymen established six standing committees—religion, privileges and elections, propositions and grievances, courts of justice, claims, and commerce—and regularly sent petitions to the appropriate committee. Indeed, the propositions and grievances committee had seventy-nine

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\item \textsuperscript{31} Clark, \textit{State Records}, 21:255.
\item \textsuperscript{32} Clark, \textit{State Records}, 21:193–436.
\item \textsuperscript{33} Minutes of the First Session of the Tenth General Assembly of the Commonwealth of Pennsylvania (Philadelphia: Hall and Sellers, 1785), 6 passim.
\item \textsuperscript{34} \textit{A Journal of the Honorable House of Representatives at a General Court of the Commonwealth of Massachusetts} (Boston, 1784), 134, 146; \textit{A Journal of the Proceedings of the Honorable House of Representatives of the State of New-Hampshire at the First Session of the Second Court} (Portsmouth: Robert Gerrish, 1785), 8, 11, 15, 26.
\item \textsuperscript{35} \textit{Votes and Proceedings of the House of Delegates of the State of Maryland} (Annapolis, 1785), 13, 20.
\end{itemize}
members, though house rules allowed any eleven of them to conduct business.\textsuperscript{36} For most of the 1780s, then, most states employed select committees to dispense with petitioners’ requests; minor differences in procedure depend largely on the whole apparatus of fashioning legislation in each state, such as length of session, the use of resolutions instead of private bills, and the method of drawing up legislation.\textsuperscript{37}

Despite trying to meet the demands of increased petitioning through committee development, legislators often conceded the need to save adjudication for another day. The committee investigating William R. Davie’s 1781 petition reported to legislators that the “nature of the business will require mature Consideration and too much time to be taken up at this late Hour of the Session.”\textsuperscript{38} Another committee referred a petition to the district auditors, commissioners appointed to settle claims against the state arising from wartime impressment and damages, arguing that the claims presented were “so complicated” as to prevent an accurate settlement.\textsuperscript{39} To the dismay of John Crawford, who petitioned in 1787 for permission to collect unpaid taxes from 1779, the committee of propositions and grievances recommended taking up Crawford’s case at the next legislative session because it would require an act and the current session had already been “very long.”\textsuperscript{40} Approximately five percent of all petitions submitted in the 1780s were “laid over” until the next session of the General Assembly, delaying relief for the

\begin{footnotesize}
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\item Journal of the House of Delegates of the Commonwealth of Virginia (Richmond: Thomas W. White, 1828), 5, 7.
\item As Ralph Harlow has noted, the use of the standing committee really evolved between 1776 and 1790; colonial legislatures had done nearly all their petition business through select committees and only the increase in business after the Revolution forced them to innovate. See Harlow, Legislative Methods, 61, 64, 78.
\item Clark, State Records, 17:958.
\item Clark, State Records, 16:149-150.
\item Clark, State Records, 20:435-436; Petition of John Crawford, GASR Nov-Dec 1787, Box 1.
\end{enumerate}
\end{footnotesize}
petitioner but preventing long and expensive legislative sessions. Duty-bound to answer the petition by the constitution of the state, legislators nonetheless felt that each petition deserved careful scrutiny—especially when money was to be expended—and preferred to balance justice to the state with justice to the petitioner.41

Another method of speeding up the transaction of petition business was to refer petitions involving claims to administrative departments set up to handle such issues. The General Assembly had created the Board of Auditors in 1781 to liquidate claims against the state arising from Revolutionary war incidents, damages to property, and impressment of citizens’ personal goods for war use.42 When Sarah McLean petitioned in 1782 for adjudication of her claim, legislators directed that the petition go to the auditors for the gathering of further evidence. The legislature delegated some of its authority to the auditors because the General Assembly usually appointed honorable men—men who presumably could be trusted to spend the state’s money—from the legislative ranks from each superior court district.43 To oversee the auditors, legislators created the office of the Comptroller in 1782, whose primary job was to audit state accounts and give the legislators a succinct view of the state’s expenditures.44 By 1783, the General Assembly had granted the Comptroller the power to adjust accounts as the auditors did.45 By the late 1780s, legislators began rejecting petitions that came

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41 For the phrase “justice to the state,” see Clark, State Records, 17:918.
42 The District Auditors replaced the state Board of Auditors because the “claims against this State are too numerous to be settled” by the previous body. The act appointed three members for each superior court district to settle claims and established the rates for the items to be allowed in such claims. The auditors issued certificates to citizens for their claims and were required to complete their business within a year. See Laws of North Carolina, January 1781, ch.3; Laws of North Carolina, 1782, ch.4.
43 Of the 21 men appointed by the 1781 act, 70% had served in either the House or Senate.
44 Laws of North Carolina, 1782, ch.12.
45 Laws of North Carolina, 1783, ch.17.
“properly before the Comptroller.”\textsuperscript{46} War-time claims, and the petitions they generated, helped to nudge the state toward an administrative apparatus capable of dealing with routine matters so that legislators could focus on fashioning state-wide laws rather than totting up figures in accounts.

Legislators who wanted to save more time in the adjudication of petitions often introduced bills with the petition rather than waiting for a committee to respond to the petition and draft a bill.\textsuperscript{47} Coming to the legislature with a prepared bill allowed petitioners and their allies to propose the kind of legislation they sought without trusting a committee to draft a proposal that might be less acceptable. Legislators introduced the petition and then moved for leave to present a bill providing redress. The bill might then move through both houses on its course of six readings (three in each) or be referred to a committee for further study and perhaps emendation. Some nine to eighteen petitions with proposed bills might come before the General Assembly in a given session, though such a procedure did not guarantee passage.\textsuperscript{48} Armed with a petition from the inhabitants of Fayetteville, Representative William Barry Grove in 1788 introduced a bill to make Cross Creek navigable by incorporating a group of local citizens to oversee the clearing of the river. A concerned citizen, fearful that an incorporation charter would serve private over public interests, sent a counter-petition that sharply criticized the proposed

\textsuperscript{46} Clark, \textit{State Records}, 21:98, 99, 175.
\textsuperscript{47} This was not technically an innovation of the 1780s. Colonial legislators had often introduced bills with petitions, particularly in cases of county division. Other states (such as PA and NH) granted the petitioner \textit{leave} to bring in a private bill, rather than give the job to legislators. See \textit{Minutes...of the Tenth General Assembly of...Pennsylvania}, 16; \textit{A Journal...of the Honorable House of Representatives...of New-Hampshire}, 21, 23.
legislation. Upon the second reading of the bill, legislators rejected the navigation project for Cross Creek.⁴⁹

Despite all attempts at processing petitions, memorials, and remonstrances efficiently, legislators still struggled to balance attention to the private concerns of citizens with their duty to fashion laws for the state as a whole. Both the House and Senate appointed a day beyond which neither petitions nor private legislation could be introduced in either chamber, usually toward the end of legislative session. In 1782 the House of Commons resolved to not accept any petitions or memorials until the “whole of the public business shall be finished,” while in 1783 the same chamber resolved to “strictly attend” to the reading of public legislation instead of paying attention to private laws. By 1785, the deluge of petitions spurred the Senate to resolve that both houses should consider only bills “of a general and public nature” in order to “expedite the business of the Session . . . .” That the House did not fully agree to the Senate’s resolution indicated the depth of commitment to the legislature as the primary locus for resolution of individual and local complaints. Undoubtedly, some state lawmakers must have wondered what the General Assembly was for if not to settle conflicts that could not be resolved at the local level.⁵⁰

⁴⁹ Clark, State Records, 21:110; Petition of the Cross Creek Canal Company, GASR Nov-Dec 1788, Box 3; Petition of Mark Russell, GASR Nov-Dec 1788, Box 3.

⁵⁰ This was particularly the case with the more popular branch of the Assembly, the House of Commons, which sent two members to the General Assembly who did not have to have the property qualifications of Senators in order to serve. Upon one instance, the House acquiesced in the Senate’s recommendation of closing the doors to private concerns but only for pragmatic reasons: “The Commons taking into consideration the Message of the Senate, accompanied by their resolution not to receive any Bills of a public or private nature to be introduced after Monday next, have concurred with the same. They beg leave to observe they have the rather acquiesced in the resolution of the Senate from a conviction of the propriety of the order of both Houses relative to public business standing on the same rule, than from a sense that it is at any time fitting for the Doors of the General Assembly to be closed against public Bills in which the body of the people are interested.” See Clark, State Records, 19:758.
Some lawmakers, sharing James Iredell’s contempt for legislative adjudication, believed the courts to be the proper tribunal for solving conflicts between citizens. On occasion, committees did render reports recommending the rejection of petitions that they thought could be addressed in the inferior and superior courts. When the inhabitants of Montgomery County petitioned in 1784 for legislative relief for lands they had purchased from loyalist Henry E. McCulloch, the special committee investigating the petition decided that the citizens’ request was a “judicial matter and doth not properly come before the General Assembly.”

Yet when Philip Alston requested a pardon for a murder (of a Tory) committed during the Revolution, the committee recommended the pardon, to the disgust of lawyer John Hay. Hay submitted a protest to the committee recommendation, arguing that the matter belonged to a court in which Alston could be subject to the “Laws of his Country and the verdict of a Jury.”

In addition to granting pardons, the General Assembly frequently intervened in court matters in a special category of requests concerning forfeited recognizances; any person who failed to appear before a court or who had guaranteed the appearance of a defendant lost the recognizance money pledged in good faith for attendance. Petitioners usually excused their failure to appear by claiming some special circumstance such as illness; in the case of guaranteeing the appearance of others, they often argued that they had been deceived by the person

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51 Petition of the Inhabitants of Montgomery, GASR, Oct-Nov 1784, Box 1; Clark, State Records, 19:438-439. Other examples include Clark, State Records, 20:334, 20:401, and 20:433. Since land law was the first body of law to be systematized after the Revolution, the General Assembly deemed the courts of law and equity capable of dealing with problems regarding property. See Edwards, People and Their Peace, 6.

52 Clark, State Records, 17:399-400.
whose attendance they backed. The General Assembly often released such petitioners from their forfeited recognizances, showing a willingness to intercede in a penalty incurred in the exercise of the judiciary’s operations.

Lawmakers in the 1780s struggled with the increasing volume of petitions. Growth in administrative complexity, the creation of administrative routines, attempts to limit attention to public legislation, and the shifting of issues to the judiciary were all responses to the mounting piles of petitions coming before legislators. Memorials, petitions, and remonstrances in turn fueled debates about the constitutional separation of powers and the appropriate focus of state governance. Those legislators most concerned about shaping bodies of state law deplored the wasting of taxpayer funds and legislative time in resolving minor problems facing individuals. Because so many of those problems originated in the state’s own attempt to legislate for the whole of North Carolina, there could be no other tribunal for adjudication than the General Assembly. Moreover, the logic of the organic community, binding petitioner and legislator, ruled and ruler, in a web of hierarchical relationships designed to keep the peace, meant that legislators could not turn a deaf ear to the cries of their constituents. Ironically, the Assembly’s duty-bound regard to consider petitions helped to undermine the organic community by creating a state body of law binding individuals to an entity beyond the community—the state itself. Keeping the peace undermined the deferential form of petitions as it reinforced notions of individual rights bound up with state citizenship.

53 Petition of Joseph Moore, GASR, Apr-Jun 1784, Box 2; Petition of William Price, GASR Nov-Dec 1785, Box 1; Petition of John Jones, GASR Nov-Dec 1785, Box 2; Petition of Simon Terrel and Josiah Kirk, GASR Nov-Dec 1785, Box 4; Petition of William Price, Nov 1786-Jan 1787, Box 1; Petition of John McCrory, GASR Nov-1786-Jan 1787, Box 5; House Bill to release James Underwood and Job Ward from forfeiture of recognizance for Daniel Campbell, GASR Oct-Nov 1784, Box 2; Bill to release Joseph Stacy of Montgomery County from Forfeiture of Recognizance, GASR Nov-Dec 1789, Box 3.
Petitioners asserted their rights claims using an amalgam of principles derived from the state constitution, statute law, and widely-held principles of good governance. Apart from the safeguards protecting petitioning in the state constitution and declaration of rights, other provisions of those foundational documents gave petitioners legal warrants to support their claims. Similarly, the preambles of statute laws laid out general principles guiding state legislators in the making of state policy. Both of these rather legalistic sources of rights language often worked in tandem with a litany of rights petitioners considered to be principles undergirding acceptable government. Petitioners did not regard these sources of rights language as mutually exclusive; they combined premises from each of the three traditions in ways to bolster the validity of their claims. Yet, the rights languages employed in petitions never guaranteed a positive outcome, for the interpretation of general legal principles in the hands of legislators differed from their constituents. What one petitioner considered an invasion of property rights, legislators considered a legitimate exercise of state authority. Legislators balanced the adjudication of individual rights against their ideas of good policy for all, leaving some petitioners frustrated despite of the boldness of their claims.54

All post-revolutionary states shared similar sets of petition claims, many of which emerged from the Revolutionary payments for service and war-damage. But the political culture shaping a petitioner’s approach to the legislature in each state depended on different rhetorics. Many South Carolina petitioners appear to have been far more likely

to ask for whatever relief the legislature, in its wisdom, thought necessary, rather than to
demand the state to abide by its own constitution or laws.\textsuperscript{55} Michael McDonnell has
suggested that petitioners in Virginia took on a “more demanding tone” after the
Revolution, particularly since petitioners linked their requests to their war-time service to
the state.\textsuperscript{56} Petitioners from Pennsylvania similarly tended to make strong claims based
on their reading of statutes and the state constitution, asserting specific remedies for their
situations.\textsuperscript{57} Whatever differences one might find in the rhetorical stances of petitioners
is also likely due to idiosyncratic considerations, such as the social status of the petitioner
in his or her community. Even when signs of deference appear in petitions, however,
such linguistic markers often represent a use of form and not necessarily the actual
attitudes of the petitioner. Use of deferential language did not preclude a reliance on
powerful claims to justice.\textsuperscript{58}

Constitutional and statute language provided petitioners with ready-made reasons
for arguing their claims. From the Declaration of Rights, petitioners recalled provisions
guaranteeing adequate salaries for state officials, compensation only for service to the
state, and provisions protecting the rights of property by jury trial.\textsuperscript{59} Together, these three
provisions undergird thirty-percent of all petitions from the 1780s; claims requests

\textsuperscript{55} The appeal to “whatever remedy your honors may think right” appears conspicuously in many
individual petitions, particularly from persons whose estates had been amerced or confiscated by the state
government. Stronger language, to be sure, appears in grand jury presentments and group petitions,
particularly from backcountry residents. Jerome Nadelhaft described how backcountry petitions in South
Carolina in the mid-1780s showed an unlettered hesitation but grew to be more eloquent and powerful by
the late 1780s. Jerome Nadelhaft, \textit{The Disorders of War: The Revolution in South Carolina} (Orono, ME:

\textsuperscript{56} McDonnell, \textit{The Politics of War}, 224.

\textsuperscript{57} The Pennsylvania legislature summarized the petitioners’ requests \textit{within the journal record}
with fairness. Even so, the language of the petitioners remains fairly strong. See \textit{Minutes of…The Tenth General
Assembly…of Pennsylvania}, 29, 33, 61, 162.

\textsuperscript{58} See Nobles, “A Class Act,” 286-302.

formed the single largest category of any group of petitions sent to the legislature. Because of the Revolutionary war, the state owed money to nearly every citizen—public officials, military leaders, soldiers, and citizens who had goods impressed—explaining why the percentage of claims petitions had doubled from the 1770-1779 period. Even widows of soldiers requested compensation for their husbands’ efforts, as did Ann Glover in 1780. Mrs. Glover informed legislators that, although her husband had deserted, he still deserved pay for his three years of service because the “honest Labourer is worthy of hire.” Ann believed in allegiance to the state and those in authority but noted that the “spirit of a man will shrink from his Duty when his Services are not paid and injustice oppresses him and his Family.” Ann requested the “usual Benevolence” given to women in her situation and legislators eventually agreed.

The next largest class of property-related petitions originated in disputes over land ownership, sometimes involving the state’s confiscation policy but at other times involving issues of inheritance, loss of title, or disputed boundaries. Backcountry Moravians figured prominently in several disagreements because their neighbors suspected them of being Tories. The inhabitants of Surry County petitioned the General Assembly in 1789 to stop paying quitrents on lands they had purchased from the Moravians; they considered quitrents a relic of colonial rule and a competitor with the

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60 See Appendix A, Table 2 for data.
61 Petition of Ann Glover, GASR Apr-May 1780, Box 1; Revolutionary War Army Accounts, State Treasurer Record Group, Volume D:174, NCDAH.
62 Nearly four percent of all petitions related to confiscation; six percent concerned other land issues. See Appendix A, Table 5.
taxes owed to the state. But the Moravian representative, Frederick William Marshall, argued that quitrents represented a form of contract. Moravians had bought the right to collect the quitrents in 1767 from the Earl of Granville, intending to recuperate their expenses from their tenants. “It can not but be obvious to all sensible Men, that public Taxes are public affairs, and the Quitrents here in Question are a solemn Contract of a private Nature, nor is it at this Day without precedent in the United States that the same piece of Land payeth not only public Taxes but also Quitrents,” argued Frederick W. Marshall. It appears that the General Assembly ignored the Surry petitioners.

Legislators did not always protect the property rights of individuals. In the case of Thomas Harvey, assemblymen elevated parsimony above his property rights in slaves. A law of 1786 repealed a 1779 law that provided compensation to a slave owner when his property had to be executed for committing a crime. In 1787, Thomas Harvey petitioned for the replacement value of his executed slave as the state deprived him “of a part of Property contrary as he conceives to the Constitution.” “Now your Petitioner humbly conceives that it never was the intention of the Legislature to pass any Law to injure the Citizens of this State,” Harvey surmised. Nonetheless, the General Assembly did not agree with Harvey. And in the case of John Walker, a Wilmington resident who had loaned the use of five slaves to a quartermaster during the war, the state did not see fit to compensate Walker when his five slaves disappeared while the British occupied the town. We may wonder if legislators avoided paying Walker because they feared

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64 Petition of the Inhabitants of Surry, GASR Nov-Dec 1789, Box 1; Fries, Records of the Moravians, 4:2271.
65 The minutes of the Senate and House of Commons record no information about the petitions.
66 Laws of North Carolina, October 1779, ch.12; 1781, ch.10; 1786, ch.17.
67 Petition of Thomas Harvey, GASR Nov-Dec 1787, Box 1.
accepting liability for all slave property that disappeared during the war. North Carolinians, like other southerners, insisted on British reparations for stolen slave property for many years to come.68

Reliance on statute law principles proved trickier for petitioners because private law provided the most useful statutes applicable to individual situations. When any one citizen received legislative interposition it did not necessarily create a precedent for granting that right to others; yet, the nuances of private law mattered little to those who conceived themselves worthy of favor when others in similar situations had obtained relief. Indeed, legislators eventually recognized that granting petitioners’ requests could establish precedents unless they specifically excluded such a construction in the law.69

One particular set of petitions illustrate how the General Assembly struggled to limit a right petitioners seem to have inferred from the law. State law directed the issuing of various kinds of certificates; used as payment of war-related claims, these fiat currencies could be used in payment of taxes or for purchasing land.70 Almost as soon as the state started issuing them, petitioners flooded the Assembly with requests for replacement of lost certificates. No part of the statute law authorizing such certificates directly implied that the state would be responsible for citizens’ private misfortunes, yet petitioners seem

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69 See the report on the representation of John Haywood, 1788, as an example: “The Committee are also of opinion that the payment and allowance of this warrant shall not establish a precedent for payment of others of like nature in future, but that the same shall depend on the Law for directing the Sale of Confiscated property. . . .” Clark, State Records, 21:119-120.

to have regarded the state a bulwark against individual, accidental loss. As William
Blount argued in 1782, “Your petitioner does not conceive himself bound in justice to
replace this sum [of state funds he lost] to the public no more than every other person . . .
.” Responsibility for accidental loss, therefore, did not rest upon individuals. 71 For those
seeking replacements, certificates could be traced easily because each one had a number;
additionally, because state auditors cut them from their ledgers in a wavy pattern,
counterfeits proved nearly impossible. 72

Legislators investigated each claim for replacement of lost certificates with the
intent of preventing fraud upon the state or “imposition on the public” by the redemption
of the certificate for real money at later date. 73 Of the thirty-three requests for
replacement of money in the 1780s, legislators responded favorably to twenty-one of the
petitioners who had lost certificates in house fires or accidentally destroyed them while
washing their pants. 74 In almost all cases, rejected requests centered on stolen
certificates, which could still circulate and possibly come in for redemption after a
replacement was issued. Only in the case of Margaret Balfour, whose husband had been
murdered by Tories on their doorstep, did legislators resolve to replace stolen money. 75

71 Clark, State Records, 19:36-37. Legislators agreed with Blount’s reasoning.
72 To redeem a certificate, the auditor would need only match the number of the certificate to the
stub in the ledger and then place the certificate against the stub to see if the edges matched (like fitting
puzzle pieces together).
73 Clark, State Records, 19:102.
74 There were colonial precedents for replacement. The General Assembly authorized replacement
of proclamation money destroyed by fire for three petitioners in 1771. See Saunders, Colonial Records,
9:150-151, 171.
75 See petitions of John Daly, GASR, Apr-May 1780, Box 1; Colonel Medlock in Clark, State
Records, 17:708; Hezekiah Marrett in Clark, State Records, 19:51; William Lenoir in Clark, State Records,
19:102; John Simpson et. al., GASR, Apr-May 1783, Box 1; James Williams, GASR, Apr-May 1783, Box
1; Daniel Waggoner, GASR, Apr-May 1783, Box 1; Robert Forster, GASR, Apr-May 1783, Box 1; John
Douglass in Clark, State Records, 19:297-298; Samuel Knox, GASR, Apr-Jun 1784, Box 1; James
Williams, GASR, Apr-Jun 1784, Box 1 and Clark, State Records, 19:656; Adam Cooper, GASR, Apr-Jun
By 1787, requests for replacement of missing certificates aroused the ire of one senator who motioned that the General Assembly would no longer consider the state “bound to insure or Guarantee property of any kind to any person” and would therefore no longer accept claims for “money or Certificates, either lost, mislaid or destroyed by any mode or means whatever.” The resolution failed to become a standing rule, leaving legislators to adjudicate requests for replacement of lost certificates into the 1800s.

The largest category of rights language animating petitions came from seemingly universally-recognized principles such as majority rule or productive (economic) rights. While not specifically enshrined in constitutional law, such general principles nevertheless bridged the concerns of petitioners with the policy designs of legislators. In the case of productive rights, citizens generally asserted a reciprocal relationship between the state and petitioner in which the state benefitted from an individual’s productive economic contribution. The Quakers residing in eastern coastal counties, for example, requested exemption from the state’s loyalty oath since it violated their religious scruples. William Skinner, petitioning on their behalf, argued that the loyalty oath removed the “Benefit of Law” from a “quiet, orderly people” and made it impossible for them to

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1784, Box 1 and Clark, *State Records*, 19:699; John Hogan, GASR, Apr-Jun 1784, Box 2 and Clark, *State Records* 19:500-501; Jones Kindrick, GASR, Apr-Jun 1784, Box 2 and Clark, *State Records* 19:529; John Gilbert, GASR, Apr-Jun 1784, Box 2; William Culbertson, GASR, Apr-Jun 1784, Box 2 and Clark, *State Records*, 19:653; Margaret Balfour in Clark, *State Records*, 17:292-293; John Allison, GASR, Nov-Dec 1785, Box 1; Reuben Searcy, Nov-Dec 1785, Box 1; Robert Brevard, Nov-Dec 1785, Box 1; Jonathan Bartholomew, Nov-Dec 1785, Box 1; James Miller, Nov-Dec 1785, Box 2; William Murphey in Clark, *State Records*, 17:415; Burwell Stricklin, GASR, Nov 1786-Jan 1787, Box 2; John Vickers in Clark, *State Records*, 18:264; and James Tate in Clark, *State Records*, 18:307.

76 Clark, *State Records*, 20:386.

77 For examples, see Petition of Peter and Constantine Perkins (economic incentives to build a forge and mill), GASR, Apr-May 1783, Box 1; Clark, State Records, 19:221; Petition of the Merchants of Wilmington to the General Assembly(requesting a drawback on the production of domestic molasses), GASR, Nov-Dec 1785, Box 1; *Laws of North Carolina*, 1786, ch.10; Petition of John Hay (request for land title), GASR Apr-May 1780, Box 1; *Laws of North Carolina*, 1782, ch.40; Petition of Richard Henderson et. al. (land titles in the west), GASR, Apr-May 1782, Box 2; Memorial of Richard Henderson (land titles in the west), Apr-May 1783, Box 2; *Laws of North Carolina*, 1783, ch.38.
enrich the state with their “industrious habits.” Likewise, Moravians from western counties, also chafing under the loyalty oath, requested its amendment to protect their religious “Constitutional Liberty.” Yet, legislators did not justify amending the state loyalty oath on the basis of religious freedom. In discussing the problem, legislators asserted that if the Quakers and Moravians decided to emigrate, the state would lose tax revenue generated by such productive citizens. Both groups received favorable treatment, not because of respect for religious differences, but because of their valuable contributions to the state’s economy.

Shared rights languages in all of the petitions point to a culture of legal thinking widely dispersed across communities. Petitions may have reflected “particularistic” understandings of local problems, but petitions did not simply assert the peace of the community or customary rights in their arguments. To do so would have invited criticism of their claims as being based in interested, or factional and private, motives. Negotiation with legislators further developed and extended common discourses of rights so that the local community could never remain isolated from the larger constitutional and legal discussions shared by the state’s citizens. Those citizens who decided to petition lawmakers effectively undermined the authority of peace-keeping through customary rights at the local level; the Moravians used their petitions to subvert the authority of those magistrates in Surry County who would try to harass them out of the

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78 Petition of William Skinner to the General Assembly, GASR, Apr-May 1780, Box 1.
79 Fries, Records of the Moravians, 3:1204-1209, 1375, 1381. The Moravians and the Quakers had petitioned repeatedly, starting in 1778, because the General Assembly used resolutions in their favor but not a permanent statute (resolutions remain in force until the next General Assembly). A permanent solution was given in 1780; see Laws of North Carolina, April 1780, ch.13.
80 The logic of productive rights was so important that an opponent of the Moravians actually tried to diminish the achievements of the religious order saying that the group had only “built one tavern, a store and a few houses. . . .” See Fries, Records of the Moravians, 3:1381.
state. The presence of an annually meeting, countervailing power outside of the local community meant that the prerogatives of the peace always remained open to contestation through petitioning the legislature.  

The ascendance of rights language in petitions reflects a legacy of Revolutionary rhetoric and is further underscored by the shift in subject matter of petitions from 1770 to 1789. If we categorize petitions into three rough groups—those relating to state administration and policy, those concerning county or town issues, and those dealing with individual and private family matters—we can perceive a shift after the Revolution toward the adjudication of private, individual problems. Before 1779, nearly fifty percent of petitions related to state-wide issues of concern such as state offices, records, elections, defense, or the court system. After 1780, just over one quarter of petitions to the Assembly reflected state-wide or state administrative concerns. At the same time, the percentage of petitions related to individual and family problems—divorces, emancipation, land deeds, estates, guardianship, private contracts, and charity—nearly doubled after 1780. The number of petitions relating to county and town issues, such as creation of new counties and towns or the corporate regulations, remains little changed after the Revolution. In terms of petitioning, the Revolution seems to have unleashed an individualist-centered ethos that struggled to come to terms with the organic, deferential society remaining from the colonial past. Petitioners and legislators both endeavored to

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81 Edwards, *People and their Peace*, 3-4, 60. Edwards mischaracterizes the relationship between state law and customary law. They were not always antagonistic bodies operating in separate planes. They lived in contentious wedlock, with both realms interpenetrating the other.

define the relationship of the individual to the state, balancing majority rule with minority rights in an age that lauded popular sovereignty.

Though petitioners justified their requests based on a litany of rights from various sources, the journey of a petition through the General Assembly did not depend on a mechanical process of adjudication in which legislators accepted valid rights warrants and rejected invalid ones. The resolution process, bound up with the politics of the legislators, lacked the procedural and legally rigid safeguards driving judicial relief in the courts. The complex negotiation between the petitioner on the outside and the legislator on the inside of state political culture proved amenable to all the arts of ‘politicking’ available to both parties. Lamentably, the only surviving evidence of the journey of a petition through the bowels of legislative adjudication comes from Moravians who sought to loosen the restrictions of the state loyalty oath. Moravians considered such an oath a violation of their rights of conscience as well as a threat to their missionary efforts around the world. Having already secured freedom from militia service (in return for paying extra in taxes), they sent two of their own to the General Assembly meeting in Hillsborough in 1778 to request protection of “our Persons & Property against all Violence & Oppression, & to grant us the Benefit of the Law.” Framing their request in republican terms of seeking “Constitutional Liberty,” two Moravian men first met with a

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83 David Zaret has characterized petitions as mediators between the center and periphery as the public learned to use its ‘reasoning’ capacity. See Zaret, Origins of Democratic Culture, 15.
84 While it is clear that petitioners could attend committee meetings to address questions of legislators, and, indeed assemblymen required public notice of committee meeting times and places, no other examples of a petition moving through legislative process have survived for comparison to the Moravian experience. Undoubtedly, the Moravians had superior economic resources than the average North Carolinian and could travel to testify. Other petitioners had to rely on their rhetoric to convince legislators.
member of the Governor’s Council to plumb the depths of opposition against them. Then, they showed their papers to the governor who reminded them that he “had nothing to say in the Assembly.” Finally, after a few days of negotiations, they found a legislator willing to present their petition to the General Assembly.  

The House of Commons first heard the petition and enjoyed the right of rejecting it outright. Instead, the Commons sent the petition to the Senate and soon a committee formed to study the proposal of the Moravians. Twelve men on the committee met and selected their chairman, General Griffith Rutherford, a man well known for his relentless punishment of Loyalists. The committee heard testimony from one of the Moravian men and asked him questions; after hearing from various members of the committee, the group decided to report in favor of the Moravians’ request. A favorable committee report soon reached both houses of the General Assembly where it faced a strong assault from a lawyer who accused the Moravians of being a “dangerous Republic within the Republic” and of taking the property of the poor as well as discriminating against the state’s paper money system. Thirteen men voted against the committee report in the House of Commons, dealing the Moravians a severe blow. Even the chairman of the original committee, Griffith Rutherford, spoke “very hard words” against the Moravians, fearing that they were closet Loyalists.  

Fortunately for the Moravians, the General Assembly could bypass the normal legislative process resulting in a law by enacting a resolution. A number of gentlemen, anxious that the Moravians would “decide to emigrate” and thus cost the state valuable

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tax revenues, secured a resolution in favor of the original petition. The North Carolina Constitution required that all bills receive three readings in both chambers but said nothing about resolutions, which became temporary laws after a single reading in both houses.87 Because the Surry County court had recently posted an order requiring all persons who had not taken the oath to depart the state within sixty days, some men who had first opposed the Moravians soon supported the resolution in their favor. The two Moravians returned home having secured their objective but soon found that “persons having no shadow of claim felt themselves at liberty to enter portions of our land in and outside Wachovia . . . though it was against the recent Acts.” When the Moravians again appeared before the General Assembly in 1779 to seek redress, they endured the same round of seeking allies, culling support, making an appearance before the committee, and being satisfied with a resolution in their favor.88

The journey of the Moravian petition through the General Assembly points to several important conclusions about petitioning in the 1780s. First, petitions needed a sponsor to introduce them in the Assembly.89 While petitions sometimes came in the governor’s communications, the bulk of citizens’ requests came before the legislature

87 While colonial precedent for resolutions existed, such resolutions did not encompass state-wide legislation. Instead, they focused on the powers and privileges of the lower house in its administrative capacity and in its relations with the upper house. Otherwise, procedure in the North Carolina General Assembly largely adhered to colonial precedents. See Cook, “Procedure in the North Carolina Colonial Assembly, 1731-1770,” 258-283.


89 This provision accords with rules found in other legislatures such as Maryland, Pennsylvania, and New Hampshire. See Votes...of the House of Delegates...of Maryland, 2; Minutes of...the Tenth General Assembly...of Pennsylvania, 62; and A Journal...of the Honorable House of Representatives...of New-Hampshire, 6. Some legislatures, like South Carolina, required the petitioner to send a copy to both the Senate and House of Representatives or face rejection. See Lark Emerson Adams, ed., The State Records of South Carolina: Journals of the House of Representatives, 1785-1786 (Columbia: University of South Carolina Press, 1979), 179.
because senators and commons members introduced them.\textsuperscript{90} Clearly, the more influential the legislator, the more likely a petition received a favorable response. Second, a favorable committee report did not always guarantee a warm reception in the Commons or Senate. Indeed, the Moravians who testified before General Griffith Rutherford’s committee found the General much more amenable to their cause in committee than on the floor of the legislative chamber. Third, persistence proved an advantage to petitioners. The Moravians returned to the Assembly to seek a more permanent resolution after their initial disappointment. Moravians turned to legislators for relief in 1779 and again in 1789. Other petitioners kept asking for relief until they saw no prospect for hope. Jane Spurgin, the wife of the loyalist who lost his property to the confiscation acts, asked for legislative interposition in her case in 1785, 1788, and 1791.\textsuperscript{91} Samuel Knox sought replacement of his lost certificates in 1784, 1787, 1792, and 1796.\textsuperscript{92} If these petitioners did not get what they thought the state owed them, it was not for lack of asking.

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\textsuperscript{90} For an example of a person soliciting a legislator to introduce a petition, see the letter of Amariah Jocelin to Benjamin Smith, November 9, 1789, in Miscellaneous Collections, NCDAH. In the letter, Jocelin recounts the case of the petitioner and urges Smith to shepherd the request through the assembly.
\textsuperscript{91} See Petition of Jane Spurgin, GASR, Nov-Dec 1785, Box 1; Petition of Jane Spurgin, GASR, Nov-Dec 1788, Box 2; Memorial of Jennet Spurgen, GASR, Dec 1791-Jan 1792, Box 2. When the Assembly denied her a third time, she probably moved to Canada to rejoin her husband. See Kierner, \textit{Southern Women}, 177-181.
\textsuperscript{92} Petition of Samuel Knox to the General Assembly, GASR, Apr-Jun 1784, Box 1; Petition of Samuel Knox to the General Assembly, GASR, Nov-Dec 1787, Box 1; Petition of Samuel Knox, GASR, Dec 1791-Jan 1792, Box 3; Petition of Samuel Knox to the General Assembly, GASR, Nov-Dec 1796, Box 3.
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When William Attmore, a Philadelphia merchant, came to North Carolina in 1787 to hunt debtors to his firm, he observed a sitting of the General Assembly at Tarborough.
The nearly two hundred legislators occupied a town that “appeared so inadequate” in Attmore’s eyes, as citizens from different social ranks seemed to mix unceremoniously. “Legislators, Planters, and Merchants” gathered for breakfast at Captain Toole’s before heading to the town court house for the sitting of the legislature. “Any person is at liberty to go and hear the debates of either House,” Attmore remarked, but he soon left the House of Commons because the “business before the house” was not “very interesting.” Apart from the administration of the oath of office to the incoming governor, Attmore mentioned no other action. Yet, from the perspective of petitioners, the business of December 20, 1787 was significant. Along with balloting for militia officers and the recognition of recent resignations, petitions and their adjudication framed the day’s business. Eight reports on petitions, memorials, and addresses joined with the presentation of four memorials to consume legislators’ time.\(^3\)

Attmore could not conceive that such mundane business provided the General Assembly with its largest source of work. Insisting on adjudicating all claims and receiving all petitions, as well as framing state law, legislators insisted on the supremacy of their institution as representative of the people’s sovereignty. Custom and law bound them to service to their constituents and petitioners seemed all too eager to assert their rights before the General Assembly. Drawing upon the state constitution, statute law, and general principles of wise governance, citizens inundated their legislators with claims, remonstrances, and requests. Legislators eventually evolved more complex administrative procedures, developing loose rules for adjudication, making committees

work more efficiently, and turning to resolutions for a quick solution. Attmore could not have been more wrong about the unimportant business he witnessed until he himself joined the ranks of those who petitioned the General Assembly.
North Carolina’s Moravian families living in the western Piedmont worked for
their citizenship during the Revolution. Anywhere from one-third to one-fourth of the
state’s citizens chose active or passive loyalty to the British cause, leading wary-eyed
state leaders to worry that pacifist sects like the Moravians and Quakers, along with
Highland Scots in the Cape Fear and backcountry Germans, posed a serious threat to
independence. Moravians sensed in the questioning glances of their neighbors a constant
suspiciousness stemming largely from the religious society’s commercial successes,
cosmopolitan contacts with Europe, and control of vast tracts of good farmland. Even
after they had successfully petitioned the General Assembly for the right to affirm
allegiance to the state through a modified oath in 1778 and 1779, Moravians continued to
suffer the disapproval of their neighbors. Yet, they resolved “not to permit the hated
name ‘Tory’ to be applied to them” since they took the affirmation of allegiance and paid
a three-fold tax for the right to escape militia duty.¹

Soon the Continental Army turned to the Moravians for help with making one
thousand pairs of shoes for soldiers in 1780. On written order from General Horatio
Gates, the Moravians obtained a quantity of leather for making shoes as well as “written
Protection” that they would lose neither their wagons nor leather to state impressment.

¹ For estimates of Loyalists, see Waldrup, “James Iredell,” 44; quote is from Fries, Records of the
Moravians, 4:1551.
Within a month of receiving their assignment, Moravian workmen loaded a wagon with leather shoe materials for the Continental Army and headed for Hillsborough. General Gates expressed his satisfaction with their work but one of the Moravian men reported that an army official told him that the entire affair was a test. “We had been described to Congress as Tories,” Brother Bibighaus reported to the Congregation of Salem, “and it was well for us that we had proved the contrary.” By proving themselves faithful subjects of the state, Moravians underscored the volitional nature of citizenship emerging in the Revolutionary cause. Both Congress and the states sought to ascertain the loyalty of their citizens during the war, but the battle for loyalty continued long after the British defeat at Yorktown in 1781. Both assembly politics and the customs of petitioning evolving in the early 1780s nourished a culture of state loyalty; by rewarding soldiers and faithful citizens, and wresting power from county governments while defending state authority against Congress, North Carolina’s leaders purposefully fostered conflicts over citizenship launched by the war itself.

As the case of the Moravians indicates, suspicions of allegiance could hinge on group identities. No group posed more paradoxes in the defining of loyalty than did the state’s black denizens. Statute law did not explicitly define devotion to the Revolutionary cause in racial terms, leaving open the possibility that African Americans, both the enslaved and free, could offer their service to the state in exchange for the same rewards as given to white soldiers. At the same time, the disorders of war, combined with Revolutionary rhetoric about rights and liberties, offered opportunities to the enslaved to

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steal themselves from bondage under the sanction of a higher law. As much as the story of post-war allegiance devolves upon rewarding soldiers’ and citizens’ contributions to the cause, it also depends on the state’s explicit protection of the rules of a slave society. If the state expected the productive contributions of citizens, handsomely rewarded for their allegiance, then it had to guarantee their access to a labor system that exploited the lives of those deemed incapable of citizenship.4

Three major North Carolina policies of the 1780s rewarded the allegiance of citizens and challenged the reintegration of the disaffected as state leaders attempted to create a culture of state loyalty. North Carolina’s Confiscation Acts, passed, amended, suspended, and finally made operative in 1782, loosed a flood of petitions, clogged the courts with lawsuits, and fostered no little debate over the sanctity of property and the equal protection of the laws. The state’s emission of paper money in 1783 and 1785—on top of wartime emissions—aroused the ire of creditors and commercially-minded men, even though the measures received support for their nominal nod to the financial needs of the state’s poor soldiers. North Carolina’s leaders hoped that an influx of paper money might enable its citizens to pay their debts even as the state used the money to pay its operating expenses and claims against the government. Finally, complicated wrangling over the state’s western territory pitted squatters, soldiers, Cherokee Indians, leaders of the stillborn state of Franklin, Congress, and the state of North Carolina against each other. Seeking justice for soldiers, North Carolina attempted to repay military loyalty

4 For a perceptive discussion of the ways the enslaved and the free could be linked to the body politic without necessarily being in it, see John Wood Sweet, Bodies Politic: Negotiating Race in the America North, 1730-1830 (Philadelphia: University of Pennsylvania Press, 2003).
with land only to find that western settlers embraced different visions of the state’s priorities and sovereignty.

The state of North Carolina may have possessed sovereignty from the moment of independence but that possession did not automatically translate into legitimacy. The traumas of the Revolutionary War further undermined Whig leaders’ pretentions to preserve law and order. Partisan raids and impressment of neighborhood resources fostered festering resentments in a number of communities. The state needed the loyalty of its citizens for their contributions to the Revolutionary cause yet found that such allegiance had to be earned. The theories of the people’s sovereignty, when combined with the notion of volitional citizenship, challenged Whig leaders to balance their demands for taxes with the promises of good governance. Such promises easily broke under the stresses of war and its aftermath.  

In constructing a culture of allegiance, North Carolina’s leaders failed to explicitly address questions of race, leaving open the possibility that black soldiers could offer their contributions to the state’s struggle with Britain. Indeed, perhaps one hundred or more black soldiers served during the Revolution—either as freemen offering their service voluntarily or as enslaved men who substituted for others, often in exchange for freedom. After the war, these black patriots requested the same compensation as white

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soldiers. In the case of Ned Griffin, who served as a substitute for William Kitchen in exchange for his freedom, we see an example of a contract made between master and servant that North Carolina honored. William Kitchen refused to grant Ned his freedom after the war, but the Edgecombe County court liberated the slave anyway. Petitioning for state-sanctioned freedom, Ned requested a private law to confirm the transaction. The committee members who examined Ned’s petition determined that Kitchen had “relinquished” his right to Ned, making the enslaved soldier the property of the state. In return for Ned’s “meritorious services,” legislators willingly granted Ned Griffin his freedom and citizenship. Though Ned’s case is perhaps a singular one, it does highlight how legislators, in ignoring an explicitly racialized definition of allegiance, made opportunity for black soldiers to join the body politic, serve as soldiers, and petition for freedom.

Slaves could fight for their freedom and the freedom of North Carolina but they could also be used as rewards for service. The state legislature, desperate to encourage men to join the continental ranks, passed a law in 1780 that offered “one prime slave” to those who would volunteer for twelve months’ service. Patriots with sufficient funds could also purchase—at public auction—slaves confiscated from loyalists, illustrating

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6 Identifying black soldiers is particularly tricky since many of them were not labeled in records; mixed-race soldiers also appear—Indian and African—complicating the labeling of identities that we have no idea how individuals expressed to themselves and their communities. For a short list of black soldiers, see Crow, The Black Experience in Revolutionary North Carolina, 97-103. For more soldiers (though he may exaggerate the numbers), see Paul Heinegg, comp., Free African-Americans of North Carolina, Virginia, and South Carolina from the Colonial Period to about 1820, 5th ed. (Baltimore: Clearfield Company, 2005).

7 See J. Kelly Turner and John L. Bridgers, Jr., History of Edgecombe County, North Carolina (Raleigh: Edwards and Broughton, 1920), 54; Report on the Petition of Ned Griffin, in Clark, State Records, 19:552; Petition of Ned Griffin, GASR April-June 1784, Box 3; Laws of North Carolina, June 1784, ch.70.

8 Laws of North Carolina, January 1780, ch.2.
how property in humans could become a bond of allegiance both to the state and its chief economic activity, plantation agriculture.\textsuperscript{9} Patriots of Mecklenburg County, who received slaves taken from “disaffected citizens” in South Carolina, petitioned in 1788 for protection against lawsuits designed to recover the slaves for their original owners. By resolving to grant the petitioners immunity from lawsuits, the General Assembly signaled its intention to preserve the bonds of servitude of the confiscated slaves while also rewarding the Mecklenburg soldiers who contributed to the state’s freedom.\textsuperscript{10}

For the enslaved, both Revolutionary rhetoric and customary relations between slaves and masters encouraged libertine sensibilities that state leaders found threatening to a stable plantation society. To judge from state statutes, slaves living in the port towns exercised far too much liberty, demonstrating how traditional relations between slave owners and their property ignored statute law. A series of enactments banned the practice of slaves keeping houses in town (while their masters resided on plantations in the country), regulated the lucrative custom of slaves’ hiring themselves out, banned slaves from trading with whites without permission from their masters, and forbid free persons (both “negroes” and those of “mixed blood”) from entertaining slaves in their homes.\textsuperscript{11} Apparently the legislation failed to stem the troubles, as indicated by subsequent laws increasing penalties for the illicit practices.\textsuperscript{12} For the enslaved,

\textsuperscript{9} Laws of North Carolina, September 1780, ch.6.
\textsuperscript{10} Petition of the Inhabitants of Mecklenburg, GASR 1788, Box 3; Laws of North Carolina, 1788, ch.3.
\textsuperscript{11} Laws of North Carolina, June 1784, ch.49 (Wilmington); Laws of North Carolina, 1785, ch.6 (Wilmington, Washington, Edenton, Fayetteville); Laws of North Carolina, 1786, ch.26 (Newbern); Petition of Citizens of Newbern, GASR 1785, Box 2.
\textsuperscript{12} Laws of North Carolina, 1787, ch.6 (preventing thefts, marriages of free to enslaved without permission, and entertaining of slaves at night); 1787, ch. 28 (trading with slaves in Edenton); Laws of North Carolina, 1788, ch.7 (trading with slaves).
punishment came at the hands of a single justice of the peace, who could administer no more than forty lashes for “small and trivial” offenses.\textsuperscript{13} Given the state’s financial difficulties and its need to recover from the traumas of war, laws directing the management of the state’s human property predictably relied upon local authorities to enforce order. Meanwhile, North Carolinas’ leaders in the legislature gave the bulk of their attention to rebuilding the state’s finances so that they could meet their obligations to those loyal soldiers and citizens who fought for liberty.

The property of non-loyal citizens promised to provide the state’s coffers with the additional income it needed without resorting to oppressive taxation. Upon the recommendation of the Continental Congress in 1777, North Carolina’s General Assembly enacted a confiscation law which it subsequently modified and suspended until 1782, despite a petition from Mecklenburg County citizens in 1779 arguing for a more draconian policy.\textsuperscript{14} In 1780, the act suspending confiscations pointedly noted that the money would become a “valuable and permanent fund” for supplying the army or undergirding the state’s wartime paper money emissions. A June 1781 law granted county courts the authority to investigate persons whose loyalty proved suspect and to turn over lists of such disloyal persons’ property to the Commissioners of Confiscated Estates. By 1782, the General Assembly passed a confiscation act that specifically listed

\textsuperscript{13} Laws of North Carolina, 1783, ch.14; 1786, ch.26 (town of Newbern given authority to restrain slaves by its own by-laws but punishment would be under a single justice or the county court).

\textsuperscript{14} Koesy, “Continuity and Change,” 108; Lucas, “Cooling by Degrees,” 17; Waldrup, “James Iredell,” 47; Petition of the Committee Appointed by Inhabitants of Mecklenburg County, GASR Oct-Nov 1779, Box 1. Originally, state policy directed that the confiscated lands would be rented for one year, which the Mecklenburg petitioners considered to be of too short a duration to be of any benefit.
sixty-eight individuals whom the state considered disloyal to the American cause.\textsuperscript{15} The effects of the confiscation acts therefore operated in two distinct realms: a state-generated list of offenders and county-directed investigations. Though state leaders had been wrestling power from the county courts since 1776, the members of the General Assembly still recognized local authority and knowledge as a source of fighting loyalty.\textsuperscript{16}

After Cornwallis had swept through the state, the county courts met to apply the confiscation acts. Unlike the General Assembly, county courts usually relied on jury trials to convict suspected Tories. Dobbs County confiscated debts of private citizens owed to British merchants in excess of three thousand pounds.\textsuperscript{17} Richmond County’s three commissioners of confiscation accused thirty-nine persons of treason but only declared five of them guilty.\textsuperscript{18} Johnston County apparently did not accuse anyone or confiscate estates.\textsuperscript{19} Mountainous Rutherford County, however, confiscated the property of more than one hundred men, occasioning numerous complaints about the zealousness of Justice William Gilbert in his impoundment of property.\textsuperscript{20} Citizens took an active part

\textsuperscript{15} Laws of North Carolina, 1780, ch. 9; Laws of North Carolina, 1781, ch. 4; Laws of North Carolina, 1781, ch. 6; Laws of North Carolina, 1782, ch. 6; Lucas, “Cooling by Degrees,” 25-26. The Committee on Ways and Means in 1782 suggested that the Confiscation Act of that year be amended to pay for the expenses of the civil list. See the Journal of the House, in Clark, State Records, 16:147.
\textsuperscript{16} Koesy, “Continuity and Change,” 114-115. The General Assembly functioned like a county court made up of justices from all over the state (and indeed, a good many representatives were justices) but wartime chaos forced it to share power with the county courts since the British posed a direct threat to the state between 1780 and 1782. On at least two occasions, the state prosecuted justices of the peace for violation of confiscation laws.
\textsuperscript{17} An Account of Debts Condemned to Confiscation in Dobbs County, 1788, British Public Records Office, Exchequer and Audit Department, Claims, American Loyalists, Series I, A.O.12/91, in NCDAH.
\textsuperscript{18} Lee G. Barrow, ed., Richmond County North Carolina Court Minutes, Court of Pleas and Quarter Sessions, Minute Book 1, 1779-1786 (Westminster, MD: Heritage Books, 2007), 27-44.
\textsuperscript{19} William War, Return of Confiscated Estates in Johnston County, 1784 in GASR 1784, Box 1.
in the confiscation process, asking for justice “pursuant to the act of the General Assembly”—not some localist vision of justice—as one petitioner from Bladen wrote. 21

The records of confiscated property land sales reveal three major hotspots of confiscation: the Cape Fear, the western Piedmont, and the Neuse River valley. Bladen County officials confiscated nearly twelve thousand acres while Orange County took almost seventeen thousand. By the late 1780s, the state’s Commissioners of Confiscated Property sold 88,771 acres, netting £192,320. 22

Battles over confiscation’s legality and constitutionality carried the conflicts of wartime through the 1780s, underscoring how the state turned the loyalty of volitional citizens into a contested source of revenue. 23

Like other Revolutionary states, North Carolina’s confiscation policies bear the marks of haste and inefficiency. 24 South Carolina’s General Assembly enacted its confiscation law in 1782 with four hundred names—reduced from over twelve hundred—subject to confiscation or amercement. South Carolina’s General Assembly, responding

Rutherford County petitioned against him in 1782 for plundering, he lost his seat in the General Assembly in 1782 because the election was illegal, the grand jury of the Superior Court of Morgan indicted him for forgery in 1784, and the General Assembly struck him from the list of justices permanently that same year. Officers of Rutherford County, 1782, in Clark, State Records, 16:70, 17:816; Minutes of the House of Commons, in Clark, State Records, 19:337; Petition of David Miller to General Assembly, April-June 1784, Box 1; Minutes of the House of Commons, in Clark, State Records, 19:761.

21 Petition of Robert Baker to the Bladen County Court, August 1782, in the Thomas David Smith McDowell Papers, Box 1, SHC.

22 This analysis is based on Appendix B in DeMond, Loyalists in North Carolina, 240-250.

23 According to Archibald Maclaine, legislators debated in 1783 Captain Read’s (of Wilmington) insistence that the confiscation act funds should be reserved to pay the army. See Archibald Maclaine to George Hooper, June 9, 1783, in Clark, State Records 16:964-965.

to more than one hundred petitions by 1784, soon returned most Loyalist property by 1785 and relieved all but the worst offenders from punishment.\(^{25}\) North Carolina, instead, insisted on confiscation at both the state and local level, spawning retribution in the county courts, civil lawsuits, and acts of violence. Partisans of community autonomy in the General Assembly enacted a law in 1783 granting county courts the authority to investigate the conduct of the state-appointed commissioners of confiscated property but also repealed the nineteenth section of the original 1782 enabling act because county courts stumbled into “innumerable errors” in applying the legislation.\(^{26}\) Governor Martin accused both the Justices of Surry and the Commissioners of Newbern of violating the confiscation laws, noting that a Surry confiscation led to the “private” use of property and that the Newbern courts regularly rendered “irregular & unlawful judgments.”\(^{27}\) In two cases, the state took justices of the peace to court for violating the confiscation acts.\(^{28}\) State policy thus laid the groundwork for escalating dissent over both local and state invasions of property rights.

Petitioners had been questioning the use of state sovereignty to claim the property of loyalists since 1780 when thirty-four merchants from Wilmington protested that

\(^{25}\) Rebecca Nathan Brannon, “Reconciling the Revolution: Resolving Conflict and Rebuilding Community in the Wake of Civil War in South Carolina, 1775-1860” (Ph.D. diss., University of Michigan, 2007), 94-98, 125-128, 142-143, 172, 181, 191, 193, 207, 219-222, 244-246; Rachel N. Klein, Unification of a Slave State: The Rise of the Planter Class in the South Carolina Backcountry, 1760-1808 (Chapel Hill: University of North Carolina Press, 1990), 120-121; Christopher F. Lee, “Establishing a Republic: The South Carolina Assembly, 1783-1800” (Ph.D. diss., University of Virginia, 1986), 349-354. The most violent champions of confiscation in both states came from the backcountry where the war had been the most devastating to public order.

\(^{26}\) Laws of North Carolina, 1783, ch. 15, ch. 19.

\(^{27}\) Governor Martin to Justices of Surry, June 7, 1783, in Clark, State Records 16:798; Governor Martin to Commissioners in Newbern, November 2, 1782, in Clark, State Records 16:451.

\(^{28}\) State v. Justices of Jones (Blackshare v. Leigh), 1783 in New Bern Superior Court Records, Miscellaneous Papers, Box 1, NCDAH; State and Artis v. Justices of Johnston County, 1783 in New Bern Superior Court Records, Miscellaneous Papers, Box 1, NCDAH.
Figure 2. North Carolina in 1783
confiscation was “contrary to the usage and custom of civilized nations.” The mercantile interest of North Carolina’s major port city considered confiscation’s denial of property rights as a threat to the state’s future ability to be commercially successful.\textsuperscript{29} Despite the opposition of some men from Wilkes County, North Carolina’s Moravians made a successful case for avoiding confiscation when they petitioned the General Assembly in 1781 to have their land ownership confirmed.\textsuperscript{30} John Camp, one of the men who lost his land under the authority of the Rutherford County court in 1782, trumped the local peace by petitioning against William Gilbert’s “Unjust Unlawfull and Unconstitutional” seizures of property and even household goods.\textsuperscript{31} But one of the largest petitioning campaigns against the implementation of confiscation—and, indeed, against the state’s lack of governance—emerged out of Salisbury and Mecklenburg County in 1782. More than five hundred petitioners criticized state policy in fifteen areas, including confiscation.\textsuperscript{32}

The 1782 western petitions all started with a declaration of rights: “As it is at all times the privileges of freemen in republican governments to address their rulers and have reason to expect that their grievances and distress will have such degree of attention paid to them as circumstance will admit and the subject requires . . . .” Such a claim of rights was perhaps unnecessary given its protection in the North Carolina Declaration of Rights, yet the petitioners’ insistence on it suggests the novelty of popular sovereignty as applied to the real world of citizens’ concerns. The petitioners remonstrated against the

\textsuperscript{29} Petition of Merchants of Wilmington, GASR 1780, Box 1. The names on the petition included a fierce opponent of confiscation, Archibald Maclaine, who served in the General Assembly for most of the 1780s.
\textsuperscript{30} Fries, Records of the Moravians, 4:1791-1792.
\textsuperscript{31} Petition of John Camp, GASR, 1784, Box 1.
\textsuperscript{32} Petitions from Salisbury and Mecklenburg, GASR, 1782, Box 1.
lack of “civil government” in the state, the lack of courts, military control over civil authorities, the lack of settlement of public accounts, impressment of commodities, abuses of the militia, and the lack of encouragement to literature and learning. They did not protest against confiscation itself, but its implementation: great “robberies and acts of violence have been committed on what is called tory property and that property applied to private purposes . . . .”

The House of Commons referred the petitions to the committee of propositions and grievances but no report has survived revealing the General Assembly’s response. Typically, such petitions critical of state policies did not get a response because they did not ask for specific intervention to remedy a wronged individual or community. The General Assembly usually regarded such remonstrances as source of political information about policy and often “laid [them] on the table” for the benefit of information to the legislators.

While petitions contoured state policy from below, the politics of national treaty making from above posed a serious challenge to confiscation. Rumors of a definitive treaty of peace between the United States and Great Britain abounded in the spring of 1783. Wilmington lawyer and legislator Archibald Maclaine told his son-in-law George Hooper that, although the treaty of peace would stop all “prosecutions” against loyalists, he seriously doubted if North Carolina would “pay any regard” to the treaty since many men stood to profit from confiscation. Maclaine relied on the provisions of the Treaty of Paris to argue that the state’s scale of depreciation law, passed in 1783,

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33 Petitions from Salisbury and Mecklenburg, GASR, 1782, Box 1.
34 The general provisions of the treaty became known in the spring of 1783, but Maclaine reported that a copy first appeared in the state in a Newbern newspaper in December 1783. See Archibald Maclaine to George Hooper, December 30, 1783, in Clark, State Records, 16:1000-1001.
35 Archibald Maclaine to George Hooper, April 29, 1783, in Clark, State Records, 16:597.
violated the fourth article of the treaty by preventing creditors from obtaining the full amount of debts owed to them. Maclaine averred to the House of Commons that such a scale of depreciation, designed to regulate the value of North Carolina’s paper money emissions over time, would destroy “commercial confidence” and prevent other nations from trusting the United States. Despite Maclaine’s protest, the scale of depreciation passed, along with a one-year stay law that explicitly recognized that officials had confiscated property “not strictly agreeable to law.”

Maclaine’s letters to his merchant son-in-law paint a clear picture of the community conflict occasioned by confiscation and wartime proscription of loyalists. Those who supported confiscation, according to Maclaine, had committed “the dignity of their respective offices to the mob.” The Whig lawyer railed against Wilmington bully Jack Walker for trying to excite the people to drive away loyalist refugees; with great disgust he noted that the rioters in nearby Bladen County received no punishment—even the ones who had beaten Maclaine after he defended a “Tory” before the county court—because the judges feared the people. But the Treaty of Peace promised a means by which Maclaine could appeal to the sanctity of the law over the demands of a motley democracy. If petitions alone could not reverse the course of the General Assembly, a

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36 Protest Against the Scale of Depreciation in the House of Commons, in Clark, State Records, 19:349-351. Laws of North Carolina, 1783, ch. 4, ch. 5.
37 Archibald Maclaine to George Hooper, September 1, 1783, in Clark, State Records, 16:979-980.
38 Archibald Maclaine to George Hooper, October 8, 1783, in Clark, State Records, 16:984-986; Archibald Maclaine to George Hooper, October 13, 1783, in Clark, State Records, 16:986-987; Archibald Maclaine to George Hooper, December 16, 1783, in Clark, State Records, 16:990-993.
countervailing power outside of it—the national government—could pressure the state to adhere to the principles of law and justice.\(^39\)

Maclaine missed his opportunity to fulminate against confiscation in the fall of 1783 because the General Assembly failed to make a quorum. Perhaps their failure resulted from intended delay: they would not have to consider the Treaty of Peace if they did not convene.\(^40\) A series of resolves from Edenton, made in August 1783, would have certainly been introduced into the General Assembly that fall under the notion that “it is the undoubted right of the people at all times, either collectively or individually, to express their sentiments on the situation of public affairs.” Written largely by conservative lawyers Samuel Johnston and his son-in-law James Iredell, the resolutions asked the General Assembly to avoid allowing public policy to be motivated by “revenge” and to “sacredly” fulfill the terms of the Treaty of Paris so that North Carolinians would not appear “so mean as well as perfidious, as . . . to be disposed to violate a most solemn engagement of our Government.”\(^41\) The themes of honor,

\(^39\) Similar conflicts over the demands of the people and national treaty-making power emerge in the study of other states. New Hampshire did not approve the Treaty of Paris until 1786; see Daniell, *Experiment in Republicanism*, 198. In New York, confiscations actually increased after the treaty was signed. See Daniel Hulsebosch, *Constituting Empire: New York and the Transformation of Constitutionalism in the Atlantic World, 1664-1830* (Chapel Hill: The University of North Carolina Press, 2005), 192. Across the union, more nationalist-minded men, often lawyers, worried about a future in which the sanctity of property appeared threatened by legislative supremacy.

\(^40\) Archibald Maclaine to George Hooper, December 20, 1783, in Clark, *State Records* 16:994-995. The House of Commons had tried and failed (by a margin of 24 votes) to pass a bill the previous spring to enforce attendance, implying the representatives shirked their duty because they saw little to interest them in state governance as long as county governments functioned fine. See Clark, *State Records* 19:295-296.

sacredness of contract, and conciliation animated the Edenton resolves as they would in the future resound in the ratification debates over the proposed federal constitution.

Congress, in January 1784, recommended to the governors of the states that each amend their laws regarding confiscation and return property to “real British subjects.” When the General Assembly did meet in the spring of 1784, opponents of returning confiscated property insisted on a narrow definition for “real British subjects” based on the interpretation of that phrase given by the state’s representatives in Congress.

Delegate Richard D. Spaight, writing to Governor Alexander Martin, provided two letters passed between the treaty commissioners that implied that the “restoration of the property of refugees, or compensation” was not discussed either by the British or the Americans. Delegate Hugh Williamson, writing a few days later, noted the term “real British subject” did not apply to either Tories or Loyalists; real British subjects were those people who never owed loyalty to the state and who had never incurred blame by taking up arms against North Carolina. Even Archibald Maclaine made a distinction between “unoffending” British subjects and those who took arms against the state, though such distinctions in principle did not render identification of “unoffending” British subjects

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any easier at the local level, especially when politicians rode the hobby horse of confiscation.\[45\]

During the spring 1784 General Assembly session, bills for making the laws of the state conform to the treaty and for making a “system” out of the confiscation laws failed. The House of Commons accepted the Treaty of Paris except for the infamous fifth article concerning debts of real British citizens and sent its conclusions to the Senate; a committee appointed to examine the governor’s papers (including the treaty) recommended all of the articles except for the offending fifth.\[46\] When the bill to repeal all laws inconsistent with the Treaty of Peace failed in the House by a margin of five votes, Hillsborough lawyer William Hooper entered a dissent on the journals accusing the legislature of violating a “sacred obligation” and sacrificing the “political character” of North Carolina. Hooper warned that such a rejection of the treaty could only involve the state and the nation in a “new and destructive War.”\[47\]

While the Treaty of Paris did not fare well in the 1784 Assembly, a bill for amending the confiscation laws also failed to pass.\[48\] According to Archibald Maclaine, the new confiscation act would have added new names to the state’s list of proscribed citizens. General Griffith Rutherford, who apparently considered Tories “Imps from

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\[45\] Archibald Maclaine to George Hooper, April 21, 1784, in Clark, State Records, 17:134-135.
\[46\] Samuel Johnston to James Iredell, May 1, 1784 in Kelly and Baradell, James Iredell, 3:58.

The bill added names to the confiscation list but would have also return unsold property to those named in the bill provided that they settle in North Carolina or sell their property. The bill would not have overturned any sales already made. See Clark, State Records, 19:672. Samuel Johnston attempted to amend the bill to provide pardon for all those who were not named in the bill, thus possibly upsetting the confiscations that had taken place in the counties. William Hooper protested against the rejection of the bill on its first reading in the House of Commons because such a rejection denied the Senate a right to consider the bill. See Clark, State Records, 19:715.
Hell,” added four names to the list while Timothy Bloodworth of the rural regions around Wilmington would have “depopulated” New Hanover County with his additions. Bloodworth told his fellow legislators that he had “instructions” from his constituents to add names to the list, but legislator Benjamin Hawkins ridiculed Bloodworth’s supposed instructions. The bill eventually failed to pass the House of Commons, leaving intact the state’s previously created confiscation system. Ironically, Bloodworth’s instructions led Maclaine to suppose that he, too, should gather his “friends” in the Cape Fear and “procure constitutional instructions” to be laid before the General Assembly. Though the people had hitherto been exercising their sovereignty in elections, petitions, and remonstrances, legislators were discovering the power of the people’s voice in policy making. Maclaine even wanted to flood the public sphere with “moderating” examples of confiscation laws from South Carolina and Georgia in order to create community consensus on policy that he favored. Regardless of public opinion or General Assembly

49 General Griffith Rutherford had a record of prosecution of tories stemming from his war experience, including the sacking of his home in Rowan County by the British in 1781. Rutherford also had pecuniary motives since he served as Commissioner of Confiscated Property for the Salisbury district in 1782 and earned commissions on his sales. See MacDonald, “Griffith Rutherford,” 138, 162, 165, 167. Timothy Bloodworth, preacher, doctor, blacksmith, farmer, and politician, frequently associated with Wilmington’s Jack Walker in prosecution of Tories. Bloodworth resigned as Commissioner of Confiscated Property for the Wilmington District in April 1784 because no sheriffs would make returns of confiscated property to him. Bloodworth later served in Continental Congress and became an ardent anti-federalist. See Resignation of Timothy Bloodworth to Governor Martin, April 18, 1784, in GASR April-June 1784, Box 1; William S. Powell, Dictionary of North Carolina Biography, 6 vols. (Chapel Hill: The University of North Carolina Press, 1979-1996), 1:177.


51 Archibald Maclaine to George Hooper, June 18, 1784, in Clark, State Records, 17:147-148. Maclaine had in 1783 promised to Charleston send some “animadversions” upon the state’s public bills for publication, but none have been found in Charleston newspapers. See Archibald Maclaine to George Hooper, May 29, 1783, in Clark, State Records, 16:963.
legislating, Maclaine and his fellow lawyers determined immediately to bring cases of loyalist property to court under the fifth article of the treaty. ⁵²

While state leaders debated the wisdom of confiscating loyalist property, they also confronted mounting fiscal problems occasioned by the state’s desire to compensate its citizens for wartime deprivations and soldiers for their service. The demands of war had thoroughly discredited North Carolina’s ability to keep accurate accounts, to raise revenue, and to pay its creditors. Nonetheless, North Carolina’s fiscal failures underscored difficulties facing all post-revolutionary states. ⁵³ Paying claims to citizens and soldiers occasioned even more petitioning than confiscation, although the employment of paper money as a solution enraged Whig lawyers seeking to protect the sanctity of contracts by collecting on debts owed to loyalist merchants. Petitioning for payment of claims helped to reinforce the state’s sovereignty, giving the General Assembly the appearance of responding to the financial needs of its citizens.

Of the nearly four hundred petitions sent to the General Assembly by individuals between 1780 and 1784, thirty-eight percent concerned claims against the state. These claims originated in impressment of goods, homes, and slaves during the war, compensation for service to the state, or restoration of lost property resulting from Tory or British activities. Justification for successful claims rested largely on the portion of the declaration of rights that made “Public Services” the only criterion for granting

⁵² Archibald Maclaine to George Hooper, June 25, 1784, in Clark, State Records, 17:148-151.
“exclusive or Separate Emoluments or Privileges.” Many of the claims for payment originated in impressment of goods during the war, requiring the General Assembly to augment its original Board of Auditors with a set of district auditors in 1781. District auditors issued certificates, good for the payment of taxes, to replace vouchers given by state and military officials. Fluctuating standards of value in different certificates—some “notes on the Assembly” and others in interest-bearing certificates based on Spanish milled dollars—soon resulted in the General Assembly ordering that all public claims as of May 1782 would be liquidated in specie, though the lack of specie in fact meant the use of more certificates. The state soon began to pay both citizen and soldier alike in gratitude for wartime services as well as to ensure the loyalty of future tax-paying citizens.

A frequent complaint among petitioners about the state’s fiscal decisions rested on the depreciation of paper money and certificates. The state had issued nearly seven million in paper currency before 1780 and another thirteen million afterwards, with the spiraling depreciation antagonizing both public officials and citizens. In a short-lived attempt at price controls, state lawmakers blamed depreciation on the “wicked arts of a set of men called speculators.” The “fluctuating state of the currency” even led to the

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57 Morrill, *Fiat Finance*, 16-17.
58 *Laws of North Carolina*, May 1780, ch.4. The law against “engrossing and forestalling” was repealed within four months because it did not produce the “good effects intended” and was “prejudicial to commerce.” *Laws of North Carolina*, September 1780, ch.9.
suspension of the confiscation acts in 1780. Public officials like state printer James Davis complained that his allowance of £1,200 depreciated to £25 in real value. State superior court judge James Iredell complained that his salary could not support him while the Officers of the Continental Line protested to no avail about the state of their depreciated pay. Ann Glover, whose husband was executed for some infraction, complained to the General Assembly that, although her husband showed “Allegiance to our Country and obedience to those in authority,” he must “shrink from his Duty when his Services are not paid and injustice oppresses him and his Family.” Though the General Assembly tabled Glover’s petition, they did not generally deny the debt owed to public servants, citizens, and soldiers.

In order to fund the just claims of soldiers and citizens, the state had to streamline its tax collection and accounting procedures. State officials collected provisions for the support of the military in a series of “specific” taxes and in May 1782 established a state-wide tax on lands, slaves under sixty years, horses, cattle, mules, stock in trade, and carriage wheels. If citizens could not obtain money, they could pay their taxes in tobacco, beeswax, deer skins, tallow, indigo, flour, rice, pork, and linen. That county courts frequently failed to submit their taxes can be judged by petitions from sheriffs seeking permission to collect arrearages of taxes for past years as well as a treasurer’s

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60 Petition of James Davis, GASR April-May 1780, Box 1.
61 Petition of James Iredell, GASR August-September 1780, Box 1; Officers of the North Carolina Continental Line to General Assembly, January-February 1781, Box 1. The General Assembly adjourned without responding to the complaints of the Continental Line. For more of Iredell’s complaints see James Iredell to Hannah Iredell, May 22, 1780 and April 16, 1783 in McRee, *James Iredell*, 1:451, 2:42-43.
62 Petition of Ann Glover, GASR April-May 1780, Box 1.
64 *Laws of North Carolina*, May 1782, ch.10.
report from 1790 showing the total amount of arrears adding up to over £50,000.\textsuperscript{65} Governor Alexander Martin warned the clerks of the county courts in 1783 that the state would prosecute them if they did not make their returns within three months, implying past malfeasance in county finances that Martin wished to avoid.\textsuperscript{66} Despite needing to pay its just claims, however, North Carolina’s tax collection and accounting institutions evolved slowly toward efficiency, not achieving stasis until the 1790s. Faced with the claims of soldiers, the state instead turned to fiat finance through paper money on two occasions in the 1780s.

In May 1782, North Carolina established a board to liquidate claims of the Continental Line through certificates and land grants in the western territory.\textsuperscript{67} As a further measure, the General Assembly emitted £100,000 in currency—on the “faith and credit of this state”—in May 1783, setting aside £72,000 for the liquidation of soldier’s claims.\textsuperscript{68} Money brought in from confiscated land purchases would be used to redeem the paper currency.\textsuperscript{69} Simultaneously the legislature also enacted a scale of depreciation, directing jurors to render verdicts in specie no matter the nominal value of the currency in

\textsuperscript{65} North Carolina granted Isaac Gregory the authority to collect arrears covering 1769-1774, Richmond Pearson for 1781, and Arthur Brown for 1774-1775; see\textit{ Laws of North Carolina}, April-May 1784, ch.54, ch.55, and ch.56. See also Petition of Henry I. Toole, GASR April-June 1784, Box 1. For arrears by 1789, see A List of Balances due from the Several Sheriffs in the State of North Carolina for the years 1784, 1785, 1786, 1787, 1788, & 1789 in GASR 1790, Box 2.\textsuperscript{66} Governor Alexander Martin to the Clerks of County Courts, January 17, 1783 in Clark,\textit{ State Records}, 16:726. Wilkes County’s William T. Lewis complained in October 1783 that the people paid no regard to his “warrants” and thus he could not complete his accounts. See William T. Lewis to unidentified, October 1783 in GASR April-June 1784, Box 1.\textsuperscript{67}\textit{ Laws of North Carolina}, May 1782, ch.3.\textsuperscript{68} Minutes of the North Carolina Senate, 1783 in Clark,\textit{ State Record}, 19:186, 222. Despite his opposition to paper money, Archibald Maclaine introduced a petition on behalf of the officers and soldiers of the North Carolina line that helped to justify the emission. See Journal of the House, 1783 session, in Clark,\textit{ State Record}, 19:289.\textsuperscript{69}\textit{ Laws of North Carolina}, May 1783, ch.1. Technically, no mechanism linked redemption of the money to confiscated land sales, leading one historian to conclude that the Assembly was interested more in appearance than reality. See Morrill,\textit{ Fiat Finance}, 59.
the original debt.70 Lawyer William R. Davie expressed the belief that such policies would cause the “poor Merchant” to see his money “vanish like Magic . . . .”71 One legislator called the emission “disagreeable” but understood that it would relieve the “distress of the Army.”72 European traveler Johann David Schoepf observed that in general the people of the state opposed the measure, regarding a one-year stay law as the only reason that the people accepted the new fiat currency.73 Begrudgingly, even the leaders of the public meeting in August 1783 in Edenton accepted the measure, believing that “the last emission was made unwillingly by the Assembly, and solely for the relief of our officers and soldiers, who were suffering the most cruel distresses . . . .”74

Though General Assembly intended the fiat currency to lubricate the wheels of commerce, to pay the state’s expenses, and to do justice to its soldiers, it found it aims frustrated. First, even soldiers seemed wary of the money, considering the bills so “fine and thin” as to cause them to wear out before they could be redeemed; when one general found that his troops would not accept damaged bills, he made cuts in the money and told the men to take what they could get.75 Funds must have dissipated quickly because state printer James Davis told the General Assembly in the spring of 1784 that the state treasurer refused to pay him, citing the need to retain the money for the auditors and other

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70 Laws of North Carolina, May 1783, ch.4.
72 Charles Johnson to Richard Bennehan, May 5, 1783 in Clark, State Records, 16:961.
74 Notes of a Meeting of the Inhabitants of Edenton, August 1, 1783 in McRee, James Iredell, 2:63.
75 Schoepf, Travels, 130.
claimants. The bills soon depreciated twenty-five percent, leading Moravians to resist accepting the money even though their refusal gave “evil-minded persons” something to “complain about.” Four Moravian merchants found themselves before the Surry County court accused of depreciating the value of the paper money, with two of them receiving fines. Both Archibald Maclaine and James Iredell noted that real money became scarcer after the emission due to specie hoarding. The 1783 emission, though couched in terms of responding to the needs of citizens, proved less than palatable in its effects.

Though the 1783 emission aimed to reward the state’s soldiers and pay the operating expenses of government, it did not result purely from disinterested domestic motives. While the emission responded to petitioners’ cries for compensation, it also short-circuited federal attempts to centralize pay of the Continental troops. Robert Morris had intended for Congress to assume payments for arrears to the Continental line and thereby secure the loyalty of the soldiers to the central government. North Carolina’s leaders, knowing that the state had made no contributions to Congress during the war, undertook the reward of soldiers, hoping both to secure their loyalty and then deduct the sums from its debts to Congress. Congressional delegates Hugh Williamson

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76 Petition of James Davis, GASR April-June 1784, Box 2.
77 Fries, Records of the Moravians, 4:2045, 2019, 2074.
78 James Iredell to Hannah Iredell, April 16, 1783 in McRee, James Iredell, 2:42-43; Archibald Maclaine to George Hooper, January 17, 1784 in Clark, State Records, 17:126.
79 See the Resolution of the Continental Congress Concerning Pay for Troops, May 2, 1783, in Clark, State Records 16:784-785, which urged states to send in requisitions to the federal government before the army disbanded so that the federal government would have the money to pay the soldiers. Robert Morris himself addressed Governor Martin in late 1783, asserting that he only wished to “do them [the soldiers] Justice” as he enclosed two Congressional resolutions, one of which asserted that Congress would accept no payments to soldiers by states for 1782. See Robert Morris to Governor Alexander Martin, October 1, 1783 in Clark, State Records, 16:898-900.
80 North Carolina’s delegates in Congress told Governor Martin in 1782 that the state had for a long time been viewed as being “backward in performing” her duties to fund the war. See North Carolina
and William Blount explained the logic of loyalty to Governor Martin in March 1783:
“...every state must in one place or another pay its quota of the Public debt and such
quota or any other large debt may be more easily and more profitably paid to the people
within the State than to foreigners or people without the State.” Williamson and Blount
argued that it made no sense for North Carolina to lessen its share of national debt by
wronging “our fellows Citizens” of the money that could stay within the State. They
wanted to be understood not as recommending “dishonesty” but instead a “diligent
attention” to rewarding the state’s citizens consistent with “strict Justice and good
faith.”

Strict justice and good faith animated both sides of a growing public debate over
North Carolina’s currency between 1783 and 1784. That debate helped to fill the pages
of newly established newspapers, though it could not keep them in circulation for long.
The war silenced the last newspaper in publication in 1778 until Robert Keith, utilizing
the equipment of state printers James and Thomas Davis, started the North Carolina
Gazette or Impartial Intelligencer and Weekly General Advertiser in 1783. Soon,
Thomas Davis, son of North Carolina’s first printer James Davis, followed Keith into
newspaper publishing with his own North Carolina Gazette. Davis expanded his
newspaper business to Halifax and Hillsborough within two years even as competition

Delegates to Governor Alexander Martin, August 13, 1782, in Smith, Letters of Delegates, 19:13. Morrill,
Fiat Finance, 132-138.
81 Hugh Williamson and William Blount to Governor Alexander Martin, March 24, 1783, in Clark,
State Records, 16:757.
82 Scott Aaron Reavis, “James Davis: North Carolina’s First Printer” (Master’s thesis, University
Eighteenth Century (Brooklyn: Historical Printing Club, 1891), 34-36; Alonzo Thomas Dill, Jr.,
“Eighteenth Century New Bern, Part VIII” NCHR 23:4 (October 1946), 497-498; Charles C. Crittenden,
“North Carolina Newspapers Before 1790,” James Sprunt Historical Studies 20:1(Chapel Hill: University
emerged in Newbern from Francois X. Martin and Abraham Hodge and Andrew Blanchard. Very few of these early newspaper ventures survived more than two years and a rather limited set of issues remain extant. Nonetheless, the political debates over North Carolina’s fiscal policies dominate the issues remaining, pointing to a deeply fractured public debate over the various monies the state had employed to pay its debts since 1776. Legislators meeting in the spring of 1784 soon stoked the fires of conflict when they changed the tax laws.

The same spring 1784 assembly that considered amending the confiscation laws and repealing all laws contrary to the Treaty of Peace made two substantial changes to tax policy that directly benefited merchants and large landowners. The hated tax on stock-in-trade, much despised by Archibald Maclaine and participants in the August 1783 Edenton town meeting, disappeared from the tax code. State leaders also shifted toward a taxation model based on the quantity of lands owned rather than the assessed value of those lands; therefore, a man with one hundred acres of “poor” land would pay the same as a man with one hundred acres of “prime” property. Citizens could pay their taxes in gold or silver, in depreciated continental or state dollar bills, in specie certificates at their nominal value, or currency certificates; citizens could pay only one-half of their taxes,

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84 Edenton Address, August 1783, in McRee, James Iredell, 2:64-65. Twenty-three Edenton merchants had petitioned against the stock-in-trade provision in 1780; see Petition of the Inhabitants of Edenton, GASR August-September 1780, Box 1. Archibald Maclaine had led an unsuccessful attempt to remove the tax provision in the 1783 General Assembly, but lost by a single vote; see Archibald Maclaine to George Hooper, April 29, 1783, in Clark, State Records, 16:967.
changing tax rates also signaled that a greater share of the state’s tax burden fell upon owners of town lots (assessed for value instead of by size) and the less affluent; direct property taxes tripled between 1782 and 1784. The state’s need for money, to satisfy Revolutionary War claims, to pay its Congressional requisitions, and to fund its own operating expenses, had pushed state leaders toward more aggressive tax policies.

Provisions eliminating assessed value on property taxes largely benefitted easterners who held large, valuable tracts of land. It also tended to benefit land speculators who paid a flat rate for their investments. “Numerus,” writing in the North Carolina Gazette thanked easterners like Archibald Maclaine and Abner Nash for their efforts in supporting a “reasonable tax on all lands . . . .” More important to public debate than the land tax, however, was the question of nominal versus depreciated values of the various currencies issued in North Carolina. An essayist in the North Carolina Gazette and Impartial Intelligencer believed that the “public creditor” should not receive his due through the oppression of the “people” by onerous taxes. “One of the People” argued that the hard money certificates issued by auditors during the war allowed for depreciation and should therefore not be accepted at their nominal value. Indeed, “One of the People” asserted that the state should differentiate between the holders of original

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86 Laws of North Carolina, June 1784, ch.6. Currency certificates—issued by the auditors of the State—were valued by the Confiscation Act of 1782 at 150 to 1 for certificates issued before 1781 and 800 to 1 after that date. See Laws of North Carolina, 1782, ch.6.


88 The benefit could only be realized when the taxes paid decreased as a result of not considering the assessed value of the property. Therefore, some speculators—like John Gray and William Blount—soon realized that paying flat taxes on their less valuable lands increased their tax burdens.

