

ESTATOEE

A QUARTERLY NEWSLETTER OF THE YANCEY HISTORY ASSOCIATION
Volume I, Number 2 April, 1986

ESTATOEE (ěs-tă-tô-ě): Also spelled Estootowie in early records. A Cherokee Indian place name, shortened to Estatoe/Estatoah, from which the name Toe/Towe River is derived.

Minutes of the previous meeting. The Association held its initial and reorganizational meeting on January 26, 1986, in accordance with the mandate of its Charter. The location was the Library in Burnsville, at 2 p.m. Kenneth Nelson, as President of the Yancey County Sesquicentennial Committee, presided and the group proceeded to the election of officers (Directors). Those elected, and the capacity in which they have agreed to serve for the following year, are: President, Kenneth Nelson; Vice-President and Program Chairman, Lloyd Bailey; Treasurer, Paul Kardulis; Secretary, Theresa Blankenship; Director, John Young. The group then moved that Robert Oldham (as the former Chairman of the Association) and Bill Young (as Parliamentarian) be invited to serve as Directors.

Quarterly meetings of the Association are to be in April, June, September, and November, ordinarily on the afternoon of the third Sunday.

A brief report about projects that are in progress was then given: volumes of photographs and on the military history of the County. A partial list of soldiers from the Toe River Valley who served in the Union Army was shared with the group.

A proposed revision of the Association's Charter was then introduced by Lloyd Bailey, for possible enactment at the next annual meeting.

The announced program for the occasion was the final order of business: a slide presentation by Lloyd Bailey, entitled "The Toe River Valley and the War With Mexico." Various documents relating to this event in local history were made available to those present through the Newsletter.

The next meeting was announced for April 20, 1986, at the Library in Burnsville, at 2 p.m.

Tentative plans for the June meeting are that John Young and David Moore (of the Western Office of Archives and History) will speak on Native Americans in Yancey.

CONTENTS OF THE PRESENT ISSUE:

1. Yancey County: A Bibliography (2-5)
2. Publications by the Old Buncombe County Genealogical Society: prospects (and order form) for Vol. II, and Vol. I in retrospect. (6)
3. Documents related to Yancey's participation in the so-called Kirk-Holden War (1870), which was the program topic of the meeting. (7-22)
4. Map of Stanley McCormick Cemetery.

CORRESPONDENCE WITH THE ASSOCIATION:

Ms. Theresa Blankenship
Secretary, Yancey History Assoc.
108 Town Square
Burnsville, N.C. 28714

YANCEY COUNTY: A BIBLIOGRAPHY
(compiled by Lloyd Bailey, 1986)

- Ammons, John. Outlines of History of French Broad Association and Mars Hill College. Raleigh: Edwards and Broughton, 1907. Ammons served as pastor of the Baptist Church in Burnsville and President of the Academy. Events relating to both appointments are mentioned, as well as events with the denomination in general.
- Arthur, John Preston. Western North Carolina: A History. Raleigh: Edwards and Broughton, 1914. A respected and original work; Available through the Reprint Co. (Spartanburg, S.C.). Yancey is mentioned in a sustained fashion on pp. 178-181, 603-605. The former concerns the memories of "Grandma Gardner."
- Bailey, Lloyd R. News From Yancey: Articles from Area Newspapers, 1840-1900. Burnsville: Yancey Graphics, 1983. Sesquicentennial Publication No. 1. Pp. 83.
- _____. History of Methodism in the Toe River Valley. Celo, N.C.: Celo Press, 1986. Available through Higgins Memorial United Methodist Church in Burnsville, N.C. Approximately 500 pp.
- _____. "Sesquicentennial Corner: Yancey County, 1833-1983." A series of articles in The Yancey Journal (Burnsville, N.C.), beginning in 1984.
- Battle, Kemp Plummer. Memories of an Old-Time Tar Heel. Chapel Hill: U.N.C. Press, 1945. Chapter X (pp. 87-95) relates a visit to Burnsville in 1848, when this future president of UNC stayed at Milton Penland's Hotel (forerunner of Nu-Wray Inn).
- Colton, Henry E. Mountain Scenery. Raleigh: W.L. Pomeroy, 1859. Chapter X: "The Black Mountains"; Chapter XI: "The Roan Mountain"; Chapter XIII: "Pleasant Country Stopping-Places." In the last of these chapters he describes the hotel of R.B. Penland ("Flat Rock House") at what is now Penland, N.C.
- Dawley, Thomas Robinson, Jr. The Child That Toileth Not. New York: Garcia, 1913 (2nd edition). Advances the thesis that children who worked long hours in the cotton mills (around the turn of the century) were better off than many children in rural W.N.C. To make his point, he picked impoverished families, interviewed and sometimes photographed them. Material about Yancey may be found in Chapter XXVII ("Egypt") and XVII ("Reports of the Families Gone to the Mills"). (If you hated Cabins in the Laurel, you will despise this one!)
- Deyton, Jason Basil. "The Toe River Valley to 1865." M.A. Thesis at UNC; published in The North Carolina Historical Review, XXIV, no. 4 (Oct., 1947), 423-466. Although much of the material has been gleaned from Minutes of the County Court, it's reports of information from persons who lived during the Civil War period are irreplaceable.
- Durham, Robert Lee. Since I Was Born. Richmond: Whittet and Shepperson, 1953. Describes, in one of its chapters, a journey through Yancey in the early 1900's, including conversations with "Mont" Ray and a stay at Johnson's Hotel at Hunt Dale.

(Yancey Bibliography, 2)

- Edwards, Virgil L. The Appalachian Mountain Log Book. Burnsville: Edwards Printing Co., 1955. Contains a variety of articles: Indian battles and legends; dialect of the southern mountaineer; candy pullin'; poetry; etc.
- Floods on North Toe River and Beaver and Grassy Creeks. TVA Division of Water Control and Planning. (Item NC 91756 T in Carolina Room, UNC-CH).
- Harshaw, Lou. Trains, Trestles, and Tunnels. Asheville: Hexagon Co., 19___. Contains photos and discussion of the Yancey Railroad.
- Harper's New Monthly Magazine. No. XC (Nov. 1857), Vol. XV, pp. 721-740: "A Winter in the South." Describes a journey from Jonesboro, Tenn. across Roan Mtn., through Mitchell Co., to Burnsville. Contains a number of sketches by the renowned "Pencil Box" Strother. Reprinted in The Old South, Illustrated.
- _____. No. ? (Dec., 1857-May, 1858), Vol. XVI, pp. 167-183. Continuation of the previous entry: the journey continues from Burnsville to Bald Mountain, then into Tennessee.
- Higgins, Jody (ed.). Flood Disaster: November 6, 1977. Burnsville: Yancey Graphics, 1977. Approximately 75pp. of photos of the aftermath of the flood which struck Yancey on that date.
- _____. Common Times: Written and Pictorial History of Yancey County. Burnsville: Yancey Graphics, 1981 (2nd printing, 1982). 83pp., much of it reprints of articles from her four previous issues of Common Times.
- Hicks, George L. Appalachian Valley. NY: Holt, Rinehart and Winston, 1976. Uses assumed names for persons and places (e.g., it is set in "Little Laurel Valley" in Kent County), but it actually is a sociological study of South Toe River Township in Yancey County in the 1960's. Contains several photos.
- Hunter, Edgar F., Jr. History of Yancey Collegiate Institute. M.A. Thesis, Appalachian State University, 1952.
- Inventory of the Church Archives of North Carolina: Yancey Baptist Association. Raleigh: Historical Records Survey Project, Feb., 1942; 43pp. (Typescript)
- History and Geography of Yancey County. Published by the Teacher Training Class of Burnsville, 1930. Reprinted by Yancey Graphics. 59pp.
- Jolts and Scrambles, or We Uns and Our Duin's. Philadelphia: Times Printing House, 1884. Relates a tour through WNC in 1884, many pages of which are devoted to Mitchell and Yancey Counties. Has numerous photos and drawings. (A rare book, privately printed, it is most easily available on microfilm from the Carolina Room, UNC-CH.)
- Merrimon, Augustus S. (Judge). "The A.S. Merrimon Journal, 1853-1854." Published in The North Carolina Historical Review, VIII (1931), pp. 327-330. A diary of interesting events in Yancey's courts.

(Yancey Bibliography, 3)

- Morley, Margaret. The Carolina Mountains. Chapter XXIX: "The Forks of the River Toe." An interesting book from beginning to end, with photos.
- Olmstead, Frederick Law. A Journey in the Back Country. New York: Mason Brothers, 1863. Pp. 266-269 related his trip through Yancey and Mitchell (in the 1840's?), including an unforgettable story about Bakersville.
- Ross, Malcolm. "My Neighbors Hold to Mountain Ways." The National Geographic Magazine, CXIII, no. 6 (June, 1958), pp. 856-880. Interesting text and photos. Another of those articles which aroused mixed feelings, locally.
- Schenck, David (Judge). A typescript of the diary of this Circuit Court Judge is preserved in the Southern Historical Collection at UNC-Ch. Vol. 8, pp. 21-37 (for Oct. 12, 1879-Nov. 7, 1879) are about court in Yancey. Quite colorful, with mention of several local citizens who were in deep legal troubles.
- Sheppard, Muriel E. Cabins in the Laurel. Chapel Hill: UNC Press, 1935. It has gone through various printings (4th revised, 1965), with variations in photographs (wonderful photos done by Bayard Wootten, who was female, by the way). The photographic plates are now part of the Carolina Collection, UNC-Ch. A wonderful book that aroused much opposition since it depicted the old times rather than "progress." The events that led to its publication are related by Charles Alan Watkins, "Merchandising the Mountaineer," in Appal, Spring, 1985, pp. 215-238. (This periodical is a publication of Appalachian State University.)
- _____. "The Forgotten Valley." South Atlantic Quarterly, XXXIII (1934), pp. 63-82. Contains supplements to interviews in Cabins in the Laurel, plus some new ones (among the most interesting being with a woman of Negro and Indian ancestry).
- Southern Regional Council, Report L-27 (Oct. 5, 1961). Concerns integration of the Public Schools of Yancey County. (Item Cp 379.4 Y21s in the Carolina Room, UNC-Ch?).
- The State Magazine (Raleigh, N.C.) contains many articles, e.g.,:
- IV, no. 46 (April 17, 1937): "Taking Timber for a Ride"
 - IX, no. 6 (July 12, 1941): "Ogle Meadow"
 - XII, no. 18 (Sept. 30, 1944): "The Cane River Valley"
 - XII, no. (Dec. 9, 1944): "New Mountain Industry" (pipe factory!)
 - XIII, no. (March 10, 1945): "Where Folks Really Eat" (Nu-Wray Inn)
 - XIV, no. 16 (Sept. 14, 1946): "He's Far Away From His Customers" (Lusk Edwards)
 - XV, no. 9 (Aug. 2, 1947): "Nate Dempsey and Tom Wilson"
 - XVI, no. 50 (May 14, 1949): "Jack Dempsey's Grandfather" (erroneous)
 - XVII, no. 39 (Feb. 25, 1950): "They Helped Build North Carolina" (Rush Wray)
 - XX, no. 2 (June 14, 1952): "Valley on the Roof of North Carolina"
 - XX, no. 25 (Nov. 22, 1952): "Lost Cove"
 - XIX, no. 3 (June 16, 1951): "The Citizens of Lost Cove"
 - XXI, no. 8 (July 25, 1953): "A Trip to Flattop in the Balds"
 - XXI, no. 48 (May 8, 1954): "Big Bald--the Mountain"

(Yancey Bibliography, 4)

The State Magazine (contd.)

- XX, no. (Jan. 10, 1953): "The Smithy's House" (Daniel Boone, VI)
 XXVII, no. 25 (May 14, 1960): "From Murphy to Manteo" (notes on Daniel Boone, VI, and Ewart Wilson)
 XXVIII, no. 9 (Oct. 1, 1960): contains a variety of articles on Yan.

Warner, Charles Dudley. On Horseback: A Tour in Virginia, North Carolina, and Tennessee. Boston: Houghton, Mifflin, and Co., 1896. Chapters II and III (pp. 42-110) are about Yancey and Mitchell, including a weekend in Burnsville.

Wheeler, G. A. Pellagra in the Mountains of Yancey County, North Carolina. Reprint No. 619 of Public Health Reports, Oct. 22, 1920 (pp. 2509-2514). Washington: Govt. Printing Office, 1920.