89 North Carolina Gazette (Newbern, Thomas Davis), December 9, 1784.
certificates and those who held circulated certificates; the state should honor “original”
certificates at their true value while valuing circulated certificates according to the values
they acquired in the counties where they flowed as currency. By issuing new certificates
based on the scale of depreciation—while respecting holders of “original certificates”—
the state could avoid “very large taxes.”90 “Another One of the People,” in response,
worried why preference should be given to specie certificates at all when compared to
those who held the (now horribly) depreciated money issued in 1776. “Another One”
suggested redemption of all certificates in the same manner as paper money by requiring
that one-half of all future taxes be paid in them.91

Though anonymous essayists likely captured the concerns of learned elites, they
reflected anxieties felt across the state as embodied in anti-taxation petitions to the
General Assembly in the fall of 1784. The two hundred petitioners from Duplin and New
Hanover counties noted that “with becoming confidence” they expected that the General
Assembly would dispense “equally among the Citizens of this State the Blessings of a
free and impartial Government” through tax provisions that fell upon all classes of
citizens uniformly. “So obviously partial to the Wealthy part of the Community” was the
new mode of taxation that the petitioners expressed shock and expected that the
legislators would undo the “deviation from Justice” launched the previous spring.92

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90 North Carolina Gazette and Impartial Intelligencer (Newbern, Robert Keith), September 2,
1784.
91 North Carolina Gazette (Newbern, Thomas Davis), December 9, 1784.
92 Petition of the Inhabitants of the State Regarding Taxes, November 5, 1784, in GASR October-
November 1784, Box 1. The petitioners did not indicate their location in the petition but extant census
records from 1784-1786 allow a reconstruction of the petition’s origins. The New Hanover petitioners
came mostly from the Black River settlements—the stronghold of the county’s anti-Tory, pro-confiscation,
and pro-paper money leaders like the Bloodworth and Walker families. The rest of the petitioners came
from Duplin County, just across the border from the Black River settlements. Alvareda Kenan Register,
Similarly, the merchants and traders of Edenton felt aggrieved at state tax policies that not only kept high rates on town lots but also taxed imports and items sold at public vendue. “We beg leave to Observe to your Honourable Body,” the thirty-three Edenton merchants suggested, “that it hath been the Policy of all Wise Governments to Grant particular Priviledges Franchises, and Immunities to Commercial Towns for the Encouragement of Trade . . . .” Complaining that they had committed no crime to bear such odious and excessive taxation, the Edenton merchants asked for more favorable policy. With opposed viewpoints on tax policies, but in agreement in their suffering, the two petitions captured state-wide resentments. Yet, the General Assembly needed to pay its share of Congressional requisitions and the national debt, seeing no other alternatives to raise the funds.

Petitions from below as well as pressures from the national government animated the politics of confiscation and paper money as did the third major policy initiative of state leaders to woo the loyalty of soldiers: military land bounties. An “address” from the militia officers of Rowan County in 1778 actually launched the policy consideration of holding western lands in reserve for soldiers. By 1780 the state offered new recruits

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93 Petition and Remonstrance of the Merchants and Traders of Edenton, October 29, 1784, in GASR Oct-Nov 1784, Box 1.
94 Report of the Committee on the Public Papers, May 21, 1784 in GASR Apr-Jun 1784, Box 1; Report of the Committee on the Governor’s Message, May 11, 1784 in GASR Apr-June 1784, Box 1; Committee on the Necessary Expences for the Year 1785, November 8, 1784 in GASR Oct-Nov 1784, Box 1.
95 Address from Rowan Militia Officers for Consideration to the General Assembly in Clark, State Records, 13:389-390. “We further humbly conceive that some early measures ought to be passed in order to preserve or provide Lands for those officers and soldiers of this State who are abroad in the regular service, and to whom we are under such obligation.”
one “prime slave,” or the value of a slave, and two hundred acres of western land in exchange for three years of service.⁹⁶ In 1782, the state outlined its post-war reward policy for officers and soldiers of the Continental line “who have suffered by depreciation”: each grade of soldier from private to brigadier general could claim a certain amount of acres to be set aside on a military reservation in the west. The act specified no mechanism for issuing the bounties until a later amendment directed soldiers to apply to the Secretary of State of North Carolina in order to receive a land warrant.⁹⁷ By 1790, North Carolina had issued some 3,723 warrants, totaling 2,789,224 acres in what would become the state of Tennessee.⁹⁸

The General Assembly intended by 1783 enabling legislation to open a land office to dispose of vacant lands—establishing tax-paying citizens upon them—and to redeem specie and other certificates from the public. Rewarding soldiers and the public for their support of the state during the Revolution had required issuing certificates and now the state intended to make good on its fiduciary duty by granting property, its major asset. Most other states similarly made use of public land to protect citizens from economic dislocation.⁹⁹ Hoping to reap the rewards of future loyal tax-paying settlers, state leaders failed to recognize three major problems in their land policies. First, Congress had been pressuring the states for cession of western lands for some time, intending to use western territories as payment for the Continental line. Second, a number of squatters already

⁹⁶ Laws of North Carolina, May 1780, ch.25.
⁹⁷ Laws of North Carolina, May 1782, ch.3; Laws of North Carolina, May 1783, ch.3.
inhabited eastern Tennessee, having moved there some ten years before the Revolution. Third, Cherokee leaders inclined toward accommodation looked to North Carolina and Congress to protect their lands from incursions of whites who crept ever closer to their towns. North Carolina leaders could not see that the pursuit of a policy of loyalty would embroil the state’s western lands in conflicts lasting until the 1820s. Petitioners’ demands for justice—both settler and Indian alike—frequently consumed the state’s attention for the next twenty years.

Settlers in what would become eastern Tennessee petitioned the General Assembly for the creation of a new county out of their settlements in 1776. North Carolina’s leaders responded by creating Washington County, followed by Sullivan and Greene Counties within a few years. By 1782, Captain Martin Armstrong warned Brigadier General Jethro Sumner that the settlers in the Cumberland River valley had waxed so numerous that they could defend themselves without government aid and had started settling on lands that should be reserved for soldiers. North Carolina’s delegate to Congress, Hugh Williamson, told Governor Alexander Martin that he believed the people of the region would not “run riot” as long as North Carolina avoided making “bad impressions” on the westerners. Both Williamson and delegate William Blount

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102 Captain Martin Armstrong to Brigadier General Jethro Sumner, February 26, 1782 in Clark, *State Records*, 16:524-526. Armstrong was encouraging Sumner to petition the General Assembly about the western lands for soldiers. They did: Petition of the Officers of the North Carolina Line, GASR April-May 1782, Box 1.
103 Williamson and other delegates in Congress were preoccupied with the situations in Vermont and western Pennsylvania. Hugh Williamson to Governor Alexander Martin, November 18, 1782 in Clark, *State Records*, 16:459-460.
favored the cession of these western lands to Congress—as Virginia would do in 1782—because cession would reduce North Carolina’s share of the war debt. At the same time, neither Williamson nor Blount wanted to jeopardize land titles in the region, given their extensive investment in land speculation there. A number of other North Carolinians speculated in western territory: Judge Richard Henderson bought twenty million acres from the Cherokee in 1775 while future governor Richard Caswell, delegate William Blount, General Griffith Rutherford, John Donelson, and Joseph Martin pooled resources to buy the Muscle Shoals in what became Alabama. Indeed, William Blount had introduced the “Land Grab Act” of 1783 that opened for sale all unappropriated lands in Tennessee at £10 per one hundred acres.

Between 1782 and 1784, a number of settlers in the west petitioned the General Assembly for implementation of governance in order to eliminate the “state of Anarchy” that seemed to prevail on the frontier. The General Assembly denied and delayed answering some of their requests, causing westerners to resent North Carolina’s slowness. At the same time, accommodationist Cherokees led by Corn Tassel repeatedly asked Governor Alexander Martin to “not suffer your people to take all our Country from

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104 Koesy, “Continuity and Change,” 220; Hugh Williamson to Governor Alexander Martin, March 28, 1783, GPSS 10, NCDAH.
105 Koesy, “Continuity and Change,” 210; Barksdale, Lost State of Franklin, 32, 34, 64; Fritz, American Sovereigns, 56-59; Risjord, Chesapeake Politics, 223-225; Richard Caswell to John Sevier, February 27, 1787, John Sevier Papers, PLD; William Blount to Joseph Martin, October 26, 1783 in the Draper Manuscripts, NCDAH.
106 Petition of Western Inhabitants, GASR April-May 1782, Box 2 (350 signatures); Petition of Inhabitants on the Cumberland River, GASR April-May 1782, Box 2 (259 signatures); Petition of the Western Inhabitants, GASR April-May 1783, Box 2 (426 signatures); Petition of Inhabitants of Sullivan County, GASR April-May 1783, Box 2; Petition of the Inhabitants on the Cumberland River, GASR April-May 1783, Box 2 (172 signatures); Petition of the People Settled over French Broad River, GASR April-June 1784, Box 1 (212 signatures); Petition of the Inhabitants of Greene County, GASR April-June 1784, Box 1 (39 signatures); Petition of the Inhabitants of Davidson, GASR April-June 1784, Box 3 (128 signatures).
107 Barksdale, Lost State of Franklin, 53-58.
North Carolina’s tardiness in responding to Cherokee complaints contributed to discontent among younger warriors. Despite the land law of 1783 regulating purchases of western territory—requiring North Carolinians to stay out of Cherokee lands on pain of £50 penalty—white settlers and squatters repeatedly invaded Cherokee hunting grounds and settled within a few miles of principal Cherokee towns like Chota.  

A Moravian missionary on a reconnaissance trip in 1783 reported that white squatters “would like to wipe out the Indians, and take their lands for themselves; they hardly consider them as human beings, as I often saw from their remarks, to my sorrow.” These squatters illegally occupied lands close to Cherokee towns south of the French Broad River and petitioned the General Assembly for preemption rights, knowing that their settlements violated state codes. “That a considerable time before any Land Law was Made any Office for the same opened or any profitable or rational presumption where a Boundary between the inhabitants and the Indians should be determined,” one western petition argued, “a considerable number of adventurers of whom our petitioners are a part being pressed upon by want of Comfortable Settlements set out with the Intention to improve and cultivate as prescribed by the Old Land Law such lands as they should find unsettled and uncultivated . . . .”  

North Carolina’s General Assembly

108 Talk by Corn Tassel to Col. Joseph Martin, October 10, 1784 in Clark, State Records, 17:175-176. See also Governor Martin to the Chiefs & Warriors of all the Friendly Towns of the Cherokee Nation, May 25, 1783 in Clark, State Records, 16:810 and Talk by Corn Tassel to Governor Martin, September 25, 1782 in Clark, State Records, 16:415-416.  
111 Petition of the People Settled over French Broad River, GASR April-June 1784, Box 1.
responded to their request by ceding the whole of the western territory to the federal government in the spring of 1784.

In June 1784, the members of the General Assembly voted to cede the western lands to the federal government under the condition that the lands would be reserved as a “common fund” for all the states, that new states created therein would have a republican government, and that Congress would enact no regulations tending toward emancipation. North Carolina retained full sovereignty over the region until Congress accepted the cession.\(^{112}\) As one legislator remarked, the state had rid itself of the “offscourings of the earth” and passed both the western squatter and Indian problems to Congress.\(^{113}\) Leading men in the west such as William Cocke, Landon Carter, Stockley Donelson, Joshua Gist, David Looney, and Charles Robertson took the cession to imply a quick path to statehood for the region and met in August 1784 to make plans for separation; Donelson, Gist, Looney, and Robertson had been present in the spring 1784 General Assembly and voted for cession, hoping that independence would allow them to pursue a more aggressive Indian policy and solidify their political control over the region. But legislators in the General Assembly squashed the hopes of these frontiersmen when they met in October 1784 and voted to repeal the cession act.\(^{114}\)

Moderates had been able to restrain the demands of more radical members of the General Assembly in the spring of 1784 but found themselves overwhelmed in a flood of legislation that indicated the depth of resilient localism coming from county-minded

\(^{112}\) Laws of North Carolina, June 1784, ch.11. Laws of North Carolina, June 1784, ch.12.


\(^{114}\) Barksdale, Lost State of Franklin, 18, 38, 57. Archibald Maclaine to George Hooper, December 1, 1784 in Clark, State Records, 17:185-186.
members. First, legislators recognized that the “irregular inconvenient and expensive” collection of taxes required the efforts of a single treasurer who would henceforth be appointed by the General Assembly. A final confiscation act directed the sale of all confiscated but hitherto unsold lands; another law gave sheriffs the authority to use the militia to seize the property of debtors. To aid in clearing the clogged dockets of the courts, legislators passed an act to “prevent unjust appeals” by decreeing a six percent levy on judgments. To assist the state in ascertaining its true portion of the Continental debt, the state decreed a census with a £50 penalty on local enumerators who failed to transmit the results to the Governor; to reduce the possible amount owed on the Continental debt, legislators decreed the collection of militia records in order to ascertain the value of militia contributions to the war effort. In a measure aimed at returning loyalists, the state forbid anyone who had been attached to the British cause from holding any office in the state. Yet the most consequential act of the fall session declared the repeal of the cession of western lands on the basis of the failure of the other states to levy an impost, the failure of Congress to credit North Carolina’s militia contributions to the war, and the reluctance of northern states to give up western land claims.

The repeal of the cession act directly spurred westerners who had hoped for self-rule to meet in December 1784 and declare their independence from North Carolina,

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120 *Laws of North Carolina*, October 1784, ch.16. Though many of the laws could be viewed as radical (Confiscation, limits on officeholding), others seem less radical than pragmatic. The law creating a single treasurer served both radical and conservative ends as more effective accounting could save money for use for different purposes.
forming the fourteenth state of Franklin. Within six months, Franklinites had organized an Assembly, elected a governor, written a Constitution, and sent a representative to Congress to gain formal recognition for their independence. The state of Franklin presented a dramatic challenge to North Carolina’s sovereignty, showing how ignoring petitions from westerners undid their loyalty to the state. North Carolina’s leaders spent the next four years wooing Franklinites back under state authority, but not before Franklinites engaged in disastrous wars with the Cherokees and divided internally between rival factions within the young “state.”

The career of the state of Franklin in a few ways resembled that of revolutionary North Carolina. The elites of both states expressed contempt for their rulers and sought greater control over local policies; both experienced the chaos of internal division and civil war. Both illustrated the need for early American states to secure the loyalty of their citizens. The rhetorical excesses of the American Revolution bore some blame; the doctrines of the consent of the people and liberty encouraged the breakdown of time-honored community bonds. Even the Salem Board of the Moravians worried about “various persons” beginning to “oppose man-made rules, calling for American freedom.”

Petitions formed a means of seeking “freedom,” especially when the petitioners asked for remediation of conflicts not cognizable in the courts. Like a court of equity, the General Assembly listened to these demands and applied the remedies that

121 Barksdale, Lost State of Franklin, 58-59, 61.
seemed to comport with political reality and the rules of the state constitution.\textsuperscript{123} Since petitions took up a majority of the General Assembly’s time, they strengthened the institutional authority and power of the legislature even when the petitioner did not intend to do so. Petitions never fully controlled the trajectory of policy making, but certainly informed the now lost debates and discussions of legislators. As state leaders sought to encourage the loyalty of tax-paying citizens while avoiding the centralizing policies of Congress, they cemented the practice of petitioning within the course of state formation.

\textsuperscript{123} On the importance of equity as a body of legal thought, see Charles Peter Hoffer, \textit{The Law’s Conscience: Equitable Constitutionalism in America} (Chapel Hill: The University of North Carolina Press, 1990).
Chapter 3 ☞ Woe to You Experts in the Law: Law and Petitions, 1784-1787

Between 1785 and 1787, petitions, combined with pressure from Congress, continued to shape the course of state formation in North Carolina. Policies designed to secure the loyalty of citizens inadvertently spurred the development of minority consciousness among lawyers and merchants, leading to redoubled efforts to bind legislative lawmaking more firmly to constitutional provisions. Although petitions implied the power of the General Assembly to rule on issues concerning the people’s wants and demands, they could also direct the General Assembly to stay out of matters of private concern in order to protect individual rights guaranteed in the state constitution.¹

As Alexander Martin told the General Assembly in 1783, “Let the Laws henceforth be our Sovereign, when stamped with prudence and wisdom, let them be revered and held sacred next to those of Deity.”² Petitioning reinforced the authority of the General Assembly and North Carolina’s more successful institutional and bureaucratic approximation of sovereignty even as it called upon state leaders to give due obeisance to the constitution.

¹ Lars Golumbic captures part of the dynamic of conflict over law and rights in his article “Who Shall Dictate the Law?” Political Wrangling between ‘Whig’ Lawyers and Backcountry Farmers in Revolutionary Era North Carolina” NCHR 73:1 (January 1996), 56-82. However, his caricature of “backcountry” non-commercial ideology does not fit with the evidence. The growing supremacy of law over politics is explored in Tomlins, Law, Labor, and Ideology, 26-33, 59, 70. See also Barrett, “The Market’s Virtue,” 188-258; Roeber, Faithful Magistrates, 160-201; Fritz, American Sovereigns, 13-40.

² Governor Alexander Martin to the General Assembly, April 30, 1783 in Clark, State Records, 16:776.
As North Carolina’s citizens rebuilt the state’s infrastructure in the wake of the devastation of the Revolutionary War, they clamored for relief from oppressive wartime policies as well as sought remuneration for their contributions to the war effort. Thus many of the petitions from the 1780 to 1784 period reflected wartime concerns and individual requests for compensation. Many of the petitions from late 1784 through the end of the decade, however, responded to local concerns in the light of state policies through a focus on rebuilding and expanding agricultural and mercantile activities. The General Assembly’s policies tended ultimately to favor landed interests—no doubt because planters dominated the legislature and a population of farmers produced tax revenues needed to fund state programs—while alienating merchant interests. Yet, the Assembly could not afford to ignore the merchants and their lawyer allies, as collections from the state’s impost levies soon provided an important source of much-needed revenue. State leaders often rhetorically called for a revival of commerce without providing the sanction of law to protect merchant interests. ³ Commerce revived as well as it could, with towns sprouting across the state and citizens building grist mills and dams to harness water power for flour production.

³ A powerless Governor Martin reminded the General Assembly in the spring of 1784: “The trade and navigation of this Country are of lasting consequence, and require your immediate interposition and patronage. It is necessary our Rivers be rendered more navigable, our roads opened and supported, by which the industrious planter may have his produce carried to market with more ease and convenience. Thereby more Merchants of opulence would be induced to settle in the State, and open new resources of industry among our inhabitants; whose labor being fully compensated daily additions would be making to the respective Wealth, in proportion to which the revenues of the State would also be increased.” Governor Alexander Martin to the General Assembly, April 20, 1784 in Clark, State Records, 17:38.
In response to petitions, the General Assembly granted charters of incorporation to citizens to start eighteen towns between 1785 and 1789. The petitions usually argued that the location selected for the town would help revive commerce and therefore bring additional revenue to the state. Petitioners from Surry asked for a local tobacco inspection site in 1785, premising their request on a desire to pay their proportion of the “National Debt” and for the “support of Government.” In praising their own locales, petitioners often denigrated another site that they frequently deemed “inconvenient.”

The inhabitants of Beaufort in 1785 declared neighboring Bath an inconsequential town that could never flourish. Justifying their rejection of Bath as the location of the county court, the petitioners argued that “whenever a Majority of the people are obliged to submit to an Expence for the convenience of a few, it is contrary to Republican principle.” Similarly, the citizens of Hyde in 1787 demanded a customs house be built closer to them so they, too, would not have to travel to dismal Bath to vend their produce.

Nearly all petitioners suggested to the General Assembly that the towns they hoped to lay out would become “flourishing commercial” centers whose activity could generate income and increase tax revenues.

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4 The towns were Duplin Courthouse, Greeneville, Haw River, James Town, Lincolnton, Mount Airy, Scotland Neck, Murfreesboro, Pittsborough, Plymouth, Rockingham Courthouse, Rutherfordton, Waynesborough, Allemane, Johnstonville, Lumberton, Fayetteville, and Statesville. For a similar trend, see Barrett, “The Market’s Virtue,” 190-194. It should be noted that the legislature granted a charter but did not confer “body politic and corporate” status on the town until it became sufficiently organized. For similar patterns in Virginia petitions, see Bailey, Popular Influence, 82.

5 Petition of the Western Parts, GASR Nov-Dec 1785, Box 2.

6 Petition to establish a Town in Onslow, GASR Nov-Dec 1785, Box 2.

7 Inhabitants of Beaufort, GASR Nov-Dec 1785, Box 4.

8 Citizens of Hyde, GASR Nov-Dec 1787, Box 2.

9 Petition of Citizens on the lands of Matthew Figures, Northampton, GASR Nov 1786-Jan 1787, Box 4.
Because North Carolina’s legislators adopted the English legal tradition of municipal incorporation into state law, the state possessed a large number of chartered towns, all seeking to become affluent hubs of trade.\textsuperscript{10} As independent bodies politic, incorporated towns formed another layer of local governance separate from the county, though requiring the county court and its magistrates to administer the coercive force of law. Some thirty-one acts for town regulation during the 1780s chart how towns sought to become thriving marts while regulating individual behavior far more strictly than in rural settings. Unlike county courts, whose magistrates formed an oligarchy appointed by the legislature, a group of commissioners, elected yearly, governed the towns.\textsuperscript{11} Required to hold open meetings, the commissioners formed the “body politic and corporate” face of the municipality, having the authority to collect taxes (usually limited in amount by law), to sue and be sued, and to make regulations for the health and safety of residents.\textsuperscript{12} As a testament to the tradition of English municipal law and as a recognition of the importance of commerce, six (later seven) North Carolina “borough” towns also sent representatives to the General Assembly.\textsuperscript{13} Because of the intimacy of town governance, citizens of towns rarely sent petitions to the legislature; instead, they had direct access to commissioners and, in the case of the borough towns, a representative in the assembly.


\textsuperscript{11} \textit{Laws of North Carolina}, April 1777, ch.16; November 1777, ch.34, ch.44, ch.45. Legislators appointed the first set of commissioners for each town and then allowed annual elections thereafter.

\textsuperscript{12} For open town meetings, see \textit{Laws of North Carolina}, 1782, ch.23; 1783, ch.25, ch.26. For corporate powers, see \textit{Laws of North Carolina}, 1782, ch.23; 1783, ch.26 and ch. 25; 1786, ch.41.

\textsuperscript{13} These borough towns were Edenton, Hillsborough, Halifax, Wilmington, Salisbury, and Newbern. Fayetteville earned borough status in 1789. See Mary P. Smith, “Borough Representation in North Carolina,” \textit{NCHR} 7:2 (April 1930), 177-191.
Regulation of town life during the 1780s highlights both great disagreement and the persistence of custom, particularly in laws of health and safety. Town leaders wanted to regulate the size and condition of streets—because of fire safety—but found owners of porches, piazzas, and house additions reluctant to remove structures jutting into the streets.\textsuperscript{14} To stop animals from running loose in the town, many municipal leaders originally had the authority to kill hogs and geese running amok; by the late 1780s, most towns fathers either gave up or settled for fines on offenders.\textsuperscript{15} Town leaders ordered that horse riders could not gallop through municipal streets because of the danger to children.\textsuperscript{16} They also forbid the erection of wooden chimneys because of the threat of fire.\textsuperscript{17} To compel obedience to town regulations, town leaders had to rely on the services of a neighboring justice of the peace, who represented the judicial power of the county. That arrangement proved unworkable by the late 1780s, most likely because of the need to regulate the behavior of slaves, resulting in the appointment of town magistrates acting as policemen.\textsuperscript{18} In order for the towns to fulfill their economic role in the state’s financial order, they required effective and efficient regulations designed to direct the actions of residents toward a common good. Yet, repeated regulations of the same behavior, because earlier laws proved “ineffective,” indicated that clashes over customary relations, individual rights, and commerce inhibited the creation of a consensual municipal order.

\textsuperscript{14} \textit{Laws of North Carolina}, June 1784, ch.49; 1785, ch.20; 1786, ch.35; 1790, ch.46.
\textsuperscript{15} \textit{Laws of North Carolina}, 1782, ch.32; 1783, ch.26, ch.33; 1786, ch.33.
\textsuperscript{17} \textit{Laws of North Carolina}, 1783, ch.35; 1788, ch.33.
\textsuperscript{18} \textit{Laws of North Carolina}, 1786, ch.35, ch.41; 1788, ch.33.
Economic expansion, both in town and county, increased local conflicts. One of the key indices of struggle over community resources comes from petitions regarding mill dams. The raising of mills to grind grains for flour caused complaints from those whose lands the dams flooded as well as from those who protested that dams prevented fish from traveling upriver to spawn. Proliferation of mills in the early 1780s, occasionally with state-sanctioned aid, resulted in criticism that such dams prevented inhabitants from fishing to support their families. Entrepreneurs who employed large weirs or seines to catch massive quantities of fish for commercial sale threatened the riparian rights of their poorer neighbors.19 Thirty-six petitioners from the counties of Chatham and Moore employed a rhetoric of natural rights to justify their request for legislative interposition; they asked that lawmakers restore the “gifts of Nature” that they exercised “in Common with others.”20 The General Assembly supported protection of such natural rights, legislating on several occasions in the late 1780s to protect the free passage of fish up rivers as well as to remove obstructions in coastal streams. Legislators insisted on clear passage in streams for the promotion of navigation as well as for fishing rights, even when the law led to damages of private property.21 James Lockheart of Johnston County petitioned in vain for remuneration for his destroyed grist mill over the Neuse in 1786 and the citizens of Montgomery in 1789 groused that they could not build

20 Citizens of Chatham and Moore, GASR Nov-Dec 1785, Box 2. See also Inhabitants of Deep River, GASR Nov-Dec 1787, Box 3 and Inhabitants of Bertie, GASR Nov-Dec 1787, Box 3.
a grist mill in their area because the law protected fishing rights. Legislators chose unobstructed streams for the possibility of fostering commerce in the future, aiding poor inhabitants in the short term.

The expansion of North Carolina’s economy, even with the revival of commerce, did not result in immediate benefits for the state’s coffers. The policy of rewarding wartime loyalty required large expenditures at the same time as North Carolina’s delegates in Congress endured stronger calls for the state to pay its quotas and to settle its war debts. During the autumn 1784 General Assembly session, legislators increased the budget by £30,000, with more than sixty percent of the increase being devoted to paying the interest owed to the United States on the federal debt. Lawmakers cut the portion of the budget for paying members of the General Assembly in half and instituted a sinking fund tax on land and polls to raise an additional £43,000 from citizens. Frequent arrearages in tax collection hampered efficient revenue collection, as indicated in several laws that indicted counties for failing to appoint tax collectors as directed. Since land taxes now fell equally on the rich and poor, with lands taxed by quantity instead of value, citizens felt the greedy hand of government in their pockets. County courts levied their own taxes—under the auspices of state law—for building courthouses, paying county officials, and providing poor relief; undoubtedly county magistrates saw the General

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22 Petition of James Lockheart, GASR Nov 1786-Jan 1787, Box 3; Citizens of Montgomery County, GASR Nov-Dec 1789, Box 2.
23 There are several acts for clearing the rivers for promoting “navigation” on the Roanoke, the Neuse, Trent, and the Tar Rivers. See Laws of North Carolina, June 1784, ch.37, 38, 39 and 42.
25 Laws of North Carolina, October 1784, ch.4.
26 Laws of North Carolina, 1785, ch.4; Laws of North Carolina, 1786, ch.10; Laws of North Carolina, 1786, ch.27; Laws of North Carolina, 1787, ch.2.
Assembly as a competitor for funds. In the legislature, dissenters led by western lawyer Waightstill Avery protested that the poor could not afford to pay taxes at the same rate as the wealthy, particularly since the lack of commercial outlets for many backcountry citizens made it difficult for them to obtain money.\textsuperscript{27}

Yet, even the money collected failed to satisfy the ravenous maw of the state’s budget. Treasurer Memucan Hunt told Governor Richard Caswell in 1785 that the “treasury is constantly kept nearly clear of money . . . .” The lack of funds resulted partially from spending to reward loyal citizens but also from the lack of efficient tax collection.\textsuperscript{28} A report of tax returns from 1783 in the spring 1784 Assembly records indicates that nineteen counties out of fifty-two had failed to report their accounts of taxable property.\textsuperscript{29} By 1786, Bertie, Burke, Rutherford, Randolph, Tyrrell, and Franklin counties had failed to account for the taxes required to sink paper money out of circulation; that tax remained uncollected in some locations even in 1787.\textsuperscript{30} To encourage collectors to pay, the General Assembly halted prosecutions for delinquency in 1787 with an extra three months allowance for collection.\textsuperscript{31} Still, petitioners in 1786 and 1787 complained about the “Injustice and Oppression” of the system of taxing lands by quantity, noting that people in the backcountry especially labor under hardship “by Reason of the Scarcity of Money.” Petitioners from backcountry Burke County

\begin{flushleft}\textsuperscript{27} Dissent of Waighstill Avery in Clark, \textit{State Records}, 17:410. Avery was joined by ten other legislators in his dissent. \\
\textsuperscript{28} The amounts granted in the spring of 1784 were estimated to be £8688.18 and by 1787 legislators estimated their “contingency” fund would need around £11689. See Clark, \textit{State Records}, 24:649, 18:280. In 1784, allowances accounted for 21% of the budget but dropped to 14% by 1787 because of the increased expense of paying on the debt of the United States. \\
\textsuperscript{29} Amount of Taxable Property for the Year 1783 Returned by Clerks of Courts in GASR April-June 1784, Box 1. \\
\textsuperscript{30} \textit{Laws of North Carolina}, 1786, ch.27. \\
\textsuperscript{31} \textit{Laws of North Carolina}, 1787, ch.27. \end{flushleft}
requested to be able to pay taxes in hemp or tobacco. Legislators responded to cries for relief in three ways: they publicized the state budget, they reformed the department of the treasury, and they issued paper money.

The session laws of 1786 required the state treasurer to produce a public account of funds so that the “body of the people on whom taxes are laid, should know to what purposes the monies” were used. Legislators outlined a process for tax collection at the county level and required that the “large sums” that counties often levied be made public. “. . . no money ought or can be levied as a tax, of which the people have not a right to know the application,” the authors of the law argued. While the General Assembly did not back down from taxation, it did employ popular sovereignty in its logic for explaining public expenditures. Legislators hoped to shift the ground of argument from the legitimacy of taxation to the realm of accountability and transparency in governance; rightly informed of the actions of their representatives, voters could approve or reject policy through suffrage. The insistence on publication marked recognition of the idea that popular government required the public to have proper information about its activities. With payments to the United States on the interest of the war debt assuming sixty percent of each year’s budget, North Carolina could hardly afford—given its policy commitments—to remit taxes altogether.

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32 Petition of Inhabitants of Burke County, GASR Nov-Dec 1785, Box 2; Petition of the Inhabitants of Burke County, GASR Nov 1786 – Jan 1787, Box 2. There were 139 and 143 signatures, respectively, on the petitions.
33 Previously, the committees in charge of estimating state finances in the spring and fall of 1784 had resolved to publish their reports along with the state laws. The law of 1786 codified the precedent. See Journal of the Senate, Fall 1784, in Clark, State Records, 19:431-432; Laws of North Carolina, 1786, ch.16.
34 Laws of North Carolina, 1786, ch.16.
Reforms of the treasury department similarly aimed to not reduce the amount of taxation but rather to make more efficient collection and dispersal of funds. The laws of autumn 1784 created the office of the single treasurer, displacing the multiple district treasurer system previously used, to make sure that tax collection would no longer be “irregular inconvenient and expensive” with large sums “unaccounted for.”35 With multiple currencies in circulation, poor record keeping, and the legacy of a prior system that dispersed authority, the treasurer would find it rough going to untangle the Gordian knot of state accounts. But he did, leaving a trail of records within the reports of the newly-minted General Assembly comprehensive committee of finance, which began a regular existence in 1786.36 By 1787, state law tied specific revenue streams to the payment of certain items in the budget; poll taxes henceforth would cover the payment of state government officers on the civil list while land taxes generated funds to pay outstanding state debts.37 Sadly for legislators, their efforts often failed. Deficits plagued state accounts through the late 1780s, often amounting to twenty or thirty thousand pounds per year.38

Under pressure to fund state budgets and pay foreign debts, the General Assembly passed a second paper money emission act in 1785. More than one hundred and fifty

35 Laws of North Carolina, Oct 1784, ch.2.
36 To be sure, committees of “ways and means” had functioned as early as the 1730s, but often with a limited scope relating to a single issue such as depreciation or paying for salaries. But the House of Commons in 1786 offered a resolution for the creation of a comprehensive committee of finance to consider all revenues and expenditures from 1784 to 1786, to call on state officials for records and testimony, to develop a full budget, and to report from time to time on the state of funds. The House eventually appointed nineteen members to the committee while the Senate appointed nine. The committee then divided itself into six sub-committees to expedite the business. See Journal of the House, 1786 session, in Clark, State Records, 18:235, 282-283.
38 Ratchford, American State Debts, 50.
signatures appeared on a petition from Newbern in 1785 encouraging such an emission on account of the scarcity of money. Without a second emission, citizens could not “settle their small Balances of domestic trade Between Neighbors or even to answer their daily expenses in the market” and they explicitly connected the lack of funds to the serious possibility that when they could not pay their taxes, they would lose their estates at sales in which buyers snapped up property for one-fourth of its value.\textsuperscript{39} Against the demands for a second emission, merchants of Newbern, Edenton, and Washington petitioned for the General Assembly to consider the ruin of commerce resulting from another flood of paper money. The Edenton merchants had taken “uncommon pains” to support the 1783 emission because they deemed it necessary to pay the soldiers, but they disdained a second release of paper as a violation of the legal relationship between debtors and creditors and a source of depreciation. They encouraged the General Assembly to let the market regulate itself: a “scarcity of Currency, tho’ occasioning a temporary distress, works out its own relief in time by lowering the prices of commodities . . . .” Merchants of Washington urged legislators to consider that paper money would result in inflation.\textsuperscript{40} The arguments raised in the four petitions provided enough material to ensure that the debate over the second emission of paper money would be anything but calm.

John Gray Blount, a merchant from the anti-emission town of Washington, first proposed to the House of Commons that the bill for a second emission be laid over and published in the \textit{North Carolina Gazette} for the information of the people so that they

\textsuperscript{39} Petition from the Citizens of Newbern, GASR Nov-Dec 1785, Box 4.
\textsuperscript{40} Petition from the Merchants of Edenton, Petition from the Merchants of Newbern, and Petition of the Inhabitants of Washington, GASR Nov-Dec 1785, Box 4. A total of 116 persons petitioned against a second emission.
could have a chance for public comment. His amendment failed by a vote of fifty-four to twenty-six.\(^ {41}\) Hugh Williamson, of Edenton, then moved to amend the bill by directing jurors to take into consideration depreciation in their awards of damages as a measure to protect the “honest creditor against fraudulent or partial payments.” His motion lost by a vote of fifty-five to twenty-two.\(^ {42}\) Meanwhile, the Senate defeated an amendment to reduce the emission from £100,000 to £80,000 by a margin of sixteen votes.\(^ {43}\) When the bill finally passed, more than ninety percent of delegates from the Piedmont and West supported the measure with most opposition coming from eastern merchants and lawyers.\(^ {44}\) Unlike the 1783 emission, however, the General Assembly attached a specific sinking fund provision to the 1785 act; a tax of six pence on every one hundred acres, one shilling and six pence on every poll, and one shilling and six pence on every £100 of town property would be levied to sink the paper money.\(^ {45}\)

Both Senators and Representatives in the Commons recorded dissents against the emission on the Assembly journals. Lawyer John Hay crafted the Commons dissent, signed by eight others, arguing that paper money tended to damage the state’s honor, hurt merchants, cause specie hoarding, and lead to depreciation. Hay denounced the rationale offered for the act; he could not fathom why his colleagues proposed paying the state’s

\(^ {41}\) Journal of the House, 1785 session, in Clark, *State Records*, 17:364-365. Archibald Maclaine told George Hooper that he suspected John Gray Blount actually wished for paper money. If that was the case, then perhaps offering the amendment for publication was a delay tactic to avoid having to appear against the interests of the petitioners from Washington. That he was also a merchant, however, seems to militate against Maclaine’s supposition. See Archibald Maclaine to George Hooper, November 25, 1785, in Clark, *State Records*, 17:631-632.


\(^ {43}\) Journal of the Senate, 1785 in Clark, *State Records*, 20:82.


\(^ {45}\) *Laws of North Carolina*, 1785, ch.5.
officials with depreciating paper money. In the Senate, John Macon, supported by seven colleagues, argued in his dissent that depreciation must, inevitably, be the result of the state’s mistaken policy. Depreciation aided the “dishonest debtor” and robbed the “defenceless and unwary orphan” of his patrimony, Macon averred. Pointing to the 1783 emission, Macon argued that experience had taught the General Assembly that paper money operated “against commerce” by harming merchants through depreciation. Macon noted that no one trusted North Carolina’s courts because of the legal tender status of paper money, so creditors sued North Carolina citizens in the courts of South Carolina and Virginia. Both the House and Senate dissents echoed arguments presented in the petitions from the merchants of Newbern, Edenton, and Washington.

A second provision of the 1785 emission implicitly recognized the worthlessness of North Carolina currency. Legislators set aside £36,000 of the paper money for the purchase of tobacco; state agents planned to buy tobacco and sell it to raise specie that Congress would accept in compliance with federal requisitions. Critics of the tobacco program pointed to the fact that state agents offered more than the market price for tobacco. Because North Carolina’s tobacco did not have a good reputation for quality, by 1788 more than four hundred thousand pounds of tobacco remained unsold in storage. Moravian merchants noted that the tobacco taken to Wilmington was “rotting in the

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Fluctuating market prices and the difficulty of negotiating sales contracts for the sale of the tobacco outside the state ultimately doomed the project to failure.

At the same time state leaders endeavored to pay Congress, they also struggled to comply with demands on a debt owed to the French on the island of Martinique. North Carolinians had secured war material from Martinique leaders during the Revolution, incurring a debt of £2,195; beginning in 1783, French authorities began writing the governor to press for repayment. Owing to the lack of records, the General Assembly estimated the debt at £2,400 and in 1784 provided state funds to merchants John Gray and Thomas Blount for buying goods that could be sold elsewhere to raise the money needed for repayment. The Blounts purchased naval stores but falling market prices hampered their efforts to realize a good investment; Governor Caswell provided them with another £1,300 in 1785 to cover arrearages caused by loss in conversion between currencies. Like the tobacco purchase program, the Martinique debt repayment program largely proved an embarrassment to the state because of malfeasance of participants and poor record keeping.50

The state’s decision to reward soldiers and citizens—reinforced by petitions and claims upon the treasury—combined with pressure to pay the state’s proportion of the war debt and the expenses of Congress, had inspired both paper money policy and the institutional growth of North Carolina’s revenue departments. Paper money plugged holes in the state’s empty treasury, allowing legislators to pay themselves as well as purchase tobacco to be sold for raising specie. Every claim laid before legislators

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49 Fries, Records of the Moravians, 5:2145; Robert Rowan to Richard Caswell, July 29, 1787 in Richard Caswell Papers, PLD.  
50 Morrill, Fiat Finance, 100-111.
reinforced the idea that paper money could solve the state’s problems; at the same time, legislators knew they could not run a state on paper alone and thus turned toward more effective measures for collecting taxes and accounting for the state’s revenue. Such policies cost the state by antagonizing merchants and urban elites who resented paper money and farmers who resented the changes in tax laws. Such costs, however, paled in comparison to the disastrous fiscal policies that ultimately spurred rebellion in western Massachusetts. North Carolina fortunately avoided its own Shays rebellion.\footnote{Economic historian Edwin J. Perkins essentially argues that North Carolina took the “gradualist” position in repayment of its fiat money obligations, unlike Massachusetts and South Carolina, both of whom tried the “urgency” path toward rapid repayment based on rigid and distressing collection of taxes. South Carolina relented after the Camden Riots of 1785 but Massachusetts ran headlong western rebellion. See Edwin J. Perkins, \textit{American Public Finance and Financial Services, 1790-1815} (Columbus: The Ohio State University Press, 1994), 139, 145-159, 160-163, 173.}

\begin{quote}
In the same session the Assembly passed the second emission of paper money, proponents of paying the state’s debt to its soldiers enacted another law to empower commissioners to liquidate the accounts of soldiers and officers of the Continental line. Benjamin McCulloch, John Macon, and Henry Montfort, acting as commissioners, could issue interest-bearing certificates to soldiers while the regular district auditors could issue certificates for “all such claims as not heretofore allowed.”\footnote{\textit{Laws of North Carolina}, 1785, ch.13.} In further rewarding the loyal soldier and citizen, the state hoped to increase the amount of claims it could lay before Congress in the final settlement of its Revolutionary war debts. Since Congress had appointed an agent to work on the state’s claims, the General Assembly empowered him to summon people for testimony in proving state accounts. North Carolina wanted to
obtain the largest credit possible for its exertions on behalf of soldiers.\textsuperscript{53} Another act ordered the creation of a complete list of all disabled soldiers in preparation for a nation-wide program to take care of those soldiers who could no longer provide for themselves. The state had already been caring for wounded soldiers but anticipated shifting that burden to Congress. Ironically, the state’s insistence on rewarding loyal soldiers—both as a policy to curb federal influence and to secure loyal taxpaying citizens—contributed to the greatest public scandal of the 1780s: the Warrenton Army Frauds.

North Carolina’s desire to reward its soldiers does not exculpate the men who took advantage of state policy to issue $156,250 in fraudulent certificates, but it does highlight how pursuit of state- and federally-oriented policy goals in the absence of strong bureaucratic institutions mocked the exercise of sovereign power.\textsuperscript{54} Complaints about the frauds began to reach Governor Richard Caswell in the summer of 1786; by the fall, the General Assembly organized several committees to investigate, eventually condemning two of the three commissioners to settle soldiers’ accounts as well as the state treasurer for willfully engaging in fraud.\textsuperscript{55} Investigators determined that a system of “deductions” forced a soldier who should have received £71,369 in deflated paper currency to return home with £9,705, leaving the rest to line the pockets of commissioners Benjamin McCulloch and Henry Montfort. Treasurer Memucan Hunt assented to pay a number of the fraudulent certificates because he received a commission on them, despite knowing that a few were not genuine.\textsuperscript{56} A petition from 168 citizens of Dobbs County demanded

\textsuperscript{54} Morrill, Fiat Finance, 186.
\textsuperscript{55} Governor Caswell to the Commissioners for Liquidating the Army Accounts, July 12, 1786 in Clark, State Records, 18:685.
\textsuperscript{56} Report of the Committee on the Frauds, 1786 in Clark, State Records, 18:70-73.
punishment for the offenders, calling upon the state to make such an example of the men that similar corruption would never happen again. McCulloch fared worst in the prosecutions, receiving a fine of £4,000 and a jail term of twelve months; his friends repeatedly submitted pardon requests to the governor and earned his release in 1787. In the state’s haste to reward soldiers and to collect evidence of paid claims to submit to Congress, legislators had unwittingly sponsored a system that invited corruption. Generosity rather than stinginess was to be the lodestar of state policy toward soldiers; almost no claim was turned away. A culture of uncritical acceptance of claims received sanction in a law of 1787 that directed the state comptroller to receive unsupported claims with notations for the lack of documentation “although the same be not sanctioned by the resolves of Congress . . . .” The great temptation to cheat the system even ensnared representative John Bonds of Nash County in 1787; the House of Commons expelled him after an investigation determined that he had submitted false tokens to commissioners in order to obtain warrants belonging to other soldiers.

The General Assembly of 1785 also continued to define loyalty to the state through its adherence to the confiscation program set in motion in 1782. Female petitioners had been seeking exemptions from confiscation on the basis of poverty and caring for children, while men often sought relief by claiming status as true British

57 Journal of the Senate, 1786 in Clark, State Records, 18:10. The petitioners expressed outrage because the fraud would come to rest upon them in taxation. Petition of Inhabitants of Dobbs, 1786, in GASR Dec 1786-Jan 1787, Box 2.
58 James Iredell to Hannah Iredell, February 13, 1787 and February 19, 1787 in Kelly and Baradell, Papers of James Iredell, 3:253-254, 254-255; Clark, State Records, 20:408-409; Petition of Richard Blackledge and Others, Petition of Inhabitants of Warrenton, and Petition of the Inhabitants of Franklin County, 1787, Governor’s Papers II, Richard Caswell, NCDAH.
59 Laws of North Carolina, 1787, ch.120.
Purchasers of land from Henry Eustace McCulloch rarely had deeds for their property and requested that they not be punished simply because he did not support the American cause. Numerous litigants had claims of debt against the estates of citizens whose properties the state confiscated. All of these “ambiguities” prompted legislator Griffith Rutherford to propose a committee in 1786 to respond to increasing dissatisfaction with confiscation. Eventually, the Assembly passed a law to secure titles to the purchasers of confiscated lands and to prevent unnecessary lawsuits challenging their ownership from the former owners. Lawyers protested the statute as an *ex post facto* decree that did not apply equally to all citizens and also required relief in the “fluctuating, uncertain, and ineffectual” hands of the General Assembly. An anonymous essayist in the *North Carolina Gazette*, nonetheless, praised this law of “retrospective correction” for its efforts to raise revenue to pay state certificate debt. Doubts about the legal implications of confiscation continued to mount, however, requiring legislators to pass a second law in 1786 guaranteeing the rights of creditors to sue confiscated estates.

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61 Women: Petition of Elizabeth Miller, GASR Nov-Dec 1785, Box 1; Petition of Mercy Bedford in Clark, *State Records*, 20:84-85. True British Subjects: Benjamin McCulloch for Henry E. McCulloch, GASR Oct-Nov 1784, Box 2; Brigden and Wallis, Merchants of London, GASR Oct-Nov 1784, Box 2. Other men simply claimed that there had been a mistake and they should never have been labeled as Tories: Petition of John Freebody, GASR Nov-Dec 1785, Box 1; Petition of Robert Palmer, GASR Nov-Dec 1785, Box 1 and Clark, *State Records*, 17:308; Petition of Hugh Ross, in the Journal of the Senate in Clark, *State Records*, 18:202.

62 Petition of Jesse Darden and Joseph Herring, GASR Apr-May 1782, Box 1; Petition of Catherine Shaver, GASR Apr-May 1783, Box 1; Inhabitants of Montgomery County, GASR Apr-June 1784, Box 1; Inhabitants of Randolph and Moore, GASR Nov 1786 – Jan 1787, Box 2.


64 *Laws of North Carolina*, 1785, ch.7.

for debts without overturning the provision against loyalists filing suits for the return of their property. Anger mounted in western counties like Rowan and Mecklenburg, where malfeasance in office of the confiscation commissioner, combined with resident rage over jeopardized land titles, threatened state policy. Hillsborough lawyer William Hooper informed James Iredell that seventy families near town could rise up in another “regulation” if their titles could not be secured. Even Governor Caswell recommended to confiscation commissioners not to be hasty in sales—even though they received commissions for their work—in the event a petitioner persuaded the General Assembly to undo a sale.

By 1786, confiscation, paper money, and rejection of the interests of merchants had set the stage for a showdown between lawyers, the General Assembly, and the judges of the superior courts. Disappointed in a state ruled by the passions of its populace instead of fundamental laws, lawyers began to work out their arguments for the supremacy of law over popular zeal. But lawyers did not labor alone. North Carolinians of all social classes joined in using the language of law as the fundamental bond between citizens and the justification for good policy. The explosion of lawsuits after courts reopened—a phenomenon not limited to North Carolina—indicated the

66 Laws of North Carolina, 1786, ch.6.
67 Most of the western dissent stemmed from failure of confiscation commissioners to accept payment in specie certificates or to require payment in hard cash for some purchases. In Mecklenburg County, rival surveyors of the lands were appointed by differing factions of the county court. One surveyor did not want to complete surveys of properties because the lands belonged to his friends and he did not wish to “wound” their interests. See Citizens of Rowan, GASR Nov-Dec 1787, Box 1; Grand Jury of Salisbury, GASR Nov-Dec 1787, Box 1; Memorial of Thomas Polk in Clark, State Records, 20:399-400.
68 William Hooper to James Iredell, February 12, 1786, in Kelly, Papers of Iredell, 3:196-197.
69 Governor Caswell to Archibald Lytle, May 3, 1786 in Clark, State Records, 18:602; Governor Caswell to Charles Bruce, February 6, 1786 in Clark, State Records, 18:523.
persistence of a law-oriented culture seeking to adjudicate land claims, inheritance, and debts.\textsuperscript{71} Even the strongly communally-oriented Moravians recognized the litigiousness of the post-revolutionary world: “Attention was also called to the fact that to threaten anyone with the law, or to take an oath, was unbecoming a member of the unity.”\textsuperscript{72} The law symbolized the exercise of power to enforce the rules of citizenship that could not be entrusted to the sanction of community expectations alone.\textsuperscript{73}

Lawyers did not enjoy a good reputation in the early 1780s and an attorney practicing in Hillsborough admitted it in a letter to his colleagues in 1782. John Williams wanted to organize attorneys to “convince the people at large of the utility of Lawyers” and “render the profession more reputable.”\textsuperscript{74} Governor Thomas Burke, responding to Williams, blamed aspersions on the legal profession on a few bad practitioners, highlighting a theme that would haunt disputes between the bar and the bench for the rest of the decade.\textsuperscript{75} Regardless of popular opinion of lawyers, citizens started employing them in the county and superior courts as debt cases overwhelmed court dockets after

\textsuperscript{71} One scholar of New Hampshire, studying 29,000 post-war debt cases, estimated that one out of every six people in that state between 1781 and 1789 was involved in a debt case. See John H. Flannagan, “Trying Times: Economic Depression in New Hampshire, 1781-1789” (Ph.D. diss., Georgetown University, 1972), 76-86. For other states, see Lee, “Establishing a Republic,” 170-175; Barrett, “The Market’s Virtue,” 198, 206-211.

\textsuperscript{72} Fries, Records of the Moravians, 5:2060.

\textsuperscript{73} Edwards, People and Their Peace, makes a persuasive argument for the persistence of the “community” culture of pre-modern society lasting into the nineteenth century. But the exercise of community prerogative did not preclude the pursuit of justice through a law created at the state level. Both functioned simultaneously, but for different purposes.

\textsuperscript{74} John Williams to the Gentlemen of the Bar Practicing in the District of Hillsborough, May 18, 1782, in Miscellaneous Collection, NCDAH.

\textsuperscript{75} Governor Thomas Burke to John Williams, May 20, 1782 in Clark, State Records, 16:616-618.
To make it easier for the unlearned poor to compete against wealthy litigants, the General Assembly enacted a law in 1784 that forbade the quashing of bills or presentments merely because they lacked refinement or failed to follow the proper legal format. Most of the cases in the county courts in the mid 1780s concerned debt, attachment, or action on the case, requiring little knowledge of technical language (unlike land law). Generally, ninety percent of county courts rendered judgment for the plaintiff, with a few cases being appealed to the superior courts. Still, the dockets overflowed, pressing the General Assembly to consider granting more authority to justices of the peace in actions concerning debt.

In 1785, the General Assembly increased the authority of a single justice of peace to render decisions out of court over debts of £10 and under; the same act also denied creditors payment of interest if they refused to accept payment in state paper currency. Residents of Chatham County complained still in 1786 that the court dockets remained backed up and suggested that giving justices of the peace control over debts of £20 and under would further aid the “principal dealings of the poorer sort of People.” The General Assembly agreed, passing such a law over the protests of lawyers like William Hooper who submitted a dissent claiming that such unwarranted extension of authority

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76 Waldrup, “James Iredell,” 103-105, 116, 140-141. A similar trend took place in Virginia. See Roeber, Faithful Magistrates, 171. For eyewitness commentary see Archibald Maclaine to William Hooper, June 12, 1783 in Clark, State Records, 16:965-967.
77 Laws of North Carolina, June 1784, ch.31.
79 Laws of North Carolina, 1785, ch.2.
80 Petition of the Inhabitants of Chatham County, GASR Nov 1786-Jan 1787, Box 1.
violated the “most sacred and dearest privileges of the Citizens of the State . . . .” As a further insult to attorneys, each defendant or plaintiff would henceforth be limited to a single attorney in court; the law also set limits on attorney fees and allowed litigants to plead in court without an attorney even when they did not follow the proper procedure or form. James Hogg, representing the views of many of his attorney friends, believed that the “laws of this State seem very favourable to the knavish Debtor.”

Lawyers like the impetuous John Hay of Fayetteville strongly criticized the perversion of justice in the county and superior courts. In doing so, they repeatedly blamed delays in justice on the three judges of the superior court—Samuel Ashe, John Williams, and Samuel Spencer. In response, the judges blamed the lawyers for pettifogging. A flurry of now missing pamphlets in 1784 rehearsed the arguments of both sides. Hillsborough lawyer William Hooper told James Iredell that the “cries of the people are loud” against the current court system. “They must be heard—they ought to be heard,” Hooper pleaded. Despite Hooper’s nod to popular sovereignty, other lawyers blamed the conduct of the judges on popular passions. Archibald Maclaine believed that the judges worked “to avoid determining against popular prejudices” in

81 Laws of North Carolina, 1786, ch.14; Protest of William Hooper, GASR, Nov 1786-Jan 1787, Box 4.
83 James Hogg to James Iredell, January 19, 1786, in Kelly, Papers of James Iredell, 3:187-188.
84 John Hay had given a speech in the guise of Tiberius Gracchus on the proceedings of the Assembly and had the speech published by Robert Keith of Newbern. Newbern Justices demanded that Keith give up the author’s name for arraignment on charges of “scadulum magnum.” Hay so infuriated Judge Ashe that the jurist declared that Hay ought to be caned and indicted for champerty. See William Hooper to James Iredell, November 23, 1783 in McRee, James Iredell, 1:75; William Hooper to James Iredell, February 7, 1784 in Kelly and Baradell, Papers of James Iredell, 3:15-16.
85 Samuel Spencer wrote “Champion of the Constitution” under the penname Atticus; William R. Davie responded under the signature of Cusa Sully; Alexander Martin wrote under the name Cusatti; and The Citizens was the collective work of John Williams, Alexander Martin, and Richard Henderson. See William Hooper to James Iredell, March 15, 1785 and March 18, 1784, in Kelly and Baradell, Papers of James Iredell, 3:37-40.
86 William Hooper to James Iredell, July 6, 1785 in Kelly, Papers of James Iredell, 3:156-158.
dealing with returning Tories.  Wilmington merchant John Burgwin, whose estates in New Hanover County had been confiscated, bitterly denounced the Judges for deciding to “Offer Sacrifices to the Goddess of Popularity.” Yet, the public prints denounced pettifogging attorneys as the source of delays: “I believe that a kingdom can never prosper in which lawyers are paid for perverting the political sentiments of the people.” Archibald Maclaine lamented that because of the paucity of newspapers and the people’s great distance from the press, “extraordinary exertions are necessary to arouse the people to a sense of their danger.” Maclaine’s logic implied an acceptance of popular action as long as it could be animated—through the public prints—by the proper leaders (read: lawyers) acting from the right motives.

The animus of the lawyers resulted mainly from the confiscation acts and the treatment of returning Loyalists. In one case, the General Assembly ordered prosecution for Peter Mallett for treason in 1782 and declared him ineligible for general pardon in 1783, but the governor pardoned Mallett anyway in 1783. Under pressure from a Tory-baiting faction in Wilmington, Judge Ashe ordered the arrest of returning fugitives such as Frank Brice and Dr. Daniel McNeil, pending a decision about whether or not the men

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87 Archibald Maclaine to James Iredell, March 6, 1786 in Kelly, Papers of James Iredell, 3:203-205.
88 John Burwgin to James Iredell, May 23, 1786 in Kelly, Papers of James Iredell, 3:217-218. Burgwin had lost his property in one county to confiscation, but not in another county. He lamented the incongruity in application of state law.
89 Political Creed of Every True Patriot, Anonymous Extract from the North Carolina Gazette (Hillsborough), February 16, 1786.
90 Archibald Maclaine to James Iredell, August 24, 1786 in Kelly, Papers of James Iredell, 3:231-232.
could stay in North Carolina. The anti-Tory faction in Wilmington had in vain tried to rouse the populace to force banishment on returning Loyalists through the authority of the justices of the peace rather than the superior court judges.\textsuperscript{92} Despite pressure to banish returning refugees, the General Assembly instead made them ineligible to hold office in the autumn of 1784.\textsuperscript{93} The judges of the superior court in 1785 ordered the prosecution of Brice and McNeil on a misdemeanor charge of returning to the state without permission; when the jury asked for the law condemning the men, the judges ordered them to find the facts only, telling the jurors that the Treaty of Peace implied the misdemeanor charge.\textsuperscript{94} Forced to agree to the facts, jurors returned a true bill and the judges sentenced Brice and McNeil to banishment. McNeil petitioned the Governor for interposition and eight citizens of Bladen petitioned the General Assembly in favor of McNeil on account of his skill as a doctor and a valuable contributing member of the community. The Governor’s council advised a respite of the execution of the sentence of banishment, giving lawyers led by John Hay time to arraign the conduct of the superior court judges in the 1786 General Assembly.\textsuperscript{95}

John Hay started the ruckus with the judges. When Judge John Williams expostulated on the meaning of the Treaty of Peace in 1786 in court, Hay interrupted:

\textsuperscript{92} Archibald Maclaine to George Hooper, July 28, 1783 in Clark, \textit{State Records}, 16:968-970; Archibald Maclaine to George Hooper, August 14, 1783 in Clark, \textit{State Records}, 16:971-974. The leader of the anti-Tory faction was Major Jack Walker who called several town meetings to rouse anti-Tory spirit and often met at Thomas Bloodworth’s place in the backcountry.

\textsuperscript{93} \textit{Laws of North Carolina}, Oct 1784, ch.22.

\textsuperscript{94} Archibald Maclaine to Samuel Johnston, December 24, 1785 in Kelly, \textit{Papers of James Iredell} 3:180-181; Presentment of the Grand Jury, December 1785 in Wilmington District Superior Court Records, Miscellaneous Accounts and Court Records, Box 2, NCDAH.

\textsuperscript{95} Governor Richard Caswell to Daniel McNeil, April 3, 1786 in Clark, \textit{State Records}, 18:591; Petition of the Inhabitants of Bladen to the General Assembly, in GASR, Nov-Dec 1785, Box 1; Archibald Maclaine to Samuel Johnston, December 24, 1785 in Kelly, \textit{Papers of James Iredell}, 3:180-181; Minutes of the Council of State, December 28, 1785, March 26, 1786, NCDAH.
“So this is your opinion Judge Williams. Your Servant Sir I wish you a good night.” While Williams palavered, Hay marched out of the court, forcing Judge Samuel Ashe to ask Williams to whom he was speaking. Incensed, Williams ordered Hay struck off the roll of practicing attorneys and moved to have him fined for contempt; Judges Ashe and Spencer demurred and counseled patience.96 The judges bickered among themselves and Williams swore never to sit with Spencer again; lawyers then further embarrassed the judges when they forced them to admit that Peter Mallett’s 1783 exoneration protected Mallett’s right to sue in the courts even though the judges had blocked his suits and pretended to not recognize the pardon orders.97 When the General Assembly met later in the autumn of 1786, the judges found themselves accused by Hay and other lawyers of conduct inappropriate to judicial office. William Hooper believed that Hay’s charges against the judges originated in “Spleen” but he generally supported the validity of the accusations.98 Legislators appointed a committee to investigate the criticisms of Judges Spencer, Williams, and Ashe.

Hay accused the judges of high fines, illegal appropriation of forfeitures, admitting new and illegal prosecutions, the unjust banishment of Brice and McNeil, negligence, ill behavior towards Hay and other lawyers, failure to attend courts, and dispensing with the laws.99 A remonstrance from the Grand Jury of the Morgan District had already indicted Judges Williams and Spencer for never attending superior courts in

96 William Hooper to James Iredell, August 1, 1786 in Kelly, *Papers of James Iredell*, 3:221-222.
their district, leaving court business to Judge Ashe. Judges Williams and Spencer attended to defend themselves, while Judge Ashe, declaring himself “righteous and therefore bold,” sent a letter detailing his defense. Predictably, Judge Ashe blamed lawyers like Hay for the clogged courts, accusing them of “scouring and hunting after fees.” The report of the investigating committee condemned the judges—not surprising, since lawyers Archibald Maclaine, William R. Davie, William Hooper, Richard D. Spaight, John Stokes, and John Sitgreaves sat on the committee—for misappropriating funds, arriving late and leaving early, and slowing the business of the courts. Despite the evidence against the judges, the members of the General Assembly voted to thank Ashe, Williams, and Spencer for their hard work in a resolution that passed the Senate by a vote of twenty-six to twelve. Irate lawyers lodged two protests on the Assembly journals. William Hooper rejected the “unqualified” approbation of the judges, arguing that “banishment is a punishment unknown to the Laws.” Archibald Maclaine entered his own lengthy and devastating critique of the judges’ conduct, arguing that they had violated several state laws. Maclaine censured the attempt of the “Judicial authority to usurp the rights of Juries and to grasp at the Legislative Executive

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101 Letter of Judge Ashe in Clark, *State Records*, 18:137-142. Curiously, Judge Ashe admitted in his letter to taking repeated doses of laudanum during the trial of Brice and McNeill, suggesting, perhaps, a medical explanation for his conduct at the time.
powers of the State.”  Like other lawyers, Maclaine sounded a familiar theme in his dissent: the law must be the sovereign power of the state.

Maclaine did not stop with a dissent before the General Assembly. He gathered all of the relevant documents relating to the quarrel with the judges, including the Assembly dissents, original depositions from the Brice and McNeill cases, and the flurry of charges and countercharges lobbed between the lawyers and Judge Samuel Ashe in the newspapers. An Address to the People of North-Carolina with the Charges Against the Judges in the Last Assembly appeared in 1787 as a sixteen page pamphlet. Maclaine deemed the Judges’ defense of the prosecution of Brice and McNeill in the name of community values a contemptible doctrine because he believed that popular ferment held no essential place in protecting the local peace; in fact, by countenancing Tory-baiting, the judges had encouraged disorder. Maclaine averred that the trouble in the courts began with the contradictions in policy posed by the North Carolina legislature’s partial acceptance of the Peace of Paris and its own predilection for depreciated paper currency. Implicitly recognizing the need to reconcile the “people to the new government” of North Carolina, Maclaine posited that the only sure protection of the peace originated in adherence to the “fundamental constitutions of the country.”

Judges Williams, Ashe, and Spencer seem to have ignored Maclaine’s complaints. Having secured the approbation of the General Assembly, the superior court judges made

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105 Protest Against the Thanks to the Judges in Clark, State Records, 18:478-482. Brice and McNeil remained in the state and a committee report in 1789 had the last word with regards to fines imposed on them for remaining: “The said judgment [of Brice and McNeil] was incompatible with the principles of the Constitution and unwarranted by any law of this State.” See Report of the Committee of Finance, 1789 in Clark, State Records, 21:349.

106 Archibald Maclaine, An Address to the People of North-Carolina With the Charges Against the Judges in the Last Assembly, the Protests in Both Houses, and Other Papers Relative to that Business (Newbern: Hodge and Blanchard, 1787), 1-16.
their own bid for recognition of judicial power in 1787. The famous *Bayard v. Singleton* case pitted the daughters of Loyalist, Samuel Cornell, against the purchaser of their father’s property in Newbern. The case hinged on whether or not Cornell’s transfer of ownership to his daughters—while on board a ship in the harbor of Newbern in 1777—was legal and whether or not his daughters could legally sue for the return of the property, given that the Confiscation Act had explicitly taken Cornell’s landholdings.\(^{107}\) In order to silence the anti-confiscation lawyers in the case, defendant Spyers Singleton had paid retainers to Iredell, Maclaine, and Hay; he had also sounded out the judges and found them supportive of his claim against Cornell’s heirs.\(^{108}\) Singleton’s lawyer, Abner Nash, moved to quash the suit for ejectment on the grounds that the General Assembly had passed a law in 1785 dismissing suits against purchasers of confiscated estates from people explicitly named in the Confiscation Acts.\(^{109}\) The judges hesitated, unwilling to provoke a “disagreeable difference between the Legislative and judicial powers of the State . . . .” Judge Ashe argued that at the time of North Carolina’s separation from Britain, North Carolina’s citizens entered a state of nature from which they constructed a system of laws that devised the “powers of government into separate and distinct branches . . .” with “several limits and boundaries . . . .”\(^{110}\) Judge Ashe seemed to be leaning toward the arguments the lawyers had been making all along: the law must be fundamentally superior to all the branches of government in order to prevent undue arrogation of power that might harm the liberty of the people.

\(^{107}\) Den on the Dem. of Bayard and Wife v. Singleton, 3 NC 42 (1787).


\(^{109}\) Den on the Dem. of Bayard and Wife v. Singleton, 3 NC 42 (1787).

When arguments on the case resumed in May 1787, the judges eventually dismissed Nash’s motion to quash the ejectment. They argued that the Constitution of the state guaranteed “every citizen” the “right to a decision of his property by jury.” If the legislature could take away property without trial, they could take away anyone’s life without trial, or make themselves legislators for life. “But that it was clear,” the judges decided, “that no act they [the legislature] could pass, could by any means repeal or alter the constitution, because if they could do this, they would at the same instant of time, destroy their own existence as a Legislature, and dissolve the government thereby established.” 111 The judges thus asserted the doctrine of the supremacy of law in their use of judicial review of legislative acts. Unfortunately for Cornell’s daughters, however, the judges also ruled that Cornell had been an alien who could not own property in the state in 1777, and therefore could not have legally transferred the property to his daughters. 112 While the judges could not protect confiscation through property laws, they could through application of a test of citizenship. As a result of the decision, all other pending cases of Loyalists to recover confiscated property were nonsuited on the court dockets. 113

The superior court judges, once more “righteous and therefore bold” aroused passionate discussion of their blow for judicial review. Richard Dobbs Spaight bitterly complained to James Iredell that the judges had usurped the authority of the legislature; if the laws proved defective, Spaight argued that the only remedy was annual elections. 114

111 Den on the Dem. of Bayard and Wife v. Singleton, 3 NC 42 (1787).
112 Martin, Notes of a Few Decisions, 51.
113 Martin, Notes of a Few Decisions, 52. There were twenty-seven other suits.
114 Richard D. Spaight to James Iredell, August 12, 1787 in Kelly, Papers of James Iredell, 3:298-299.
James Iredell responded to Spaight with a full explication of a theory of the supremacy of law and the courts as its guardians. In a 1786 essay entitled “To the Public,” Iredell had argued the Constitution limited and defined the powers of the Assembly, making acts in violation of the Constitution, even by a popularly elected Assembly, void. Iredell had rejected direct violent resistance as well as relatively weak strategy of petitioning as two means of protecting rights. Instead, he averred that the judges, insulated from legislative influence, proved the only secure check to the liberties of the people. Iredell echoed those same themes in his reply to Spaight: “Individual liberty is matter of the utmost moment, as if there be no check upon the public passions, it is in the greatest danger.”

“The majority having the rule in their own hands may take care of themselves,” Iredell queried, “but in what condition are the Minority, if the power of the other is without limits?” An anonymous essayist in the North Carolina Gazette agreed with Iredell: “the Judges after all by their adherence to the constitution will be found to be the only security the people have for the liberty or property.”

The lawyers, and, unexpectedly, the judges, had labored to convince the public of the supremacy of law. In so doing, they helped to cement arguments for the primacy of individual rights to justice that had already been articulated through many petitions to the General Assembly.

Arguments for the supremacy of law, however, mattered little in North Carolina’s on-going struggle with western settlers over sovereignty. Even as the lawyers and judges quarreled in 1786 and 1787, events in the west and in Congress threatened to undermine

115 To the Public, 1786 in Kelly, Papers of James Iredell, 227-230. The essay appeared in a Newbern newspaper August 17, 1786. See McRee, James Iredell, 2:145.
the fragile fabric of union, imperiling the Revolutionary experiment. The settlers who had formed the renegade state of Franklin repeatedly rebuffed North Carolina’s overtures of negotiation, claiming that the state had abandoned them to merciless savages. Franklinites’ Cherokee neighbors, seeking redress from both North Carolina and Congress, repeatedly complained of the insults they received at the hands of land-hungry settlers. The refusal of Spain to grant westerners access to the Mississippi river heralded talk of the dissolution of the government and threats of western defection to Spanish masters. A discourse of legal rights structured much of the debate over these western issues, but, at the same time, pointed to the failure of law’s power to cage violence. Both petitions from below and the actions of Congress from above helped to nudge North Carolinians toward strengthening the fundamental compact that bound the state and nation together.

North Carolina’s governor and General Assembly pursued a mixture of censure and forgiveness in policies toward the seceding Franklinites. The newly elected governor of the so-called state of Franklin accused North Carolina of inflaming Indian resentment while others indicted the state’s derogatory criticism of westerners, oppressive taxation, denial of justice through the neglect of courts, and the cession act foisted upon unwilling citizens. Outgoing Governor Alexander Martin issued a manifesto against the rebels, citing the records of the journals of the Assembly to prove that western representatives had in fact voted for cession and that the General Assembly

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had made provision for new courts, judges, and defense for the west. He also accused the
Franklinites of being responsible for the Indians’ ill-will because of their constant
trespassing on Indian property and the recent murder of an Indian chief. Martin
condemned the “self-created power” animating the “arts of designing men” who led the
creation of the renegade state and he threatened that a resort to arms could be the ultimate
result if Franklinites did not surrender.\textsuperscript{119} Any chance of a forced reunion ended with the
election of Richard Caswell to the executive office. Caswell, hoping to lay his “bones”
on the western waters [move to the West], speculated heavily in western lands; he,
therefore, employed conciliation in his letters to the Franklinite governor, John Sevier.\textsuperscript{120}

The early rhetoric of the Franklinite appeals to separation rested on North
Carolina’s revocation of the cession act as well as the non-delivery of goods intended for
the Cherokees. As the Franklinite movement evolved, however, its defenders articulated
two other lines of argumentation: one set of arguments predicated separation on
geography while the other insisted that separation had created two different polities that
could never be reunited without difficulty. Franklin Judge David Campbell argued that
the Indians “must be restrained and circumscribed” because no law could prevent western
whites from settling on the land. “Nature has separated us,” Campbell argued, “do not

\textsuperscript{120} Governor Richard Caswell to John Sevier, June 17, 1785 in Clark, \textit{State Records}, 17:471-472;
Sevier also tried to flatter Governor Caswell by noting that Franklinites had always paid “due respect” to
North Carolina, especially in copying her laws and planning to name Franklin counties after leading North
Carolina citizens. See John Sevier to Governor Richard Caswell, May 14, 1785 in Clark, \textit{State Records},
oppose her in her works . . .”121 Similarly, a petition from 472 western residents in 1787 emphasized that “Nature” had placed the mountains between the east and west, creating insurmountable difficulties that no government could overcome.122 Because the Franklinites had created a parallel system of government to that of North Carolina, each county had dual courts and officials. David Campbell warned Governor Caswell that to force a reunion of the two states would only result in a tangle of lawsuits and conflicts from competing sources of sovereignty.123 And he was right. James Hamilton petitioned the General Assembly in 1787 for legislative aid because the dual court system had resulted in the loss of his records under Franklin authority.124

North Carolina’s leaders would not use force and yet did not want to relinquish control over the area. When more than eight hundred petitioners in 1786 requested separation, the committee investigating their case instead recommended extending civil authority to the area, remitting taxes from 1784 and 1785, and passing an act of pardon and oblivion to encourage Franklinites to give up their bid for separation.125 North Carolina’s lawmakers hoped to win back the Franklinites’ loyalty because they were also aware of the impending threat posed by Spain to the free navigation of the Mississippi

121 David Campbell to Governor Richard Caswell, November 30, 1786 in Clark, State Records, 18:790791
122 Petition of the Western Inhabitants, 1787 in Clark, State Records, 22:705-714.
123 David Campbell to Governor Richard Caswell, November 30, 1786 in Clark, State Records, 18:790-791.
124 Petition of James Hamilton, GASR Nov-Dec 1787, Box 1. Legal disputes continued into the nineteenth century. See Barksdale, Lost State of Franklin, 162-163.
125 The General Assembly had already passed one act of pardon and oblivion which, though it pardoned the secession, further inflamed the conflict by directing voters to select representatives to the next North Carolina General Assembly. Laws of North Carolina, 1785, ch.46. The act of pardon and oblivion for 1786 directed all civil officers holding commissions under North Carolina law to continue to exercise those offices but also directed that tax revenues from 1784 would be given to the people. Laws of North Carolina, 1786, ch.23. For the petitions, see Petition of Westerners, GASR Nov 1786-Jan 1787, Box 2; Petition of John Tipton and others, GASR Nov 1786-Jan 1787, Box 2. The committee report is located in Clark, State Records, 18:85-86.
River as well as the erection of a Congressional Indian department to handle all relations with Indians. Both national developments threatened the loyalty of the west, since the Congressional failure to secure free access to the Mississippi River imperiled western commerce and Congressional treaties with southern Indians returned previous land cessions to the Indians.\textsuperscript{126} In fact, the 1785 Treaty of Hopewell not only returned previously ceded lands but granted the Cherokee the right to “punish . . . as they please” any settlers who trespassed on their property.\textsuperscript{127} North Carolina’s congressional delegate Timothy Bloodworth fulminated to Governor Caswell that the treaty “trampled on the Constitution & Legislative rights” of the state; the General Assembly resolved that Congress did not have the right to abrogate previous land purchases nor use its treaty-making powers to violate the state’s charter rights.\textsuperscript{128}

Similarly, the free navigation of the Mississippi spurred North Carolina leaders to argue for a legal as well as a natural law right to the waters that the Spanish claimed. In a series of public letters to Congressional delegate Benjamin Hawkins from an anonymous settler in Davidson County (Tennessee), Congressional delegate Hugh Williamson made an impassioned argument for America’s right to the navigation of the Mississippi based on treaty rights and the laws of nature regarding waterways. Williamson warned that

\textsuperscript{126} John Sevier to Governor Richard Caswell, October 28, 1786 in Clark, \textit{State Records}, 18:775-777.


Spain might be forced to share the river at the barrel of the “short rifle” if she did not do so willingly. The insult to North Carolina’s rights assumed a more personal aspect when a North Carolina merchant, Thomas Amis, suffered the confiscation of his goods by Spanish authorities in Natchez in the autumn of 1786; state leaders insisted that Congress investigate the insult. The 1787 General Assembly introduced resolutions on the right of North Carolina to the navigation of the Mississippi by its ancient charter and natural law and ordered its delegates in Congress to press for a full declaration of this right. When negotiations with Spain failed to bear fruit, North Carolina Congressional delegate Dr. James White told Spanish minister Don Diego de Gardoqui that the dissolution of the confederation would be at hand over the Mississippi affair and that South might be drawn into an alliance with Spain. Ultimately, nothing concrete ever came of the attempts to suborn the allegiance of western settlers to the Spanish, but western affairs clearly provoked both state and national crisis.

The situation on the frontier remained tense through 1787 as North Carolina pursued a policy of conciliation and applied anxiety. Petitioners from Davidson and Sumner counties in autumn 1787 requested aid in a war against hostile Cherokees—a war which they initiated through their own greedy land policies—because they believed that their lands had increased in value and helped the public to “sink a considerable part of

129 For the letters, see New York Journal and Weekly Register (New York), March 1, 1787, March 8, 1787, and July 19, 1787. For the attribution to Hugh Williamson, see William Blount to Governor Richard Caswell, July 19, 1787 in Smith, Letters of Delegates to Congress, 24:362-363.
130 Amis lost 142 dutch ovens, 53 potts, 34 skillets, 33 cast boxes, irons, a spice mortar, a plough mold, and fifty barrels of flour. His deposition and other papers, including extracts of the essay Williamson wrote for the New York Journal were presented to Congress in March 1787. See Ford, Journals of the Continental Congress, 32:147-148, 200-204.
131 Journal of the House, 1787 session, in Clark, State Records, 20:274, 279-280. See also the report of the 1786 Assembly which resolved that Congress did not have the authority to barter the free rights of North Carolina to the navigation of the Mississippi; Journal of the Senate, 1786 session, 70.
their domestic debt.” A set of negotiations had already occurred between the pro-Franklin and pro-North Carolina factions, allowing citizens to pay taxes to either state and suspending civil actions in the courts until the General Assembly met. But the General Assembly committee investigating the western problem could only recommend another round of pardons, suspension of suits for nonpayment of taxes, and the remission of poll taxes for persons west of the Cumberland. North Carolina had set aside western lands for the reward of its soldiers but ended up ironically failing to secure the loyalty of the people who lived there. Rival governments highlighted the failure of the law to command respect.

Even though petitioning helped to inform the making of state policy and reinforce the power of the General Assembly, petitioning also revealed deep fractures in North Carolina’s post-revolutionary communities. Petitioners from the same locations increasingly sought contradictory policies; every local faction thought that its prerogatives deserved the sanction of law. Lawyers had attempted to force popular politics to conform to the fundamental law of the state but even they could not help but participate in petitioning for their rights. James Iredell may have deprecated the weakness of petitioning as a political solution, but his name appears in many of the

133 Petition of Citizens of Davidson and Sumner Counties, GASR Nov-Dec 1787, Box 1. For an overview of the devastating consequences of Franklinite Indian policy, see Barksdale, Lost State of Franklin, 97-117.
petitions from Edenton in the 1780s. As national government crumbled in the face of its own impotence, lawyers appropriated the rhetoric of popular sovereignty through petitioning to call for the reform of the fundamental laws of the land. “At the eave of a Bankruptcy and total dissolution of Government,” lawyers like Iredell and Maclaine turned to the “people,” not the judges, in the search for a more stable fundamental law.

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136 Iredell signed petitions from Edenton in 1780, 1784, 1785, and 1786.
137 Address of Benjamin Hawkins to the General Assembly, 1787 in Clark, State Records, 20:241-243. Hawkins cited Congress’ inability to pay debts, the failure of requisition payments, and the behavior of Spain with regard to the Mississippi. Other reports of the dissolution of the union came from Timothy Bloodworth to Governor Richard Caswell, September 4, 1786 in Smith, Letters of Delegates to Congress 23:549-550 (“Confederated compact is no more than a rope of Sand”); William Blount to Governor Richard Caswell, January 28, 1787 in Smith, Letters of Delegates to Congress 24:75 (“Dissolution of the Union was publickly and openly spoke as a thing that would and ought to happen”); and James White to Governor Richard Caswell, November 13, 1787 in Smith, Letters of Delegates to Congress 24:554-555 (“these states are now tottering on the brink of anarchy.”)
The ‘people’ on whom North Carolina’s lawyers hoped to launch a reformation of state governance proved to be a fractious lot. As campaigns for a stronger central government captured public attention in the late 1780s, differing factions at the county level waged their own fights for a share of governing authority. Petitions from the late 1780s reveal deeply divided communities: numerous petitions for changing county boundaries, creating new counties, establishing separate musters and election sites, and reforming the regulation of towns all highlighted social divisions. If ever the state’s elites had fashioned a shared vision of organic community bound by social consensus, such a vision now vanished in the competing claims for power and influence at the county level. Conflict over muster and election sites pitted factions against each other in the search for control over county politics; so, too, did contests for the location of county seats and courthouses. Those closest to locations where governance transpired wielded enormous power over their neighbors. By 1790, one petition against the erection of new counties accused the state of fostering “argument” and increasing the “burthens of the people merely to gratify the ambition & perhaps worse Motives of a few individuals.” Those “restless spirits” who called for divisions, the petitioners warned, were “Stimulated by motives very different than what may appear” in their petitions.\(^1\)

\(^1\) Counterpetition to the division of Wake, Granville, and Orange Counties, GASR Nov-Dec 1790, Box 3.
The volatility of local conflicts, animated by many “restless spirits,” also affected the politics of the ratification of the federal Constitution in the late 1780s. While differing factions contested control of local governments, lawyers reached out through the press to the ‘people’ to combat the tyranny of the General Assembly. Those lawyers who became partisans of the federal Constitution hoped to convince the populace that reformation in the national government would aid the cause of reformation in state governance. Thus the late 1780s witnessed an explosion in the scale and substance of print media available to spur an imagined state-wide ‘public’ to the lawyers’ cause. Even before the ratification campaigns of the Constitution, lawyers began an assault on the General Assembly, identifying legislators as the enemies of the people through their perversion of the state constitution. Local factionalism, nonetheless, compromised the lawyers’ hopes. Since North Carolina’s legislators had spent the previous seven years acquiring the loyalty of citizens—especially by responding favorably to petitions—they ensured that ordinary citizens would not blindly vote to join a new federal union. Leaders of anti-ratification campaigns skillfully exploited the people’s fears of the dangers of attaching to the new system of governance. Both the lawyers and their opponents therefore nurtured local political factionalism in their search for the endorsement of the people.

In the years after peace settled upon North Carolina, groups of citizens at the county level increasingly sought boundary changes, new counties, separate elections, and separate muster sites. Any growing community more than twenty-five miles away from a county seat soon wanted to feel the influence of its numbers, growing resentful of elites...
closer to the seat of power where they monopolized county court offices. The volume of petitions for the 1780s demonstrate the scale of local searches for power: fifteen petitions for changing boundaries, three petitions against changing boundaries, twenty requests for new counties, three requests for separate elections, two requests for separate musters, and seven requests for changes in town regulation. Of the 615 laws North Carolina’s General Assembly passed between 1780 and 1789, thirty-five changed county boundaries (almost six percent) and sixty-eight changed local town regulations (eleven percent). The language of those laws, particularly ones creating towns, handed petitioners crucial rhetorical weapons in their search for justice. Almost every one cited for its *raison d’etre* the need to ensure the “convenience” of government to citizens, spurring the use of “convenience” as a rallying cry for local autonomy.²

Petitioners often yoked convenience to the possession of “equal” or “common” justice. They wanted to exercise the same rights as others but considered that distance and geography had to be considered in the application of law. Wilmington petitioners wanted the town muster moved back to Wilmington from the countryside because mechanics did not keep horses and therefore could not travel to participate; citizens of Mecklenburg considered traveling to Charlotte for courts and musters a violation of “common Justice,” given the numerous streams they crossed to reach the distant town.

Forty-four petitioners from Craven County wanted their public duties to be as “light and

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² North Carolina legislators passed 21 laws creating new towns from 1780 to 1789 and 16 statutes for county divisions. The preambles of each law usually referenced the county division, town creation, or change of boundaries as means of promoting the convenience of the citizens. See *Laws of North Carolina*, 1783, ch.47; June 1784, ch.43, ch.44, ch.59; 1785, ch.59, ch.60, ch.61, ch.62, ch.63, ch.64, ch.65; 1786, ch.44, ch.53, ch.59, ch.76, ch.78, ch.81; 1787, ch.49; 1788, ch.42; 1789, ch.30, ch.31. For an example of the conflict over town sites, see Thomas C. Parramore, *The Ancient Maritime Village of Murfreesborough, 1787-1825* (Murfreesborough, NC: Johnson Publishing, 1969), 21-22.
equal” as other citizens by annexation to the closer county of Dobbs. To make their case, the inhabitants of Craven listed beside each of their names the distance to the Craven courthouse compared to the distance from the Dobbs courthouse. Petitioners from New Hanover made the rights rhetoric operating in the Craven County petition explicit in their request for a separate election and muster in 1785: “This priviledge we acknowledge is not actually denied but the difficulties that attend the enjoyment overbalance the advantages arising therefrom . . . .”

Undue burdens placed in the way of citizens’ full exercise of their rights nearly equated to a prohibition; wise governments, therefore, in the words of the Craven petitioners, made public duties “light and equal as possible.”

Factional discontent with differential access to power at the county level dovetailed with increasing public criticism of the General Assembly’s activities in the late 1780s. Two petitions highlighted lawyers’ grievances with legislators’ interference in the fundamental law of the state. In the first petition, Thomas Vail of Edenton asked the General Assembly to intervene in a recent court case involving accusations that he had committed willful forgery; despite the jury having found Vail innocent, the court mistakenly recorded a verdict of guilty. Vail’s supporters sought a gubernatorial pardon

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3 For petitions, see Citizens of Wilmington, GASR Nov-Dec 1787, Box 1; Citizens of Craven, GASR Nov-Dec 1787, Box 2; Citizens of Pasquotank, GASR Nov-Dec 1787, Box 2; Counterpetition to Division of Mecklenburg, GASR Nov-Dec 1789, Box 4. Local conflicts also erupted over the incorporation of internal improvements companies – see Petition of the Cross Creek Canal Company, GASR Nov-Dec 1788, Box 3; Counterpetition to the Cross Creek Canal Company, GASR Nov-Dec 1788, Box 3; Petition of Mark Russell, GASR Nov-Dec 1788, Box 3. For additional commentary on county division and politics, see Fries, Records of the Moravians, 5:2279, 2304.

4 Petition of the Inhabitants of the Upper End of New Hanover County, GASR Nov-Dec 1785, Box 4; Laws of North Carolina, 1785, ch.49. Citizens from the town of Wilmington petitioned to have musters moved back in 1787 and the state granted separate musters as a result; see Petition of the Citizens of Wilmington, GASR Nov-Dec 1787, Box 1.

5 Petition of the Citizens of Craven, GASR Nov-Dec 1787, Box 2.
sanctioned by the legislature that legislators readily granted as they took the unusual step of recording depositions from the case on the house journals. A “Juryman” accosted the decision of the General Assembly to impeach “in an improper forum, the sacred Record of a Court of Justice” and to challenge “an authority paramount to the Laws of the Land.” The anonymous essayist criticized the Assembly’s invasion of the powers of the judiciary, its impeachment of the “sacred character” of a judge, and its undermining of the rights of trial by jury. Legislator Lemuel Creecy and essayist “Amicus Justitiae” rejected the claims of a “Juryman,” fostering public debate over the General Assembly’s unwarranted invasions of the state constitution.  

A less public criticism of the General Assembly’s recent legislative history emerged in William Attmore’s 1788 petition. A Philadelphia merchant who eventually settled in North Carolina, Attmore had sold in 1783 and 1784 several thousand pounds worth of goods to North Carolina merchants who promised to pay in specie within six months. The legal tender requirements of the paper currency emissions of 1783 and 1785 operated against Attmore’s collection of the debts owed to him; merchants who owed him nearly £4,000 could get away with paying “near half the Debt” in depreciated North Carolina currencies. One of Attmore’s clients even taunted him to sue in North Carolina courts, knowing that state juries could only award damages in depreciated currency. Attmore demanded that the General Assembly consider the hypocrisy of their policies. Knowing that the state imposed corporal punishment for petty theft, Attmore asked, “how

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6 Stephen Cabarrus presented the petition of Thomas Vail along with petitions from the district of Edenton in support of Vail’s character. See Journal of the House of Commons, 1787 session, in Clark, *State Records*, 20:203, 235, 295. The essays appeared in the *Edenton Intelligencer* (Edenton) on April 9, 1788 and June 4, 1788. A “Member” also weighed in on the controversy some four months later, condemning a “Juryman” for his mischaracterization of the legislature – see the October 27, 1788 issue of the *Edenton Intelligencer*.
incongruous does it appear, then, that other Men even under the sanction of Law, shall be permitted to cheat their Creditors of hundreds or thousands of Pounds with impunity”?

Attmore reminded legislators that the state’s own Constitution—in articles ten and twelve—forbade the state from robbing citizens of their property and violating the rights of trial by jury. The General Assembly, unfortunately for Attmore, ignored his petition.⁷

Though Attmore’s complaints privately circulated in the General Assembly, criticisms similar to his had already appeared publicly in a 1787 pamphlet entitled *The Independent Citizen, or, the Majesty of the People Asserted Against the Usurpations of the Legislature of North-Carolina*. Dedicated to lawyer William R. Davie, a member of the Philadelphia Constitutional Convention, the *Independent Citizen* established the case that North Carolina’s General Assembly had systematically violated the rights of the people by ignoring the state constitution since 1783. The author, clearly a member of the lawyer elite who had opposed paper money emissions and confiscation laws, accused state legislators of committing treason against the state constitution. Echoing James Iredell’s 1786 denunciation of laws against the constitution, the essayist argued that laws that violated the law of reason, nature, pure morality, natural justice, and equity were null and void. The acts that clearly fit those categories were the laws giving justices of the peace increased jurisdiction in debt cases, paper money laws, and the law that prevented suits to reclaim confiscated property. The General Assembly’s abuses of the constitution had made it “superior” to the people who gave legitimacy and sovereignty to the government. While the author deprecated laws resulting from the “passions” of the

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⁷ Petition of William Attmore, GASR Nov-Dec 1788, Box 1; William Attmore to Samuel Johnston, February 29, 1788, in William Attmore’s Letterbook in Benjamin Robinson Huske Papers, SHC.
people, he also sought to ground his attack on legislative tyranny within a populist frame of reference. Lawyer-pamphleteers conjured an imagined yet injured ‘people’ in their phalanx against legislative tyranny.8

Echoing the sentiments of the “Independent Citizen” was Hugh Williamson’s Letters of Sylvius, also appearing in 1787. Williamson’s essay consisted primarily of a diatribe against paper money, linking North Carolina’s predilection for paper currency to its depressed state of commerce and manufactures. Williamson deployed the classic republican tropes of simplicity versus luxury in his condemnation of North Carolinians’ post-war conspicuous consumption of foreign goods. He estimated that the value of consumption in the state amounted to nearly six dollars per person in 1783; the trade imbalance resulting from increased imports and few exports left North Carolinians debtors to the amount of $293,000 every year—all owed to foreigners. Depreciation of paper currency, ostensibly issued to lubricate the wheels of commerce, only further entrapped citizens in a cycle of debt and dependency. Williamson optimistically encouraged the formation of “voluntary patriotic associations” as a means to combat the national fondness for over-spending; Williamson also envisioned a series of new sumptuary laws emerging from excise and import taxes. The removal of poll and land taxes would help the struggling poor while increased prices for luxury goods would stimulate the growth of a domestic manufacturing economy. Instead of hungering after the gewgaws of London, American citizens would build economic independence from

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8 The Independent Citizen, or, the Majesty of the People Asserted Against the Usurpations of the Legislature of North-Carolina in Several Acts of Assembly, Passed in the Years 1783, 1785, 1786, and 1787 (Newbern: Francois X. Martin, 1787), 1-21. The author has not been identified but Archibald Maclaine might be a good candidate given his direct familiarity with the making of all the laws in question.
within and avoid the dangers of paper currency that tempted consumers to spend when they should not.\textsuperscript{9}

A number of other commentators weighed in along with “Sylvius” and the “Independent Citizen” on the state of North Carolina’s government in 1787. “Hampden” argued that if representation could be apportioned by valuation of property, then the most wealthy parts of the state would be adequately represented in the Assembly and could prevent such legislative “OUTRAGES” that occurred in 1785 and 1786.\textsuperscript{10} “A Yeoman,” praising the “Independent Citizen,” argued that recent acts of the Assembly seemed to suggest that the “members of our legislature appear, either to have forgot that there ever existed any such thing as Constitution, or to have willfully trampled it under their feet.” “A Yeoman” urged the calling of a convention of the people to impeach the recent actions of the General Assembly.\textsuperscript{11} “A Voter” called for the sheriff of each county to call a county meeting so that citizens might give their representatives proper instructions.\textsuperscript{12} “Horatius” praised the independent spirit of the judges in declaring the act of the General Assembly in the case of Bayard v. Singleton unconstitutional, implicitly impeaching the legislature’s record.\textsuperscript{13} Hugh Williamson gave a public speech in Edenton in November 1787 in support of the Constitution, criticizing North Carolina’s performance in failing to pay its requisitions to Congress.\textsuperscript{14} While the proposed federal Constitution circulated among the states, these pamphleteers and speakers flooded the public sphere with critical

\textsuperscript{9} Hugh Williamson, \textit{Letters of Sylvius} (New York: Carroll and Patterson, 1787), 8-28.
\textsuperscript{10} \textit{The North Carolina Gazette} (Martin, Newbern), August 1, 1787.
\textsuperscript{11} \textit{The North Carolina Gazette} (Martin, Newbern), August 16, 1787.
\textsuperscript{12} \textit{The North Carolina Gazette} (Martin, Newbern), July 11, 1787.
\textsuperscript{13} \textit{The North Carolina Gazette} (Martin, Newbern), July 11, 1787.
commentary on the performance of the state government.\textsuperscript{15} Despite their efforts, however, state legislators seemed quite unwilling to countenance constitutional revision in North Carolina at the same time they considered joining the new federal union.

Eighteen men of the grand jury for the district of Edenton urged the General Assembly to consider calling a convention for the adoption of the Constitution in November 1787. “No sooner was the danger of a common enemy removed,” the petition began, “than the States immediately detached themselves from the general concerns of the whole . . . .” Consequently, the nation struggled with unpaid public debts, an unfulfilled peace treaty, ruined commerce, and sluggish private industry.\textsuperscript{16} Though legislator Stephen Cabarrus presented the Edenton petition, the Commons tabled it while those in opposition to the proposed Constitution marshaled their forces.\textsuperscript{17} Granville County’s Thomas Person spoke on the subject of the Constitution “as often as the rules of the House would permit” but failed to win a roll call vote on granting him further time to protest against a conference of the two Assembly houses on the subject of a convention. Person also attempted adding an amendment to the proposed convention to require that, in the event of non-ratification, the convention delegates would report their objections to the Constitution to the governor. Person’s amendment failed.\textsuperscript{18} So too did Philemon Hawkins’ call for a convention for legislators to consider North Carolina’s constitution at the same time as they looked at the proposed federal one. Hawkins’ resolution would have asked delegates to mull over means of making the state government less expensive,

\textsuperscript{15} The Constitution appeared in full in the October 4, 1787 edition of the \textit{State Gazette of North Carolina} (Newbern).
\textsuperscript{16} Grand Jury of the Edenton District to the General Assembly, November 12, 1787 in McRee, \textit{James Iredell}, 2:181-183.
\textsuperscript{17} Journal of the House, 1787 session, in Clark, \textit{State Records}, 20:203.
while a similar Senate resolution on revising the state constitution would have required legislators to consider changing the number of representatives in the General Assembly. Opposition to state constitutional revision originated largely in the Cape Fear region with the strongest support for revision coming from the cluster of Piedmont tobacco-growing counties along the Virginia border. Philemon Hawkins’ supporting conspirators in Caswell, Granville, Warren, Franklin, and Nash counties likely saw state constitutional revision as a means of paring down the influence of state leaders and increasing the power of the county courts.19

While the prospects for amending the state constitution failed in 1787, the General Assembly did agree to call a convention in 1788 in Hillsborough to consider the adoption of the federal Constitution. Lawyer Archibald Maclaine urged James Iredell to spare no effort to be present, since the judges and other “petty tyrants” would be there “straining every nerve” in opposition to the Constitution.20 Lawyer William Hooper worried about his prospects for attending the Hillsborough convention, since he suffered the indignity of his eyes being “blacked” in an election fight the previous August; his fellow county members opposed his candidacy for the convention.21 With the Hillsborough convention set for July 1788 and elections set for March 1788, both opponents and proponents of the federal Constitution had three months to influence

19 Journal of the House, 1787 session, in Clark, State Records, 20:245, 293. These counties had typically supported policies beneficial to the tobacco farming interests of the planters tied to the commercial tobacco centers of Virginia. A cheaper state government would allow planters to divert more money to remaining profitable in Virginia tobacco markets.
20 Archibald Maclaine to James Iredell, December 26, 1787 in Kelly, Papers of James Iredell, 3:336.
21 William Hooper to James Iredell, December 31, 1787, in Kelly, Papers of James Iredell, 3:339. Hooper apparently was not practiced in the rough-and-tumble world of street fighting.
public debate. The defenders of the Constitution quickly dominated the public sphere of print while detractors excelled at oral denigration of the Constitution. And both sides continued public debate even after the March elections, hoping to influence each other in the coming Hillsborough convention set for July.22

James Iredell responded to George Mason’s criticisms of the Constitution in his widely read “Marcus” essays in February 1788. First appearing in installments in a Norfolk, Virginia newspaper, Iredell’s “Marcus” soon came out in pamphlet form in North Carolina.23 Systematically responding to criticisms of the Constitution, Iredell argued that opponents of the Constitution had so clouded public debate with “chimerical fears” that they would oppose the new government even if “angels were to have administration of it.” Of particular concern to doubters in North Carolina was the relationship of the federal to the state judiciary, and Iredell attempted to reverse his readers’ fears that the internal concerns of the state would be undermined by Congress.24 The essay of “Publicola,” appearing in North Carolina newspapers and in pamphlet form, soon added another perspective on the judicial question. Publicola indicted North Carolina’s paper money laws and judiciary for banishing all commercial “confidence”

22 Walter F. Pratt suggests that the Antifederalists excelled within the world of oral culture and largely succeeded in convincing constituents to reject the Constitution simply because it was written. While his arguments about orality and print culture deserve attention, they are unconvincing. Both the Antifederalists and Federalists in North Carolina used the press and both the Articles of Confederation and the North Carolina Constitution had been printed documents. A sample of eight large petitions from the 1780s shows lack of signature literacy in only 115 cases out of 1019 signatures (11.28%); however, signature literacy does not tell us as much as we would wish to know about reading ability. See Walter F. Pratt, Jr. “Oral and Written Cultures: North Carolina and the Constitution, 1787-1791,” in The South’s Role in the Creation of the Bill of Rights, ed. Robert J. Haws (Jackson: University Press of Mississippi, 1991), 77-99.

23 See the advertisement for the pamphlet in the State Gazette of North Carolina (Newbern), March 27, 1788.

and questioned the motives of the principal opponents of the Constitution since they had systematically undermined North Carolina’s constitution through tender laws. Publicola reassured (or frightened) his readers by asserting that the Treaty of Paris would receive judicial reinforcement under a stronger federal government and that real British creditors would receive their money; he criticized one of the state’s judges for arguing that confiscation compensated citizens of the state for the oppression of the British during the Revolution. He warned citizens that the superior court judges who opposed the federal Constitution did so because they sought to “increase their own power.”

Anti-federalists wasted no time in criticizing the Constitution in public. Archibald Maclaine, writing to James Iredell, grumbled that “our friend [John] Huske is the loudest man in Wilmington” in opposition to the Constitution. Maclaine later claimed that Huske condemned the new plan of union “after having a slight view of one half only over the shoulders of another person.” By emphasizing Huske’s loudness and his ignorance, Maclaine condemned the anti-federalist’s politics as being rooted in an oral, and presumably, uninformed culture.

Similarly, William R. Davie reported to James Iredell in January 1788 that Willie Jones, the leading state anti-federalist, held great sway over the people in Halifax by virtue of his “opinion,” presumably shared orally.

Rumors also surfaced that Thomas Person had accused General Washington of being a

25 In the North Carolina edition of the Marcus pamphlet, Publicola was appended by printers Hodge and Wills. See Publicola [Archibald Maclaine?], An Address to the Freemen of North-Carolina (Edenton: Hodge and Wills, 1788), 10-12. Publicola also appeared in the State Gazette of North Carolina (Newbern), March 27, 1788.


“damned rascal, and a traitor to his country.”28 Most telling about the Anti-federalists’ domination of public opinion is the account of Elkanah Watson, a northerner who had come to live in Hertford County in 1787, and who contended against the Baptist preacher Lemuel Burkitt.29 Burkitt posted a notice on tree on March 17, 1788 that he would expound on the Constitution at his church. In Watson’s own words, Burkitt “began to explain the object of the ten miles square, as the contemplated seat of government. ‘This, my friends,’ said the preacher, ‘will be walled in or fortified. Here an army of 50,000, or perhaps, 100,000 men, will be finally embodied, and will sally forth, and enslave the people, who will be gradually disarmed.’”30 Watson tried to interrupt Burkitt’s discourse but failed; the next day, he posted a caricature of Burkitt’s preaching—engaging in a visual discourse instead of an oral one—and caused a street fight. Watson remained worried about the effect of Burkitt’s preaching on an “ignorant and illiterate People.” 31

As the anonymous author of an unpublished commentary on the Constitution observed in the spring of 1788, “some of our farmers have not books and will not read or think: yet they will talk and judge and condemn.”32 Even the Anti-federalist William Dickson of Duplin County admitted that the “Genius” of the people in his region was not suited for the study of learning and science.33 But to suppose that only Federalists

29 Burkitt (1750-1807) was born in Chowan County; he studied law but entered the ministry in 1771. He pastored a church in Bertie County and was a leader in the Kehukee Baptist Association, an association of particular Baptists. Burkitt represented Hertford County in the 1788 Ratification Convention in Hillsborough as an Anti-Federalist. See Powell, Dictionary of North Carolina Biography, 1:281.
31 Providence United States Chronicle (Providence, RI), June 5, 1788.
32 Letter on the Constitution [Anonymous] in the Miscellaneous Collection, NCDAH.
availed themselves of the public prints fails to recognize that a few anti-federalists managed to get their ideas in print. William R. Davie mentioned to James Iredell in January 1788 that he had come across a now lost pamphlet by a “Freeman” that attacked lawyers. The anonymous author of the September 1788 pamphlet, To the People of the District of Edenton, accused an anti-federalist minister of composing “the most fulsome bagatelle that ever groaned under a press.” Archibald Maclaine considered the publisher of Wilmington’s newspaper to be a “rank Antifederalist” and accused Francois X. Martin’s Newbern newspaper of “teeming” with anti-federalism. Perhaps many of the anti-federalist print materials came from other states, as indicated in a letter from William R. Davie, who informed James Iredell that a “large packet of antifederal pamphlets” came from General John Lamb of New York. Willie Jones, Timothy Bloodworth, and Thomas Person had all been in contact with Lamb, who headed New York’s anti-ratification forces, as well as with other leading anti-federalists across the union.

Just before the Hillsborough convention met, “Honestus” started a public discussion on the status of print culture and the Constitution. Writing in the Wilmington Centinel, “Honestus” censured the “liteling writers” who “let loose upon the public to create parties” in their unhealthy praise for the Constitution. “In several late petitions by

35 “A Citizen and Soldier,” To the People of the District of Edenton (Edenton?, 1788), 3.
36 Archibald Maclaine to James Iredell, September 13, 1788 in Kelly, Papers of James Iredell, 3:435-436; Archibald Maclaine to James Iredell, April 20, 1788 in Kelly, Papers of James Iredell, 3:395-396.
respectable citizens,” Honestus noted, “which have been presented against the new government have been stated the great danger which could and perhaps might follow, in consequence of adopting the proposed plan.” No such petitions have survived and Honestus did not indicate whether they were directed to county courts or to the members soon to be meeting in Hillsborough. While “Honestus” recommended amendments as the surest protection for individual liberties, “Common Sense,” in response, argued that any such amendments ought to distinguish between ones that were essential and non-essential; among the essential amendments should be protections for rights of jury trial and liberty of the press. The debate between both sides therefore cannot simply be reduced to competing oral and written cultures—anti-Federalists proved just as capable of taking up pen and paper when they wished.

Pre-convention election violence presaged the mood of the delegates meeting in Hillsborough in July 1788. With reports of violence in the break-away state of Franklin and an election riot in Dobbs County involving a Baptist minister, supporters of the Constitution faced an uphill battle to convince their opponents of the virtues of the new government. Many delegates presumably arrived with instructions from their counties, binding them from voting contrary to the wishes of their constituents; like the right of petitioning, the right of instructions had been expressly lodged in the people by the state

39 Wilmington Centinel (Wilmington), June 18, 1788.
40 Wilmington Centinel (Wilmington), July 16, 1788.
constitution. So Willie Jones supposed when he motioned on the second day to dispense
with discussion and save taxpayer money by voting immediately.42 Anti-federalist
William Lancaster (of Franklin County) informed his fellow representatives that “every
delegate was bound by their instructions,” “whatever other gentlemen might think.”43
William Lenoir, an anti-federalist from Wilkes County, declared that his “constituents
instructed [him] to oppose the adoption” of the federal Constitution because it would lead
to a “dangerous aristocracy” and melt the states down into “one solid empire.”44 In
arguing the logic of instructions, anti-federalists tempted federalists to adhere to
arguments that they had been making about the “majesty” of the people in regard to the
legislative tyranny of the late 1780s. Neither side explicitly engaged in a theoretical
discussion of just who counted as ‘the people;’ instead, they tended to use the same terms
of debate while talking past each other.

Because the law that created the convention at Hillsborough called for debate and
deliberation, many federalists rejected the binding authority of instructions. Archibald
Maclaine told James Iredell that several men from his region “positively refused” to
receive instructions from the people.45 Yet, speaking in the convention, both Iredell and
Maclaine rejected anti-federalist David Caldwell’s (Guilford County) compact theory of
government by asserting the supremacy of the people’s sovereignty. When Caldwell
argued that the Constitution represented a contract or compact between the rulers and the
ruled, Iredell quickly rejected Caldwell’s antiquated theory by asserting that the rulers

42 Jonathan Elliot, ed., The Debates in the Several State Conventions on the Adoption of the
43 Elliot, Debates, 4:215.
44 Elliot, Debates, 4:202.
45 Archibald Maclaine to James Iredell, April 2, 1788 in Kelly, Papers of James Iredell, 3:388-389.
were the mere extensions of the people’s authority. Maclaine declared that “the people here [in America] are the origin of all power.” Iredell offered the clearest expression of the logic of popular sovereignty as the convention drew towards its final days: “In America, our governments have been clearly created by the people themselves. The same authority that created can destroy, and the people may undoubtedly change the government, not because it is ill exercised, but because they conceive another form more conducive to their welfare.” Such expressions of popular sovereignty had animated Iredell’s critique of legislative tyranny in the General Assembly’s violation of the state constitution as well as Maclaine’s condemnation of the paper tender laws and denial of rights of jury trial in confiscation cases. That anti-federalists seemed to hold to an older, organic vision of society—of a set of reciprocal relations between the rulers and the ruled—seemed out of harmony with the populist version of Iredell’s theory. Hence the anti-federalists even rejected the phrase “we the people” in the Constitution, arguing that the states, not the people, sent delegates to write the new instrument of government. Federalists countered that the people ratified the document, making their will the sovereign foundation of the new government.

Ultimately, federalists had to concede defeat at the hands of the ‘people,’ whose representatives followed the letter of their instructions and voted to work for amendments

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46 Elliot, Debates, 4:9-10.
47 Elliot, Debates, 4:230.
48 Elliot, Debates, 4:15, 24. If the General Assembly represented popular will, as many legislators claimed, then the representatives it sent to the Philadelphia Convention also, by extension, represented popular will. Any assertion that that the states constructed the new union would be a logical denial of popular sovereignty and an usurpation of the authority of the people.
to the federal Constitution before joining the union. Federalists had not yet worked out the contradiction between their praise of popular sovereignty and their denial of the binding power of instructions; nonetheless, they would henceforth invoke the authority of the people, properly encouraged by the enlightened public prints, as the true foundation of all governance. Ironically, at the root of their defeat lay one of the popular policies that they had deprecated for most of the 1780s: paper money. Of the twelve men who opposed paper money emission in 1785, nine eventually supported the federal constitution; of the thirty-six men who supported paper money emission in 1785, thirty-one voted against ratification. Among the members of the 1788 convention, thirty-five are listed in the records of British merchants as debtors; seventy-three percent of those

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49 Iredell conceded defeat toward the end of the convention: “It is useless to contend any longer against a majority that is irresistible.” Iredell then motioned to postpone consideration of the report on necessary amendments in order to force a roll call vote so that the yeas and nays could be taken. He and his cohorts wanted a record of their diligence for their constituents in order to avoid having to lodge a protest on the convention journals. Antifederalists considered Iredell’s motion in contempt of the majority but failed to prevent the roll call vote. Elliot, Debates, 4:241-251.


debtors voted against ratification. Leading anti-federalists like Timothy Bloodworth, Joel Lane, and Robert Irwin owed unpaid sums to British creditors and indeed, at least seventy-four members of the General Assembly between 1776 and 1789 owed money. Contemporaries recognized the linkage between debtor interests and anti-federalism. Benjamin Hawkins told James Madison that “People in debt, and of dishonesty and cunning in their transactions are against it [the Constitution], this will apply universally to this class who have been members of the legislature.” When William Attmore toured North Carolina in 1787 to recover debts owed to him, he reported a conversation with anti-federalist Judge Samuel Spencer in which the Judge had argued forcefully for the indispensability of paper money regulated by a scale of depreciation.

The topic of paper money also emerged repeatedly during the ratification debates. Judge Samuel Spencer attacked the federal judiciary’s proposed powers as opening the possibility for suits against North Carolina citizens to recover debts in full specie value rather than in depreciated currency. William R. Davie responded that a federal court system would allow for such recovery of full value but only in cases of

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controversies involving more than one state. Feeling insulted by frequent references to paper currency, Rowan County’s Matthew Locke pleaded that “those gentlemen who made those observations would consider the necessity which compelled us in a great measure to make such money” and observed that paper money allowed the state to compensate the Continental line for their services. But Archibald Maclaine rejected Locke’s logic by arguing that other states enacted compensation for their soldiers without resorting to a fiat currency that led to “debts and distresses . . . .” Indeed, Maclaine believed that North Carolina’s currency would appreciate under ratification since the federal judiciary and Congress would not act retroactively against the state’s paper money. New Hanover’s Timothy Bloodworth, a debtor, still feared that the logic of the Constitution’s supremacy clause would destroy North Carolina’s tender laws. William R. Davie admitted that the men of the Philadelphia Convention in 1787 knew of the “mischief” of paper money in the states but believed that nothing could be done about past mistakes, recognizing that paper money had legal tender status in four states. Both Stephen Cabarrus and James Iredell tried to encourage anti-federalists to see the Constitution as a “future” government that would not affect past actions. Nevertheless, anti-federalists like James Galloway continued to see mischief in adoption; with a million and a half in state securities in circulation, Galloway estimated, speculators would be encouraged under ratification if the federal government required payment of the “nominal value” of the state’s securities. As the convention closed, anti-federalists offered a

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55 Elliot, Debates, 4:157.
56 Elliot, Debates, 4:169-173.
57 Elliot, Debates, 4:180-183.
58 Elliot, Debates, 4:184-185.
59 Elliot, Debates, 4:190.
series of amendments to the proposed Constitution; one of them would have prohibited Congress and the federal judiciary from interfering with the redemption of paper money or the liquidation of public securities.\textsuperscript{60} As John Swann told James Iredell after the federalists’ defeat, everyone in the union “were so ready in agreeing to impute her [North Carolina’s] conduct to the very virtuous Motive of preserving paper money & tender Laws.”\textsuperscript{61}


\textsuperscript{61} John Swann to James Iredell, September 21, 1788 in Smith, \textit{Letters of Delegates to Congress}, 25:381-382.

\textit{Wilmington Centinel} (Wilmington), September 3, 1788.
Continuing with his arguments for popular sovereignty, Iredell hoped to arouse the public for a new ratification campaign. Ironically, he accepted the vehicle that he had deprecated as a weak strategy in 1786: petitioning. It seems that Iredell understood the need for arousing the appearance of a public majority in favor of ratification; after all, if he truly believed in popular sovereignty, he would have to convert the majority against ratification into a majority for union. Nonetheless, petitioning—as Iredell understood—reflected the weak strategy of the people begging for their rights. Here it appears that Iredell groped toward the logic of passive citizenship: a people, influenced by enlightened statesmen through the public prints, could be motivated to support measures that political sages had already deemed good for the whole. Iredell, like his contemporary Federalists, struggled to combine popular sovereignty with the concept of disinterested, elite statesmanship. Petitioning provided the proper avenue for such a reconciliation because it encouraged the expression of the will of the people in a deferential pose.

The anonymous author of “To the People of the District of Edenton,” writing in the *State Gazette of North Carolina* just after Iredell’s essay appeared, offered a different analysis of the meaning of the Hillsborough convention. “A Citizen and Soldier”

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64 The identity of the essayist has offered much room for speculation considering its angry tone. Penelope Sue Smith thought that the Thomas Iredell probably wrote the essay given his earlier familiarity with rumors of Thomas Person calling Washington a scoundrel. Smith, “Politics in North Carolina,” n. 313, 660. However, the essayist, though addressing the people of Edenton, is clearly familiar with what has been said publicly in the Halifax region where Willie Jones lived. Also, the author took great umbrage that Jones would have urged hanging for the 1787 Philadelphia Convention delegates, among whom was Jones’ kinsman by marriage, William R. Davie. Davie must be considered a likely candidate despite the writing style, as he was a soldier in the Revolution. Also, he made the same argument about North Carolina’s opportunity to join the union being an one-time event in the Hillsborough debates. Elliot, *Debates*, 4:238.
declared that “anarchy and confusion” resulted from the failure to join the union and blamed the disaster on a trio of traitors. The “Regulator” Thomas Person, an unnamed preacher, and the “Delphic oracle” Willie Jones deserved blame for ruinous ex post facto, paper money, and tender laws; Thomas Person called Washington a “scoundrel” while Jones publicly denounced the North Carolina delegates to the Philadelphia Convention as deserving a hanging. “A Citizen and Soldier” declared Willie Jones a “second Judas” and predicted that North Carolina’s sections would break away to escape the collapsing state government. Franklinites would either embrace Spain or petition Congress for a separate admission while the district of Edenton would probably become a fiefdom of Virginia to escape being the “sport of a wicked set of paper-money plunderers.”

Declaring the new union perpetual, the anonymous author warned that North Carolina had missed its only opportunity to embrace the Constitution. If the state could throw itself upon the mercy of the national legislature, it might have a chance to join the new union.

Only Hugh Williamson, writing as a “Republican,” offered a defense of North Carolina’s position. Williamson tried to downplay the negative opinion of North Carolina—a tendency he displayed on numerous occasions during the 1780s—by admitting that though North Carolina remained out of the union, her motives did not

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66 A Citizen and Soldier, To the People of the District of Edenton, 2-5, 8-9, 10-13; also printed in the State Gazette of North Carolina (Edenton), September 22, 1788. Willie Jones had to defend himself against the accusations made against him in the pamphlet in the State Gazette of North Carolina (Edenton), October 27, 1788.
necessarily reflect base interests. During the Revolution, Williamson argued, the state had equipped its own soldiers and paid debts to the Continental Line owed by the union; only recently did the state begin to contribute to the coffers of Congress. Paper money did not reflect fraudulent intentions, Williamson averred, countering that juries assessed damages in actions of debt after considering depreciation. And since the convention delegates at Hillsborough resolved to redeem the state’s paper currency, North Carolina’s motives for non-ratification could not be reduced to ruinous fiat currency schemes. Williamson strained credulity in making his arguments because he wanted to mute criticism of the state and promote the best possible terms for North Carolina’s eventual entry into the union. He understood that ill will toward North Carolina could reverberate in Indian policy, the settlement of Revolutionary war debts, and regulation of imports while the state remained out of the union.67

James Iredell pressed on with his plan to encourage a large-scale petitioning campaign for ratification but received little encouragement from Archibald Maclaine. Maclaine considered that “it would be in vain to attempt petitions in this and the neighbouring counties, unless persons of some degree of popularity would undertake the forward the business . . . .” Nonetheless, Maclaine admitted that Onslow County had already held a meeting and circulated a petition; Wilmington had a meeting to consider “instructions” at which two anti-federalists attempted to “throw cold water” on the affair by arguing that instructions were not necessary and might embarrass the town. Maclaine reported that instructions calling for a new convention carried with only a single

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dissenting vote. By the \textit{Wilmington Centinel} reported in early November that petitions circulated in the Salisbury and Morgan districts calling for another convention. By the time the General Assembly convened in late November, twenty-one counties and a town had submitted petitions requesting a second convention. Seven of the counties had supported pro-ratification delegates to Hillsborough in 1788 but the rest of the counties submitting petitions had either been divided or strongly anti-federal. Charles Johnson informed James Iredell that a great number of the petitions suggested that citizens in anti-federal counties experienced a change of heart. Most of the petitions came from coastal counties, but large interior counties like Rowan, Surry, and Mecklenburg also sent petitions. In only two of the counties did the number of signatures represent a majority of the free white male population; taken together, the petitioners represented just over seventeen percent of free white males in their counties. That they did not represent numerical majority gave them no less right to request a change in government.

The extant petitions bear the marks of a coordinated campaign. Similar language permeates the documents presented from Dobbs, Onslow, Martin, Carteret, Hyde, Johnston, and Edgecombe counties. The 3,359 signatories collectively argued that the ratification convention posed “irregular” amendments that should not have prevented the

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69 \textit{Wilmington Centinel} (Wilmington), November 5, 1788.

70 The counties and towns sending petitions were Camden, Carteret, Chatham, Chowan, Currituck, Duplin, Edgecombe, Hertford, Hyde, Johnston, Lincoln, Martin, Mecklenburg, Onslow, Randolph, Richmond, Rowan, Sampson, Surry, Tyrrell, Dobbs, and Halifax town. The news of these petitions was reported in the \textit{Wilmington Centinel} (Wilmington), November 26, 1788.


72 Approximately 80% of citizens in Camden and Hyde signed the petition. About one-third of citizens in Carteret and Johnston signed; signatures in Richmond and Rowan nearly reached 30%. The rest of the counties ranged between 3 and 20% of the population.
state from joining the union. Instead, the petitioners averred, North Carolinians could have worked toward appropriate amendments from within the union. Now they faced “Temporal Tribulation—anarchy and Civil War” while their sister states enjoyed the blessings of unity. The anti-federalists in Hillsborough had stupidly rejected the Constitution even though they knew that ten states had already adopted, leaving North Carolina in a situation that destroyed public credit. Two petitions indicated that the people had experienced a genuine change in sentiment toward the Constitution, fearing the dissolution of the Union and the loss of the glory of American independence. By “union we stand and by disunion we fall,” wrote the petitioners from Chatham and Randolph counties.  

Figure 3. Petitions to the General Assembly for Ratification, 1788

73 Petitions of Dobbs, Tyrrell, Chatham, Duplin, Onslow, Camden, Richmond, Martin, Hertford, Mecklenburg, Surry, Carteret, Hyde, Lincoln, Sampson, Johnston, Edgecombe, Randolph, and Rowan Counties in the North Carolina Papers, Miscellaneous, Oversize Box, PLD. Petitions now missing include those from Chowan and Currituck. The emphasis on “union” matches with Rogan Kersh’s analysis of the primacy of “union” imagery in the early republic. See Rogan Kersh, Dreams of a More Perfect Union (Ithaca: Cornell University Press, 2001).
Federalists used the petitions creatively in Assembly proceedings to remind the anti-federal members that citizens demanded a reconsideration of the Constitution. They had help from voters who refused to elect anti-federalists like Matthew Locke and Griffith Rutherford; William Hooper even reported that Thomas Person and Willie Jones had been burnt in effigy. The Senate sent a group of petitions to the House of Commons on November 11, 1788 and commons members decided to consider them within four days. To remind legislators that the people demanded a new convention, Goodrom Davis of Halifax, Charles Ward of Duplin, and Archibald Maclaine of Wilmington serially presented petitions from their respective counties and towns starting on November 13 and continuing until the day appointed to consider a new convention.

When the lower house resolved that it is “not now expedient to call a new Convention,” by a vote of fifty-five to forty-seven, Goodrom Davis presented another petition from the town of Halifax three days later. Despite Thomas Person’s best attempts to block a second convention, the House agreed to a Senate resolution for calling a new convention on December 1. Representatives from several counties that had sent petitions voted to reconsider a resolution for a second convention, suggesting that, at the very least, they disregarded the wishes of some of their constituents. Nonetheless, North Carolina’s

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74 William Hooper to James Iredell, September 2, 1788 in Kelly, Papers of James Iredell, 3:431; William Hooper to George Hooper, October 23, 1788 in William Hooper Papers, NCDAH. William Hooper reported that Thomas Person was mortified to find that he had been paraded in effigy in a “negro shortcoat and proper appendages.”
79 Most conspicuous was the case of Halifax County. The town sent a petition and the town’s delegate voted in favor of the convention, but the county delegates both wanted to reconsider the motion for a convention. Other counties which sent petitions but whose representatives voted to reconsider a ratification convention resolution included Mecklenburg, Chatham, Sampson, Duplin, and Edgecombe.
federalist-oriented legislators succeeded in calling for a new convention to meet in Fayetteville in 1789.

Despite securing a reconsideration of the federal Constitution in the 1788 General Assembly sessions, Federalists would have to wait for a year before the next convention could meet. To save money, the 1789 Convention would meet concurrently with the General Assembly since personnel for the two bodies would likely be very similar. The delay granted further time for both supporters and opponents of the Constitution to make their cases before the public voted on new representatives to meet. Thomas Person and Willie Jones had continued to harangue the people on the “terrors of the Judicial power, and the certainty of their ruin, if they are obliged now to pay their debts.” Meanwhile, William R. Davie and James Iredell undertook—at their own expense—to print the Hillsborough debates in order to supply federalist leaders in the major towns with copies of the explanations offered to assuage anti-federalist doubts. Since Iredell himself edited the copies, his own performance stands out more readily than those of his colleagues, leading Archibald Maclaine to complain that the final print versions left out his own call upon Judge Spencer to state whether or not the judges had enforced the treaty of peace. Copies even reached New York, where a senator had been inquiring after Iredell for the possibility of serving on the new federal judiciary.

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The printed text of the Hillsborough debates did not turn citizens toward the federal government as much as the federalists hoped. Instead, James Madison’s introduction of a bill of rights as well as the mollifying policies of the new federal government demonstrated that the new union would bear no immediate evil toward North Carolinians. Benjamin Hawkins, traveling through five formerly anti-federal counties, noted that the people had begun to change their minds about the new government. “We have in this State,” Hawkins told James Madison, “a strong predilection for paper money, our folly buoys us, above experience, and will in the end prove ruinous to many of our citizens.” Nonetheless, the value of state monies had appreciated, Hawkins gloated, alarming debtors and confirming Hugh Williamson’s earlier prediction in that regard. The debate between “Aratus” and “Flagellator Scurvarum” in the State Gazette of North Carolina kept alive criticism of the legislature as “Demagogues of power” who had the temerity to dare increase the authority of justices of the peace as well as to reject the...
federal Constitution.\textsuperscript{86} By the time of the autumn elections for the convention, federalist partisans generally reported excellent results for their cause.\textsuperscript{87} The results of the 1789 Fayetteville convention rewarded their optimism with a final vote on adoption giving the federalists victory by a margin of 118 votes. With less debate or fanfare, North Carolina joined the union.\textsuperscript{88}

Just before North Carolina’s leaders adopted the Constitution in Fayetteville, anti-federalist Lemuel Burkitt and other Baptist leaders met at Whitefield’s Meeting House in Pitt County as the Kehukee Baptist Association. Baptists also had been pondering a new union: the rejoining of the separate and regular factions. Kehukee association leaders appointed Lemuel Burkitt to a committee to draft a constitution for the “future government of this Association” in order to “perpetuate an union and communion amongst us . . . .” Had Lemuel Burkitt and the Baptists, so fearful of external authority, finally embraced a “federal” solution for their own political society? It seems not. Burkitt’s committee outlined a government, to be named the United Baptist Association, that would have “no power to lord it over God’s heritage” nor to “infringe the internal


Aratus had actually begun his essay as a response to the letters of a “Juryman” on the Vail case of 1787; the letters (five in number) analyzed the constitutional powers of the branches of the state government. Aratus’ detractors, Flagellator Scurrarum, a Farmer, Observator, and Diogenes lampooned Aratus as a long-winded “discontented lawyer.” See the\textit{ State Gazette of North Carolina} (Edenton), May 7, May 14, May 28, June 4, June 11, July 2, July 23, and July 30, 1789.


\textsuperscript{88} The 1788 convention had lasted 13 days but the 1789 convention took only six days before accepting the Constitution. Whereas a full set of debates exist for the 1788 convention, only a short journal of proceedings remains for 1789. Apparently, though, some anti-federalists led by Wilmingtonian John Huske did walk out in protest of North Carolina’s joining the union. See John C. Cavanagh,\textit{ Decision at Fayetteville: The North Carolina Ratification Convention and General Assembly of 1789} (Raleigh: North Carolina Division of Archives and History, 1989), 22-27.
rights of any church.” The United Baptist Association depended on the voluntary donation of funds from churches, only dispensed “necessary advice,” and could change its structure with a simple majority vote at any time. Many North Carolinians, like Burkitt’s Baptists, entered a new union concerned by the exercise of power by a central authority. That fearful stance bred suspiciousness of the motives of a distant government for the first four years of the new union.89

North Carolina may have finally entered the union, but the concerns of the 1780s—confiscation, Revolutionary War accounts, the state of Franklin, and judicial reform—did not evaporate just because a more “perfect” union had come into existence. Indeed, during and after the ratification debates, North Carolina’s state leaders agonized over the best ways to continue to offset the burden of the Revolutionary War debts and to mitigate the headaches caused by confiscation policies. Legislators insisted that the treasurer and comptroller settle accounts with soldiers as well as gather testimony to substantiate militia actions and the use of wagon teams in supporting the war effort.90

The devastating revelation of the Warrenton Army frauds had not diminished legislators’ insistence on rewarding the just claims of soldiers and petitions from soldiers reminded


90 Laws of North Carolina, 1787, ch.10; Laws of North Carolina, 1789, ch.6; Report of the Committee of Finance, 1789 in Clark, State Records, 21:348; House Committee on Claims, 1790 in Clark, State Records, 21:1036; Francis Child to Winston Caswell, May 4, 1790, Richard Caswell Papers, PLD.
the General Assembly of their promises.\textsuperscript{91} Calling the state to account for its failure to contribute to national coffers, a petition from sixteen North Carolina soldiers wanted the General Assembly to explain why it had not contributed the funds that Congress could have used to pay military claims; by depriving Congress of funds, North Carolina had actually \textit{harmed} its own soldiers.\textsuperscript{92} Settling both federal and state debts required redeeming the masses of paper currency still in circulation, though dissidents protested a 1789 law because North Carolina’s federal claims would be settled at their nominal values while citizens received four shillings to the pound for redemption of state currency. Arguing that the state currency constituted a solemn public contract, Senator John Graham and others rejected the plan for debt redemption on the grounds that it would “prevent us from having the confidence of our citizens.”\textsuperscript{93} Joining the union thus hindered the loyalty of North Carolinians to the state even as the state hoped to reap the benefit of settling its federal claims.

Laws regarding confiscation continued to offer thorny dilemmas even though the General Assembly laconically declared the 1783 Treaty of Paris as the law of the state in 1787. Some forty percent of the more than four hundred sales recorded by state officials


\textsuperscript{92} Petition of North Carolina Soldiers, GASR Nov-Dec 1789, Box 2.

\textsuperscript{93} Journal of the Senate, 1789 session in Clark, \textit{State Records}, 21:696, 726; \textit{Laws of North Carolina}, 1789, ch.5. John B. Ashe agreed with Senator John Graham; see John B. Ashe to Richard Bennehan, April 10, 1790, Richard Bennehan Papers, SHC. At the second ratification convention at Fayetteville in 1789, there were numerous rumors of another emission of paper money to help the state’s cash-strapped citizens; these rumors ultimately proved false. See Archibald Maclaine to James Iredell, November 26, 1789 in Kelly, \textit{Papers of James Iredell} 3:544; Abishai Thomas to John Gray Blount, November 15, 1789 in Keith, \textit{John Gray Blount Papers} 1:515.
between 1784 and 1787 took place in the same year the treaty became part of state law.\textsuperscript{94} Difficulties in sales of large tracts, such as those owned by Henry E. McCulloch, originated in the lack of deeds and records to document the purchase of these lands before the state confiscated them. Petitioners asked the General Assembly to allow them to continue to pay for their lands as they contracted with McCulloch, but found it difficult to remit payment since McCulloch remained in England.\textsuperscript{95} When legislators directed that the unsold confiscated lands belonging to McCulloch could be paid for in state currency, dissenters led by John Steele argued that that as a “real British subject” McCulloch had the right to receive his payment in “sterling money.”\textsuperscript{96} Other petitioners requested delay in payments based on the unlawful promises of the commissioners who sold them property or requested to be released from payment when circumstances rendered them indigent.\textsuperscript{97} Generally, legislators recommended leniency for purchasers or releasing them from their bonds, considering both the expense of prosecution of forfeited bonds or foreclosures on property as bad policies that wasted money and led to the alienation of good tax-paying citizens from the state.

State leaders also continued to exercise leniency in the demise of the state of Franklin. Acts of pardon and oblivion passed in 1788 and 1789, with a full pardon for Franklin Governor John Sevier coming in 1789 despite his having subverted “the peace

\textsuperscript{94} See Appendix B in DeMond, \textit{Loyalists in North Carolina}, 240-250.
\textsuperscript{95} Petition of the Inhabitants of Orange County, GASR Nov-Dec 1790, Box 2; Report of the Committee on the Petition of the Inhabitants of Orange, 1790 in Clark, \textit{State Records}, 21:777.
\textsuperscript{96} Protest against Committee Report on Unsold Confiscated Lands, 1788 in Clark, \textit{State Records}, 21:166. Archibald Maclaine reported that he had seen the petition printed in the “Gazette paper” and animadverted that the Assembly had nothing to do with private contracts such as McCulloch’s. See Archibald Maclaine to Edward Jones, November 18, 1790 in Clark, \textit{State Records}, 22:620.
Several petitions for new counties from the area indicated a renewed interest in North Carolina’s leadership as the Franklinite movement collapsed in civil war between rival factions. In terms of Indian policy, congressional delegate Hugh Williamson continued to work for a revision of the odious parts of the Treaty of Hopewell, both to avoid continuing warfare and to prevent the forced removal of citizens on the south side of the French Broad living in Cherokee territory who had asked Congress to allow them to stay. Those citizens petitioned the General Assembly in 1789 in a pose of abject deference, noting that they had long been the objects of the “Just displeasure” of North Carolina and begging for the “Clemency and parental tenderness” of the state. A favorable committee report on their petition, recommending compensation to the Indians and the right of preemption to the settlers, suffered defeat by a margin of seventeen votes in the House. Cherokee leaders proved indifferent to state overtures for negotiation, telling commissioner John Steele that, while the state remained out of the union, North Carolinians were “no People, having no head,

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98 Laws of North Carolina, 1788, ch.4; Journal of the House, 1788 session, in Clark, State Records, 21:77; Committee Recommendation on a Pardon for John Sevier, 1789 in Clark, State Records, 21:285. The Acts of Pardon and Oblivion also spawned petitioning, as in the case of William Evans, whose suit for the return of his slave was “nonsuited” on the basis of the acts. He argued that “governments were instituted amongst mankind for the protection of life Liberty & property.” See Petition of William Evans, GASR Nov-Dec 1789, Box 2.

99 Citizens of Greene County, GASR Nov-Dec 1788, Box 1; Inhabitants of Davidson County, GASR Nov-Dec 1788, Box 3; Inhabitants of Washington County, GASR Nov-Dec 1788, Box 3; Inhabitants of Hawkins County, GASR Nov-Dec 1788, Box 3. Collectively, these petitioners gathered nearly six hundred signatures.


101 Petition of the Violators of Cherokee Borders, GASR Nov-Dec 1789, Box 1.

and that they would not treat with us.” Such remarks reveal the Indians’ shrewd perception of federal-state relations; Cherokee leaders since the Treaty of Hopewell had become accustomed to dealing directly with the federal government, much to North Carolina’s displeasure.

After ratification, North Carolina’s General Assembly voted to cede the western lands to Congress and be rid of a “pest and burthen,” as Archibald Maclaine called westerners. The cession bill, with strong eastern and significant western support, passed by a margin of nearly forty votes in the House of Commons and by a margin of seventeen votes in the Senate. The cession act itself carried several conditions reminiscent of those imposed in the original 1784 cession. Indicating a concern for sharing the Revolutionary War debt, the General Assembly required Congress to apportion a segment of the state debt to the ceded territory. To protect the state’s investment in its soldiers, the state reserved all military lands as parceled. Congress had to regard the territory as a common fund for all the states with a republican government guaranteed for any future state or states carved from the lands. Finally, North Carolina demanded that Congress make no provisions that would tend to “emancipate slaves,” indicating a growing concern with the problem of slavery and emancipation originating out of the state’s own experience with Quaker petitions for general emancipation.

104 Archibald Maclaine to James Iredell, December 22, 1789 in Smith, Papers of James Iredell 3:552.
106 Laws of North Carolina, 1789, ch.3. The Quakers had presented memorials for general emancipation nearly every year and the General Assembly had even considered a bill for general emancipation in 1787 which the Senate defeated by a margin of two votes. See Journals of the Senate,
Petitions and public essays continued to raise criticisms of the overburdened county and superior courts. An essayist in the *Wilmington Centinel* asked readers to imagine a man of middling means sending a memorial to the General Assembly about lands tied up in lawsuit; with cases tied up in the courts of equity for six or more years, the essayist’s hypothetical petitioner experienced an “amazing delay of justice” that required him to take the extraordinary step of troubling the General Assembly. Citizens from Anson County echoed criticism of delays created by a “vast and voluminous Business” in the courts, requesting that the Assembly move them into the Fayetteville Superior Court district because of overburdened dockets in the Salisbury district. In an issue of the *Wilmington Centinel*, “Another Correspondent” argued that part of the reason for delay originated in the lack of adequate pay for judges. The Superior Court judges agreed, sending a petition to the General Assembly in 1789 asking that the legislators ameliorate the effects of depreciation. “Are we not entitled to the real and not the nominal sum?” the judges asked. Judge Samuel Spencer laid the blame on the General Assembly’s 1782 act giving the superior courts equity jurisdiction without the consent of the judges and without an increase in pay; he hinted that the judges in Virginia who had experienced similar woes refused to carry out their duties until the state paid them. After some wrangling between the Senate and the House of Commons, the Assembly agreed to

1787 in Clark, *State Records*, 20:326. I will consider the impact of emancipation petitions and slavery on the state’s politics more fully in the next chapter.

107 Court clerks for the inferior and superior courts kept records of the numbers of suits for the Newbern and Wilmington dockets between 1785 and 1790, as if to document the busyness of the courts. The superior courts tended to see nearly fifty-five cases per year while the inferior courts dealt with considerably more business in a year (sometimes as much as 121 cases). See the Newbern Superior Court District Records, Miscellaneous Records, Box 3, NCDAH; Wilmington District Superior Court Records, Miscellaneous Accounts and Court Records, Box 1, Box 3, NCDAH.
allow the judges an extra five pounds per court for the coming year but did not offer to compensate them for past work.

The General Assembly may have remedied the judges’ pay but did not address the problem of debt that created the backlog of court cases. Moravian F. W. Marshall, writing to the Unity Vortstheher Collegium in 1789, lamented that “if in certain cases one seeks the help of the law the matter drags on for several years. The law favors the debtor against the creditor.” By the time the court rendered judgment, Marshall bewailed, the defendants simply moved to the frontier. In 1789, Thomas Person offered legislation that would have required any property seized by a sheriff to be sold for at least two-thirds of its value; Frederick Hargett in the Senate offered a similar bill granting stays of execution for two years to give debtors time to pay judgments. Both bills failed in the House by a margin of ten and twelve votes, respectively. Consistent support for debtor relief in both measures came from counties bordering Virginia as well as counties in the Neuse and Tar River corridors.  

With the state redeeming its fiat money, currency shortages inspired petitions asking for debt relief from Wake County and Wilmington in 1790; the Wake County petitioners aimed to convince legislators that Person’s two-thirds value law would not have hurt creditors. Unfortunately, the House defeated a bill for insolvent debtors in 1790, leaving the petitioners’ concerns unaddressed.

The General Assembly of 1790, however, did set about reforming the superior courts by looking at two plans. The first plan proposed to take equity jurisdiction from

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109 Petition of the Merchants of Wilmington, GASR Nov-Dec 1790, Box 1; Inhabitants of Wake County, GASR Nov-Dec 1790, Box 1. The petitions bore 31 and 29 signatures, respectively.
the superior courts and locate it in a court of chancery; the superior courts, renamed district courts, would receive another judge. The General Assembly would ballot for a Chancellor who had the authority to appoint masters in equity.\footnote{The journals do not indicate who proposed the chancery bill but William R. Davie had been a consistent advocate for court reform. He did not serve in the 1790 House of Commons but that circumstance would not have precluded his involvement. The bill that did pass, Moore’s bill, Davie considered to be faulty but at least a step in the proper direction; Davie ran for the House of Commons in 1791 to continue court reform efforts. See Blackwell P. Robinson, \textit{William R. Davie} (Chapel Hill: The University of North Carolina Press, 1957), 220, 281; see also William R. Davie to Alexander Martin, November 1, 1790 in Clark, \textit{State Records}, 22:800-801. On the committee report see the Journal of the House, 1790 session, in Clark, \textit{State Records}, 21:970; the text of the proposed bill can be found in the \textit{Journal of the House of Commons}, 1790 session (Edenton: Hodge and Wills, 1791), 89-91.} Instead, another bill received the approbation of the judiciary committee; in it, the superior courts would retain equity jurisdiction and receive a fourth judge to handle the extra business. The judges themselves would receive a set salary of £800 per year; to handle the increased business of the state, the proposed legislation would also create a Solicitor General who would act as a second Attorney General. Despite a Senate attempt to reduce the salary of the judges in the bill, the act finally passed the House by twenty-four votes.\footnote{Laws of North Carolina, 1790, ch.3; Journal of the Senate, 1790 session, in Clark, \textit{State Records}, 21:846; Journal of the House, 1790 session, in Clark, \textit{State Records}, 21:1013. The journals do not identify which Moore was responsible for the legislation that passed, but there is a John Moore of Lincoln serving in the 1790 Assembly. Militating against the possibility that the bill was drafted by Alfred Moore is evidence in a letter from Samuel Johnston to James Iredell, April 15, 1791, Charles E. Johnston Collection, NCDAH.} The court reform bill received its greatest support from western legislators, particularly those in counties west of Rowan. The most significant dissent on court reform clustered in Thomas Person’s backyard—the counties of Granville, Warren, Franklin, and Halifax. Undoubtedly, many legislators considered the act a minor, perhaps trifling revision, since at least forty-six of them failed to vote (the same number that voted for the act).
judges had secured their goal for a permanent salary but only the most sanguine observers could suppose that the courts would clear the backlog of lawsuits.\footnote{113}{John Hay to James Iredell, December 16, 1790 in McRee, \textit{James Iredell 2}:302-304.}

The judges also earned the backing of the General Assembly for their refusal to obey a \textit{writ of certiorari} from the United States district court. Yet, the controversy revived the old debate about the General Assembly’s meddling in judicial affairs. The judges of the superior court sent a memorial to the Assembly November 30, 1790, asking specifically for legislative approval in refusing to obey a “mandate” from the federal courts. The judges repeatedly denounced the federal court’s “mandatory Writ” because the superior courts of North Carolina were not amenable to the “authority of any other Judiciary” and because the suit had begun many years before there ever was a federal judiciary.\footnote{114}{Memorial of the Superior Court Judges, GASR Nov-Dec 1790, Box 3.} The General Assembly voted a resolution of commendation for the conduct of the judges “in this particular” case.\footnote{115}{Journal of the House, 1790 session, in Clark, \textit{State Records}, 21:1054-1055. The best summary of the case, which involved Revolutionary financier Robert Morris, is Wythe Holt and James R. Perry, “Writs and Rights, ‘Clashings and Animosities’: The First Confrontation between Federal and State Jurisdictions,” \textit{Law and History Review} 7:1 (Spring 1989), 89-120.} Lawyers led by John Hay dissented against the General Assembly’s “consideration of Judicial proceedings” on the basis of \textit{ex parte} (the testimony of a single party) information and wished to avoid any “misunderstanding between the Judiciary of our own State and that of the United States . . . .”\footnote{116}{Dissentient on the Resolution Praising the Judges, GASR Nov-Dec 1790, Box 3; Journal of the House, 1790 session, in Clark, \textit{State Records}, 21:1082. The case continued in state courts until 1793, when the lawyer for Robert Morris, the plaintiff, removed the papers from the Edenton Superior Court. See the Equity Minute Docket, March 1793, Edenton Superior Court, NCDAH.} In the vote on the resolution praising the judges, which passed the Commons by seventeen votes, the
major opponents of approving the judges’ conduct came from eastern, coastal counties and the upper Cape Fear.117

Like the Assembly’s praise of the superior court judges, four other incidents illustrate the state’s reluctant participation in the new union. First, legislators excluded anyone serving in a federal office from holding a “civil, military, or judicial” office within the state.118 Merchant Thomas Blount believed that the act intended to dismiss both Hugh Williamson and John Steele, two of North Carolina’s most active advocates at the federal level, from state service.119 Rumors suggested that both Steele and Williamson had feebly opposed assumption of state debts to cover for their own rapacious speculations in state securities.120 Privately, Williamson worked with the Blounts in speculations in securities—even those issued in 1786 in Warrenton—as well as in western land speculation.121 Steele felt compelled to deny publicly any speculation.

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118 Laws of North Carolina, 1790, ch.6.
119 Thomas Blount to John Gray Blount, November 27, 1790 in Keith, John Gray Blount Papers 1:147.
120 Williamson had, in fact, been North Carolina’s most outspoken opponent of assumption of state revolutionary war debts. See Annals of Congress, 1st Cong., 2nd Sess., 1528, 1538-1542, 1548. Williamson argued consistently for putting off the assumption bill until the accounts of all the states could be settled; he was hoping to buy more time for North Carolina to produce claims that would offset the demands of Congress and leave the state a net creditor. Neither John Steele nor Timothy Bloodworth spoke at any length on the issue.
in public securities in answer to the rumors about his conduct in Congress.\textsuperscript{122} The General Assembly accused Samuel Johnston and Benjamin Hawkins, the state’s two Senators, of a want of “exertion” that could have fostered a “government adopted under many doubts and with some difficulty, better adapted to the dispositions of free men.” After some debate between the Commons and Senate over a series of resolutions on the conduct of the Senators, the General Assembly finally agreed to instruct Johnston and Hawkins to work for open Senate meetings, correspond regularly with the governor and Assembly, have the Senate journals printed, reduce the “monstrous salaries” of federal officials, alter the postal routes to benefit the state’s interior, and have federal circuit courts established in two towns.\textsuperscript{123} Most of the friends of Hawkins and Johnston considered the resolutions a stinging chastisement from the state.\textsuperscript{124}

Much of the criticism of the state’s representatives in Congress arose out of anger towards the funding and assumption measures proposed by Treasury Secretary Alexander Hamilton. Though North Carolina’s delegates uniformly opposed assumption, they could not overcome it.\textsuperscript{125} The General Assembly resolved to direct the state’s senators to oppose the operation of a system that they viewed as an “infringement on the sovereignty of this State.”\textsuperscript{126} The policies of the 1780s—securing the loyalty of the state’s citizens—now seemed for naught with Alexander Hamilton’s schemes to earn loyalty for the new

\textsuperscript{122} John Steele to Joseph Winston, July 20, 1790 in Ernest Haywood Papers, SHC; \textit{The North Carolina Chronicle} (Fayetteville), December 27, 1790.

\textsuperscript{123} Journals of the House, 1790 session in Clark, \textit{State Records}, 21:902-903, 961-962, 1028-1029, 1040-1041, 1044; Resolutions to the Senators, GASR Nov-Dec 1790, Box 3; \textit{The North Carolina Chronicle} (Fayetteville), December 20, 1790.


\textsuperscript{125} Samuel Johnston to James Iredell, April 6, 1790 in McRee, \textit{James Iredell} 2:286; John B. Ashe to Richard Bennehan, April 10, 1790 in Cameron Family Papers, SHC.

union. Disgust with the federal government reached such a pitch that legislators in the House defeated a measure, by a vote of fifty-five to twenty-six, requiring them to swear an oath of loyalty to the federal Constitution. This time, dissenters against the proposed oath—instead of proponents of it—entered a protest on the Commons journals against the idea of loyalty to the federal Constitution. Tarborough’s Dr. John Leigh, a lay Episcopalian minister, authored the dissent, claiming that state legislators took an oath to the state constitution that would be violated by an oath to the “essentially” different federal Constitution. He concluded that the Constitution of North Carolina remained as binding on state officials as if the federal government had never come into existence.

Because the state constitution offered an “essentially different” form of government, a grand jury of the Morgan Superior Court district proposed that the state consider a convention to make the state constitution conform to the federal one. The Fayetteville lawyer, John Hay, made a motion to call a committee of both houses to “take under consideration the internal policy of this State.” Draft resolutions called for a “reform in the representation” of the state and constitutional revision that would make the state’s government “conformable to the . . . form of Government of the United States . . . .” Unfortunately for the grand jury of the Morgan district, the General Assembly eventually rejected calls for internal reform. If North Carolina faced new difficulties in

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127 Resolution on Oath to Constitution, GASR Nov-Dec 1790, Box 3; Journal of the House, 1790 session, in Clark, State Records, 21:1021.
128 Dissent of John Leigh and Others in the Journal of the House, 1790 session, 89. On Leigh’s association with the Episcopal Church, see The North Carolina Chronicle (Fayetteville), November 22, 1790.
129 Grand Jury Presentment, Morgan District, September 1790, Morgan District Superior Court Miscellaneous Papers, NCDAH.
131 Resolutions on Reforming the State Government, GASR Nov-Dec 1790, Box 3.
the decade that lay ahead, they arose from the changing circumstances of federal union, not from defects in the state’s constitution. Federalists managed to employ petitioning in reforming the union but the imperatives of the state’s internal policies—generated in the matrix of the Revolutionary settlement—remained resistant to change even from below. Archibald Maclaine concluded: “I find North Carolina will be North Carolina still, whether in or out of the Union . . .”\textsuperscript{133}

\textsuperscript{133} Archibald Maclaine to Edward Jones, November 18, 1790 in Clark, \textit{State Records}, 22:619.
Chapter 5 ☉ Not Slothful In Business: Legislative Professionalization, 1790-1805

During North Carolina’s first ratification debate, state leaders eventually agreed upon an ordinance to fix the state capital on the land owned by Isaac Hunter in Wake County, closer to the interior of the state.¹ When the commissioners met in 1792 to select the exact location of the new seat of government, they agreed upon a site and drafted a plan, laying out streets and public squares. In the center of the plan stood the state house; streets radiated from it, each one named for the state’s superior court districts. In the original journal minutes of the meetings, that central square on which the state house would be built was named, in large, underlined letters, Union. North Carolina had joined the new federal union in 1789 but the name of the square had a double meaning. Union meant the unification of the state as much as it celebrated national unity.²

Since colonial times, sectionalism—north and south, east and west—had rent the state apart. Driven by economic interests, as each section tended to be linked commercially to surrounding states, and political power, as each section wanted the weight of its interests truly represented in the legislature, sectionalism in North Carolina

had prevented the selection of a state capital until long after the war.\(^3\) For the 1780s, the state’s peripatetic government thwarted most hope for administrative efficiency in governance. The lack of a capital also prevented the state from having a symbolic center, a seat of power from which legislative authority emitted.\(^4\) Despite frequent challenges to the new seat of governance, the state capital of Raleigh lent institutional permanence to the state. Anxious to acquire even more authority, the city, by the end of the 1790s, had become the required residence for the governor and the public printer, and the site for meetings of the United States Circuit Courts.\(^5\)

An anonymous poet, writing in the *North Carolina Journal* in 1793, enrobbed the state’s new axis of governance in dramatic attire:

> With a prophetic eye, we now behold,  
> What some propitious hour may unfold.  
> A lofty *Dome* magnificently fair,  
> Ascending from the top of *Union-Square*;  
> Where freeborn sons with patriotic zeal,  
> United shall promote the public weal;\(^6\)

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\(^6\) *The North Carolina Journal* (Halifax), January 9, 1793.
A few lines later, the poet cast Raleigh as a healthy, arcadian refuge from the coastal towns of Edenton and Newbern—“from noxious climes, and summer’s sickliest rage”—but quickly asserted “Unanimity” as citizens cast aside “invectives” and joined under the universal reign of “justice, truth, and peace . . . .”

By 1794, the dome of the new state house indeed had been finished, furnishing legislators and state officers a plain home in which to make law. With offices for the state treasurer and comptroller on the first floor, the legislature met on the second floor. No longer would the representatives of the people have to meet in taverns, churches, and courthouses.

Petitioners who had business to transact before legislative committees also found space in the new state house. Several small rooms on the second floor offered petitioners seeking justice at the state’s new seat of authority an area to testify. When legislators referred petitioners to the treasurer or comptroller, citizens now only had to march downstairs to get the appropriate records certified or to turn in their requests.

Ironically, the gentrification of legal space—also taking place at the local level as counties built better courthouses—may have increased separation of lawmakers from

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7 The North Carolina Journal (Halifax), January 9, 1793.
8 Battle describes the exterior as “barnlike,” “plain as a gigantic dog-kennel.” Battle, The Early History of Raleigh, 36. The architect, Rhodham Atkins, used local-made brick for the structure which faced east; see Moses N. Amis, Historical Raleigh (Raleigh: Commercial Printing Company, 1913), 49. Legislators in Commons in 1792 resolved to improve the exterior “elegance” of the plan by having Atkins put a frontispiece on the east and west sides “similar to the front of the public buildings in Newbern.” See Journal of the House of Commons (Edenton: Hodge and Wills, 1793), 36.
9 David L. Swain, Early Times in Raleigh (Raleigh, 1867), 7. According to the specifications for the building, there would be four smaller rooms on the second floor of the building, each one finished with chair railing, washboards, and plaster painted in “various” colors. See “Specifications for State House” in the Cameron Family Papers, SHC.
10 The Secretary of State occupied three offices on the ground floor and the Treasurer and Comptroller had two rooms each. See Journal of the House of Commons, 1794 session (Edenton: Hodge and Wills, 1795), 59.
their constituents. Though contemporaries considered the statehouse unrefined, its imposing edifice may have been intimidating to those used to more humble living. The symbolic separation of the rulers from the ruled certainly matches a trend through next decade towards pushing the concerns of petitioners out of purview of legislators. The General Assembly increasingly granted fewer claims, rejected interference in confiscation cases, and suggested courts as the appropriate avenue for solving citizens’ complaints.

Despite increasing rejection from legislators, the central concerns of petitions in the 1790s continued to focus on individual claims, changes in county boundaries and election sites, and the resolution of the conflicts of the 1780s in confiscation and loyalist policy. The presence of a vastly more powerful central government—soon to be much more financially secure than its predecessor—provided petitioners with an alternate avenue to seek resolution of their problems. Denied relief by the North Carolina General Assembly, petitioners turned to Congress. A second major change in petitioning in the

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11 Laura Edwards places the advance of courthouse architecture in the 1820s. See Edwards, *People and their Peace*, 215-219. But continued petitioning over the location of public buildings in each county and the laying of county taxes to build such public buildings suggests that the 1790s formed the advance wave of institutionalizing law and justice within public buildings. Certainly the legislature made it a blanket requirement in 1795 when it passed a law for the building of jails and courts within each county. See *Laws of North Carolina*, 1795, ch.4.

12 In the absence of evidence, we have no way of knowing how ordinary people perceived the new statehouse. But we do know that many North Carolinians could not have afforded the £15,000 it took to build the structure; some perhaps resented it as an extravagance, as the Regulators regarded Tryon’s Palace in Newbern.

13 One move was the restriction of petitioning through procedural means. By a law of 1796, the General Assembly automatically rejected petitions that did not provide public notice at three locations to the community at least thirty days prior to the sitting of the legislature. See *Laws of North Carolina*, 1796, ch.24.

14 Claims related to family affairs increased slightly from 1791 to 1805; see Appendix A, Tables 5 and 6. The overall rate of petitioning increased from an average of 135 per year in the 1780s to 167 per year in the 1790s; see Appendix A, Tables 2 and 3. The rates of acceptance, however, declined from 37.6% in the 1780s to 32.9% in the 1790s; the rates of rejection increased from 26.8% in the 1780s to 31.7% in the 1790s.
1790s concerned the shift toward adjudication of family-related legal issues. The number of divorce and alimony petitions climbed by the late 1790s, pushing the General Assembly to consider its role in the stability of family life. Finally, the state’s growing involvement in commercial development through internal improvements gained impetus from petitions for incorporation. Individual incorporations of both commercial and benevolent ventures proliferated by the late 1790s.

In terms of group efforts to communicate the peoples’ desires to their rulers, major changes in the 1790s heralded the emergence of political parties, however
unorganized and weak they may have been. Groups continued to petition the General Assembly for redress of county-oriented issues yet citizens exercised two additional means of expressing their views on public policy. Grand jury presentments, though not new to the 1790s, nevertheless multiplied as a means for communities to express the need for reform. Secondly, citizens meeting as public groups began to issue addresses to public leaders on policy that were hardly petitions or instructions. Aided by a rapidly expanding world of public print, these groups presented both state and national leaders with their opinions of men and measures. Such addresses, taking the form of praise for a policy or the conduct of a leader, raised questions about the people’s place in the governance of the state and nation. Conservatives worried that the people overstepped their bounds in making such public pronouncements, when they should have allowed their representatives to “represent” them in the pursuit of the common good. Even as the private concerns of individuals seemed to be pushed towards the courts, the collective ‘people’ took an increasingly public role in the political affairs of the state and nation.

Believing the legislature duty bound to redress their grievances, petitioners in the 1790s requested the interposition of the General Assembly even when the law already directed a solution to their problems. When disgruntled fishermen from Contentnea Creek asked legislators to pass a law opening their creek for the free passage of fish, the committee rejected the petition because “there is now existing a law by which the county court is empowered to direct how far rivers and creeks shall be opened.‖

Legislators told Martha Young, who was seeking a change in the will and testament of George

Young, that the “common law” should not “suffer any partial alteration” but instead allow the long established customs of adjudication to determine the rectitude of her request.\textsuperscript{16} When petitions for name changes, usually to legitimate bastard children so that they could inherit a parent’s estate, overwhelmed legislators in the late 1790s, a committee examining a batch of these petitions rejected them because the county courts were “fully and completely authorized to relieve the legislature from the numerous applications on that subject.”\textsuperscript{17} Because the composition of the legislature changed yearly, petitioners could hope that a new crop of politicians might be favorable to requests rejected the previous year. Legislative redress offered a comparatively cheap remedy compared to the courts, so petitioners lost little in repeated legislative requests. When subsequent legislatures acted on requests that had been rejected before, they signaled to citizens a tendency toward inconsistency that could be favorable to petitioners’ requests in the right circumstances.

Despite some legislative inconsistency, the General Assembly moved slowly and unevenly toward the application of impartial justice. For eighteenth-century legislators, impartiality referred to crafting justice that applied equally to all through a general statute. Legislators in other states, like North Carolina, recognized the “impropriety of the legislature interfering in partial cases.”\textsuperscript{18} Only in special, extenuating circumstances could a law-making body act on the behalf of an individual; yet, hardly anyone could

\textsuperscript{16} Journal of the Senate, 1792 session, 25.
\textsuperscript{17} Journal of the Senate, 1797 session, 33. Indeed, in 1794, the General Assembly passed an omnibus name change act which included a provision that henceforth the county courts would have “full power” to alter the names of any persons on application “which shall be valid in law as if passed by act of Assembly.” Laws of North Carolina, 1794, ch.89.
\textsuperscript{18} Votes and Proceedings of the House of Delegates of the State of Maryland (Annapolis, 1795), 43.
define exactly what made a circumstance exceptional, so the boundaries of “impropriety” became politically contested. When the committee on emancipation of slaves examined several petitions on the subject in 1795, along with grand jury presentments against Quakers who fomented slaves’ hopes for freedom, six senators rejected the report of the committee in a protest. They deemed the “general emancipation of persons of colour” dangerous to the “peace and good government” of North Carolina and the legislature’s willingness to emancipate individuals as proof of a lack of “uniformity.” Despite the senators’ protests, the legislature continued—though in fewer numbers each year—to emancipate individuals rather than relinquish the task solely to the county courts, even when a committee the next year recommended changing the law to relieve the legislature from “applications of that nature.”

Impartiality referred not only to justice applied equally to all but also in how the legislature resolved claims. The use of ad hoc committees in the 1780s had allowed legislators to politically structure a committee in favor of or against a petition, meaning that no two petitions on the same subject received similar consideration. Even when standing committees such as the catch-all propositions and grievances committee came more widely into use, similar petitions did not always receive equitable treatment. Beginning in the early 1790s, legislators started considering that impartiality in the application of justice might also mean that all requests on a similar subject should go to the same committee. Starting with petitions for county division, legislators began to

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19 Journal of the Senate, 1795 session, 46; Journal of the Senate, 1796 session, 23.
20 Similar trends are apparent in other states. The 1795 General Assembly of Vermont created a committee to hear all petitions for changes in land taxes; see A Journal of the Proceedings of the General Assembly of Vermont (Rutland: Anthony Haswell, 1795), 12. In the 1805 New Hampshire House of Representatives, legislators created a committee to hear all requests for establishing banks; see A Journal of
consider that the General Assembly ought to respond in a consistent fashion to whole classes of requests. County division petitions highlighted partiality in a dramatic fashion because counties, not population, determined representation in the General Assembly. County division thus excited sectional jealousy. In 1791, legislators asked a single committee to consider division for Caswell and Dobbs counties, hoping to avoid conflict between the east and the piedmont. Instead, when the committee recommended division of both counties, legislators in both houses dissented. Senators criticized the division of such a small county as Caswell because it would increase the number of representatives and thus the expense of the General Assembly. Another group criticized the division of Dobbs because it answered the “local purposes” of a “junto” rather than reflecting a set of “general principles” by which all county divisions should take place. The division of both counties helped maintain a sectional balance in representation but angered those who considered that such county division petitions originated in the “motives of interest of some designing men.”

Committees dedicated to the adjudication of petitions oriented around a single topic regularly appeared by the end of the 1790s, though legislators usually formed them a day or two after the regular standing committees (claims, privileges and elections, propositions and grievances, finance, and public bills). Lawmakers started routinely referring petitions on related subjects, particularly when faced with numerous

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*the House of Representatives of the State of New-Hampshire* (Portsmouth: Pierce and Gardner, 1805), 19. Maryland’s House of Delegates created a committee in 1805 to deal with 159 insolvency petitions it received; *Votes and Proceedings of the House of Delegates of the State of Maryland* (Annapolis: Frederick Green, 1805), 14.

21 *Journal of the Senate*, 1791 session, 15, 34, 37; *Journal of the House*, 1791 session, 37.

22 *Journal of the House*, 1795 session, 20; Petition of the Inhabitants of Mecklenburg, GASR 1792, Box 3.
applications in the same session, to a single committee who would frame an omnibus bill for relief.\textsuperscript{23} By 1800, the General Assembly regularly appointed a committee on divorces and alimony since requests on those subjects usually numbered thirty or more each session; by 1804, divorces and alimony became a regular standing committee.\textsuperscript{24} A committee to consider name changes began to operate regularly in 1799.\textsuperscript{25} The General Assembly’s experimentation with organizational strategies for handling petitions did not differ much from other states. Virginia had been using standing committees—religion, privileges and elections, propositions and grievances, claims, and courts of justice—for some time; divorce petitions routinely went to the committee on religion.\textsuperscript{26} In Pennsylvania, assemblymen appointed committees on the militia laws, internal improvements, ways and means, and schools.\textsuperscript{27} Across the union, legislatures experimented with different committee assignments to more efficiently handle their workloads.

As these specific-issue committees came into regular usage, legislators still occasionally sent petitions to the wrong committee, provoking one house to admonish the other for improper reference. The House of Commons sent a divorce petition in 1800 to the committee on propositions and grievances instead of divorces and alimony,

\textsuperscript{24} Journal of the Senate, 1800 session, 6; North Carolina Mercury and Salisbury Advertiser, June 27, 1800; Journal of the Senate, 1804 session, 3.
\textsuperscript{25} Journal of the Senate, 1799 session, 16.
prompting the Senate to reject the reference.\textsuperscript{28} In 1801, Senators rejected references to petitions on land warrants to the committee on propositions and grievances, arguing that the legislature should authorize a committee to examine all such land claims.\textsuperscript{29} Members of the Senate often performed such boundary-keeping functions much to the annoyance of members of the Commons. In 1799, the House of Commons resolved that when any member presented a bill, petition, or other paper, that member should have the “preference” to refer such materials to the committee of his choosing.\textsuperscript{30} Occasionally, Senators reversed their own rules about referring petitions. In 1795, the Senate made a standing rule to refer all revenue related petitions to the treasurer and comptroller because those officials had ready access to state fiscal records and could best judge the propriety of requests. Both houses continued to adhere to that standing rule until 1799, when senators decided that any “petition or memorial” addressed to the General Assembly ought to be adjudicated by legislators, not administrative officials.\textsuperscript{31} The Treasurer had accused the General Assembly of being lenient with public debtors in the past and it seems likely that senators wanted to exercise mercy to their friends in 1799 rather than adhere to some constitutional principle about the rights of petitioners.\textsuperscript{32}

Closely related to, yet in tension with, the notion of impartiality was the concept of efficiency. The submission of similar petitions to a single committee not only facilitated the crafting of common justice to all involved but also served to speed up

\textsuperscript{28} *Journal of the House*, 1800 session, 17. Yet, even the Senate in 1799 sent divorce bills to the committee of propositions and grievances. See *Journal of the Senate*, 1799 session, 7, 9.
\textsuperscript{29} *Journal of the Senate*, 1801 session, 5-6.
\textsuperscript{30} *Journal of the House*, 1799 session, 15.
\textsuperscript{31} *Journal of the Senate*, 1795 session, 4; *Journal of the House*, 1798 session, 5; *Journal of the Senate*, 1799 session, 5.
\textsuperscript{32} *Journal of the House*, 1792 session, 11.
legislative response to similar problems. Members of the House resolved in 1796 to stop hearing petitions for claims where the rate of compensation had already been fixed by law; henceforth, easily remediable petitions automatically went to the committee of claims without taking legislative time.33 In 1798, the House resolved to send all bills for the collection of tax arrears to a single committee for the crafting of an omnibus bill; doing so meant that legislators would hereafter vote on a single provision encompassing a large number of cases.34 Should legislators reject the claims of any one petitioner in omnibus legislation, the whole bill could fail. Another effect of the more efficient handling of requests by omnibus measures was that the proportion of laws originating in petitions seems to diminish by 1805. For example, the 1804 act granting separate estates included eighteen individuals.35 Nonetheless, legislators, constrained by the volume of business before them, wanted to avoid consuming “much time” with individual requests for name changes, emancipations, collection of tax arrears, divorces, and alimony.36 Legislating for the good of the entire state took precedence over local and individual interests.