Young, James Oliver. A Baptist Looks Back. Asheville: Miller Printing Co., 1968. (Available from Mrs. Young, who lives in Boone, N.C.) Developments in Madison-Yancey-Mitchell, ca. 1807-present.

Zeigler, Wilbur G., and Ben S. Grosscup. The Heart of the Alleghanies or Western North Carolina. Raleigh: Alfred Williams and Co., 1883. Pp. 46-47, 114-123, 202-203, 270-277 are about Yancey and Mitchell.

SUPPLEMENT:

Duls, Louisa DeSaussure. The Story of Little Switzerland. Printed in Richmond by Whittet and Shepperson, copyright by Louisa D. Duls, 1982 (282pp.). Contains numerous references to Yancey, especially in relationship to arts, music, etc.: see index under Burnsville, Rush Wray, and Yancey.

Yancey County: An Appraisal of Potential for Outdoor Recreational Development. Board of Supervisors, Yancey Soil and Water Conservation District, March, 1972. Mimeographed, 43pp., with photographs.

Way, William, Jr. The Clinchfield Railroad. Chapel Hill: UNC Press, 1931, 297pp. Several photos; consult "Yancey County" in the index.

Schwarzkopf, S. Kent. A History of Mt. Mitchell and the Black Mountains. Raleigh: N.C. Dept. of Cultural Resources, 1985, 117pp., with maps and photos. An interesting and well researched volume, but it has the maddening habit of not giving the location of its sources (e.g., on p. 32, it quotes an article by William Riddle of Pensacola who served as Elisha Mitchell's guide in 1844).

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The volume will contain several articles, with photos, about families from Yancey. The ones known to me are: twenty-one articles by Lloyd Bailey (under various pseudonyms) on Bailey, Moore, Adams, Conley, Honeycutt, Howell, McCourry, Ray, Thomas, Van Loon, Deaton (Deyton), etc.; three articles by Terry Edwards on Masters, Peterson, and Edwards; three articles by Theresa Blankenship and Gladys Coletta; article(s) by Dr. Mary Lou Byrd Cowan.

The deadline for manuscripts has now passed, so that those who desire the volume at a discount price should act soon. Vol. I contained 492pp., including articles involving the following Yancey families: Levi Bailey, one of the County's initial Commissioners (no. 215); Aaron Burleson family (no. 252-A); Edward Carter (no. 266); James Anderson family (no. 211); William Anderson family (no. 212); Daniel Angel, Sr. (no. 212-A); Wright Hutchings (no. 390); Malcolm McCourry (no. 448); Malcolm McCurry (no. 451); William Troy McCurry (no. 452); McFeeture Family (no. 453); Abner Mullins family, including Hamptons (no. 483); John Wesley Phillips (no. 510); The Ray Family (526); Joseph Letcher Reynolds (no. 543); Ellis Robinson family (557); Gabriel Sams family (no. 562); Jacob Silver (no. 576); Bacchus Jarrett Smith, although the article does not mention Yancey: he owned a hotel on the town square, and his descendants still live in Yancey (no. 592-A). Articles 43, 43-A, in the general history section, are about Yancey (reproduced from Common Times, edited by Jody Higgins).

A comparable volume is The Heritage of Burke County, published in 1981 by Burke Co. Historical Society, P.O. Box 151, Morganton, N.C., 28655 (516pp.). Remember that the area of present Yancey was formerly part of Burke and part of Buncombe. This volume contains the following items on Yancey families: James Greenlee (no. 293); James Moffitt McDowell (no. 457); Frankie Silver (no. 625).

The Buncombe volume will also have an article on veterans of the Revolution who lived in Yancey (brief discussion of 31 individuals, by Lloyd Bailey), and possibly articles on the Garland family (by Paul Garland of Kingswood, Texas).

Yancey County Troops In The Kirk-Holden War
DOCUMENTATION

The topic for the Association's meeting on April 20, 1986, was: "The Kirk-Holden War of 1870," with emphasis upon the role that soldiers from the Toe River Valley (and Yancey County in particular) played in it. For secondary sources, see the attached bibliography. Specimens of some of the primary sources are reproduced herein:

1. Part of the muster-roll for Co. B, 2nd N.C. State Troops, recruited by Col. George W. Kirk. From the Adjutant General's file in the State Archives. A total of 38 men in this company list Yancey Co. as their birth-place (which would have included present Mitchell and Avery Counties). The total regiment had 9 companies totaling 670 men (not all of whom were from N.C.). Companies B, D, and E were present Yancey men; Co. F from Mitchell. Records are incomplete, however.

2. A list of food-supplies issued to Kirk's troops at Company Shops (Burlington) on Aug. 19, 1870. From Adjutant General's file.

3. Testimony by Yancey Legislator Greed Fulton Young at the impeachment trial of Governor William W. Holden in 1871. He was asked about the general reputation of Kirk's troops among the citizens of Yancey County. He is the son of John P. and Perlina Young, of Newdale.

4. Testimony of Solicitor Virgil S. Lusk before the U.S. Senate, concerning activities of the KKK in his judicial district (which included Yancey County). (V. Lusk Edwards of Mine Fork was named for him.)

5. Articles from regional (Asheville) newspapers, relating to KKK activity in Yancey County.

BIBLIOGRAPHY

Trial of William W. Holden. Published by order of the Senate. Raleigh: Sentinel Printing Co., 1871; 3 vols.

Folk, Edgar E., and Bynum Shaw. W.W. Holden. Winston-Salem: Blair, 1982.

Hamilton, Joseph G. de Roulhac. Reconstruction in North Carolina. Vol. LVIII of Studies in History, Economics and Public Law. New York: Columbia University, 1914, pp. 683. Chapter 13, entitled "The Reign of Terror," is about the so-called Kirk-Holden War.

_____. History of North Carolina. Vol. III of North Carolina Since 1860. Chicago: Lewis Publishing Co., 1919, pp. 343. Chapter 8, "The Downfall" concerns our topic. Hamilton's works are thorough, but hardly impartial: his denunciation of Republican reconstruction is vitriolic and unrelenting.

Sheppard, Muriel Earley. Cabins in the Laurel. Chapel Hill: U.N.C. Press, 1935 (4th revised printing, 1965). See pp. 70-72 for the memories of Reuben Mosley.

Zuber, Richard L. North Carolina During Reconstruction. Raleigh: Dept. of Cultural Resources, 1975, pp. 67

We, whose signatures appear below, have taken and subscribed the following oath: "I, _____ do solemnly swear that I will support and maintain the constitution and Laws of the United States and the Constitution and Laws of North Carolina, not inconsistent therewith. So help me God."

No.	NAME.	AGE.	HEIGHT.	WHERE BORN.	WHEN ENROLLED.	BY WHOM.	SIGNATURE.	REMARKS.
	William S. Garland	193	5-7	Yancey Co. N.C.	June 23 1862	Ed. S. W. King	William S. Garland	
	Clingman Herrell	1894	5-9	" " "	" " "	" " "	T. C. Herrell	
	W. M. Garland	2nd 23	5-10	" " "	" " "	" " "	W. M. Garland	
1st Sgt.	Olive Burleson	26	5-10	" " "	" " "	" " "	Olive Burleson	
2nd	E. M. Garland	24	5-11	" " "	" " "	" " "	E. M. Garland	
3rd	P. A. Jones	28	5-11	Jefferson Co Tenn	" " "	" " "	P. A. Jones	
4th	Thomas Baker	25	5-10	Carter " "	" " "	" " "	Thomas Baker	
5th	Allen Butler	30	5-10	Robeson Co N.C.	" " "	" " "	A. Butler	
1st Coy.	George W. Nichols	31	5-6	Philadelphia Penn	" " "	" " "	G. W. Nichols	
2nd	William Butler	23	5-9	Wm. Duwell Co N.C.	" " "	" " "	William Butler	
3rd	Mitchell Bird	23	5-6	Yancey " "	" " "	" " "	Mitchell Bird	
4	John Buchanan	20	5-7	" " "	" " "	" " "	John H. Buchanan	
5	Spencer Herrell	18	5-10	" " "	" " "	" " "	Spencer Herrell	
6	Eljah Sprindstaff	28	5-5	Carter Co Tenn	" " "	" " "	Eljah Sprindstaff	
7	David Hill	27	5-10	Yancey Co. N.C.	" " "	" " "	David Hill	
8	Silvester Webb	29	5-6	" " "	" " "	" " "	Silvester Webb	
1st	Adkins David	18	5-6	Carter Co Tenn	" " "	" " "	David Adkins	
2	Buchanan James Wp	18	6-0	Arkansas	" " "	" " "	Buchanan James Wp	
3	Burleson Jesse	18	6-0	Yancey Co N.C.	" " "	" " "	Jesse Burleson	
4	Barnett Henry	19	6-3	" " "	" " "	" " "	Henry Barnett	
5	Born John	22	6-1	" " "	" " "	" " "	John Born	
6	Butler Obadiah	21	5-8	Wm. Duwell Co N.C.	" " "	" " "	Obadiah Butler	
7	Bird Emmanuel	18	5-5	Yancey Co "	" " "	" " "	Emmanuel Bird	
8	Bird Hutton	18	5-4	" " "	" " "	" " "	Hutton Bird	
9	Bird George	43	5-5	Dumcomb " "	" " "	" " "	George Bird	
10	Burleson Johnathan	22	5-8	Yancey " "	" " "	" " "	Johnathan Burleson	
11	Born Nathaniel	18	5-6	" " "	" " "	" " "	Nathaniel Born	
12	Burchfield William	18	6-0	" " "	" " "	" " "	William Burchfield	
13	Burchfield David	18	5-6	" " "	" " "	" " "	David Burchfield	
14	Baker David	18	5-6	Carter Co Tenn	" " "	" " "	David Baker	
15	Burris J. P.	19	5-6	Wm. Duwell Co N.C.	" " "	" " "	J. P. Burris	
16	Carver Joseph	12	5-4	Carter Co Tenn	" " "	" " "	Joseph Carver	
17	Garland Joseph	19	6-0	Yancey Co N.C.	" " "	" " "	Joseph Garland	
18	Gouge Anderson	20	6-0	" " "	" " "	" " "	Anderson Gouge	
19	Green James	18	5-7	" " "	" " "	" " "	James Green	
20	Gilli Alfred	28	5-6	Ash Co N.C.	" " "	" " "	Alfred Gilli	
21	Garland Johnathan	18	5-6	Yancey Co N.C.	" " "	" " "	Johnathan Garland	
22	Hill Absalom	18	5-9	" " "	" " "	" " "	Absalom Hill	
23	Hill Seth	23	5-9	Wise Co Va	" " "	" " "	Seth Hill	
24	Hill John	20	5-7	Yancey Co N.C.	" " "	" " "	John Hill	
25	Harris P. R.	30	6-1	Wm. Duwell Co N.C.	" " "	" " "	P. R. Harris	

Received of Co. Shops. No. this 19th day of Aug. 1870 from J. M. Rulison Capt & Co. S. M. S. Troop. The following Subsistence Stores, viz.

No. Packs		Articles and Quantities
3	2796	Pounds Bulk meat
1	827	do Bacon "Smoked"
3	2957	do Bulk meat
1	825-	do Bacon Smoked
60	7405-	Bbls Flour
1	20	Pounds pepper
	822	do Yellow Sugar
	953	do Coffee
2	83½	Gallons vinegar
3	120	Pounds Candles
	400	do Soap
2	440	do Salt
1	254	do Yellow Sugar
	1188-	do Rice
12	893	do Hard Bread
1	49	do Molasses.
		amt of Invoice 2496.37

J. C. Wunier
 Capt & Adj. M.
 2^d Regt W. C. S.

357.99
N 873H
V. 1

"affiant knew something of the murder of Wyatt Outlaw. This affiant denied it. The said Burgen after pronouncing the denial a *damned lie*, said he would give this affiant till that night to tell about it. That night about 10 or 11 o'clock the said Burgen took this affiant to his tent and asked if he was ready to tell about the murder of Outlaw. Affiant replied that he had told him all he knew. Said Burgen then said, "Stop right there, you are telling a damned lie, I know that you do know and will make you tell it. He then took this affiant accompanied by said Hunnicutt and several men to the woods and again asked this affiant if he would tell about the murder. Affiant replying as before, the said Burgen said that Patten did not know anything till he hung him up and then he could tell all about it. He then asked affiant if he had anything to say. This affiant replied that he had said all he wished to say. Having put a rope about the neck of this affiant shortly after leaving the tent, the said Burgen then ordered the lieutenant, who threw the rope over the branch of a tree, to swing this affiant up. The lieutenant drew until the rope was stretched tight around this affiant's neck. Said Burgen then told the lieutenant "that will do," and asked affiant if he would then confess and the same reply was given as before. Affiant was then taken back to the tent. Affiant has been kept as a prisoner until released by his honor Judge Brooks, on yesterday.