Divergent local interests posed a more serious challenge to the business of adjudicating petitions by the early 1790s. As community divisions during the ratification debates demonstrated, hardly any community consensus fostered by an organic elite united the people of a county or town. Local factions disagreed about the proper pursuit of the public good, forcing legislators to either consider that “designing men” animated a

33 *Journal of the House*, 1796 session, 11.
34 *Journal of the House*, 1798 session, 28.
35 *Laws of North Carolina*, 1804, ch.124. Legislators did not usually create omnibus bills for acts referring to counties or towns, since the provisions of such legislation could differ widely according to local needs.
36 *Journal of the House*, 1804 session, 8.
minority or that the public mind of a community could truly be divided. Attacking the policy proposals of a “designing” minority served to denigrate factional activity and elevate the wishes of the majority, but legislators worried increasingly about how to distinguish the majority from factional interest. The House of Commons therefore resolved in 1793 to require that any petition “affecting the rights of other persons or politic bodies” should be publicly advertised for one month so that adverse parties had time to respond to any proposed changes in the law.\(^{37}\) Other states employed similar logic in requiring petitioners to give public notice when their requests affected the rights of others.\(^{38}\) New York’s legislature acknowledged that the people of Columbia County in 1795 were so “divided in sentiment” about a proposed move of the courthouse that they directed the bill under consideration be published in the newspapers for one month.\(^{39}\) The appearance of provisions for public comment upon proposed policy spoke to recognition of differing, legitimate interests in each community.\(^{40}\) A legislature could not act appropriately based on the testimony of a single party alone but had to consider various testimonies before rendering a verdict.

The North Carolina General Assembly after 1793 routinely rejected petitions that failed to give proper public notice.\(^{41}\) In 1794, legislators dismissed a petition to annex part of Pitt County to Martin based on the “representation of one party alone” and in 1796

\(^{37}\) *Journal of the House*, 1793, 54-55.


\(^{39}\) *Journal of the Assembly of the State of New York*, 1795 session, 103-104.


\(^{41}\) At least twenty petitions between 1794 and 1805 were rejected for failure to give legal notice. Most of them concerned annexation, county boundaries, fishing rights, or disputed elections.
tabled another annexation petition because legislators from the counties involved “had no instruction from their constituents to do anything of the kind.” 42 The Senate resolved in 1797 to require examination of bills of a public nature to make sure that the rule regarding public notice had received due attention. 43 Legislators also extended the rule about public notice to the issue of contested elections in 1796. A statute required that anyone who wished to contest the election of a legislator had to give thirty days notice to the sitting member whose seat he contested. The act also reinforced that petitions for separate elections and musters had to be “made known to the people” for at least a month before submission to the legislature. Finally, the law required that “when any private act is applied for, affecting the right of any persons other than the person or persons so applying, notice shall be given . . . to the person or persons whose rights may be affected . . . .” 44 Requiring public notice before acting helped legislators to gather information for making an informed decision, implicitly recognized differing local interests, and minimized the likelihood of complaints about controversial legislation.

Slowly and subtly, pressures for transparency, efficiency, and impartiality remade the legislature in the image of the courts. To be sure, legislative politics never assumed the predictability of the rule-bound courts in which justice emerged from contending visions of right by following established procedures. Committees investigating similar requests presented their findings to the jury of legislators who applied a number of procedural and legal algorithms to the cases before deciding on the propriety of granting requests. By rejecting “partial” solutions to individuals, legislators could say that they

42 Journal of the Senate, 1794 session, 13.
43 Journal of the Senate, 1797 session, 9; Journal of the House, 1796 session, 37.
applied the law to everyone. By requiring legal notice to all involved parties, lawmakers could claim that they had heard both sides of every case. Since the General Assembly functioned like a court of equity, partisans of professionalization and legal reform wanted the legislature to offer equitable relief on predictable principles; there could be no security for liberty if the representatives of the people offered inconsistent justice to petitioners. The political exercise of judicial functions—long criticized by lawyers—had to be tamed to avoid charges of hypocrisy and tyranny. In a country with no human monarch, Law was King.

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The ascendance of legalistic thinking filtering through the courts and the legislature depended partially on the efforts of lawyers to compile systematic law codes for the state. North Carolina’s lawmakers could hardly know if their solutions to problems comported with justice if they did not have access to the statutes of the past; courts could hardly claim to offer predictable relief to litigants when no one published landmark decisions. Few cared about such problems in the 1780s when the state belonged to a weak confederacy and struggled to overcome its fiscal problems. But membership in the federal union—accompanied by the prospect of judges and lawyers needing to know the legal systems of all the states—encouraged the compilation of state law codes. Soon the circulation of state statutes and Congressional laws throughout the Union helped to spur the development of a statute-and-precedent influenced legal
North Carolinians joined in a nation-wide movement to collect, codify, and disseminate their laws and court decisions. James Iredell, champion of the Constitution and Associate Justice of the Supreme Court by 1790, compiled the first state law code, consisting of all the acts of Assembly from 1715 to 1790. Like most early compilations, Iredell’s effort originated in a joint private-public collaboration in which Iredell provided the labor and the state gave its official stamp on his efforts. Legislators instructed Iredell to leave out repealed, obsolete, and private acts but he petitioned in 1789 to ignore his original instructions and the Assembly resolved to allow him to complete the work “as his own knowledge and direction may direct.” Iredell therefore published any material on which “controversies might now subsist,” like land entry laws and the division of counties. At a cost of three pounds and ten shillings to subscribers—“lower than the Terms first offered”—citizens could possess the accumulated legal history of the state in two volumes. The almost two hundred subscribers listed for the work represented the leading officials of the state,

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45 As U.S. Senator Benjamin Hawkins noted to Governor Alexander Martin in 1792, “I wish also, if it is practicable, that they [legislators] would send a few copies of our revised code here, and direct them to be presented, one to each state, and one to each of the foreign ministers, this may be productive of a reciprocity beneficial to us.” See Benjamin Hawkins to Governor Alexander Martin, November 25, 1792, GP II, NCDAH.


47 Printer James Davis was authorized to compile the state laws in 1783 but never completed the work; see Laws of North Carolina, 1783, ch.46. James Iredell was given the task in 1787; see Laws of North Carolina, 1787, ch.4. The legislature in 1791 approved Iredell’s work for use in the courts. Laws of North Carolina, 1791, ch.1.

48 Though the General Assembly purchased some of the copies, benefitting Iredell and the printer, it did not consider Iredell a state employee. In Virginia, for example, the legislature authorized a sitting commission of court judges to revise the state code, rather than relying on the efforts of private citizens. See Charles T. Cullen, “Completing the Revisal of the Laws in Post-Revolutionary Virginia,” Virginia Magazine of History and Biography 82:1 (January 1974), 84-99.

49 Petition of James Iredell, GASR 1789, Box 4; Clark, State Records, 21:419.
many attorneys, merchants, law enforcement officers and officers of the courts, and a number of justices of the peace. Even that anti-federalist Baptist preacher, Rev. Lemuel Burkitt, who had once studied as a lawyer, subscribed.\textsuperscript{50} A ready-reference of the accumulated acts helped to elevate the importance of legal precedent and statutory interpretation in the adjudication of conflicts, while legislators seeking to construct public policy could now view with ease the legislative wisdom (or failures) of the past.

Lawmakers and lawyers did not have to wait long for an update of the laws after Iredell’s revisal appeared in 1791. Newbern lawyer and printer Francois X. Martin planned his own revision in the wake of his unsuccessful attempt to get the patronage of the General Assembly for publishing the statutes of Great Britain that remained in effect in North Carolina.\textsuperscript{51} Martin advertised the utility of his continuation of Iredell’s work based on his publication of the private acts of the Assembly in a separate volume.

Indeed, legislators themselves had recognized the importance of knowing the vast body of private law—relating to counties, towns, and individuals—and recommended that it be published before the records disappeared.\textsuperscript{52} Since nearly sixty percent of the laws of the 1780s and almost seventy-five percent of the laws between 1790 and 1805 concerned localities and individuals, it seemed wise to make available such an important corpus of law that might be needed in court or for future legislative action. Martin advertised his collection of the private laws in the belief that the realm of private law not only affected

\textsuperscript{50} James Iredell, \textit{Laws of the State of North-Carolina} (Edenton: Hodge and Wills, 1791), 727-728.
\textsuperscript{51} Clark, \textit{State Records}, 21:906, 760; Petition of Francois X. Martin, GASR 1790, Box 2; Petition of Francois X. Martin, GASR 1792, Box 3; \textit{State Gazette of North Carolina} (Edenton), April 1, 1791.
\textsuperscript{52} \textit{Journal of the House}, 1793 session, 32. The same General Assembly also recognized that their own resolutions carried the force of law—even if limited in duration—and therefore directed the public printer to append resolutions (many of which concerned payment of claims) to the state laws. \textit{See Journal of the House}, 1793, 46.
the lives of individuals but might be important to others; he especially recommended that town commissioners purchase copies so that they would have a ready reference to the various acts of town governance.\textsuperscript{53} In his collection of public acts, Martin continued Iredell’s practice of including marginal notes indicating repealing legislation and providing summaries of each section so that students of the law could understand the statutes as a system of legislation. To underscore the centrality of the new state capitol as the “seat of government” and the center of state law, Martin also included a map of Raleigh in his edition.\textsuperscript{54}

Having a complete list of the acts of the Assembly proved useful to lawyers and judges but lawyers like Francois X. Martin also recognized the need for a reference manual for justices of the peace. Not since 1774, when printer James Davis issued his own manual for justices, had a guidebook been available to show the “principal officers of a Republic” how to do their duty.\textsuperscript{55} Martin offered to uninformed justices a “cue to direct them through the maze of intricacies into which the laws” of North Carolina had been thrown by the “political vicissitudes that sprang from the two revolutions, which the present generation has witnessed.” Combining elements of English statutes with the laws of North Carolina and previous guidebooks, Martin hoped to encourage justices to “shake off” ignorance and avoid transgressing the law. Martin’s guide, like those before it, provided a series of topical entries with the relevant law and forms necessary for dealing

\textsuperscript{53} North Carolina Gazette (Newbern), January 24, 1794; November 7, 1795; Francois Xavier Martin, \textit{A Collection of the Private Acts of the General Assembly} (Newbern: Francois Xavier Martin, 1794). Martin included all private acts from 1715 to 1790.


\textsuperscript{55} State Gazette of North Carolina (Edenton), August 2, 1790; Francois X. Martin, \textit{The Office and Authority of a Justice of the Peace} (Newbern: Francois X. Martin, 1791), 1.
with perjury, indictment, vagrants, trespass, oaths, mills, and a host of other common problems facing justices.\footnote{Martin, Office and Authority, 2.} Adherents of professionalizing “country justice” recognized that when justices of the peace erred, they encouraged lawsuits to multiply in the courts and petitions to come before the legislature.\footnote{Roeber, Faithful Magistrates, 112-113, 118, 176-190.} To judge from Martin’s published list of one hundred subscribers, copies of the work sold best in eastern counties—leaving the piedmont and the west largely out of the movement for legal professionalization.\footnote{State Gazette of North Carolina (Edenton), October 1, October 8, 1790. Martin’s title page carried the apothegm: “Happy the Country where LAW is not a Science!” Professionalization for Martin did not mean the blind application of memorized rules; he was advocating for professionalization of legal knowledge so that justices could keep the peace of the community.}

Lawyer and superior court Judge John Haywood compiled the next revision of North Carolina law in 1801 in a distinctive format that resembled the manuals printed for justices of the peace. Haywood’s manual offered an alphabetical list of topics that brought all the relevant laws together under a single heading. References from one heading to another connected related topics so that jurists could examine the entire legal history of a concept such as “insurrections.” Haywood’s manual only covered the public acts in use, leaving out obsolete material as well as the private laws. Haywood promised that when he had the “leisure” to do so, he would compile further volumes to cover the private acts as well as the statutes of England still in effect in North Carolina. Haywood believed that his work would enable “every man,” for very little money, to know the laws that currently only “professional men of considerable learning and study” understood. Haywood’s class-oriented language bespoke of Jeffersonian rhetoric about the common man. After all, since the legislature represented the people as the ultimate source of sovereignty, the law really belonged to the citizens. The professionalization of law in
Haywood’s vision therefore reflected not just a digestion of arcane statutes but also a revelation of the mysteries that wealthy gentlemen only had the leisure to know.\textsuperscript{59}

For the people to truly know the law, they also had to know the decisions of the courts. Other than lawyers who kept notes of cases, however, few members of the public had access to the decisions of the superior courts since those records remained imprisoned in the handwritten notes of the clerks who kept the dockets. Francois X. Martin aimed to rectify the lack of published material on the important court cases of his day when he issued *Notes of a Few Decisions in the Superior Courts* in 1797. Covering just fifty-eight cases, Martin’s *Notes* did not give an “official” account of the judicial activities of the superior courts and United States Circuit courts but instead provided recollections of the key decisions—“copied from the notes of the most respectable law characters”—and their impact on the body of state law. Martin began advertising his legal reports in 1796 with the implication that the public, judges, and lawyers should have access to precedent-setting decisions.\textsuperscript{60} Judge John Haywood, taking a cue from Martin’s growing business of law publishing, announced in 1797 that he would provide the public with a set of law reports concerning cases as far back as 1789.\textsuperscript{61} Haywood eventually released two volumes covering the superior courts, the federal courts, and North Carolina’s soon-to-be-established Court of Conference, whose enabling legislation


\textsuperscript{60} Martin, *Notes of a Few Decisions*; Martin’s *North Carolina Gazette* (Newbern), May 28, July 9, October 8, 1796; August 5, 1797.

\textsuperscript{61} *Wilmington Gazette*, October 26, 1797; John Haywood, *Reports of Cases Adjudged in the Superior Courts of Law and Equity of the State of North Carolina* (Halifax: Abraham Hodge, 1799). Haywood’s success also spawned imitators. Lawyer Duncan Cameron released the reports of the Court of Conference and Judge John Louis Taylor published his own volume of superior court reports in 1802. See Duncan Cameron, *Reports of Cases Ruled and Determined by the Court of Conference* (Raleigh: Joseph Gales, 1805); John Louis Taylor, *Cases Determined in the Superior Courts of Law and Equity in the State of North Carolina* (Newbern: Martin and Ogden, 1802).
directed the court to deliver its deliberations in writing.62 Until publication, the memories of lawyers and judges remained the major source of legal knowledge of critical cases. A truly “Republican” country could not remain so for very long with such information stored in so fragile a fashion.63

How far the circulation of codified legal precedent reached into the daily lives of North Carolina citizens is difficult to assess. The persistence of law-as-custom in the local communities allowed the people to skirt, if only temporarily, the fancy codes and guidebooks composed by Iredell, Martin, and Haywood. Individuals, pushing their court cases out of the county to the district on appeal, carried state law back home when courts rendered their judgments. When petitioners earned the favor of the General Assembly, in resolution or statute, they ferried state law into their communities. Citizens made statute in flesh so that it could dwell in the community but that incarnation did not always assure reception. When Henry Starr’s marriage fell apart in 1800, he secured a separate estate that left his property out of the power of his wife Margaret. She turned to the legislature for relief and obtained a private law to overturn the 1800 separate property statute, substituting one in its stead that gave her dower rights. Angry, Henry advertised in the Raleigh Register that “designing individuals” had helped Margaret so that she could take his property; he warned the public that he would not be responsible for any debts she

62 John Haywood, Reports of Cases Adjudged in the Superior Courts of Law and Equity, Court of Conference, and Federal Court, 2 vols. (Raleigh: William Boylan, 1806). Haywood’s reports covered the period from 1797 to 1806. On the court of conference and delivery of its decision in writing, see Laws of North Carolina, 1799, ch.4; Duncan Cameron, Reports of Cases Determined by the Judges of the Superior Court (Raleigh: Hodge and Boylan, 1800).

63 Haywood cited in his first set of cases a “leading case” decided just after the Revolution that governed a “vast deal of the property of this country” but which had never before been written down. Hitherto, the case had circulated via an oral culture dependent on memory of custom. See Haywood, Reports of Cases, 1799 edition, 232.
contracted. Given his wealth and gender, he could perhaps thwart any attempt Margaret made to cheat him out of his property; Margaret would have to depend on local justices of the peace to interpret the law in her favor in order for it to have any effect. Law-as-custom and law-as-statute may have interpenetrated each other’s realms of influence as digests of state codes, compilations of court cases, and manuals for justices circulated, but, like Margaret and Henry Starr, both realms of law maintained separate households though still yoked in legal matrimony.\(^{64}\)

Making the law available to the people encouraged re-consideration of the state’s fundamental law—its Constitution—especially in light of North Carolina’s entrance into the union in 1789. Almost every year after the adoption of the federal Constitution, some anonymous essayist, grand jury, petitioner, or politician urged the General Assembly to revise the state constitution. Doctrines of the consent of the governed and popular sovereignty dictated consulting the people about revising their quickly fashioned constitution of 1776, a document that legislators had not submitted for public approval. As the other states in the union revised their constitutions, the changes that they made suggested to many North Carolinians the need to redistribute the balance of power between the branches of state government. The model of the federal Constitution also encouraged thinking about strengthening the executive and judicial branches of government as well as apportioning representation by population. A majority of legislators, however, proved resistant to calls for consulting the people and calling a

convention for revision of the state constitution, displaying a conservative cast of mind informed by fear of “innovation” and a fear of upsetting the arrangement of sectional power in the General Assembly that favored the east.  

The arguments of proponents of constitutional revision in North Carolina between 1790 and 1795 focused on the need to remake North Carolina’s frame of government “conformable” to the federal Constitution. Petitioning in 1792, the militia companies of Mecklenburg County argued that the federal model set the standard for representation; complaining of the expense of the General Assembly, petitioners called for “lessening the Representation of the people.” Their call seems counterintuitive unless considered in the light of North Carolina’s three representatives-per-county system that gave the numerous eastern counties a political advantage over the larger, yet more populous, western and piedmont counties. Western counties realized that, although they had less representation than their eastern counterparts, they paid the same rate in taxes, which paid the salaries of legislators. Sectionalism, as in the case of the 1795 convention vote, thus characterized the politics of reform (see Figure 5). Pro-revision politicians could not overcome the eastern legislative bloc’s power to stifle calls for a convention nor could they succeed with proposals to ask the people to deliberate in their militia companies about the need for revision. Anti-revisionists did not even want the people discussing constitutional reform and they certainly did not want to hear the public’s opinions on the matter.

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65 There were convention votes in 1791, 1792, 1795, 1800, 1801, 1802, and 1803. See Journal of the House, 1791 session, 23; Journal of the Senate, 1792 session, 37; Journal of the Senate, 1795 session, 45; Journal of the House, 1795 session, 24, 33-34; Journal of the House, 1800 session, 59; Journal of the House, 1801 session, 45, 53; Journal of the House, 1802 session, 43; Journal of the House, 1803 session, 37, 44.

66 Petition of the Militia Companies of Mecklenburg, GASR 1792, Box 3.
We are fortunate to have public commentary as well as the legislative debates on constitutional revision after 1800, thanks to printer Joseph Gales’ recording of those discussions in short-hand. Anonymous essayists made specific proposals for revision of the state constitution to encourage public discussion and perhaps even legislative instruction from constituents. A “Fellow-Citizen,” writing in 1801, argued that since the federal Constitution redistributed “sovereign power,” North Carolina needed to amend its own government structure to reduce the cost of paying for legislators, to strengthen the executive and the judiciary branches, and to reapportion representation. “Fellow-Citizen” heavily criticized the expense of the General Assembly—costing about twenty thousand dollars each year—because legislators produced a “contradictory mass of statutes” and wasted their time on “private jobs, pardons, relieving public defaulters, restoring convicts to credit, conveying or vesting estates, giving names to mulattoes, granting divorces, &c, &c.” As most of those activities originated in petitions, “Fellow-Citizen” obliquely
criticized the petitioner-friendly political culture of the Assembly. The essayist also
disparaged the time wasted in the legislature on appointments to state civil offices; he
argued that a popularly-elected governor and state council could take care of those
appointments and leave the legislature to make better law—with less expense—for the
whole state. The state could also save money by electing members of the House of
Commons for two year terms while electing Senators for three year terms on a general
ticket apportioned by judicial districts. Meeting just four months after “Fellow-Citizen”
published his essay, the 1801 General Assembly once again debated the wisdom of
calling a convention.67

As discussions of a constitutional convention had frequently taken place in the
legislature, New Hanover County’s Timothy Bloodworth motioned to forgo debate in a
move reminiscent of Willie Jones’ similar maneuver in the North Carolina ratification
debates of 1788. Rutherford County’s Felix Walker, however, demanded that his
colleagues not “smother” the question as they had before. His constituents had
specifically instructed him to discuss reform and he argued that the resolution for calling
a convention merely requested that the people signify if they had an interest in revision.
Citing recent constitutional writing in Kentucky, Tennessee, and Georgia, Walker urged

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67 North Carolina Journal, July 31, 1801; North Carolina Mercury and Salisbury Advertiser, July 23, 1801. Joseph Gales, editor of the Raleigh Register, refused to print the essay because it had illiberal reflections on the General Assembly. Instead, he printed a summary of the proposals. See the Raleigh Register, July 21, 1801. “A Reader” responded to “A Fellow-Citizen” with his own essay against constitutional reform which basically argued that revision could be risky if bad provisions made their way into a new frame of government. See the Raleigh Register, July 28, 1801.
his fellow legislators to emulate the wise experiments of North Carolina’s sister states. Instead, legislators voted down the measure by a margin of twenty-nine votes.\footnote{\textit{Journal of the House}, 1801 session, 45; \textit{Raleigh Register}, December 29, 1801. For the broader story of constitutional change, see the old (but still useful) study by Fletcher M. Green, \textit{Constitutional Development in the South Atlantic States, 1776-1860: A Study in the Evolution of Democracy} (Chapel Hill: The University of North Carolina Press, 1930). Green points out that Virginia, Maryland, South Carolina, North Carolina, and Georgia collectively held thirteen conventions for constitutional revision between 1776 and 1860.}

Debates in 1802 and 1803 revisited the constitutional convention issue. Opponents argued that even asking the people their opinion on revision could make the convention an “electioneering” matter that might favor the partisanship of demagogues.\footnote{\textit{Raleigh Register}, December 28, 1802.}

Advocates of reform continued to call for revision of the appointment system, especially in the matter of justices of the peace, whom one legislator called a “more complete Aristocracy” than any set of men in the state. Another critic declared that men who made laws as legislators and then sat in judgment as justices of the peace violated the separation of powers. Regardless of specific policies proposed by reformers, however, all urged that the “will of the people” be consulted. To oppose the calling of a convention, one legislator asserted, equaled opposition to the people. The state could not become more “republican” until legislators consulted the fundamental source of sovereignty: the people.\footnote{\textit{Raleigh Register}, January 4, January 11, January 18, January 25, 1803.} The conservatism of anti-revisionists, however, once again trumped popular sovereignty.

Membership in the union created by the federal Constitution offered little guidance on the national meaning of popular sovereignty. The phrase “We the People” did not determine exactly how citizens would interact with and relate to the new national
government. The most ready analogy for imagining the new nation came from experience with state governments and, indeed, individuals began to consider Congress as another court for the adjudication of claims.\textsuperscript{71} Citizens submitted nearly six hundred petitions to the first four Congresses, with various monetary claims representing over sixty-five percent of those petitions. Approximately seventy percent of the legislation of the first three Congresses either originated in a petition or related to the concerns of petitioners in some way.\textsuperscript{72} As was the case with North Carolina, the volume of petitions required the development of administrative procedures for adjudication that consumed much of the time of the Treasury and War departments.\textsuperscript{73} Citizens unashamedly made their requests known to their national government, perhaps because they feared trusting their representatives alone. With one representative for every thirty thousand inhabitants, the realization that a congressman could not represent all the views of his constituents made it imperative for citizens to communicate directly with a government situated some distance from them.

Most North Carolinians differed little from the citizens of other states in the requests they laid before Congress. Many citizens of the state joined with others in asking for Revolutionary war compensation for services done on behalf of the union and

for which the state had denied relief. Since the federal government claimed the sole authority to regulate Indian affairs, many of the petitions from North Carolina concerned land claims in Cherokee territory. Owners of those disputed lands, including the trustees of the University of North Carolina (chartered in 1789), repeatedly sought redress by pressing the general government to hold treaty talks to extinguish Cherokee title. Another large class of petitions from North Carolinians concerned the establishment of post roads, which merchants deemed vital in the circulation of commercial information and politicians found important for keeping citizens informed about the activities of the distant federal government. Not content to let representatives merely speak for them, citizens sent memorials and petitions to Congress so that they could be sure of having their exact views presented in their own words.

The legislature of North Carolina also interposed on behalf of citizens to make sure that its own views on proper public policy came to the attention of the entire union. Known as the “doctrine of instructions,” the communication of the sentiments of the people of North Carolina—as embodied in their legislature—bound senators, but not representatives, to obey the dictates of the state. Since the legislature elected senators, they frequently “instructed” their servants on matters of public policy and “recommended” the same course of action to the representatives. The General Assembly’s committee on public bills often had the task of drafting a yearly set of

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74 For examples, see the U.S. Congress, *House Journal*, 4th Cong., 2nd sess., 145, 666, 707; 5th Cong., 2nd sess., 103, 144, 191.
77 *Journal of the Senate*, 1791 session, 37-38.
instructions; in 1792 the House recommended seventeen instructions covering the secret deliberations of the Senate, the courts, western lands, slavery, regulation of ports, the settlement of Revolutionary War accounts, and aid to sick merchant seamen. Senators often did their best to be obedient, though more nationalist-minded men preferred to be free to exercise discretion in making law for the good of the entire nation. The discomfort of senators under the doctrine of instructions pinpointed a central difficulty of making a representative model based on small, homogeneous populations work for an entire nation. Accommodating a diversity of interests in the formation of a policy for the common good spurred more factional conflict than perhaps James Madison imagined in his famous Federalist No. 10 essay. Madison believed that a national legislature could control the dangerous effect factions had on the body politic but even he became reconciled to the idea of political parties by 1792. To overcome the multiplicity of interests in order to get any business done in Congress, politicians seduced the body of the people with the charms of partisan organization.

The principle of majority rule foreordained two-party competition from the inception of the federal Constitution. The ratification contest itself helped to generate two divisions—either accept or reject the proposed new form of government. Nonetheless, majority rule did not dictate how the people would organize themselves for expression of public opinion. One of the first means of opinion expression by organized

79 Samuel Johnston and Benjamin Hawkins to Governor Alexander Martin, February 22, 1791, GLB 10, NCDAH.
bodies representing the people’s interests was the use of grand jury presentments. Technically, according to William Blackstone’s *Commentaries on the Laws of England*, the presentment properly dealt with an offense against the laws of the community that came within the knowledge of the grand jurors themselves; once brought to public attention, the offense came under the purview of an officer of the court who might frame an indictment against the law-breaking party. Grand juries had long used the presentment as a means of bringing to the court’s notice the transgressions of criminals, cases of bastardy, or nuisances to the community.\(^{81}\) Grand juries, almost from the moment of North Carolina’s admission to the Union, nonetheless turned the presentment into a mode of offering a popular opinion on the propriety of both men and measures.\(^{82}\)

In 1792, a grand jury in Salisbury decided to make the presentment serve as a statement of public approval for Congressman John Steele. Other than a grand jury address from 1787 praising the federal Constitution, the 1792 presentment marks the first time in North Carolina history that a body of men chosen from their judicial district decided to offer public approval for the actions of their representative. Had John Steele committed some outrageous invasion of his constituents’ trust, doubtless the grand jury would have exercised the presentment as a means of calling attention to the grievance.\(^{83}\) Of course, we may rightly question if the grand jury presentment truly reflected the sentiments of the community. After all, the men selected for the grand jury were chosen

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\(^{82}\) The grand jury of the Edenton district in 1787 presented their “sentiments” in favor of the proposed Constitution. See Clark, *State Records*, 20:203.

\(^{83}\) *North Carolina Journal* (Halifax), October 17, 1792.
by the county courts from the available list of voters. To judge from the extant lists of grand jury members, the selection process was not quite random. Almost every grand jury included men of some means in the community and quite a few of them served in the General Assembly. The expense of traveling from one’s county to the district court would have been burdensome on a poorer laborer who would lose time from his work to serve for little to no pay. Doubtless, county courts, in selecting members of the grand jury, purposefully chose men who could afford to take time for state service.  

Not only did grand juries offer their views on public policy, but they also directed that their presentments be printed in newspapers. When the district grand juries for Hillsborough, Halifax, Newbern, and Wilmington met in 1792, they all directed that their presentments on the state of the judiciary be published in the state gazettes. The similarity of language in the presentments and the structure of the presentments themselves suggest that some officials, perhaps the state superior court judges, took an active role in organizing such a specimen of ostensibly spontaneous public protest. The grand jury presentments against the Quakers, offered between 1793 and 1795, also appeared in newspapers. It seems that the recourse to publicity represented a direct attempt to influence the making of state-wide public policy; before the 1790s, most presentments limited themselves to a grievance directly experienced by the grand jurymen and remediable in their local circumstances. Why members of the community turned to the presentment as a means of influencing the making of state policy, instead of

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84 The process for selection onto the grand jury at the district level was technically supposed to be random, though the county courts narrowed the inclusivity of the pool by their own process of selection. See Laws of North Carolina, April-May 1777, ch.26; November 177, ch.5; 1779, ch.6.
85 North Carolina Journal (Halifax), November 7, November 14, 1792; North Carolina Chronicle; or, Fayetteville Gazette, October 2, 1792.
86 North Carolina Journal (Halifax), June 20, 1796.
choosing the traditional petition, seems difficult to fathom. A traditional petition had the advantage of numbers by gathering hundreds of signatures; a grand jury had, at most, eighteen signatories. Yet, the grand jury had the sanction of government authority, as it was the creation of the law, and it also carried the weight of some of the most respectable characters in the community. Putting their names at the end of the presentment told the public that the character of grand jurymen demanded respectful attention. It may be that such political presentments represented a transitional medium of elite control over local politics, responding to burgeoning partisanship in the absence of other institutions to mediate between citizens and the national state.  

Grand juries soon turned the vehicle of the presentment from a means of commenting on state policy to a means of offering opinions on national policy. When President George Washington agreed to diplomat John Jay’s negotiations with England in 1795, his decision roused a firestorm of criticism that the Jay Treaty betrayed American interests. The grand jury of the Wilmington district disagreed with the mobs and public gatherings that excoriated both Washington and Jay; they argued that, although they did not possess the means of offering a full examination of the treaty itself, they nevertheless approved of Washington’s decision. Just a few years later, two grand juries offered public praise of the actions of President John Adams in opposing the French threat to

87 Elkins and McKitrick, *Age of Federalism*, 451-461. In the same way that the Democratic-Republican societies offered a new conception of citizens’ relationship to the government, it seems that grand jury presentments offered conservative elites a way to do the same things—to deliberate and make public pronouncements on national policy. Yet, the grand jury did not have the opprobrium of being “self-created.”

88 *North Carolina Journal* (Halifax), June 20, 1796.
American honor and liberty.\textsuperscript{89} One of those addresses to the President aroused the ire of an anonymous essayist who considered the use of the grand jury presentment to offer public approval of the President an “usurpation” of the people’s right to have a free expression of their own opinions. “Civis” argued that he never gave his consent to have the grand jury speak on his behalf nor did the framers of the law ever consider the grand jury presentment as an appropriate means of expressing the “political sentiments of all the people within” a district.\textsuperscript{90} Such criticism indicated discomfort with the grand jury presentment as a means of expression of public opinion on national policy. Partisans needed a better means of collecting and shaping the opinions of the body of the people by turning spontaneous and ephemeral groups into an organized mass whose numbers would deliver victory.

The rise of popular-oriented political parties, growing out of the mass protests of the mid-1790s, provided politicians with the means of organizing public sentiment for electoral support. Partisans seemed to have convinced themselves of two suppositions. First, their activities did not fall within the unacceptable sphere of partisanship as a danger to the body politic in which demagogues over-stimulated the public nerves in an orgy of democratic chaos. Instead, partisan activity, under the label of non-partisanship, reflected the work of a legitimate interest trying to save the state from certain destruction. Second, partisans did not manipulate public opinion so much as guide the people to the proper use of their political reasoning. By encouraging citizens to support candidates of good integrity who held to the appropriate political nostrums, partisans could claim that

\textsuperscript{89} North Carolina Minerva and Fayetteville Advertiser, May 12, 1798; Wilmington Gazette, April 4, 1799.

\textsuperscript{90} North Carolina Minerva and Fayetteville Advertiser, May 12, 1798.
they awakened the people to their interests to act for the common good. Delivering a vote for a candidate would have the same meaning as delivering one’s sentiments in a petition or grand jury presentment. Shifting attitudes toward partisan identification show most clearly in advertisements for office. Before the late 1790s, almost every politician’s advertisement for office indicated that the “respectable” part of the community requested that he run and that the people could rely on his integrity. Hence, these announcements were almost always short. By the late 1790s, however, politicians’ advertisements grew longer with statements about their specific policy proposals or with which party they identified. Even candidates for the electoral college indicated their voting preferences before the election. Partisanship thus provided another avenue for the people to express their collective opinion on matters of the common good.

If political parties organized the body of the public for partisan purposes, that body was masculine. Women proved to be important adjuncts of the first party system but largely within symbolic roles in which they conferred legitimacy on the acts of men. Though political parties did not offer women a substantive vehicle for the communication of their policy preferences, women nonetheless increasingly asserted themselves and

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92 For examples, see the North Carolina Chronicle; or, Fayetteville Gazette, January 3, January 17, 1791; North Carolina Journal (Halifax), February 6, 1793, February 2, 1795; North Carolina Gazette (Newbern), July 2, 1791, July 12, 1794; State Gazette of North Carolina (Edenton), December 12, 1794; The Wilmington Chronicle and North Carolina Weekly Advertiser, April 14, 1796.

93 See The Minerva and Raleigh Advertiser, March 18, March 25, May 20, July 1, September 30, 1800 and March 7, June 13, 1803; Newbern Gazette, May 23, August 15, 1800; Wilmington Gazette, May 31, 1798, August 14, 1800, April 28, 1803, and June 19, 1804; Raleigh Register, June 13, 1803.

indirect evidence suggests ways in which women could express political opinions. A young John Witherspoon, studying at Princeton, wrote his mother in 1798 asking for her to give him the “private opinions of the Most influential men in North Carolina, and likewise yours and Papas” on the reasons why France threatened the United States with war. Not only did he expect his mother to gather the opinions of “influential men” but to send her own.\textsuperscript{95} Petitioning to the General Assembly also shows how women increasingly demanded the attention of legislators. Whereas just under five percent of all petitions to the General Assembly in the 1780s originated with women, nearly eight percent of all petitions in the 1790s expressed women’s concerns. While many of those petitions related to family issues like divorce, alimony, and the disposition of estates, women petitioned individually and collectively for certain privileges given usually to men. The single women of Salem, considering themselves a “house of education” in which they made their money chiefly by “needlework and Spinning,” requested tax exempt status in 1797.\textsuperscript{96} In 1798, Celia Jones, having taken the advice of lawyers, petitioned for right-of-way through another man’s plantation so that she could get to “court to market [and] to mill.” She did not want to be a “prisoner” in her own plantation.\textsuperscript{97} The General Assembly granted her request in a general law that allowed county courts to give public access to persons hemmed in by the property of others.\textsuperscript{98} Women, no less than men, considered themselves just in expecting their government to serve their needs, even if

\textsuperscript{95} John Knox Witherspoon to Mary Witherspoon, June 11, 1798, Cameron Family Papers, SHC.  
\textsuperscript{96} Petition of the Single Women of Salem, GASR 1797, Box 2. It does not appear the petition came to the attention of legislators in 1797.  
\textsuperscript{97} Celia’s husband had died, leaving her to petition the county court for access to her plantation; they claimed that no law authorized them to divest an individual of private property to make a public path for her. See Petition of Celia Harrison, GASR 1798, Box 3.  
\textsuperscript{98} Laws of North Carolina, 1798, ch.26.
prevailing political thought reserved to them circumscribed public space for expression of their grievances and opinions.

Public space in the early republic was still primarily oral and aural. But, the growing number of newspapers and the increasing availability of print media helped to usher in a public sphere shaped by the imperatives of print. Newspapers had always been considered an appendage of commercial activity but the state played an important role in supporting the world of public prints.\textsuperscript{99} Not only did the General Assembly elect a public printer who printed the journals of the legislature and the laws of the state, but other agencies of the state, like the governor and the courts, also came to rely on newspapers for the conduct of government business. Competition for the job of public printer proved rancorous in the late 1790s, indicating the importance of state support for the expensive business of printing.\textsuperscript{100} Newspapers started up and folded with great regularity in North Carolina, highlighting the inability of communities to regularly support newspapers on their own.\textsuperscript{101}

For most of the 1790s, newspapers operated principally in the commercial towns of the east. Halifax enjoyed Abraham Hodge’s \textit{North Carolina Journal}; Newbern hosted Francois X. Martins’ \textit{North Carolina Gazette}; Fayetteville welcomed various incarnations of a \textit{Fayetteville Gazette}; Edenton benefitted from Henry Wills’ \textit{State}

\textsuperscript{100} Abraham Hodge and later, his nephew William Boylan, held the state printing contract for thirteen years until Allmand Hall challenged them in 1798. See Powell, \textit{Dictionary of North Carolina Biography}, 3:5-6; Henry Potter to Unknown, December 24, 1798, in Cameron Family Papers, SHC; Samuel Johnston to James Iredell, December 14, 1798, Charles C. Johnston Collection, NCDAH.
\textsuperscript{101} See, for example, the comments of James Carey who operated the \textit{Wilmington Chronicle and North Carolina Weekly Advertiser}, October 22, 1795. Many papers, instead of folding completely, changed formats. See \textit{The Post-Angel, or Universal Enterainment} (Edenton), September 10, 1800.
The Gazette of North Carolina; and Wilmington intermittently supported its own printers.\textsuperscript{102} The average life-span of a newspaper in North Carolina was just over five years, though many never lasted longer than two. Printers regularly engaged in other kinds of business to support themselves; Francois X. Martin compiled law codes and court cases, Joseph Gales sold coffee and tea, and almost every printer kept a bookstore.\textsuperscript{103} Printing blank forms for officers of the court and sheriffs also provided some business, indicating that without government support, many printers could not have survived from the income of newspaper subscriptions alone.

The ready availability of print technology helped to make the business of law-making more technical and precise. All legislators brought hand-written bills before the General Assembly and read them for the information of the members. Starting in the early 1790s, however, lawmakers requested the printing of individual bills of great import on matters of state policy so that everyone could have a copy of proposed laws rather than rely merely on memory or handwritten notes. Politicians soon recognized that the printing of proposed laws also gave legislators another tool for spreading legal information to the public and perhaps encouraging the people to express their opinions. Printed bills “for the better information” of members and the “information of the people at large” gave supporters of public measures an exact copy of proposed legislation that could be more readily circulated in a community; lawmakers even began resolving to have proposed legislation printed at the end of the enacted statutes of a session. A culture of print in lawmaking heightened the importance of specific legal language employed in

\textsuperscript{102} See Appendix, Table 14, for a list. 
\textsuperscript{103} Wilmington Gazette, October 23, 1800; Raleigh Register, February 9, 1802; Martin’s North Carolina Gazette, May 28, 1796.
drafting a law; legislators could be more precise in crafting bills, though the potential for increased debate over language choices had the effect of preventing the passage of controversial bills for divorce and alimony or the creation of courts of chancery. Yet, like the recording and publication of court decisions, the use of print for drafting legislation helped to professionalize the business of lawmaking.  

Newspapers also proved essential for the business of the courts as well as the legislature. Hardly an issue of a newspaper left the press without a notice of some action in a court; judges regularly issued order for the publication of decisions and motions so that parties could have time to prepare responses or collect depositions. Courts even published the schedules of their business so that litigants could know which days would be devoted to admiralty, law, or equity actions. The executive branch of the state government also employed the public prints for making proclamations while the treasurer often gave notice of times of tax collection or when he would file lawsuits against delinquents. An efficient and effective government depended on the knowledge of the people while the law recognized that making information public allowed the people to know how to respond when others challenged their rights. A print-enabled republic allowed citizens to be more effectively informed on the measures of both their state and

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104 Journal of the House, 1792 session, 57-58; Journal of the Senate, 1799 session, 10, 30; Journal of the Senate, 1800 session, 21; Journal of the House, 1800 session, 25, 61; Journal of the Senate, 1796 session 6; Journal of the Senate, 1798 session, 18. In the Wilmington Gazette, December 24, 1801, one legislator during a debate held up a printed copy of a bill on which an amendment had been offered but noted, in contrast to his printed copy, he had only heard the amendment and could not recall it perfectly.  
105 North Carolina Journal (Halifax), June 29, September 21, 1795; North Carolina Gazette (Newbern), April 26, 1794; Raleigh Register, September 7, October 12, 1802; September 2, 1805.  
106 North Carolina Gazette (Newbern), June 6, 1795; The North Carolina Minerva and Raleigh Advertiser, September 10, 1799; State Gazette of North Carolina (Edenton), February 1, 1798.
national governments, giving them opportunity to express their opinions on public policy.  

When President George Washington made his goodwill tour through the Southern states in the spring of 1791, he hoped to reassure citizens of the ties that linked them to their new national government. He knew from a letter from Governor Samuel Johnston in May 1789 that perhaps a few wags had “misrepresented” the “Sentiments of the People” with regard the new “Form of Government because of North Carolina’s delay in joining the union. As the President traveled around the state, he physically embodied the new government; the awe his authority generated, based largely on memory of his Revolutionary War service, increased respect for the federal government and deepened the hope that citizens would be inclined to give cheerful support to its measures.  

As Washington visited a school in one of the Moravian settlements, however, he appeared to the students in another light. Reading from Noah Webster’s American Spelling, a boy came to the phrase “A cat may look on a King.” Glancing at President Washington, the boy remarked “they think it now also.”

If Washington was King, then his citizens were cats. The analogy did not imply subservience since no matter how great the hero of the Revolution stood in his

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108 Council of State Journals, May 1789, NCDAH.
109 See “Diary of George Washington,” The North Carolina Booklet 12:1 (July 1912), 41-52. For the importance of Washington as a symbol, see Simon Newman, Parades and Politics of the Street: Festive Culture in the Early American Republic (Philadelphia: University of Pennsylvania Press, 1997). So important was Washington to the idea of union, the “Republican” General Assembly of 1800 ordered the Governor to procure two portraits of the deceased President, one to hang in the Senate chamber and the other for the House of Commons. See William B. Grove to Governor Benjamin Williams, January 11, 1801, GPSS 24, NCDAH.
110 Fries, Records of the Moravians, 5:2404.
countrymen’s eyes, even the least important citizen could expect the paternal support of a
master. The bond between master and dependent, one that Washington doubtless
understood as the owner of slaves, conditioned recognition of the role of the federal
government in the lives of ordinary citizens. While the people imbued the federal
government with authority by gazing in respect upon its leaders, they could also
anticipate that government’s liberality. Petitions, instructions, memorials, grand jury
addresses, and even statements of approbation positioned citizens as dependents seeking
relief or conveying support for the central authority.

The relationship of master and dependent, so carefully orchestrated in the view of
petitioning as the preserver of the peace in a hierarchically organized society, strained
with the arrival of partisan politics in the 1790s. Dependents came to see themselves as
indispensable in offering public support for policies because masters actively encouraged
citizens to support a party platform and to express opinions on the worthiness of public
policies. Yet, the people’s political masters also found out just how difficult the task of
herding a nation of cats could be. At both the state and federal levels, masters invoked
the sovereignty of the people and thereby undermined their mastery. By dawn of the
nineteenth century, a nation of ‘cats’ not only looked upon their King, but came to
believe that he needed them as much as they needed him.
In 1778, the General Assembly authorized Newbern silversmith and watchmaker William Tisdale to craft a suitable seal for the state of North Carolina. Designed to be affixed to grants, commissions, and public acts, Tisdale’s seal depicted Liberty above a scroll labeled “Constitution” with the phrase *in legibus salus* below; on the reverse side, Plenty holds an ear of corn while a cow grazes under a tree, both encircled by the phrase *colonos: o fortunatos nimium sua si bona norint*. The elements of the two-sided seal depicted the state’s liberty under the guidance of law (*in legibus*) and its prosperity in agriculture (*colonos*). As an emblem of statehood, the 1778 seal embossed the ideological commitments of North Carolina on official papers. The untutored among the populace perhaps did not appreciate the seal’s classical symbolism or understand its Latin phrases, yet all could comprehend the state’s fundamental commitment to liberty and agriculture. *Farmers: O more than blessed, if they only knew their advantages.*

By 1791, the old state seal no longer served the ideological commitments of North Carolina as it had entered a new age in a new union. The General Assembly authorized Governor Alexander Martin to procure a new seal. Martin obliged with his own design,

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1 J. Bryan Grimes, *The Great Seal of the State of North Carolina, 1666-1909* (Raleigh: E. M. Uzzell, 1909), 21-27. *In legibus salus* (in laws, safety). *Colonos: o fortunatos nimium sua si bona norint* was a slight corruption of Vergil: *o fortunatos nimium sua si bona norint agricolas*. See Vergil, *Georgics* 2:458. *Colonos* can also be used to mean ‘colonist,’ so the double meaning may have been intentional.

2 Grimes, *The Great Seal*, 22. The seal, besides not meeting the state’s ideological needs, was unwieldy. The seal did not travel well, proving burdensome in a state with no set capital.
sending instructions to the state’s agent in Philadelphia, Colonel Abishai Thomas, for procuring a new seal. Martin envisioned a single-sided seal with four registers; each quarter of the design would represent differing economic commitments of the state’s sections. Martin sketched Ceres, goddess of grain, standing for the agricultural interest of the western part of the state; Amalthea, foster-mother of Zeus, representing the great “planting interest” of the Albemarle and Roanoke areas; barrels and bales of goods conjuring the commercial interest of coastal ports; and lumber, pitch, and tar suggesting the state’s manufacturing capacity. Agriculture, commerce, and industry together, linked with liberty, augured North Carolina’s future as Martin imagined it. Aware of the sectional jealousies and animosities that plagued the politics of his day, Martin saw the seal as an ideological commitment to unity through diversity.³

Colonel Abishai Thomas showed the proposed design to two of North Carolina’s congressmen, Hugh Williamson and Samuel Johnston, both of whom rejected Martin’s proposal. Incoming Governor Richard Dobbs Spaight told Abishai Thomas that Martin’s design was “too large” and “too crowded.” Instead, legislators approved a simplified version of the original 1778 seal: Liberty and Plenty occupied the single-sided seal with Liberty holding a scroll labeled Constitution and a staff topped with a liberty cap. Officials jettisoned Martin’s references to state sectionalism and the proposed unity of the

state’s economy; approved by the legislature in 1793, the new seal appeared on grants, commissions, and public acts until changed in 1835. The new seal typified republican simplicity through liberty and agriculture, rejected classical learning, and ignored the reality of economic conflict Governor Martin had attempted to unify in his proposed design.4

Governor Martin’s proposed seal would have called attention to the growing sectional and economic tensions North Carolina’s leaders faced in constructing public policy after 1790. Spurring the state’s economic growth through internal improvements called state leaders to decide how to distribute the benefits and burdens of citizenship

equally upon those who wanted a prosperous agricultural future, those who thought the state’s destiny lay with commerce, and those who predicted future glory in the state’s infant manufactures. More difficult still to fathom was the vexing problem of how the state would adjust to life in the new composite union; as a much stronger federal government sensed its own strength, state leaders aggrandized state authority and identity to protect North Carolina’s sovereignty from federal encroachment. Ordinary citizens now petitioned at the federal as well as the state levels, giving sinew but perhaps not muscle to membership in the union. Petitioners tested federal power and largesse by sending a multitude of claims to Congress. At home, they sent claims but also increasing numbers of petitions asking for state intervention in their economic and private lives; divorce, emancipation, and war claims petitions competed for legislators’ attention alongside grand jury presentments calling for court reform. Joining the union gave citizens new arenas for the expression of popular sovereignty as well as individual desires.

The memorial of sundry citizens concerned in trade, submitted to the General Assembly in 1792, framed the problems North Carolina’s leaders faced in the new union as they struggled to assert control over state finance and economic policy. The memorialists pointed to the fact that North Carolina’s sister states flourished commercially while North Carolina languished; the fault lay with “defects in the internal policy and regulations of the state . . . .” Specifically, delays in the administration of justice in the courts destroyed the “credit and mutual confidence” required for commerce, a fluctuating paper currency produced “inconvenience and embarrassment,” and North
Carolina’s poor commercial reputation resulted from the lack of a “judicious, strict, and efficient inspection system.” The merchants argued that commerce and agriculture should be “linked in harmony together,” repeating a mantra that promoters of the state’s economy echoed for the next two decades.\(^5\) While some blamed state lassitude on the location of the capital in Raleigh, a place of no consequence compared to the bustling commercial prospects of Fayetteville, others recommended internal improvements to usher in a profitable future.\(^6\) Citizens most directly concerned in commercial activities therefore petitioned the General Assembly as well as Congress with plans to improve to harbors and rivers in the interest of all North Carolinians.

Coastal merchants petitioned both the General Assembly and Congress for permission to lay a duty on tonnage for all vessels going over the “Swash” at Ocracoke in order to pay for deepening the channel. Ocracoke, one of the inlets in the Outer Banks that ring North Carolina’s coast, could only accommodate ships displacing less than nine feet of water, thereby preventing larger ships from sailing directly to ports in Washington, Newbern, Beaufort, Bath, and Edenton.\(^7\) A Congressional committee reported that, if North Carolina passed a bill granting authority to commissioners to collect a duty, they would consider enabling federal legislation. The merchants of Newbern, however, petitioned against North Carolina’s proposed bill to collect a duty on...

\(^5\) Memorial of Sundry Citizens Concerned in Trade, GASR 1792, Box 4.

\(^6\) Many easterners resented the location of the capital in Raleigh and voted repeatedly to stall the final removal of the seat of government to that location. A western representative, working in a temporary alliance with easterners, protested the location of Raleigh because it would never have a reputation “above a poor indigent catch penny village.” See Journal of the House of Commons, 1791 session (Edenton: Hodge and Wills, 1792), 63.

\(^7\) In 1785 a Canadian merchant named Robert Hunter made his way through eastern North Carolina and noted that the difficult navigation of the Albemarle Sound kept Edenton from being a “very flourishing place.” See Louis B. Wright and Marion Tingling, eds., Quebec to Carolina in 1785-1786: Being the Travel Diary and Observations of Robert Hunter, Jr., a Young Merchant of London (San Marino, CA: The Huntington Library, 1943), 265.
tonnage because they had in mind a better plan for deepening the channel. Collecting tonnage duty would take time to generate the revenue necessary for the work. They recommended a duty on exports so that those who used the channel for out-going commerce would pay for the work of deepening it. In their insistence on immediate results, the petitioners pointed to a central problem facing all internal improvement projects for the next decade. Without state intervention, private efforts to fund internal improvements stalled because of the meager economic resources of the citizens involved in such projects. The General Assembly eventually repealed its enabling legislation on imposing a duty on imports for the swash deepening project and Congress allowed the matter to die.\(^8\)

Calling attention to the lack of state investment, Governor Alexander Martin reminded the General Assembly in 1791 that the “internal navigation of the state still requires legislative assistance, our sister states are emulous with each other in opening their rivers and cutting canals while attempts of this kind are but feebly aided among us.”\(^9\) Though Martin called their efforts feeble, citizens demonstrated considerable activity in the early 1790s, and legislators, aware of the state’s poor revenue streams, welcomed the enterprising efforts of private initiative. Citizens worked to clear rivers and dig canals in at least fifteen projects before 1795, either employing conscripted community labor or establishing private chartered companies. One such private project,

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\(^8\) For petitions, see Merchants of Edenton, GASR 1790, Box 2; Petition of Divers Citizens of North Carolina to Congress, 1792 in U.S. House of Representatives, Petitions Memorials and Other Documents, 229; Memorial of the Merchants of Newbern, GASR 1792, Box 4. Legislation includes a bill to collect a duty on tonnage, GASR 1792, Box 1 and a bill to repeal the act laying duty on vessels for the Swash; Laws of North Carolina, 1793, ch.20. For commentary on the legislation, see Hugh Williamson to John Gray Blount, January 27, 1793, in Keith, John Gray Blount Papers, 2:232-233.

\(^9\) Journal of the House of Commons, 1791 session (Edenton: Hodge and Wills, 1792), 4.
the Pasquotank Canal, started in the late 1780s. Investors from Virginia proposed cooperation with the state of North Carolina to build a canal from the Pasquotank River to the Elizabeth River in Virginia. Stymied in their efforts to build a partnership in 1789, the Dismal Swamp Company secured North Carolina’s blessing in 1790, despite a vigorous protest from five assemblymen who argued that the canal would divert North Carolina’s produce to Virginia, grant “perpetuities” in violation of the state constitution, thwart efforts at improving North Carolina’s own navigation, benefit land speculators, and ultimately prove impractical. By the time the company’s renewed charter expired in 1807, they had spent some $100,000. The back-breaking labor of slaves for twelve years enabled the twenty-two mile long waterway to open in 1805.

Legislators could hardly complain that North Carolina’s own citizens did not join in the canal mania inspired by the example of other states. “Public-spirited gentlemen” took subscriptions for building the Topsail Canal; citizens of Rockingham County petitioned for clearing the Dan River; petitioners from Martin County asked for a law to clear the Roanoke; and citizens took up subscriptions for clearing sandy shoals near Onslow County’s coast: across the state, the mania for internal navigational improvements swept communities, bringing the promise of prosperity to sleepy towns situated near any body of water. Lucas Jacob Benners, a resident of Newbern,

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12 Topsail Canal – _Laws of North Carolina_, 1791, ch.49; Rockingham – Petition of the People of Rockingham, GASR 1793, Box 3; Martin – Petition of the Inhabitants of Martin County, GASR 1794, Box 222.
published a plan in the *North Carolina Gazette* in 1791 to open a canal from Clubfoot Creek to Harlow Creek, calling for the “sanction of government” on the canal company. Benners promised that the canal would revive the commerce of Beaufort and promote “the agricultural as well as commercial interest” if the Assembly took up the work “For the BENEFIT of the PUBLIC.”\(^{13}\) Likewise, inhabitants living near Lake Mattamuskeet also desired the “sanction of the Legislature” when they incorporated in 1792.\(^{14}\) Benjamin Jones, a resident of Camden County, asked for a loan from the state to open the Pasquotank River to navigation in 1790.\(^{15}\) Since “navigation is the life and main spring of commerce,” the General Assembly, responding the requests of petitioners, passed twenty-six pieces of legislation between 1790 and 1795 dealing with improvements to waterways, incorporation of canal companies, and regulation of navigation.\(^{16}\)

The General Assembly’s willingness to promote navigation and commerce conflicted with hopes of other members of the community for equal access to nature’s resources. The building of canals required the condemnation of adjoining lands and the clearing of rivers required the destruction of mill dams and fish traps as well as the appropriation of local labor. Seine haulers, stretching their fishing nets across Blount’s Creek in Bertie County, lost their livelihood when the General Assembly passed a bill to facilitate the navigation of that stream.\(^{17}\) The Cape Fear Company, working on clearing

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14 *Laws of North Carolina*, 1792, ch. 27.

15 Petition of Benjamin Jones, GASR 1790, Box 1.

16 Quote is from the bill to incorporate the Cape Fear Company, *Laws of North Carolina*, 1792, ch.22.

17 *Laws of North Carolina*, 1794, ch.75.
the Cape Fear to the confluence of the Haw and Deep Rivers, requested the right of removing fish dams as well as fining people who put them there.\textsuperscript{18} The citizens of Person and Caswell complained about Joseph Jones’ mill—which actually lay across the border in Virginia—because it blocked the navigation of the Hico River. “The necessity of the free use of this stream is invincible,” the petitioners declared, “and a people situated as we are cannot remain quiet without.”\textsuperscript{19} Every charter required that the condemnation of nearby property for the building of canals obliged a jury to assess the value of the property so the company could pay the owner a just price and laborers conscripted to work on clearing navigation in rivers often earned exemptions from militia duty.\textsuperscript{20} These provisions aspired to mute the class conflicts inevitable in the state’s redistribution of natural resources.

Yet the most serious problem faced by all internal improvement advocates was the lack of funds to carry out large-scale projects. Charters of incorporation allowed canal companies to sell stock, free of taxation, though companies often failed to complete subscriptions on time. The Catawba and Wateree Company, chartered in 1788, failed to do any work by 1794, when the General Assembly resolved to instruct the governor to notify the company to appear and give testimony of why their work had produced no fruit.\textsuperscript{21} The leading partner in the company, the South Carolina jurist John F. Grimke, responded that the original company had gone bankrupt and had to be reorganized before

\textsuperscript{18} \textit{Laws of North Carolina}, 1793, ch.34.
\textsuperscript{19} Inhabitants of Person and Caswell Counties, GASR 1793, Box 3.
\textsuperscript{20} \textit{Laws of North Carolina}, 1792, ch.22 (Cape Fear Company); \textit{Laws of North Carolina}, 1792, ch.26 (Navigation of Roanoke and Dan Rivers); \textit{Laws of North Carolina}, 1791, ch.49 (Old Topsail Canal); \textit{Laws of North Carolina}, 1793, ch.33 (Yadkin and Peepee Rivers)
\textsuperscript{21} \textit{Journal of the Senate}, 1794 session (Edenton: Hodge and Wills, 1795), 15.
it could proceed on further improvements.\textsuperscript{22} The Cape Fear Company reported in 1795 that, although they had surveyed the river, the “aid of Government is necessary to accomplish this national purpose either by a General or local tax on the inhabitants . . . or by vesting the title by Law in a company consisting of not less than 80 shares of fifty dollars each.”\textsuperscript{23} A 1793 report of the legislative committee on improving inland navigation came to a similar conclusion comparing North Carolina’s efforts to northern states like Pennsylvania. “. . . some of these improvements,” the committee noted, “are carried on by companies, with the aid of government; and some others solely at the expence of government . . . we have to lament that the state of North Carolina, containing nearly as many inhabitants, has not made more spirited exertions for public improvement, than have yet been made . . . .” The committee recommended the state pursue a more comprehensive plan to improve the navigation of more than five hundred miles of rivers.\textsuperscript{24}

The General Assembly elected to do nothing about navigation in 1794, spending a great deal of their time worrying over the threat of war with Great Britain. Navigation of


\textsuperscript{23} Cape Fear Company Report, January 3, 1795, GASR 1794, Box 3. When the committee who considered the report recommended that the General Assembly loan the company £1000, legislators rejected the committee report. See Report of the Committee on the Cape Fear Company, GASR 1794, Box 3. The Commissioners for navigation of the Northwest branch of the Cape Fear had been given authority to collect duties on goods shipped down the river (lumber, staves, shingles, grain, deer skins, hemp); see \textit{Laws of North Carolina}, 1791, ch.68.

\textsuperscript{24} Report of the Committee on Improving Inland Navigation, GASR, 1793, Box 2. The committee had received their information for comparison to other states from Hugh Williamson, a Congressman from Edenton, who had told them of the work being done in Pennsylvania. See also Hugh Williamson to John Gray Blount, March 3, 1793, in Keith, \textit{John Gray Blount Papers}, 2:244.
rivers, nevertheless, continued to capture the imagination of the people. The *North Carolina Journal* (Halifax) reported in May of 1795 that Jeremiah Wade, a Virginian who worked for the Cape Fear Company, sailed into Halifax with nine hogsheads claiming that the Roanoke River could be made navigable at the fall line. Such improvements, in an age when “our sister states” have set the example in internal navigation, the paper asserted, would allow North Carolina to escape the economically subservient role it played to Virginia.\(^{25}\) Just two weeks later, the paper reported that M. Anderson had also gone through the falls at Roanoke, having crossed paths with Jeremiah Wade, while carrying fifty barrels of flour to be sold in Edenton.\(^{26}\) Former U.S. Senator Benjamin Hawkins exulted to President George Washington that an “enterprising citizen,” Major Harris, had sailed from the Dan River to the falls of the Roanoke, demonstrating the practicality of navigation for two hundred miles.\(^{27}\) By September, Allen Jones, Willie Jones, W. R. Davie, Nicholas Long, and John Sitgreaves, all prominent planters and state officials, announced a meeting of the Roanoke Navigation Company for October to hear Jeremiah Wade’s reports on the feasibility of improving the river’s navigation.\(^{28}\)

When the General Assembly met late in 1795, they failed to repeal the Catawba and Wateree Company charter and granted the Clubfoot Creek Company a charter of

\(^{25}\) *North Carolina Journal* (Halifax), May 11, 1795. See also the report in Jedediah Morse, *The American Gazeteer* (Boston: S. Hall and Thomas & Andrews, 1797), s.v. “Dan.” Wade claimed to have piloted a fifty-three foot boat carrying seven tons for two hundred miles.

\(^{26}\) *North Carolina Journal* (Halifax), May 25, 1795.


\(^{28}\) *North Carolina Journal* (Halifax), September 7, 1795. William R. Davie also served as legal counsel for the Catawba and Wateree Company. See *Journal of the Senate*, 1795 session (Edenton: Hodge and Wills, 1796), 39.
incorporation for the sale of $10,000 in stock.\textsuperscript{29} More important, the legislature considered that it needed information on the future prospects of internal navigation and therefore resolved to appoint persons in each county to survey the principal streams and make recommendations on improvements that would bring “advantages” to the communities.\textsuperscript{30} The General Assembly also passed a general incorporation law to encourage canal building. Since canals produced “great wealth and convenience” and would build the “wealth and revenue of this state,” legislators hoped to facilitate the private efforts of citizens who wanted internal improvements. When subscribers had formed a company, they would hereafter petition the county court, not the General Assembly, for permission to incorporate. Under the watchful eyes of locals, such companies required the approval of juries of twelve men to view lands to be condemned; canals could not interfere with houses or valuable improvements “greatly to the injury of the owner.” Companies needed to build bridges over their canals and county courts fixed the rate of tolls. After subscribers earned back their investment (with six percent interest), the canal would become a free public highway. If the company did not finish its work within seven years, the lands reverted to their original owners. As in the case of all previous incorporations, these companies had the right to sue and be sued.\textsuperscript{31} The provisions of the general canal law relegated authority over internal improvements to the local level, keeping the General Assembly’s agenda free of numerous applications for

\textsuperscript{29} *Journal of the Senate*, 1795 session, 39; *Laws of North Carolina*, 1795, ch.23. The Governor had also cited the Clubfoot Creek Canal Company to appear before the General Assembly to explain why it had done little work. *North Carolina Gazette* (Newbern), July 4, 1795.

\textsuperscript{30} *Journal of the Senate*, 1795 session, 41.

\textsuperscript{31} *Laws of North Carolina*, 1795, ch.3.
internal improvements. If the people wanted to improve navigation, the General Assembly made a way for their private efforts without wasting public time.\(^{32}\)

Exuberance for the benefits of navigation to commerce could not overshadow older conflicts between mill owners, impoverished fishing families, and commercial fishermen. At least eight petitions from 1790 to 1795 asked for the General Assembly to intervene in disputes over mill dams. Petitioners asked for mill dams to be forbidden or torn down, slopes to be built to allow fish to pass upstream, or to allow the building of new mills.\(^{33}\) Despite laws granting county courts the right to regulate mills, petitioners felt that legislators ought to respond to their requests. Other petitioners wanted a repeal of the 1785 legislation governing the erection of grist mills because that law limited the number of mills that could occupy a given area.\(^{34}\) Disputes seem to have been frequent enough for legislators to consider a bill to determine disputes over mill dams in 1795 that would have directed local juries to assess damages when mill dams flooded adjacent lands.\(^{35}\) The bill failed. County courts and superior courts remained the central arena in which mill dam disputes could be adjudicated.

\(^{32}\) By granting to organized bodies rights to use private efforts that benefitted the public, the state extended its infrastructural power (see Prologue, note 44). For a general survey that implicitly recognizes the concept of infrastructural power, see Pauline Maier, “The Revolutionary Origins of the American Corporation,” \textit{WMQ} 50:1 (January 1993), 82-83.

\(^{33}\) Inhabitants of the Peedee, GASR 1790, Box 3 (request to prevent a mill); Inhabitants of the Neuse River, GASR 1790, Box 3 (direct the making of a slope on a mill dam); Petition of Marshall Digge, GASR 1790, Box 1 (relocate a mill); Petition of William McClellan, GASR 1790, Box 3 (extend a mill dam across a river); Inhabitants of Goose Creek, GASR 1792, Box 3 (repeal grist mill act of 1785); Citizens of Mecklenburg, GASR 1792, Box 3 (repeal the grist mill law of 1785); Inhabitants of Stokes, GASR 1793, Box 2 (grant a grist mill to be built across a stream); Petition of Joseph Clark, GASR, 1794, Box 1 (confirm his water grist mill as legal).

\(^{34}\) \textit{Laws of North Carolina}, 1794, ch.48 actually did repeal an act directing resolution of disputes over mill dams in Rowan, Mecklenburg, Rutherford, Guilford, Lincoln, and Rockingham; this repeal was in response to the petition from Mecklenburg, GASR, 1792, Box 3.

\(^{35}\) Bill to determine disputes with mill dams, GASR 1795, Box 1.
The General Assembly continued to support the opening of creeks for fishing, passing eight statutes from 1791 to 1795 on the subject.\(^\text{36}\) When forty-nine people who lived on Contentnea Creek petitioned in 1792 for the opening of the creek for fishing and boating, more than four hundred petitioners responded that the destruction of three grist mills would be the result if the General Assembly interfered. Legislators tended to refuse to intervene in such disputes, arguing that the county courts could take cognizance of the problems.\(^\text{37}\) Not entirely ignoring the needs of poor families, legislators nonetheless gradually accepted the idea that “mills were of more utility to the community” than fishing rights.\(^\text{38}\) Like nineteenth-century judges who fashioned an instrumental conception of law, North Carolina’s legislators also embraced an economic vision of law that protected commerce.\(^\text{39}\) Increasingly, in disputes arising between commercial fishermen and poor families who wanted to enjoy the bounty of nature for free, assemblymen encouraged commercial fishing ventures by suspending laws that forbid the stretching of seines across rivers.\(^\text{40}\) Petitioners argued that preventing them from obtaining a sufficient competency caused poverty and burdened a “free people” under an

\(^{36}\) Laws of North Carolina, 1791, ch.41; 1792, ch.30; 1793, ch.39, ch.49; 1794, ch.56, ch.86; 1795, ch.27.

\(^{37}\) Petitions on the opening of Contentnea Creek, GASR 1792, Box 2.

\(^{38}\) Journal of the Senate, 1794 session (Edenton: Hodge and Wills, 1795), 33.

\(^{39}\) Horwitz, The Transformation of American Law. Remarkably, when the inhabitants of Orange, Wake, and Chatham accused their county courts of granting mill licenses without slopes, legislators refused to intervene on the grounds that they might “infringe upon the rights of individuals.” The talk of “individual” rights versus community rights had grown much stronger. See Inhabitants of Orange, Wake, and Chatham, GASR 1793, Box 2.

\(^{40}\) The General Assembly provided a loophole for commercial fishermen in many of the laws which only prevented a person from working or hauling two seines at the same place. See Laws of North Carolina, 1792, ch.30; 1793, ch.39; 1794, ch.86.
“Onconstutional” law. Legislators did not always agree to intervene but more frequently upheld commercial fishing rights than they had done in the 1780s. The case with state support for manufacturing followed the same logic of private investment exhibited in internal improvements, though the state allowed a greater variety of means to raise funds. Lotteries provided one such means of raising funds by harnessing state-sanctioned gambling to public ends. When Henry E. Lutterloh proposed to bring European artisans to North Carolina, he petitioned for the right to run a lottery to raise the six thousand dollars needed to promote the state’s “population and manufactures.” Lutterloh, like many of the internal improvements enthusiasts, ran short on funds and petitioned the legislature in 1791 for a loan to help get his scheme running. Desperate for money, Lutterloh even asked Treasury Secretary Alexander Hamilton for a loan of three or four hundred dollars, complaining that the citizens around Fayetteville were so ignorant of lotteries and so short of cash that he could not get his

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41 Inhabitants of Currituck, GASR 1793, Box 3. Strikingly, when the people of Martin County petitioned for rights to fish in a part of the river called Devil’s Gut, legislators refused to grant them a right which would violate the “property or land” which is “vested in other individuals” by a statute which would be “incompatible with the spirit and genius of your constitution. . . .” See Journal of the Senate, 1794 session, 26.

42 When the people of Chowan petitioned against commercial fishermen who now sold fish to the poor (“certain evil avariciously disposed persons”) legislators decided that it would “improper” to intervene. Report of the Committee on the Petition from Chowan, GASR 1793, Box 2.


44 Laws of North Carolina, 1790, ch.28.

45 Petition of Henry E. Lutterloh, GASR 1791, Box 2.
project going. Hamilton turned him down and so did the General Assembly when Lutterloh petitioned again in 1792 for a loan.  

The General Assembly, however, did trust Moravian Gottlieb Shober’s plan for building a paper mill and therefore gave him a loan of three hundred dollars in 1789. Given the Moravians’ previous commercial successes and the state’s need for a domestic paper supply for printing state documents, legislators trusted Shober’s business acumen over the more speculative project advanced by Henry E. Lutterloh. When Shober petitioned again in 1791, legislators recommended extending the loan for another year.  

An anonymous letter from a gentleman in Surry County, written February 20, 1793, reported approvingly of the paper mill. Noting that the legislature had advanced “some money by way of a loan” to the proprietor, the author of the letter perhaps inadvertently raised the hopes of other men for similar liberality. Michael Rogers therefore proposed to the General Assembly in December 1793 that he too be given a loan to establish a cotton and linen manufactory in Wake County. The committee who reported on Rogers’ petition commented that “it is the opinion of this committee that the encouragement of manufactures would be of the utmost consequence to the state in general; wherefore the promotion of them ought to be highly encouraged, by counties or otherwise . . . .”  

Despite the promising start of the report, the committee concluded that Mr. Rogers

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47 Clark, State Records, 21:581.  
48 Petition of Gottlieb Shober, GASR 1791, Box 2.  
49 North Carolina Journal (Halifax), February 20, 1793.
“ought first to make exertions by applying his private property, so far as will induce the Legislature to conceive that he is in earnest . . .”\textsuperscript{50}

Though legislators rejected the plan of Mr. Rogers, the House of Commons resolved in 1793 that “provision ought to be made during the present session for the advancement of the agricultural, commercial and manufacturing interests of this state, by granting suitable encouragement, in the nature of bounties . . .”\textsuperscript{51} The time-honored method of offering bounties for production of goods rewarded private enterprise without overextending state finances. Yet, when state interests called for greater support for manufacturing, legislators advanced more vigorous efforts to encourage private ventures. When legislator John Steele offered resolutions in 1794 to grant bounties on items that would contribute to the defense of the state, the context of the possibility of war with England spurred his fellow legislators to agree with him, though they did not think it “adviseable in the present session to go the whole length contemplated in the bill.”\textsuperscript{52} And when Christian Lash proposed in 1795 that the state provide him a loan of £500 to set up a mill and nail manufactory, the committee which examined his petition concluded that it was “highly politic for the state to encourage manufactories . . .”\textsuperscript{53} Legislators rewarded \textit{ex post facto} private enterprise, but the state’s immediate interests often overshadowed any ideological commitments to a purely \textit{laissez-faire} approach to the economy.

Another area demonstrates the commitment of North Carolina leaders to develop the state economy: the creation of local fairs to dispose of surplus produce. Between

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\item \textsuperscript{50} Petition of Michael Rogers, GASR 1793, Box 2; \textit{Journal of the Senate}, 1793 session (Edenton: Hodge and Wills, 1794), 24.
\item \textsuperscript{51} \textit{Journal of the House of Commons}, 1793 session, 27.
\item \textsuperscript{52} \textit{Journal of the House of Commons}, 1794 session, 30.
\item \textsuperscript{53} Petition of Christian Lash, GASR 1794, Box 3; \textit{Journal of the House of Commons}, 1794 session, 54.
\end{itemize}
1790 and 1795, the General Assembly passed five laws to establish county fairs for the encouragement of “industry and manufactures.”

Fairs seemed to be most popular in the southern and western portions of the state; western counties such as Surry and Lincoln joined with eastern counties like New Hanover, Bladen, and Cumberland to petition or work through their legislators to establish markets so people could dispose of their produce. By 1794, legislators had grown so weary of repeated applications for establishing fairs that they enacted a general fair statute that gave the authority to create fairs to the county courts. Like the general canal bill, the general fair law allowed legislators to avoid a “delay of public business” by referring the desires of the people to their local governments.

Fairs also demonstrated the state’s commitment to private enterprise through a means that did not cost the state though it contributed to the economic well-being of North Carolina.

The one commodity that North Carolina possessed in abundance also became the centerpiece of efforts to garner financial benefits through private enterprise. Land speculation had an old history in the state, but the booming economy of the early 1790s, combined with the capital markets encouraged by Hamilton’s fiscal programs, contributed to a wave of land purchases that only outdid the 1780s in terms of the duplicity and avarice of participants.

Philadelphia provided the hub for the land speculation market, with North Carolinians traveling there repeatedly to sell large quantities of land to such speculators as Richard Morris, Tench Coxe, and James.

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54 See Laws of North Carolina, 1792, ch.73; 1793, ch.54, ch.67; 1794, ch.66, ch.78.
55 Laws of North Carolina, 1794, ch.21.
56 Perkins, American Public Finance, 199, 206.
The early warning signs of problems in the land office appeared in the petitions of land entry-takers for remission of fines for violations of the state land laws. Surry County entry-taker William Thornton admitted that he had allowed—as his predecessor did—persons to remove entries from his books after they had made them. Thomas Leonard of Brunswick blamed his failures on the “want of knowledge of the law which points out his duty.” The entry-taker of Buncombe County, Thomas Davidson, likely burned his papers to escape detection of fraud before he “eloped” to leave his securities responsible for his debts. By 1794, accumulating petitions began to suggest that land speculators cheated North Carolina in their hopes of getting rich.

Secretary of State James Glasgow reported in 1794 that excessively large grants had been coming into his office for execution. Committees interviewed witnesses on frauds in Glasgow County, discovered “fraud” in the entries made by Charles McDowell in Burke, and listened to testimony against Glasgow for malfeasance in office. The committee which examined the large grants discovered land entries totaling more than one million acres and recommended that the state inform the public by publishing the


58 There are a total of twenty petitions from entry-takers from 1790-1795 regarding the settlement of their accounts or remission of fines for failure to do their duty.

59 Journal of the House, 1793 session, 16; Journal of the Senate, 1794 session, 12; Petition of William Thornton, GSR 1793, Box 3.

60 Journal of the Senate, 1794 session, 29; Petition of Thomas Leonard, GSR 1795, Box 3.

61 Journal of the House of Commons, 1793 session, 33; Journal of the House, 1795 session, 46; Petition of Lambert Clayton and Daniel Smith, GSR 1795, Box 2; Edward Jones to Samuel Ashe, March 10, 1796, GPSS 21, NCDAH.

62 Journal of the House of Commons, 1794 session, 22; Journal of the Senate, 1794 session, 41; Journal of the House of Commons, 1794 session, 42-43; Petition of William Dawson, GSR 1794, Box 2.
report in state newspapers.\textsuperscript{63} One of the largest offenders was legislator John Gray Blount, who worked with his brother Thomas, a Congressman in Philadelphia, and his other brother William, Governor of the Territory South of the Ohio. Thomas passed along information to John Gray about the Philadelphia land markets knowing that “Land is your Hobby-Horse.”\textsuperscript{64} John Gray’s public image deteriorated and the Fayetteville District grand jury issued a presentment against him in October 1794. They asserted that the state did not sell land to encourage monopolies and create owners with “Legions of Tenants” who would become an unconstitutional nobility with hereditary offices.\textsuperscript{65}

David Allison, a Blount business associate, condemned the grand jury: “What the devil have Grand Juries to do with the business are they to direct whether I shall be permitted to use my money legally, or that I must use only a part and keep the other in the Strong Box—”\textsuperscript{66} Allison undoubtedly considered his individual rights to pursue his economic goals paramount to any community vision of landed equality.

The dispute over speculation between the Speaker of the Senate, William Lenoir, and a consortium of land speculators from Pennsylvania captured the attention of North

\textsuperscript{63} Journal of the Senate, 1794 session, 47; North Carolina Journal (Halifax), March 9, 1795. 
\textsuperscript{64} Thomas Blount to John Gray Blount, January 11, 1794, in Keith, John Gray Blount Papers, 2:342. The Blount papers detail the speculative activities of many North Carolina officials, including Abishai Thomas (agent of the state to settle Revolutionary War accounts), William Polk (Commissioner of Revenue), Hugh Williamson (Congressman from Edenton District), and Gabriel Ragsdale (assemblyman from Buncombe County). William Blount was so passionate about land speculation that the Creek Indians called him Fusse Mico (Dirt King). See Benjamin Hawkins, A Sketch of the Creek Country, in the Years 1798 and 1799 and Letters of Benjamin Hawkins 1796-1806 (Spartanburg: The Reprint Company, 1974), 250.

\textsuperscript{65} Presentment of the Grand Jury of Fayette District, October Term 1794, in Keith, John Gray Blount Papers, 2:650-655.
\textsuperscript{66} David Allison to John Gray Blount, November 27, 1794 in Keith, John Gray Blount Papers, 2:461.
Carolinians in 1794-1795. Robert Harris and Company had entered lands in Mecklenburg and Wilkes counties totaling 1.1 million acres; when the legislature resolved to suspend the execution of the grants in 1795, the company petitioned against the move claiming that they had in essence been convicted of a crime without a just prosecution. William Lenoir testified in 1794 against the company’s entries though he too had speculated in Wilkes County land under the pretense of saving the land from absentee landlords. Harris and Company accused Lenoir of secretly writing a petition to the General Assembly against their entries and having the petition transcribed and signed by Wilkes County citizens so that its origin could not be traced; they claimed to have evidence of Lenoir’s hand in the matter and forced him to admit it publicly. The North Carolina Journal carried a series of exchanges from Harris and Company and Lenoir, with each justifying their conduct while criticizing the other party. James Wellborn, a Wilkes County legislator, joined the fray by accusing Lenoir of sending his son to Philadelphia to sell the Wilkes County lands while noting that one of Lenoir’s partners, entry-taker James Fletcher, had already been indicted in superior court for malfeasance in office. Despite a senatorial protest against the suspension of the grants,

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68 North Carolina Journal (Halifax), June 8, 1795; Journal of the Senate, 1795 session, 34, 39.
69 North Carolina Journal (Halifax), November 9, 1795; Petition of Hillair Roussau and Company, GASR 1795, Box 2
70 North Carolina Journal (Halifax), June 8, 1795.
71 This was not the only land speculation dispute to become public. George James launched a crusade against Robeson County assembly member John Willis in the summer of 1795 with charges of duplicity in land speculation. See The North Carolina Centinel and Fayetteville Gazette, August 8, 1795, August 14, 1795, and August 29, 1795.
72 North Carolina Journal (Halifax), December 21, 1795. According to the biography of James Patton, Fletcher was also guilty of altering the currency value on notes he passed, almost leading to Patton’s arrest in 1789. See James Patton, Biography of James Patton (Asheville: S.N., 1850), 9-10.
the incident cost Lenoir his election to the General Assembly in 1796. Thereafter, Lenoir did not hold another public office.\(^{73}\)

The “land business” also invited petitions to Congress over western lands that had been distributed to soldiers for Revolutionary War service but returned to Cherokee Indians by the Treaty of Hopewell. After North Carolina politician Benjamin Smith had donated twenty thousand acres to the state’s newly chartered University, the Trustees discovered that the lands lay in territory belonging to the Cherokees. They wanted reimbursement for the property from Congress and petitioned the General Assembly for help with Congressional redress. \(^{74}\) Thomas Person, a long-time member of the General Assembly, represented a group who also lost property retroceded to the Indians. Person and his co-petitioners had originally sought help from the General Assembly, asking for “such relief as they are justly entitled to receive, and as you, regarding the public faith, are bound to give.”\(^{75}\) Members of the Transylvania Company, whose 1774 speculation in Cherokee lands had been overturned but compensated by the state of North Carolina, also sought Congressional redress for lands returned to the Indians. \(^{76}\) Since Congress held all

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\(^{73}\) *Journal of the Senate*, 1795 session, 46; *Journal of the House of Commons*, 1795 session, 12; Richard Alexander Shrades, "William Lenoir, 1751-1839" (Ph.D. diss., University of North Carolina at Chapel Hill, 1978), 128, 131-144. After taking the dispute to the Morgan District Superior Court, members of the rival companies agreed to settle and share the costs and profits. Lenoir relied on North Carolina Congressman Joseph McDowell to sell his share of the lands in Philadelphia but never saw a spectacular return on the venture.