GEORGE S. ROGERS.

"Sworn and subscribed before me this 19th day of August, 1870.

"WM. LARKINS,

"Clerk U. S. District Court, District Cape Fear."

WILLIAM H. BATTLE, *a witness on behalf of the Managers, was duly sworn:*

Mr. MERRIMON. Mr. Chief Justice, we propose to prove by the witness, Judge Battle, that it was a notorious fact in the city of Raleigh and upon almost everybody's tongue that Mr.

Raleigh: Sentinel Printing, 1871
3 Vols.

Patten had been hung and that other outrages had been perpetrated and that in that way the knowledge of the fact must have been brought to the attention of the respondent.

Mr. SMITH. We object, Mr. Chief Justice, to the proof offered. It must be shown that the fact was known to the governor. We submit that rumor does not furnish any ground upon which a state official can be impeached.

The CHIEF JUSTICE. The presiding officer is of the opinion that the evidence is not competent, the fact must be brought to the knowledge presumptively at least, as by the newspaper sent to his office every day containing the facts. Still the presiding officer does not desire to anticipate the argument in reference to its admissibility.

Mr. MERRIMON. I can cite the court to an authority. It was a case where a murder was committed near the Dismal Swamp, and it was allowed to be proved that there were runaway negroes who were living in the swamp.

Mr. CHIEF JUSTICE. For what purpose?

Mr. MERRIMON. As affording some evidence that somebody might have committed the murder besides the party charged. All I claim is that the fact that this was bruited about by everybody as some evidence that the governor knew it.

The CHIEF JUSTICE. The presiding officer is unable to see how rumor or hearsay can be admitted as evidence in a court of justice.

CREED F. YOUNG, *a witness called on behalf of the Managers, being duly sworn, testified as follows:*

By Mr. MERRIMON.

Q. State your name, age, place of residence and business?

A. My name is Creed F. Young; I reside at Burnsville, North Carolina; I am a merchant and trader generally and am thirty-one years of age.

Q. State whether you have any general acquaintance with the people in the counties of Yancey, Mitchell and Madison?

A. I have.

Q. State to the court if you know what was the reputation

of the men commanded by George W. Kirk in that section of the country during the late war? A. Bad.

Q. [By Mr. Smith.] Do you know their reputation? A. I do.

Q. Do you know it well or otherwise? A. I know it very well.

Q. What was their reputation? A. Stealing and robbing was their reputation.

Q. Give the senate an idea of the character of the men, whether they were orderly or disorderly or otherwise? A. I think they were disorderly, and most of them bad men. Some of them I have personal knowledge were very bad.

The CHIEF JUSTICE. It is not proper to give personal knowledge. What is wanted is their general character.

Q. How would you describe them to the court? A. As being a band of lawless men.

Q. Do you know whether any of these men were under Kirk in the military movement we have been taking testimony about here? A. Some of the men were with Kirk. I saw them in command of Kirk's officers and they said they belonged to Kirk's command.

Q. Did you see them go this way and come back? A. I did.

Q. Were these men members of his old force during the war any of them? A. Yes, sir.

Mr. MERRIMON. I suppose, Mr. Chief Justice, that I cannot speak of individual acts?

The CHIEF JUSTICE. The witness is not allowed to speak of personal knowledge of individual acts but of their general character.

Mr. MERRIMON. Then, as I understand the presiding officer, no individual acts done by these men are admissible.

The CHIEF JUSTICE. The ruling of the presiding officer is, that you must prove by general reputation the character of the men, that you cannot prove a particular fact to show a general bad character.

Cross Examination.

By Mr. SMITH.

Q. In what part of the state do you reside? A. West of the ridge, western North Carolina, Yancey county.

Q. Is that the county in which these troops were raised? A. Some of them were raised in that county.

Q. How many? A. Forty or fifty.

Q. Do you know the men personally? A. I do a great many of them—half of them or more.

Q. Do you know the character of them all? A. Most of them; I do not mean to say that I know the character of them all, but I do know the character of most of them.

Q. Is the character you have given their general reputation all over that county? A. That is their general reputation.

Q. Were these men in the United States army. They stated they belonged to Kirk's command. I saw them under the command of Kirk's officers.

Q. During the war? A. About the close of the war.

Q. Kirk's force was a United States force? A. I do not know.

Q. Do you not know whether they were under the United States flag? A. They said they were.

Q. Don't you know that as well as you know that any other troops were under the United States flag? A. I suppose they were.

Q. These men were a part of the same men who were disbanded when the war was over? A. Yes, sir.

Q. And they were re-enlisted in Kirk's last command? A. Yes, sir.

Q. You do not know the great bulk of Kirk's command, some eight hundred in number? A. No, sir.

Q. You only know of those you speak of? A. I know of some others from Mitchell county and Madison county.

Q. How far do you live from Mitchell county? A. About ten or twelve miles.

Q. From the line? A. Yes, sir.

Q. Do you know the reputation of the men in Mitchell county among their neighbors there? A. I think I do.

Q. Have you heard their neighbors generally speak of them? A. I think I have.

Q. How far do you live from some of these persons you speak of? A. Ten, fifteen or sixteen miles.

Q. How far from others? A. I just speak of those that I know of.

Q. You are fifteen miles from all that you know? A. From ten to twenty miles say.

Q. Twenty miles would take in the most distant of them you know? A. That is in Mitchell county.

Q. Do you undertake to say that you know the reputation of these men to be bad in the neighborhood in which they live? A. Most of them I think I do.

Q. In the neighborhood in which they live? A. Yes, sir, I think I do.

Q. You do not live in Mitchell county? A. No, sir.

Q. You live several miles from the county line? A. Some ten or twelve miles.

Q. Did these men have that reputation during the war? A. Yes, sir.

Q. They had that reputation among the confederate soldiers? A. It was their general reputation.

Q. Was not that the general reputation of all the United States forces in that part of the country? A. No, sir, it was not.

Q. What forces were there which had any better reputation? A. There were some forces there of whom I did not hear that they were robbing, stealing or plundering.

Q. Were there any other forces there except Kirk's in that part of the county? A. Yes, sir.

Q. United States forces? A. There were some men there I think who belonged to the 8th Tennessee.

Q. Who commanded them? A. Colonel Miller

Q. Did they have the same bad reputation? A. I think

some of few of them had a bad reputation but not as a general thing.

Q. Was this reputation of Kirk's troops which you speak of the result of their acts during the war? A. I have heard it during and since the war.

Q. Was their reputation which you have spoken of acquired during or since the war? A. During and since the war.

Q. It has continued since the war? A. Yes, sir.

Q. Do you know of any one of them to have been guilty of the acts of which you have spoken? A. Yes, sir. I have known of them being a band of robbers.

Q. Do you know that yourself? A. Yes, sir.

Q. Who do you know that of? A. One John Wilson, a lieutenant or captain. I know of his stealing.

Q. Since the war? A. Yes, sir, at my house. He had men with him robbing.

Q. Did you take any steps to arrest him at that time? A. It was just directly after the war closed.

Q. What has been their conduct since the war closed—have you heard anything? A. I have. I know that the sheriff tried to arrest this man Wilson, so he said, and he was unable to do it.

The CHIEF JUSTICE. You need not tell what the sheriff stated.

Q. You don't know whether they acquired this reputation by their conduct since there was a settled peace, or whether they acquired it during the war? A. What time was the war over? It was some time after the war that these depredations were committed. I do not know exactly how to answer your question.

Mr. GRAHAM. I believe that the president's proclamation announced that peace was restored in 1866.

Q. (By the Chief Justice.) Do you know what time the armies were disbanded? A. I do not know as I do.

Q. Were there some of these soldiers who were in the Con-

federate army before they went into the federal service? A. Yes, sir.

Q. They were in both armies? A. Yes, sir.

Q. Were you in the Confederate service? A. I was.

Q. Were you in that part of the country during the war? A. No, sir.

Q. You were at a distance? A. At a distance. I resigned and came home before the war closed. I was captain in the confederate army.

Q. When did you come home? A. In 1862 or 1863.

Q. And you remained there after that? A. Yes, sir.

Q. Were you in the service after that? A. No, sir.

Q. What regiment were you in? A. The 16th North Carolina.

Q. Who commanded it? A. Col. McElroy.

Q. You left the service in 1862 or 1863? A. Yes, sir.

Q. And were in the army no more? A. No, sir.

Re-Direct Examination.

By Mr. MERRIMON.

Q. Did you have any general acquaintance in the county of Mitchell and in the County of Madison, and if so, how did you become acquainted? A. I had been buying stock for several years and I became acquainted with the people by riding through those counties purchasing stock.

Q. State how extensive your acquaintance was? A. I am very well acquainted in the county of Yancey. There are but few people whom I don't know and I have a general acquaintance in the counties of Madison and Mitchell.

Q. I understood you to say in reply to a question that these men had belonged to both armies? A. Some of them had. I understood they belonged to the Confederate army, and they stated they had belonged to the United States army. I saw them under the command of United States officers.

Q. Do you know the reputation of Kirk in that country? A. Yes, sir.

Q. What is it? A. It is bad.

Q. In what respect? A. His general reputation is that of a robber and murderer.

Q. Do you know that this man Wilson committed any other outrages than the one you have referred to? A. Not of my own personal knowledge.

Re-cross Examination.

By Mr. SMITH.

Q. Do you know Col. Kirk personally? I know him when I see him.

Q. Do you know what his reputation is among his neighbors? A. Yes, sir.

Q. Where does he live? A. Near Greenville, Tennessee.

Q. How far from your residence? A. I suppose between 75 and 100 miles.

Q. Do you know what his reputation is among his neighbors 75 miles distant from you? A. I know what is talked of among them. I have heard several speak of him. I have been to Greenville, Tennessee, often where he lives.

Q. Were you ever at Jonesboro'? A. Yes, sir.

Q. Many times since Kirk has lived there? A. Yes, sir, since he has been living over there.

Q. Do you know what his reputation is among the people about Jonesboro'? A. I have heard his character spoken of.

Q. Do you know his general character and standing among the people at large? A. I don't know only from those I have heard speak of his character.

Q. Have you heard enough spoken of him there to know what the general opinion of him is? A. I have heard several speak of him. I do not know how many it would require to make up reputation.

Q. Have you been in that place for the last four or five years? A. Yes, sir, frequently.

Q. When last? A. About a year ago.

Q. Is that the last time you have been there? A. Yes, sir, I think so.

Q. Was Kirk there then? A. He was not living in Jonesboro'.

Q. Where was he? A. Somewhere near Greenville.

Q. You don't know where he was living? A. No, sir, I never was at his house.

Q. You don't know then what the opinion of his neighbors is, because you do not know where he lives? A. I never was at his house.

Q. You never saw that? A. I never did.

Q. You do not know who his neighbors were at that time? A. I suppose men living eight or ten miles from him might be regarded as his neighbors.

Q. But you do not know who were his surrounding neighbors? A. No, sir.

Q. And you don't know that you ever heard them say anything about him? A. No, sir.

Q. Did he live in this state since the war? A. No, sir.

Q. Don't you know that he kept a store? A. Directly after the war he had a store at Asheville, North Carolina.

Q. Do you know how long he kept that store? A. I do not know how long.

Q. Did he live in Asheville? A. I think he was there in his store.

Q. Was his family there? A. I do not know.

Q. Was that his residence? A. I do not know.

Q. What I desire to know is whether the reputation which you have spoken of was not based upon his conduct during the war while he was in command of a regiment—did you ever hear anything to his prejudice outside of his military operations? A. I don't know that I have.