\(^{75}\) Petition of Thomas Person and Others, GASR 1793, Box 2; *Journal of the House of Commons*, 1793 session, 33, 39; U.S. House of Representatives, *Petitions Memorials and Other Documents*, 256-257. Thomas Person and his friends, who included John Rutledge, Hugh Williamson, William Polk, and Robert Irwin, contested the claims of the University in the territory. See also Thomas Blount to John Gray Blount, February 6, 1794 and January 30, 1795, in Keith, *John Gray Blount Papers*, 2:356, 482.

authority in negotiating Indian treaties, North Carolina could only interpose on behalf of its citizens to ask for relief by directing its senators and asking its congressmen to help the petitioners.\textsuperscript{77} Congress eventually granted relief to the petitioners by granting the President the authority to treaty negotiations for the lands in question.\textsuperscript{78}

As the Constitution bound the sovereign states more tightly in union, petitioners like Thomas Person and the University Trustees turned toward Congress for the protection of their property. Another species of property, however, imperiled the bonds of union and induced Southerners to question their association with the North: slaves. The emancipatory rhetoric of Quakers and others unsettled Southerners who struggled with their own feelings on the subject. A wave of emancipations in the South, combined with laws to protect slaves from harsh masters and to end the external slave trade, suggested that many Southerners perhaps grudgingly conceded that the peculiar institution needed to die slowly. At the same time Southerners momentarily softened on some of slavery’s harsher features, they felt economically and culturally threatened—by the North’s commercial preponderance and humanitarian revulsion against slavery. When slaves themselves initiated freedom suits or sought emancipation—sometimes

\textsuperscript{77} Governor of North Carolina to the President of the United States, January 6, 1794 cited in Connor, \textit{Documentary History of the University of North Carolina}, 1:319-320.

\textsuperscript{78} The United States secured part of the land cession in the Treaty of Tellico, 1798. See Kappler, \textit{Indian Affairs: Laws and Treaties}, 2:51-55. For the complicated surveying of the area and problems resulting from the surveys, see Ron Petersen, “Two Early Boundary Lines with the Cherokee Nation,” \textit{Journal of Cherokee Studies} 6:1 (Spring 1981), 14-33.
claiming freedom as a “right”—the peculiar institution in the South reverberated with anxiety. Petitions were often the vehicle for transmitting that anxiety to the public.  

North Carolina’s Quaker communities led the assault on slavery after the Revolution in yearly petitions to the General Assembly for a general emancipation law. Settled primarily in the Albemarle and western Piedmont regions, North Carolina Quakers cited the Declaration of Independence and the Bible in their quests to have the right to emancipate slaves for reasons of conscience. Quakers living in Pasquotank, Perquimans, and Chowan Counties had very personal reasons for opposing slavery: after emancipating one hundred and thirty-one slaves in 1776, the county courts, considering the manumissions a threat to public safety, rounded up the freemen. In 1777, the General Assembly passed an act to prevent domestic insurrection, giving local officials who opposed the Quakers legal sanction to undo the emancipations. Lawyer William Hooper argued in the Edenton Superior Court that county officials employed the 1777 act in an *ex post facto* manner and the court agreed, condemning the seizure and sale of the slaves. The General Assembly, however, confirmed the decision of the county courts in 1779, quashing the hopes of Quakers for a legal victory. Thereafter, the only hope for manumission lay in petitioning the General Assembly under the requirement that the slave had performed some “meritorious service” worthy of his or her freedom. The

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General Assembly responded to six emancipation petitions from 1782 to 1789 and freed thirteen slaves in that decade.  

Methodist itinerants made the Albemarle region a burned-over district in the 1780s, leaving behind angry slaveholders who resented the evangelicals’ stance on slavery.  

The General Assembly repeatedly defeated general emancipation laws called for by Quaker petitions and confirmed the “meritorious services” requirement in a 1788 law that blamed religious groups for stirring up trouble by illegally freeing slaves.  

The 1788 emancipation law authorized county courts to grant freedom but petitioners still deluged the General Assembly for redress, presumably because county courts proved reluctant to hear their requests.  

Owners of slaves, seeking to fulfill the bequests of deceased relatives, petitioned for emancipations of slaves named in wills while many slaves themselves asked for freedom for loved ones.  Slaves exploited the law in many cases to argue that they should be free because of mixed blood status in which they could claim a maternal Indian ancestor.  

John Moore, a free black, wanted the freedom of his...
children, along with that of his purchased wife, so that they could inherit his property.\textsuperscript{87} Jemima Barrs, a free woman of mixed blood, sought the freedom of her husband Jack Small after she purchased him and became his “legal wife.”\textsuperscript{88} Between 1790 and 1795, the General Assembly responded to forty-one emancipation petitions, granting freedom to thirty-seven individuals.\textsuperscript{89} The promise of freedom held out to slaves, however, forced legislators to consider the effects of liberated slaves on communities troubled by rising populations of free blacks.

When the House of Commons in 1790 submitted a bill to prevent persons from disseminating petitions for the emancipation of slaves, the Senate defeated the measure by a margin of eight votes.\textsuperscript{90} Legislators attempted in 1792, 1793, and 1795 to enact general emancipation legislation in response to Quaker petitions; rejecting general emancipation, one legislator proposed a law to prevent preachers from spreading emancipation doctrines and a legislative committee declared the practice of considering petitions for manumission “dangerous to the peace and good government” of the state.\textsuperscript{91} Slave owners from the Albemarle region fulminated against manumissions and the Quakers in a series of grand jury presentments printed in the state gazettes and sent to the

\begin{footnotes}
87 Petition of John Moore, GASR 1792, Box 3.
88 \textit{Laws of North Carolina}, 1794, ch.76.
89 \textit{Laws of North Carolina}, 1791, ch.46; 1792, ch.38, ch.62; 1794, ch.76, ch.93; 1795, ch.38, ch.41, ch46, ch47, ch.62.
\end{footnotes}
legislature between 1793 and 1795.\textsuperscript{92} An Edenton grand jury in October 1793 accused the Quakers of “Sowing discontent and disobedience in the minds of their Neighbors Slaves” by freeing their own slaves; a Pasquotank County grand jury in 1795 accused the Quakers of harboring runaways and spurring arsons. In the context of the massacres occurring at that time in the West Indies and the dangerous “opinion of the Northern States,” Pasquotank jurors thought that the “infatuated enthusiasm” of the Quakers required immediate measures before citizens took to arms to defend their property.\textsuperscript{93}

Though Quakers responded to the grand jury presentments against them by suggesting that their neighbors had misrepresented them, their record of promoting emancipation on the basis of “Conscientious Scruple” was nationally well-known.\textsuperscript{94} Quakers had presented petitions, in conjunction with the Pennsylvania Abolition Society, in the first Congress to call for an end to the slave trade; Quakers watched the Congressional proceedings on their petitions and testified before committees. They also testified to Congress in 1790 about the case of the slaves freed by Perquimans County Quakers in 1776 and subsequently re-enslaved.\textsuperscript{95} The idea that Northerners posed a threat to southern slave property took shape in these first few Congresses; in the context of a much stronger federal government, such a threat spurred Southerners’ sense of unease. When the General Assembly considered instructions for its Senators in 1792,  

\begin{itemize}
\item \textsuperscript{92} Grand juries that sent presentments: Gates County (1793), Edenton District (1793), Tyrrell County (1793); Pasquotank County (1795); Chowan County (1795).
\item \textsuperscript{93} Edenton Grand Jury, October 1793 in Pasquotank County Records of Slaves and Free Persons of Color, NCDAH; Pasquotank Grand Jury, December 1795, Pasquotank County Records of Slaves and Free Persons of Color, NCDAH. The Pasquotank Presentment appeared in the \textit{State Gazette of North Carolina} (Edenton), December 24, 1795.
\item \textsuperscript{94} The Standing Committee of the People Called Quakers from the Eastern Quarter, GASR 1793, Box 2. Their response appeared in the \textit{State Gazette of North Carolina} (Edenton), January 4, 1796.
\end{itemize}
they resolved that since “persons inhabit the eastern states do frequently carry off negroes, not only individually but in families, for the purpose of liberating them from the bondage of their masters in this state,” the senators should work for a national law against the theft of slave property. For further proof of the northern threat to southern property, legislators could refer to the case of Tulle Godfrey, whose slaves had been “seduced” into running away by three persons from Rhode Island. The General Assembly asked the Governor to write to Rhode Island officials to let them known that three men had been indicted in superior court. Repeated petitioning at both the state and the federal level contributed to a sense of dread among slaveholders about the South’s position in the union, imperiling the expectation of southerners that life, liberty, and property would be more secure under the Constitution.

If concerns over slaves made North Carolinians solicitous for the future of their property rights, then the Hamiltonian financial program generated far more angst because of its effects on all citizens, state finances, and the issue of sovereignty. Secretary of the Treasury Alexander Hamilton’s proposals for funding the Revolutionary War debt and assuming the war debts of the states depended on the work of federal commissioners to compute the war-time contributions of each state in order to achieve a settlement of expenditures. Speculation in to-be-assumed state certificates both invited North Carolinians to participate in the securities markets as well as to carp against the unfair information advantages held by northern speculators. Despite attempts during the 1780s

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96 Journal of the House of Commons, 1792 session (Edenton: Hodge and Wills, 1793), 60-61.
97 Letter to the State of Rhode Island, GASR July 1794, Box 1.
to settle outstanding war claims, the North Carolina General Assembly found itself besieged with petitions throughout the 1790s for liquidation of Revolutionary War debts. In the context of assumption, speculation in state certificates, and settlement of war expenditures, these petitions provoked dispute between those who argued for just payment to citizens and those who believed that taking on new claims would only increase the likelihood of not receiving credit with the federal government. When Hamilton added an excise tax to pay for part of his program, North Carolina leaders grew angrier. They could hardly collect taxes efficiently from their own citizens, much less compete against the national government’s financing of Hamilton’s plans. The continuation of Revolutionary War fiscal problems in the context of a more powerful union engendered a strong distrust of the federal government as it belied the notion that the Constitution had effected a Revolutionary settlement.

Publicly, North Carolina’s Senators and Representatives opposed Hamilton’s assumption plans.  

Privately, Representative John Steele indicated that he favored the system but wished for modifications; Hugh Williamson and others actively passed information to speculators like the Blount family. Critics of assumption in North

98 John Steele to Joseph Winston, June 20, 1790, in Wagstaff, *Papers of John Steele*, 1:64-65; Samuel Johnston to James Iredell, April 6, 1790, in McRee, *James Iredell*, 2:286; Benjamin Hawkins to the General Assembly, November 20, 1792, GASR 1792, Box 4; Speech of Hugh Williamson on the Public Debt, *State Gazette of North Carolina* (Edenton), September 17, 1790.

Carolina chiefly railed about the lack of timely news about prices and legislative actions. Northern speculators had an information advantage. John Steele therefore wrote to his friend Joseph Winston in 1792 that he wanted Winston to share information about assumption of state debts so people could form “proper ideas of its value & not be induced to transfer it without fair & full equivalent.”\textsuperscript{100} Congressman William B. Grove told James Hogg in 1791 that had postal routes been established to convey information more quickly, the citizens of North Carolina would not have been “so shamefully pillaged of their Certifes.” “The want of information,” Grove argued, prevented citizens from being properly attached to the new government.\textsuperscript{101} All of the paeans to an enlightened people possessing information that could inspire their support to measures of government papered over a sense in which information shaped the material loyalties of citizens.\textsuperscript{102} It is no surprise, therefore, that North Carolinians, in and out of the legislature, displayed a great interest in the establishment of postal routes.\textsuperscript{103}

When the federal government assumed state debts, Congress estimated that $1.7 million would cover North Carolina’s war-related expenditures. The amount was $800,000 higher than earlier estimates because most state officials believed that the state

\textsuperscript{100} John Steele to Joseph Winston, January 15, 1792 in Wagstaff, \textit{Papers of John Steele}, 1:81-83. The highest non-resident investment in state securities was in North Carolina; 90\% of North Carolina’s securities were owned by 80 investors who resided out of state. See Perkins, \textit{American Public Finance}, 230.  
\textsuperscript{102} Though less focused on the materialistic implications of an informed citizenry, Brown, \textit{The Strength of a People}, is nonetheless the best treatment of the idea of keeping the people enlightened for participation in governance.  
\textsuperscript{103} The General Assembly instructed Senators and Representatives to work for changes in postal routes. See \textit{The Journal of the House of Commons}, 1791 session (Edenton: Hodge and Wills, 1792), 59. North Carolina citizens also petitioned directly to Congress for changes in postal routes. See Petition of Sundry Citizens of North Carolina, November 23, 1792, \textit{Annals of Congress}, 2\textsuperscript{nd} Cong., 2\textsuperscript{nd} sess., 626.
would be a creditor when commissioners tabulated the final accounts. The assumption legislation therefore provided a settlement of state accounts before anyone knew exactly how much North Carolina had spent during the Revolution. Meanwhile, citizens could exchange their state securities for federal ones until they reached the $1.7 million threshold. North Carolina, however, had redeemed much of its public debt by taking in certificates in payments for taxes and land during the 1780s; these supposedly redeemed certificates still sat in the treasury office of the state.  

By late 1790, state leaders proposed subscribing redeemed certificates in the federal loan office managed by William Skinner; in effect, the state would become a “creditor to itself,” as Archibald Maclaine wrote.  

Alexander Martin, Governor of North Carolina, called a Council of State meeting in July 1791 to adopt a plan for enrolling North Carolina’s cancelled certificates in the federal assumption; he had been informed (incorrectly) that both New York and South Carolina had thus funded their public securities. Sure of the principle that the state’s certificates were of a “negoceable nature” and that the North Carolina was a “body politic” in terms of the assumption law, the Council directed the state comptroller to subscribe the certificates in Skinner’s office.  

Skinner knew of the Council’s resolutions within two days of the meeting and informed Alexander Hamilton that he considered the move illegal.  

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105 Archibald Maclaine to James Iredell, November 18, 1790 in McRee, James Iredell 2:301-302.
comptroller visited the United States Loan Office, Skinner refused to receive any certificates; he soon worried that state officials would put them into “several hands” in order to deceive the federal government.\textsuperscript{108} Skinner was right. On August 29, 1791, a young man from Fayetteville, Duncan Macrae, came to Skinner with $22,415.10 in certificates that he subscribed in the name of a Fayetteville merchant, Duncan MacAuslan. Suspicious, Skinner allowed the subscription the first time but, when the young man returned with an even larger sum, Skinner refused to receive the second batch.\textsuperscript{109} North Carolina’s Senator Benjamin Hawkins, knowing that the General Assembly would ask why Skinner had turned away Duncan Macrae, requested to Alexander Hamilton that he explain the federal government’s position. Hamilton, who had asked for the opinion of the attorney general, believed that a debt—under common law rules—ceased to be a debt once it was discharged.\textsuperscript{110} Furious, state legislators resolved in 1793 that Skinner’s action constituted a “gross insult to, and an unwarrantable attack upon the rights of this state” and directed that the governor lay the matter before President Washington.\textsuperscript{111}

Closely tied to the fiasco over the assumption of the state’s cancelled securities was the calculation of North Carolina’s actual expenditures during the Revolution. If North Carolina’s agent to the commissioners to settle the debts of the states, Abishai

\textsuperscript{109} William Skinner to Alexander Hamilton, August 29, 1791, in Syrett, \textit{Alexander Hamilton}, 9:122-123. Skinner was right to be suspicious. Duncan McAuslan gave Governor Alexander Martin a power of attorney in late 1791 to transfer all his stock in U.S. certificates back to North Carolina. See Power of Attorney of Duncan McAuslan, November 2, 1791, Governor’s Papers II, Alexander Martin, NCDAH.
\textsuperscript{111} \textit{Journal of the House of Commons}, 1793 session, 9, 55.
Thomas, could show that the state had spent more than $1.7 million during the Revolution, then North Carolina would emerge a creditor. Two critical facets of the assumption plan animated political debate over settlement of debts. First, the state received interest on the amount of the $1.7 million loan for the money \textit{not subscribed by holders of public securities}.\textsuperscript{112} Second, until the settlement of debts occurred, the states would have to pay taxes—through duties and the excise—on the debts of the other states. Since most North Carolinians assumed that the state would be a creditor, hardly anyone wanted to contribute taxes to pay for the Revolutionary War debts of states which had not paid off their debts during the 1780s. In terms of calculating North Carolina’s expenditures, therefore, state politicians deemed it paramount that the state receive credit for any and every possible expense during the war. Poor record keeping and the reluctance of the commissioners for settling state accounts to accept flimsy evidence from many southern states caused resentment of assumption and the settlement proceedings.\textsuperscript{113}

North Carolina’s officials worked to secure all the information possible to achieve maximum credit under the assumption program. State officials resettled the fraudulent Warrenton claims from 1786 in a commission in Hillsborough in 1790 and scoured the state for evidence to support claims for expenditures.\textsuperscript{114} Unfortunately, all their efforts proved futile. When news of the settlement of accounts became public in 1793, North


\textsuperscript{113} Ferguson, \textit{Power of the Purse}, 308-310; Morrill, \textit{Fiat Finance}, 154-167.

Carolina’s name appeared in the debtor column in the amount of $501,082.\textsuperscript{115} Benjamin Hawkins wrote to Alexander Hamilton for an explanation of the settlement procedures and to gain access to the commission’s records, contained in six boxes stored in the Treasury Department. Hamilton refused Hawkins on the grounds that the papers could not be reviewed except under Congressional directive.\textsuperscript{116} Hamilton also responded to the Governor’s request for an explanation of why North Carolina could not subscribe $431,985.27 of its cancelled certificates. Hamilton accused state leaders of acting in an “indirect and clandestine manner” and disparaging the state’s “dignity” by ignoring the “rules of fair proceeding” when they sent Duncan Macrae to William Skinner’s office in 1791.\textsuperscript{117} In response, the House of Commons reasserted its belief that the state should have been a “large creditor.” Since the “principles upon which the general settlement of accounts,” the Commons resolution began, “operated very injuriously to the state,” the federal government should have apportioned assumption by the population of the state during the Revolution. Instead, the law used the census of 1790 to divvy up the amount assumed for each state but, unfortunately, North Carolina had become the fourth largest state by 1790.\textsuperscript{118} The intricacies of Hamiltonian finance therefore contributed no small amount of discontent among state politicians in the early 1790s.

Continued petitioning for payment of un-liquidated Revolutionary War claims takes on greater significance against the backdrop of Hamiltonian finance. If the state could not be sure that its claims would be included in the settlement of wartime accounts,

\textsuperscript{115} Journal of the House of Commons, 1793 session, 21.
\textsuperscript{116} Alexander Hamilton to Benjamin Hawkins, March 12, 1794, in Syrett, Alexander Hamilton, 16:45-146.
\textsuperscript{117} Alexander Hamilton to the Governor of North Carolina, July 31, 1794, in Syrett, Alexander Hamilton, 16:628-634.
\textsuperscript{118} Journal of the House of Commons, 1794 session, 58.
then state leaders were reluctant to admit any new claims to be paid from the state treasury. From 1790 to 1795, ninety-nine wartime claims petitions came before the General Assembly, supported by legislators who argued on principles of justice and equity—not on the expedience of state finances—that such claims ought to be paid. With all attempts at passing a general liquidation bill ending in failure, legislators almost always rejected individual petitions for paying claims on the principle that a settlement should take place under a general law rather than grant inequitable relief on an *ad hoc* basis.  

As the committee on the petition of Robert Hunt reported in 1792, “your committee are of opinion, that no partial allowance ought to be made to any citizen, until some general provision is made, by which all persons can be equally compensated.”  

The Committee on Public Bills in 1792, however, rejected a general liquidation bill as “inexpedient, impolitic, and improper” because the state had created frequent boards for settlement of claims. “This state did every thing that could be done to effect justice to the citizens—that if they did not apply the fault was theirs,” the committee concluded.  

Despite continued rejection of general liquidation, legislators repeatedly introduced Revolutionary War claims petitions to the General Assembly. One of the most insistent, Warren County’s John Macon, entered a protest on the Senate journal in 1795 after his colleagues had rejected yet another claim. Macon considered that since the report admitted that “this with many other just claims are due from the state to

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119 On the Warrenton (fraudulent) claims, see *Journal of the Senate*, 1791 session, 40; *Journal of the House of Commons*, 1791 session, 5, 21, 33; *Journal of the House of Commons*, 1792 session, 9, 18-19. On regular wartime claims, see *Journal of the Senate*, 1791 session, 11, 48; *Journal of the House of Commons*, 1792 session, 53; *Journal of the Senate*, 1793 session, 22, 40. The Senate displayed far greater willingness to pay claims.  
120 *Journal of the Senate*, 1792 session, 16.  
121 *Journal of the Senate*, 1792 session, 27.
individuals, and that some general provision ought to be made,” then such an admission reflected shame upon the state for its decision to “withhold justice from her citizens.”

The linkage between paying claims and the settlement of state accounts, nonetheless, made most of Macon’s fellow legislators fear taking on additional debts. When Isaac Gregory petitioned for the replacement of lost certificates in 1793, nearly identical protests in the House and Senate against Gregory’s claim argued that North Carolina could not be bound to replace the missing certificates because “there is no certainty of this state’s having a credit with the United States” for them.

Frustrated at the state level by parsimonious legislators, many petitioners therefore turned directly to Congress, submitting petitions for payment for Revolutionary War service. Some fifteen petitions between 1790 and 1795 from North Carolina gave congressmen the opportunity to experience the same kind of petition-driven politics that state legislatures routinely practiced. North Carolina’s petitioners before Congress seemed to have fared no better.

The politics of payment of un-liquidated war claims also becomes clearer in the light of North Carolina’s revenue problems in the early 1790s. Petitions from sheriffs requesting remission of fines or additional time to settle their accounts demonstrate the inability of North Carolina to effectively collect revenue; there are more than one hundred petitions for settlement of accounts with the state from 1790 to 1795, with

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122 Journal of the Senate, 1795 session, 46.
123 Petition of Isaac Gregory and Others, GASR 1793, Box 3; Journal of the House of Commons, 1793 session, 65; Journal of the Senate, 1793 session, 48.
124 For petitions from North Carolinians to Congress, most of which were rejected or tabled indefinitely, see U.S. House of Representatives, Petitions Memorials and Other Documents, 58, 97, 168, 203, 206, 298, 300, 301. Prior to 1795, most of these petitions were handled by special, ad hoc, committees and routinely went to the Secretaries of War and Treasury for adjudication. After 1795, the House of Representatives relied regularly on a Committee of Claims.
sheriffs’ petitions making up forty percent of the requests. Jesse Gilbert, sheriff of Anson, demonstrated why the state could not effectively collect taxes: he fell into arrears by “indulging the people.” John Haywood, the state treasurer, repeatedly admonished the General Assembly to do something about the laxness of tax collection. He offered suggestions for improvement, such as increasing sheriff’s pay to attract better men and recommending that legislators stop answering sheriff’s petitions with stays of execution. By 1793, Haywood bet his “salvation” that the state would never collect one-half of the balances still due; he blamed the devaluation of state currency to four shillings value per pound as one of the reasons why people did not pay their taxes. Haywood also criticized the land entry system because it only required that purchasers pay the entry-taker’s fees and not the entire or at least part of the purchase value of the lands. As a result of all these problems, the state constantly ran a budget shortfall. In 1792, legislators estimated revenue at £16,092.1.6 yet had only collected £13,603.17.1; state expenditures totaled £19,890, making a deficit of £6,287. With revenue collection falling behind government expenses, parsimonious legislators could ill-afford to pay for internal improvements or grant wartime claims.

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125 Petition of Jesse Gilbert in The Journal of the House of Commons, 1791 session, 37. Sheriff Edmund Williams blamed his problems on “party Spirit and Animosity” causing “Transient Persons” to give taxable property lists where the sheriff could not reach them. See Edmund Williams to John Haywood, November 12, 1793, Ernest Haywood Papers, SHC.

126 Journal of the House of Commons, 1791 session, 14; Journal of the House of Commons, 1792 session, 11; Journal of the House of Commons, 1793 session, 17.

127 Journal of the House of Commons, 1793 session, 17.


129 Journal of the House of Senate, 1792 session, 43.

130 One of the sub-committees on Finance reported in 1793 that delinquent debtors from 1780-1787 owed £10,890.8.11 in cash and £10,056.8.4 in certificates. From 1788 to 1793 delinquent debtors owed £32,400.3.4 in cash and £42,384.4.8 in certificates. See Journal of the House of Commons, 1793 session, 58.
Budget difficulties continued through 1793, making the announcement that North Carolina had been deemed a debtor state in Revolutionary War accounts a particularly devastating piece of news.\(^\text{131}\) The state’s income in 1793 totaled £16,490.12.11 but the cost of governance had increased to £22,548.7.5, making a shortfall of £6,058.\(^\text{132}\) The General Assembly attempted to solve its fiscal crises by granting the treasurer the authority to take summary judgment in the superior courts against debtors while it also forbid persons who had not accounted fully as receivers of public money from holding seats in the General Assembly.\(^\text{133}\) Petitioners from Chatham County recommended an equalization of taxes to reduce the burden on the people and some legislators had in vain tried to introduce a bill to return to the \textit{ad valorem} method of taxation common before 1784.\(^\text{134}\) Instead, legislators relied on the expedient of the 1780s—paper money—to keep the economy flowing. The committee on the status of the sinking fund, a tax designed to “sink” the paper money issued in the 1780s out of circulation, reported in 1793 that although the state had collected £66,044.18.11 in sinking funds, they had burned only £40,218.1.10. Nearly £60,000 in depreciated paper money still circulated. In fact, the committee reported that the state had not collected the sinking fund tax in recent years. And it would not do so for the next decade.\(^\text{135}\)

\(^{131}\) Taxation woes also contributed to the North Carolinians’ dislike of Hamiltonian excise which has already been ably explored in Jeffrey J. Crow, “The Whiskey Rebellion in North Carolina,” \textit{NCHR} 66:1 (January 1989), 1-28.

\(^{132}\) \textit{Journal of the House of Commons}, 1793 session, 57.

\(^{133}\) \textit{Laws of North Carolina}, 1793, ch.6, ch.7.

\(^{134}\) Instructions from Inhabitants of Chatham County, GASR 1794, Box 3; \textit{Journal of the House of Commons}, 1793 session, 31 (bill to equalize land tax); \textit{Journal of the Senate}, 1793 session, 18.

\(^{135}\) \textit{Journal of the House of Commons}, 1793 session, 38.
State leaders’ attempts to solve budgetary woes by bringing summary judgment against debtors nearly derailed in the Hillsborough superior court in 1794 when Judge John Williams ruled the enabling legislation unconstitutional. In the state’s second major case involving judicial review, Judge Williams declared that the “Judges of the land are a branch of the government, and are to administer the constitutional laws, not such as are repugnant to the constitution; it is their duty to resist an unconstitutional act.” The state attorney general obviated Williams’ complaints by a feat of prestidigitation in which he substituted the legislature for the ‘people.’ “It could not be supposed,” Attorney General John Haywood argued, “the Legislature would ever attempt to oppose the right of the people to regulate their internal government . . . .” As the legislature embodies the people, then both statute law and customary common law must be amenable to change from within the body politic; if the state allowed the common law, which forbade summary judgment without notice, to operate in favor of public debtors, the people would suffer and their authority-in-the-legislature become meaningless. He asserted that the state legislature—as the full embodiment of the people’s sovereignty—could pass any law “when public convenience” required it, even if the law operated in an ex post facto manner. 136 Haywood’s argument, concurred with by two other superior court judges, implied a chilling future for popular sovereignty. If the legislature embodied the people,

136 Haywood himself reported the case in his own volume of case reports as State v. --- ---. See John Haywood, Reports of Cases Adjudged in the Superior Courts of Law and Equity of the State of North Carolina, From the Year 1789, to the Year 1798 2nd edition (Raleigh: Joseph Gales and Son, 1832), 38-50. Quotes are from pages 39, 40, and 50.
then there could be no role for the people to act outside of the established institutions of the state.\textsuperscript{137}

In the early 1790s, North Carolinians turned increasingly to the courts to contest state law, private debts, and ownership of confiscated lands. The flooding of both courts with lawsuits and the assembly with petitions over confiscated land titles in turn pressured legislators and legal reformers to actively work for a revision of the state’s court system. Some reformers simply wanted to eliminate the backlog of cases while others repeatedly pressed for the creation of courts of chancery, superior courts for each county, and for a court of errors and appeals. Criticism of the state court system invited comparisons with the federal courts, which displayed a somewhat shaky start in North Carolina but soon became known for their speedy dispatch of cases. Court reform offered another avenue for citizens to express their opinions but, instead of choosing the medium of petitions, the people deliberated on public policy through grand jury presentments. One arena of public policy, remaining closed to the courts, invited petitioners to treat the legislature as a court—divorce. Thus, the story of court reform in the early 1790s also includes the legislature acting on divorce petitions as much as it includes the myriad of proposals for the restructuring of county and superior courts.

North Carolina law treated the registration of marriages as a civil contract as much as prevailing religious notions emphasized the spiritual contract between husbands and wives. No tribunal nonetheless existed, other than the General Assembly, for the

\textsuperscript{137} The existence of two John Haywoods in the 1790s often confuses students of North Carolina history. The older John Haywood (1755-1827) served as state treasurer for nearly forty years. The younger John Haywood (1762-1826) became a noted jurist, eventually moving to Tennessee after 1802. See Powell, \textit{Dictionary of North Carolina Biography}, 3:86-87.
dissolving of marriage contracts and North Carolinians seemed to have not considered a need for divorce.\textsuperscript{138} Petitions for divorce grew from three requests between 1779 and 1789 to sixteen requests after North Carolina joined the union; if the state had the right to regulate marriage licenses as contracts, then perhaps it seemed reasonable for petitioners to appeal to the General Assembly for relief when spouses became abusive or disappeared.\textsuperscript{139} At stake in these broken relationships was often the inheritance of estates to legitimate offspring or the ability of deserted wives to secure a living for themselves and their children. Unfortunately, the General Assembly regarded the granting of divorces as “productive of many dangerous and evil consequences” and almost always refused requests for \textit{a vinculo} divorce (an absolute sundering of the marriage contract).\textsuperscript{140}

Petitioners asked for relief despite the reluctance of legislators to grant divorce. Teresa Butler’s husband abandoned her after five months but legislators felt no sympathy for her in 1791, so she petitioned again in 1792 to have her maiden name restored.\textsuperscript{141} John Miller asked for a divorce in 1793 because he was intoxicated at the time of the


\textsuperscript{139} The relevant law governing marriage as a contract blamed secret marriage contracts as an impediment to the legal recovery of debts by creditors. \textit{Laws of North Carolina}, 1785, ch.12. In 1790, state law prohibited persons from marrying again while their former wives or spouses were still alive; illegal remarriage became a felony with the death penalty unless the spouse could prove that he or she had been deserted for at least seven years. \textit{Laws of North Carolina}, 1790, ch.11.

\textsuperscript{140} \textit{Journal of the House of Commons}, 1791 session, 30.

\textsuperscript{141} Petition of Teresa Butler, GASR 1791, Box 2; GASR 1792, Box 3. Legislators granted her second request; \textit{Laws of North Carolina}, 1792, ch.36.
wedding and therefore could not have been a competent party to the marriage contract.¹⁴²

Men like Malcolm Ferguson, William Thompson, and Joseph Wood worried about their property.¹⁴³ Ferguson’s wife had “done wrongs his personal property,” Thompson’s wife had tried to destroy him by running him “in Debt,” and Wood feared that his children by his third wife would not be able to inherit his estate.¹⁴⁴ If the Assembly would not grant a divorce, these petitioners asked for the protection of their possessions from legal action. Catherine Houser secured *feme sole* status after her husband deserted her and married another woman while Abigail Rice had “no intention to defraud any person” when she requested a law to protect her property.¹⁴⁵ Divorce petitions called upon the General Assembly to act as a court of equity since no remedy existed in common law for the violation of marriage contracts. Legislators, preferring to sit as a divorce court, rejected general divorce bills for the relief of petitioners.¹⁴⁶

The only *a vinculo* divorce granted between 1779 and 1795 was given to John Naylor of Fayetteville.¹⁴⁷ John’s petition testified that he had been “put to the severest trial by the misconduct of his said wife . . . incompatible with the marriage vows” and

¹⁴² Petition of John Miller, GASR 1793, Box 3. Legislators rejected the request because a state of intoxication could have been counterfeited. *Journal of the House*, 1795 session, 35.

¹⁴³ Some men published announcements that they would not be responsible for the debts of their wives. See the *North Carolina Journal* (Halifax), December 19, 1792 and *North Carolina Gazette* (Newbern), June 7, 1794 and June 6, 1795.

¹⁴⁴ Petition of Malcolm Ferguson, GASR 1795, Box 2 (rejected); Petition of William Thompson, GASR 1795, Box 2 (no further action); Petition of Joseph Wood, GASR 1794, Box 3 (no further action).


¹⁴⁶ *Journal of the House*, 1791 session, 39; *Journal of the Senate*, 1792 session, 11.

that there was no chance of a reconciliation.\textsuperscript{148} The committee who examined the petition reported that Naylor’s marriage “has been embittered by mutual jealousies and animosities, and that the very hope of future happiness with his wife is destroyed by sundry acts of extreme provocation.” Justifying their recommendation for divorce on the “law of nature” and the possibility of restoring a “useful artisan” to society, the committee explained that no other avenues open to them would solve Naylor’s difficulties.\textsuperscript{149} The conduct of his wife Martha was not detailed but legislators expressed sympathy for his position and proposed a bill to grant a complete divorce under three appointed commissioners who would divide Naylor’s property so that one-half would go to Martha.\textsuperscript{150} The House of Commons voted to pass the bill by a margin of twenty-three votes, thus granting John Naylor the very first \textit{a vinculo} divorce since the creation of the state.\textsuperscript{151}

While General Assembly members refused to sunder marriage contracts they also backed away from direct interference in the land ownership cases spawned by the post-revolutionary confiscation laws. At least fifty requests between 1790 and 1795 came before the legislature asking for intervention in confiscation-related suits and conflicts. Instead of overturning or directly challenging suits brought against purchasers of confiscated property by former owners, legislators tended to compensate purchasers who lost suits.\textsuperscript{152} After the House of Commons considered the 1791 petition of James Tindal,

\textsuperscript{148} Petition of John Naylor, GASR 1794, Box 3. 
\textsuperscript{149} Journal of the Senate, 1794 session, 23. 
\textsuperscript{150} Laws of North Carolina, 1793, ch.81. 
\textsuperscript{151} Journal of the House of Commons, 1794 session, 50. 
\textsuperscript{152} See, for example, Petition of John Rainey, GASR 1790, Box 2; Petition of Jonathan Loomis, GASR 1791, Box 2; Journal of the House of Commons, 1795 session, 43 (responding to the petition of Lazare Preaud).
they proposed general resolutions to compensate citizens where the state could not guarantee a right to title in fee simple, but William R. Davie rejected the proposed resolutions and offered his own bill. Davie’s successful bill directed the state attorney general to assist suitors in defending their title and, under the assumption that many of the defendants would lose, instructed those evicted from the property to submit proof of the judgment to the state treasurer for compensation. Under the proposed law, proceedings regarding confiscation could be instituted only in the superior courts, keeping the lawsuits out of local hands in the county courts.153

Davie’s interest in keeping the suits in court likely stemmed from his support of the cause of John and Archibald Hamilton, British citizens who petitioned for repeal of the confiscation laws in 1791 and 1792.154 After legislators rejected John Hamilton’s first request in 1791, he again asked lawmakers to compensate him for the £12,818 owed to him by citizens of the state and confiscated on their behalf.155 The committee rejected Hamilton’s second request and praised the wisdom of the confiscation policy. The committed conceived “the confiscation laws passed by this state, were not only consistent with wisdom and sound policy, but with the dignity of a sovereign and independent nation, laboring under the yoke of the most galling tyranny and oppression—”.156 Other than their stated support for the confiscation laws, however, legislators offered no impediments to recovery of property in the courts and, by 1796, John Hamilton would

153 Journal of the House of Commons, 1791 session, 28, 42; Laws of North Carolina, 1791, ch.16.
154 Davie introduced Hamilton’s 1791 petition. Journal of the House of Commons, 1791 session, 11; Petition of John Hamilton, GSR 1791, Box 3. Davie then served as Hamilton’s counsel in the case of Hamiltons v. Eaton, 1796, which will be considered in full in the next chapter.
155 Petition of John Hamilton, GSR 1792, Box 3; John Hamilton to Lord Grenville, April 4, 1793, in Marcus, Documentary History of the Supreme Court, 7:903-904.
156 Journal of the House of Commons, 1792 session, 56.
obtain victory in those very courts. The former owners of confiscated property grew bold in the face of the state’s indirect and weak support for its former policies. George McCulloch, heir to Henry E. McCulloch’s confiscated lands, placed an advertisement in the *North Carolina Journal* in 1793 forbidding confiscation commissioner Charles Bruce from selling his father’s land under the authority of the Treaty of Paris and the United States Constitution. McCulloch warned the commissioner that if he attempted any sales, he would pursue Bruce in court.\(^{157}\)

North Carolinians seemed to pursue each other vigorously in the courts in the early 1790s, furthering a backlog of cases. Critics of the legal system railed against the slowness of obtaining justice and the failure of local officials to carry out executions of the court.\(^{158}\) Citizens frustrated with the pace of justice turned to grand jury presentments to make their grievances public and they published their presentments in state gazettes in order to bring public pressure upon legislators. The Hillsborough district grand jury in 1792 lamented that cases on the equity docket had been there since the court began. “That justice shall be denied to no man is one of the professed principles of this government—but here are many instances of delays, which in fact amount to a denial of it,” the jurors concluded.\(^{159}\) Grand juries in Halifax, Newbern, and Wilmington came to the same conclusions and often used the exact same language in their presentments, suggesting a coordinated campaign—perhaps by the superior court judges or the lawyers—to draw

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\(^{157}\) *North Carolina Journal* (Halifax), January 30, 1793.  
^{159} *North Carolina Journal* (Halifax), November 7, 1792.
attention to the need for court reform. The Wilmington superior court grand jury also drew attention to the fact that judgments in the federal courts proceeded more quickly, therefore placing in peril those who lost federal suits while waiting for their state suits to be concluded. The militia companies of Mecklenburg, rather than use a grand jury presentment, echoed the criticisms of the courts in a petition generated by representatives elected in the first battalion. They, like the grand jurors, criticized the county courts, the “notorious ignorance of the Justices,” and the “oppressive and burthensome” equity and civil dockets.

William R. Davie, a chief proponent of court reform, pushed for the creation of a separate court of chancery to handle equity jurisdiction. He agreed with the judgment of Governor Martin that the “law and equity jurisdictions of our courts of justice, vested in the same Judges, subjected frequently to a change of opinion, and the exercise of complicated and contradictory powers, appears improperly combined.” Yet, every proposition for a court of chancery met defeat. So too did proposals for reforming the superior court system by establishing superior courts in each of the counties as well as

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160 North Carolina Journal (Halifax), November 14, 1792 (Halifax presentment); Newbern Superior Court Records, Miscellaneous, Box 2, NCDAH (Newbern presentment); The North Carolina Chronicle; or, Fayetteville Gazette, October 2, 1792 (Wilmington presentment).

161 Petition of the Representatives of the Militia Companies of the First Battalion, Mecklenburg, GASR 1792, Box 3.

162 Samuel Johnston to James Iredell, April 15, 1791, Charles E. Johnston Collection, NCDAH; William R. Davie to John Haywood, January 18, 1791, Ernest Haywood Papers, SHC. Petitioners also requested a separation of equity and civil functions. See the Petition of Edward and Thomas Munford, GASR 1793, Box 3.

163 Journal of the House of Commons, 1792 session, 3.


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bills to create a court of errors and appeals to adjudicate cases from the lower courts.\textsuperscript{165}

The best legislators could do was to agree on a law forbidding superior court judges during the last three days of court to consider any other business than that which already appeared on the equity dockets.\textsuperscript{166} Legislators also reduced the new business of superior courts by forbidding original jurisdiction of lawsuits unless they were £100 or more when both parties lived in the same court district.\textsuperscript{167} To reform the operation of county courts, the General Assembly passed laws to classify justices of the peace in five groups who would hold court in rotation.\textsuperscript{168} A single justice of the peace still retained the authority to rule on all debts under £20 but the clerk of court had to keep records of the proceedings in such cases in the event a party appealed to the county court.\textsuperscript{169} To prevent fraud in the county courts, no justice of the peace could vote in his own election for any of the county offices such as register, clerk, or ranger. Another act required a majority of justices to be present for the election of the county clerk to prevent courthouse rings from illegally controlling one of the most important county offices.\textsuperscript{170}


\textsuperscript{166} \textit{Laws of North Carolina}, 1792, ch.8.

\textsuperscript{167} \textit{Laws of North Carolina}, 1793, ch.19. The amount was reduced to £50 if the parties lived in different superior court districts.

\textsuperscript{168} \textit{Laws of North Carolina}, 1793, ch.10. Mecklenburg County had already proposed a classification scheme by April 1793. “We the under named Justices of the peace for the County of Mecklenburg, having long since with concern perceived that considerable Delay to Justice has arose relative to Suites in the County Courts form the Inattention of the Magistracy...have caused ourselves to be cast into two distinct Lotts or Classes...” See Herman W. Ferguson, transcriber, \textit{Mecklenburg County, North Carolina: Minutes of the Court of Common Pleas and Quarter Sessions, 1780-1800} (Rocky Mount: Herman Ferguson, 1995), 130.

\textsuperscript{169} \textit{Laws of North Carolina}, 1794, ch.13. This law apparently (belatedly) responded to a problem raised by CAVETO in the \textit{State Gazette of North Carolina} (Edenton) in 1790 which pointed to the fact that the ninth amendment to the federal constitution preserved the rights of jury trial in all suits of common law where the amount exceeded \textit{twenty dollars}. CAVETO pointed to the fact that \textit{twenty dollars} amounted to £8, thereby negating North Carolina’s reservation of suits of £20 to a single justice of the peace (without a jury).

\textsuperscript{170} \textit{Laws of North Carolina}, 1794, ch. 18, ch.23.
The paltry reforms offered by the legislature looked especially weak in comparison to the performance of the federal judiciary. At first, North Carolinians criticized the establishment of federal district courts on the grounds that holding them at Newbern only burdened citizens from the west unfairly. After attempts to get the courts established in Fayetteville, Salisbury, and Wilmington, Congress provided for the meeting of the courts in Raleigh.\(^1\) Some critics faulted the non-appearance of the judges for causing delays in suits but, of the twenty-two meetings of the district courts from 1790 to 1800, court was suspended on only six occasions for lack of judges.\(^2\) North Carolina lawyers, far from being critical, wondered as early as 1790 how they could transfer their cases from state courts to the federal level. Lawyers concerned with the restoration of confiscated property and debts to British clients especially watched for news of relevant cases such as *Ware v. Hylton* as a sign of a federal disposition to overturn state laws. North Carolina’s superior court judges proved reluctant in allowing cases to leave their courts but bowed eventually to federal authority.\(^3\)

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3. John Hay to James Iredell, August 20, 1790 in Marcus, *Documentary History of the Supreme Court*, 2:86; James Iredell to John Hay, April 14, 1791, in Marcus, *Documentary History of the Supreme Court*, 2:159; John Sitgreaves to Iredell, August 2, 1791, in Marcus, *Documentary History of the Supreme Court*, 2:196; William R. Davie to James Iredell, May 25, 1792, in Marcus, *Documentary History of the Supreme Court*, 2:278. The case of *Morris v. Allen*, in which a writ of certiorari was brought from federal court to the superior courts and rejected, resulted in General Assembly praising the conduct of the judges. This case is covered in chapter four.
of the courts in the resolution of formerly legislative conflicts pointed to how membership in the union shaped citizens’ participation in both federal and state governance. What formerly could only be done by a legislative petition could now be sought in a remedy at law at both the state and federal level.

The first five years of North Carolina’s membership in the federal union sorely tested the ratification of the Constitution at Fayetteville in 1789. A state of diverse economic interests, as represented on Governor Alexander Martin’s proposed state seal, tried to encourage internal improvements, manufacturing, and agriculture even as it suffered continual budget shortfalls from an inefficient revenue collection system. The federal-state relationship endured unsteady moments as the federal government fostered its own authority in taxation, the settlement of Revolutionary War accounts, and the creation of federal courts. The people also adjusted to the changing terms of membership in the state and federal government. They petitioned at both levels even as people began exploring alternate venues like grand juries for deliberation on public policy. But the legislature did not always listen; confronted with perceived federal threats and internal weaknesses, lawmakers pushed the people’s concerns to the courts so that the state could give attention to those external problems of union that undermined sovereignty. Like iron sharpening iron, North Carolinians defined statehood in hard-edged clashes with the federal government. ¹⁷⁴

¹⁷⁴ Typically, the description of North Carolina in this period is “Jeffersonian” or “Anti-federalist.” Neither label tells much about the state’s stance vis-à-vis the federal government. Instead, we must look to practical policy clashes over different interests, rather than nebulous ideological labels, as the source of the state’s attitudes.
In 1796, ninety-three petitioners from mountainous Rutherford County requested legislators in the General Assembly to reconsider a twelve-year-old statute that barred Loyalists from holding public office in North Carolina. “We therefore pray as the substance of our Petition,” the memorialists began, “that you would take the Above Law into Your Wise Consideration and Consider the policy of such a Law at this Time when peace is fully Established between us and Great Britain and we are become as One People again . . . .”¹ The United States had just weathered a tumultuous three years of foreign intrigue and threats of war. The signing of Jay’s Treaty with Great Britain and the collapse of political conflict spurred by treaty opponents suggested to these petitioners from southern Rutherford County the need to put aside the animosities of the Revolution. That the oscillation of politics between the French and British poles of influence caused these petitioners to recall the turbulent years of fighting between patriots and tories testifies to the resilience of old labels and buried enmity.

While national political conflict over the conduct of American foreign policy resurrected ancient quarrels, it also spurred exploration of new means of expressing the people’s opinions on public policy. Though the citizens of Rutherford County chose the traditional petition as a vehicle for their grievance, other citizens discovered grand jury

¹ Petition of the Inhabitants of Rutherford County, GASR 1796, Box 3. The committee which investigated the petition deemed that it was not “consistent with good policy” to repeal the act. Senators concurred with the report of the committee by a 40 to 11 vote. Journal of the Senate, 1796 session, 11.
presentments and addresses for the expression of public opinion. Since petitioning implied redress for an existing wrong, citizens did not “petition” the government to merely express their approval or disapproval of actions taken or yet-to-be-taken. The addresses that they did send to Congress and the President sound very much like petitions but the spirit with which citizens expressed their views confirmed a growing belief that public policy depended on the people’s willing approval.\(^2\) And, instead of temporary bodies authoring petitions, more permanent associations of citizens—including nascent political parties and societies—debated and presented their views on public policy. The foreign-policy context for such a momentous shift in the form and content of expressing popular opinions, recalling memories of the Revolutionary conflict, allowed North Carolinians to explore the meaning of membership in both state and nation.


\(^3\) *American State Papers, Commerce* 1:250, 300, 321.

Participation in the union—despite the contentious aspects of Hamiltonian finance—certainly proved a boon to the mercantile economy of North Carolina. As Atlantic war between Britain and France waxed, coastal North Carolinians experienced a surge in exports of state products, though the state ranked tenth (out of thirteen) in value of its contributions to the Atlantic economy. When the British started to harass American shipping, the value of North Carolina’s exports declined thirty percent in 1793; among the hardest hit ports were Wilmington, Newbern, and Edenton, which continued to see declines through 1794.\(^3\) North Carolina’s Congressman Hugh Williamson told Alexander Hamilton that the people in the area around Edenton wanted more “vigorous
measures” against the “insults of the British Nation.” Aspirations for a revival of commercial fortunes directly tied North Carolina citizens into the nation’s foreign policy.

The arrival of French ambassador Edmund Genet in 1793 complicated a rapprochement with Great Britain by reviving the memory of Revolutionary ties (via the 1778 treaties with France) and spurring a debate over the future of republicanism in both France and America. As Genet traveled through North Carolina, he caused Congressman John Steele to remark that America’s “political connection with France, and our commercial intercourse with England” would place the nation in a delicate situation. President Washington’s proclamation of neutrality intended to forestall any conflict and gave the merchants of Newbern a chance to praise the President’s policy—“so coincident to the best interests and so conformable to the best wishes of America”—in a public letter. Nonetheless, when the news that a sloop had been fitted out in Wilmington for the purpose of privateering for the French, Governor Richard D. Spaight issued his own neutrality proclamation against such activities. With the collusion of locals, however, the captain of the privateer eluded law enforcement until the deputy marshal for the United States seized the sloop’s plunder. The General Assembly’s committee on public bills,

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5 See John R. Eaton to Dr. Smith, April 16, 1795, in William Smith Papers, NCDAH. “Commerce will change matters the Despotism of England will cease—the liberal policy of the French Republic will not throw impediments in the way of her Sister Republics.”
6 John Steele to Alexander Hamilton, September 17, 1793, in *PAH*, Volume 18, Reel 8; John Steele to Alexander Hamilton, April 30, 1793, in *PAH*, Volume 18, Reel 8.
7 *North Carolina Gazette* (Newbern), September 28, 1793. Newspaper accounts of similar meetings and approbationary addresses preceded the Newbern merchant’s meeting and may have inspired them. See *North Carolina Journal* (Halifax), June 12, 1793 and August 28, 1793.
8 *Journal of the House of Commons*, 1793 session, 5-6; James Read to Governor Richard D. Spaight, September 6, 1793, GP 20, NCDAH; Benjamin Smith to Governor Richard D. Spaight, October 11, 1793, GP 20, NCDAH. The federal collector of customs in Wilmington, Colonel Read, informed the
chaired by one of the coastal officials who had tried to stop the French privateer, took a bold step in praising the governor’s handling of the incident and also delivered a fulsome address approving of President Washington’s neutrality policy. 9

Whitmell Hill, once a delegate to Congress in the 1780s and now retired as a planter, offered his thoughts to the House of Representatives on the difficulties America faced if conflict with Britain erupted. Hill’s extraordinary letter, containing advice that Hill apparently did not send, surveyed America’s performance in its last war with England. Though he admitted that his representative in Congress could deliberate for him, the people may have not made the “best possible choice” nor was it “not yet deemed treason” for citizens to discuss public affairs. The Revolution had depended on paper money, a “kind of Loan . . . by Violence, wrested from the People,” but no wise statesman could suppose that the public, no longer given to “milky Softness,” would support such a financing measure in a new war. The funding and assumption programs required to pay Revolutionary debts had thrown open the riches of the citizens to the plunder of the “Speculator.” If America could not finance a war without internal strife, neither could it expect a welcome ally in France. America’s treatment of Ambassador Genet, though his conduct deserved condemnation, reflected a “horrid Ingratitude” that the French would not long forget. Hill, sharing the anxieties of his fellow citizens over

9 Journal of the Senate, 1793 session, 7. “Under these impressions, and with these sentiments, we regard the President’s proclamation of the 22nd of April last, as a new proof of that paternal care and patriotic vigilance which have characterized a life devoted to the welfare of his native country.”
the possibility of war, supposed that America would have to fight a war with Britain “destitute of Allies.”

An aborted slave rebellion in Granville County in 1794 and Cherokee raids on frontier Buncombe County increased anxieties over the possibility of war with Britain. Just as during the Revolution, North Carolinians feared not just a foreign enemy but domestic insurrection. As fears of war mounted through 1794, President Washington sent Supreme Court Justice John Jay as Minister Plenipotentiary to Great Britain to negotiate. North Carolina’s congressmen alerted the public to be prepared for the event of a war by stockpiling defense-related materials; state leaders, under the prospect of an “immediate war,” worked to ready the state militia. The Democratic Society of the town of Washington deliberated on public measures, offering its assessment of the nation’s foreign policy. After asserting the right of free people to gather and discuss subjects of public concern, they praised the service of the French to America and

10 Letter of Whitmell Hill to the House of Representatives of the United States, 1793, Whitmell Hill Papers, SHC. Though the archivists of the Southern Historical Collection provisionally date the later to 1795, its content suggests either late 1793 or 1794 since Hill seems to not yet be aware of John Jay’s mission to Britain.

11 In April 1794, a slave named Quillo in Granville County plotted to have an election in which slaves would choose their own officials who would see to it that debts owed them would be paid. See Crow, The Black Experience in Revolutionary North Carolina, 86. For the Cherokee raids, see Journal of the House, 1795 session, 50; David Vance to Governor Richard D. Spaight, December 22, 1793, GP 20, NCDAH.

12 For threats of war, see Thomas Blount to John Gray Blount, February 27, 1794, in Keith, John Gray Blount Papers, 2:370; Alexander Mebane to Walter Alves, March 27, 1794, Walter Alves Papers, SHC; William B. Grove to John Steele, April 2, 1794, in Battle, “Letters of Nathaniel Macon,” 102; Alexander Martin and Benjamin Hawkins to Governor Richard D. Spaight, March 28, 1794, GLB 11, NCDAH; Thomas Blount to John Gray Blount, April 3, 1794 in Keith, John Gray Blount Papers, 2:388; Benjamin Hawkins to Governor Spaight, April 11, 1794, GPSS 20, NCDAH; Extract of a Letter from One of Our Representatives in Congress in the North Carolina Gazette (Newbern), April 12, 1794; Secretary of War Knox to Governor Spaight, April 14, 1794, GLB 11, NCDAH; Governor Spaight to William R. Davie, GLB 11, NCDAH; Governor Spaight to General Steele, May 5, 1794, GLB 11, NCDAH; Joseph Graham to Governor Spaight, May 22, 1794, GPSS 20, NCDAH.

13 North Carolina Journal (Halifax), April 9, 1794; North Carolina Gazette (Newbern), April 19, 1794; Alexander Mebane to Captain Lytle, April 25, 1794, in William Lytle Papers, SHC. In September, the Craven County militia offered themselves to the service of the United States. See North Carolina Gazette (Newbern), September 20, 1794.
condemned the actions of the British. Instead of offering the olive branch and “tamely” suffering British insults, the United States should vigorously contend for its neutral rights with Great Britain. Citizens, the members of the Society asserted, had a duty to inspect the conduct of all those who speak “derogatory to the interest, honor or dignity of our republican government,” thereby deserving censure and expulsion from the community.  

Privately, North Carolina’s politicians disagreed about the proper diplomatic course. Most seemed unsure of Jay’s success, believing that French goodwill and America’s importance to English commerce would, in the end, cause the British to negotiate. A few held out hope that Jay, that “great civilian, able negociator,” would amicably resolve the conflict and prevent the “Demos” from overthrowing the national government. As citizens gathered to celebrate the fourth of July in 1794, they toasted hopes of Jay’s success to “exceed their most sanguine expectations.”

Initial rumors of Jay’s success caught the attention of Senator Alexander Martin as early as February 1795 but the Senate did not get the full contents of the treaty until the following June. Senator Martin informed Governor Spaight that he considered the treaty’s limits on trade with the West Indies “humiliating” and also wondered why Jay

14 North Carolina Gazette (Newbern), April 19, 1794.
15 Some of the criticism of Jay originated in his holding a judicial appointment, causing Senator Alexander Martin, among others, to question the constitutionality of such an executive appointment. For less-than-hopeful assessments of Jay, see Alexander Martin to Governor Spaight, April 7, 1794, GPSS 20, NCDAH; Thomas Blount to John Gray Blount, April 25, 1795 in Keith, John Gray Blount Papers, 2:389; Benjamin Hawkins to Governor Spaight, May 9, 1794, GPSS 20, NCDAH. For expressions of America’s commercial importance, see Thomas Blount to John Gray Blount, February 6, 1794, in Keith, John Gray Blount Papers, 2:355; William B. Grove to John Haywood, April 24, 1794, Ernest Haywood Collection, SHC; Benjamin Hawkins to Governor Spaight, May 9, 1794, GPSS 20, NCDAH.
16 Editorial in the North Carolina Journal (Halifax), May 28, 1794; Samuel Johnston to James Iredell, June 2, 1794, Charles E. Johnston Collection, NCDAH.
17 North Carolina Journal (Halifax), July 9, 1794 and July 16, 1794.
18 Alexander Martin to Governor Spaight, February 2, 1795, GPSS 20, NCDAH. William R. Davie also reported that the terms were “mutually liberal and particularly advantageous to the U. States.” See William R. Davie to Richard Bennehan, February 27, 1795, in Cameron Family Papers, SHC.
had not pressed for compensation for southern slaves taken by the British at the end of the Revolution. Article nine of the treaty caused the greatest panic because it protected alien ownership of those “who now hold lands” in the United States. Martin worried that such a provision contemplated both the Granville tract and loyalist Henry E. McCulloch’s lands.19 When North Carolina became a royal colony, all of the original Lords Proprietors sold their land shares to the Crown, except for the Earl of Granville, whose share contained the top two-thirds of North Carolina. Though confiscated in the Revolution, the Granville tract remained contested by the Earl’s heirs just as Henry E. McCulloch’s heirs continued to protest state sales of their father’s lands.20 Martin feared most for the fledging state University chartered in 1789 and to which the state had granted the profits of the sales of confiscated property in 1794. Despite Martin’s misgivings, his colleagues in the Senate ratified Jay’s “hasty performance,” dismissing southern concerns over stolen slave payments and a revival of confiscated land disputes.21

Though few North Carolinians regarded Jay’s mission entirely successful, some expressed indignation at the public mistreatment Jay suffered. Both William R. Davie and Samuel Johnston considered the abuse poured on Jay a critical threat to the existence of the national government.22 Anti-treaty demonstrations erupted across the eastern seaboard in the summer of 1795; groups of citizens issued resolutions against the treaty

19 Alexander Martin to Governor Spaight, June 27, 1795, GPSS 20, NCDAH.
21 Senate Executive Journal, 4th Cong., Special session, June 23-25, 1795, 185-186; Samuel Johnston to James Iredell, August 1, 1795, Charles E. Johnston Collection, NCDAH.
22 William R. Davie to James Iredell, September 4, 1795, Charles E. Johnston Collection, NCDAH; Samuel Johnston to James Iredell, August 15, 1795, in McRee, James Iredell, 2:453.
and sent petitions to President Washington urging him to not sign it.\textsuperscript{23} When the citizens of Warrenton, located in the Granville district just fifteen miles from the Virginia border, met in August 1795, they had read numerous newspaper reports about anti-treaty meetings in both the North and the South.\textsuperscript{24} The circulation of news about treaty meetings—often containing complete accounts of the resolutions drafted—doubtless explains the similarity in rhetoric in many of the addresses to the President. The model of the petition provided form for the public addresses even as citizens expanded the meaning of seeking redress to include preemptive policy-making.\textsuperscript{25}

The “numerous and respectable meeting” of the Warrenton citizens pronounced judgment on the Jay Treaty and asked President Washington to withhold his signature. They considered the treaty “inimical” to the Constitution, “disadvantageous” to Southerners, and “derogatory to the honour and dignity of the United States.”\textsuperscript{26} President Washington replied to the group that by the time he had received their address, he had already signed the treaty.\textsuperscript{27} Yet, the Warrenton address unnerved supporters of President Washington who considered the attack on the treaty an attack on the government itself.

\begin{footnotes}
\item[23] Southern meetings (as reported in newspapers) totaled 28, with all but 2 against the treaty. The diversity of forms of the meetings reflects the uncertainty of how the people were to transmit their opinions to the President. Most simply published resolutions. There were four petitions, one written as a set of “instructions,” and two as broadsides. The texts of many of them can be found in the George Washington Papers, Library of Congress or in Matthew Carey, ed., \textit{The American Remembrancer: or, An Impartial Collection of Essays, Resolves, Speeches, &c. Relative, or Having Affinity, to the Treaty with Great Britain} (Philadelphia: Henry Tuckniss, 1796).
\item[24] The most commonly re-reprinted meeting resolutions came from Boston, New York, and Philadelphia. See \textit{Wilmington Chronicle and North Carolina Weekly Advertiser}, July 31, 1795; \textit{North Carolina Journal} (Halifax), August 10, 1795, August 31, 1795; \textit{State Gazette of North Carolina} (Edenton), August 6, 1795.
\item[26] \textit{North Carolina Journal} (Halifax), September 7, 1795. The Warrenton meeting occurred August 22.
\item[27] \textit{North Carolina Journal} (Halifax), October 3, 1795.
\end{footnotes}
One wag lampooned the meeting’s claim to numbers or respectability while another attacked the president of the meeting as a gambler and two attending planters as neither “respectable . . . for their abilities, property or morals . . . .” What seemed to worry friends of the national government most was the mob-like behavior of many of these public meetings where the right to petition seemed to be transformed into an excuse for sedition and disorder.

Jurors meeting in Newbern in November 1795 took the opportunity to present such “riotous and tumultuous meetings of people, not only in this state, but in others” as a threat to public order. While they agreed that the people in any free government had the right to “meet together quietly, and freely and dispassionately to discuss the measures of government, and examine the conduct of their public officers,” the jurors believed that many of the meetings disgraced “free men” and destroyed “good order.” The jurors praised the wisdom of “our illustrious chief magistrate,” the “firm patriotism” of Jay, and the Senate’s confirmation of the treaty—all evidence that the people could put their trust in the constituted authorities. Since a “riotous” meeting had taken place in Newbern in early September—a meeting not “proposed, conducted, or countenanced by any person of reflection or responsibility”—the jurors felt solicitous for the loyalties of their own townsmen. The “riotous” meeting, however, probably gave opponents of the treaty the chance to express their views because in an earlier town meeting the “friends of the

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28 North Carolina Journal (Halifax), September 14, 1795; The Gazette of the United States (Philadelphia), October 3, 1795. The President was William Falkener, who, indeed, had traveled around with a gaming table called an E O Table. See Petition of William Falkener, GASR 1793, Box 3; Parramore, Launching the Craft, 138; and Charles L. Coon, ed., North Carolina Schools and Academies 1790-1840: A Documentary History (Raleigh: Edwards and Broughton, 1915), 593-594.

29 State Gazette of North Carolina (Edenton), November 5, 1795.
Treaty obtained a complete victory” by preventing the issuing of “Jacobinical resolves.”

It perhaps never occurred to the Newbern jurors that the prevention of discussion in the name of order might actually cause disorder.

Though President Washington had already signed the treaty, the citizens of Mecklenburg County selected one person from each militia company in late October to consider a statement on national policy. Dr. Nathaniel Alexander, a Princeton graduate and Revolutionary War surgeon, authored eleven resolutions that ranged beyond the Jay Treaty to include Hamiltonian finance and powers of the Senate. The first resolution implied that the citizens considered their actions as a petition even though no specific harm had yet befallen them as a result of Jay’s negotiations; moreover, the first resolution asserted that the people had a duty to let those in power know “how far their conduct” meets “our approbation.” These citizens asserted a right and a duty to report the public’s opinion to public leaders. Citizens did not have to wait until election time to express their views by voting for candidates or to send a petition when they felt themselves aggrieved. What the Warrenton and Newbern citizens had done without thinking, the citizens of Mecklenburg expressed in a positive declaration of the centrality of public opinion in the making of national policy.

Resolutions two through eleven of the Mecklenburg address expressed a number of opinions on the state of American governance. The resolutions praised the Constitution but lamented that the administration, not the structure, of government suggested a tendency toward self-destruction. When twenty Senators who met behind

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30 North Carolina Journal (Halifax), September 7, 1795.
closed doors could ratify a treaty with far-reaching implications to state policies, they operated under the letter, but not the spirit, of the Constitution. Financiers who captured the government’s largesse perverted the “spirit of independence” and the “national character.” Jay’s treaty augured a host of ills by opening the national treasury to British merchants and creditors, imperiling the union itself with its mischief. As statements of principle and constitutional interpretation, the resolutions urged leaders to reconsider America’s principles and priorities.32

After the ‘people’ in groups expressed their approval or disgust with Jay’s treaty, the southern state legislatures as representatives of the people communicated their assessments in resolutions as well. Both Virginia and South Carolina’s legislatures rejected the treaty but North Carolina’s General Assembly refused to entertain what Federalists called “Jacobinical” resolves.33 As the General Assembly’s annual session was ending in 1795, Granville County representative Thomas Person offered a set of resolutions condemning the Jay treaty as a “direct and manifest encroachment on the constitutional powers of Congress, and on the rights, privileges and sovereignty of the several states in the union.” Person considered the tribunal established by the treaty to arbitrate American Revolutionary War debts to British creditors a violation of the right of appeal through the Supreme Court and thought that the treaty insulted the French, “our

32 North Carolina Journal (Halifax), November 16, 1795.
great and good ally.”

Person’s resolutions would have directed the state’s senators and representatives in Congress to procure a constitutional amendment revising the treaty-making powers of the president and Senate. Nonetheless, when it came time to discuss Person’s proposals, the Orange County representative, Walter Alves, motioned to have them laid over until the next General Assembly. Alves’ motion passed 76 to 15. Six of the fifteen men who voted with Person to continue discussion of his resolutions largely hailed from the northern tier of counties bordering Virginia, an area well known for its ties to Republican politics in Virginia. More than eighty percent of Person’s colleagues did not share his fears of British creditors, the loss of the Granville tract, or the constitutional dangers of Presidential treaty-making powers.

Person’s fear of British creditors proved prescient. John and Archibald Hamilton, who had unsuccessfully petitioned the General Assembly for redress in 1791 and 1792, turned rejection of their petitions into a federal circuit court victory in case of Hamiltons

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34 That tribunal did begin meeting in May 1797 with five commissioners. Claims swelled to $25 million by 1798 but the American commissioners repeatedly withdrew from discussions to protest acceptance of unfair claims. The board ceased operation in 1799. The United States sent Rufus King in 1799 to negotiate for a lump sum payment of the claims which was accepted under the Convention of 1802. The United State paid $2.6 million, leaving Parliament to decide how to distribute the money. See John Bassett Moore, ed., *International Adjudications: Ancient and Modern*, 6 vols. (London: Oxford University Press, 1929-1933), 3: 14, 18, 24, 97, 217, 349, 353, 356.

35 *Journal of the House of Commons*, 1795 session, 52-53. The resolutions were printed in the *State Gazette of North Carolina* (Edenton), December 31, 1795.

According to a report compiled in 1800, more than one hundred debtors owing £6,758.10.10 (an average of £58.8.5 per person) owed the Hamiltons’ money; in 1791, the debts owed to them had stood at more than £60,000. William R. Davie, the Hamiltons’ attorney, argued that the debt owed to his clients represented a bona fide debt to real British subjects that neither war nor the law of nations could erase. As for the Treaty of Paris, Davie argued that the Confederation Congress had the sole authority to negotiate treaties, which became binding as the law of the land. As in the circuit court case of Ware v. Hylton, the interpretation of the force of national treaties undermined debtors’ claims to immunity under state sovereignty. Judges Oliver Ellsworth and John Sitgreaves argued that legislatures cannot “destroy” a debt by intervening in debtor-creditor relations and that North Carolina’s own incorporation of the Treaty of Paris in 1787 into its statute law rendered the confiscation acts void in this case. “The

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37 The Hamiltons advertised in The North-Carolina Minerva, or Fayetteville Advertiser on July 30, 1796 that those indebted to them should renew their bonds or make payment. Otherwise, they would file suits against those who did not heed their advertisement.


39 Martin, Notes of a Few Cases, 42-50.

The supposition that the public can have two wills at the same time, repugnant to each other, one expressed by a statute, and the other by a treaty, is absurd,” concluded Ellsworth.41

The judges of the state superior court had already taken up British debt cases in the May 1796 Wilmington court session. In the case of Cruden v. Neale, the plaintiff sued to recover a bond but the defendant demurred that the plaintiff, a Loyalist, had forfeited his right to recovery under the confiscation acts. Counsel for the plaintiff cited the Treaty of Paris, his client’s status as a lawful British subject, and the state’s own 1787 statute incorporating the treaty into state law as grounds for the suit. The defendant’s counsel replied that the plaintiff “may be entitled to the debt, and as yet have no remedy for it.” North Carolina would be perfectly within its sovereign right to accept the Treaty of Paris but not provide a means by which aliens could sue to recover for their debts. As several cases sat upon the docket in Wilmington, Hillsborough, and Fayetteville, all depending on the decision in the Cruden case, the judges considered the claims of Cruden carefully. Judges John Williams and John Haywood decided that—given the climate of national peace established by Jay’s treaty—“it is incompatible with a state of national friendship, and is a cause for war, if the citizens of another country” cannot sue in American courts.42

With both federal and state courts open to suits, British creditors launched a wave of litigation to recover debts that, in many cases, were more than twenty years old. The

41 Hamiltons v. Eaton, 3 N.C. 83 (September 1796); Martin, Notes of a Few Decisions, 1-77; North Carolina Journal (Halifax), May 22, 1797.
heirs of Samuel Cornell, who lost the famous *Bayard v. Singleton* case in 1787, sent an agent to North Carolina in 1797 to recover £22,500 owed to Cornell. The family instructed their agent to commence suits in the federal circuit courts if the amount involved met the legal threshold for jurisdiction ($500) but to avoid the state courts if possible. Where debtors proved solvent, the commission established under the Jay treaty planned to make payment once the commissioners had adjudicated all claims. William R. Davie advised the family agent to make use of the state courts and many of the debtors promised payment if “they are not to be distressed thereby.” The list of fifty debtors included some of the most prominent men in the Newbern area: Abner Nash, William Bryan, James Coor, Levi Dawson, Richard Blackledge, Samuel Strudwick, Benjamin Sheppard, Hardy Bryan, and Jacob Blount. These men and their families, active in state and county politics, perhaps hoped that suits in county courts could be deferred by skillful manipulation of county officials or state law. Many of the suits fell under equity jurisdiction, which almost always prolonged a settlement.  

It did not take long for petitioners suffering the judgment of state and federal courts to turn to the General Assembly for relief. Legislators, however, seemed ill disposed to vigorously assist petitioners. William Courtney of Hillsborough had paid a debt due to the Hamiltons under the confiscation act only to have judgment against him rendered for £308 in Virginia currency. His petition received no further attention after it was referred to the committee on finance.  

43 New York Public Library, *Papers Relating to Samuel Cornell North Carolina Loyalist* (New York: New York Public Library, 1913), 4, 7, 9, 10, 15-16, 18, 37-38. For another example, see Ebenezer McNair to James Hogg, August 14, 1797, in David L. Swain Papers, NCDAH.  

44 Petition of William Courtney, GASR 1796, Box 3; *Journal of the Senate*, 1796 session (Edenton: Hodge and Wills, 1797), 28.
wide policy to relieve those who paid debts in obedience to the confiscation acts failed
despite petitions from Willie Jones and John Eaton asking for relief from court
judgments.\textsuperscript{45} Supreme Court Judge Oliver Ellsworth, considering that many citizens had
paid British debts to their states in obedience to state laws, hoped in the \textit{Hamiltons v. Eaton} case that states would enact provisions to reimburse their citizens.\textsuperscript{46} Given the
recurring budget deficits North Carolina faced, such a generous provision would not be
forthcoming.

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If the President, the Senate, and the courts remained closed to those who believed
the Jay Treaty to be an affront to the interests and sovereignty of the states, then the
House of Representatives remained the only avenue open. Chowan County’s Dempsey
Burges, a representative from the Albemarle district, invited his constituents in December
1795 to express their opinions on the treaty as five petitions had already been submitted
to the House of Representatives asking for intervention.\textsuperscript{47} His supporters obliged. Two
“very strong” petitions from his district came to the attention of Congress on March 8,
1796; one bore 1683 signatures.\textsuperscript{48} Representative Edward Livingston of New York had
already issued the call for President Washington to lay before Congress \textit{all} the documents

\begin{itemize}
\item Petition of Willie Jones, GASR 1799, Box 3; Petition of John Eaton, GASR 1799, Box 3;
\textit{Journal of the Senate}, 1799 session (Raleigh: Hodge and Boylan, 1800), 27; \textit{Journal of the Senate}, 1796
session, 24; Bill to Carry into Effect the Act of 1777, GASR 1799, Box 1; \textit{Journal of the House of
Commons}, 1799 session (Raleigh: Hodge and Boylan, 1800), 51; \textit{Journal of the House}, 1800 session
(Raleigh: Joseph Gales, 1801), 8; \textit{Journal of the Senate}, 1800 session (Raleigh: Joseph Gales, 1801), 45.
\item \textit{Hamiltons v. Eaton}, 3 N.C. 83 (September 1796).
\item New Hampshire Gazette (Portsmouth), February 13, 1796. Demsey had sent the request to the
members of the General Assembly and the sheriffs from his district. Demsey admitted that he did receive
several letters warmly in favor of the treaty and regretted that he had to go counter “to the wish of several
of my constituents.” See \textit{State Gazette of North Carolina} (Edenton), May 5, 1796.
\item Gazette of the United States (Philadelphia), March 1, 1796; \textit{North Carolina Journal} (Halifax),
\end{itemize}
relating to Jay’s negotiations.49 James Holland, a representative from western North Carolina, spoke in favor of the House’s right to the papers since all money bills must originate in the lower house. “It is not enough for me to know that this Treaty did happen,” Holland claimed, “but I wish to know the causes that produced it, which will best be known by adverting to the papers contemplated in the resolution.”50 By March 24, North Carolina’s representatives voted in favor of Livingston’s resolution but President Washington frustrated their designs when he declined to turn over the papers.51 North Carolina’s Thomas Blount offered two further resolutions in support of the House of Representatives’ right to official documents even when the President cited executive privilege. Both Blount resolutions carried.52

The hostility of the House of Representatives provoked another round of public addresses in support of the embattled President. Birthday celebrations held in February for President Washington in Halifax and Newbern generated praise for his actions, noting that “attempts to lessen his character, have only excited an ardour to do him justice . . . .”53 On April 19, the citizens of Newbern gathered to evaluate the President’s conduct, issuing resolutions praising Washington for his firm resolve against the House and deploring the time legislators wasted in debate over the constitutional provisions.

49 Annals of Congress, 4th Cong., 1st Sess., 394, 424. Livingston’s resolutions were printed in the North Carolina Journal (Halifax), April 11, 1796 and the State Gazette of North Carolina (Edenton), April 14, 1796.


51 Annals of Congress, 4th Cong., 1st Sess., 759; Jesse Franklin to William Lenoir, April 4, 1796, Lenoir Family Papers, SHC.

52 Annals of Congress 4th Cong., 1st Sess., 771-772, 781-783. Blount’s resolutions were reported in the North Carolina Journal (Halifax), April 18, 1796. See also Absalom Tatom to John Haywood, April 8, 1796, Ernest Haywood Papers, SHC.

53 North Carolina Journal (Halifax), February 29, March 14, 1796; North Carolina Gazette (Newbern), February 27, 1796. See also Samuel Johnston to James Iredell, March 26, 1796, Charles E. Johnston Collection, NCDAH.
Congressional Republicans had not yet given up, however, and attempted to stop appropriations for the treaty. North Carolina’s congressional delegates worried that putting the treaty into effect would jeopardize ownership of the confiscated lands taken from Lord Granville’s heirs and from Henry E. McCulloch. Warren County’s Nathaniel Macon called the question of alien ownership of North Carolina property more important to North Carolina than the Declaration of Independence. In the end, only William B. Grove, the representative from the Fayetteville district, voted for appropriations for the treaty. In a strongly sectional vote, almost eighty percent of New England representatives supported appropriations while seventy-five percent of Southerners voted in the negative.

The grand jury of the superior court of the Wilmington district, meeting in the May 1796 term, disdained expressing a direct opinion on the “merits of the several treaties” but decided that they were the best obtainable at the time. They praised Washington’s ratification of the treaties as well as the members of Congress who voted for appropriations. Popular indignation shifted thereafter from defending the President to excoriating his opponents or lauding his supporters. When James Holland’s circular letter—not intended for publication—indicted the “influence of the executive, with that of the bankers, merchants, and speculators of every kind” as the force behind Jay’s

54 Proceedings and Address of the Citizens of the Town of Newbern, North Carolina to President George Washington, April 19, 1796, George Washington Papers, Library of Congress. They were printed in the State Gazette of North Carolina (Newbern), May 12, 1796; Federal Gazette and Baltimore Daily Advertiser (Baltimore), May 14, 1796; The New Hampshire Gazette (Portsmouth), July 2, 1796. Even Richard D. Spaight admitted that the House had done “no other business of moment” as a result of their deliberations. See Spaight to John Steele, June 2, 1796, in John Steele Papers, NCDAH.
57 North Carolina Journal (Halifax), June 20, 1796.
Treaty, the publisher of the *Gazette of the United States* scorned Holland’s political scribbling.\(^{58}\) The citizens of Fayetteville gathered (“numerous and respectable”) to approve of William B. Grove’s performance as “fresh proof of that independent spirit and unbiased judgment” which had always marked his conduct.\(^{59}\) Three anonymous essayists reviewed Nathan Bryan’s conduct, with one concluding that the “people of Virginia may be better judges of the rules of fighting cocks, or racing horses than we are . . . . Yet we who are plain farmers cannot see it unjust, or think it hard, to pay our *bona fide* debts . . . .” Another critic recapitulated the entire history of early American foreign affairs, tracing the influence of the French through Genet to the “Jacobinical clubs” in order to encourage war fever with Britain.\(^{60}\) From citizens in groups to anonymous essayists, the politics of the Jay treaty had elevated the importance of public opinion—the “people’s opinion—in support of national policy. Yet hardly had the tumults of the Jay treaty subsided when a new threat—posed by the French—continued to excite the public mind.

If North Carolina had entered the union in 1789 on the anti-federalist side, it closed the Jay crisis in the Federalist camp as a result of affinity for President Washington. South Carolina’s Robert G. Harper reported to Alexander Hamilton in late 1796 that Washington “never stood higher or firmer than he does” now in the state.\(^{61}\) Both Congress and the General Assembly voted Washington a warm adulatory address upon his retirement in 1796, though William R. Davie concluded that North Carolina’s

\(^{58}\) *Gazette of the United States* (Philadelphia), May 20, May 21, 1796; *The North Carolina Minerva and Fayetteville Advertiser*, June 9, 1796.

\(^{59}\) *North Carolina Journal* (Halifax), July 25, 1796.

\(^{60}\) *North Carolina Gazette* (Newbern), July 9, July 16, August 6, 1796.

address was “very indifferently written.”  When the legislature of Virginia recommended amendments to the Constitution to alter the treaty-making powers of the Senate and president, the North Carolina General Assembly deferred discussion of them until 1797, giving time for legislators to collect the views of their constituents.  Yet, when the people of Cabarrus County petitioned the state to concur in the Virginia amendments, the committee who examined the petition recommended that “a further experience of the operation of the said laws, may hereafter more fully shew the propriety or impropriety of the measures . . . .” North Carolina’s leaders proved unwilling to acquiesce in Republican measures and their hesitation grew stronger as the possibility of war with France increased.

President John Adams had barely taken office when the attacks of French privateers launched the nation into a quasi-war. Exports from North Carolina had risen thirty-six percent between 1795 and 1797, giving hope to the Fourth of July celebrants in Raleigh who toasted “American commerce—may it ride on the wings of every wind, and float on the bosom of every wave.” Instead, French privateers, irked by the Jay treaty and egged on by the March 1797 decree of the Directory, attacked American ships. The murder of an American seaman in late 1796 in Wilmington by sailors on the French

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62 On the Congressional address, see *Annals of Congress*, 4th Cong., 2nd Sess., 1611-1668. Thomas Blount motioned to take the yeas and nays on the address so posterity could see that he did not support it; voting with him were James Holland, Matthew Locke, and Nathaniel Macon. On the General Assembly address, see the *Journal of the House of Commons*, 1796 session (Halifax: Abraham Hodge, 1797), 2, 5, 48-49; William R. Davie to James Iredell, February 1, 1797, in McRee, *James Iredell*, 2:490.

63 For the Virginia amendments in general, see Thomas J. Farnham, “The Virginia Amendments of 1795: An Episode in Opposition to Jay’s Treaty,” *The Virginia Magazine of History and Biography* 75:1 (January 1967), 75-88. For the General Assembly, see the *Journal of the House of Commons*, 1796 session, 7, 44, 48; *Journal of the Senate*, 1796 session (Halifax: Abraham Hodge, 1797), 37, 37, 38, 41.

64 Petition of the Inhabitants of Cabarrus County, GASR 1797, Box 1.


privateer *La Bellone* resulted in a riot in which Wilmingtonians threw the privateer’s guns overboard and trampled the French tricolor. Where most North Carolinians had once called for gratitude to the French for their services to America during the Revolution, they now called for an end to the friendship between the republican nations. North Carolina’s Representatives in Congress nonetheless tried to stall attempts to fortify the coast and to prevent the aggrandizement of the president’s power by reforming the state militias.