Q. (By Mr. Merrimon.) Was he a very notorious person? A. He is said to be.

Senator JAMES A. GRAHAM, a witness called on behalf of the Managers, being duly sworn, testified as follows:

By Mr. MERRIMON:

Q. Look at this paper, I now give you a printed copy of the muster roll of Kirk's command, and say how many persons are named there who are persons of color? A. I find the name of Alfred Barnhill, of the town of Graham, Levi Dickey, I think he is a colored man, though I do not know him personally; I have learned that he is a colored man.

Mr. SMITH. I would like to enquire the object of this testimony.

Mr. MERRIMON. To show that colored men were enlisted in the service whereas the act provides that the two races shall be organized in different companies.

Mr. GRAHAM. The militia law of North Carolina requires a separate organization for each of the races.

Q. Do you find any others? A. Levi Hurdle is a colored man and Anderson Harrell.

Mr. SMITH. These men were volunteers, not members of the militia.

Mr. GRAHAM. Under our law the state cannot have anything but militia.

Mr. SMITH. I think the statute which the gentleman refers to speaks of the enrollment.

Q. Do you find any others? A. Aleck Ruffin is a colored man. These are all parties living in the town of Graham, and I have seen them in uniform with Colonel Kirk's troops.

Q. Do you notice any others which are put down as men of color? A. There is one other name—Edward Freeland. I think that he lives in the town of Graham, but I am not certain.

Q. Is the name of Hark Ruffin there? A. No, sir, his name is not here.

Cross-examination waived.

ALEXANDER C. McALLISTER, a witness on behalf of the Managers, being re-called, testified as follows:

By Mr. MERRIMON.

Q. Do you know of any colored men in the town of Graham

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TO THE

REPORTS OF THE COMMITTEES

OF THE

SENATE OF THE UNITED STATES

FOR THE

FIRST SESSION OF THE FORTY-SECOND CONGRESS

AND THE

SPECIAL SESSION OF THE SENATE.

1871.

From No. 1 to No. 5, inclusive.

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ment. But I am strongly inclined to the impression that to relieve them from their embarrassed condition would have a direct tendency to soothe the feelings which they now have. It is true that many of our talented men, many eminently high in the public estimation, are now laboring under disabilities, and their personal friends all the way down feel it.

Question. Has the removal of disabilities, in any case within your knowledge, produced that effect upon the persons whose disabilities have been removed?

Answer. There have several instances occurred among that class of gentlemen whose disabilities have been removed, where it seemed to act with a very fine influence in their whole circle; leavening the whole lump. That is what I have seen, and I have thought it was the result of the removal of those disabilities.

By Mr. BAYARD:

Question. How long have you been in the Christian ministry?

Answer. From 48 to 50 years.

Question. Has your ministrations all that time been among the people of North Carolina?

Answer. No, sir.

Question. During what period?

Answer. Much the larger portion.

Question. How has it been for the last 10 or 15 years?

Answer. Principally within the State of North Carolina.

Question. Has that enabled you to have an extensive knowledge of the feelings and character of that people?

Answer. Yes, sir; I have been at a large number of the most prominent points in the State.

WASHINGTON, D. C., February 8, 1871.

VIRGIL S. LUSK sworn and examined.

By the CHAIRMAN:

Question. Are you a citizen of North Carolina?

Answer. I am.

Question. In what part of that State do you live?

Answer. In the western part of the State.

Question. What is your occupation or profession?

Answer. I am a lawyer by profession.

Question. Do you occupy any official position?

Answer. I do.

Question. What is it?

Answer. I am solicitor for the eleventh judicial district of North Carolina.

Question. Is that the district of which Judge Henry is the judge?

Answer. It is.

Question. Will you now go on and give us your knowledge, as obtained from your official position and from observation, of the state of affairs existing in that district as regards the security of person and property?

Answer. The most of my information on that subject is what came to me officially. I know in regard to several outrages that have been reported to me. The first that came to my knowledge was committed, I think, about the first day of January, 1868, at Mars Hill, in the county of Madison. As I was informed, a band of some 18 or 20 men went to the house of a man of the name of Cox and called him out; he went to the door, and seeing a band of disguised men there, and knowing, I suppose, what their business was, he fled to the mountains; he was a leading republican in that part of the county. The band then went to the house of a man of the name of Briggs, who was also a republican, and called upon him to come out. The wife of Mr. Briggs was then in a delicate condition, and persuaded him to leave, and he also went to the woods. The band made some threats toward Mrs. Briggs, and she becoming frightened, gathered together her little children and fled to the woods, where she remained all night; during the night she was taken sick in the woods and came near dying. This band visited several other houses in the neighborhood. Finally, they went to the house of a colored man of the name of Brooks, took him out of his house and carried him off some distance; they then presented a pistol at his head, ordered him to get down on his knees and pray, and after making him promise not to vote the republican ticket any more they let him go. I caused a subpoena to be issued for some 4 or 5 witnesses and investigated the matter; and when our court came on at Marshall, I sent in a bill against about 20 persons who were supposed to have been in the party that committed the outrage; nobody knew exactly who they were; I also had three persons summoned as witnesses, who were supposed to have been in the raid, as it is called; one by the name of Liff Roberts, one by the name of Robertson, and one by the name of Gibbs; those three were supposed to have been members of the organization; as it was before the passage

by the legislature of the act of April 12, 1869, for the protection of life and property, I could not indict these parties for wearing disguises, &c.; so I indicted them for an unlawful assembly, and for creating an affray and a riot. When the grand jury called the case, I went into the grand jury room and examined the witnesses myself; Brooks stated in detail about what I have stated here, as to how he had been treated; I then called in Roberts—or the grand jury called him in—but he refused to testify, saying that he was afraid to tell what he knew about the matter, for if he did his life would be in danger, and intimated that he had taken an oath not to divulge what he knew about the matter; I had no authority, and the grand jury had none, to make him testify; I therefore reported the fact to Judge Cannon, who was then presiding. However, I am a little too fast in my story. Before I reported the matter to Judge Cannon, Roberts had said that he might be put in jail, but he would not testify; he said, "If you do put me in jail there will be a bloody time, for men will come to my assistance from all parts of the country." That rather astonished me; he refused to testify, and I reported the matter to the judge, who called the grand jury into the court-room and instructed them that if a witness refused to testify, to report the matter to him and he would commit the witness for contempt; the grand jury then retired to their room again. Roberts concluded to testify, and said that he was at Mars Hill the night of the raid, and that there was there an organization of disguised men; he did not say what the organization was, whether Ku-Klux, or what it was; he said the organization was there, and went on to designate several men he saw there in disguise, among whom were the two witnesses, Robertson and Gibbs, I had summoned. The grand jury dismissed Roberts, and then called in Robertson and Gibbs; they swore that they were not there, and did not know anything about it.

Question. Did I understand you to say that Roberts said that Gibbs and Robertson were both there?

Answer. Yes, sir; he stated that he saw them both there in disguise. Then Robertson and Gibbs were called on subsequently and they testified that they were not there. Well, the grand jury ignored the bill.

Question. Did the prosecutor identify anybody?

Answer. No, sir; the State was the prosecutor.

Question. There was no prosecutor present?

Answer. No prosecutor indorsed on the bill. Liff Roberts was a witness, summoned for the State.

Question. Were either of the women to whom you referred able to identify any of the parties?

Answer. No, sir; they did not recognize any of them.

Question. Go on and state any further facts that came to your knowledge.

Answer. Another case occurred in the County of Yancey. A party in disguise went to the house of a lady, (so she testified in court and before the grand jury,) took her out and gave her a most unmerciful beating. I sent a bill in that case under the statute of the 12th of April, for wearing masks and disguises, and the grand jury found a true bill in that instance. The case was tried before Judge Cloud, at the last fall term of Yancey court. The woman testified to knowing some of the parties who were included in the bill; her daughter testified to the same fact; and her son also testified to about the same fact; but the parties proved an alibi and were acquitted. That is the only trial I have had before a jury on indictment.

There are two or three indictments, I believe, now pending in the county of Buncombe. The parties went to the house of a man named Duncan, broke in the door, abused his family, struck his wife a blow on the face, and whipped his step-daughter or some female member of the family. I sent a bill against them under the statute of the 12th of April for wearing masks and disguises, and the grand jury found a true bill. The case is not yet tried; the reason, as I gather from information is, that though the State was ready last term of the court in Buncombe County, Mr. Duncan, the important witness, a man of good character, as I am told, had been frightened away from court; so it was reported to me by a gentleman living in his neighborhood. I had a *capias* issued for him and could not find him. Another case that happened in the same neighborhood was the abusing of a white woman. She came into my office about two weeks after it happened and showed me the bruises and scars upon her legs, where she said she had been beaten by men in disguise, wearing masks.

Question. When was this?

Answer. It was last spring. Again, a day or two before I left home, the same man, Brooks, I have spoken of heretofore, came into my office and said he had been assaulted again by these parties. He told me they came to his house after he and his wife had retired and called for him. His wife told them that he was not at home. They then broke down the door, came in, and commenced abusing and maltreating his wife. He stated to me that they attempted to rape her. He groped about in the dark and got hold of an ax and struck one of them with it. As he went out of the door he was struck over the head with a club. He showed me the scar, reaching from the eye to the hair. When he got out into the yard he struck another one of them with the ax.

He went to his friends about it and they advised him to leave; they said he had killed two men and perhaps they would kill him. So he left and came to Ashville. They followed him and inquired for him at another house, but he made his escape by flight. This is about all I know of outrages committed in my district.

Perhaps I had better state one little fact further. After the first prosecution had failed in the court in Madison I was attacked in a newspaper for attempting to prosecute these parties. That led to a newspaper controversy between myself and the editor, who lived in my town, and we got into an altercation. It happened to be a serious matter; he caned me and I shot him. I have received frequent notices to leave the country, saying that I would be killed. One morning directly after the affair between myself and this editor I got up and found stuck on my gate-post a placard with a picture of a coffin, a pistol, and a dagger upon it, and saying "beware of the Ku-Klux." I have received frequent anonymous letters to about the same effect. Just before the last court in Yancey County I received a communication telling me that if I went there to prosecute them they would kill me.

Question. From all the information derived in your official capacity do you doubt the existence of this secret organization.

Answer. I do not.

Question. Do you doubt the fact of their being bound together by oath to protect and defend each other in the courts?

Answer. I do not doubt it. I am satisfied of it.

Question. Have these offenses taken the character of political questions in any manner in your district, and if so how far?

Answer. I think they have. All the parties engaged in these outrages, so far as I know, belong to one political organization, to wit, what is called the conservative party. All the parties indicted have been, I believe, conservatives. I never heard of any republican being engaged in these marauding expeditions.

Question. Have these proceedings found any apology or justification in the political parties, and if so in what manner?

Answer. Well, sir, I sometimes hear conservatives condemn them, but not as a general thing.

Question. Was the attack made on you to which you have referred, the newspaper attack, of a political character, or did it refer to your conduct as a judicial officer?

Answer. The first attack made on me through the columns of the newspaper was for attempting to indict these parties, and for prostituting my office, as was alleged, to base political purposes. I thought it my duty to reply to it, and did reply, giving about as good as was sent. The altercation, I suppose, grew out of that.

Question. What was the political position of the paper which attacked you?

Answer. It was a conservative paper.

Question. Are you a republican?

Answer. I am.

Question. Is it your belief that the existence of this organization, and the oaths by which its members are bound, offer any impediment to the administration of justice in your district?

Answer. Well, sir, I think where the party is interested they do.

Question. How many counties compose your judicial district, and to what extent does this state of things exist in them?

Answer. The district is composed of seven counties. I have heard of outrages in the counties of Watauga, Madison, Yancey, and Buncombe. I do not recollect hearing of any in the counties of McDowell, Mitchell, or Ashe.

Question. Is there any other organization known to you there of a political character, either secret or otherwise, which interferes with personal rights, or with the administration of justice?

Answer. There is not. There was a political organization existing there until the constitutional election in 1868, called the Union League, but I never heard of any outrage being committed by that party.

Question. Are you a member of the organization?

Answer. I was then; I am not now.

Question. Did its obligations impose any duty to defend its members in court?

Answer. They did not; no obligation that ever I took.

By Mr. BAYARD:

Question. Did you take an oath in the Union League?

Answer. Yes, sir.

Question. Was it a secret society?

Answer. Well, I suppose it was.