The atmosphere of crisis—strongly imbued with Revolutionary War overtones—spurred a drive for militia reform among a few leaders in North Carolina. Congress had authorized the states to begin preparations for defense, with North Carolina’s quota set at 7,268 men. General Stephen Moore, a planter and merchant in Caswell County, argued in a December 4, 1797 address at Hillsborough that lack of supplies, low attendance at musters, and the poor state of communications required the attention of the General Assembly. Governor Samuel Ashe recommended to legislators when they met on November 22 that they revise the Militia Act of 1794 because its provisions had not guaranteed easy access to supplies. Though the Senate proposed a militia reform bill

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67 The French men were acquitted of the murder after “strict scrutiny by an impartial jury.” See the *North Carolina Journal* (Halifax), January 9, 1797; *State Gazette of North Carolina* (Edenton), February 23, 1797; *The Rutland Herald* (Rutland, Vermont), January 9, 1797; *Journal of the House of Commons*, 1797 session (Halifax: Hodge and Boylan, 1798), 4. The owner of the La Bellona was later sued (and lost) when he took a vessel in the West Indies owned by a North Carolina merchant in the case of *Simpson v. Nadiu* (March 1798). See Haywood, *Reports of Cases Adjudged*, 37-44.


69 *Annals of Congress*, 5th Cong., 1st sess., 327-328; as Thomas Blount argued, “He had no idea of creating a naval force for defence; on the contrary, he believed it would be the means of plunging us into fresh difficulties.” See *Annals of Congress*, 5th Cong., 1st sess., 288-284.

70 *North Carolina Journal* (Halifax), September 18, 1797.

71 *North Carolina Journal* (Halifax), December 4, 1797.
December 1, nothing came of it.\textsuperscript{72} The congregations of the Moravians in Wachovia, meanwhile, rejoiced that they had “thankfully enjoyed peace in spite of the doubtful prospects” and that the few “military movements in our neighborhood” did not disturb them.\textsuperscript{73} Uncertain calm held a while longer.

Another sign of rising tension was heightened concern about foreign influence over legislative councils. An essayist in the \textit{Wilmington Gazette} in 1797 had recommended sweeping all foreigners from political office, arguing especially against British subjects. Once a British subject, always a British subject, the essayist counseled. “Let us determine to seclude from our Legislative Councils,” continued the diatribe, “the restless and vivacious Frenchman, for he may be a partisan; [and] . . . . The Old dissembling Tory; his principles are unchanged . . . .”\textsuperscript{74} The hue and cry against British Tories surfaced in Robeson County when John Gilchrist’s electoral opponent gathered evidence indicating that Gilchrist had joined a Tory band during the Revolution; the Senate rejected the charges.\textsuperscript{75} Thomas Blount, in his congressional re-election campaign of 1798, similarly reviled British and Tory influence, clothing his candidacy with old Revolutionary labels.\textsuperscript{76} With so many Americans joining privateers in the service of other nations, essayist “No Rover” railed against easy expatriation, arguing that citizens should not change their allegiance as easily as their clothing.\textsuperscript{77} And printer Abraham Hodge

\textsuperscript{72} \textit{Journals of the House of Commons}, 1797 session, 4, 16; \textit{Journal of the Senate}, 1797 session (Halifax: Abraham Hodge, 1798), 12.

\textsuperscript{73} Fries, \textit{Records of the Moravians}, 7:2580.

\textsuperscript{74} \textit{Wilmington Gazette} (Wilmington), August 24, 1797.

\textsuperscript{75} Petition of John Willis, GASR 1797, Box 1.

\textsuperscript{76} Peter Brown to James Iredell, August 11, 1798, in Charles E. Johnston Collection, NCDAH; Thomas Blount to John Gray Blount, February 26, 1798, in William H. Masterson, ed., \textit{The John Gray Blount Papers} (Raleigh: State Department of Archives and History, 1965), 3:210-211.

\textsuperscript{77} \textit{North Carolina Gazette} (Newbern), February 25, 1797. For a perceptive look at the debates over foreign influence and identity, see Matthew Rainbow Hale, “‘Many Who Wandered in Darkness’: 286
reminded his readers that they had “heard much of spies in our country from foreign
nations.”

In trying to resurrect old labels like whig and tory, or to exploit anti-foreign
rhetoric, North Carolinians re-engaged in old Revolutionary debates about loyalty, now
more salient in the wake of British creditor victories in state courts and French privateer
raids on American ships. Anti-British and anti-French diatribes reflected opposing
views of national policy yet shared in common a deeper concern over foreign
involvement in domestic politics.

Anti-gallanicanism surged ahead of fears of British influence when news of the
French demand for bribes for negotiating with Americans in the famous WXYZ affair
became known by March 1798. All signs pointed to a war with France. John Steele,
Comptroller of the United States Treasury, told North Carolina’s Solicitor General
Edward Jones that “many among us, being deluded ourselves, have contributed (no doubt
from the best motives) to delude others; but henceforth we may hope for Union, and that
sort of energy that the world expects from a brave, victorious and high toned nation when
driven to extremity by the oppressions of an unprincipled and insidious enemy.” News
of French perfidy shocked many admirers of the French cause. “Since the publication of
the dispatches from our envoys in France,” Richard Dobbs Spaight confessed, “I found
myself under the necessity of thinking worse of the French Government than I had used

The Contest over American National Identity, 1795-1798,” Early American Studies (Spring 2003), 127-175.

78 North Carolina Journal (Halifax), March 13, 1797.

79 William Stinchcombe, “The Diplomacy of the WXYZ Affair,” The William and Mary Quarterly
34:4 (October 1977), 590-617.

80 John Steele to Edward Jones, March 7, 1798, in Wagstaff, Papers of John Steele, 2:155.
France’s treatment of the American envoys cost it every ounce of honor and esteem that Americans had once had.

Most remarkable of all the transformations spurred by the WXYZ crisis was the massive outpouring of support for President Adams, who welcomed the opportunity to play the military hero. Adams had earned only one electoral vote in North Carolina in the 1796 election but the state now appeared to be solidly behind him, judging from the memorials sent by citizens in 1798. North Carolinians sent twenty-one addresses in all, with some locales sending more than one. More than fifty percent of the addresses appeared in May and June, within two months of the release of the full account of the WXYZ dispatches from Paris. Grand juries produced four addresses, militia companies seven, town meetings nine, and the students of the University at Chapel Hill one. Though one historian has placed them within the tradition of petitions, they are, in fact, not petitions, but rather expressions of public approbation for the conduct, character, and policies of the President. They may be read as policy statements or as public opinion and therefore originate in the same traditions as those addresses that supported George Washington in his contest with the House of Representatives over appropriations for the Jay Treaty.

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81 Richard Dobbs Spaight to John Haywood, May 27, 1898, in the Ernest Haywood Papers, SHC.
82 John Hamilton of Edenton offered as an electoral college candidate in the 1796 in opposition to Adams who he thought would introduce “foreign and aristocratic principles.” See State Gazette of North Carolina (Edenton), October 20, 1796.
The distribution of addresses highlights the political activity of the port-towns—Edenton, Newbern, and Wilmington—as well as interior towns like Salisbury, Fayetteville, and Raleigh. The heavily federalist Cape Fear (Brunswick, New Hanover, Bladen, and Cumberland) dominates as does the northern tier of Piedmont counties. The Cape Fear region, settled by Highland Scots who had tended toward Loyalism in the Revolution, remained wedded to the Federalist Party into the nineteenth century.\textsuperscript{84} Lincoln County, a center of anti-French sentiment because of its strong German population, represents the westernmost source of addresses. In nearby Rowan, Iredell, and Cabarrus counties, German populations which had entered the state via the Great Wagon Road from backcountry Pennsylvania tended to vote Federalist.\textsuperscript{85} The Moravians, a pietistic sect who had settled in Rowan County (now Stokes) in the 1750s, maintained a strong ethnic and cultural identity centered around ordered liberty and respect for government; they also voted Federalist.\textsuperscript{86} The addresses of all of these regions testify to the indignation aroused at the WXYZ dispatches but also highlight areas that had always tended to strongly support the national government.

Most addresses began with a statement either begging for indulgence for addressing the President or claiming the right to address as a duty. The citizens of

\textsuperscript{84} Leonard Richards, “John Adams and the Moderate Federalists: The Cape Fear Valley as a Test Case,” \textit{North Carolina Historical Review} 43:1 (January 1966), 14-29. “Whig,” writing in \textit{the North Carolina Journal} (Halifax), on August 7, 1797, called the Fayetteville district a “circle of Toryism.” Republican presidential elector Joshua Potts was mortified in 1800 when the Scots came to town, “following the bagpipes,” to vote in an election he lost. See William Boylan to Duncan Cameron, November 5, 1800, Cameron Family Papers, SHC; \textit{Raleigh Register}, November 25, 1800.

\textsuperscript{85} James Broussard, \textit{The Southern Federalists} (Baton Rouge: Louisiana State University Press, 1978), 394. This area was also a hot-bed of Loyalism. See Charles L. Hunter, \textit{Sketches of Western North Carolina, Historical and Biographical} (Raleigh: The Raleigh News Steam Job Print, 1877).

\textsuperscript{86} The words “decent” and “order” appear throughout the Moravian diaries. They especially disliked the disorder of voting day (in August) and the “indecent” activities of itinerant evangelical ministers who encouraged emotional conversions. See Fries, \textit{Records of the Moravians in North Carolina}. 289
Newbern on May 3 believed that the “critical and alarming situation of the Government” provided a necessary excuse for their freedom to speak to the President. The Scotland-Neck Volunteer Company of Infantry claimed that they had never been “forward publicly to express their sentiments of the measures of Government,” but had seen fit to do so at the present because the French crisis aimed to destroy the “very existence of society.”

The Field Officers of Salisbury actually deemed it “improper, on ordinary occasions, for the people to impose their opinions on the Executive or Representatives of the people.” Such deference reflects verdictive politics; citizens may exercise their choices for representation at elections—rendering their “verdicts” on the most suitable candidate—but should not deliberate on public affairs. If the people act in a deliberative manner, they usurp the authority of those they have elected to govern them.

Other addresses did not strike so deferential a pose, and their writers almost always used the term “duty” to describe why they addressed the President. Wilmingtonians used the phrase “incumbent duty,” the men of Franklin County spoke of the “duty of the friends of Government and good order,” and the Person County Brigade spoke of a “duty to ourselves & our Country.”

Only the Grand Jury of Raleigh articulated an important role for public

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87 *Gazette of the United States* (Philadelphia), May 22, 1798.
88 *North Carolina Journal* (Halifax), August 13, 1798.
opinion in governance, contending that the government ought to be “intimately acquainted” with community sentiments.\textsuperscript{91}

Though many historians have dismissed these addresses as examples of \textit{rage militare} against the French depredations on American shipping and the demand for bribes, almost every one focuses on the domestic problem of \textit{disunion}.\textsuperscript{92} The Chatham County address announced in the first sentence that the French had represented Americans as a “divided people” while the Franklin County memorialists fulminated against the “unfounded opinion that the people and the Government of the United States are divided.”\textsuperscript{93} The Officers of the Lincoln Regiment of militia took offense at the idea that the French “angel of sedition” was “suggesting and manifesting to the World, the false idea, that the government & people of the United States have separate views and pursue different interests, deeply degrading to the American character . . . .”\textsuperscript{94} Citizens in Bladen, Moore, Rockingham, Chapel Hill, Chowan, Fayetteville, and Brunswick all expressed disgust with the notion that the French crisis promoted disunion. Only the students and residents of Chapel Hill admitted that “our people have been divided in sentiment,” though they argued that the differences failed to “form a plan for destroying our government.” “Whatever political disagreements may have subsisted among us,” the Chapel Hill authors averred, “we shall never harbor the ignoble thought of sacrificing our

\textsuperscript{91} Gazett\textit{e of the United States} (Philadelphia), June 6, 1798. The idea that the 1790s witnessed the rise of public opinion as a pillar of government is explored in Buel, \textit{Securing the Revolution}.

\textsuperscript{92} Disunionist sentiments—divisions between the people of the United States—had a much greater resonance in the late eighteenth century because the character of the Union had not been settled. See Kenneth Stampp, “The Concept of a Perpetual Union,” \textit{The Journal of American History} 65:1 (January 1978, 5-33); Kersh, \textit{Dreams of a More Perfect Union}. See also William B. Grove to Walter Alves, March 3, 1798 and June 24, 1798, Walter Alves Papers, SHC.

\textsuperscript{93} At a unanimous meeting of the Inhabitants of Chatham, in \textit{Adams Papers}, reel 388; \textit{North Carolina Journal} (Halifax), July 16, 1798.

\textsuperscript{94} The Officers of the second Lincoln regiment of militia, in \textit{Adams Papers}, reel 391.
country, our government or its administration to the accomplishment of local of personal views.\textsuperscript{95} Thus the addresses demonstrate a deep aversion to the suggestion of disunion, no doubt reinforced by rumors of French agents in America.

Figure 7. Distribution of Addresses in Support of President Adams, 1798

Several addresses offered testimony to what the authors perceived as the causes of the conflict. The residents of Wilmington “entertained a partiality and friendship” for the French people until they deviated from the “establishment of a free and equal government.”\textsuperscript{96} So too did the citizens of Franklin County testify to their former “friendship” with the French, noting that the connections between the republics actually aggravated “the injuries we received . . . .”\textsuperscript{97} The men of Stokes County informed

\textsuperscript{95} Gazette of the United States (Philadelphia), July 10, 1798.
\textsuperscript{96} The Spectator (New York), August 1, 1798.
\textsuperscript{97} North Carolina Journal (Halifax), July 16, 1798.
President Adams that they praised his sending of envoys in hopes that the “harmony and friendship which formerly subsisted between the two Republicks” would be restored.\textsuperscript{98} Affinity for the French ran deep in the South, where the bulk of French forces had physically helped the American cause during the Revolution.\textsuperscript{99} The intensity of disgust for French conduct stemmed from the “friendship” that they had prostrated to obtain bribes; North Carolinians would have scarcely felt as indignant against the British had they been the traitors. America’s regard for the French, in fact, had contributed to the escalation of crisis. American appeasement, the residents of Wilmington argued, “only served to excite new aggression.”\textsuperscript{100} The men of the Lincoln regiment of militia believed that the French aimed at a “universal domination” of Europe.\textsuperscript{101}

Only a few addresses offered commentary on American politics beyond peace and defense measures. The Officers of the Guilford Regiment of Militia informed President Adams that they abhorred the “moderation, innovation, and that word ‘reform,’ which, in the fond credulity of our imaginations we believe to be for the amelioration of the situation of man; we now shun as we would a monster ready to engulf all social order, annihilate civil governments, and subvert the heretofore approved course of things.”\textsuperscript{102} Similar phrasing appeared in the address of the men of Bladen. “It is not from abroad we look for models of social order,” Bladen’s citizens wrote, “or from foreign institutions that we expect additional blessings; not by catching the spirit of innovation, or exchanging our political practice for wild theory and rash experiment, that we hope to

\textsuperscript{98} Fries, \textit{Records of the Moravians}, 7:2944-2947.  
\textsuperscript{100} \textit{The Spectator} (New York), August 1, 1798.  
\textsuperscript{101} The Officers of the second Lincoln Regiment of Militia, in \textit{Adams Papers}, reel 391.  
\textsuperscript{102} \textit{North Carolina Journal} (Halifax), November 26, 1798.
promote the public good.” Instead, Bladen’s residents believed in “firm adherence to the principles of our union, and a manly confidence in the integrity of our constitutional agents.” Both addresses replayed perennial themes of Federalist political theory—a belief in an organic, unchanging social order, an abhorrence of innovation, and a disgust with “Frenchified” political theory. That both of these addresses indicted innovation and political reform highlights the fact that Federalist political theory did not merely circulate in the cerebral worlds of Adams and Hamilton but coursed through the nerves of local life as well.

All of the addresses approved of the conduct of President Adams in handling the French crisis and all pledged to support the government in the event of war. North Carolinians, however, did not agitate for war in any of their addresses. In fact, they consistently praised Adams for “patient and pacific” measures undertaken to prevent war. “We deprecate the approach of war,” Wilmingtonians noted. The Officers of Salisbury explained that they had “experienced the evils attendant on a state of war” during the Revolution. “Well knowing the advantages and blessings of Peace,” the Officers of the Chowan militia asserted, “and how essential it is to the welfare of our country to preserve it,” these militia officers approved of the President’s irenic measures. The Grand Jury of Fayetteville feared the menace of the “direful affects and calamities of war” should France continue on its “unprovoked and unjustifiable” course.

103 North Carolina Minerva (Fayetteville), November 17, 1798.
105 At a unanimous meeting of the Inhabitants of Chatham County, in Adams Papers, reel 388; William B. Grove to William Gaston, May 1, 1798, in William Gaston Papers, SHC.
106 The Spectator (New York), August 1, 1798.
107 North Carolina Journal (Halifax), August 20, 1798.
108 Gazette of the United States (Philadelphia), November 22, 1798.
Another group of Fayetteville citizens prayed “that the calamities of war may not again desolate our country, and that we may still continue to enjoy the blessings of peace . . . .” Repeatedly, the addresses linked approbation of the President’s conduct with his tendency toward a peaceful resolution of the conflict. Because many North Carolinians had experienced the horrors of the Revolution, they had no deep desire to avenge themselves militarily on the French. They believed in defensive preparations and going to war only if goaded by the French after the failure of all peaceful options.

The mobilization of the militia forces in the counties continued to spur enmity toward France and reinforce the unanimity expressed in the addresses to President Adams. William R. Davie, Major General of the Third Division of militia, addressed the officers of the fifth and sixth brigades on June 25, 1798 to remind them that the present crisis demanded “the serious attention of every friend to independence, honour and safety of our country.” “The humiliating system of ‘suffering’ and concession,” Davie believed, “has already disgraced our councils, and debased our national character; and that high rank which we lately held in the estimation of nations, is not to be recovered but by an active display of the spirit and energy of the people.” Major General McClure, in reviewing the Craven militia on June 2, praised the profession of the soldier in this time of crisis: “He protects the farmer, the merchant, the lawyer, the physician, the divine, and every class of men in their several occupations.” In reference to the treaty with the

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109 North Carolina Minerva (Fayetteville), May 12, 1798.
110 North Carolina Minerva (Fayetteville), May 19, 1798.
111 On the Revolution as a civil war, see the essays in Ronald Hoffman, Thad W. Tate, Peter J. Albert, An Uncivil War: The Southern Backcountry during the American Revolution (Charlottesville: University Press of Virginia, 1985); Maass, “A Complicated Scene of Difficulties.”
112 North Carolina Journal (Halifax), July 2, 1798.
French, McClure asked, “Are we, gentlemen, tamely to rely any longer on, or feel secure under the empty shadow of treaties?”

Calls for the defense of America, like McClure’s, also emanated from the grand juries of the counties. Northampton and Hertford Counties in June requested the governor of the state to increase the supply of arms and ammunition to remedy the “defenceless situation of this state.” They lamented the inadequacy of the civil police should a “foreign invasion of the most dangerous nature” take place, aided by “domestic insurrection.”

Domestic insurrection was code for slave revolt. Northampton County in 1800 ranked second in slave population in the state, with Hertford in twelfth place. On June 18, Governor Samuel Ashe issued a proclamation against allowing slaves escaping from St. Domingue to land in North Carolina because “at this time [it] might disturb or endanger the peace and safety of the state . . .” Heightened tension also resulted from the Albemarle Quakers’ repeated attempts to obtain a general emancipation law. Grand juries in Chowan and Pasquotank had presented the Quakers in 1795 as a danger to the community, especially in the context of slave revolts in the French West Indies. Quakers protested that they had no ill designs and that religious enthusiasm had nothing to do with the West Indies violence. Nonetheless, a note attached to the market house

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114 North Carolina Journal (Halifax), June 4, 1798, June 11, 1798.
116 North Carolina Journal (Halifax), July 16, 1798.
117 Presentment of the Grand Jury of Pasquotank County, December 1795, Pasquotank County Records of Slaves and Free Persons of Color, NCDAH; Presentment of the Grand Jury of Chowan, December 1795, Chowan County Miscellaneous Records, NCDAH.
118 State Gazette of North Carolina (Edenton), February 4, 1796.
in Edenton in January 1797 warned of a conspiracy.\textsuperscript{119} In Wilmington, printer Allmand Hall reminded his readers that anyone taking slaves out of the port—as had happened for the past few months—would be punished by death.\textsuperscript{120} In Congress, whose northern members North Carolinians perhaps trusted least on the issue of slavery, John Swanwick of Pennsylvania presented a petition from four freedmen from North Carolina who had been manumitted in 1776, re-enslaved in 1777, freed by a state superior court in 1778, and then re-enslaved by the state legislature in 1779.\textsuperscript{121} After a hot debate in Congress, legislators voted to not receive the petition by a seventeen vote margin.\textsuperscript{122} In the context of fears of slave revolt, a law of 1798 gave any two justices of the peace the authority to order the sheriff to summon the county magistrates who could then send an express to the governor to call out the militia.\textsuperscript{123} Clearly, the crisis with France—at least in the South—seemed more ominous given the possibility of domestic insurrection.

When it came to promoting defense measures in the General Assembly, military-minded men found it easier to have their way than previously. Governor Samuel Ashe opened the legislative session in November 1798 reminding the Assembly that “it would be prudent to make a suitable supply of military stores for ourselves,” should the

\begin{footnotesize}
\begin{enumerate}
\item\textsuperscript{119} State Gazette of North Carolina (Edenton), January 26, 1797. It turned out to be a false alarm by a “mischievous ill designing person, anxious to destroy the peace and harmony of the country.”
\item\textsuperscript{120} Hall’s Wilmington Gazette, March 2, 1797.
\item\textsuperscript{121} 134 slaves had been freed and re-enslaved as a result of the 1777 act to prevent domestic insurrection. The slaves employed three attorneys in county court—Jasper Charlton, James Iredell, and Samuel Johnston—to obtain their freedom; the case went to the superior court of law in which the judges (Samuel Ashe, Samuel Spencer, and James Iredell) decided that the county court had exceeded its authority in ordering the sale of the slaves. In 1779, an act of the legislature confirmed the decision of the county court. See Society of Friends, To the Senate and House of Representatives of the United States in Congress Assembled (Philadelphia, 1797), 1-9. Quakers had first brought the case to the attention of Congress in 1790. See Bowling, Documentary History of the First Federal Congress, 8:327.
\item\textsuperscript{122} Annals of Congress, House of Representatives, 4\textsuperscript{th} Cong., 2\textsuperscript{nd} sess., 2015-2024.
\item\textsuperscript{123} Laws of North Carolina, 1798, ch.6.
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intentions of France grow more hostile. On December 6, Ashe reiterated the need for supplies by presenting the returns of the Adjutant General that demonstrated “very great deficiencies in musquets and other military equipment. To reinforce the need for supplies, thirty-eight men from Mecklenburg requested arms for their regiment of militia in a petition that Robert Irwin of Mecklenburg County presented to the Senate on November 23. Accompanying petitions from Montgomery, Iredell, and several Rowan regiments also called for supplies. The militia men obviously coordinated their work, as all the petitions have the same language (down to the same phrases): supplies would allow the men to “defend not only their own Houses but the soil, the Liberty, and the Independence of their beloved Country.” “If our treasury be rich,” the petitioners argued, “let not its money lye useless.” In all, 164 signatures of militia captains, lieutenants, and majors testified to the effect of the French crisis at the local level. Critics had been complaining since 1794 that the militias lacked the necessary supplies but the Quasi-War provided a context in which these men could impress upon a parsimonious legislature the need for defense.

The General Assembly partially responded to their requests. Instead of expending money for supplies, legislators introduced a statute to regulate the meetings of the commissioned officers and to prescribe penalties for failure to appear at musters. The General Assembly, penurious as usual, hoped that resources would largely be provided

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124 *Journal of the House of Commons*, 1798 session, 6-8.
125 *Journal of the House of Commons*, 1798 session, 30.
126 *Journal of the Senate*, 1798 (Wilmington: A. Hall, 1799), 11.
127 Petitions of the Mecklenburg Regiment, Montgomery Regiment, Iredell Regiment, and Rowan Regiment, GASR 1798, Box 4, NCDAH; on the lack of supplies in the early 1790s, see Returns of the Militia, GASR 1793, Box 4, NCDAH.

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by the federal government. William R. Davie told James Iredell that he expected North Carolina, because of its population and military strength, would be essential for the protection of the states’ two “weak Southern neighbors.” William Barry Grove had already requested “spare pistols” and other weapons for Fayetteville. The President had previously sent a cache of weapons to Wilmington, but Governor Ashe lamented that enough arms could not be secured because of the “caprice, design or remissness” of the Secretary of War.

As the addresses to President Adams and defense preparations indicate, it did not take long for North Carolinians to act on their indignation toward France. But their Republican representatives in Congress did not accept the war climate so readily. Nathaniel Macon and Joseph McDowell waged a constant war against the demands of the Federalists in Congress for a provisional army, an alien registration act, and a law to punish those who spoke ill of the government. At the same time, they excoriated the government for ignoring North Carolina’s defense. Both Thomas Blount and Joseph McDowell questioned why North Carolina had not been included in estimates on spending for the defense of the coasts. Federalist William B. Grove also wondered why North Carolina had been ignored. Grove believed that “an enemy might in two hours sail from the ocean, and put arms into the hands of at least five thousand men, who

129 William R. Davie to James Iredell, July 22, 1798, in the James Iredell Papers, PLD.
130 William B. Grove to James McHenry, August 20, 1798, in the James McHenry Papers, PLD.
131 James Gillespie to Governor Samuel Ashe, April 24, 1798, GPSS 21, NCDAH; Griffith J. McRee to Governor Samuel Ashe, September 4, 1798, GPSS 21, NCDAH; Journal of the House, 1798 session, 6-8.
132 They were directed to do so by a resolution of the General Assembly from 1797 which reprobated the “shamefully defenceless situation in which the sea parts of this state still continue.” See Resolutions for Senators in Congress, GASR 1797, Box 1.
might be ready to receive them. He could produce letters to show that the people in that
quarter consider themselves in a very dangerous situation.”134 The “men” of whom
Grove spoke were most likely slaves, and doubtless they would have received arms in the
spirit of French liberté. In August 1798, Grove wrote to the Secretary of War, James
McHenry, noting that there was a “certain class of people . . . . very numerous in the
Vicinity of Georgetown and Wilmington” who had to be kept in order, but few
“Grumbletonians, and still fewer Jacobins.”135 According to the 1800 census, 18,786
slaves toiled for their masters in Brunswick, New Hanover, and Georgetown counties.136
Given the war crisis atmosphere and planters’ perennial fear of revolts, they had cause for
alarm.

Both McDowell and Macon criticized specific features of the direct tax on lands,
houses, and slaves that Congress considered for raising the sum of two million dollars for
defense, though neither suggested that it was improper for Congress to lay such a tax.137
Joseph McDowell worried that the burden would fall mostly on the poor because the
categories for taxation did not seem equitable to him; a house valued at five hundred
dollars, for example, would be taxed at the same rate as a nine hundred dollar home.
McDowell proposed taxing every “species of visible property” according to its value.138
McDowell’s insistence upon ad valorem taxation reflected a long-standing grievance—
dating to the change to a flat rate tax in 1784—that western North Carolinians held

137 Annals of Congress, 5th Cong., 2nd sess., 1845-1848, 1839-1840
138 300
against the East. Westerners knew their property would be valued less under such a system; their distance from markets and the lack of western internal improvements would make it difficult to raise money to pay an exorbitant levy.

Both men also condemned the Provisional Army, speaking on this subject more than any other during the second session of the fifth Congress. Neither Macon nor McDowell believed any credible threat of French invasion existed; preparing for war would result in a self-fulfilling prophecy. Additionally, the provisional army bill suggested a “want of due confidence” in the militia. Revival of the old debates about the ineffectiveness of the militia during the Revolution forced Macon and McDowell to justify the performance of the southern militia at King’s Mountain and Cowpens. McDowell and Macon feared that the provisional army could become a standing army that the government would send as spies and informers to “take people up on account of their political opinions.” Militias, firmly under the control of state authorities, posed less of a threat to the liberties of the people. Finally, by trusting in the militia, McDowell and Macon hoped to avoid their greatest dread: the increase of executive power.

Macon boldly averred that the only purpose for a provisional army was to “get an armed force under the command of men appointed by the President of the United States, rather


than under men appointed by the Executives of the several states.”\textsuperscript{144} McDowell vainly attempted to stall a final vote on the provisional army and, with the exception of William B. Grove, the entire North Carolina delegation voted against it.\textsuperscript{145}

Macon detected the hand of executive despotism in the bill on Alien Enemies. Joseph McDowell wondered why anyone would “put it in the power of the President to banish any man or set of men from the country,” and believed that the stories of French agents were “trumped up for the purpose of assisting the passage of this bill.”\textsuperscript{146} Even more ominous to Macon was the bill to punish certain crimes, infamously known as the Sedition act. There was “no doubt in his mind this bill was in direct opposition to the Constitution,” Macon stated.\textsuperscript{147} Macon averred that the prohibition of free discussion would actually cause the people to suspect the government of ill-doing and suggested that if one newspaper did not get the facts right, the people could always read another and determine the truth for themselves. Macon deplored going “over the water for precedents,” referring to the use of British common law as a support for the Sedition act.\textsuperscript{148} Macon returned to the original debates over the ratification of the Constitution to argue that “it was never understood that prosecutions for libels could take place under the General Government.”\textsuperscript{149} Macon, along with the entire Republican corpus from North

\textsuperscript{144} Annals of Congress, 5\textsuperscript{th} Cong., 2\textsuperscript{nd} sess., 1671-1672.
\textsuperscript{145} Annals of Congress, 5\textsuperscript{th} Cong., 2\textsuperscript{nd} sess., 1771-1772.
\textsuperscript{146} Annals of Congress, 5\textsuperscript{th} Cong., 2\textsuperscript{nd} sess., 1785-1786, 2021-2022.
\textsuperscript{147} Annals of Congress, 5\textsuperscript{th} Cong., 2\textsuperscript{nd} sess., 2105-2106.
\textsuperscript{148} Annals of Congress, 5\textsuperscript{th} Cong., 2\textsuperscript{nd} sess., 2105-2106.
\textsuperscript{149} Annals of Congress, 5\textsuperscript{th} Cong., 2\textsuperscript{nd} sess., 2151-2152.
Carolina voted against the Sedition act. Only William B. Grove in the House, and Alexander Martin in the Senate, voted for it.\footnote{Annals of Congress, 5\textsuperscript{th} Cong., 2\textsuperscript{nd} sess., 2171-2172. Martin’s conversion to Federalism was “wonderful” according to Samuel Johnston. See Samuel Johnston to James Iredell, November 21, 1798, in McRee, Correspondence of James Iredell, 2:540. In a letter to Thomas Jefferson, Steven T. Mason noted that Martin had argued against the Sedition act but voted for it “to evince his determination to support Government, and afterwards was Silly enough to declare publicly that he gave his vote under a perfect conviction that the Bill was unconstitutional but that it was a lesser evil to violate the constitution than to suffer the printers to abuse the Govt. . . .” Stevens T. Mason to Thomas Jefferson, July 6, 1798, in John Catanzariti, ed., The Papers of Thomas Jefferson, 35 vols. (Princeton: Princeton University Press, 1950-2003), 30:444.}

When North Carolina’s Congressmen returned to the state after the second Congress ended in July, they found that months of meetings had made the citizens “wonderfully federal.”\footnote{The phrase is Samuel Johnston’s. He used it two separate letters. See Samuel Johnston to James Iredell, November 28, 1798, in Charles E. Johnston Papers, NCDAH; Samuel Johnston to James Iredell, November 21, 1798, in McRee, James Iredell, 2:540.} Even Nathaniel Macon’s constituents were “highly exasperated with him,” as lawyer Peter Browne reported to James Iredell, and would have voted for someone else except no other candidates would run for election that summer.\footnote{Peter Browne to James Iredell, August 11, 1798, Charles E. Johnston Papers, NCDAH.}

The mood of “wonderful federalism” prevailed in the 1798 General Assembly, which managed to produce its own approbationary address to President Adams. Samuel Johnston told his brother-in-law James Iredell on November 28 that he had spoke to some of the members “about addressing the President, and find it pretty generally approved,” but waited until William R. Davie had arrived before introducing such a resolution, so as to avail himself of Davie’s popularity in the House.\footnote{Samuel Johnston to James Iredell, November 28, 1798, in McRee, James Iredell, 2:537-538.} When the address came to a vote, of the seventy-three percent of the House members who voted, fifty-seven percent voted in favor and forty-two voted against.\footnote{Journal of the House, 1798 session, 77.} The Senate vote was unanimous.\footnote{155}
The strongest support for the address came from the Cape Fear and western Piedmont areas, both strongholds of Federalism. The east central Piedmont regions tended to be split, with the strongest opposition to the address coming from the northeast region that had long been tied to Virginia because of its tobacco economy. Of the four borough town members that voted, only the representative from Edenton saw fit to reject the address. Coastal opponents may have thought that the General Government did not do enough for the defense of coastal North Carolina, so negative votes in these areas do not necessarily indicate anti-administration attitudes.

The substance of the address itself mirrored many of the county and town addresses of the summer and spring. It praised the neutrality policy established by George Washington and agreed with the measures of “amicable negotiation” pursued by President Adams. North Carolinians confessed themselves “astonished” at the “extensive depredations” on American commerce and the maltreatment of America’s envoys on terms “totally incompatible with national dignity and honor.” North Carolinians held a “strong desire of peace” but would become involved in the “intrigues and quarrels” of Europe should the necessity arise. The address, on the whole, displays less admiration for President Adams than the addresses of the summer.¹⁵⁶ Samuel Johnston attributed this lack to the fact that one of the committee members had been an elector who voted against Adams in 1796 and the rest of the committee did not wish to offend their co-writer by being too fulsome in their praise.¹⁵⁷ Instead, the General Assembly’s address speaks of support for “our Councils,” “national concerns,” and “the constitutional

¹⁵⁵ Samuel Johnston to James Iredell, December 24, 1798, in McRee, James Iredell, 2:543.
¹⁵⁶ Address to President Adams, GASR 1798, Box 2, NCDAH.
¹⁵⁷ Samuel Johnston to James Iredell, December 24, 1798, in McRee, James Iredell, 2:543.
measures of our Federal Government.” Yet Samuel Johnston called the address “very
decent,” and Governor William R. Davie forwarded it to Adams with “great pleasure.”
Benjamin Smith, Speaker of the House of Commons, told President Adams that he
enjoyed “peculiar satisfaction” in signing it.

On the same day that the committee reported the address to President Adams, the
House introduced a resolution against the Alien and Sedition acts. “The General
Assembly of North-Carolina view with pain,” the resolution began, “the Alien and
Sedition acts . . . [and] conceive these acts as not only containing a violation of the
principles of the Constitution, but as being altogether improper and unnecessary.” It is
not surprising that the House introduced such resolutions, for they had already voted to
disregard a suggested constitutional amendment from the state of Massachusetts for
preventing foreigners from holding federal office. The House resolved to direct the
senators and request the representatives of the state in Congress to secure the repeal of
the Alien and Sedition Acts. John Mebane of Orange County called for the yeas and nays
on the resolution; it passed 58 to 21. Once again, the strongest opposition to the
resolution (and thus the greatest Federalist support) came from the western Piedmont
region dominated by people of German origin. The strongest support came from the
upper eastern Piedmont counties—those counties tied to Virginia’s tobacco markets.

158 Address to President Adams, GASR 1798, Box 2, NCDAH.
160 Benjamin Smith to John Adams, December 27, 1798, in Adams Papers, reel 392. After informing Adams of his participation in writing the address, Smith informed Adams of the inefficacy of the state’s militia laws and the defenseless and unprepared situation of the region. Smith hoped to cajole Adams into getting more supplies by offering him the services of 2500 volunteer militiamen from Brunswick and the surrounding region.
161 Journal of the House, 1798 session, 78.
162 Resolution of the Legislature of Massachusetts, GASR 1798, Box 2, NCDAH; Journal of the House, 1798 session, 6-8.
When the resolutions came before the Senate, however, they were voted down thirty-one to nine; Federalist support also emerged from the Cape Fear and backcountry. Senate Federalists trumped the prerogatives of the anti-administration House.

Senate Federalists also had their way when resolutions from the state of Kentucky—authored by Thomas Jefferson—came before the House on December 21. Samuel Johnston told James Iredell that when the Governor placed these resolves before the House, containing “a most indecent and violent philippic on the measures of the General Government,” the House of Commons immediately sent them up to the Senate. The “Senate, who, after, with great impatience, hearing them read,” Johnston noted, “ordered them to lie on the table.” The actual Senate minutes record the note nem. con. (nemine contradicente) next to the order for the resolution to lie on the table, indicating that the Senators regarded them with great contempt. Johnston believed that, given the temper of the Senators at the moment, they “might easily have been prevailed on to have them thrown into the fire, which was proposed in whispers by several near me.”

North Carolina had indeed become “wonderfully federal.”

“United we stand and divided we fall,” read an anonymous letter from Raleigh, written at the end of the General Assembly’s 1798 session. Despite differences of political opinion, despite former attachments to France, and despite disagreement on the measures of the President’s administration, most North Carolinians stood firmly behind the general government. The perfidy of the French seemed as a stab in the back to an old

163 Journal of the House, 1798 session, 70; Journal of the Senate, 1798 session, 75; Samuel Johnston to James Iredell, December 23, 1798, in McRee, James Iredell, 2:543.
164 Federal Gazette and Baltimore Daily Advertiser (Baltimore), January 16, 1799.
friend; North Carolinians regarded their just rights violated, their national honor trampled, and their government insulted. They resolved, therefore, to take up such defensive and offensive measures necessary to secure their rights as Americans. At the same time, however, they deplored the thought of war even as they prepared for its possibility. Knowing the trauma of the experiences of the Revolution, they did not welcome involvement in conflict and the intrigues of European warfare. By the end of 1798, North Carolinians stood back to back, believing that representations of them as a “divided people” constituted a great insult.

As the 1796 petition from Rutherford County suggests, however, division still characterized the state’s internal politics. The resurrection of the old whig and tory labels that the petitioners from Rutherford had hoped to crush under the banner of “One People” allowed politicians to replay memories of the Revolution. The horrors of that conflict—the internecine strife and chaos—proved ultimately too unwieldy to use for political gain. Instead, citizens rallied in groups to address their Presidents, both Washington and Adams, to offer their support in addresses. The resolutions they offered in support of national policy (and sometimes in condemnation of it) went beyond traditional petitioning to claim a right of the people to speak on public policy at both the state and national levels.

\[165\] Dr. Newman introduced a bill in 1797 to repeal the 1784 act according to the wishes of the Rutherford petitioners but the House of Commons voted it down on the second reading by a margin of 75 votes. *Journal of the House*, 1797 session, 12; Bill to Repeal an Act Passed in 1784, GASR 1798, Box 1. “Whereas it is the policy of all efficient governments to prevent invidious distinctions and to do away all causes of dissatisfaction and jealously among its citizens, and as the above recited acts only tend to weaken the bonds of attachment and affection of those citizens that came within the meaning of the said Acts. . . .” There was a bill introduced in 1799 to repeal the 1784 legislation regarding disaffected persons but it also failed. See Bill to Restore Certain Person to Rights and Privileges of Citizens, GASR 1799, Box 1.
While the foreign policy crises of the mid 1790s heightened citizens’ tensions, North Carolina’s leaders worked to develop the state’s economy, respond to the revelation of fraud in the state’s land office, and resolve the mounting demands of petitioners. Citizens who gathered to encouragingly address Presidents Washington and Adams also invested in canals, sought divorces or alimony, requested charters of incorporation for Masonic lodges, and pestered the General Assembly for emancipation of their slaves. But a newer mode of channeling the peoples’ wishes to their government appeared alongside petitions, grand jury addresses, anonymous newspaper essays, and direct addresses to leaders: political parties. Excoriated at first, political parties, nevertheless, assumed a begrudged and unofficially tolerated place in the American body politic. Everyone agreed that political parties undermined the basic unity of American institutions since they served only to fulfill the frustrated designs of ambitious demagogues or threaten the union with sectional strife. Nonetheless, legislators in Congress accepted that disciplined organization equaled victory. Sectional interests melded with ideology to draw like-minded men together to bring order out of legislative anarchy. By the late 1790s, partisans, in reviewing key domestic and foreign events since
the inception of the federal government, imposed upon them an ideological interpretation that furthered the development of party identity.¹

A role for the ‘people’ in party organization remained fairly limited. Both Federalists and Republicans, the two coalescing party identities by the late 1790s, agreed that if the people could be awakened to the dangers around them, they would select the proper men for office who would rescue the union. The people, once awakened, would exercise their power through the ballot, limiting themselves to a passive expression of citizenship.² Nonetheless, if the people identified with a particular faction’s world view and policy proposals, they could use the ballot to communicate their wishes to the government. While anti-party rhetoric emphasized men over measures, partisan rhetoric called for measures over men. Because the system had not fully evolved to elevate party interests above all others, public rhetoric still often called for good men and good measures; the development of partisanship was transitioning from an older, deferential


culture to a newer, participatory one. The emphasis on measures over men did hearken back to the trustee or mirror theory of representation, in which the legislator merely carried or embodied the people’s wishes; nonetheless, an anti-partisan yet party-driven culture managed to appropriate such imagery while substituting the party’s policy for the peoples’ wishes. Neither Republicans nor Federalists wanted the ‘people’ to act too assertively.³

By the end of the 1790s, the vehicle of party participation seemed to offer another means for the people to communicate their wants to the government. Told by Republicans that President Adams subverted liberty, squandered tax money, and bowed to British influence, many North Carolinians voted for Thomas Jefferson in the election of 1800. Nonetheless, almost half of the state’s citizens voted for John Adams after Federalists spoke at length of Jefferson’s unsafe views on emancipation, his dabbling in philosophy and deism, and his devotion to the French. Few North Carolinians cared an iota about the Alien and Sedition Acts but many felt the oppression of the direct tax; at the same time, Adams had kept the Union together by avoiding war with France. With citizens so divided, Jefferson’s election was a fragile victory, not a revolution. The meaning of the people’s participation in that election remained inscrutable at the dawn of the nineteenth century. And, apart from serving as identifiers for national and foreign policy preferences, the terms Federalist and Republican yet provided no stable guide for the state’s internal policies.

One policy on which both Republicans and Federalists could agree was the need to develop North Carolina’s transportation infrastructure through internal improvements. In 1795, the General Assembly had directed the establishment of commissioners in each county to prepare reports on navigation improvements and their costs. At least twelve reports remain extant, documenting a universal desire on the part of those appointed to launch internal improvements in their counties. The commissioners recommended projects on the Roanoke, Dan, Hico, Neuse, Yadkin, Pee Dee, and Catawba Rivers, promising great benefit to the inhabitants if the necessary funds could be procured. It would cost nearly £7,000 to improve the navigation of the rivers mentioned in the reports, with the work to be undertaken by supervisors of the rivers using corvee labor from surrounding areas. Though one group of commissioners encouraged the use of state funds on the model of other states’ investments, legislators intended to rely on private efforts.4

The report from Rockingham County concluded that state funding would not be necessary, reflecting a disposition among the people to avoid internal improvements funded by state tax revenues.5 Indeed, the law repealing the right of the Catawba Company to engage in improvements on that river claimed that thirty-four thousand inhabitants of Burke, Lincoln, Mecklenburg, and Iredell had for three years asked to do the work themselves rather than grant the rights to a company largely dominated by men from South Carolina. The inhabitants who lived within five miles of the river promised

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4 Reports on Navigation in Surry, Person, Rockingham, Hyde, Lincoln, Mecklenburg, Iredell, Burke, Bladen, Robeson, Lenoir, Wake, and Montgomery, Report of Thomas Amis, Eaton Pugh, and Willis Alston, Report of Judge Macay, GASR 1796, Box 2. Commissioners examining Drowning Creek near Lumberton argued that tax monies lying in the treasury belonged in common to all the people of the state and could be used profitably to benefit citizens.

5 Report of the Commissioners of Rockingham County, GASR 1796, Box 2.
to do the work without “aid from the public, or assistance of incorporated companies.”\(^6\)

The repeal of the incorporation law, however, stirred debate about the impairing of contracts; four legislators protested that the canal company represented a “contract between the two states” that could not be unilaterally altered by North Carolina.\(^7\) The Catawba Company also lodged a complaint against the repeal of their North Carolina charter, claiming that the company had no sufficient notice that the General Assembly intended to abrogate its corporate status.\(^8\) Despite the protests, the General Assembly granted ten North Carolina men, denominated as the new Catawba Company, the right to collect subscriptions or donations to clear the river and to hire overseers to direct the improvements.\(^9\)

Since the canal companies and river improvement corporations depended on private funding, they almost always failed to secure subscriptions to complete their works. The Dismal Swamp Company opened its subscription books for eighty more shares in 1796 and petitioned twice in vain for the state to purchase shares in the company.\(^10\) The committees who rejected the company’s purchase offers decided that “no speedy benefit would arise” to the state and that the “present state of funds” made such an investment “inexpedient.”\(^11\) Instead, after the directors of the company petitioned in 1799 for extra time to complete their work, legislators granted them five more years and the right to collect tolls on improvements already completed. The

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\(^6\) *Laws of North Carolina*, 1796, ch.32.
\(^7\) *Journal of the Senate*, 1796 session, 46.
\(^8\) Memorial of Judge Grimke in *Journal of the Senate*, 1797 session, 27.
\(^10\) *State Gazette of North Carolina* (Edenton), October 20, 1796; Petition of the Directors of the Dismal Swamp Company, GASR 1797, Box 2; Petition of the Directors of the Dismal Swamp Company, GASR 1798, Box 2.
\(^11\) *Journal of the Senate*, 1797 session, 34; *Journal of the House*, 1798 session, 70.
General Assembly concluded that “it is consistent with the true policy and dignity of states, to encourage works of public utility . . . as it may comport with the public good.”  

The public’s best interest lay in a reliance on private effort, not state largesse.  

Legislators chartered ten other companies in 1796. Each company sought between ten and eighty thousand dollars in subscriptions and most had to petition for an extension of their subscription period. The Roanoke and Pungo Canal Directors petitioned in 1797 for a further five years since they had not even acquired one-half of their sixty thousand dollar goal. The managers of the Clubfoot and Harlow’s Creek canal requested more time in 1797 but only needed another thousand dollars.  

Legislators in 1797 granted another three years to the Tar River Navigation Company to collect subscriptions. Most companies, as they sought an extension on subscription time, also requested a longer period for control of the profits, with the general time limit set at ninety-nine years (up from sixty) for many companies. As they gained experience with surveying the rivers for improvements, directors of the companies realized just how expensive internal improvements were and how long the work would take.

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15 *Laws of North Carolina*, 1797, ch.5. This group seemed to have more success in collecting its shares. See Newbern Gazette, February 23, 1799 (ad calling upon subscribers to pay their fourth payment of $16.66).  
To make more money, the directors of the Deep and Haw River Company attempted to combine internal improvements with land speculation by laying out a town at the confluence of the two rivers. Originally called Lyon, the town’s name changed to Haywood in 1797 in the wake of growing disgust with French treatment of American shipping.17 The directors of the company promised large lots and wide streets upon nine months credit (plus purchase money) for anyone willing to invest in the town’s commercial future at the head of the navigation of the Cape Fear River. Repeated advertisements for sales of lots demonstrated that the directors did not reap the immediate windfall of hoped-for profits from their investment.18

North Carolina’s leading politicians, as well as a number of less-recognized local leaders, still pushed for the clearing of rivers and the building of canals despite the lack of success of many projects. Superior court Judge Spruce Macay submitted a report on the navigation of the Yadkin and also served as a subscription director for the Yadkin Canal Company.19 Former governor Richard D. Spaight worked with the Clubfoot and Harlow’s Creek canal company, while leading anti-federalist Willie Jones supported the Roanoke Navigation Company.20 Among the Roanoke Navigation company’s directors were former governor Samuel Johnston, soon-to-be governor William R. Davie, and the state’s public printer, Abraham Hodge.21 Merchant John Gray Blount, brother of

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17 *Laws of North Carolina*, 1796, ch.47.
18 *The North Carolina Minerva, or Raleigh Advertiser*, October 15, 1799, January 7, 1800, January 24, 1800. The profits of lot sales from the town at Tison’s mill on the Deep River in Chatham County—a town called Jefferson—were also vested in the navigation company. See *Laws of North Carolina*, 1796, ch.83.
20 *North Carolina Gazette* (Newbern), January 28, 1797 (Spaight); *North Carolina Journal* (Halifax), December 4, 1797 (Jones).
21 *North Carolina Journal* (Halifax), December 4, 1797, July 16, 1798.
Republican Congressman Thomas Blount, received subscriptions on behalf of the Tar River Navigation company. Both Republicans and Federalists could be found in the many directors and commissioners named for these companies. Partisan politics at the national level did not translate into ideological stances upon state-level policy. Most planters and merchants—the leaders of North Carolina—agreed upon the need for internal improvements.

While legislators chartered canal companies with great assiduity, they demonstrated more reluctance in granting corporate status to voluntary associations. In 1789, the legislature chartered the Centre Benevolent Society, a literary-social welfare group, but refused to grant general incorporation status to churches. Apart from granting corporate standing to fire companies and mechanics-aid societies, legislators did not address the issue of incorporation for religious societies again until 1795, when they rejected a bill to incorporate St. John’s Lodge No. 1—the oldest active Masonic lodge in the state—a bill to grant general corporate status to other religious societies, and a bill to incorporate the North Carolina Medical Society. Two issues grounded legislators’ fear of incorporation for voluntary associations founded for benevolent or religious purposes. First, the state declaration of rights prohibited the granting of “exclusive or separate Emoluments” to any group except in “Consideration of Public Services.”

22 *Laws of North Carolina*, 1796, ch.34.
24 For fire and mechanics companies, see *Laws of North Carolina*, 1791, ch.38, ch.60; 1792, ch. 42. On St. John’s Lodge, see *Journal of the Senate*, 1795 session, 9, 11, 13. On the bill to secure religious property and the North Carolina Medical Society, see *Journal of the House*, 1795 session, 8, 45.
25 Saunders, *Colonial Records*, 10:1003. A group of the members of the legislature of Vermont shared similar fears in 1805 when they argued that granting “exclusive privileges and interests” was
societies might benefit their members but rarely claimed to offer public benefit to all in their communities. Second, religious groups like the Quakers might leverage their corporate status to effect the emancipation of slaves. Conferring corporate powers on a private organization could undermine the peace and safety of the community.26

Nonetheless, churches, in particular, had petitioned for the ability to sue in order to recover promised bequests and donations.27 When the act to secure property to religious societies received no criticism after it had been published for the information of the people, the General Assembly agreed to reconsider the proposal in 1796.28 It passed. The statute secured property to congregations by allowing them to elect trustees who could hold no more than £200 worth of land or 2000 acres in trust; the act explicitly declared that the state did not establish a religious order by the bill.29 Legislators showed less favor to the North Carolina Medical Society, whose original proposed bill would have given them the authority to regulate the licensing of doctors.30 Not until 1799 did the General Assembly incorporate the medical society and only after it made sure that the group would function only as an association, not a board of licensure.31 As North

“repugnant to...republican principle.” See Journals of the Assembly of the State of Vermont (Windsor: Alden Spooner, 1806), 154.

26 On development of legal incorporation as a means of controlling association for the benefit of the public good, see Johann Neem, Creating a Nation of Joiners: Democracy and Civil Society in Early National Massachusetts (Cambridge: Harvard University Press, 2008), 11, 18-19, 34-38. See chapters six and seven for references to the Quakers and grand jury presentments against them. Lawyer John Hamilton informed Duncan Cameron in 1799 that the clergy in Guilford and Surry counties had banded together to “govern the people” in elections by telling them not to vote for any person who was not religious; see John Hamilton to Duncan Cameron, June 15, 1799, Cameron Family Papers, SHC. Even state-organized bodies like the militia could pose a threat as evidenced in a proposed bill from 1798 to prevent militia musters from being held where superior or county courts were held. The bill was rejected by a margin of a single vote. See Journal of the Senate, 1798, 51.
27 See, for example, the Petition of the Presbyterian church of Wilmington, GASR 1785, Box 2.
28 Fries, Records of the Moravians, 7:2568.
29 Laws of North Carolina, 1796, ch.11.
30 Bill to incorporate the North Carolina Medical Society, GASR 1790, Box 1.
31 Laws of North Carolina, 1799, ch.38.
Carolina’s first state-wide voluntary association, the North Carolina Medical Society began offering prizes for papers at its meeting as well as working up plans for district level sub-associations.\(^3^2\)

North Carolina’s Masons also sought incorporation, contrary to the experience of Masons in other states.\(^3^3\) Rejected in 1795, St. John’s Lodge No. 1 of Wilmington became the first state-incorporated lodge in 1796.\(^3^4\) Under the leadership of Grand Master and arch-Federalist William R. Davie, the state Grand Lodge obtained a state charter in 1797, followed by a host of other lodges in 1798 and 1799.\(^3^5\) The lodges now had the legal right to sue and be sued, to transfer property, to have perpetual succession, and a common seal. But, most importantly, they now claimed the mantle of state power against criticisms that they represented a private, un-republican interest. Masonic corporate status coincided with a period of massive expansion of membership and the chartering of new lodges. On average, eighty-four members joined per year from 1791 to 1795; nearly two hundred men joined each year from 1796 to 1799, with an astonishing 285 members joining in 1797.\(^3^6\) Partisanship does not necessarily explain the growth in membership, as both Federalists and Republicans joined; Masonic offers of fraternity, however, probably benefitted from both rising partisanship in general and the martial spirit of the late 1790s that re-emphasized sociable bonds among young men. An

\(^3^2\) *The Minerva and Raleigh Advertiser*, December 24, 1799; *Raleigh Register*, December 9, 1800.


\(^3^4\) *Laws of North Carolina*, 1796, ch.58.


\(^3^6\) Parramore, *Launching the Craft*, 213-238.
anonymous newspaper editorial from 1800 provides the only extant commentary on Masonic growth; the essayist dismissed the notion that Masons were un-Christian and wondered why more people had not discussed constitutional objections against incorporation of voluntary associations. The fear of associations working outside of the state to reach a common goal—President Washington’s “self-created societies”—seems to have elicited little public comment now that the state was “wonderfully federal.”

Though North Carolina’s General Assembly came to embrace incorporation of voluntary associations that benefitted the public good, legislators proved ever impervious to sundering the corporation that was married man and wife. Between 1796 and 1800, thirty people asked for divorce and another eighteen requested feme sole or separate estate status. Most divorce petitions still came from men seeking to dissolve their marriages because of the infidelity of their wives, but more women started to request divorces even though legislators regarded divorce as “dangerous to the peace and harmony of the community.” The “danger” to religious communities grew, forcing the Neuse River Baptist Association to settle the question of whether a man could marry a woman who had another spouse in the same county. The association decided that such a practice would be “diametrically” opposed to the scriptures. When Thomas Smith requested a divorce in 1796, the members of his church nonetheless testified to his good

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38 Neem, Nation of Joiners, 57.
40 Burkitt, Concise History of the Kehukee Association, 117.
character and the truth of his claim that his wife had abandoned her marriage vows. His embarrassment at a wife who told him she had married him “for a certain purpose of her own”—for financial support—reflected his tarnished social standing and impaired his ability to consummate a union as God intended. The Wardens of the Poor of Warren County testified to the burden broken families imposed upon county resources, pressing the General Assembly to allow the county court to bind out the children of such families as orphans. In 1800, the General Assembly allowed children to stay with the mother if she possessed sufficient resources to support them and if the county court acquiesced. Most recognized the trail of miseries that followed in the wake of the dissolution of marriages.

The termination of marriage contracts also increasingly troubled the courts. When a wife filed a bill of alimony without demanding security for her husband’s payment, the Wilmington Superior Court considered and granted her request to sequester his property because he was planning to leave the state. Nonetheless, the case of Spiller v. Spiller (1797) determined that a wife could not request sequestration of her husband’s property simply because he was wasting it; she had to prove that he intended to leave the state and thus deny her a remedy. Women’s assertiveness in the courts led one husband to protest his wife’s bill for a separate maintenance because she had filed it herself, and not through a prochain amie, or a stand-in-friend (read: male relative) who had authority

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41 Petition of Thomas Smith, GASR 1796, Box 1. Smith had also petitioned in 1795; see Petition of Thomas Smith, GASR 1795, Box 2.
42 Petition of the Wardens of the Poor, Warren County, GASR 1796, Box 3; Laws of North Carolina, 1796, ch.28.
43 Laws of North Carolina, 1800, ch.83.
44 Haywood, Notes, 397-398. This innovation borrowed from the practice of original attachment, used by creditors to secure judgment on debtors who planned to depart the county or state.
45 Haywood, Notes, 555.
to bring suit.\textsuperscript{46} The judges of the Halifax Superior Court overruled his demurrer. Even the General Assembly protected the rights of \textit{feme sole}s by determining that suits did not abate simply because a woman married; the law would henceforth allow her husband to join the suit with her.\textsuperscript{47} Despite attention to aspects of the marriage contract in the courts and the assembly, however, legislators would not yield to pressure for a general divorce law.

Legislators in favor of general divorce provisions worked to relieve “future assemblies . . . from applications of divorce” by proposing a law in 1796 to grant the judges of the superior court power to handle divorce cases.\textsuperscript{48} The proposed statute gave juries the right to try the facts of the case, forbid those guilty of adultery from marrying their lovers, and reserved one-third of the husband’s estate for alimony. Legislators postponed consideration of the general divorce law so that it could be printed for public reading; attempts to pass similar statutes in 1797, 1798, and 1799 also failed.\textsuperscript{49} An essayist in the \textit{North Carolina Mercury} asserted that the proposed legislation originated in French deistic principles, underscoring contemporary debates about American foreign policy toward France and fears of Jacobinic influence in domestic policy. Another essayist noted that thirty applications for divorce between 1797 and 1798 had besieged legislators; though the “number of applications” may have been “foreign to the intrinsic merits” of the legislation, many contemporaries recognized the increasing demands

\textsuperscript{46} Haywood, \textit{Notes}, 101. The case was \textit{Knight v. Knight} (1799).
\textsuperscript{47} \textit{Laws of North Carolina}, 1798, ch.23.
\textsuperscript{48} \textit{Journal of the House}, 1796 session, 19, 51.
\textsuperscript{49} \textit{Journal of the Senate}, 1797 session, 18; \textit{Journal of the Senate}, 1798 session, 45; \textit{Journal of the Senate}, 1799 session, 10, 23. Appendix to the \textit{Laws of North Carolina}, 1796 (Halifax: Hodge and Boylan, 1797), 61-62.
citizens made for state intervention in marriage contracts.\textsuperscript{50} Robin Braswell obtained the only divorce granted during the period, perhaps because his wife had given birth to a mulatto child, but more likely because he repeatedly requested the attention of legislators.\textsuperscript{51}

Only seven women from 1796 to 1800 asked for divorces.\textsuperscript{52} Usually, women pursued \textit{feme sole} or separate property status with great success. When their husbands had wasted their property or left them destitute, these women turned to legislators to obtain the right to control and use their property without fear of their husbands’ creditors. Elinor Perry complained that she had lost a riding saddle she bought before her marriage because of her husband’s improvidence; Catharine Dick’s husband was a “foolish Canadian peddler” who wasted his and her property.\textsuperscript{53} Both Ruth Bell and Rachael Hare returned to live with their parents but grew worried that their husbands’ creditors would try to take property given to them by their fathers.\textsuperscript{54} The General Assembly usually responded favorably to women’s requests for separate property status, passing fifteen

\begin{footnotesize}
\textsuperscript{50} \textit{North Carolina Mercury} (Salisbury), June 27, 1800. Rev. Samuel E. McCorkle, the pastor of the Presbyterian church at Thyatira in Rowan County, delivered a widely read and printed sermon on the fast day appointed by John Adams in 1798, linking France to deism. See Samuel E. McCorkle, \textit{The Works of God for the French Republic, and Then Her Reformation or Ruin} (Salisbury: Francis Coupee, 1798).

\textsuperscript{51} \textit{Journal of the Senate}, 1797 session, 21; Petition of Robin Braswell, GASR 1798, Box 1; \textit{Laws of North Carolina}, 1798, ch.106.

\textsuperscript{52} In two cases, legislators substituted a bill for separate estate in place of the original divorce request. The women are Bethra Vaughn (\textit{Journal of the Senate}, 1797 session, 35, 39); Elizabeth Carter (GASR 1798, Box 3); Lydia Man (\textit{Journal of the Senate}, 1798 session, 57); Ruth Bell (GASR 1798, Box 3); Sydney Withrow (GASR 1798, Box 1); Elizabeth Lawell (GASR 1800, Box 3); and Rebekah Morris (\textit{Journal of the Senate}, 1800 session, 46).

\textsuperscript{53} Petition of Elinor Perry, GASR 1798, Box 3; Petition of Catharine Dick, GASR 1799, Box 3.

\textsuperscript{54} Petition of Ruth Bell, GASR 1798, Box 3; Petition of Rachael Hare, GASR 1799, Box 1. These petitions also suggest the influence of families, particularly fathers who did not want family property to go to wasteful ex-son-in-laws.
\end{footnotesize}
statutes between 1796 and 1800.\textsuperscript{55} Indeed, women’s successful use of petitioning encouraged Elizabeth Carter to petition in 1798 because she had heard that the General Assembly had “at different Sessions past Several acts” on behalf of women like her.\textsuperscript{56} Though these women did not get divorces, they obtained the best redress they could get at the time: the ability to accumulate property to provide for their families.

Legislators opposed general emancipation provisions as much as they rejected general divorce laws. The Quakers, despite the enmity of their neighbors, continued to press for emancipation as a right of conscience and not just meritorious service to the state. And slaves and free people continued to ask for freedom even as the atmosphere of the Quasi-War heightened fears of slave rebellion. Emancipation requests did decrease, from forty-one between 1790 and 1795 to twenty-nine between 1796 and 1800. Nonetheless, as county courts had full and ample power to manumit slaves for meritorious services—as reaffirmed in a 1796 statute—many slaves and freed persons turned primarily to the county courts rather than appealing to the General Assembly.\textsuperscript{57} Persons who turned to the legislature for relief may have believed, as did Nancy Handy, Princess Green, and John C. Stanly, that their previous emancipations were not secure or, like Darby Hanagan, Matthew Edwards, and Robert Freeman, that their emancipations were defective because they could not “enjoy the same privileges as persons of color born


\textsuperscript{56} Petition of Elizabeth Carter, GASR 1798, Box 3.

\textsuperscript{57} \textit{Laws of North Carolina}, 1796, ch.5. The reaffirmation of this statute was in direct response to three emancipation petitions presented by Darby Hanagan, Matthew Edwards, and Robert Freeman.
Others simply may not have trusted local elites, believing that they had a better chance to get a private emancipation law passed by the assembly.

Merit continued to be a factor in decisions for emancipation. Free-born, mixed-blood Lemuel Overton, who had served in the Revolutionary War, asked for the emancipation of his enslaved family so that he could “call them after his own Name.” Seven subscribers testifying to his character and his war-time service affirmed his commitment to the state. Peter Bird, owned by state Treasurer John Haywood, prevented a gang of thieves in 1798 from breaking into the state house. Haywood called attention to the fact that the General Assembly would have awarded a white man in Bird’s situation with a cash reward but to a “man in Slavery, no reward can be so valuable” as being free. The committee who examined Bird’s petition not only recommended granting Bird his freedom, but also compensating Haywood with £200 for the loss of his servant. Unfortunately for Bird, legislators in the House of Commons voted fifty-two to forty against the committee recommendation. The majority of the thirty people emancipated between 1796 and 1800 did not petition the legislature themselves; instead, their owners or executors of their owners’ wills asked for their freedom.

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58 Report on the petitions of Nancy Handy, Princess Green, and John C. Stanly, GASR 1796, Box 3; Petition of Darby Hanagan, GASR 1796, Box 3; Petition of Matthew Edwards, GASR 1796, Box 3; Petition of Robert Freeman, GASR 1796, Box 3.
59 The other major factor was mixed-blood status. As Superior Court Judges Williams and Haywood noted in *Evans v. Kennedy* (Fayetteville, October 1796), “Negroes are presumed to be slaves till the contrary appears; not so of persons of mixed blood.” See Haywood, *Cases*, 487-488. The rule was reaffirmed in the 1802 case of *Gober v. Elizabeth Gober* (Hillsborough, April 1802); see Haywood, *Cases*, 170.
60 Petition of Lemuel Overton, GASR 1798, Box 3.
61 Petition of Peter Bird, GASR 1798, Box 3.
62 *Journal of the Senate*, 1798 session, 47; *Journal of the House*, 1798 session, 70.
Assembly was less open to the claims of slaves and free persons of color but remained open to suggestion for emancipation from respected white citizens.

At no point did legislators come close to accepting general emancipation bills. The committee who examined the grand jury reports against the Quakers in 1796 agreed with the grand jurors that the Quakers hid felons and runaways, established funds to procure general emancipation, and encouraged insurrection. Blacks in Edenton had assumed the “names of gentlemen of colour, the language of the West-India blacks, and have appointed justices of the Peace and Constables, and tried warrants.” In spite of near-universal criticism of the Quakers, supporters of general emancipation submitted, in response to Quaker petitions, doomed bills in 1796, 1797, and 1798. So heightened was anti-Quaker animus that citizens accused Major Joseph Harvey of securing the Quaker vote in Perquimans in 1797 by promising to promote an “Emancipating Scheem.” They also accused young Quakers of voting in the Senate race even though they did not possess requisite property to do so. As Quakers had repeatedly petitioned Congress for redress on the problem of slavery, it became clear to slaveholders that a “momentary danger of insurrection” posed a serious challenge to their lives and livelihoods.

Support for general emancipation and general divorce originated in the same counties, suggesting sectional and partisan identification with particular policies. Counties that inclined toward voting for Federalists tended to support divorce legislation, particularly the western, German-dominated cluster of Iredell, Lincoln, and Rowan. Mecklenburg County traditionally voted Republican, so its shared stance on domestic

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64 Journal of the Senate, 1796 session, 14; Journal of the House, 1797 session, 29.
65 Journal of the Senate, 1796 session, 18; Journal of the Senate, 1797 session, 10; Journal of the House, 1797 session, 20; Journal of the House, 1798 session, 23.
66 Petition of the Inhabitants of Perquimans, GASR 1797, Box 2.
policy did not translate into national partisan identification. Cumberland County, the stronghold of Highland Scots, also supported divorce legislation. The same patterns apply to support for general emancipation, with the western half of the state squarely in support. Counties with large Quaker populations, such as Randolph, Chatham, Orange, Guilford, and Pasquotank, elected legislators who backed conscience-based emancipation.

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Figure 8. Support for General Emancipation and General Divorce, 1790s

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67 See Figure 8.
laws. With fewer slaves in the western half of the state, it is likely that these areas felt less of a threat from insurrection than did eastern counties. Many of these western counties—though not all of them—also tended to support Federalists, suggesting some affinity between identification of party and position on domestic policy. Neither party in the state actively made divorce or emancipation a plank in state-wide campaigns, so the affinities must reflect a shared cultural orientation. Since Federalists hailed an organic society of hierarchies and dependencies, they often found room in the polity for the “proper” participation of women and the enslaved. Republicans, on the other hand, had been constructing a race and gender exclusion-based vision of citizenship that left little space for discussion of “rights” for anyone but white men.

When Peter Bird petitioned for emancipation in 1798 as a result of his stopping a break-in at the state house, he probably little realized why the burglars broke into the comptroller’s office to steal trunks belonging to William Terrell and James Glasgow. After Bird confronted the thieves, they threw bricks and stones at him and he retreated to nearby Casso’s inn to alert men who had gathered to celebrate Treasurer John Haywood’s second marriage. A group of citizens hurried to the state house and caught a slave, Phil, who belonged to William Terrell, but not the others. Phil, refusing to name his fellow thieves, was hanged after a trial in the Wake County courts. Two slaves thus participated

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68 See Figure 8.
peripherally in one of the most devastating cases of fraud uncovered in North Carolina history: the Glasgow land frauds. Phil suffered the gallows while Peter sought freedom.\textsuperscript{70}

The speculative land fever that gripped the nation after 1790 fueled the wild schemes of developers seeking to make money from sales of military lands. Like the 1786 Warrenton Army frauds, the Glasgow land frauds depended on North Carolina’s generosity to its soldiers as well as the state’s lax accounting procedures. But the rising tide of anti-speculation sentiment brought more scrutiny to the shady deals made by land speculators with the assistance of the Secretary of State, James Glasgow.\textsuperscript{71} Even state treasurer John Haywood was guilty of loaning state money to his friends, Thomas and John Gray Blount, for the purpose of supporting their speculative projects.\textsuperscript{72} Haywood, unlike Glasgow, escaped detection. Had not Andrew Jackson, a Tennessee Senator, reported to North Carolina Senator Alexander Martin in 1796 an overheard conversation involving the procurement of fraudulent certificates of military service, Glasgow too

\textsuperscript{70} North Carolina Journal (Halifax), May 7, 1798; State Gazette of North Carolina (Edenton), February 1, 1798; Public Notice, January 29, 1798, GPSS 21; Journal of the Council of State, April 12, 1798, NCDAH.

\textsuperscript{71} Gabriel Ragsdale reported in 1796 that candidates for the assembly had “damned the speculation” in order to be elected while William Porter declined to take an oath against speculation imposed by Rutherford County magistrates for assembly elections. See Gabriel Ragsdale to John Gray Blount, October 20, 1796, in Masterson, John Gray Blount Papers, 3:100-101; North Carolina Journal (Halifax), January 2, 1797.

\textsuperscript{72} Haywood had loaned money sent by land entry-takers to the Blount’s associates; as security for these entry-takers, John Gray Blount would be liable for their monies if he did not repay the borrowed sums. Haywood’s frequent complaints that entry-takers did not provide adequate returns made it impossible for General Assembly committees to fully examine the accounts and discover his misuse of state funds. See David Allison to John Gray Blount, February 13, 1796, in Masterson, John Gray Blount Papers, 3:16; David Allison and Thomas Blount to John Gray Blount and John Haywood, April 1, 1796, in Masterson, John Gray Blount Papers, 3:42-43; David Allison to John Gray Blount, April 29, 1796, in Masterson, John Gray Blount Papers, 3:52-53.
might have remained unsuspected. Governor Samuel Ashe informed the General
Assembly in 1797 and legislators created a commission to investigate the charges. Delays in investigation and prosecution of the miscreants prolonged the scandal’s political impact through 1800, when the trials of the defendants finally began and concluded.

The commissioners who investigated the scandal at first reported to the General Assembly four major areas of malfeasance: issuing warrants to those not entitled, issuing more than one warrant for the same claim, delivering warrants without proof of identity, and drawing warrants on forged powers of attorney. In order to obtain more evidence, the Governor sent commissioners to Tennessee to secure the books that contained records of the military land warrants but Tennessee’s Governor John Sevier refused to hand them to North Carolina’s representatives. Finally, after securing permission to copy the books, the state had enough information to make a detailed report on exactly who was involved and what frauds were committed. A more serious problem then arose: how should the state try the accused? The General Assembly authorized the creation of a court of patents in 1798 to examine all grants and patents to resolve the land issues arising from the fraudulent land warrants, but it was not clear exactly which tribunal should deal with the

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73 Andrew Jackson’s Statement Regarding Land Frauds, December 6, 1797 in The Papers of Andrew Jackson, 8 vols., ed. Sam B. Smith and Harriet Chapell Owsley (Knoxville: University of Tennessee Press, 1980-present), 1:157-158. Jackson was related to or had business dealings with many of those involved. He was security for one of the Blount’s associates, David Allison, and his wife Rachel’s brother was Stockley Donelson, who married one of James Glasgow’s daughters.
74 Journal of the House, 1797 session, 37.
75 Journal of the Senate, 1798 session, 5-9. The report named Redmond D. Barry, William Tyrrell, William T. Lewis, Stockley Donelson, John Gray and Thomas Blount, among others, as the principal instigators of the frauds.
76 Journal of the House, 1798 session, 6; Journal of the House, 1799 session, 6.
offenders. Governor William R. Davie, upon the advice of his council, concluded that a
court of oyer and terminer would not be convenient for the trials, supposing that a regular
superior court could deal with the impeachment of the conduct of a state officer.

Delaying prosecution did serious damage to Thomas Blount’s congressional
career, causing him to delay notice of his 1798 campaign until he felt sure that he could
counter rumors of his guilt in both the land frauds and his brother’s impeachment
proceedings in the Senate. He asked Solicitor Edward Jones to prepare a statement in
his defense and then issued a handbill to counteract negative press. “An Elector”
accused Blount of being a landjobber, lampooned Jones’ defense of Blount as “milky,”
and thought Blount’s attempt to shift blame to his brother John Gray “too stale a trick” to
believe. Angry, convinced that “Toryism” was becoming the best recommendation for
office, and deep in debt, Thomas Blount lashed out at Federalist printer Abraham Hodge,
who had printed the piece by “An Elector.” Hodge refused to give Blount the name of

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77 Laws of North Carolina, 1798, ch.6. The closing of the land office and the seizure of papers
stored in William Tyrrell’s trunk caused people to fear that legitimate land titles would be held up. See
Petition of Henry Feltner to Governor William R. Davie, 1798, in GPSS 22, NCDAH; Petition of Charles
McClung, December 22, 1798, in North Carolina General Assembly Legislative Papers, SHC;
Remonstrance of Martin Armstrong, December 11, 1800, in North Carolina General Assembly Legislative
Papers, SHC.

78 Journal of the House, 1799 session, 6.

79 Thomas Blount to John Gray Blount, January 25, May 17, May 24, June 28, July 5, 1798, in
Masterson, John Gray Blount Papers, 3:199, 210-211, 224-226, 232, 242, 245. Thomas’ brother, William,
a Senator from Tennessee, had been implicated in a plan to annex Spanish territory in Florida and
Louisiana with the aid of Great Britain. The Senate began impeachment proceedings against Blount and
expelled him in 1798. See Buckner F. Melton, The First Impeachment: The Constitution’s Framers and
the Case of Senator William Blount (Macon, GA: Mercer University Press, 1998); Andrew R. L. Cayton,
“When Shall We Cease to Have Judases?” The Blount Conspiracy and the Limits of the ‘Extended
Republic’,” in Launching the ‘Extended Republic’: The Federalist Era, ed. Ronald J. Hoffman and Peter

80 North Carolina Journal (Halifax), August 6, 1798.
81 North Carolina Journal (Halifax), August 6, 1798.
82 Thomas Blount to John Haywood, October 18, 1797 in Masterson, John Gray Blount Papers,
171-172 (debt); Thomas Blount to John Gray Blount, February 26, 1798, in Masterson, John Gray Blount
Papers, 210-211 (Toryism).
the author until he secured permission, so Blount held Hodge responsible for the publication and beat the editor with his cane.\textsuperscript{83} Though Blount defended his honor, he failed to win the election. Though he had a majority of 1,500 votes in the 1796 election, voters gave nearly three thousand votes to his three opponents in 1798.\textsuperscript{84}

By 1799, Thomas Blount could well identify with a sentiment that had wide currency in petitions and grand jury presentments: justice delayed equaled justice denied. Legislators seemed unable to agree on the creation of a court to try the participants in the land frauds yet partisans who supported court reform through the 1790s saw a way to yoke their aspirations to the clamor for punishment for Glasgow and others.\textsuperscript{85} After bills for reforming county courts, creating courts of chancery, and establishing a court of errors and appeals were voted down in 1796, 1797, and 1798, legislators finally agreed to a court of conference to make “speedy and uniform” decisions on all cases arising in law or equity.\textsuperscript{86} The superior courts would henceforth be divided into four circuits with the judges meeting twice per year in Raleigh to settle complex cases arising on the circuit. The Governor could authorize the superior court judges to sit as a trial court for the Glasgow land fraud participants.\textsuperscript{87} Samuel Johnston, the lawyer who introduced the bill

\textsuperscript{83} North Carolina Journal (Halifax), August 6, 1798.


\textsuperscript{85} A bill to create a separate court which would only try the offenders was proposed and voted down. See The Minerva and Raleigh Advertiser, December 17, 1799; Journal of the Senate, 1799 session, 23.

\textsuperscript{86} Journal of the House, 1796 session, 7 (court of chancery), 8 (court of probate), 36 (county courts), 40 (court of errors and appeals); Journal of the House, 1797 session, 44 (county courts); Journal of the House, 1798 session, 65 (court of errors and appeals); Journal of the House, 1799 session, 17; Journal of the Senate, 1799 session, 57.

\textsuperscript{87} Laws of North Carolina, 1799, ch.4.
for courts of errors and appeals, defended the legislation from critics who did not see a need for another expensive court and who thought the court’s sitting in Raleigh would deny justice to citizens who lived far away.\textsuperscript{88} Ironically, one of the court’s critics was Thomas Blount, who had petitioned the General Assembly for a speedy trial of the land fraud cases to clear his and his brother’s name. Blount may have felt the creation of an additional court might create a venue less favorable to his defense, particularly if any of the judges proved hostile to him. Nonetheless, proponents of a final court of appeals had finally achieved a partial victory after twenty years of agitation. One essayist had hoped for a true supreme court that might curb the excesses of the judges but the 1799 court of errors and appeals proved, however flawed in design, to be the origin of North Carolina’s eventual supreme court.\textsuperscript{89}

When Abraham Hodge suffered under the repeated blows of Thomas Blount’s cane in 1798, it caused him to reflect on the duty and professional code of being a newspaper printer. Hodge had believed his duty was always to avoid controversies but could not agree that Blount’s political fracas was a private affair; instead, Hodge argued that as Blount’s handbill defending his character in the fraud accusations was public and the frauds themselves had been committed on the state of North Carolina, the entire

\textsuperscript{88} \textit{North Carolina Mercury} (Salisbury), December 26, 1799; \textit{Wilmington Gazette}, December 12, 1799.

\textsuperscript{89} \textit{The Minerva and Raleigh Advertiser}, December 3, 1799. The judges had been criticized for giving political charges to the jury as well as duping jury members; also, since a few of the judges had been lawyers, cases came before them on the bench for which they had acted as counsel before becoming a judge. The General Assembly praised them for stepping aside in such cases to avoid a conflict of interest but petitioners complained that without judges to hear cases, suits were delayed. See \textit{Laws of North Carolina}, 1796, ch.4 (prevents judges from politicizing charges by interpreting the facts of a case); \textit{Laws of North Carolina}, 1797, ch. 7 (acknowledges the delay in the courts caused by Judges Haywood and Macay having been counsel in suits before they ascended to the bench); \textit{North Carolina Journal}, November 27, 1797 (critical of court reform by noting the lack of respectable judges).
incident could not be described as a private quarrel between gentlemen. “Could Mr. Blount imagine that he alone was to exercise the freedom of the press & that it was to be restrained against him,” Hodge queried. No doubt Hodge’s mention of press freedom recalled Republican opposition to the just passed Sedition Act, making Blount’s Republican stance appear hypocritical. “Could he think his Congressional importance and Jacobinic airs,” Hodge continued, “would awe opposition and hush public clamor?”

Hodge’s defense of his behavior brought together several political issues—the Glasgow land frauds, foreign and domestic policy, political parties, and the partisanship of newspaper editors—showing how the expansion of the world of print became increasingly entangled with statecraft. By 1800, Republicans and Federalists had allied themselves with newspaper editors in North Carolina and made the business of printing almost wholly political.

Before the late 1790s, most printers eschewed political conflict, viewing their newspapers as open to all parties for the encouragement of commerce. Francois X. Martin, printer for the North Carolina Gazette, reminded his readers in 1796 that he considered essays on the character of state politicians electioneering items, which required payment. Allmand Hall, editor of the Wilmington Gazette, positively denied in 1797 that he was influenced by a “party.” Nonetheless, editors showed certain

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90 North Carolina Journal (Halifax), August 6, 1798. Wilmington printer Allmand Hall also had his brush with censorship of the press when the Wilmington postmaster publicly announced he would no longer deliver the Wilmington Gazette to subscribers. See the Wilmington Gazette, October 31, 1799.


93 North Carolina Gazette (Newbern), July 16, 1796.

94 Wilmington Gazette, August 24, 1797.
proclivities in their choices of editorials, in the news they selected, and even the
arrangement of information in their newspapers. Abraham Hodge, editor of the North
Carolina Journal, frequently supported a Federalist point-of-view, as did his young
nephew, William Boylan, whom Hodge brought to Fayetteville in 1796 to edit a
newspaper there. With growing national partisanship, editors chose sides knowing that
they depended upon the generosity of paying subscribers as well as advertisements.
Though most sold books and blank legal forms to supplement their incomes, editors also
sought the patronage of the state of North Carolina in the office of public printer.
Abraham Hodge had held the lucrative state printing contract since 1786 but the growing
 politicization of editorship, combined with the appearance of stable editorial competition
by the late 1790s, jeopardized Hodge’s long-held position. By 1800, partisan conflict
would sweep the long-time Federalist editor from office.

The elevation of newspapers as a tool of partisanship occurred in the context of
debates over the Quasi-War crisis. Federalist Governor William R. Davie told Timothy
Pickering that the members of Congress from North Carolina were moving “heaven and
earth” in 1798 to secure their elections and it would therefore be helpful if he could
obtain copies of the dispatches of the WXYZ envoys to send to influential community
leaders. William B. Grove worried that Republicans manipulated the public prints to

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95 Robert N. Elliott, “North Carolina Newspapers in the Federal Period, 1789-1800” (M. A.
96 Hodge did not have serious competition as most newspapers in the period remained in operation
for a few years. Francois X. Martin, his most long-running competitor, appeared to have no interest in the
position as he seemed to make money printing law treatises. See the North Carolina Gazette (Newbern),
May 28, 1796, October 8, 1796, March 11, 1797, August 5, 1797; Michael Chiorazzi, “Francois-Xavier
newspapers, see Appendix A, Table 14.
97 William R. Davie to Timothy Pickering, August 1798, William R. Davie Papers, NCDAH.
impose “incorrect information” on the people simply because some men wanted to “find fault, abuse, and write infamous insinuations to Degrade our own government.” He considered his constituents “ignorant, very ignorant & liable to be imposed on by petty fellows, telling pretty tales.” Federalist partisans concluded that distorted material in the newspapers had been responsible for the animus directed at the government, for the mistreatment of President Washington, and the abuse heaped on Jay’s Treaty. When North Carolina had joined the union, its congressmen had worked to secure postal routes for the diffusion of knowledge across the state. Now they worried about the content of that knowledge.

Republicans grew anxious in North Carolina during the Quasi-War that Federalism would run rampant. In the fall of 1798, the state’s Republican congressmen induced English-born printer Joseph Gales to come to North Carolina to set up a press for the dissemination of Republican ideas. Federalist Charles W. Harris told his brother that he had seen a letter from John Gray Blount to General John Willis describing the plan to bring Gales to North Carolina and give him the state printing contract. Gales set up shop in the fall of 1799 in Raleigh and petitioned the General Assembly for the printing contract the following December. Thomas Blount, who had secured a seat in

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99 William B. Grove to John Steele, December 12, 1794, in Wagstaff, Papers of John Steele, 1:125.
102 Gales Reminiscences by Winifred and Joseph Gales, Raleigh, 1815 in Gales Family Papers, SHC.
the General Assembly, introduced Gales’ petition and made a motion to assign Gales a place in the Senate chamber so that the printer could take stenographic notes of legislative debates. Gales, nonetheless, failed to win the state printing contract in 1799, so his supporters resolved to augment his subscription list so that he would stay in Raleigh. Gales’ Raleigh Register thereafter became the voice of the Republican Party in North Carolina.

The climactic showdown between Thomas Jefferson and John Adams in 1800 tested the strength of political party identification in North Carolina and showed how the battle for the “public mind” invited the people to consider the meanings of the events of the last four years. The diplomatic crises, the heightened concerns over foreign influence in politics, the Alien and Sedition Acts, the Glasgow land frauds, the rise of politically-supported newspaper editors, and even debates over slavery and divorce came together in a campaign for the Presidency that contemporaries considered to be nothing less than a battle for America’s soul. Both Federalists and Republicans labored mightily to convince the ‘people’ that America’s destiny hung in the balance. If the people could be awakened to the danger before them, they could translate their ballots into a people’s mandate for the future of American governance.

An important measure of partisanship was the increasing identification of candidates with party labels. Before 1798, a few politicians, such as William Lenoir and John Steele, had been accused of being devotees of Hamilton or Federalist measures, but

103 Journal of the Senate, 1799 session, 3.
104 Gales Reminiscences by Winifred and Joseph Gales, Raleigh, 1815 in Gales Family Papers, SHC; Robert Williams to William Lenoir, July 30, 1799, Lenoir Family Papers, SHC.
none openly claimed partisan identity in congressional elections. In the height of concerns over the Quasi-War, candidates began to indicate in their electioneering advertisements that they supported the national government, the “present administration,” or federal measures. Samuel Purviance, a candidate for Congress in 1800, openly labeled himself a Federalist. Lemuel Sawyer recalled in his autobiography that he first entered the General Assembly in 1800 on the side of the “democratic party.” Federalist Charles W. Harris informed his brother in 1800 that “parties in this district become more and more defined;” contemporaries did not study a man’s personal abilities, Harris noted, but asked if the candidate was a “Federalist or not.” Almost all the electors noted in their campaign advertisements that they intended to support Adams or Jefferson, explaining their reasons for support of one party over another. Party labels by 1800 had become nearly *de rigueur* for an election.

Partisanship even crept into the trials of the Glasgow land fraud miscreants.

When advertisement of Leonard Henderson’s candidacy as a presidential elector appeared in March 1800, it declined calling him a “good republican” since the term had

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105 See John Steele to Joseph McDowell, November 20, 1794, in Battle, “Letters of Nathaniel Macon,” 17-18; Joseph McDowell to John Steele, January 12, 1795, in Battle, “Letters of Nathaniel Macon,” 18-19. On Lenoir, see Sketch of James Wellborn’s Character, August 1795, Lenoir Family Papers, SHC. Nathaniel Macon told John Steele that if there were two parties in Congress, he did not “belong to either.” See Macon to Steele, December 11, 1794, in Battle, “Letters of Nathaniel Macon,” 21. Almost all campaign advertisements before 1798 simply noted the candidate’s name and that he had been persuaded run by gentlemen in his district. For examples see *The North Carolina Chronicle; or, Fayetteville Gazette* (Fayetteville), January 3 and January 17, 1791; *North Carolina Journal* (Halifax), February 6, 1793 and February 2, 1795; *North Carolina Gazette* (Newbern), July 2, 1791 and July 12, 1794; and *State Gazette of North Carolina* (Edenton), December 12, 1794.


also been applied to Thomas Blount and the others accused in the land frauds.\textsuperscript{110} Both Blounts waited until July 1800 to have their day in court; Glasgow had been found guilty in June and fined £1,000.\textsuperscript{111} After the court acquitted the Blounts, Joseph Gales of the \textit{Raleigh Register} published a handbill that had “accidentally” fallen into his hands that intended to “do away any uncertainty which may yet remain in the public mind.”\textsuperscript{112}

Young Federalist editor William Boylan published a critique of Attorney General Blake Baker’s performance in the trials for entering a \textit{nolle prosequi} on another indictment against the Blounts. “We shall not cease to exclaim,” Boylan commented, “and the honest part of the community will exclaim, that it would have been well if Major Purviance could have been suffered to remain in the office of Public Agent.”\textsuperscript{113} Samuel Purviance, a Federalist, would have apparently, in Boylan’s opinion, prosecuted the Blounts more vigorously had Blake Baker not irritated him into resigning. Boylan explicitly called punishment of the miscreants a “severe blow to the Jeffersonian interest in this state.”\textsuperscript{114} Attorney General Blake Baker, a staunch Republican, angrily disagreed with Boylan’s assessment.

Baker came to Boylan’s office in Raleigh with a rebuttal to be printed in the \textit{Minerva} that would declare the attorney general had acted appropriately in the trials. When Boylan offered to print a retraction but not a panegyric, Baker “aimed a blow” at

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\textsuperscript{110} \textit{The Minerva and Raleigh Advertiser}, March 25, 1800. \\
\textsuperscript{111} \textit{The Minerva and Raleigh Advertiser}, June 17, 1800, June 24, 1800; \textit{Wilmington Gazette}, June 26, 1800. \\
\textsuperscript{112} It was certainly no accident. Thomas Blount had written John Gray Blount in January asking him to have their memorial from 1799 (requesting a speedy trial) published in the \textit{Raleigh Register}. The Blounts used Joseph Gales’ paper to improve their public image as much as to benefit the Republican Party. See Thomas Blount to John Gray Blount, January 6, 1800, in Masterson, \textit{John Gray Blount Papers}, 3:332-333; \textit{Raleigh Register}, August 12, 1800. \\
\textsuperscript{113} \textit{North Carolina Journal} (Halifax), September 15, 1800. \\
\textsuperscript{114} \textit{The Minerva and Raleigh Advertiser}, June 24, 1800.
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Boylan’s head with a hickory club. The fight between the two men terminated with Boylan bearing a bruise on the arm and a gouge on the eye and Baker sporting a “black eye and a bloody chin.” Boylan, like his uncle Abraham Hodge, turned the incident into a commentary on press freedom, intending to remind his readers that Republicans loudly declaimed against the Sedition Act and yet resorted to violence to stop the freedom of the press. “Does he imagine that a club law is the best method of promoting free inquiry?”, Boylan asked.115

Republicans did not need a “club law” to silence their critics, for they, as lawyer Peter Browne recognized, “merit the praise of superior industry.”116 Baker had been working with Thomas Blount all summer to secure the election of Republicans to the General Assembly.117 In Edgecombe County, where Nathan Mayo had recently published an adulatory address to John Adams, Baker recognized that the party needed to select the man most likely to win since Mayo had “deserted us.”118 Federalists countered the organizational acumen of Republicans with pamphlets such as the one written by a “North Carolina Planter” in July 1800.119 The “Planter” reviewed a pamphlet by a “Republican Farmer” that had been circulating in several states, asserting that the work

115 North Carolina Mercury (Salisbury), September 24, 1800; North Carolina Journal (Halifax), September 15, 1800. Federalist Charles W. Harris admitted to his brother that he written the piece called “Further Particulars of a Late Battle at Raleigh” in order to expose the “Jacobins” plans for electing Baker Senator. See Charles W. Harris to Robert Harris, January 20, September 18, 1800, in Wagstaff, “Harris Letters,” 64, 82.
116 Peter Browne to William Duffy, August 22, 1798, William Duffy Papers, NCDAH.
117 Thomas Blount to John Gray Blount, July 1, 1800, in Masterson, John Gray Blount Papers, 3:393-394.
119 Individual Federalists did choose to help their cause as when Calvin Jones withdrew as a Federalist elector to unite “the federal suffrages in one person.” See The Minerva and Raleigh Advertiser, September 30, 1800.
displayed great ignorance of the “social institutions” of North Carolina, asserted the
“most palpable falsehoods,” and made “partial, prejudiced and unfounded” statements to
deceive readers.\textsuperscript{120} In a similar fashion, the “True Republican Federalist,” who wrote
\textit{Animadversions on James Holland’s Strictures on General Dickson’s Circular Letter},
dissected the criticisms of Republican James Holland against the Adams administration.
Where Republicans like Blount intended to silence truth “with a cudgel,” Federalist
pamphleteers aimed to enlighten the citizens to the dangers of electing Thomas
Jefferson.\textsuperscript{121}

In the major newspapers, essayists named “A Freeman,” “A True Whig,”
“Country-Man,” “A Farmer,” and “Philodemos” barraged citizens on a weekly basis with
their reflections about the suitability of electing either Jefferson or Adams. In general,
essayists attacked Jefferson’s pretensions as a philosopher, his deism, his tendencies
toward emancipation, and his supposed Jacobinic lust for the destruction of the
government. Republicans attacked Adams’ monarchical tendencies, his adulation of the
British constitution, his support for the Alien and Sedition Acts, and his maintenance of
the oppressive Hamiltonian fiscal architecture.\textsuperscript{122} All of the hyperbole surrounding the
election caused editor Abraham Hodge to worry that “madness & folly” abounded
because the “people speak as they wish mostly.”\textsuperscript{123} Politicians speculated on the

\textsuperscript{120} \textit{An Address to the Citizens of North Carolina, on the Subject of Approaching Elections}
(Raleigh: Hodge and Boylan, 1800). The pamphleteer reviewed the Alien and Sedition Acts, United States
foreign policy toward Britain and France, Adams’ patronage appointments, Hamiltonian finance, the \textit{Jay}
Treaty, and the relative merits of Adams and Jefferson.
\textsuperscript{121} \textit{Animadversions on James Holland’s Strictures on General Dickson’s Circular Letter}
(Lincolnton: J. M. Slump, 1800).
\textsuperscript{122} \textit{Wilmington Gazette}, July 10, July 31, October 23, 1800; \textit{Raleigh Register}, June 10, August 12,
October 7, October 21, October 28, 1800; \textit{Newbern Gazette}, August 15, 1800; \textit{The Minerva and Raleigh
Advertiser}, October 14, 1800; \textit{North Carolina Mercury} (Salisbury), October 2, 1800.
\textsuperscript{123} Abraham Hodge to Duncan Cameron, July 15, 1800, Cameron Family Papers, SHC.
probable number of votes each candidate would receive; since the elections across the states were held at different times, the appearance of new election data in the newspapers sent partisans back to recalculate their figures.\textsuperscript{124} North Carolinians headed to the polls in the autumn to vote for members of Congress, presidential electors, and members of the General Assembly.

Figure 9. Presidential Election of 1800, Popular Vote

When election officials had counted the tickets, the state had awarded four electoral votes to Adams and eight to Jefferson. In terms of the popular vote, however, Adams won forty-nine percent of the votes. In the congressional elections, Federalists managed to secure half of the seats. The two parties had split the state fairly evenly.

Turnout for the presidential election fell just shy of forty percent but turnout for the congressional elections went as high as seventy-five percent in one district. One of the side effects of the growing partisanship was increasing electoral turnout in the congressional races, which citizens apparently considered to be of greater importance than the Presidency. The early even division of North Carolina between the two parties in effect presaged Jefferson’s own reconciliatory claim that “we are all Federalists, we are all Republicans.”

Politicians of both political parties declared that Republicans had swept the General Assembly in 1800. The turnover rate for the House of Commons was fifty-one percent and forty percent for the Senate, matching the usual rate of turnover for both houses. Treasurer John Haywood commented to John Steele that he did not think he had ever seen an Assembly with “so few men of talents or of business,” and, indeed, twenty-four new men served in the House of Commons who had never served before. One legislator reported that party spirit had swelled to the point of influencing the election of doorkeepers for the legislative chambers, with the “anti-federals” having a “decided Superiority.”

125 Lampi Collection of American Electoral Returns, 1787–1825, American Antiquarian Society, 2007 http://elections.lib.tufts.edu/aas_portal/index.xq (accessed July 9, 2009). We do not have data for 8 counties who voted for a Republican elector since no Federalist ran. Consequently, we cannot assess turnout—even though we know a Republican elector won—because of the single candidate nature of the election, which probably resulted in low turnout.


127 If the doorkeepers were chosen on the basis of their party politics, it is not indicated in the journals. The journals do not even indicate dispute in the selection of Thomas Pound and John Lumsden as doorkeepers. See Journal of the House, 1800 session, 2.
prevailed in the choice of French-born Stephen Cabarrus over his federal opponent.\textsuperscript{128}

Speaking with a “thick accent,” Cabarrus’ election represented the decline of anti-French sentiment.\textsuperscript{129} Recently former Governor William R. Davie returned as one of the commissioners who negotiated a settlement with France; despite talk of making him Senator, the position went to one of his law students, David Stone.\textsuperscript{130}

Republicans also finally elected Joseph Gales to the position of public printer by a majority of twenty-four votes, though Hodge and Boylan had won the position the year before by a larger margin of seventy-one votes. “This shows that we have a Republican Gen. Assembly,” Thomas Blount crowed to his brother.\textsuperscript{131} William Polk, the federal Supervisor of Revenue for North Carolina, lamented to John Steele that after these Republican victories in minor offices, the “cry is down with every Federal officer.” Puffed up by their successes, Republicans then turned against the state University to repeal its sources of funding. An exasperated William Polk claimed that there had never been “so much ignorance collected in a legislative capacity since the days when laws were enacted prohibiting the frying of pancakes on Sundays.”\textsuperscript{132}

The repeal of the sources of funding for the University—sales of escheated and confiscated lands—has often been held up as a sign of Republican triumph in the General Assembly. Collectively, escheats and confiscated lands did not even make up one-third of the University’s income in 1796, largely because of the difficulties in selling lands.

\textsuperscript{128} William Polk to John Steele, November 28, 1800, in Wagstaff, \textit{John Steele Papers}, 1:190-191.

\textsuperscript{129} Sawyer, \textit{Autobiography of Lemuel Sawyer}, 5.


\textsuperscript{132} William Polk to John Steele, November 20, 1800, in John Steele Papers, SHC.
whose titles often ended up in court. The University’s lawyers aggressively pursued titles for lands, making enemies in western counties like Mecklenburg, Montgomery, and Cabarrus. Indeed, citizens of Montgomery and Cabarrus repeatedly petitioned the General Assembly for intervention in land disputes with the University. University Trustees, hoping to mollify critics, examined the counter-claims of land holders on petition and occasionally resolved to relinquish title. By 1798, two proposals to amend the University’s funding failed to achieve necessary votes, leaving opponents of the University to try—successfully—to suspend the two troublesome sources of funding in 1799 because of the “many complaints” of “injuries and wrongs suffered by the inhabitants of this state.” Wilkes County’s James Wellborn unsuccessfully moved in 1799 for the University to immediately repay the £5,000 loaned to the Trustees in 1791, demonstrating the height of anti-University sentiment.

The University did suffer from a poor public image. Student rebellions, frequent staff changes, and charges of elitism and debauchery haunted the fledgling educational

135 Connor, *Documentary History of the University*, 2:457-459; *Journal of the Senate*, 1796 session, 29; *Journal of the Senate*, 1799 session, 8; *Journal of the House*, 1800 session, 9.
137 *Journal of the Senate*, 1798 session, 52, 71; *Journal of the House*, 1798 session, 59; *Journal of the Senate*, 1799 session, 36-37; *Journal of the House*, 1799 session, 49; *Laws of North Carolina*, 1799, ch.2.
138 *Journal of the Senate*, 1799 session, 59. Westerners seem to have taken the lead in stripping the University of its funding—all of the bills presented since 1798, with the exception of one, originated with westerners.
By 1800, legislators moved to make the repeal of the escheat and confiscation funding sources permanent and Trustees even agreed to surrender them if the General Assembly would grant an equivalent sum of money for the next fifteen years.\textsuperscript{140} Federalist William Gaston moved to amend the suspension act in the Senate to reserve property to the University for which it had title but had not sold, but his amendment failed by eight votes.\textsuperscript{141} When Gaston wrote a “dispirited” letter to a friend after his failure to save University funding, the friend concluded that the Republican apothegm—“The will of the majority is the interest of the majority”—was an entirely wrong-headed sentiment.\textsuperscript{142} Indeed, a majority favored stripping the University of its profits and passed what became known as the “gothic law.”\textsuperscript{143} Proponents of state higher education would remember 1800 as one of the darkest hours in state educational history.


\textsuperscript{140} Journal of the Senate, 1800 session, 42.

\textsuperscript{141} Journal of the Senate, 1800 session, 49.

\textsuperscript{142} Edwin J. Osborn to William Gaston, December 14, 1800, William Gaston Papers, SHC.

\textsuperscript{143} \textit{Laws of North Carolina}, 1800, ch.5. 70% of the House of Commons members voted to end the financial support, with defenders of the University largely coming from areas with large towns (such as the Wilmington, Newbern, Washington, Charlotte, and Hillsborough areas).

with party voting patterns for Congress or the Presidency. While Federalists did show a marked inclination to support higher education, often dominating the University Board of Trustees, the repeal should not be understood as the penetration of Republican Party ideas from the national to the local level. Overt partisanship still met many enemies who despised the thought of demagogues holding the people in a stupefied thrall. Republicans had just begun organizational efforts to secure elections and Federalists would not be far behind. Even national elections demonstrated that the people of North Carolina hesitated between two perspectives on the ideal form of American governance. Even more troubling for the future of popular sovereignty was the question of whether parties ultimately served the people or their own interests.

When the North Carolina General Assembly convened in the autumn of 1801, petitioners barraged legislators with more than two hundred and fifty requests. Since Thomas Jefferson had secured the Presidency the previous March, petitioners perhaps felt that the triumph of Republicanism would increase the likelihood of a favorable response. We cannot know for certain if John Allison, a merchant in Hillsborough, made such an assumption when he asked the General Assembly to overturn a fine imposed by the Orange County court seventeen years earlier. Allison brought some pewter consigned by a Charleston merchant to Hillsborough in 1784 but refused to accept North Carolina’s paper currency as payment for the merchandise; because he took the goods on consignment, he did not have authorization to accept any other form of payment, especially not the depreciated and much maligned paper money of North Carolina. The Orange County Court, deeming Allison’s refusal a violation of the state’s legal tender laws, fined the merchant £15. Perhaps Allison felt the passage of time had obliterated any residual ill-feeling toward merchants and that the General Assembly, exulting in the triumph of Jeffersonian democracy, would be disposed to remit the fine. John Allison, however, failed to get the relief he sought.¹

Legislators who reviewed Allison’s petition determined that legislative interference in a judicial matter of the county courts would be improper. That decision

¹ Petition of John Allison, GASR 1801, Box 3.
confirmed the General Assembly’s growing insistence upon leaving judicial matters in the courts while at the same time highlighting a return to the politics of the 1780s; political issues seemed to move both backwards and forwards as legislators revived and solved lingering Revolutionary War problems while compartmentalizing the concerns of petitioners into narrower categories of adjudication. Under the Jeffersonian regime, the 1780s animus towards merchants revived in petitions against hawkers and peddlers as well as a proposed tax on stores.\(^2\) The children of Revolutionary War veterans made numerous requests for military land warrants while living veterans sought pensions in their old age. The proliferation of personal debt cases led legislators to increase the authority of a single justice of the peace, just as they had done in the late 1780s. The state’s own debts—its Revolutionary War certificates—drew the attention of legislators wanting to pay off those claims permanently. And North Carolina’s treasurer made the final payment on the state’s Revolutionary War debt to the island of Martinique in 1802.\(^3\)

Even though political parties had captured public attention with debates over Federalism and Republicanism, politicians reinvented the old categories of Whig and Tory for new partisan uses. Though Tories had worked to secure their ownership of debts and property—via the 1783 Treaty of Peace, Jay’s Treaty, and various court decisions—lingering doubts about the Granville claims to two-thirds of the state finally came to an end in 1805 with a defeat for Granville’s heirs. State leaders finally settled upon a policy for the disposal of remaining confiscated properties after they stripped the profits of those lands from the state University. Calling the University a bastion of

\(^2\) Memoir Against Hawkers and Peddlers, GASR 1803, Box 2; *Journal of the House*, 1803 session, 19-20.

\(^3\) *Journal of the House*, 1802 session, 14.
aristocracy and monarchy, legislators continued to attack the institution until they secured control of its governance in 1805. Trustees of the University, however, vindicated their corporate status in the third major case in North Carolina history to declare an act of state unconstitutional, the case of University v. Foy.

As much as the politics of the first five years under Jefferson’s administration seemed to replicate issues of the 1780s, the circumstances in which state leaders solved the lingering issues of the 1780s proved to be quite different. Unlike the famous Bayard case of 1787, the University v. Foy case was adjudicated in the state’s Court of Conference, re-named the Supreme Court in 1805. North Carolina’s courts and their officials had much greater power and esteem than the superior courts of the 1780s, since legislators increasingly gave authority to the judges to administer aspects of state governance. The politics of paper money under the Jeffersonian regime only superficially resembled the 1780s; North Carolina’s leaders chartered two local banks and a state bank by 1805 to solve the problems of lack of a circulating medium. And Jeffersonians showed no aversion to chartering canal companies, Masonic lodges, or other voluntary associations that might mediate between citizens and the state. State leaders even negotiated a contract with Eli Whitney for use of his cotton gin by North Carolina citizens. Perhaps the most significant difference between the politics of the 1780s and the early 1800s, however, was the depth of organized partisanship. As Federalists and Republicans worked to define themselves before the voting public, they spawned duels and secret plots that increasingly undermined rational public discourse.

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4 The legislature made it the duty of the Superior Court judges to investigate cases of pensioners seeking to get on the pension list as well as to appoint commissioners of escheated and confiscated lands. See Laws of North Carolina, 1801, ch.22, ch.7, ch.4.
Unfortunately for John Allison, his petition reflects how the politics of the Revolution, situated in new partisan contexts, came to be settled.

September 5, 1802: Federalist Congressman John Stanly sent his fourth bullet into the right side of former governor and Jeffersonian Republican Richard D. Spaight. If notions of honor fueled such contests of character, party politics provided the spark that caused one of the most famous duels in North Carolina history. The passions of party politics coming with the struggle of Jeffersonian Republicans to cement their tenuous hold on North Carolina after 1800 ignited more than one contest of honor, particularly as Federalists suffered greater electoral losses despite valiant attempts to staunch the wound of Jefferson’s election. Both parties worked desperately to convince the people that they served the public’s true interest by constructing a usable past and delimiting the boundaries of party identity. Though political parties offered no real prospect for the people to advance their own ideas in the shaping of government policy, they did encourage mass participation in electoral politics and the subsequent emotional and symbolic identification of the people with party platforms and ideologies. Popular sovereignty, as defined by Federalists and Republicans, meant no more than the exercise of voting rights for the vast majority of Americans.⁵

The Stanly-Spaight duel erupted over comments John Stanly made about Richard D. Spaight’s record in Congress as a “nominal” Jeffersonian. Stanly had gossiped about

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other Jeffersonians before, questioning their loyalty to Republicanism, and he had accused Spaight of being “on both sides” of questions or being absent to avoid voting on controversial issues. When Stanly in 1802 once again raised doubts about Spaight’s loyalty to Jefferson, Spaight demanded satisfaction for injury to his character. After passing a series of notes through intermediaries, Stanly successfully explained his comments to Spaight and resolved the matter. When the exchanges appeared in a Newbern newspaper, they wounded Stanly’s sense of honor and another round of notes passed between the gentlemen. After Spaight called Stanly a “liar & scoundrel,” the two

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6 In 1801, Stanley had spread a rumor that a candidate for the General Assembly, Edward Harris, was not as “violent a republican” as was supposed. Harris interpreted the comment as an insult because it implied that he was not loyal to the party; by intimating that Harris was more amenable to Federalist politics, Harris’ enemies could compromise his election. See Dan Carthy to Edward Harris, undated; John Devereaux to John Stanley, October 6, 1801, Edward Pasteur to unknown, September 26, 1801 and other letters in the Francis Lister Hawks Collection, NCDAH.
met on September 5. When Spaight fell and died, Stanley fled town to avoid arrest and wrote to the Governor asking for a pardon.7

Stanly’s request for a pardon occasioned no small discussion of constitutional matters since Stanly had not yet been arrested and tried for murder. He requested the legal opinions of his friends on the authority of the governor to issue a pardon before prosecution. Lawyer William Gaston told Stanly that though the Governor had the authority to issue a pardon, such a precedent had “never been before exercised in this State.”8 Attorney Benjamin Woods offered a more encouraging view that pardons before conviction had a long legal history and he cited British jurist Lord Coke as his authority.9 Doubtful, Governor Benjamin Williams submitted Stanly’s petition for clemency to the General Assembly when it met in late autumn 1802.10 The issue of dueling aroused passionate debate among legislators, with most agreeing that they could offer no relief until Stanly had actually suffered a conviction.11 The committee that examined Stanly’s petition reported that the constitution “expressly” granted the governor the authority to handle pardons and admitted that when the General Assembly had intervened in such cases before—such as the Samuel Swann-John Bradley duel of 1787—the public had

7 John Stanley’s Handbill of August 3, 1800; Richard D. Spaight to John Stanley, August 9, 1802; John Stanley to Richard D. Spaight, August 9, 1802; John Stanley to Richard D. Spaight, September 5, 1802; John Stanley to Governor Williams, September 13, 1802 in Francis Lister Hawks Collection, NCDAH; Alan D. Watson, A History of New Bern and Craven County (New Bern: Tryon Palace Commission, 1987), 110-111.
8 William Gaston to John Stanly, September 10, 1802 in Francis Lister Hawks Collection, NCDAH.
9 Benjamin Woods to John Stanly, September 10, 1802 in Francis Lister Hawks Collection, NCDAH.
10 Memorial of John Stanly, GASR 1802, Box 2; Journal of the House, 1802 session (Raleigh: Joseph Gales, 1803), 7.
“murmured” against such interference.\textsuperscript{12} Governor Williams offered Stanly clemency after legislators did not take seriously Stanly’s claim that he would be prosecuted.\textsuperscript{13} To prevent future dueling, the General Assembly prohibited duelers from holding public office, imposed a fine of £100 for conviction, and declared a sentence of death without benefit of clergy if the duel resulted in the death of the opponent. The new anti-dueling law categorized aiders and abettors as accessories before the fact and also liable for death without benefit of clergy.\textsuperscript{14} To avoid prosecution, duelers simply took their contests of honor across state lines.\textsuperscript{15}

The Stanly-Spaight duel reveals the depth of passion Federalist and Republican partisans attached to character and party labels. The aiders and abettors of partisanship, newspaper editors, worked closely with politicians to establish a comparative history of Adams and Jefferson that bolstered party ideologies and intensified party distinctions. Republican newspaper editors like Joseph Gales in Raleigh, Richard Davison in Warrenton, and Allmand Hall in Wilmington, battled Federalist editors like William Boylan in Raleigh, Abraham Hodge in Halifax, and John S. Pasteur in Newbern for control of the public’s opinions. Through anonymous essays and published circular letters, Republicans portrayed the Adams administration as a corrupt government that

\textsuperscript{12} \textit{Wilmington Gazette}, December 9, 1802; \textit{Journal of the House}, 1802 session, 13. In the Bradley-Swann duel, the Governor pardoned Bradley and the General Assembly confirmed the pardon after the judges of the superior court refused to accept the gubernatorial pardon. See \textit{Laws of North Carolina}, 1789, ch.38.

\textsuperscript{13} Edward Graham to Dr. Calvin Jones, December 3, 1802 in Francis Lister Hawks Collection, NCDAH; \textit{Raleigh Register}, November 30, 1802.


\textsuperscript{15} See the duels of Benjamin Smith and Maurice Moore in the \textit{Wilmington Gazette}, July 2, 1805 and William Duffy and Duncan Cameron in the \textit{Wilmington Gazette}, May 3, 1803.
burdened the people with “odious” internal taxes, an expensive, patronage-ridden judiciary, and the Alien and Sedition Acts.\textsuperscript{16} Congressman Richard Stanford called the Adams administration a “reign of terror” and contrasted it with the peaceful, economical, and democratic measures of the Jeffersonians.\textsuperscript{17} Resurrecting Revolutionary categories, a “Voter of New Hanover” in 1803 lamented that a “set of men who call themselves federalists, in conjunction with those who were under the appellation of tories” dared to attack the character and honor of President Jefferson.\textsuperscript{18}

In addition to essays and circulars, Fourth of July and Jefferson Election Day celebrations gave partisans public opportunities to solidify identification with party ideology through speeches and toasts. Towns often divided into Federalist and Republican camps and held rival celebrations, tempting the public to make visible particular political preferences.\textsuperscript{19} Civic rituals helped the people to exercise their affiliation with the Jeffersonian cause, though we should not confuse participation in celebratory politics with actual contributions to the making of public policy. Partisan politics did offer ordinary people the chance to stand openly with one party, to develop a sense of belonging to group with shared ideas. But political parties did not originate as vehicles for carrying the people’s wishes to the legislature and thus only allowed for a

\textsuperscript{16} Wilmington Gazette, July 12, 1803; Richard Stanford to James Patterson, February 26, 1803, Miscellaneous Papers, NCDAH; Wilmington Gazette, June 19, 1804; Raleigh Register, February 4, February 11, April 15, 1805.

\textsuperscript{17} Circular Letter, February 26, 1803, Richard Stanford Papers, NCDAH.

\textsuperscript{18} Wilmington Gazette, March 17, 1803.

\textsuperscript{19} For Jefferson Election Day Celebrations (March 4), see the Raleigh Register, February 3, March 10, 1801, April 14, 1801; Wilmington Gazette, March 12, 1801, March 10, 1803. For July Fourth Celebrations, see Raleigh Register, August 4, 1801, July 6, 1802, July 13, 1802, August 1, 1803; Wilmington Gazette, March 12, 1801, July 5, 1803, July 12, 1803, July 10, 1804; North Carolina Journal (Halifax), July 8, 1805. For the literature on celebratory politics, see Waldstreicher, \textit{In the Midst of Perpetual Fetes}; Len Travers, \textit{Celebrating the Fourth: Independence Day and the Rites of Nationalism in the Early Republic} (Amherst: University of Massachusetts Press, 1997).
kind of circumscribed participation in making the state and nation. As vehicles for disciplining the electorate, the Federalist and Republican parties provided platforms for the people to express assent to sentiments crafted by partisan leaders who needed to generate the appearance of having popular support.  

Federalist editors, no less zealous than their Jeffersonian counterparts, lost little time in crafting critical assessments of their opponents. Jefferson’s democratic mania subverted the Constitution, Federalist editors thundered, threatening to make all “Virtuous men Vicious.” They criticized Jeffersonian proscription of good Federalists from office and scrutinized every Republican move for hypocrisy. Retired Congressman William B. Grove lamented the days of “Democratic mania & affectations of Republicanism” which allowed formerly unrespectable characters to rise politically merely because they claimed the mantle of Jefferson. While Federalist editors let the exuberance of their partisanship carry them into verbal wars of increasing vitriol, many Federalist leaders felt uncomfortable with the new partisanship. Samuel D. Purviance,

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20 The influence of studies of cultural politics, as recently applied to the early republic, have contributed some fruitful insights into the ways ordinary people engaged in the first party system. Yet, no scholar has claimed that such political participation has resulted in any substantive contribution of ordinary people to the making of public policy other than their indirect support, via the ballot box, to the party with which they have identified through participation in symbolic public acts. See Newman, *Parades and Politics of the Street*; Waldstreicher, *In the Midst of Perpetual Fetes*; Jeffrey Pasley, “The Cheese and the Words: Popular Political Culture and Participatory Democracy in the Early American Republic,” in *Beyond the Founders: New Approaches to the Political History of the Early American Republic*, ed. Jeffrey L. Pasley, Andrew W. Robertson, and David Waldstreicher (Chapel Hill: The University of North Carolina Press, 2004).

21 *North Carolina Minerva and Raleigh Advertiser*, July 18, 1803.


running for Congress from Fayetteville, labeled himself a Federalist but reminded citizens that he would support any proposition from anyone as long as it served the “Interests” of his constituents. Former governor William R. Davie lamented that violent party struggles left the public nerves in a “state of morbid irritation.” When Davie ran for Congress in 1803, he asked that no voter support him unless he was willing to allow Davie to pursue the best of his judgment “without respect to party men or party views.” Many Federalists worried that suffusing public discourse with partisanship did more damage to the public mind by inflaming passions and stifling rational discussion.

Despite Federalist reservations about arousing the worst passions in the people, leading Federalists agreed in 1800 that they had to organize in order to combat Jeffersonian misrepresentations. William R. Davie first proposed a plan to form an epistolary phalanx—committees of correspondence—whose purpose was to systematically counter Jeffersonian victories. By September 1802, however, leading Federalists like Davie, lawyer Duncan Cameron, and printer William Boylan agreed that more had to be done. Cameron laid out a plan to distribute ten copies of Boylan’s Minerva to each court district to suppress “falsehood” and subvert the “wild and visionary prospects and opinions of Democracy.” Cameron blamed Republican printers like William Duane and Joseph Gales for shaping public opinion by printing

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24 North Carolina Minerva and Raleigh Advertiser, May 2, 1803.  
26 William R. Davie’s Election Circular, May 2, 1803, William R. Davie Papers, SHC.  
27 Charles W. Harris to Duncan Cameron, January 9, 1800, Cameron Family Papers, SHC.
falsehoods and exaggerations. Accordingly, William Boylan added the phrase “Anti-Jacobin” to the masthead of the Minerva in May 1803 and vigorously combated the rhetoric of Republican printers like Joseph Gales.

As in the case of the Stanly-Spaight duel, the excesses of partisanship, when fueled by notions of masculine honor, eventually isolated Boylan from his Federalist compatriots. Boylan hoped to regain the state printing contract that Joseph Gales had held since 1800, proposing first to divide the printing so that the work could be done more quickly, and then suggesting that he could do the job more cheaply than Gales.

Boylan tempted Republicans in the General Assembly to act on their claims of “oeconomy” by jettisoning Gales, but Gales’ supporters prevented the legislature from considering any of Boylan’s memorials. Dropping the “Anti-Jacobin” label in November 1804, Boylan once again asked for the printing contract only to have his petition rejected when Joseph Gales called upon legislators to support him as a “Republican” printer who came to North Carolina to support the work of the party.

When Gales once again won the printing contract, Boylan unleashed a torrent of abuse on
the rival editor. He lambasted Gales’ foreign origins, his obsequious flattery of Republican leaders, and his lack of journalistic independence.\(^3^3\)

While Boylan’s hatred for Gales originated in the partisan contest for the state printing contract, its immediate eruption depended on an incident that had happened in 1804. Joseph Gales’ printing shop had burned under mysterious circumstances, though Gales never accused anyone and indeed welcomed Boylan’s offer to use the press of the *Minerva* to keep the *Raleigh Register* going for nearly three months.\(^3^4\) In the wake of Boylan’s 1804 failure to obtain the state printing contract, a female member of Gales’ family made public insinuations that Boylan bore responsibility for the 1804 fire and Boylan responded in a handbill that Joseph Gales was accountable for his dependent’s public speech.\(^3^5\) On the morning of December 4, 1804, Boylan met Gales as the Republican editor briskly walked toward the state house. Confronting Gales about the allegations of arson but without giving Gales time to respond, Boylan beat his rival editor to the ground with a heavy walking stick until Gales “scrambled off partly upon all fours.” The Federalist editor thus publicly defended his honor from the insinuations of a female member of Gales’ household.\(^3^6\)

Unlike the Stanly-Spaight duel, the Boylan-Gales fracas lacked the civilities of a gentleman’s contest of honor. A brutal attack, the beating bore no resemblance to the traditional duel at ten paces in which the rules of honor gave gentlemen an equal opportunity to settle their differences. Boylan had appropriated the language of honor yet

\(^{33}\) Handbill of William Boylan, December 4, 1804, Calvin Jones Papers, SHC.
\(^{34}\) *The North Carolina Minerva and Raleigh Advertiser*, January 30, 1804; *North Carolina Journal*, February 2, 1804; *Raleigh Register*, January 30, 1804.
\(^{35}\) Handbill of William Boylan, December 4, 1804, Calvin Jones Papers, SHC.
\(^{36}\) *The North Carolina Minerva and Raleigh Advertiser*, December 17, December 24, 1804; *Raleigh Register*, December 3, December 10, 1804; Gales’ Family Reminiscences, SHC.
had not acted the part of a gentleman. Unsurprisingly, therefore, Joseph Gales took Boylan to court and filed a suit for action on the case with damages of £1,000.

Shockingly, Federalist lawyer Duncan Cameron—a former confidante and supporter of Boylan and the newspaper project—represented Gales. Growing increasingly concerned about the violent lengths to which partisanship had gone, Federalists like Cameron felt uneasy with newspaper rhetoric that only inflamed public passions instead of encouraging public reason. That Boylan had violated the code of a gentleman confirmed his status as a mechanic, an adjunct laborer in the cause of Federalism. A Hillsborough Superior Court jury agreed with Cameron and Gales, levying a fine of £100 on the errant Federalist printer after ten minutes of deliberation. The plan to distribute newspapers across the state finally ended in a contest in court that showed just how much the passions of the party system could veer away from actual interest in the people’s wishes for government.

Another set of passions may have been more instrumental in reshaping North Carolinians’ social, political, and spiritual lives during Jefferson’s first term: the fires of revival. The electoral contest of 1800 between Adams and Jefferson had taken on apocalyptic overtones, as partisans of Adams attacked Jeffersonian deism while Republicans hailed their chief’s support for religious freedom. One minister in Orange County apparently prayed that “God would send the name of Republicanism to its native Hell” while a parson and the leading gentry in another village attempted to introduce

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37 Duncan Cameron to Joseph Gales, January 21, 1805; Joseph Gales to Duncan Cameron, February 12, 1805, Joseph Gales to Duncan Cameron, August 23, 1805, Cameron Family Papers, SHC.
38 Hillsborough Superior Court Records, Minute Docket, October 1805, NCDAH; Raleigh Register, October 14, 1805; The North Carolina Minerva and Raleigh Advertiser, October 21, 1805.
39 Minerva; or, Anti-Jacobin (Raleigh), August 22, 1803. LOOK FOR MORE – RALEIGH REGISITER
federal precepts among the voters.\textsuperscript{40} Even the austere and sedate Moravians thought that the turning of the century perhaps brought them nearer to the “return of our Lord . . . for the signs of the times are unusual.”\textsuperscript{41} When tent revivals broke out on the Kentucky frontier, North Carolina’s Baptist and Methodist preachers visited their frontier brethren and brought back the “sun of righteousness” to North Carolina in 1802.\textsuperscript{42} Even signs of religious fervor had already appeared in the General Assembly. In 1801, three clergymen served in the House of Commons for the entire legislative session; only at the end of the session, and after paying them for their service, did the rest of the House of Commons declare two of the clergymen ineligible to hold their seats.\textsuperscript{43} Despite Republican Congressman Timothy Bloodworth’s opinion that the clergy had no business in politics, his fellow North Carolinians did not think that Jefferson’s defeat of an ecclesiastical government—the alliance of the state and clergy—under President Adams established an impermeable barrier between faith and politics.\textsuperscript{44}

Religious revival most likely benefitted the Jeffersonians since the fastest growing denominations included the Baptists and Methodists. North Carolina Baptists had a long-standing affinity for anti-federalism and Jeffersonianism. Methodists under Reverend James O’Kelly broke away from what they saw as oligarchic and aristocratic tendencies

\textsuperscript{40} Raleigh Register, July 3, 1803; Raleigh Register, May 7, 1804.
\textsuperscript{41} Fries, Records of the Moravians, 6:2642.
\textsuperscript{43} Journal of the House, 1801 session, 65. The ministers were John Culpepper (Baptist), William Taylor (Baptist), and John McKean (unknown affiliation). John McKean’s seat was not vacated.
\textsuperscript{44} Wilmington Gazette, July 12, 1803; Raleigh Register, September 19, 1803.
promoted by Reverend Francis Asbury and formed the Republican Methodists in 1794. Similarly, the Presbyterians reluctantly joined in the revivals, remaining dubious about some of the more emotional and outlandish behavior occurring at camp meetings. Similarly, the Moravians participated in meetings where they saw “beautiful witness borne for Christ” but also activities that were “offensive and running contrary to the teachings of the Gospel . . .” An account of a revival in Granville County ridiculed such camp meeting behavior in which the “jerking convert, barking convert, and jumping convert” made a mockery of dignified religion. Despite criticism of the camp meetings, newspapers carried advertisements of such gatherings where large numbers of converts gathered to testify. The Broad River Association, located in mountainous Rutherford County, reported more than twelve hundred baptisms between 1802 and 1804. The Kehukee Baptist Association, under the leadership of Reverend Lemuel Burkitt, reported adding more than fifteen hundred members by 1803.

Though the revivals had largely subsided by 1805, they had encouraged religious groups to petition the General Assembly for aid in the cause of Christ. Orange County, where the great revivals flourished early, sponsored a petition in 1800 against “vice and

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47 Fries, Records of the Moravians, 6:2702.
48 North Carolina Minerva and Raleigh Register, October 7, 1805.
49 See North Carolina Journal, July 15, 1805 (Methodist); Raleigh Register, August 30, 1802 (Presbyterian); Wilmington Gazette, October 30, 1804 (General).
immorality” that legislators considered already sufficiently dealt with in the law.\textsuperscript{52}  The citizens of Raleigh asked for legislative aid to build a meeting house in 1801; though legislators refused to grant money, they did grant a lot for the establishment of a house of “Divine worship” that would be open to all denominations.\textsuperscript{53}  A Baptist Association, meeting in Caswell County in July 1803, sent a petition asking for the General Assembly to strengthen the laws regarding marriage. Though a bill directing the duty of clerks in registering marriage licenses and prohibiting ministers from publishing banns in certain cases originated from the petition, it failed to pass.\textsuperscript{54}  Bills that did pass, though not based in petitions, included prohibitions on merchants opening their stores on the Sabbath in Raleigh and stricter regulation of the granting of licenses for taverns serving alcohol in Halifax.\textsuperscript{55}  As the revivals dissipated, they suffused public discourse with moralistic language that found its way into petitions regarding the sale of alcohol and the sanctity of marriage.\textsuperscript{56}  Battles over public morality, especially in the realm of marriage, highlighted how revivalism reshaped the contours of religion and partisan politics in North Carolina as churches and voluntary associations in the not-too-distant future began to wage war against public sins.

\textsuperscript{52} Inhabitants of Orange County to the General Assembly, GASR 1801, Box 1; Journal of the House, 1801 session, 18.
\textsuperscript{53} Journal of the Senate, 1802 session, 11, 33.
\textsuperscript{54} Petition of the Baptist Association to the General Assembly, GASR 1803, Box 2; Journal of the House, 1803 session (Raleigh: Joseph Gales, 1804), 21-22. Michael Grossberg points out that deregulation of certain aspects of marriage reflected the ascension of liberal market values which placed a premium on the self-policing of all contracts. See Grossberg, “Guarding the Altar,” 201.
\textsuperscript{55} Laws of North Carolina, 1801, ch.50; 1802, ch.30. An 1801 law for Orange and Person Counties forbid anyone who settled bargains wherein liquor was an item of exchange to recover the value of their contracts before a justice of the peace. See Laws of North Carolina, 1801, ch.88.
\textsuperscript{56} Logan, Sketches, Historical and Biographical, 9-22. The Broad River Association sent a circular letter in 1802 against “strong drink” and repeatedly dealt with marriage-related questions about divorce, polygamy, and interracial unions.
No area of public policy pitted community morality against petitioners’ demands like divorce and alimony. Despite legislators’ past reluctance to grant divorces, both men and women petitioned for the dissolution of their marriages in greater numbers. Continuing a trend of ignoring women’s pleas for divorce, legislators granted four men legislative divorces between 1801 and 1805.\(^57\) Men’s public honor earned the sympathy of politicians as they listened to cases like Isaac Cowan’s. When Cowan’s wife gave birth to a mixed-race child “it was evident to the whole neighborhood” that not only had his wife defiled the marriage bed but had done so in an illicit relationship with a man of color. Cowan testified in his petition that he tried to extend pardon to his wife but had to abandon her to her “vice and folly” after she stole property from him, took him to court for threatening her, and refused to give up her adulterous ways. Cowan’s embarrassments, made known to his friends and neighbors, demanded redress so that he could restore his public honor.\(^58\) Likewise, petitioner Samuel Easton reported that he had returned from an overseas voyage to find his wife living in an openly adulterous relationship and refusing to return to “innocence.” Easton had to petition twice to earn the sympathy of the legislators and they finally granted him a divorce in 1804.\(^59\)

Women increasingly demanded divorces from their spouses after 1800, though legislators proved absolutely unwilling to grant a woman anything more than a separate estate.\(^60\) Even when women specifically requested divorce, politicians presenting their

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\(^57\) Laws of North Carolina, 1802, ch.114, ch.115; 1804, ch.122, ch.123.
\(^58\) Petition of Isaac Cowan, GASR 1802, Box 1; Journal of the Senate, 1802 session (Raleigh: Joseph Gales, 1803), 13.
\(^59\) Petition of Samuel Easton, GASR 1801, Box 1; Petition of Samuel Easton, GASR 1803, Box 1; Laws of North Carolina, 1804, ch.122.
\(^60\) Of the 141 applications for divorce and alimony between 1801 and 1805, 84 (59.5%) were from women. Of those 84 petitions from women, 23 (27%) were for divorce.
petitions often introduced bills for separate estate with the petition. As was the case with men’s petitions, sexual improprieties motivated women to ask for divorces; Cassandra Houston claimed that her husband’s impotence and homosexual tendencies led him to have “fits” and to shed “tears frequently.” Her hope to be the wife of a respected man and the mother of his children, however, meant less than the honor of men in similar situations; legislators denied her request. Other women, like Barbara Ellrod and Sarah Johnson, sought divorces because their husbands wasted family property and then deserted them. Ellrod’s husband fled to Kentucky and married another woman; western states like Kentucky and Tennessee seemed to be refuges for deserting husbands seeking to start lives over with other women. Sarah Johnston lived with her wasteful husband for nine years before he exhausted the family’s patrimony and left her. Despite the sufferings of these women, state policy makers were only willing to offer them the right to maintain a separate estate. Between 1801 and 1805, the General Assembly granted separate estate status to forty-one women and three men. Many of those women had to repeatedly petition before they received relief.

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61 Examples of women who asked for divorce but got separate estate: Betsey Sally Dillingham, see Journal of the House, 1804 session (Raleigh: Joseph Gales, 1805), 18; Liney Barker, see Journal of the House, 1804 session, 8; Elizabeth Campbell, see Journal of the Senate, 1802 session, 29; Journal of the House, 1802 session, 16.

62 Petition of Cassandra Houston, GASR 1804, Box 2.

63 Petition of Barbara Ellrod, GASR 1805, Box 3; Basch, Framing American Divorce, 23.

64 Petition of Sarah Johnston, GASR 1805, Box 3.

65 Laws of North Carolina, 1801, ch.135; 1802, ch.108; 1803, ch.112, ch.113, ch.116; 1804, ch.124; 1805, ch.104.

66 Barbara Ellrod petitioned three times: Journal of the House, 1802 session, 24; Petition of Barbara Ellrod, GASR 1803, Box 2; Petition of Barbara Ellrod, GASR 1805, Box 3. Esther Jarret petitioned twice: Petition of Esther Jarret, GASR 1801, Box 2; Journal of the Senate, 1803 session, 8, 40. Nancy Knight petitioned twice (once under her married name and once under the name she wanted to be called): Petition of Nancy Knight, GASR 1804, Box 2; Petition of Nancy Hill, 1805, Box 3.
The one hundred and forty-one petitions for divorce and separate estate coming before legislators between 1801 and 1805 bolstered the argument of politicians that such repeated applications demanded general legislative relief. Every general divorce bill between 1801 and 1805, however, met with failure. The margin of defeat, however, decreased between 1801 and 1805, giving hope to the proponents of legislative divorce that they were slowly convincing their fellow legislators.67 In the legislative debate in the House of Commons in 1801, Salisbury’s Evan Alexander reminded his colleagues that general divorce bills had been before the legislature for five or six years and that Pennsylvania’s general divorce law proved that the measure was salutary.68 Opponents claimed that easy divorces would make North Carolina a haven for fortune hunters seeking the estates of impressionable young girls; the state had a duty to protect helpless women from rapacious men.69

After the religious revivals swept the state, many legislators, like Ashe County’s John Calloway, argued that the scriptures forbade divorce. If a man made a bad bargain, Calloway argued, he ought to abide by it. Yet Jeremiah Slade, representing Martin County, reminded his colleagues that repeated applications troubled the legislature and wasted time; since marriage was a contract like any other civil contract, it ought to be examined in a court of law instead of through ex parte testimony before the legislature.70

In the 1805 debates over a general divorce bill, Slade contended that legislative

67 The 1801 bill lost by a margin of 95 votes in the House; see Journal of the House, 1801 session, 27. The 1803 bill lost by a margin of nine votes in the Senate where divorce legislation had its greatest support; see Journal of the Senate, 1803 session, 36. In 1805, the general divorce bill in the house lost by a margin of nineteen votes; see Journal of the House, 1805 session, 23.
68 Wilmington Gazette, December 24, 1801.
69 Wilmington Gazette, December 24, 1801.
70 Raleigh Register, December 12, 1803.
interposition in such contracts violated the distinction between legislative and judicial powers. Lawyer John Hay agreed with Slade that *ex parte* testimony set a dangerous precedent and that doing away with legislative divorce would save much expense.

Lawmakers proposed giving the superior courts authority to hear testimony while retaining legislative power to give final sanction to a divorce—as was done in England—but opponents insisted that the state must protect women and the sacredness of the marriage contract.71 Not until 1814 did general divorce legislation, in response to demands of petitioners, finally become law.72

While divorce and alimony petitions continued to increase, emancipation petitions declined as North Carolinians grew progressively more resistant to freedom for slaves. The spread of liberation rhetoric, bolstered by Jeffersonian discussions of democracy and liberty, encouraged southern slaves to see their freedom struggles as parallel to the partisan project of overturning Federalist monarchy and aristocracy.73 Shaped by a desire to restrict emancipation to responsible parties, a law of 1801 required those who petitioned for the emancipation of their slaves to post bond and security in the county courts for the good behavior and maintenance of freed people.74 Insecurity over emancipation showed not only in the passing of that statute but in the rejection of a general emancipation bill in the same year that would have freed eight slaves; when Durant Hatch, a Jones County Senator, tried to amend the bill to grant authority to county courts to emancipate slaves based on the “desire” of the owner, his fellow Senators

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71 *Raleigh Register*, December 9, 1805.
rejected the amendment and the emancipation bill itself.\textsuperscript{75} Such an amendment would have allowed for emancipation based on religious beliefs or motives of conscience—as the Quakers had been seeking—by doing away with the provision for freedom because of meritorious service.

An outbreak of slave rebellion in 1802 strengthened opposition to general emancipation based on motives of conscience. William R. Davie, writing from Halifax County in February 1802, warned the governor of a plot uncovered in Virginia to use arson to “strike such a damp” on whites that they would acknowledge slaves’ “liberty and equality.” Governor Benjamin Williams equivocated, fearing a wave of public hysteria should the plot prove fabricated; he encouraged Halifax citizens to defend themselves but not as a “public measure or public charge.”\textsuperscript{76} Just three months later, the justices of the peace of Camden County sought state aid to suppress a “general conspiracy” but Governor Williams again declined using state funds.\textsuperscript{77} As a general paranoia spread, evidence of insurrection appeared everywhere. Patrollers found guns among slaves in Currituck County and a paper with the names of fourteen black men led by “Captain Frank Sumner” in Bertie County.\textsuperscript{78} Six “stout” black men attempted to liberate captured

\textsuperscript{75} Durant Hatch, though an easterner, had Federalist-leaning sympathies. He was a very active trustee of the University, a Mason, and a member of the Christ Episcopal Church. See Battle, History of the University, 1:129; Carraway, Years of Light: History of St. John's Lodge, 97, 180, 224; Parish Register Entries, Christ Episcopal Church, New Bern in Gertrude S. Carraway, comp. “Christ Church – Burial Records” Annual Daughters of the American Revolution Reports SIV-114, 82. For the petitions and the defeat of the emancipations see Journal of the Senate, 1801 session, 40, 58.

\textsuperscript{76} William R. Davie to Governor Benjamin Williams, February 10, 1802; Governor Benjamin Williams to William R. Davie, February 16, 1802; William R. Davie to Governor Benjamin Williams, February 17, 1802; William R. Davie to Governor Benjamin Williams, February 19, 1802; Governor Benjamin Williams to William R. Davie, February 22, 1802, GLB 14, NCDAH.

\textsuperscript{77} Justices of Camden County to Governor Benjamin Williams, May 10, 1802; Governor Benjamin Williams to the Justices of Camden County, May 17, 1802, GLB 14, NCDAH.

\textsuperscript{78} Raleigh Register, May 18, July 16, 1802.
insurrectionists from the Elizabeth City jail.\textsuperscript{79} Most shocking of all, slaves timed their revolt with the start of the Kehukee Baptist Association’s annual meeting on June 10, 1802; with their hearts set aflame with revival carried from Tennessee by Pastor Lemuel Burkitt, planters would only see their approaching doom too late to act. In almost every eastern county, conspiracy and paranoia swept over citizens who had been seeking a fresh anointing from Heaven, not a flaming sword of destruction.\textsuperscript{80}

The Governor’s recalcitrance to expend any state funds for defense reflected a general uncertainty about a widespread slave conspiracy. For white owners, the idea of such a horrific insurrection seemed impossible to fathom and even more important to suppress lest waves of panic further imperil public peace. A leading citizen of Gates County, Josiah Riddick, wrote to Governor Williams on June 18 with such information about the “facts” of the conspiracy as he knew them. A letter found in a kitchen in Hertford County “excited great alarm” but failed to give proof of a major plot; indeed, the “negroes seemed to be more alarmed than the Whites” and loudly protested their innocence, Riddick reported.\textsuperscript{81} From Tarborough, Thomas Blount reported to his brother John Gray that a slave testified of a plot to kill the worst of the whites using weapons made by a Virginia slave.\textsuperscript{82} From Newbern, Richard D. Spaight informed John Gray Blount that nothing had happened to prove the existence of a conspiracy, though the

\textsuperscript{79} \textit{Raleigh Register}, June 1, 1802.
\textsuperscript{81} Josiah Riddick to Governor Benjamin Williams, June 18, 1802, GLB 14, NCDAH. See also \textit{North Carolina Journal}, September 6, 1802.
“general conduct” of the slaves suggested that they may have had “such designs.”

“J.R.,” writing from Martin County, admitted in an essay in the Raleigh Register that the idea of a vast conspiracy had been “discredited,” but argued that slaves had actually intended to attack during the Kehukee Baptist Association meetings, with reinforcements using the waterways to spread rebellion across eastern counties. Black watermen, long accustomed to navigating the canals, creeks, rivers, and sounds of the coast, communicated plans and hopes for freedom forged in Virginia. By the time calm had been restored, nine county courts had ordered the executions of twenty-four slaves.

As a result of the insurrection panic, county leaders in Northampton and Halifax petitioned the General Assembly in the autumn of 1802 for strengthened laws to detect, suppress, and punish slaves engaging in insurrection. The law that originated from the two petitions answered nearly every problem addressed by the petitioners; henceforth, slaves and free persons engaged in conspiracies would be subject to the death penalty. The act defined acceptable procedures for procuring testimony and evidence, requiring that confessions had to be freely given in order to be valid and that no person could be convicted on a single testimony unless “pregnant circumstances” indicated guilt. The law gave any two justices of the peace the authority to call up the militia and granted the governor the authority to take any measure he deemed appropriate for public safety.

83 Richard D. Spaight to John Gray Blount, July 1, 1802, in Keith, John Gray Blount Papers, 3:517-519.
84 Raleigh Register, July 27, 1802.
85 David S. Cecelski, The Waterman’s Song: Slavery and Freedom in Maritime North Carolina (Chapel Hill: The University of North Carolina Press, 2001); Egerton, Gabriel’s Rebellion, 130
87 Petition of the Citizens of Halifax, GASR 1802, Box 1; Journal of the Senate, 1802 session, 3, 35; Petition of the Citizens of Northampton, GASR 1802, Box 2.
88 Laws of North Carolina, 1802, ch.17.
The bill passed, though not without opposition from westerners in the Senate. The 1802 panic continue to reverberate into 1803 when members of the House defeated an attempt to overturn the 1801 law requiring bond and security for freed slaves. Quakers had traveled to Raleigh to urge the amending of the 1801 law but found a chilling reception. Evan Alexander, the Salisbury representative who introduced the repealing bill, had to deny that he intended to introduce general emancipation. Bertie County’s J. W. Clerk warned legislators that no “member of society ought to use his property so as to injure that of his neighbors,” taking a common law maxim and applying it to slavery as well as implying the dangers of voluntary associations. Halifax’s William Drew called the Quakers “troublesome” and started to discuss their role in the 1802 insurrection when the Speaker of the House cut him off for “impropriety.” Even speaking of the horrid events of 1802 recalled terrors no slave owner wanted to face.

The events of 1802 stifled the practice of granting legislative emancipations. Legislators only considered two emancipation requests in 1802 and only granted four requests—out of nineteen—for the entire 1801 to 1805 period. County courts still received several applications for freedom each year; there, justices of the peace could more closely scrutinize the claims for freedom based on “meritorious service” and require the security and bond necessary to ensure the good behavior of freed people. Still worried about the political impact that freed slaves had on elections, legislators considered but eventually rejected a bill to prevent free blacks from voting in elections.

89 Journal of the Senate, 1802 session, 39-40. Nine Senators voted against the measure.  
90 Raleigh Register, December 19, 1803. On voluntary associations, see Neem, Creating a Nation of Joiners; Buckley, “After Disestablishment.”  
91 Laws of North Carolina, 1802, ch.112, ch.113; 1804, ch.131; 1805, ch.98.  
92 Journal of the Senate, 1804 session, 11.
Anxiety over the influx of “negroes or mulattoes” from Guadeloupe to Wilmington led the citizens of that coastal town to ask Congress to prevent the admission of all such persons from the West India islands to the United States; the committee examining the petition reported a bill prohibiting the importation of such persons into states with statutes barring the entry of non-native “persons of colour.” The bill became law in February 1803.93 Still concerned about the dangers of importing new slaves—whom most slave owners considered prone to rebellion—the General Assembly instructed its Senators to introduce a bill to Congress to cut off the external slave trade by constitutional amendment in 1804.94 Since Congress would earn the authority to regulate that trade in 1808, most leaders in other states deemed the early closure of the external trade an “impolitic” move.95 For North Carolinians, however, the internal peace and safety of the citizens remained imperiled so long as fresh sources of a rebellious property could enter the state.

North Carolinians continued to explore potential for commercial property to bring economic gain under the Jeffersonian aegis, belying the notion that a return to the simple Republican life meant fostering a homogenized agrarian republic. The return of

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93 Memorial of the Sundry Inhabitants of the Town of Wilmington, in U.S. Congress, House Journal, 7th Cong., 2nd Sess., January 17, 1803, 288. The law prohibited ship captains from bringing any “negro, mulatto, or other person of color” into any port whose admission is prohibited under penalty of $1000 for each person imported. Statutes at Large, 7th Cong., 2nd Sess., 205.
94 Journal of the Senate, 1804 session, 16.
commercial prosperity under Jefferson’s tenure probably aided the ascendance of his party, as North Carolina’s exports increased by 1803.\textsuperscript{96} North Carolina’s legislators, acting on behalf of the economic interests of citizens, launched the state’s first banking institutions, negotiated a state-wide contract with Eli Whitney for use of the cotton gin, and continued to support internal improvements. With state revenues finally covering expenditures, the General Assembly appropriated the surplus for investing in the stock of the United States so that the specie in the treasury would not “lie dead.”\textsuperscript{97} Politicians justified their interventions in the state economy on the ground that development of transportation infrastructure and support for a circulating medium benefitted agriculture, commerce, and nascent industries. Instead of pursuing some \textit{laissez-faire} Republican policy, North Carolina’s leaders believed that a judicious management of the state economy benefitted everyone.

With the Federalist direct tax drawing currency from the state, legislators began in 1801 to investigate the possibility of establishing a bank to support a circulating medium.\textsuperscript{98} Politicians frequently cited the hated direct tax not only as one of the oppressive measures of the Adams regime but also as a principal reason that the state’s

\textsuperscript{96}Exports increased 36.8\% between 1799 and 1800, dropped in 1801 and 1802, but then surged against by 30.8\% between 1802 and 1803. Doubtless, commercial prosperity alleviated fears that Jeffersonians had no interest in the affairs of merchants, though Jefferson’s administration could hardly claim credit for improvements in the economy. See Macon, “Fiscal History,” 27.


\textsuperscript{98}\textit{Journal of the Senate}, 1801 session, 62.
citizens could not afford to pay for expensive projects to develop the state’s infrastructure.\textsuperscript{99} By 1803, nearly one-third of the state’s counties had collected less than fifty percent of the total amount due; the tax had imposed heavy quotas on eastern counties where slave-holding and large plantations dominated.\textsuperscript{100} Republican politicians certainly had little difficulty of convincing voters in these counties—places like Wake, Edgecombe, Granville, Warren, Bertie, Halifax, and Northampton—that the Federalists’ odious support for taxation did not serve their best interests.\textsuperscript{101} Even the Moravian congregations in Salem reported in 1803 that an “unusually high tax had to be paid,” though they tried their best to reduce the valuations of their property. “This tax has now been abolished,” the Salem Board Minutes noted, “and will probably not be laid again since the whole country is against it.”\textsuperscript{102} Indeed, Republicans succeeded in repealing the internal taxes, though tax collectors still continued to condemn property for public sale so that the assessed amounts could be collected.\textsuperscript{103} Doubtless, the lingering strain of collection benefitted Jeffersonian interests.\textsuperscript{104}

The lack of a circulating medium in North Carolina suggested to state Treasurer John Haywood the need for legislators to consider re-using ragged and torn money in the


\textsuperscript{100} \textit{American State Papers: Finance}, 2:30; \textit{The North Carolina Minerva and Raleigh Advertiser}, September 15, 1801. For the politics of the tax and its relationship to southern slavery, see Robin Einhorn, \textit{American Taxation, American Slavery} (Chicago: The University of Chicago Press, 2006), 189-194.

\textsuperscript{101} Assessors completed their work in 1801; see \textit{The North Carolina Minerva and Raleigh Advertiser}, September 15, 1801; \textit{Raleigh Register}, June 30, 1801.

\textsuperscript{102} Fries, \textit{Records of the Moravians}, 6:2750.

\textsuperscript{103} In 1805, the General Assembly actually recommended paying the direct tax for 393,640 acres belonging to John Gray Blount in Buncombe County so that the state could secure ownership of the land (instead of the federal government). See \textit{Journal of the House}, 1805 session, 31. New York passed a general provision for repurchasing lands sold to pay the direct tax. See \textit{Laws of New York}, 1805, ch.12.

\textsuperscript{104} By 1809, North Carolinians still owed $9,385.93 for the direct tax. See \textit{American State Papers: Finance}, 2:388.
treasury. Because the federal Constitution prohibited states from issuing paper money, North Carolina could not legally print more; Haywood, claiming that more than one-half of the bills in the treasury in 1802 were of the 1783 emission, proposed to issue replacement certificates for the ragged money or to paste torn bills back together to increase the circulating medium.\footnote{Journal of the House, 1802 session, 14.} An increased money supply would allow the state to reduce taxes. An anonymous essay appearing in the Raleigh Register, probably written by Haywood, had urged the same policies just months before the General Assembly met in the fall of 1802.\footnote{Raleigh Register, August 24, 1802.} Legislators, nonetheless, seemed uninterested in Haywood’s proposals, preferring to consider the possibility of chartering private banks in the state’s commercial towns.\footnote{A committee in 1802 investigated creating a bank and wrote a bill for that purpose but the House laid the bill over to the next General Assembly. See Journal of the House, 1802 session, 9, 59.} The issue of private, commercial banking was eliciting much anonymous comment in the state’s newspapers.

“A Citizen,” writing in the Raleigh Register, argued in September 1802 that banks would create a circulating medium in the state.\footnote{Raleigh Register, September 14, 1802.} “A Citizen of Franklin” agreed that banks could be useful so long as they could not lend money; responding to editor Joseph Gales’ publishing of extracts from British economist Adam Smith’s works on banks, the anonymous essayist argued that Smith’s theories did not apply to North Carolina.\footnote{Raleigh Register, October 26, 1802.} “A Trader” observed that banks could not be confined merely to the role of exchanging currency because commercial banking depended on the profits from lending to stay in operation. If the state legislature made the officers of the state government in Raleigh
directors of the bank, “A Trader” felt that no injury could come to citizens.\textsuperscript{110} Echoing the call for a state-managed bank to provide a circulating medium, “X. Y.,” writing in the Minerva; or Anti-Jacobin, contended that no harm could come to the state from a well-managed institution. After all, the experience of North Carolina’s sister states showed the utility of banks.\textsuperscript{111}

In 1804, the General Assembly bowed to public pressure and the arguments for the utility of banks by chartering two private institutions, one in Newbern and the other in Wilmington. The Wilmington bank had its capital stock set at $250,000 while the Newbern bank could subscribe up to $200,000. Both institutions could deal only in bills of exchange, bullion, and the sale of goods really pledged for money lent; both were limited to loans of one-half percent for thirty days and the state could purchase stock in both banks at some future date.\textsuperscript{112} Some public reticence over private banking yet remained, despite the carefully delimited powers of the banks’ charters, causing the commissioners of the Wilmington bank to reassure the public. North Carolina “advances so slowly in improvements,” the commissioners noted and citizens need not fear that bank notes would depreciate like state paper money. Bank notes were not a “substitute” for gold and silver but a medium that “represented” gold and silver; unlike state paper money, bank notes held value because of the specie reserves each bank kept.\textsuperscript{113}

\textsuperscript{110} Raleigh Register, November 2, 1802.
\textsuperscript{111} Minerva; or, Anti-Jacobin (Raleigh), November 28, 1803.
\textsuperscript{112} Laws of North Carolina, 1804, ch.21, ch.22. The Newbern bank was chartered alongside the Newbern Marine Insurance Company and some of the same persons were interested in both enterprises; Macon, Fiscal History, 75. The laws governing these banks matched those of most early American bank charters. See Howard Bodenhorn, State Banking in Early America: A New Economic History (New York: Oxford University Press, 2002), 9, 44, 222.
\textsuperscript{113} Wilmington Gazette, February 5, 1805. Similar essays on behalf of the Newbern bank appeared in early 1805, arguing that the bank would banish the depression imposed by other states having prosperous
Commissioners also reassured the public that all who wanted to invest would not be denied the opportunity to purchase a share at one hundred dollars. No *junto* would monopolize the bank’s affairs. By 1805, both banks had started operations and notes from Newbern had already appeared in Raleigh transactions.

Having successfully chartered two private banks in 1804, legislators considered in 1805 the creation of a state bank whose primary purpose would be the extension of banking benefits to the interior. Western legislators like Salisbury’s Joseph Pearson argued that a state bank would hurt farmers by encouraging them to get involved in speculative schemes. Agreeing with Pearson, Newbern’s Frederick Nash argued that Adam Smith’s theories did not apply to North Carolina; banks “banished coin” from a country and led to speculative destruction like the famous South Sea Bubble. Proponents of a state bank argued that the institution would provide a circulating medium which has “long been complained of” as well as service the entire state more effectively that the two coastal banks. In the Senate, Wilkes County’s James Wellborn admitted that he knew little of banking but, since North Carolina’s “sister states” had adopted the practice, he was disposed to try it as well. The act creating the State Bank of North Carolina allowed for a capital stock of $400,000 with subscriptions to be taken at each courthouse where citizens could purchase a share for fifty dollars. The state would contribute $300,000. Like the two private banks in Newbern and Wilmington, the State Bank of

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114 *Wilmington Gazette*, April 9, 1805.
115 *Raleigh Register*, August 12, 1805. The Wilmington bank had sold 1000 shares by August 1805; see *Raleigh Register*, August 12, 1805. The Newbern bank subscribed $12,500 within two days and its notes were reported in Raleigh by June 1805; see *Raleigh Register*, April 15, June 24, 1805.
116 *Raleigh Register*, January 6, 1805.
117 *Raleigh Register*, December 30, 1805.
North Carolina was limited in the amount of circulating medium it could issue, could charge one-half percent interest for thirty days on loan, and could not loan any money to any government or state. To encourage farmers, mechanics, and manufacturers to invest, the bank offered cash accounts bearing six percent interest with sufficient landed security. Finally, the state bank would serve as the depository for North Carolina funds.\footnote{118 \textit{Laws of North Carolina}, 1805, ch.5.} North Carolina had temporarily caught up with her sister states in experimenting with state-chartered commercial banking.\footnote{119 See the comments by “A Reader” in the \textit{Raleigh Register}, July 1, 1805, on North Carolina’s slow pace.}

North Carolina’s politicians, acting on behalf of the people’s economic interests in banking, also harnessed the state’s fiscal infrastructure in 1802 to pay for a state-wide contract with Eli Whitney for use of his cotton gin. Whitney aggressively defended his patent rights to the making of the gin and hoped to leverage the growing popularity of cotton production into a fortune for himself. An anonymous correspondent to the \textit{Wilmington Gazette} reported by March of 1802 that “saw machines” had appeared in nearly every county bordering South Carolina as the popularity of growing cotton skyrocketed.\footnote{120 \textit{Wilmington Gazette}, March 18, 1802.} Thomas Blount warned his brother John Gray in February 1802 that Whitney appeared in the state searching for owners of cotton gins and threatening them with a penalty of $1,000 if they did not pay a five dollar fee for the use of his patented product.\footnote{121 Thomas Blount to John Gray Blount, February 22, 1802, in Keith, \textit{John Gray Blount Papers}, 3:499.} Eli Whitney informed the editor of the \textit{Raleigh Register} that he had no intention of harassing the people of North Carolina but instead hoped to petition the General Assembly for a “liberal sum” so that the entire state could have a general
privilege to use his machine. In his petition to the General Assembly, Whitney claimed that the “citizens” of the state desired a general state policy covering the use of his machine. “They conceive a great benefit would accrue to the community,” Whitney argued, “without imposing any burthen or inconvenience on the public or any individual.” Legislators agreed. The state imposed a tax of two shillings and six pence on each saw gin sold for the next five years, with returns to be made through the county courts as with regular taxes. By 1805, a model cotton gin came to be stored in a room next to the Senate chamber, open for viewing by the public. Eli Whitney had successfully harnessed the power of petitioning to get North Carolina to act in the economic best interest of cotton planters.

The production of cotton and the moving of agricultural products to North Carolina’s ports—or to other states—still required improvements to roads and waterways. The high hopes of canal enthusiasts in the late 1790s had deflated since few companies could secure the large sums requested in their charters. Indeed, a “Farmer,” writing in 1803, lamented that not a single public canal existed in the east. “Our canals are all on paper,” the essayist grumbled. The canal companies of the late 1790s had asked for too much money, had allowed too many people to be involved in the decision-making of the corporations, and, worst of all, had secured a very limited time to recuperate their costs before the canals became public property. As canals are the “life and soul of a republican government,” the essayist contended, they should not be

122 Raleigh Register, March 30, 1802.
123 Petition of Eli Whitney, GASR 1802, Box 1; Journal of the House, 1802 session 26; Journal of the Senate, 1802 session, 42.
124 Laws of North Carolina, 1802, ch.1.
125 Journal of the House, 1805 session, 12.
hindered by partisan warfare. A government that promoted internal improvements preferred the “public good” to individual interests.\textsuperscript{126}

Republicans in the General Assembly seemed to have few qualms about chartering canal companies. They granted corporate authority to eleven companies between 1801 and 1805.\textsuperscript{127} Most groups scaled back the size of the subscriptions to as little as five thousand dollars and some purposefully left the size of the subscription blank in order to avoid having to legally change their charters.\textsuperscript{128} Only the Roanoke and Nansemond Companies, proposing improvements to connect North Carolina rivers to Virginia waterways, requested large subscriptions ($100,000).\textsuperscript{129} The people living on Fishing Creek in Nash County had already collected enough money to work on clearing the creek and had cleared twelve miles of it by the time they petitioned for corporate status.\textsuperscript{130} State leaders still declined to invest directly in canal companies though they did grant William McClure’s petition for a loan to finish work on the Clubfoot Creek canal so that he could avoided being sued for not completing the work on time.\textsuperscript{131} Most of these projects remained “on paper” as canal company leaders ran out of funds or found the proposed canals too difficult to complete; in a few cases, the General Assembly

\textsuperscript{126} Raleigh Register, August 1, August 8, August 15, August 22, 1803.
\textsuperscript{127} Laws of North Carolina, 1801, ch.42, ch.42, ch.43; 1803, ch.23, ch.34, ch.81; 1804, ch.38, ch.39, ch.40; 1805, ch.22, ch.23.
\textsuperscript{128} The Neuse River Company (\textit{Laws}, 1801, ch.41) sought $5000; Roanoke and Pungo River Canal (\textit{Laws}, 1803, ch.23) sought $30,000. The subscription for Broad River (\textit{Laws}, 1803, ch.81) was left open as was the Tar River Navigation (\textit{Laws}, 1805, ch.22). Neither the Fishing Creek Company nor the Roanoke and Pungo River Canal Company secured the required amounts according to the original charters, necessitating both of them to be legally amended. See \textit{Laws of North Carolina}, 1801, ch.42; 1802, ch.49; 1803, ch.23; 1804, ch.35.
\textsuperscript{129} Laws of North Carolina, 1804, ch.34.
\textsuperscript{130} Petition of Inhabitants on Fishing Creek, GASR 1804, Box 2; \textit{Journal of the Senate}, 1804 session, 33, 42. Legislators rejected a counter-petition from residents on the creek claiming that they did not get equal benefit of the navigation.
\textsuperscript{131} Petition of William McClure, GASR 1802, Box 3.
allowed groups to raise money for internal improvements by lottery.\textsuperscript{132} Interest in internal improvements, however, never faded as North Carolinians hoped to secure economic independence by circumventing the larger and more successful ports of Virginia and South Carolina.\textsuperscript{133}

As groups of citizens gathered to clear rivers and to invest in banks and canal companies, they participated in self-created but state-sanctioned associations that allowed them to govern their collective consent as members. The traditional boundaries of collective identity—the counties and towns—had in the past already fractured as different groups favored contradictory policies to advance the common good. While new forms of voluntary association such as library societies, volunteer militia companies, and social vigilance groups furthered fostered pluralist visions of salutary public policy, citizens’ residence in counties still structured most everyday interactions with the state. In the wake of Jeffersonian rhetoric about liberty, equality, and republicanism, county factions increasingly contested the limits of their power in search of more equitable distribution of the benefits and burdens of citizenship. Under the state constitution of 1776, representation allocated by counties allowed the less populous yet more numerous eastern counties to control the politics of the General Assembly. Increasingly, western counties pressed for county division as a means of securing equal representation based on population. In the most dramatic contest over representation and political power, one

\textsuperscript{132} Laws of North Carolina, 1803, ch.79, ch.80. The General Assembly seemed to have few qualms about gambling when it benefitted the public interest—since they granted lotteries to schools, voluntary associations, internal improvements companies, and individuals seeking to start factories.

\textsuperscript{133} Raleigh Register, September 5, 1803.
county rejected North Carolina’s sovereignty—in a manner reminiscent of the state of Franklin—and exercised its authority under the sovereignty of the state of Georgia.\textsuperscript{134}

Among the new forms of voluntary association sweeping North Carolina in the aftermath of Jefferson’s election were volunteer militia companies. The politicization of the militia during the Quasi-War crisis helped to justify the presence of companies of young men who paraded their martial manhood and partisan identities. The volunteer company formed in Fayetteville in 1800 requested sanction from Governor Benjamin Williams under Captain James Dick, “whose reputation and Character being a Republican” made him a fit leader.\textsuperscript{135} A volunteer company reorganized in Wilmington in 1802 in response to the “late alarm of an insurrection which extended to Wilmington” betrayed its Federalist sympathies when it publicly announced that its members would wear black crape on their left arms for thirty days after the death of Alexander Hamilton.\textsuperscript{136} The young men of Raleigh by 1804 requested commissions from the Governor to form an artillery company.\textsuperscript{137} These militia companies allowed young men to reinforce their political sensibilities and sense of masculine honor in homosocial bonds, while ostensibly drilling for public defense.\textsuperscript{138}

For the less martially-inclined, other associations offered men the company of like-minded others seeking moral and intellectual improvement. Republicans in

\textsuperscript{134} For the proliferation of organized voluntary associations and their commitment to self-governing principles based on legal consent, see Butterfield, “Unbound by Law,” 3-7, 28-29, 128, 147.
\textsuperscript{135} Thomas Overton to Governor Benjamin Williams, February 10, 1800, GPSS 23, NCDAH; Jesse Potts to Governor Benjamin Williams, February 10, 1800, GPSS 23, NCDAH.
\textsuperscript{136} Thomas Gautier to Governor Benjamin Williams, July 28, 1802, GPSS 23, NCDAH; \textit{Wilmington Gazette}, August 7, 1804.
\textsuperscript{137} Samuel Benton to Governor James Turner, November 10, 1804, GPSS 25, NCDAH.
\textsuperscript{138} For a comparative perspective, see Albrecht Koschnik, “Let a Common Interest Bind Us Together”: \textit{Associations, Partisanship, and Culture in Philadelphia, 1775-1840} (Charlottesville: University of Virginia Press, 2007).
Wilmington could join the Wilmington Republican Society who planned subscription balls to espouse to “genuine principles of Republicanism.” The General Assembly granted charters of incorporation to eight Masonic lodges after 1801 as well as to the Newbern Library Society and the Newbern Mechanic Society. While members of the Newbern Library Society enjoyed intellectual pursuits, the Mechanic Society established funds to support “unfortunate and decayed tradesmen and widows.” For doctors, membership in the North Carolina Medical Society or the newly established Guilford Medical Society helped to develop “proper medical knowledge” and stop “Quacks” from monopolizing the practice of medicine on the gullible. The most interesting voluntary association—not sanctioned by state law—originated in mountainous Rutherford County, where the “Civil Society” organized to stamp out violation of the laws. That group, composed of leading citizens and a few justices of the peace, worked to bring down a counterfeiting ring led by notorious criminals Abraham Collins and Allen Twitty. These voluntary associations allowed citizens the opportunity to act as a corporate body outside of the legal confines of the county unit, giving their members the chance to develop common political goals and identities that often structured action in the name of the common good.

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139 *Wilmington Gazette*, July 2, 1801.
140 *Laws of North Carolina*, 1802, ch.104, ch.105, ch.107; 1803, ch.107, ch.109, ch.110; 1804, ch.72, ch.87. The state also granted authority to these associations, along with schools, to raise money by using lotteries, as in the case of St. John’s Lodge, No. 3 in 1802. See Petition of St. John’s Lodge, No. 3, GASR 1802, Box 1.
141 *Laws of North Carolina*, 1803, ch.11; 1805, ch.93; Petition of the Newbern Mechanic Society, GASR 1805, Box 3.
142 *Raleigh Register*, July 20, 1802.
143 David Dickey to Governor Turner, November 8, 1804, GPSS 25, NCDAH; *Raleigh Register*, July 29, August 19, 1805.
For the majority of citizens, membership in the county unit still structured their political lives. Citizens demanded that Republicans honor their paens to liberty and equality by rectifying the disproportionate system of state representation set in county units rather than by population. Westerners felt the greatest need for the creation of new counties since their populations grew quickly and they often faced challenging geographic features like mountains that made it difficult for citizens to effectively participate in their own governance. In the 1799 debate over the division of Wilkes County, western legislators reminded reluctant easterners that the people of the west had been “crying” for a division of their county for ten years. A similar insistence of county division pressed the militia companies in Rowan County in 1802 to select representatives to draft an address to the General Assembly for a division of the county that would keep the militia companies of the second regiment an intact unit. They accused their neighbors of being mislead by “insinuating addresses” to ignore their “own rights and privileges” in seeking a different division of the county. The committee of the second regiment instructed their representatives to fight for a county division, little considering that their instructions implied that they considered themselves the only people whose wishes politically mattered. Rather than address the cries of the people for more adequate representation, legislators enacted ninety-two statutes for separate

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144 Thomas E. Jeffery has chartered the sectional political implications of county division in the years before the Civil War but these divisions blossomed in the 1790s. See Thomas E. Jeffrey, “County Division: A Forgotten Issue in Antebellum North Carolina’s Politics, Part 1,” *North Carolina Historical Review*, 65:3 (July 1988), 314-354.