Question. Was it composed entirely of members of the republican party?

Answer. It was composed of those who saw proper to join it—anybody.

Question. Are you a native-born North Carolinian?

Answer. Yes, sir; born in Buncombe County.

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Question. When were you elected to your office?

Answer. In 1863.

Question. When does your term expire?

Answer. That is a constitutional question that perhaps I ought not to attempt to settle. I am still in office.

Question. Have you been reelected?

Answer. No, sir; the term is four years, and the constitution provides that officers elected under it shall hold their term of office next after the regular election of members of assembly. It is a constitutional question.

Question. You were elected by the republican party of the district?

Answer. I was elected by the people.

Question. You were a candidate of that party?

Answer. I ran as a candidate of the republican party.

Question. Were you under any political disabilities?

Answer. No, sir, only I could not take the test oath. That is the only disability I have.

Question. How can you hold your present office?

Answer. I am not required to take the oath for a State office.

Question. Were you in the service of the Confederate States?

Answer. I was, and was imprisoned two years. I surrendered my gun and the principle for which I fought, which I do not think the other party have surrendered. They may have surrendered their guns, but not the principle they fought for. I think they still retain it; still hang on to it.

By the CHAIRMAN:

Question. Upon what facts do you base the opinion that the members of that organization adhere to the principles for which they fought?

Answer. I base it upon their conduct, and upon what I hear them say. I know very well that in the spring of 1865, when I got home, all these people were asking for in the world was that the Government should spare their lives.

By Mr. BAYARD:

Question. Who do you mean by these people?

Answer. The conservatives, democrats, or Ku-Klux, whichever you may call them. It was the rebel party then. All they asked for in the world was that the Government should spare their lives. They were willing to surrender everything but their lives. I reckon they thought they would all be hanged. At least I expected to be hanged myself. But after President Johnson commenced trying to conciliate this party they began to look up and speak out and abuse the Government and the authorities. It went on from bad to worse, till it has got to what it is now.

By the CHAIRMAN:

Question. Do you attribute, then, the bitterness of feeling which now characterizes the parties who are asking for the removal of their disabilities to the immunity from punishment which was extended to them?

Answer. I certainly do. I think about the best thing the General Government could have done at the close of the war would have been to hang about five hundred men in North Carolina. That is my idea about it. It seems that they are throwing every obstacle in the way of the General Government they can. They are ostracizing and abusing its friends. At least it is so down there. I do not know how it is here. If a northern man comes into our section of the State professing to be a republican, he is certain to be ostracised and isolated. I have known several gentlemen to come from the North to settle in my town. I have one in my mind especially, who appeared to be a very nice, gentlemanly, honorable, enterprising, industrious mechanic. He told me that he could not make his living there; that he would have to leave; that there was great bitterness against him because he was a republican, and from the North. I know another instance, or rather it was told to me previous to my coming on here. A minister from New York City, the Rev. Mr. Pease, came there and went into the Methodist church. The pastor called on him to conclude the services, when several of the congregation got up and left the church, simply because he was a Yankee. That is the state of religious feeling towards those who live in the North.

Question. Where these feelings exist that you have spoken of is it your belief that the removal of disabilities would create a different feeling?

Answer. I do not think it would. I found this answer upon what I have observed.

Question. Can you suggest to the committee any remedy, either legislative or otherwise, for the correction of the wrongs arising out of this political organization?

Answer. Well, sir, I might make a suggestion, and I might not be correct in it. I might make several suggestions as to how these outrages could be stopped. I think there are two ways to stop them. One is the administration of hemp. That might do a great deal toward stopping them—hang the ringleaders of the concern. Another

way would be to pay their debt, compensate them for their emancipated slaves, give them all the offices, and acknowledge the existence of the confederacy. I think that would be effectual on the other side of the question.

By Mr. CHANDLER :

Question. What do you mean by paying their debt? The rebel war debt?

Answer. Yes, sir.

Question. And give the rebels all the offices?

Answer. Yes, sir?

Question. In other words, surrender to the rebels?

Answer. Yes, sir.

Question. Your first answer was the application of hemp?

Answer. Yes, sir, I think that would stop it, too.

Question. In what way would you get at them?

Answer. That is the question. You certainly cannot get at them before the juries. You cannot convict them before the juries. You might do it in the Federal courts, but I am satisfied the State courts cannot do it, from what I have seen.

By the CHAIRMAN :

Question. You say it might be done in the Federal courts; in the counties where these organizations exist are the members of it known, or do they deny their connection with it?

Answer. They deny it; you cannot know them.

Question. How, then, would you avoid getting upon Federal juries the members of the organization?

Answer. In the State courts the jurors are summoned indiscriminately; the names of all the voters in the county are put in the box and they are drawn out indiscriminately; but it is not so, as I understand the law, in the Federal courts; the marshal summons whom he pleases.

Question. So I understand, but if any member of the organization, whether he avows his connection with it or not, gets on the jury, he would prevent a conviction, according to your theory?

Answer. Certainly he would.

Question. Then unless the marshal could absolutely know who belonged to the organization he could not avoid getting such men on the jury?

Answer. He could not, but you would be more likely to avoid getting them in the Federal than the State court, because the marshal could summon, I suppose, whom he pleases.

Question. From your knowledge of the men who are represented to be in this organization, is it largely composed of those who were in the rebel army?

Answer. Yes, sir, nearly everybody in that country was in the rebel army.

Question. Do they keep up any military organization?

Answer. I cannot answer that question. I do not know only as I gather through the papers.

Question. From the investigations you have made, is it in such an organized form as to be readily summoned in case of any emergency?

Answer. I think it could be summoned instantly.

By Mr. BAYARD :

Question. What was the republican majority in your district and county?

Answer. In my district I received about 700 majority; in my county I think it was about 200.

Question. Do you express there the sentiments you have expressed here in reference to these people?

Answer. I do.

Question. Publicly?

Answer. Whenever I am called on I out with it. I think they ought to be hanged, and I take occasion to tell them so.

WASHINGTON, D. C., February 9, 1871.

T. B. KEOGH sworn and examined.

By Mr. RICE, (acting chairman:)

Question. Where do you reside?

Answer. In Greensboro, North Carolina.

Question. In what county?

Answer. Guilford county.

Question. What is your occupation or profession?

Answer. I am a lawyer.

Question. How long have you resided in North Carolina

HORRIBLE OUTRAGE BY THE KUKLUX IN YANCEY COUNTY.

A Respectable Woman Outraged—Two of the Accused Arrested and Confined in Jail.

Considerable excitement was created on our streets on Monday last, by the arrival from Yancey county of a batch of six prisoners, in irons, under the escort of deputy sheriff William J. Edney, of that county.

Upon enquiry we learned that the prisoners were Harris, Haney, Wilson, Price, Higgins, and McIntosh, and are charged with highway robbery, burglary, murder and rape, John Higgins and Albert McIntosh being charged with the latter crime. We have been shown a portion of the evidence in this case, the perusal of which acquaints us with one of the most atrocious outrages ever perpetrated in a civilized community. Sometime in the latter part of July last a band of Kuklux disguised themselves and started on their usual mission of outrage and crime. They first visited the house of a man named Hensley, took him and his son out, whipped and ran them off, and after frightening several peaceable citizens and families, they called at W. C. Brackins'. Brackins saw them coming, and anticipating their design, fled in his night clothes to the friendly shelter of a neighboring wood for protection. They, however, entered his house, enquired of his wife for the "damned Radical," threatened him with vengeance, and ordered the family to leave the county within ten days, saying if they did not, they would return and kill them. They then pillaged the house, taking many articles of value, insulted Mrs. Brackins, and to complete their work of infamy, set fire to the dwelling. Soon after, they appeared in the yard of Alfred Brackins, who lived only a short distance from his brother, W. C. Brackins. Alfred is known in the community where he lives as a hard working, peaceable citizen, almost blind from the effects of an accident which befell him years ago. The ruffians demanded of him to open his doors, and on being refused, they commenced firing on the house from both sides, and hurling stones against the doors, which gave way, and immediately thereafter they rushed in, seized Brackins and dragged him out into the yard by the hair of his head, stripped off his clothing, and beat him upon his naked back and over the head with pistols, until he was covered with blood from head to foot. They let him go finally, and told him to run for his life, or they would shoot him. Brackins, naked, bleeding, and sore from the beating he received, though blind as he was, staggered off and concealed himself in a cold, damp meadow close to his dwelling.

After running Brackins off they re-entered the house, where they found Mrs. Brackins prostrate upon the bed, faint and bleeding from a wound in the face,

caused by a blow with a pistol, with an infant clasped in her arms. The babe was ruthlessly torn from the mother's embrace and hurled across the room, the helpless mother throttled and brutally outraged by three of these devils incarnate, inflicting such injuries upon their poor, helpless, victim as will, in all probability, send her to a premature grave. This outrage was perpetrated over three months ago, and we are informed that the unfortunate woman has not been able to put on her clothing since.

This is one among the many outrages committed by the immaculate K K Klan in Yancey county. It is worthy of note that this outrage was committed three months ago, and was generally known in the county, yet strange to say no effort was made to bring the guilty culprits to answer at the bar of justice for this high-handed outrage against the lives and honor of peaceable men and unoffending women. We are informed that Brackins and his family have not staid in the house at night since the outrage upon them, preferring the inclement weather to the tender mercies of the inhuman Kuklux.

The Department of Justice was informed respecting the insecurity of life and property in this section of North Carolina, and sent Col. V. S. Lusk, U. S. Asst. District Attorney, to investigate the matter and afford protection to the law-abiding people by procuring the arrest of the offenders and causing them to answer in the courts of the United States for their crimes. In the course of his investigations, among many others he discovered the outrage above detailed, and while getting up the evidence, and when the same was nearly complete, two of the accused miscreants made their appearance in the court yard at Burnsville, and in the absence of a U. S. Commissioner, Mr. Lusk made application to Judge Henry for a bench warrant, which was promptly granted and placed in the hands of the sheriff of Yancey, who succeeded in arresting Higgins and McIntosh, two of the parties accused of this outrage. During the week, court being in session at the time, the grand jury presented a bill of indictment against them for the crime; they, in company with four others, were sent to this jail for safe keeping. The good people of Yancey owe it to themselves to rise up in their might and hazard everything in the attempt to put a stop to the lawlessness and crime in that county. There are good people enough in the county to maintain law and order if they would come boldly forward, but they seem to be overawed by the few bad men who are perpetrating these crimes upon the community.

Burnsville, Nov. 11, 1871

Ed. Pioneer: I take this method to inform the public, and all of my confederates of the Kuklux Order, that I am no longer a member of the order. I was induced by older heads than mine to believe that it was for the good of my country to join, and did so; but since I have been a member I have learned that their purpose was not to maintain law and order in the country; they are the violators of the law. I warn all, and *particularly the young*, to beware of secret political organizations, as dangerous to civil liberty and Republican form of Government. In renouncing the order I shall not make public its members, neither am I disposed to make any of their acts public. But I hope that all of my confederates may abandon the Kluklux party, and denounce its leaders, for they are responsible.

And in denouncing this organization, I state that I will never co-operate with any set of men or party who will advocate or countenance or advocate the order.

Respectfully yours, &c.
JNO. S. WOODFIN.

Asheville Pioneer, Nov. 23, 1871

Bald Mountain Creek.
Yancy Co., N.C., Nov. 15, 1871

Editor Pioneer: Having been imposed upon and persuaded by scheming and designing politicians of the Conservative Democratic party to join what is now known as the Kuklux Klan, we take this occasion of announcing to the world at large that from this day hence our connection with the infamous organization is forever dissolved. In justification of ourselves, we wish to state that we would have severed our connection with the order as soon as we discovered the true object of the same had we not been fearful of bringing down upon ourselves the vengeance of the whole Klan, whose members have taken a binding oath to put to death any member who should disclose any of the secrets thereof. We wish to say that we are no longer members of the Kuklux Klan, and no longer responsible for the midnight outrages or any other crimes committed by the said organization in furtherance of its common designs. Before concluding this communication, we wish to call upon the members everywhere throughout the State, many of whom we know have been inveigled into the organization by false representations, to come out and abandon the treasonable combination before your connection therewith leads you into trouble and involves the ruin of our common country.