145 *Raleigh Register*, December 3, 1799. To solve the problem of maintaining eastern dominance, legislators created Ashe County in the west and Washington County in the east.

146 Petition of the Second Regiment of Rowan, GASR 1802, Box 2. In 1803, the Rowan militia petitioned again, complaining that the county did not “possess her due share of weight in the formation of the legislature” and insinuating that the General Assembly refused a division because of “mistaken calculations of local policy.” See the Petition of Rowan Militia, GASR 1803, Box 2.
elections and musters between 1801 and 1805. County units fragmented into factions centered around different polling stations, intensifying under law the parochial and local divisions that destroyed elite hopes for a consensual, organic community delimited by county lines.

The case of Walton County demonstrates how fragmentation of the local peace could challenge state sovereignty. Located in the mountainous region of Western North Carolina bordering on South Carolina, the area that became Walton County under Georgia jurisdiction technically lay within Cherokee territory. The citizens who settled there came from South Carolina in the mid-1780s but quickly discovered themselves in a no-man’s land where no state could give them “rights” because South Carolina had ceded the territory to the federal government. In a state of nature, the citizens of Walton resolved to adapt some “rules of Civillisation As near agreeable to law” while they negotiated with Cherokee leaders to remain on Indian lands. By 1795, land speculators in neighboring Buncombe County, North Carolina had come to the headwaters of the French Broad River in Walton County, claiming the land under North Carolina land grants and threatening the inhabitants with “vexatious suits.” By 1799, the inhabitants on the headwaters of the French Broad River decided to petition South Carolina’s

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legislature for permission to re-join that state’s jurisdiction. When that request failed, the fifty families in the area sent a petition to Congress asking for a retrocession to South Carolina in 1803, claiming that their settlements lay below the thirty-fifth parallel, the southern boundary of North Carolina.

“Unprotected and unguarded by any legal civil authority,” the citizens of Walton soon took advantage of the 1802 Georgia compact, which ceded South Carolina’s western lands to Georgia, to petition that state for the creation of a new county. Finally under the sanction of a sovereign state, the citizens of Walton asserted their new authority against their Buncombe County neighbors, threatening to imprison any North Carolina officials who attempted to serve legal writs in the area. Buncombe County’s leaders resented the challenge to North Carolina authority and mobilized fifty to sixty militia men in December 1804 to invade Walton County; they captured ten Walton officials and imprisoned them in the Morganton jail. As was the case of the Franklin separatist movement, clashing jurisdictions escalated into violence when a mob of Walton citizens struck a North Carolinian with the butt of a gun and killed him. The governors of North Carolina and Georgia accused each other’s states of countenancing violence by allowing local officials to commit outrages; North Carolina’s governor wanted to protect the land titles of its citizens in the area should it fall below the thirty-fifth parallel, but the

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149 Petition of the Citizens of the French Broad River, November 8, 1801, Legislative Papers, Petitions to the General Assembly, South Carolina Division of Archives and History.
150 American State Papers: Public Lands, 1:92-93.
151 Joshua Williams to Governor James Turner, September 15, 1804, GPSS 25, NCDAH; Governor James Turner to Governor James Milledge, October 20, 1804, GLB 15, NCDAH.
152 Will Whitson to William Lenoir, December 22, 1804, Lenoir Family Papers, SHC; J. M. D. Caron to Governor James Turner, January 8, 1805, GPSS 25, NCDAH; Joshua Williams to Governor James Turner, January 26, 1805, GPSS 25, NCDAH; Petition of the Inhabitants of Buncombe County, GASR 1805, Box 3; William Whitson to Major James Brittain, December 14, 1804, in GASR 1805, Box 3; Memorial of James Brittain, GASR 1805, Box 3.
governor of Georgia refused to agree. Both states passed laws to appoint boundary commissioners to ascertain and settle the differences but the disputes continued for twelve years after commissioners discovered that the county lay north of the thirty-fifth parallel. The Walton County experience highlights a dramatic example of how county boundaries and jurisdictional disputes reflected citizens’ demands for political power under the sanction of state law. Local law was simply insufficient.

Those versed in the Christian scriptures knew that the sanctioning power of law imposed a curse upon humankind by making perfect obedience to legal writ the fulfillment of holy ambition. Yet, the positive force of the law—the legal power to act—had always received implicit recognition in petitions for developing industry, new counties, and voluntary associations. By 1800, a number of North Carolina politicians came to aver that the state’s criminal code could also serve a positive function if the legislature revised it to make punishments more admonitory to the public while also rehabilitating the offender. As critics of the state’s penal code noted, the law meted out death for the thief of horses as well as the murderer, leaving juries squeamish about imposing the death penalty on fellow citizens for acts of petty larceny. The circulation of legal codes among the states—an important facet of membership in the union launched in

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153 Governor James Milledge to Governor James Turner, February 5, 1805, GLB 15, NCDAH; The Citizens of Walton County to his Excellency Jared Irwin Governor, February 23, 1807, Jared Irwin Papers, Telamon Cuyler Collection, University of Georgia Libraries Special Collections, Box 6.
154 Minutes of the Buncombe County Court of Common Pleas and Quarter Sessions, July 1807, NCDAH; Skaggs, “North Carolina Boundary Disputes,” 173-175, 195-197.
155 See Galatians 3:10.
1789—helped to encourage the shaping of similar systems of justice across the states.\textsuperscript{156} Partisans of penal reform in North Carolina made sure to borrow from the enlightened examples of New York and Pennsylvania in crafting a new vision of the law as not just the keeper of the peace but as the reformer of the souls of men and women.\textsuperscript{157}

Public opinion, at least in the eyes of reformers, justified the need for revision of the state’s antiquated penal code. No less important were numerous pardon petitions submitted to the General Assembly and the Governor, in which citizens requested that a neighbor be released from a harsh penalty and restored to “full credit” in the community.\textsuperscript{158} The sponsor of the 1801 bill for penal reform, Hillsborough’s Absalom Tatom, had taken his list of crimes and punishments from the codes of Pennsylvania and Virginia, asserting that their experience restoring reformed criminals to society proved the soundness of the policy.\textsuperscript{159} Rowan County’s representative George Fisher argued in 1801 that, although the “public mind” on the issue of penal reform displayed some diversity, reform had been before the public long enough to allow legislators to “speak the voice” of their constituents in debate.\textsuperscript{160} Speaking for the people, the grand jury for the Morgan District appointed a committee to consider the necessity of penal reform and

\textsuperscript{156} Statutes at Large, 1\textsuperscript{st} Cong., 2\textsuperscript{nd} Sess., ch.11. This act declared that the authentic acts of the state were to be admissible in federal courts. At the beginning of each General Assembly session, the Governor presented legislators with the authentic acts of the other states as well as the official acts of Congress.


\textsuperscript{158} Petitioners submitted at least 134 pardon petitions to the General Assembly between 1780 and 1805; the full number of pardon petitions is hard to ascertain because the Constitution invested the Governor with the authority to grant pardons and the surviving records of the Governor and Council are incomplete.

\textsuperscript{159} Wilmington Gazette, December 31, 1801.

\textsuperscript{160} Raleigh Register, December 29, 1801.
recommended to the members from the Morgan district to work for passage of a bill in 1802. Proponents of the penal reform bill argued that it was necessary to change the laws because juries would not convict an offender if they deemed the punishment too harsh. New Hanover’s Timothy Bloodworth asserted that imprisonment constantly reminded the public of an offender’s deeds whereas executions had become so commonplace that they had no effect on society.

What troubled opponents of reform most, however, was an attached provision to build a “house of correction” where the state could rehabilitate criminals by employing their labor on behalf of the state. Eastern opponents like Fayetteville’s William Watts Jones did not believe that the state would benefit and indeed, the taxes on the people would be burdensome at a time when the direct tax already oppressed citizens. Rockingham County’s Theophilus Lacey agreed that because of the “great inconvenience” of the direct tax, North Carolina could not afford reform. Besides the expense, some politicians considered the mania for a penitentiary to be visionary and impractical. In a pamphlet based on the 1802 penal reform bill debates, Johnston County’s Calvin Jones asserted that the “ideal perfectability of human nature is more soothing” than “every day’s sad experience.” Though Jones revered the principles underlying the bill, he considered the measure “mistaken in the effects it is calculated to produce” because it was modeled on the experience of states vastly different from North Carolina. Jones thought that if North Carolina wished to encourage the exercise of virtue it should spend money in preventative measures such as liberally endowing the state

161 Raleigh Register, October 19, 1802.
162 Raleigh Register, January 5, 1802.
163 Raleigh Register, December 29, 1801.
164 Raleigh Register, January 5, 1802.
University. Opponents of penal reform, demonstrating a conservative cast of mind ill at-ease with innovation, continually defeated the measure by comfortable voting margins.

“The spirit of innovation,” Federalist Archibald Henderson argued, bore responsibility for the destruction of the 1801 Judiciary act even as it bolstered penal reform in North Carolina. Jeffersonian critics of the Federalist Judiciary act considered the measure bloated with unnecessary expense and the possibility of executive corruption through patronage. The General Assembly, considering the previous federal court system adequate to state needs, instructed its Senators and recommended to its Representatives to vote for a repeal of the 1801 act. Debates over repeal gave both Federalist and Republican Congressmen the chance to probe the doctrine of instructions, to explore the relationship between the federal courts and North Carolina, and to examine the bond between the judiciary and the people as a whole.

Federalists like Archibald Henderson rejected the “dismal clamor” about the voice of the people as the inspiration for policy and wondered why North Carolina’s legislature even dared to express an opinion about the judiciary since purview over the legislation did not belong to them. Another Federalist, William Hill, argued for keeping the judiciary as established in 1801 because the old system did not function very well for North Carolina’s coastal towns where admiralty and maritime suits dominated dockets.

In his circular letter to his constituents, John Stanly provided a resume of the major

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165 Calvin Jones, *Dr. Jones’ Speech on the Bill to Amend the Penal Laws* (Raleigh: Joseph Gales, 1802), 5, 6, 8, 12.
167 Resolution of the State of North Carolina, December 17, 1801, GASR 1801, Box 1.
169 Wilmington Gazette, June 3, 1802.
arguments employed by supporters of the 1801 act. First, experience had wisely taught the people of America to guard against legislative tyranny by protecting the judiciary. Second, the Constitution gave judges their offices during good behavior; to destroy the office by abolishing the act allowed Congress to destroy judicial independence without attacking any judge directly. Third, the judiciary protected the people from themselves by providing a check on legislative intemperance that could only be rectified every two years at the ballot box. In short, Federalists argued that Republicans waged war against the Constitution itself:

Republicans responded that the Judiciary Act of 1801 was “politically wicked” because it gave the President far too much patronage power. The doctrine of instructions, Representative Robert Williams asserted, did nothing more than represent the people through the organ “constituted to embody them.” Nothing could be more absurd than the notion that the judiciary protected the people from themselves, Williams continued. Senator David Stone agreed, averring that courts properly judged right and wrong between suitors rather than protected the people from themselves embodied in a legislature. Representative Nathaniel Macon concurred with Stone, arguing that if the people formed their government, “they can be trusted with it.” As for the belief that North Carolina had no business asserting instructions at all, Macon considered the General Assembly’s right to instruct no less important than the New York Chamber of Commerce’s right to petition for retaining of 1801 Judiciary Act. Properly constituted

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171 Raleigh Register, March 17, 1801.
172 North Carolina Journal, March 8, 1802.
173 North Carolina Journal, February 8, 1802.
bodies had a right to express themselves on public policy and Macon shrewdly noted that the majority of petitions before Congress called loudly for repeal of the Federalist program.\textsuperscript{174} Republicans accordingly replaced the destroyed judiciary with a new system that delineated the original jurisdiction of the Supreme Court and divided the states into circuits that roughly approximated the pre-1801 arrangement.\textsuperscript{175}

Enmity for innovation stifled some judiciary reform in North Carolina while elevating respect for courts. A failed bill of 1800 suggested the general tenor of Republican ideas about legal reform; it would have banned attorneys and judges from referring to any laws—especially the old statute laws of England—except the acts of Assembly or the Common Laws of North Carolina.\textsuperscript{176} Republican justice ought to be simple, cheap, and homegrown. Accordingly, the General Assembly gave defendants the right to preemptive challenges against prospective jurors in 1801 and authorized a single justice of the peace to adjudicate disputed debts under £25 in 1802.\textsuperscript{177} A law of 1803 raised the justiciable amount before a single justice to £30 and another law in 1804 allowed defendants to plead abatement if plaintiffs tried to bring suits for that amount or less before the county or superior courts without first trying the case before a single justice.\textsuperscript{178} To further aid litigants by curbing the discretion of the judges, legislators reversed an 1801 statute that forbid attorneys from speaking before the Court of Conference, the state’s highest court.\textsuperscript{179} An 1804 statute fulfilled Republican ideas about equal and impartial justice by requiring the judges of the Court of Conference to meet

\textsuperscript{174} Raleigh Register, April 20, 1802.
\textsuperscript{175} Fish, Federal Justice, 107-110; Stanly, Circular Letter (1802), 11-14.
\textsuperscript{176} A Bill to Fully Explain the Common Law of North Carolina, GASR 1800, Box 1.
\textsuperscript{177} Laws of North Carolina, 1801, ch.28; 1802, ch.6.
\textsuperscript{178} Laws of North Carolina, 1803, ch.1; 1804, ch.8.
\textsuperscript{179} Laws of North Carolina, 1801, ch.12; 1802, ch.8.
and deliver their opinions in court rather than “leisurely” consider legal authorities at home.\textsuperscript{180} Republicans wanted to make legal process open, predictable, impartial, and inexpensive but they did so by institutionalizing the prestige and authority of the courts, whose increasing weight in state governance could be measured by state expenditures. In 1785, the courts consumed nine percent of the state budget. By 1814, that number rose to twenty-one percent.\textsuperscript{181}

Republicans, welcoming inexpensive and impartial justice, still resisted the separation of equity from law jurisdiction in the superior courts. “A Poor Solider” lamented in the \textit{Raleigh Register} in 1805 that courts of equity made it impossible to settle suits in a timely fashion because every time a litigant came close to a resolution, his opponent introduced some “little frivolous rule” to delay judgment. Echoing Federalist praise for the judiciary as one of the “firmest pillars” of liberty within a state, the essayist advanced the argument that impartial justice created the ties of citizenship that attached a man “indissolubly to his country.” His praise for the judiciary notwithstanding, the “Poor Solider” did not sympathize with Federalist notions of equitable relief; his denigration of “frivulous” rules more closely reflected Republican notions of a simple system of law divorced from the complex and archaic rules of English procedure.\textsuperscript{182} Despite calls for relief, however, the bill to advance the administration of justice brought forward in the 1805 Assembly did not separate chancery business from law. Instead, the proposed bill sought to make justice more affordable by having superior courts in each of the counties.

\textsuperscript{180} \textit{Raleigh Register}, June 15, 1802; \textit{Laws of North Carolina}, 1804, ch.18.
\textsuperscript{182} \textit{North Carolina Journal}, November 11, 1805.
rather than at the district level. Proponents—citing instructions from citizens for reform—argued that such a system, far from being expensive, would actually cost less and more widely diffuse legal learning to every county. Enemies of the bill worried that forcing judges to travel to each county would not only fatigue them but also lessen respect for the judicial office; additionally, juries would be less likely to be impartial if composed of people from within a county. The proposed legislation, like the many judicial reform plans before it, failed to pass.\(^{183}\)

The only major advancement in structural reform of the courts occurred in 1805 when the legislature renamed the Court of Conference. Henceforth, that body would be called the Supreme Court. The legislature determined its sittings, provided it with law enforcement staff, and gave it the power to call juries.\(^{184}\) What was most remarkable about the new court, however, was not its authority as delineated by the legislature but its exercise of the power of judicial review in the 1805 *University v. Foy* case. Just as the General Assembly augmented the court’s powers and functions, its judges declared an act of 1800 unconstitutional. That act, the infamous “gothic law” that stripped the fledgling University of its sources of income, had been unsuccessfully challenged in every assembly from 1801 to 1805.\(^{185}\) Now a court, acting in the name of the people, did what a legislative body, presumably also acting for the people, refused to do.

Many of the arguments in the *University v. Foy* case had actually appeared in legislative debates over invalidating in the infamous law of 1800 that nearly sent the state

\(^{183}\) *Raleigh Register*, December 23, December 30, 1805.
\(^{185}\) *Journal of the House*, 1801 session, 45; *Journal of the Senate*, 1801 session, 17; *Journal of the House*, 1802 session, 7, 26; *Journal of the House*, 1803 session, 29, 33; *Journal of the Senate*, 1803 session, 38; *Journal of the House*, 1804 session, 7, 27.
University into abject penury. Supporters of the University worked to convince the public by a “fair, and impartial history” that a few “hot-headed ignorant” politicians should not deprive the state of one of its “wisest projects of her bravest patriots.” The University’s champions in the legislature argued that not only was the University the best institution for training men for public life but that the removal of its funding had been a gross violation of the state constitution and the rights of contract for incorporated bodies. Opponents of the University, employing a class-oriented rhetoric, argued that the institution caused great distress to laboring people when it took escheated property and that only the sons of the rich benefitted by studying at the “monarchic” or “aristocratic” school. An Edenton grand jury in 1801 weighed in on the debate and urged the legislature to make the school “permanently useful” to the citizens by obeying the constitutional mandate to support it. But Republican opponents of the school wanted district or county schools if the state intended to pay for education and steadfastly refused to overturn the 1800 “gothic law.”

A series of stop-gap measures between 1801 and 1805 helped to set the stage for the University v. Foy decision by eliminating some opposition to the school. In 1801, the legislature declared that widows and distant relatives could inherit property to prevent it from escheating to the state. Assemblymen also gave the University the right to raise money by a lottery, though the Trustees had to beg for financial aid when a second lottery

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186 Richard Henderson to A. D. Murphey, October 5, 1802 and John Hay to Calvin Jones, November 12, 1802, Calvin Jones Papers, SHC.
187 Raleigh Register, December 21, 1802; December 26, 1803; December 10, 1804.
188 Raleigh Register, December 21, 1802; December 26, 1803; December 10, 1804.
189 North Carolina Journal, October 26, 1801; Raleigh Register, December 21, 1802.
190 Laws of North Carolina, 1801, ch.11. Legislators also directed the settlement of escheated claims in Cabarrus and Montgomery—the two counties who had petitioned against the University in 1799; see Laws of North Carolina, 1801, ch.94.
proved disastrous. To make the University “more conformable to the wishes of the people” the legislature granted itself the authority to appoint additional trustees to the institution in 1804; before, the Trustees filled their own vacancies, giving critics the chance to label them an aristocratic elite. In 1805, the legislature decided to make the governor President of the Board of Trustees; as the governor held office at the pleasure of the legislature, no doubt Republicans felt that they could control the institution through him. If the University would henceforth thrive, it would do so at the pleasure of the people through their representatives.

Since the “people” created the state constitution, lawyers for the University argued in the case of University v. Foy that the legislature could not revoke constitutionally-mandated support for the institution. Taking away the University’s funds amounted to an abolishment of the school; as a corporate body, the University could not be made to give up its funds without due process of law. A state can only take away an individual’s property—or a corporate body’s property—after due compensation for the loss. Lawyers called upon the Court of Conference to stand firm against the “vicissitudes of legislative opinion.” By December 1805, the judges of the court prepared to render a verdict. Both Judge Francis Locke and Spruce Macay agreed with lawyers for the University, arguing that the act of 1800 divesting the institution of its means of support

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191 Journal of the House, 1801 session, 51; Journal of the House, 1802 session, 42, 50; Journal of the Senate, 1802 session, 37. The legislature in 1804 added insult to injury when it required the institution to pledge its stock of the United States to repay claims on lands sold by the University but legally reclaimed by the heirs of Henry E. McCulloch in the case of Robert Ray’s Executors v. George McCulloch, 1 N.C. 606, June 1804; Raleigh Register, June 25, 1804.
192 Laws of North Carolina, 1804, ch.5. The legislature appointed fifteen additional trustees in 1805; see Journal of the House, 1805 session, 48.
193 Laws of North Carolina, 1805, ch.7.
194 Trustees of the University of North Carolina v. Foy and Bishop, 5 N. C. 58, 1805; Haywood, Reports of Cases, 2:310-325 (for “vicissitudes,” see page 325).
violated the state constitution. Judge John Hall dissented, arguing that a legislature may assign “more or less” funds for the maintenance of a body which it is constitutionally charged to support. Like the 1787 Bayard v. Singleton case, the decision in University v. Foy proved a hollow victory. The legislature, aware of the court’s decision, decided to repeal the 1800 law. Yet, they did not immediately move to grant the school new sources of income nor did they relinquish control over its governance.

The “Poor Soldier,” who argued in 1805 that well-established courts promoted solidarity to a country, told his readers that he had served in the Revolution but had exhausted his patrimony in the economic turbulence of the 1780s. By 1800, many of the aging soldiers from the Revolutionary generation, like the “Poor Soldier,” faced their declining years bereft of an income and unable to work. The children of those who had already died searched the papers of their fathers while settling estates and discovered unpaid bounties due to them from the state. Both groups, the aged and the children of deceased soldiers, turned to the government of North Carolina for aid and redress. In doing so, they helped to revive the post-Revolutionary politics of loyalty even as state politicians hoped to fiscally put an end to the troubles of that era. Through the courts and the legislature, the citizens of North Carolina had very nearly effected a financial Revolutionary settlement by 1805, at last determining the disposition of confiscated estates and making provision for the payment of Revolutionary War debts.

195 Haywood, Reports of Cases, 374-375.
For aged and infirm veterans of the Revolution, North Carolina offered its own pension system in 1799. Designed to aid those soldiers who did not get on the United States pension lists, the state required soldiers to appear before a superior court judge in order to get a certificate proving the right to a pension.\footnote{Laws of North Carolina, 1799, ch.16; 1801, ch.22.} Petitioners very quickly sent requests for relief to the legislature and the state, feeling fiscally generous toward them, decided to reward male citizens with pensions even when they came within the “spirit and meaning” but not the letter of the law.\footnote{There are at least twenty pension petitions between 1801 and 1805. For examples, see the Petition of Michel Reaf, Journal of the Senate, 1802 session, 33 and Journal of the House, 1802 session, 19; Petition of William Maynard, Journal of the House, 1802 session, 59; Petition of Jesse Nelson, GASR 1802, Box 2 and Journal of the Senate, 1802 session, 23.} Displaying a bias toward rewarding men, the General Assembly rejected a petition from a deserted wife who was seeking the pension of her husband.\footnote{Petition of Mary Thompson, GASR 1802, Box 2; Journal of the Senate, 1802 session, 35.} By 1805, however, the cost of the scheme and the number of pensioners involved suggested the need to transfer financial liability to the federal government. As they did in the 1780s, North Carolina’s politicians rewarded citizens for service and then hoped to transfer the burden of paying for those rewards to the general government.\footnote{Journal of the Senate, 1805 session, 46.}

State leaders also hoped to fully redeem all the certificates issued in the 1780s related to wartime compensation.\footnote{This process actually began in 1799 with a law to ascertain the amount of the certificate debt of the state. Laws of North Carolina, 1799, ch.3.} A committee estimated the certificate debt at £15,000 in principal and £15,000 in interest in 1801 and recommended that the Treasurer redeem as many outstanding certificates as he could, paying fifteen shillings for each

\footnote{33; Journal of the House of Representatives of New-Hampshire, 1805 session, 14; Journal of the Assembly of New-York, 1805 session, 47; Journal of the House of Representatives of Pennsylvania, 1805 session, 21-23, 53, 65; Votes and Proceedings of the House of Delegates of Maryland, 1805 session, 21, 33, 40, 41, 47. 197 Laws of North Carolina, 1799, ch.16; 1801, ch.22. 198 Journal of the Senate, 1802 session, 33 and Journal of the House, 1802 session, 59; Petition of Jesse Nelson, GASR 1802, Box 2 and Journal of the Senate, 1802 session, 23. 199 Petition of Mary Thompson, GASR 1802, Box 2; Journal of the Senate, 1802 session, 35. 200 Journal of the Senate, 1805 session, 46. 201 This process actually began in 1799 with a law to ascertain the amount of the certificate debt of the state. Laws of North Carolina, 1799, ch.3.}
pound and issuing new certificates for the interest.\textsuperscript{202} By 1802, the Treasurer reported that he had redeemed £9,574.14.2, equal to £7,181.8.0 in real money.\textsuperscript{203} Authorized to buy more, he extinguished another £980.11.7 of the principal certificate debt in 1803 but legislators refused to grant him authority to purchase the entire remaining debt for fear of depleting the treasury.\textsuperscript{204} The one debt state leaders still refused to pay was North Carolina’s share of the Revolutionary War debt estimated by Congressional commission in 1793. Congressional committees recommended the extinguishing of the debtor states’ accounts since no debtor state was willing to pay unless all the others did. Though no official act formally released the debtor states from their payments, the federal government under President Jefferson essentially desisted from seeking payment after 1805. North Carolina had virtually extinguished its internal war debt and evaded its external obligation just twenty-four years after the Revolution ended.\textsuperscript{205}

Legislators also finally disposed of the problem of confiscated loyalist properties by 1805. After stripping the University of profits from confiscated estates, the legislature directed the judges of the superior courts to appoint new commissioners of confiscated estates for each court district.\textsuperscript{206} The heirs of the Earl of Granville, former owner of the upper two-thirds of North Carolina, however, decided to contest the state’s seizure of the Earl’s lands under the confiscation laws. Lawyers for Granville’s heirs explained that they hoped to make a test trial of the land title in two 1802 lawsuits.\textsuperscript{207} The defendants

\begin{footnotes}
\item[202] Journal of the Senate, 1801 session, 42.
\item[203] Journal of the House, 1802 session, 14.
\item[204] Journal of the House, 1803 session, 19-20; Journal of the Senate, 1803 session, 43, 50.
\item[205] Timothy Bloodworth to Governor Benjamin Williams, February 17, 1801, GLB 14, NCDAH; Ratchford, State Debts, 63-65; Raleigh Register, April 20, 1802; American State Papers: Finance, 2:163.
\item[206] Laws of North Carolina, 1801, ch.4.
\item[207] North Carolina Journal, October 4, 1802.
\end{footnotes}
petitioned the General Assembly in 1802 for defensive aid from the state but legislators rejected a resolution ordering the governor to help them.\(^208\) Hardly anyone seriously supposed that Granville’s heirs had a chance at recovering title; one North Carolina congresswoman reported that three of his roommates actually laughed “at the idea” that Granville could prevail.\(^209\) Nathaniel Macon told Thomas Jefferson that he believed “few people” actually cared about the Granville claims as a serious threat, but John Steele told Macon that some people did feel an “unusual degree of solicitude” about the case.\(^210\)

William Gaston, the Federalist lawyer for Granville’s heirs, employed familiar arguments about the constitutional requirement that the legislature respect private property rights; the Revolution merely changed Granville’s status to a “common subject” since the confiscation laws did not name him specifically. Lawyers for the defense argued five major points. First, the Revolution divested Granville of ownership; second, the state owned the lands in the name of the people; third, the confiscation laws applied to Granville even though he was not named; fourth, as an alien, Granville could not hold lands in the state; and fifth, the act of limitation barred recovery of the property.\(^211\) When it came time to charge the jury, Gaston urged them to avoid a general verdict on the question of complete ownership but the defense ridiculed Gaston’s suggestion as an insult to the jury’s intelligence to decide not just the facts but the law as well.\(^212\) Judge Henry Potter’s lengthy charge to the jury reinforced their right to a general verdict on the law;

\(^{208}\) Josiah Collins to Governor Benjamin Williams, October 19, 1802, GLB 14, NCDAH; *Journal of the House*, 1802 session, 48.
\(^{210}\) Nathaniel Macon to Thomas Jefferson, September 2, 1804, in Dodd, “Nathaniel Macon Correspondence,” 45; John Steele to Nathaniel Macon, June 7, 1803, John Steele Papers, SHC.
\(^{211}\) *Wilmington Gazette*, January 15, 1805.
\(^{212}\) *Raleigh Register*, January 6, 1806.
his analysis focused on the North Carolina Constitution, rejecting both the 1783 Treaty of Peace and Jay’s Treaty as having any relevance to the analysis of the question. Potter deemed the law squarely on the side of the defendants. And the jury agreed.\footnote{Raleigh Register, January 6 and January 27, 1806.}

In an address at the Fourth of July celebrations in Chatham County in 1801, the speaker reminded his audience of the dangers of “innovation.” Since the Revolution, he argued, the Federalists had been trying to establish a monarchy. His audience understood what he meant: ever since the war ended, those loyalists who remained had pressed the state and the nation back to the embrace of the British. British law, courtly rituals, and commerce all testified to the pervasive subversion of the people’s government. March 4, 1801, however, halted aristocratic hopes. Under a “truly Republican President,” the speaker exulted, “we can safely trust the helm of Government.” From the Jeffersonian perspective, the first five years of the nineteenth century were indeed a time of re-settling revolutionary issues about the future of the American republic. A Republican “people” had demanded a reformation of the courts, state support for voluntary association, more equitable and just representation, and a more extensive circulating medium.

Jeffersonian partisans, made a majority by the ballot box and convinced they represented the people’s true interests, acted on behalf of the people. Ironically, the Jeffersonian state legislature insulated itself from the direct influence of the people who had once petitioned in large numbers on state policy. Bureaucratic routines, adjudication in expanded courts, and the rejection of large classes of requests represented the opportunity cost of partisanship. A more efficient, enlightened, and ultimately
“Republican” legislature could ill-afford to waste its time on matters of local and individual import. The long-term trajectory towards the removal of citizens’ influence via petitioning from the legislature to the courts had its beginnings in an age that seemed to be returning to the faith of their fathers. Circumstances and choices, nonetheless, made such a homecoming impossible.
In a resolution offered to call a constitutional convention in 1803, its authors noted that “great improvements have been made in the science of government” so that citizens have “been gradually progressing in a knowledge of the rights of man, and of the means of securing the exercise of those rights.”¹ The authors did not explain exactly how citizens had achieved their knowledge, perhaps considering the means less important than the ends. Anyone who cared to analyze those means would find a tangled history of the growth of state government, the meaning of citizenship, the evolution of the courts and legal systems, the rise of political parties, and the expansion of the various modes of expression of popular sovereignty. All of the ways that citizens interacted with their state contributed to the development of a store of political knowledge, a hoard of information about rights, duties, access to power, and the meaning of the law from the state constitution to the humble decisions of a single magistrate. The give-and-take between citizens and their government not only contributed to development of the people’s knowledge but also to the formation of the state itself.

Petitions, remonstrances, grand jury presentments, anonymous essays, public addresses, and other written expressions of the will of the people proliferated after the Revolution because many state constitutions gave explicit guarantees to the will of the people as the fundamental sovereigns of the state as well as to the right to ask for redress.

¹ Resolution for a Constitutional Convention, GASR 1803, Box 1.
High-sounding phrases in founding documents, however, did not automatically translate the will of the people into public policy. Nor should we consider popular sovereignty a fiction. Making policy for the good of an entire state provided challenges to the notion that representatives merely carried the wishes of their constituents into the legislative chamber. Exactly what policies impartially distributed the benefits and burdens of citizenship remained open to contestation. How to define the interest of the majority and measure that interest proved to be difficult tasks. It is no surprise, then, that, while the making of policy at the state and national levels remained open to the opinions of the people, politicians employed their own views of the common good. The resulting laws sometimes originated directly from the concerns of the people and at other times rejected popular opinion.

Because the constitutional frameworks of the early American states protected the rights of the people to make their concerns known, they directly encouraged ordinary people to take part in the making of states. The process of state formation invited citizens to comment on every aspect of statehood from the application of coercive power to the maintenance of state boundaries as well as the collection of financial resources; while states worked to develop stable configurations of their functions, the process remained open to contestation and permeable to the will of the people. Acceptance of petitions, memorials, and other statements of policy preferences actually encouraged citizens to indirectly bolster state legitimacy. A petitioner must not only believe in the justness of her cause but in the power of the state to remedy it. Given the divided nature of North Carolinians’ loyalties during the Revolution, resolving the grievances of petitioners helped to create a culture of loyalty that promoted the state’s authority.
An indirect result of welcoming the concerns of the public into the process of making legislation was the inundation of state legislatures with a heavy work load. North Carolina’s General Assembly insisted on examining every account before expending state funds and they remained the only body capable of adjudicating controversies which had arisen under many state laws. War-time claims, confiscation, and taxation-related petitions required the intervention of the state since county courts could not remediate problems arising under state law without explicit legislative sanction. Areas of public policy that remained outside of the purview of the county courts encouraged petitioners to view the General Assembly as a court of equity. Cases of divorce, for example, required legislative interposition. Had the General Assembly granted additional authority to county and superior courts, however, it would have likely not solved the problem of obtaining justice. Citizens during the 1780s drowned the courts in lawsuits over debts and land disputes and then complained loudly about delays in justice. In the short term, legislators turned to organization of the General Assembly to facilitate efficient processing of claims and complaints. The growth in committees, particularly in standing committees devoted to single issues, helped to channel grievances into fairly consistent avenues of adjudication.

North Carolina’s entrance in the federal union in 1789, a product of petitions and nationalist-minded lawyers, changed the meaning of citizenship for individuals. The presence of a much stronger federal government claiming authority over specific areas of public policy, such as commerce and Indian affairs, pushed citizens to interact directly with their representatives in Congress. So many petitions swamped Congress that one legislator suggested in 1790 to have the heads of the executive departments deal with the
thousands of war-time claims, complaints about commercial duties, and difficulties with gaining title to western lands.\(^2\) A second result of the creation of a national sphere of political activity that actually mattered to individual citizens was the increasing recognition of the power of public opinion. Politicians seeking to arouse the public in the contest over Jay’s Treaty and the Quasi-War spurred the people to organize in groups to offer their approval or rejection of national policy proposals. Partisans on both sides wanted the people to express themselves so that they could claim majority support for their policies. In grand jury presentments and public addresses, citizens offered their thoughts on government. If they had a right to know about the measures of government, then they had a right to form an opinion about those measures and then a right to express that opinion. Organization of the expression of public opinion then became the domain of political parties who hoped to turn opinions into electoral support.

The politicization of organized public opinion accompanied the expansion of state spheres of activity. Prior to 1790, North Carolina’s government primarily managed a limited set of administrative activities such as the collection of taxes, the appointment of militia officers, or the regulation of ports. The single most important bureaucratic activity, the one that required constant management, was the collection of revenue. After 1789, however, the state gradually increased the number of projects that required its oversight. The Trustees of the University regularly submitted reports, canal companies were required to report to the Secretary of State, and the creation of state banking by 1805 required another stream of reports for the information of legislators. The growing complexity of the state’s management of long-term institutions consumed a lot of

\(^2\) The North Carolina Chronicle; of, Fayetteville Gazette, June 7, 1790.
attention formerly granted to hearing petitions or appointing militia captains. Hence, partisans of constitutional reform consistently argued that the General Assembly wasted its time on the trivial adjudication of individual complaints rather than focusing on digesting information about the status of the state’s economy. Appointees like the treasurer managed a significant amount of state administrative business, which ultimately escalated his indispensability to state functions. By the early 1790s, the treasurer even suggested what legislation the General Assembly ought to consider.³

One means for sloughing off responsibility for adjudication of individual problems and the management of routine administrative tasks was to increase the authority of the courts. Not only did legislators increase the authority of a single magistrate in debt cases but also delegated to the judges of the superior courts appointment powers over matters like escheated and confiscated lands. Increasing the number of judges and creating a Court of Conference to resolve disputed cases helped to ease some of the burdens of the judiciary. Still, the people complained that the business of the courts, especially in the union of equity and law adjudication, prevented them from obtaining full justice. They petitioned the General Assembly for redress and sent grand jury presentments to legislators against a system that denied them the justice they wanted. Indeed, John Louis Taylor, in his 1802 collection of court cases, noted that an equity cause tried in July 1802 had been in process since 1769. Opponents of judicial reform cited the expense of the courts as well as a long-standing dislike for chancery adjudication as the primary reasons for rejecting reorganization of the courts.

³ *Journal of the House*, 1792 session, 49; *Journal of the House*, 1798 session, 54; *Journal of the House*, 1799 session, 16.
Yet, the courts did advance in professionalization as much as the General Assembly did. Legislators in the General Assembly increasingly routinized their adjudication of memorials through committees and procedures just as the courts reached toward establishing a body of precedent through the publication of their decisions. Judge John Louis Taylor argued in the preface to his 1802 collection of court decisions that reforms in the courts had made possible the adjudication of “similar cases” by the “same rule,” reducing the “uncertainty of the law” and restoring its republican “simplicity and plainness.” Taylor’s colleagues agreed with him that publication of the laws and decisions of the courts made the law open to citizens. A nation that truly believed in liberty could not allow its laws to remain hidden or locked away in the memories of judges. Such a travesty of justice would make the adjudication of legal disputes as uncertain as the political relief offered by the General Assembly to petitioners. Neither the courts nor the legislature could afford murmuring to the effect that they violated equal treatment of citizens under the constitution.

Partisans of legal reform secured limited victories by 1805 but continued to press for the removal of issues like divorce and alimony from legislative purview. The result of their efforts was to reaffirm the importance of the local sphere of justice; allowing courts to adjudicate divorce cases permitted parties to resolve disputes under the watchful eyes of their neighbors and release the General Assembly to focus more squarely on preserving its sovereignty against federal encroachment. Yet, it would be many years before reformers achieved their goals. Not until the 1835 Constitution did the General Assembly.

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4 John Louis Taylor, *Cases Determined in the Superior Courts of Law and Equity of the State of North Carolina* (Newbern: Martin & Ogden, 1802), iii.
Assembly lose its powers over certain aspects of private law such as name changes and divorces. Until that time, the people reserved their rights to speak on issues of state and national policy, to vote for candidates who reflected their policy interests, and to employ the full power of the “consent of the governed” in the making of their governments.

State-making in the early American republic required proponents of state sovereignty to carve out spheres of influence and power in which state legislatures could transform the will of the people into law. Nonetheless, state legislatures, like the national government, seemed like midget institutions from the perspective of county governance. The legal fiction of state sovereignty failed to translate fully into the kinds of robust institutions that could exercise sovereign power; the difficulties of tax collection in post-Revolutionary North Carolina highlight just one realm of state weakness. The persistence of law as custom at the county level ought to remind scholars that entire realms of the everyday experience of citizens hardly entered into the considerations of state legislators, unless pressed by a crisis. To be sure, the state created statutes, but the magistrates of the county courts made state law spring to life. Yet, custom never held complete sway. When anyone decided to challenge law-as-custom, the courts and the legislature provided the opportunity for savvy citizens to dispute the authority of magistrates and county courts. Statute law and customary law lived in contentious wedlock.

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6 Edwards, People and their Peace, 3-5.
The union of customary law and statute law was a convenient legacy of post-Revolutionary explorations of the meaning of popular sovereignty. As the fundamental sovereign power, the people could have presumably swept away all of the customary law as so much English rubbish. The pressures of war, however, determined that citizens could not give much time to reconfiguration of law to meet republican expectations and the difficulties of maintaining the stable institutions of state governance after the war continued to press legislators away from a wholesale reformation of the law. They adopted English jurist William Blackstone’s metaphor for resolution of republican ideas with common law: the common law could be compared to a giant castle, whose outward structure remained intact even as citizens remodeled the interior for modern purposes.\textsuperscript{7} Hence, North Carolina’s legislature in 1776 adopted all the common law that did not violate republican state law. Customs kept the peace while the representatives of the people forged statehood.\textsuperscript{8}

The experience of joining the national government in 1789 helped to reinforce state lawmaking over the customs of the peace. Customary law proved useful in maintaining social relations but keeping the peace hardly helped citizens to exercise their liberty.\textsuperscript{9} Citizens did not see state power merely as a vehicle to protect liberty from arbitrary uses of power but as also a means of promoting liberty by allowing the people to make the fullest use of their abilities and resources. They needed states to charter canal

\textsuperscript{7} Parker, “Custom and History,” 65.
\textsuperscript{9} On law as a “release of energy,” see James Willard Hurst, Law and the Conditions of Freedom in the Nineteenth-Century United States (Madison: The University of Wisconsin Press, 1956), 5-6, 10, 13, 30.
companies, create banks, and incorporate benevolent ventures; custom worked best to settle disputes, though it also helped to mute the conflict positive state statutes could engender. Ideas about customary fishing rights, for example, helped to protect some waterways for citizens’ use rather than let canal companies steal their livelihoods. Citizens negotiated both areas of law, seeking the sanction of the state upon their activities through statute while also keeping the peace through custom. The state may have been a “midget” institution but its size obscured its density—the authority and weight of a state statute held great appeal to citizens.

Legislators, too, recognized how balancing local law with state law benefitted a burdened assembly. Vast numbers of petitions, memorials, and private bills consumed a great deal of legislative time, forcing lawmakers to pay attention to the people’s wishes while also frustrating their attempts to legislate for the good of the entire state. As the state grew in complexity, however, its leaders turned to local law, disciplined and amenable to central state authority, for the adjudication of citizens’ conflicts that took time away from fashioning state-wide law. Post-revolutionary legislatures had wrested a great deal of authority from local governing units only to give back power when the business of governing required attention on matters other than divorces, emancipations, and muster sites. State law and local law moved toward making peace with each other.

Data on petitioning and legislation from 1780 to 1805 highlights how states grew more comfortable with turning over aspects of governance to local governing units. In the 1780s, both private laws relating to local units of governance and public laws passed

10 The disciplining of local bodies to extend state authority is a manifestation of what Michael Mann called infrastructural power and what William Novak has suggested is a key feature of an American style of state-building. See Mann, “Autonomous State,” and William Novak, “The Myth of the ‘Weak’ American State,” American Historical Review 113:3 (June 2008), 762-763.
by the states amounted to just over one-third of all statutes enacted. In the 1790s, laws passed for local governing units surged to more than one-half of state legislative output; by 1805, local law nearly amounted to two-thirds of all state legislation. Both private laws involving individuals and public laws from 1790 to 1805 declined; states passed fewer statutes regulating the law of the entire state and increasingly put entire groups of individuals in private statutes.\footnote{See Appendix A, Tables 11, 12, and 13.} For example, North Carolina frequently included multiple emancipations in the same statute or multiple grants of separate property. Vermont, in one of its omnibus turnpike statutes of 1805, defined the privileges of eight companies in a single law.\footnote{Laws of Vermont, 1805, ch.91.} As legislators improved their ability to handle large amounts of request for legislation, they passed laws governing categories of people rather than enacting a single statute for just one person. Governing whole classes of people with single statutes also respected citizens’ demands for the equal distribution of rights and duties, fulfilling ideological claims for common justice while serving legislative efficiency.

The increase in efficiency of legislators not only shows how states became comfortable with letting local units of governance handle citizens’ requests but also demonstrates their ability to process petitions. In the 1780s, most state legislatures responded to an average of nearly four petitions per day while sitting in legislative session. The number of petitions per day climbed to just over four in the mid 1790s and just over five by 1805, indicating a slight increase in how legislatures had grown in their handling of routine requests. The number of petitions per population, however, declined.
over time, indicating that fewer people petitioned as states allowed the local law—
defined by state statute—to adjudicate conflicts that legislatures once determined.\textsuperscript{13}

Petitioning, therefore, did not keep pace with population growth. The era when a
petitioner could bring a case before a legislature, receive a hearing, and then perhaps
obtain a resolution or statute seemed to be drawing to a close. Instead, petitioners turned
to local courts with their requests, where both custom and state law determined their
cases.

Shifting to local determination of problems once solved by state legislatures did
pose trade-offs to petitioners. Since customary law proved highly open to personal
knowledge, citizens in courts could leverage local knowledge of their particular
circumstances in their favor. If, however, they did not hold a good community
reputation, the courts could prove unwilling to grant their pleas. Courts also took time
since the rules of pleading and application of customary and statute law could delay
justice as plaintiffs and defendants contested the facts and the law. Legislators, acting on
behalf of the state’s sovereigns, might adjudicate a problem in a matter of minutes. Yet,
the summary dismissal of a petition by legislators could dash a petitioner’s hopes in an
instant while litigation in court could keep a cause going for some time. Petitioning to a
legislature provided a cheap means of redress whereas the fees, the court costs, and the
loss of time and wages in court attendance could ultimately place a litigant in deep debt.
Shifting from legislative to judicial adjudication undoubtedly helped some while harming
others.

\textsuperscript{13} See Appendix A, Tables 11, 12, and 13.
When James Iredell proposed in 1786 solutions for protecting the rights of the people against legislative tyranny, he rejected petitioning and praised the courts. The idea that the people could tyrannize themselves in the legislature seemed alien in a revolutionary era, yet Iredell’s praise for the sovereignty of law protected by courts proved prescient. Americans had overthrown their King and now voluntarily gave allegiance to a new sovereign—themselves—whose incarnation was law. Because the people proved capable of acting in their worst interests or infringing the rights of minorities, the guardians of the law earned Iredell’s confidence. Iredell did not explicitly state which law he intended in his encomium upon the courts but we may assume that he meant the body of inherited common law, pruned by republican legislators, that had since time immemorial determined the proper relations between citizens, protected liberty, and served the interests of property. Such a system of law served to keep the peace and promote a stable social order.

The people, however, also demanded law for the present: statute law that enabled them to fully release their productive energies for personal and state benefit. State legislatures, acting on the wishes of the people, fashioned statehood out of the plurality of those productive energies making up the body politic. Swamped by their own appreciation for popular sovereignty, legislatures grew more professional in their handling of the people’s interests but eventually shared authority with the courts. Post-revolutionary popular sovereignty formed no mere fiction in the ethereal musings of political treatise writers: the people, both individually and collectively, expected to share responsibility for their own governance. That they did so left their stamp upon the making of both state and nation.
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[Maclaine, Archibald.] *The Independent Citizen, or, the Majesty of the People Asserted Against the Usurpations of the Legislature of North-Carolina in Several Acts of
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Logan, John R. *Sketches, Historical and Biographical of the Broad River and King’s Mountain Associations, from 1800 to 1882*. Shelby, NC: Babington, Roberts, & Company, 1887.


Swain, David L. *Early Times in Raleigh.* Raleigh, 1867.


**Dissertations and Theses**


Appendix A: Counting Early American Petitions

Counting the number of petitions in the General Assembly records amply illustrates Mark Twain’s adage contention that there are lies, damned lies, and statistics. Petitioners usually sent two petitions to the General Assembly—one for each house—so that if one petition was rejected in one house, the other house might still resolve to aid the petitioner.Petitioners occasionally seem to have had inside information about committee reports and the dispositions of legislators, because there are cases in which petitioners re-submitted petitions or sent new memorials during a legislative session. Multiple petitions on the same subject, therefore, are easy to confuse for new petitions. I have adopted the practice of counting a petitioner’s set of requests as a single petition unless circumstances warrant treating subsequent documents as separate requests.

The difficulties of counting petitions are further exacerbated because the journals of the Assembly do not always accord with the original documents now stored in the General Assembly Session Records boxes housed at the North Carolina Archives. Assembly clerks were also notoriously bad spellers. I have had to compare original documents with journals in order to get a rough idea of the number of petitions submitted each session, but with the understanding that these figures cannot be absolute.

Additionally, there is some difficulty in deciding what exactly counts as a petition. Public figures submitted letters, representations, comments, and accounts to the General Assembly for the legislators to review in the decision-making process. Since all accounts went through the General Assembly before a public figure could receive his pay or settle balances, the submission of documentation and requests for settlement blur the line between petition and mere adminis-trivia. On occasions, when the petitioner suffered some setback in his records—such as the loss of currency by accident or the destruction of records—the submission of accounts for adjudication could take on more or less a tone of petitioning for redress. I have usually adopted the position of classifying such accounts-related petitions with other petitions unless context suggested another interpretation.

In deciding how to classify petitions, I looked at how the General Assembly engaged in the process of legislation. They demarcated between public and private bills in their deliberations (and in publications of the laws), with private legislation further being broken down into categories focusing on county and town law as well as individuals. Because not all petitions have survived, we do not know the content of many of these documents. I have therefore had to use the remaining samples in order to generate categorical data.
### TABLE 1 Petitions to General Assembly, 1770-1779

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Petitions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1770</td>
<td>18</td>
</tr>
<tr>
<td>1771</td>
<td>37</td>
</tr>
<tr>
<td>1772</td>
<td>2</td>
</tr>
<tr>
<td>1773</td>
<td>38</td>
</tr>
<tr>
<td>1774</td>
<td>8</td>
</tr>
<tr>
<td>1775</td>
<td>3</td>
</tr>
<tr>
<td>1776</td>
<td>7</td>
</tr>
<tr>
<td>1777</td>
<td>46</td>
</tr>
<tr>
<td>1778</td>
<td>26</td>
</tr>
<tr>
<td>1779</td>
<td>109</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>294</strong></td>
</tr>
</tbody>
</table>

### TABLE 2 Petitions to the General Assembly, 1780-1790*

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Petitions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1780</td>
<td>52</td>
</tr>
<tr>
<td>1781</td>
<td>38</td>
</tr>
<tr>
<td>1782</td>
<td>120</td>
</tr>
<tr>
<td>1783</td>
<td>120</td>
</tr>
<tr>
<td>1784</td>
<td>192</td>
</tr>
<tr>
<td>1785</td>
<td>123</td>
</tr>
<tr>
<td>1786</td>
<td>164</td>
</tr>
<tr>
<td>1787</td>
<td>155</td>
</tr>
<tr>
<td>1788</td>
<td>161</td>
</tr>
<tr>
<td>1789</td>
<td>203</td>
</tr>
<tr>
<td>1790</td>
<td>158</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>1486</strong></td>
</tr>
</tbody>
</table>
### TABLE 3 Petitions to the General Assembly, 1791-1805

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Petitions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1791</td>
<td>202</td>
</tr>
<tr>
<td>1792</td>
<td>182</td>
</tr>
<tr>
<td>1793</td>
<td>166</td>
</tr>
<tr>
<td>1794</td>
<td>144</td>
</tr>
<tr>
<td>1795</td>
<td>91</td>
</tr>
<tr>
<td>1796</td>
<td>129</td>
</tr>
<tr>
<td>1797</td>
<td>96</td>
</tr>
<tr>
<td>1798</td>
<td>162</td>
</tr>
<tr>
<td>1799</td>
<td>121</td>
</tr>
<tr>
<td>1800</td>
<td>212</td>
</tr>
<tr>
<td>1801</td>
<td>259</td>
</tr>
<tr>
<td>1802</td>
<td>195</td>
</tr>
<tr>
<td>1803</td>
<td>155</td>
</tr>
<tr>
<td>1804</td>
<td>169</td>
</tr>
<tr>
<td>1805</td>
<td>229</td>
</tr>
<tr>
<td>TOTAL</td>
<td>2512</td>
</tr>
</tbody>
</table>

### TABLE 4 Subjects of Petitions to the General Assembly, 1770-1779*

<table>
<thead>
<tr>
<th>Subject</th>
<th>Number of Petitions</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>State Administration and Policy</em></td>
<td>130</td>
<td>47.4%</td>
</tr>
<tr>
<td>State laws, records, officeholding, incorporations, elections, defense, citizenship, superior courts</td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Regulation of Counties and Towns</em></td>
<td>49</td>
<td>17.8%</td>
</tr>
<tr>
<td>County boundaries, county division, public buildings, town creation, musters, county courts</td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Individual Claims, Family, and Private Property</em></td>
<td>95</td>
<td>34.6%</td>
</tr>
<tr>
<td>Divorce, slave emancipation, claims, land deeds, estates, guardianship, private contracts, pardons, charity</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>274</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

*274 petitions were sampled from the 294 available petitions.
### TABLE 5 Subjects of Petitions to the General Assembly, 1780-1789*

<table>
<thead>
<tr>
<th>Subject</th>
<th>Number of Petitions</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>State Administration and Policy</em></td>
<td>171</td>
<td>26.3%</td>
</tr>
<tr>
<td>State laws, records, office holding, incorporations, elections, defense, citizenship, superior courts</td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Regulation of Counties and Towns</em></td>
<td>81</td>
<td>12.4%</td>
</tr>
<tr>
<td>County boundaries, county division, public buildings, town creation, musters, county courts</td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Individual Claims, Family, and Private Property</em></td>
<td>398</td>
<td>61.2%</td>
</tr>
<tr>
<td>Divorce, slave emancipation, claims, land deeds, estates, guardianship, private contracts, pardons, charity</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>650</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

*650 petitions were sampled from the 1328 available petitions.

### TABLE 6 Subjects of Petitions to the General Assembly, 1791-1805*

<table>
<thead>
<tr>
<th>Subject</th>
<th>Number of Petitions</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>State Administration and Policy</em></td>
<td>591</td>
<td>23.5%</td>
</tr>
<tr>
<td>State laws, records, office holding, incorporations, elections, defense, citizenship, superior courts</td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Regulation of Counties and Towns</em></td>
<td>296</td>
<td>11.8%</td>
</tr>
<tr>
<td>County boundaries, county division, public buildings, town creation, musters, county courts</td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Individual Claims, Family, and Private Property</em></td>
<td>1618</td>
<td>64.5%</td>
</tr>
<tr>
<td>Divorce, slave emancipation, claims, land deeds, estates, guardianship, private contracts, pardons, charity</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>2505</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

*2505 petitions were sampled from the 2512 available petitions.
### TABLE 7 Legislative Output, 1760-1775

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Acts</th>
<th>Acts Relating to Individuals (Private Law)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1760</td>
<td>25</td>
<td>2 (8%)</td>
</tr>
<tr>
<td>1761</td>
<td>15</td>
<td>1 (6.6%)</td>
</tr>
<tr>
<td>1762</td>
<td>28</td>
<td>4 (14.2%)</td>
</tr>
<tr>
<td>1763</td>
<td>0</td>
<td>0 (0%)</td>
</tr>
<tr>
<td>1764</td>
<td>37</td>
<td>3 (8.1%)</td>
</tr>
<tr>
<td>1765</td>
<td>4</td>
<td>2 (50%)</td>
</tr>
<tr>
<td>1766</td>
<td>29</td>
<td>2 (6.8%)</td>
</tr>
<tr>
<td>1767</td>
<td>27</td>
<td>1 (3.7%)</td>
</tr>
<tr>
<td>1768</td>
<td>21</td>
<td>1 (4.7%)</td>
</tr>
<tr>
<td>1769</td>
<td>4</td>
<td>2 (50%)</td>
</tr>
<tr>
<td>1770</td>
<td>44</td>
<td>1 (2.2%)</td>
</tr>
<tr>
<td>1771</td>
<td>23</td>
<td>0 (0%)</td>
</tr>
<tr>
<td>1772</td>
<td>0</td>
<td>0 (0%)</td>
</tr>
<tr>
<td>1773</td>
<td>34</td>
<td>3 (8.8%)</td>
</tr>
<tr>
<td>1774</td>
<td>32</td>
<td>1 (3.1%)</td>
</tr>
<tr>
<td>1775</td>
<td>0</td>
<td>0 (0%)</td>
</tr>
<tr>
<td>1776*</td>
<td>17</td>
<td>0 (0%)</td>
</tr>
<tr>
<td>1777</td>
<td>72</td>
<td>0 (0%)</td>
</tr>
<tr>
<td>1778</td>
<td>30</td>
<td>0 (0%)</td>
</tr>
<tr>
<td>1779</td>
<td>78</td>
<td>7 (8.9%)</td>
</tr>
<tr>
<td>TOTAL</td>
<td>520</td>
<td>23 (4.4%)</td>
</tr>
</tbody>
</table>

*These “acts” were actually one-year “ordinances” of the Fifth Provincial Congress.

### TABLE 8 Legislative Output, 1780-1790

<table>
<thead>
<tr>
<th>Year</th>
<th>State Acts(^1)</th>
<th>County or Local Acts(^2)</th>
<th>Individual Acts(^3)</th>
<th>Total Acts</th>
<th>Acts Related to Petitions*</th>
</tr>
</thead>
<tbody>
<tr>
<td>1780</td>
<td>22 (91.6%)</td>
<td>2 (8.3%)</td>
<td>0</td>
<td>24</td>
<td>3 (12.5%)</td>
</tr>
<tr>
<td>1781</td>
<td>27 (90%)</td>
<td>3 (10%)</td>
<td>0</td>
<td>30</td>
<td>4 (13.3%)</td>
</tr>
<tr>
<td>1782</td>
<td>21 (45.6%)</td>
<td>18 (39.1%)</td>
<td>7 (15.2%)</td>
<td>46</td>
<td>13 (28.2%)</td>
</tr>
<tr>
<td>1783</td>
<td>24 (42.3%)</td>
<td>24 (42.3%)</td>
<td>11 (18.6%)</td>
<td>59</td>
<td>15 (25.4%)</td>
</tr>
<tr>
<td>1784</td>
<td>57 (44.1%)</td>
<td>50 (38.7%)</td>
<td>22 (17.0%)</td>
<td>129</td>
<td>29 (22.4%)</td>
</tr>
<tr>
<td>1785</td>
<td>22 (32.8%)</td>
<td>38 (56.7%)</td>
<td>7 (10.4%)</td>
<td>67</td>
<td>16 (23.8%)</td>
</tr>
<tr>
<td>1786</td>
<td>22 (26.8%)</td>
<td>48 (58.5%)</td>
<td>12 (14.6%)</td>
<td>82</td>
<td>13 (15.8%)</td>
</tr>
<tr>
<td>1787</td>
<td>23 (41.0%)</td>
<td>24 (42.8%)</td>
<td>9 (16.0%)</td>
<td>56</td>
<td>11 (19.6%)</td>
</tr>
<tr>
<td>1788</td>
<td>15 (29.4%)</td>
<td>29 (56.8%)</td>
<td>7 (13.7%)</td>
<td>51</td>
<td>15 (29.4%)</td>
</tr>
<tr>
<td>1789</td>
<td>29 (40.8%)</td>
<td>29 (40.8%)</td>
<td>13 (18.3%)</td>
<td>71</td>
<td>23 (32.3%)</td>
</tr>
<tr>
<td>1790</td>
<td>27 (36%)</td>
<td>23 (38.9%)</td>
<td>16 (27.1%)</td>
<td>59</td>
<td>18 (30.5%)</td>
</tr>
<tr>
<td>TOTAL</td>
<td>289 (42.8%)</td>
<td>288 (42.7%)</td>
<td>104 (15.4%)</td>
<td>674</td>
<td>160 (23.7%)</td>
</tr>
</tbody>
</table>

\(^1\) A state act primarily affects all citizens of the state or concerns state administrative activity.

\(^2\) A local act concerns a group of citizens at a county or town level.

\(^3\) Individual acts provide a benefit to a single person.
<table>
<thead>
<tr>
<th>Year</th>
<th>State Acts</th>
<th>County or Local Acts</th>
<th>Individual Acts</th>
<th>Total Acts</th>
<th>Acts Related to Petitions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1791</td>
<td>27 (36%)</td>
<td>42 (56%)</td>
<td>6 (8%)</td>
<td>75</td>
<td>21 (28.0%)</td>
</tr>
<tr>
<td>1792</td>
<td>18 (24.6%)</td>
<td>49 (67.1%)</td>
<td>6 (8.2%)</td>
<td>73</td>
<td>20 (27.3%)</td>
</tr>
<tr>
<td>1793</td>
<td>25 (34.2%)</td>
<td>43 (58.9%)</td>
<td>5 (6.8%)</td>
<td>73</td>
<td>20 (27.3%)</td>
</tr>
<tr>
<td>1794+</td>
<td>28 (27.7%)</td>
<td>58 (57.4%)</td>
<td>15 (14.8%)</td>
<td>101</td>
<td>20 (19.8%)</td>
</tr>
<tr>
<td>1795</td>
<td>20 (27.3%)</td>
<td>38 (52.0%)</td>
<td>15 (20.5%)</td>
<td>73</td>
<td>18 (24.6%)</td>
</tr>
<tr>
<td>1796</td>
<td>25 (25.2%)</td>
<td>58 (58.5%)</td>
<td>16 (16.1%)</td>
<td>99</td>
<td>21 (21.2%)</td>
</tr>
<tr>
<td>1797</td>
<td>17 (21.5%)</td>
<td>54 (68.3%)</td>
<td>8 (10.1%)</td>
<td>79</td>
<td>17 (21.5%)</td>
</tr>
<tr>
<td>1798</td>
<td>34 (29.5%)</td>
<td>64 (55.6%)</td>
<td>17 (14.7%)</td>
<td>115</td>
<td>32 (27.8%)</td>
</tr>
<tr>
<td>1799</td>
<td>26 (22.6%)</td>
<td>59 (51.3%)</td>
<td>30 (26.0%)</td>
<td>115</td>
<td>34 (29.5%)</td>
</tr>
<tr>
<td>1800</td>
<td>26 (26.2%)</td>
<td>48 (48.4%)</td>
<td>25 (25.2%)</td>
<td>99</td>
<td>23 (23.2%)</td>
</tr>
<tr>
<td>1801</td>
<td>36 (26.0%)</td>
<td>83 (60.1%)</td>
<td>19 (13.7%)</td>
<td>138</td>
<td>23 (19.4%)</td>
</tr>
<tr>
<td>1802</td>
<td>24 (20.3%)</td>
<td>72 (61.0%)</td>
<td>22 (18.6%)</td>
<td>118</td>
<td>31 (26.2%)</td>
</tr>
<tr>
<td>1803</td>
<td>26 (21.6%)</td>
<td>77 (64.1%)</td>
<td>17 (14.1%)</td>
<td>120</td>
<td>22 (18.3%)</td>
</tr>
<tr>
<td>1804</td>
<td>29 (22.3%)</td>
<td>86 (66.1%)</td>
<td>15 (11.5%)</td>
<td>130</td>
<td>17 (13.0%)</td>
</tr>
<tr>
<td>1805</td>
<td>19 (18.0%)</td>
<td>74 (70.4%)</td>
<td>12 (11.4%)</td>
<td>105</td>
<td>20 (19.0%)</td>
</tr>
<tr>
<td>TOTAL</td>
<td>380 (25.1%)</td>
<td>905 (59.8%)</td>
<td>228 (15.0%)</td>
<td>1513</td>
<td>339 (22.4%)</td>
</tr>
</tbody>
</table>

+The increase in legislation is due to two sessions of the General Assembly being held that year; the emergency session of July 1794 was called by the Governor to deal with state defense preparations in case of war with England.
TABLE 10 Committees and Petitions in the General Assembly, 1780-1790

<table>
<thead>
<tr>
<th>Year</th>
<th>Standing Committees Petitions Adjudicated</th>
<th>Special Committees Petitions Adjudicated</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1780+</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1781</td>
<td>2 committees</td>
<td>43 committees</td>
</tr>
<tr>
<td></td>
<td>3 petitions (5.5%)</td>
<td>51 petitions (94.4%)</td>
</tr>
<tr>
<td>1782</td>
<td>3 committees</td>
<td>30 committees</td>
</tr>
<tr>
<td></td>
<td>19 petitions (22.8%)</td>
<td>64 petitions (77.2%)</td>
</tr>
<tr>
<td>1783</td>
<td>2 committees</td>
<td>30 committees</td>
</tr>
<tr>
<td></td>
<td>10 petitions (9.7%)</td>
<td>93 petitions (90.2%)</td>
</tr>
<tr>
<td>1784*</td>
<td>5 committees</td>
<td>30 committees</td>
</tr>
<tr>
<td></td>
<td>80 petitions (62.0%)</td>
<td>49 petitions (38.0%)</td>
</tr>
<tr>
<td>1785</td>
<td>4 committees</td>
<td>31 committees</td>
</tr>
<tr>
<td></td>
<td>55 petitions (51.4%)</td>
<td>52 petitions (48.5%)</td>
</tr>
<tr>
<td>1786</td>
<td>6 committees</td>
<td>45 committees</td>
</tr>
<tr>
<td></td>
<td>103 petitions (66.0%)</td>
<td>56 petitions (34.0%)</td>
</tr>
<tr>
<td>1787</td>
<td>5 committees</td>
<td>29 committees</td>
</tr>
<tr>
<td></td>
<td>66 petitions (50.7%)</td>
<td>64 petitions (49.3%)</td>
</tr>
<tr>
<td>1788</td>
<td>5 committees</td>
<td>20 committees</td>
</tr>
<tr>
<td></td>
<td>78 petitions (75%)</td>
<td>26 petitions (26%)</td>
</tr>
<tr>
<td>1789</td>
<td>7 committees</td>
<td>33 committees</td>
</tr>
<tr>
<td></td>
<td>126 petitions (64.9%)</td>
<td>68 petitions (35.1%)</td>
</tr>
<tr>
<td>1790</td>
<td>6 committees</td>
<td>21 committees</td>
</tr>
<tr>
<td></td>
<td>94 petitions (59.8%)</td>
<td>63 petitions (40.1%)</td>
</tr>
<tr>
<td>TOTAL</td>
<td>634 petitions (51.9%)</td>
<td>586 petitions (48.0%)</td>
</tr>
</tbody>
</table>

+cannot be calculated due to many journals being missing for this year.
*includes data from the spring 1784 session only.
### TABLE 11 Comparative View of Petitions and Legislation, 1784-1785

<table>
<thead>
<tr>
<th>State</th>
<th>Total</th>
<th>Petitions per Day</th>
<th>Petitions per Population&lt;sup&gt;4&lt;/sup&gt;</th>
<th>Private Laws Individuals</th>
<th>Private Laws Localities</th>
<th>Public Laws</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Hampshire&lt;sup&gt;5&lt;/sup&gt;</td>
<td>64</td>
<td>5.8</td>
<td>1 per 1371</td>
<td>2 (40.0%)</td>
<td>0</td>
<td>3 (60.0%)</td>
</tr>
<tr>
<td>Vermont&lt;sup&gt;6&lt;/sup&gt;</td>
<td>58</td>
<td>3.8</td>
<td>1 per 820</td>
<td>0</td>
<td>2 (28.5%)</td>
<td>5 (71.4%)</td>
</tr>
<tr>
<td>New York&lt;sup&gt;7&lt;/sup&gt;</td>
<td>359</td>
<td>4.6</td>
<td>1 per 586</td>
<td>19 (26%)</td>
<td>18 (25%)</td>
<td>35 (48%)</td>
</tr>
<tr>
<td>Pennsylvania&lt;sup&gt;8&lt;/sup&gt;</td>
<td>149</td>
<td>2.8</td>
<td>1 per 2196</td>
<td>0</td>
<td>3 (75%)</td>
<td>1 (25%)</td>
</tr>
<tr>
<td>Maryland&lt;sup&gt;9&lt;/sup&gt;</td>
<td>160</td>
<td>2.5</td>
<td>1 per 1549</td>
<td>39 (45.3%)</td>
<td>25 (29%)</td>
<td>22 (25%)</td>
</tr>
<tr>
<td>Virginia&lt;sup&gt;10&lt;/sup&gt;</td>
<td>305</td>
<td>3.9</td>
<td>1 per 1763</td>
<td>12 (10.4%)</td>
<td>41 (35.6%)</td>
<td>62 (53.9%)</td>
</tr>
<tr>
<td>North Carolina&lt;sup&gt;11&lt;/sup&gt;</td>
<td>123</td>
<td>3.5</td>
<td>1 per 2196</td>
<td>7 (10.4%)</td>
<td>38 (56.7%)</td>
<td>22 (32.8%)</td>
</tr>
<tr>
<td>South Carolina&lt;sup&gt;12&lt;/sup&gt;</td>
<td>141</td>
<td>2.5</td>
<td>1 per 1285</td>
<td>21 (52.5%)</td>
<td>16 (40%)</td>
<td>3 (7.5%)</td>
</tr>
<tr>
<td>TOTALS</td>
<td>1359</td>
<td>3.6</td>
<td>1 per 1404</td>
<td>100 (25.1%)</td>
<td>143 (36.1%)</td>
<td>153 (38.5%)</td>
</tr>
</tbody>
</table>

---

<sup>4</sup> Population statistics come from the *Historical Statistics of the United States: Millennium Edition*; includes total population. Population statistics, all from Table Egl-59 (1780), are as follows: New Hampshire—87,802; Vermont—47,600; New York—210,541; Maryland—247,959; Pennsylvania—327,305; Virginia—538,004; North Carolina—270,133; and South Carolina—180,000. 1780 was selected for baseline population comparison because figures exist for all the colonies at that point.

<sup>5</sup> A Journal of the Proceedings of the Honorable House of Representatives of the State of New Hampshire at the First Session of the Second Court (Portsmouth: Robert Gerrish, 1785). Session ran from June 1 to June 24, 1785.

<sup>6</sup> A Journal of the Proceedings of the General Assembly of the State of Vermont (Windsor: Hough and Spooner, 1785). The session began June 2, 1785 and ended June 18, 1785. Vermont did not join the union as a full state until 1791; until that time it functioned as an independent state.


<sup>8</sup> Minutes of the First Session of the Tenth General Assembly of the Commonwealth of Pennsylvania (Philadelphia: Hall and Sellers, 1785). Session began October 27, 1785 and ended December 27, 1785.


# TABLE 12 Comparative View of Petitions and Legislation, 1793-1795

<table>
<thead>
<tr>
<th>State</th>
<th>Total</th>
<th>Petitions per Day</th>
<th>Petitions per Population&lt;sup&gt;13&lt;/sup&gt;</th>
<th>Private Laws Individuals</th>
<th>Private Laws Localities</th>
<th>Public Laws</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Hampshire&lt;sup&gt;14&lt;/sup&gt;</td>
<td>78</td>
<td>2.8</td>
<td>1 per 1819</td>
<td>6 (10.0%)</td>
<td>21 (70.0%)</td>
<td>3 (20.0%)</td>
</tr>
<tr>
<td>Vermont&lt;sup&gt;15&lt;/sup&gt;</td>
<td>111</td>
<td>6.5</td>
<td>1 per 768</td>
<td>36 (34.2%)</td>
<td>48 (45.7%)</td>
<td>21 (20.0%)</td>
</tr>
<tr>
<td>New York&lt;sup&gt;16&lt;/sup&gt;</td>
<td>345</td>
<td>4.7</td>
<td>1 per 985</td>
<td>20 (26.3%)</td>
<td>39 (51.3%)</td>
<td>17 (22.3%)</td>
</tr>
<tr>
<td>Pennsylvania&lt;sup&gt;17&lt;/sup&gt;</td>
<td>222</td>
<td>1.8</td>
<td>1 per 1956</td>
<td>11 (14.2%)</td>
<td>45 (58.4%)</td>
<td>21 (27.2%)</td>
</tr>
<tr>
<td>Maryland&lt;sup&gt;18&lt;/sup&gt;</td>
<td>138</td>
<td>2.8</td>
<td>1 per 2316</td>
<td>26 (36.1%)</td>
<td>35 (48.6%)</td>
<td>11 (15.2%)</td>
</tr>
<tr>
<td>Virginia&lt;sup&gt;19&lt;/sup&gt;</td>
<td>227</td>
<td>5.4</td>
<td>1 per 3047</td>
<td>24 (26.3%)</td>
<td>44 (48.3%)</td>
<td>23 (25.2%)</td>
</tr>
<tr>
<td>North Carolina&lt;sup&gt;20&lt;/sup&gt;</td>
<td>91</td>
<td>2.8</td>
<td>1 per 4326</td>
<td>15 (20.0%)</td>
<td>41 (54.6%)</td>
<td>19 (25.3%)</td>
</tr>
<tr>
<td>South Carolina&lt;sup&gt;21&lt;/sup&gt;</td>
<td>150</td>
<td>7.8</td>
<td>1 per 1660</td>
<td>0 (0%)</td>
<td>6 (66.6%)</td>
<td>3 (33.3%)</td>
</tr>
<tr>
<td>TOTAL</td>
<td>1362</td>
<td>4.3</td>
<td>1 per 2109</td>
<td>138 (25.7%)</td>
<td>279 (52.1%)</td>
<td>118 (22.0%)</td>
</tr>
</tbody>
</table>

<sup>13</sup> Based on the 1790 census. Vermont (85,341), New Hampshire (141,885), New York (340,120), Pennsylvania (434,373), Maryland (319,728), Virginia (691,737), North Carolina (393,751), and South Carolina (249,073).


<sup>16</sup> *Journal of the Assembly of the State of New York* (New York: Francis Childs, 1795). Session began January 6, 1795 and ended April 9, 1795.


<sup>18</sup> *Votes and Proceedings of the House of Delegates of the State of Maryland, November Session 1794* (Annapolis, 1795). Session began November 4, 1794 and concluded December 27, 1794. Session began November 4, 1794 and ended December 27, 1794.

<sup>19</sup> *Journal of the House of Delegates of the Commonwealth of Virginia* (Richmond: Augustine Davis, 1795). Session began November 11, 1795 and ended December 29, 1795.

<sup>20</sup> *Journal of the House of Commons of the State of North-Carolina* (Raleigh: Abraham Hodge, 1796). The session began November 3, 1795 and ended December 9, 1795.

<table>
<thead>
<tr>
<th>State</th>
<th>Total</th>
<th>Petitions per Day</th>
<th>Petitions per Population</th>
<th>Private Laws Individuals</th>
<th>Private Laws Localities</th>
<th>Public Laws</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Hampshire</td>
<td>97</td>
<td>7.4</td>
<td>1 per 1895</td>
<td>3 (9.0%)</td>
<td>24 (72.7%)</td>
<td>6 (18.1%)</td>
</tr>
<tr>
<td>Vermont</td>
<td>198</td>
<td>7.9</td>
<td>1 per 780</td>
<td>24 (20.0%)</td>
<td>75 (62.5%)</td>
<td>21 (17.5%)</td>
</tr>
<tr>
<td>New York</td>
<td>331</td>
<td>5.8</td>
<td>1 per 1770</td>
<td>23 (18.2%)</td>
<td>89 (64.9%)</td>
<td>25 (16.7%)</td>
</tr>
<tr>
<td>Pennsylvania</td>
<td>407</td>
<td>3.9</td>
<td>1 per 1480</td>
<td>31 (28.7%)</td>
<td>58 (53.7%)</td>
<td>19 (17.5%)</td>
</tr>
<tr>
<td>Maryland</td>
<td>380</td>
<td>5.9</td>
<td>1 per 898</td>
<td>18 (16.2%)</td>
<td>72 (64.8%)</td>
<td>21 (18.9%)</td>
</tr>
<tr>
<td>Virginia</td>
<td>195</td>
<td>3.3</td>
<td>1 per 4539</td>
<td>19 (19.7%)</td>
<td>54 (56.2%)</td>
<td>22 (22.9%)</td>
</tr>
<tr>
<td>North Carolina</td>
<td>229</td>
<td>7.6</td>
<td>1 per 2087</td>
<td>12 (11.4%)</td>
<td>74 (70.4%)</td>
<td>19 (18.0%)</td>
</tr>
<tr>
<td>Georgia</td>
<td>56</td>
<td>1.8</td>
<td>1 per 2905</td>
<td>6 (14.6%)</td>
<td>22 (53.6%)</td>
<td>13 (31.7%)</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>1893</td>
<td><strong>5.4</strong></td>
<td>1 per 2044</td>
<td><strong>136 (18.1%)</strong></td>
<td><strong>468 (62.4%)</strong></td>
<td><strong>146 (19.4%)</strong></td>
</tr>
</tbody>
</table>

22 Based on the 1800 census. Vermont (154,465), New Hampshire (183,858), New York (586,182), Pennsylvania (602,365), Maryland (341,543), Virginia (885,171), North Carolina (478,103), and Georgia (162,686).


29 *Journal of the House of Commons of the State of North-Carolina* (Raleigh: Joseph Gales, 1806). The session began November 18, 1795 and ended December 21, 1805.

30 *Journal of the House of Representatives of the State of Georgia.* Augusta: George F. Randolph, 1805. Session began November 4, 1805 and ended December 7, 1805. I substituted Georgia for South Carolina because of the unavailability of the journals for South Carolina for 1805.
<table>
<thead>
<tr>
<th>Newspaper</th>
<th>Location</th>
<th>Editor</th>
<th>Dates</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Encyclopedia Instructor, and Farmer's Gazette</td>
<td>Edenton</td>
<td>James Wills, Robert Archibald</td>
<td>1800</td>
</tr>
<tr>
<td>The Post-Angel, or Universal Entertainment (became Edenton Gazette)</td>
<td>Edenton</td>
<td>Joseph Beasley for Robert Archibald</td>
<td>1800</td>
</tr>
<tr>
<td>Herald of Freedom (continuation of the State Gazette of North Carolina)</td>
<td>Edenton</td>
<td>James Wills</td>
<td>1799</td>
</tr>
<tr>
<td>Fayetteville Gazette</td>
<td>Fayetteville</td>
<td>Burkloe and Mears</td>
<td>1789</td>
</tr>
<tr>
<td>North Carolina Chronicle; or, Fayetteville Gazette</td>
<td>Fayetteville</td>
<td>John Sibley &amp; Co.</td>
<td>1789-1791</td>
</tr>
<tr>
<td>Fayetteville Gazette</td>
<td>Fayetteville</td>
<td>Alexander Martin for John Sibley</td>
<td>1792-1793</td>
</tr>
<tr>
<td>The North Carolina Centinel and Fayetteville Gazette</td>
<td>Fayetteville</td>
<td>Thomas Connoly &amp; Co.</td>
<td>1795</td>
</tr>
<tr>
<td>The North-Carolina Minerva, and Fayetteville Advertiser</td>
<td>Fayetteville</td>
<td>Hodge and Boylan</td>
<td>1796-1799</td>
</tr>
<tr>
<td>The North Carolina Journal</td>
<td>Halifax</td>
<td>Abraham Hodge</td>
<td>1792-1805</td>
</tr>
<tr>
<td>The North Carolina Gazette</td>
<td>Hillsborough</td>
<td>Robert Ferguson for Thomas Davis</td>
<td>1785-1786</td>
</tr>
<tr>
<td>The North Carolina Gazette</td>
<td>Newbern</td>
<td>Robert Keith</td>
<td>1783-1784</td>
</tr>
<tr>
<td>The North Carolina Gazette</td>
<td>Newbern</td>
<td>James Davis</td>
<td>1784-1785</td>
</tr>
<tr>
<td>State Gazette of North Carolina</td>
<td>Newbern</td>
<td>Henry Wills and Abraham Hodge</td>
<td>1786-1788</td>
</tr>
<tr>
<td></td>
<td>Edenton</td>
<td>Abraham Hodge</td>
<td>1788-1799</td>
</tr>
<tr>
<td>The North-Carolina Gazette</td>
<td>Newbern</td>
<td>Francois X. Martin</td>
<td>1786-1798</td>
</tr>
<tr>
<td>The Newbern Gazette</td>
<td>Newbern</td>
<td>John C. Osborn</td>
<td>1798-1804</td>
</tr>
<tr>
<td></td>
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<td>John C. Pasteur</td>
<td></td>
</tr>
<tr>
<td>North Carolina Circular</td>
<td>Newbern</td>
<td>Franklin and Garrow</td>
<td>1803-1805</td>
</tr>
<tr>
<td>The North-Carolina Minerva, and Raleigh Advertiser</td>
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<td>Hodge and Boylan</td>
<td>1799-1810</td>
</tr>
<tr>
<td>Raleigh Register</td>
<td>Raleigh</td>
<td>Joseph Gales</td>
<td>1799-1820</td>
</tr>
<tr>
<td>The North Carolina Mercury and Salisbury Advertiser</td>
<td>Salisbury</td>
<td>Francis Coupee</td>
<td>1798-1801</td>
</tr>
<tr>
<td>Warrenton Messenger</td>
<td>Warrenton</td>
<td>Richard Davison</td>
<td>1802-1808</td>
</tr>
<tr>
<td>The Wilmington Centinel</td>
<td>Wilmington</td>
<td>Bowen and Howard</td>
<td>1788-1789</td>
</tr>
<tr>
<td>The Wilmington Chronicle and North Carolina Weekly Advertiser</td>
<td>Wilmington</td>
<td>James Carey John Bellew</td>
<td>1795-1796</td>
</tr>
<tr>
<td>Hall’s Wilmington Gazette</td>
<td>Wilmington</td>
<td>Allmand Hall</td>
<td>1797-1816</td>
</tr>
<tr>
<td>Cape Fear Herald</td>
<td>Wilmington</td>
<td>William Boylan Duncan Ray</td>
<td>1802-1805</td>
</tr>
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</table>