Very respectfully,
JOHN W. BANKS,
L. J. PHILLIPS
O. H. ENGLISH

Asheville Pioneer, Nov. 23, 1871

Burnsville, Yancy Co., Nov. 20, 1871.

Mr. Rollins: Please make it public that I have withdrawn from the Kuklux party. I was sworn into it without knowing or understanding anything about it, afterwards became disgusted and quit it entirely. I never participated in any of their raids; we never formed any camp, nor was I instructed in any of their signs; nor did I ever attend any of their meetings.

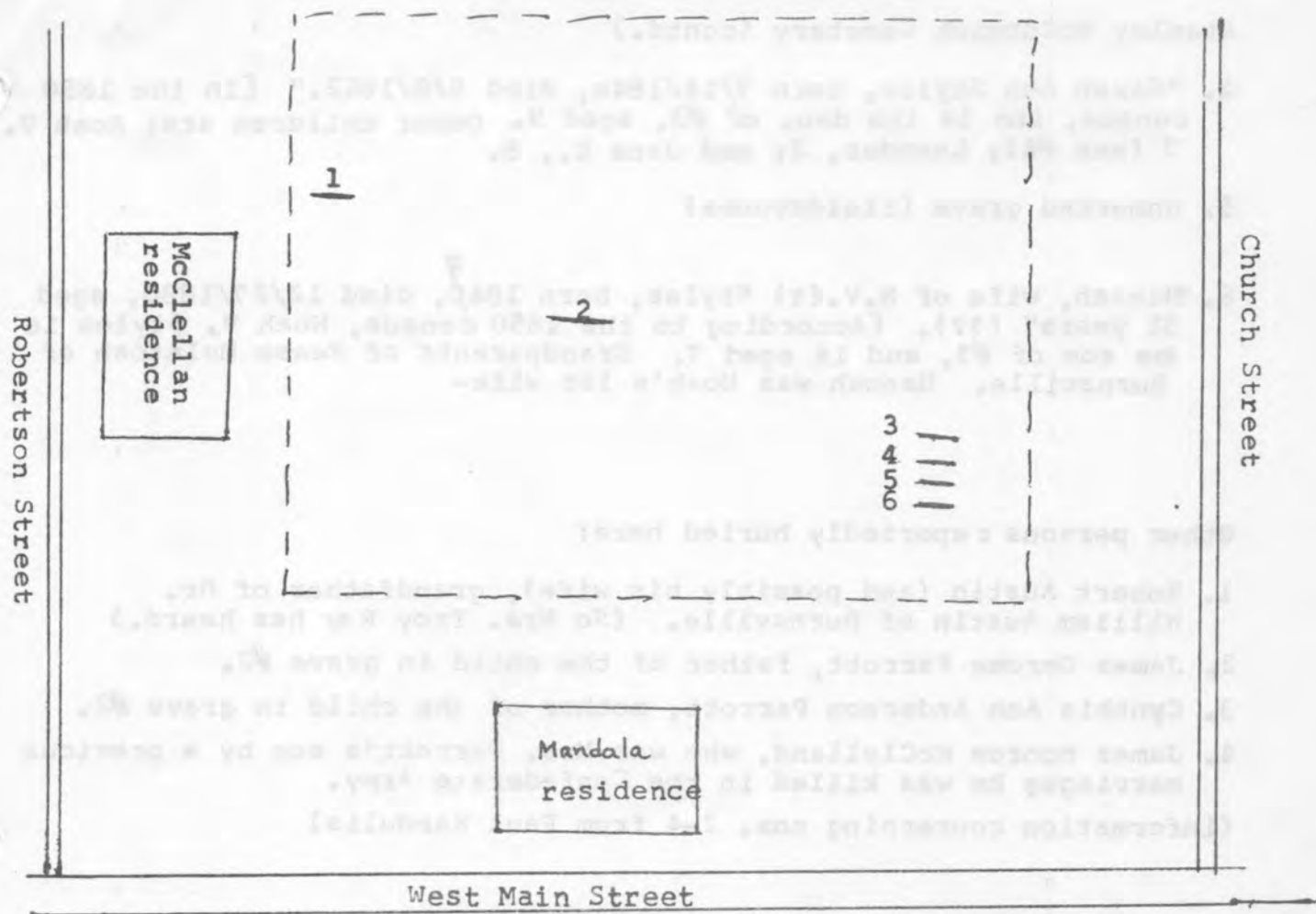
Very respectfully, yours,
JOHN C. RAMSEY.

Asheville Pioneer, Nov. 30, 1871

Resisting an Officer

Resisting an Officer-We learn from a gentleman just returned from Yancey, that about two weeks ago, Deputy Marshall Ballard arrested a man named Jno. Angel, charged with Kukluxing, and summoning a man by the name of Chandler, he placed Angel in his custody and proceeded to make further arrests. Shortly after he left, Angel attacked Chandler with a hatchet, and being disarmed by the former, he endeavored to clutch the pistol buckled around Chandler's waist. In the scuffle which ensued, the pistol was discharged, and Angel shot through the thigh.

Asheville Pioneer, Dec. 21, 1871



An Abandoned Cemetery in the City of Burnsville
 Later called The Stanley McCormick Cemetery (Grady Bailey recalls that students at the institution would rest and study in the shade of its trees, around the turn of the century.)

Only the six graves shown are now visible (more may be in the thick vegetation), but some persons remember that there were 15-20 once visible and that "10-15 years ago (i.e., 1970-75) people carried some of the tombstones away."

1. "Ann Eliza, daughter of P.H. and S.B. Neilson, died 1/25/1853, aged 15 years and 10 months." [Since two daughters of the Neilson family from Hot/Warm Springs attended Burnsville Academy in the early 1850's, this may be one of them. *1966 Survey adds: "and 14 days."*
2. "In memory of G. (or C.) G. Parrott, son of J.G. and M.C.(?) Parrott, who died 12/15/1853, aged 3 years and 1 month." [The family came to Yancey from Tenn., likely the vicinity of Strawberry Plains, where early teachers of the Burnsville Academy originated. Members of the family were in Burnsville as late as the turn of the century; Grady Bailey can remember Grant Parrott, a professional boxer, who married a Noblett; some resided at Windom and on Prices Creek. The family is not in the 1850 census; J.G. Parrot was the Custodian of Public Buildings in Burnsville, 1863; County Treasurer for 1865-67. The child's name was Calvin Gerome.]
3. "Christenia Styles, was born 2/ /1815, died 12/28/1885." Marker is broken. [She is the wife of Henry Styles, according to the 1850 Yancey Census, #982; she is aged 34 and he 47.]

Stanley McCormick Cemetery (contd.)

- 4. "Sarah Ann Styles, born 7/14/1840, died 9/8/1862." [In the 1850 census, she is the dau. of #3, aged 9. Other children are: Noah V., 7 (see #6); Leander, 2; and Jane E., 8.
- 5. unmarked grave (fieldstones)
- 6. "Hannah, wife of N.V.(?) Styles, born 1840⁹, died 12/27/1880, aged 31 years" (??). [According to the 1850 census, Noah V. Styles is the son of #3, and is aged 7. Grandparents of Reese McIntosh of Burnsville. Hannah was Noah's 1st wife-

Other persons reportedly buried here:

- 1. Robert Austin (and possibly his wife), grandfather of Dr. William Austin of Burnsville. (So Mrs. Troy Ray has heard.)
 - 2. James Gerome Parrott, father of the child in grave #2.
 - 3. Cynthia Ann Anderson Parrott, mother of the child in grave #2.
 - 4. James Monroe McClelland, who was Mrs. Parrott's son by a previous marriage; he was killed in the Confederate Army.
- (information concerning nos. 2-4 from Paul Kardulis)

The 1939 Cemetery Survey (State Records) lists the same five marked graves which I have listed. HOWEVER, a survey done in 1966 lists the following additional ones:

- a. Emily, wife of J.S. Boone, 6/18/1854-5/9/1896: "She was the sunshine of our home."
- b. Georgie B. Boone, 3/2/1893-11/28/1898: "Aged 5 years; asleep in Jesus."
- c. In memory of Dolly E. Ray, wife of M.(?) E. Ray, 6/2/1830-7/2/1890: aged 60 y, 1 m,
- d. In memory of John G. Ray, born 5/21/1866; died age 26 y.

Possibly, (c) is a misreading for Polly E. Ray; if so, this is Mary Elizabeth Austin (dau. of Samuel, Sr.), wife of Montraville ("Mont") Ray (son of Amos L.). See 1870 Yancey Census, Burnsville Twp., #70.

Grave (d) is the son of Montraville and Polly, listed as John G. and aged 4 in 1870.

Grave (a): "J.S. Boone" is Jeremiah (son of Jeremiah, Sr.), who is bur. at the McIntosh Cem. in Burnsville (7/20/1854-4/24/1932), presumably with a 2nd wife Mary. Emily is the 1st wife, daughter of

ANYONE WITH FURTHER INFORMATION about this cemetery may send it to Lloyd Bailey, 4122 Deepwood Circle, Durham, N.C., 27707.

THE "KIRK-HOLDEN WAR" OF 1870

By Lloyd Bailey

Almost everyone whose family lived in the Toe River Valley during the Civil War...will recognize the name George W. Kirk. Whether they do so with admiration...or with anger...depends upon the side which their ancestors took in that desperate struggle. Was he an admirable hero, who organized hundreds of loyal citizens against the tyranny of the Confederate government? Or, was he properly called "Cut-throat Kirk," many of whose soldiers were little more than bandits?

While his role in those events is well known, his participation in a later struggle...has been nearly forgotten by local residents. Many of those same soldiers were under his command in the so-called Kirk-Holden War, a half-decade later. Who they were...and what they did...is the subject of our present inquiry.

Background Events

When the War ended in 1865, N.C. was placed under military command (Gen. John B. Schofield). Shortly thereafter, a provisional Governor was appointed by President Andrew Johnson. His name was William W. Holden, a native North Carolinian.

SLIDE: W.W. Holden

It was, surprisingly, a time of relative calm, and of hopes for an early return to the Union. The first order of business...was to elect delegates to a State Convention, to be held in October, to consider the future of the State. Yancey County's delegate was Julius Garland. The Convention voided the Secession Ordinance...by which N.C. had withdrawn from the Union...and it abolished slavery.

Holden then became a candidate ~~to be~~ ^{for} Governor by popular election, but he was defeated, by Jonathan Worth, in 1866. The newly elected General Assembly ratified the 13th Amendment to the

U.S. Constitution, which likewise forbade slavery. Yancey's member of the ~~Assembly~~ ^{House was} ~~were~~ (in the Senate) and Edward Williams. (in the House).

The period of calm was short-lived. Tensions arose between the relatively lenient President (himself a North Carolinian)...and some members of Congress, who belonged to the Republican party. The issue sharply arose over the proposed 14th Amendment, which granted full citizenship to native-born Americans (males, that is). Bluntly stated, this meant that freed-Blacks would have the right to vote. In many counties, their numbers would be sufficient to ensure Republican control. Many Southern legislatures, therefore, refused to ratify the Amendment. Consequently, the U.S. Congress passed a Reconstruction Act in March of 1867, over a Presidential veto. This included putting the Southern States back under military control, until civil rights could be guaranteed. No state was to be readmitted to the Union...until a new constitution had been approved, and the 14th Amendment ratified by it.

The Republican Party in N.C. now arose from the combined ranks of white Unionists and Freed Blacks. The army held a new registration, ~~for voters~~, resulting in 107,000 white and 73,000 black voters.

SLIDE: Voter registration in Asheville (Harper's Weekly, Sept. 28, 1867)

The freed Blacks were now landless, and with no means of support. Various agencies came into existence to organize them politically, to secure land, and provide food. Among these were the Union League, the Heroes of America, and especially the Freedmen's Bureau. This precipitated counter-organization in the form of the Conservative Party (largely pre-War Democrats). And, in Tennessee, there was the beginning of the Ku Klux Klan. ^{Part of} its original purpose may have been to protect former Confederates from the excesses, even violence, of the Union League. Later, however, it would become something quite

SLIDE

: Peace College, used by Freedmen's Bureau

different.

SLIDE: KKK banner, with motto: "What has been believed always, everywhere, and by everyone." [Ku Klux < Greek ΚΥΚΛΟΣ, "circle" > Eng. "cycle"]

In ^{a positive} response to the Reconstruction Act, the voters of N.C. approved a constitutional convention. ^{Its} ~~whose~~ delegates met, in 1868, to frame a new Constitution. Yancey's delegate was Julius Garland. [See Bailey Genealogy, III, 1169 B for a reaction.] ^{delegates,} Overall, there were 13 Conservatives, and 107 Republicans. Of the latter group, 15 were Black; 18 were persons who had recently come to N.C. (so-called "carpetbaggers"), and the rest ^{came to be} denounced as "scalawags."

To be sure, there were excesses, but...nonetheless...the resulting Constitution was a remarkable document. With some adjustments, it guided the state for the next century. Its provisions, although radical at the time, would seem like common sense to us now.

Among its provisions were:

- popular election of judges
- universal suffrage (of males)
- abolition of property ownership for right to vote or hold office
- 4 months of public schools
- county courts abolished
- county commissioner system instituted
- use of taxes to provide for orphans and the insane
- beginning of penitentiary system (replacing corporal punishment)
- division of counties into townships
- etc.

The new Constitution was then approved, by popular vote, in April of 1868.

A regular General Assembly was ~~then elected~~ ^{at the same time.} ~~and it ratified the 14th Amendment.~~ Yancey's representatives were David Proffitt in the House, and William M. Moore in the Senate. Proffitt was a Democrat (Conservative), but Moore, a former Captain in the Union Army, was a Republican. The larger senatorial district...undoubtedly contained more Republicans, percentage-wise, than did Yancey. Each of these men was re-elected, for two more terms.

In the same election, Holden was elected Governor, defeating Thomas Ashe. Then, at a special session on July 1, *the Legislature ratified the Amendment.* All barriers to the return of N.C. to the Union were thus removed, ~~but the State remained under military rule.~~

The Crisis which Led to the "War"

Dissatisfaction with the governance of the State began to build among members of the Conservative Party. There were stories of financial excesses by members of the General Assembly; there was violence by members of the Union League; and there was the use of negro troops to keep order. The easiest way to regain control...would be to depress the Black vote...and thus end the Republican majority.

SLIDE: KKK uniform of the period.

To members of the KKK, the goal could be achieved by intimidation: by whippings of "uppity" Blacks; ^{by} barn burnings, which produced severe economic hardship; and ^{by} occasional lynching. By 1870, membership in the Klan had grown to about 40,000 in N.C. However, as tendencies toward violence increased, many of its members withdrew, as we shall see.

A counter-measure, the Shoffner Act, was enacted by the State Assembly. It empowered the Governor to declare a county, if need be, to be in a state of insurrection, and to use ^{troops} ~~to militia~~ to restore order. It also made it a felony to wear a mask, with intent to terrorize...and thus ^{it} removed one's ability to remain anonymous. In addition, the Act empowered the judiciary to move a trial to another county, where the possibility of conviction might be much better.

SLIDE: Lynching Re-enactment
An unintended consequence of the Act, as we shall see, would be the impeachment of the Governor.

Matters reached a crisis in March of 1870. There had been several murders in 1869. The "straw that broke the camel's back" was, first,

the lynching of a Black man in Alamance County...a hot-bed of trouble; and second, the brutal murder of State Senator John Stephens in Yanceyville (Caswell County: another hot-bed of Klan activity).

SLIDE: Sen. Stephens.

Reportedly, Stephens had been inciting the Union League to violence... against the Conservatives in his County.

The Governor now declared these two counties to be in a state of insurrection...certainly a plausible conclusion. He decided that the local militia could not be relied-upon...and thus sought to raise two regiments from elsewhere, who would be more like a regular army.

To command the western regiment, he chose Maj. Wallace Rollins of Buncombe Co., but he declined...and recommended, instead, George W. Kirk (then a resident of Washington Co., Tenn.). Kirk was agreeable, and was summoned to Raleigh for planning. A recruitment-poster was an essential ^{first} ~~initial~~ step.

SLIDE: Kirk's poster, printed in 500 copies.

Kirk then returned to the mountains to assemble his troops, including a stop in Burnsville, from which he wrote to the Governor on June 22. (Note that the poster lists Burnsville as a recruitment station. He undoubtedly secured the services of local persons to sign-up the troops, while he continued on his way to Tennessee.) Among the known recruiters was Samuel P. Ray, of Pensacola; and William F. Duncan (apparently from Egypt).

A number of Republicans in the western part of the State were alarmed at this development, and urged the Governor to change his mind about the use of Kirk. Among them, was Solicitor Virgil S. Lusk, of Buncombe County, whose district included Yancey. The protests were to no avail. Others, however, heartily endorsed his choice. One of them wrote: "...I say: deluge the State in blood from one end to the other, rather than our people should suffer again ~~the~~ the treatment

of the last six months."¹

Kirk's western regiment...^{officially designated} the 2nd N.C. State Troops...consisted of 9 companies, with a total of 670 men. As it turned out, 399 were under legal age for military service, and 64 were beyond legal age. More than 200 of them resided outside the State, and a number of Blacks were included. (Each reality, it would later be claimed, was illegal.)

(The other regiment, by the way, would be stationed in Raleigh & play no role in subsequent events.)

Thus far, I have found the following data...about the make-up of

^{Kirk's}
~~this~~ regiment:

1. the muster-roll for Co. B, showing 38 soldiers who were born in Yancey Co. (a page of it is reproduced in Estatooe, our newsletter, at p. 8).

2. the muster-roll of Co. F, showing soldiers mostly from Mitchell Co.

3. the muster-roll of Co. A, with only a few soldiers from Yancey.

4. a pay-masters receipt for Co. D. Since it is signed by Moses

Peterson, I assume that the company was mostly from Yancey.

#9
e;
do

Paymaster's Receipt

5. Letters of Samuel P. Ray and William F. Duncan, stating that they recruited for Co. E, and thus it also was likely from Yancey.

See a letter in K.R. Whitaker's Ray Genealogy, II, pp. 285-287, which reveals that the Captain was Henry Wheeler. ^{It} also mentions ~~that a~~ Captian, of an unknown company, is John D. Tipton.

#10

SLIDE: Samuel Paul Ray, the recruiter (son of Amos L., and brother of the notorious Montraville).

The service of these brothers in Kirk's army led, indirectly, to a tragedy shortly thereafter. At the foot of Burnsville hill (east) was the store of one Andrew Jackson Brown. He spotted the Ray brothers,

¹J.J. Mott to Holden, quoted in Hamilton, Reconstruction, p. 502.

and being a bit intoxicated, assailed them loudly for being "Kirk's damned pups." One thing led to another, and Brown ended up shot and disemboweled by the Rays.¹

Well...back to our main story! Kirk's recruits made their way to Morganton on foot, and took the train on July 6. Every time that there was a stop, they created a public disturbance: cursing people, threatening them with guns, and generally being obnoxious. Letters of protest flowed in to the Governor's office, from Newton and Salisbury in particular. At the latter place, the undisciplined troops had threatened to burn the town down.

The destination of the regiment...was the little town of Company Shops...presumably so-named because of railroad repairs. It is now known as Burlington. From there, Kirk went on to Raleigh, to receive instructions from the Governor. Among the items given to him..was a list of persons who were to be arrested in the two counties.

On July 15, a representative of the Governor arrived in Burlington... to muster the troops into service. On the 19th, provisions for them were received. (See the list of items, reproduced in Estatocoe, p. 9.)

Shortly thereafter, the regiment seems to have been divided. Some of them, ^{apparently including Co. E,} remained in Alamance Co., moving from Burlington to nearby Graham on the 18th. Samuel P. Ray, in a letter to the Governor, relates that he arrested 20 members of the KKK in Alamance...and complains that he has not been paid for his services.² In all, 82 persons were arrested in the county.

The remainder of the regiment, including Capt. William Garland's

¹Yancey Co. Criminal Action Papers, State Archives.

²Adjutant-General's Papers, State Archives (copy in my file).

Co. B, was dispatched to Yanceyville in Caswell Co.

SLIDE: Caswell Co. Courthouse.

The troops, with Kirk along, occupied this structure. They threatened the citizens, arrested a number of them, were accused of widespread robbery, apparently liked to bathe in public view, made unseemly remarks to the ladies of the town, and threatened to burn the place to the ground when they left.

Amidst the apprehensions of Yanceyville, there were some humorous moments. The boys from the mountains had never seen a threshing machine. So, when one rumbled down the street, they thought that it was a cannon, and dived into the courthouse to get their guns! When they first arrived in town, they found old aunt Millie Lee selling ice cream on the streets. This was another thing that they had never heard of. Several of them were heard to say: "Haint this the best frozen vittles y'ever tasted?"¹

Among those arrested was former sheriff Frank Wiley, suspected of having master-minded the murder of Senator Stevens. That soldiers from our area were involved in the arrest, is told us by "uncle Rube" Mosley, of Bulladean, who was also a member of Kirk's army.

SLIDE: Reuben Mosley (from Cabins In The Laurel, p. 72)

He relates that the arrest was made by Bill Burchfield, Nathan Burchfield, and Bill O'Brien. The Burchfields apparently are from Mitchell Co. In the 1860 census, they apparently are in the household of Cecilia Burchfield of Fork Mtn. (#965). I will read "uncle Rube's" account to you a bit later.

A longer account of the arrest, may be found in the statement of

¹From John Lea's statement, quoted in Zuber, N.C. During Reconstruction p. 31.

John Lea, a native of Caswell Co. It reads:

Lt. Col. Burgin with eight men went down after ex-sheriff Wiley, nine miles from Yanceyville; went in his tobacco field where he was standing and told him they had come to arrest him. He asked by what authority. Burgin shook his pistol at him and said, with an oath, "This is my authority." His men rushed on Wiley, who knocked down seven of them, but one slipped up behind him with a fence rail and knocked him down. They put Wiley on a horse, bare-back, tied his feet to the horse and whipped him nearly all the way to Yanceyville. The blood flowed freely, he being in his shirt sleeves.¹

During this period, the State was holding elections ~~for~~ the Legislature. The Governor sent Kirk the following communication:

Our friends in the mountain counties are very much concerned about the loss of votes by the absence of your men. Send as many as you can spare to Asheville, Marshall, and Burnsville, so that they can vote and return. Some men will be actually needed in Asheville and Burnsville, to insure a free election.²

Back in Yancey County, the Conservatives had been meeting to plan strategy. A newspaper account may be found in my little book, News From Yancey, at p. 43.

While the Governor's plans were going well on the military side, it was quite a different story legally. Some of those who had been arrested in Alamance...applied to the Chief Justice of the State Court for a writ of habeas corpus. Kirk refused to honor it, saying that he took orders only from the Governor. The Chief Justice then requested that the Governor comply...but refused to pursue the matter in case he did not...lest he "plunge the country into civil war..." The Governor, of course, tactfully declined to comply. Then, similar

¹
Quoted in Zuber, at p. 31.

²
Trial, I, p. 234 (dated July 17, 1870).

appeals were made by prisoners at Yanceyville...also to no avail. One person who tried to serve a writ on Kirk..was driven away at gun-point.

Finally, an appeal was made to U.S. district judge George Brooks. On Aug. 6, he issued a writ for the prisoners to be produced. The Governor, alarmed, immediately appealed to President Grant to support him. ^{But} ~~the~~ President, on advice from his Attorney-General, declined. ~~to enter the contest.~~ Kirk was then summoned to Raleigh, and directed to produce the prisoners. The judge then freed them, on the basis of insufficient evidence.

It is shortly thereafter that A.L. Ray writes home to Yancey, on Aug. 21.¹ He says that he expects that the regiment will be dismissed soon...and advises Samuel P. Ray to get there in a hurry, and sign-on, if he expects to get paid.

On Sept. 21, the units were mustered out, and the troops began their journey home. On their way, apparently, elements of the population tried to ambush them at every turn.

On Nov. 10, the Governor declared that the insurrection in Alamance and Caswell had ended...and thus the so-called Kirk-Holden War was over.

AFTERMATH OF THE "WAR"

Col. Kirk was himself arrested, but allowed to escape. He was given a minor governmental job in Washington...and died in California in the early 1900's.

For the Governor, however, larger problems were at hand. His

¹

See K.R. Whitaker's Ray Genealogy, II, pp. 286-287.

political enemies, the Conservatives, had won a majority in both Houses back on Aug. 4. A resolution to impeach him was introduced on Dec. 9. Among the charges were: that he had raised the western regiment illegally, and that he had refused to obey the writs of habeas corpus.

13 SLIDE: Augustus Merrimon

Among those appointed to prosecute the Governor, was Augustus Merrimon, of Buncombe Co. Formerly, he had been a member of the State House, and now he was a judge of the superior court. (Incidentally, Merrimon Ave. in Asheville is named for him.) His diary contains interesting observations about cases which he tried in the court in Yancey. (See the bibliography in the current issue of Estatotee, at p. 3.)

Among those called to testify for the prosecution...was Creed F. Young, of Yancey Co. His statement, of some length, is reproduced in its entirety in the newsletter, at pp. 10-14. Two other persons from the area also testified, both for the defense: Pinckney Rollins¹ of Madison Co., and Stephen Collis² of Mitchell Co.

After a trial of 6 months duration, the Governor was removed from office...a fate unique in the history of N.C., before or since.

What was the impact of the impeachment...upon the future of the KKK? If there was an inclination to rejoice, it was short-lived. The Legislature passed a stringent law concerning secret societies... and declared burglary and arson to be capital crimes. It would be risky, therefore, to attack people in their homes in the night...or to burn their barns...both of which were tactics of long-standing.

In the meanwhile, the U.S. Senate was holding hearings about

¹
Trial, II, pp. 2057-2063.

²
Trial, II, pp. 2063-2065.

civil disorders in the South...and this resulted in protective federal legislation. Among those who testified...was the solicitor of the 11th judicial district of N.C., which included Yancey Co. His name was Virgil S. Lusk, of Buncombe Co. His testimony is reproduced in your newsletter, at pp. 15-20. He mentions a trial which took place in Yancey Co. (He is, by the way, the person for whom V. Lusk Edwards, of Mine Fork, was named.)

Lusk's remedy for the excesses of the Klan was simple and straightforward: give them, he said, a liberal application of hemp (i.e., hang them).

W.N.C. now swarmed with federal marshals. Since one could now be tried in federal court...likely outside one's native county... the effectiveness of the Klan was about at an end. Several persons in Yancey now went out-of-their-way...to put distance between themselves and their membership. Statements of renunciation began to appear in local newspapers, including from persons in Yancey. (See the instances reproduced in your current newsletter, pp. 21-22.)

Enforcement of the federal laws was apparently excessive. At the Spring Term of federal court in Raleigh (1872), over 1400 persons were scheduled to be tried. Only 6, however, actually came to trial. Nonetheless, some persons were actually sent to federal prison in Albany, N.Y. This must have had...as they say..."a chilling effect" upon further activities by the Klan.

For an interesting letter, about a social occasion in Burnsville in 1868, apparently involving the Klan, see my Bailey Genealogy, III, pp. 1169 F-I. It reads, in part: "Col. John S. McElroy and myself conducted the Knights. ... Thomas Gardner was the Victor Knight. ... The Knights crowned Miss Amanda McCanless queen of love and beauty. ... There were a large audience present: some 8 or 9 hundred. We would not admit Rads (Radicals = Republicans). During the speaking

we were disturbed once or twice by "Hurrahs" for General Grant, but the Knights soon stopped that!"

I have heard one Klan story from Jacks Creek, fortunately with a humorous ending. When Union soldier Crawford Wilhite returned home, he was not entirely popular with some of his Confederate neighbors. It was rumored...that the Klan might visit him in the middle of the night. Wanting to be a proper host, he would climb atop his porch roof, with his rifle, and wait for them! One dark night, he heard a noise...and saw a white form moving toward his house. He blazed away at it...and killed his white cow!

Let me conclude, now, with the report by Reuben Mosley.

problem that harassed the low country. Negroes were few in the hills; if more came, they were driven out. It was harder to break up the guerilla bands that were ravaging the Valley. It had never been easy to keep order in the mountains. Now, as the country emerged from the license of war, it got out of control.

51, 64)
P. 137
burial of
Sullivan?

Uncle Rube Mosley, his long frame overflowing the curvebacked mountain-made chair in lean angles, his pointed keen face accentuated by the triangular beard that makes him look like one of the disciples, remembers that he had a good time in Kirk's Army, helping to put the state in order. He "kivered all the ground he stood on" and he "could fight like a fair hellion."

"I got growed in time to join up in Kirk's Army," he says, "and I seen service puttin' down the Ku Klux. We stopped 'em too, but now really they was good people. They was lied on and misrepresented. I hadn't no fault to find with them, but hit don't seem like they ought to killed Senator Stevens like they did.

"That was in Alamance County.* We took a hundred and thirteen of 'em in the court house after that and we got the man that killed him. Sheriff Wiley was his name, and he was caught by Bill Birchfield, Nathan Birchfield, and Bill H. O'Brien. After they got him, he was penned in the very room where Senator Stevens' blood was splashed all over the wall, and he was the uneasiest man ever I seen. Three or four days he just walked all the

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* See note on page 91.

time. They put him in with all the blood marks a-purpose, so he could be thinkin' on what he done. I don't know what happened to him. I remember though there was a nigger hung while we was located there. A nigger called Andy. I don't know what he was hung for, but I recollect that Uncle Jackson Campbell preached his funeral sermon before they hung him.

"When we was coming back, they sent flat cars for us to Salisbury and we was all boozed up and mean as snakes. That was because they had bushwhacked us the night before. I didn't figure we was going to get rations on that flat-car, so when I come aboard I had me a half-gallon jar of oysters under my arm. I ate 'em that night and gave out some to my friends. The train just dragged along slow like a wagon and when we run through a cut there was the Ku Klux lined up either side waitin' for us and we havin' to run between 'em and get it both sides. I got five bullet holes in my knapsack when I was squattin' down, trying to keep low, but they never touched me. I was lucky.

"That day I done one of the meanest things in my life. I say hit was mean because hit was unprovoked. We was ridin' along slow, like I said, and we passed close to an old man diggin' potatoes in a field. As we come by he never looked up nor raised his head. That made me mad. I like to have folks speak to me. When I see a man, I give him a greeting or at least show that I seen him if he is a

Cabins in the Laurel

stranger or not. So I picked up that empty half gallon oyster jar that was kickin' around under foot and threw it at him. Hit took him on the back of his head close under his neck. I seen him drop forward like a stone. We'd been puttin' his country in order. He ought to have looked up at us anyhow.

~~“Once I hired out to three Rebels. These was Georgia Rebels and hit was after I left Cloudland and started working on the C. C. & O. I was goin' to work a gang for 'em and we agreed on \$1.20 a day. They was to pay us once a month, on the twentieth, and I had that day all fixed in my mind so I'd know when it came and lay off. I never figured to work on pay day.~~

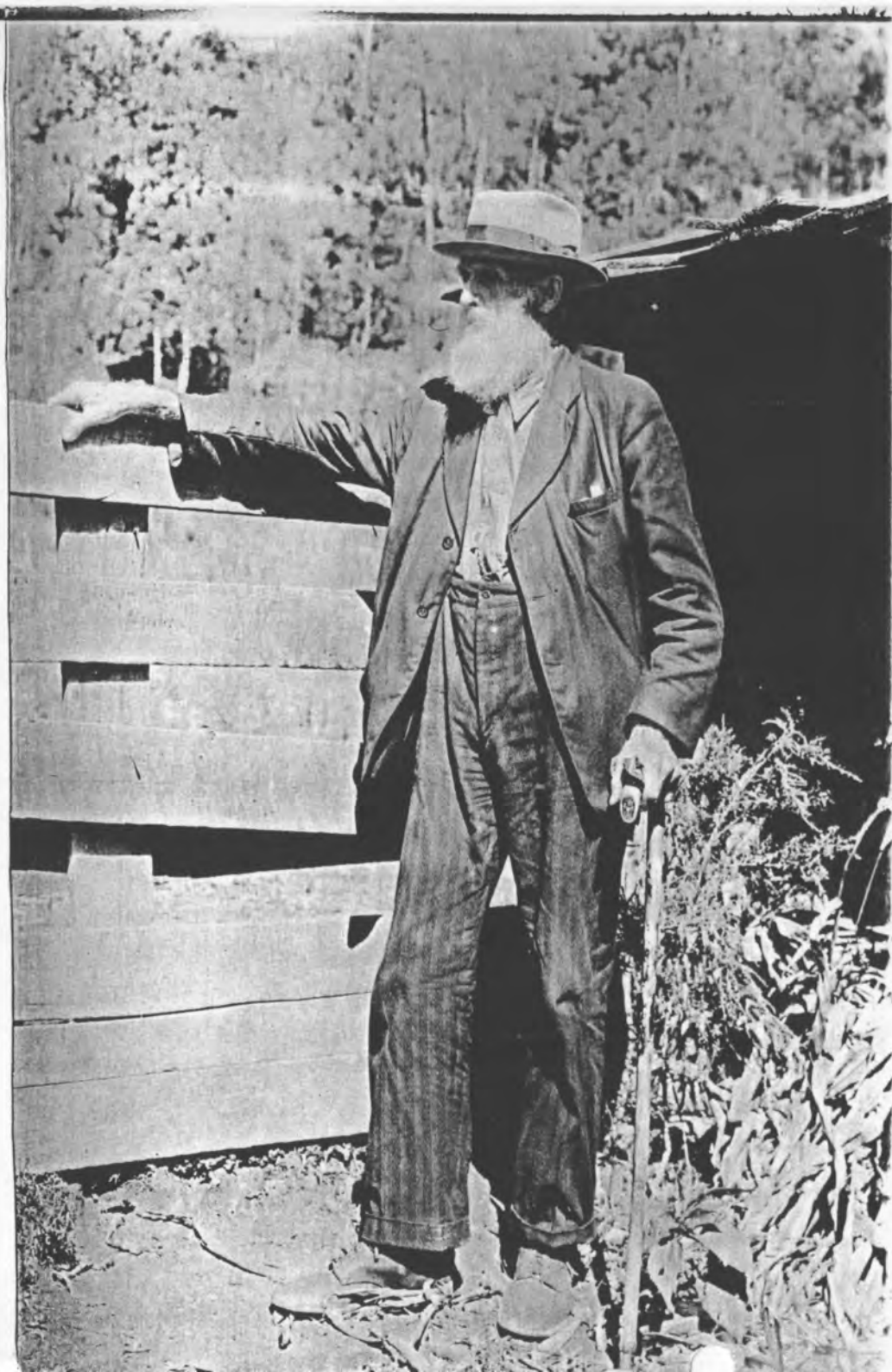
~~“Well, the twentieth come and in the morning me and the men was all standing around top of the cut waitin' for our money when Captain Jo Howell come up to us and says,~~

~~“‘What you doin' up there? Why ain't you in the cut workin'?’”~~

~~“‘I don't aim to work on pay day,’ I says, ‘and this is the twentieth when you agreed to pay off.’”~~

~~“Then he began beating around the bush and sayin' he had said he would pay the Saturday *following* the twentieth—which he hadn't.~~

~~“‘All right then, let's hang him, boys,’ I says to my men. ‘If he won't pay when he says, we'll get that much satisfaction!’ So we took him in custody. He begged off~~



Yancey Journal
4/17/1986

History

Assoc.

To Meet

The Yancey History Association will hold its Spring meeting on Sunday, April 20th, at 2 p.m., at the Yancey County Public Library in Burnsville. After a brief business meeting, Lloyd Bailey will present the program: "Soldiers from Yancey in the so-called Kirk-Holden War." A few years after the Civil War, NC Governor William W. Holden called upon former Union Army Col. George W. Kirk to reinlist his former command in order to subdue rebellious elements of the population (including KKK). This led to the impeachment of the Governor. More than one hundred troops from the Toe River Valley served under Kirk's command. Documents relating to this episode will be available in the Association's Newsletter, *ESTATOE*, I, No. 2.

The Newsletter, to be issued quarterly, will feature a summary of programs, notice of coming events of historical interest in Western North Carolina, book notices, and genealogies. A limited number of copies of the previous issue of the Newsletter will be available. Twenty-five pages in length, it relates the story of Yancey's involvement in the War with Mexico (1846-1848).

All members of the Yancey History Association are encouraged to attend this April 20th (Sunday) Spring Meeting. New members also are cordially invited to attend. No individual notices to the membership, pertaining to this meeting, will be mailed.