The Transylvania Company and the Founding of Henderson, Ky.

By ARCHIBALD HENDERSON,
Ph. D., D. C. L., LL. D.

COLONEL RICHARD HENDERSON
1735-1785
"THE POLITICAL FATHER OF KENTUCKY"
For Whom Henderson, Ky., Was Named.

JUDGE RICHARD HENDERSON

With the Permission of the Artist,
Gilbert White

Archibald Henderson

FOREWORD.

The following "Story of the Transylvania Company and the Founding of Henderson, Ky.," inimitably told by Dr. Archibald Henderson of Chapel Hill, N. C., was written for the occasion of the unveiling on October 11, 1929, of six great historical tablets to be affixed to the outer walls of Henderson's picturesque old Court House. These beautiful pictures in bronze, designed by George H. Honig, Evansville, Ind., were presented to the County of Henderson through the Henderson County Historical Society by a Transylvania descendant, Judge Robert Worth Bingham, of Louisville, Ky.

Here in relief are shown the outstanding deeds of the Transylvania Company from the sending forth of Boone to its last constructive act, the founding of Henderson. The story is brought down by Dr. Henderson to this founding of which a slight sketch is here given.

Having abolished the Colony of Transylvania in 1776, Virginia, in consideration of the benefits to the Commonwealth from the Transylvania Company, made to it a grant—usually called the "Henderson Grant"—of 200,000 acres on the Ohio, lying about the mouth of Green River.

At first this tract seemed to the members of the company to lie inaccessibly in "the Back of Beyond." Far from the lands they had settled, the fort they had built, the trail they had cut, the very Indians they had pacified, it lay beyond the frontier, deep in the primeval forests, haunted by wild beasts and wilder savages—a near neighbor, in fact, to hostile Shawnee Town. It is also true that the company had suffered financially from their great undertaking and that their attention was given for a time to their lands in Tennessee.

As the years went by they lost their president, Col. Richard Henderson, and others of the company whose memberships fell to heirs, until there survived but two original members, James Hogg and John Williams. And so it was in the last decade of the Eighteenth Century that they decided to found a town on the Henderson Grant.

The oldest map of this grant extant was made by Col. Thomas Allen and dated 1796. Its inscription begins, "At the request of Robert Burton, Esqr., Agent for Richard Henderson & Co., I began on the 20th. of April, 1796, and surveyed the Grant made to the sd. Henderson & Co. by the Assembly of Virginia on Green River & Ohio."

The next year we read in the "Report made by Samuel Hopkins, Agent for the Transylvania Company, July 15th., 1797," that "after passing the first mountains" he had come by Danville, Ky., and had brought from this town, Colonel Allen, the company's surveyor and three chainmen. Arriving at the Grant, they divided it into lots and surveyed a town, accepting the location of the stockade village of "The Red Banks" they found already established there and which they incorporated in the new town.

Many a flat boat was now floating down that broad and most dangerous of ways into Kentucky, the Ohio River, bringing men, sometimes women and children with cattle and tools, seeking where to settle in that vast wilderness and recking not of land ownership. In

1791 such a group landed at a beautiful but low bank in the Ohio "bottoms" within the Grant, but were driven by spring freshets up on the high red bluffs which the river men called "The Red Banks." Here they built a stockade, a block house and a few cabins. From their names they were Germans reinforced by Scotch and English families—the "first families" of Henderson. Among them was a son of Hermon Husbands who had fought at Alamance and whose descendants are today eminent in the United States Navy.

As Boonesborough has the story of the capture of the girls, so The Red Banks has one, of the brave little scouts, who having crossed the Ohio in canoes to hunt in the forbidden Indian country, were captured, tortured and driven by forced marches to Sandusky on Lake Erie. One child was killed, one swam back across the mile-wide Ohio; the others after many hairbreadth escapes came back happily to The Red Banks. Their descendants are still at Henderson.

Desiring to keep the people of the stockade in the settlement, the company gave to each "male person" among them a town lot of one acre on condition that within two years he should "build thereon a frame, hewn or log house, sixteen feet square at least, with a good dirt, stone or brick chimney with a plank floor." These quaint terms were generally accepted.

Many other interesting things are to be learned from the crumbling old manuscript of Henderson's Court House, entitled "Ordinance of the Transylvania Company, commonly called Richard Henderson & Co. directing the disposal of the town of Henderson and the outlots." This the last of three Transylvanian towns was named by the company for the honored president.

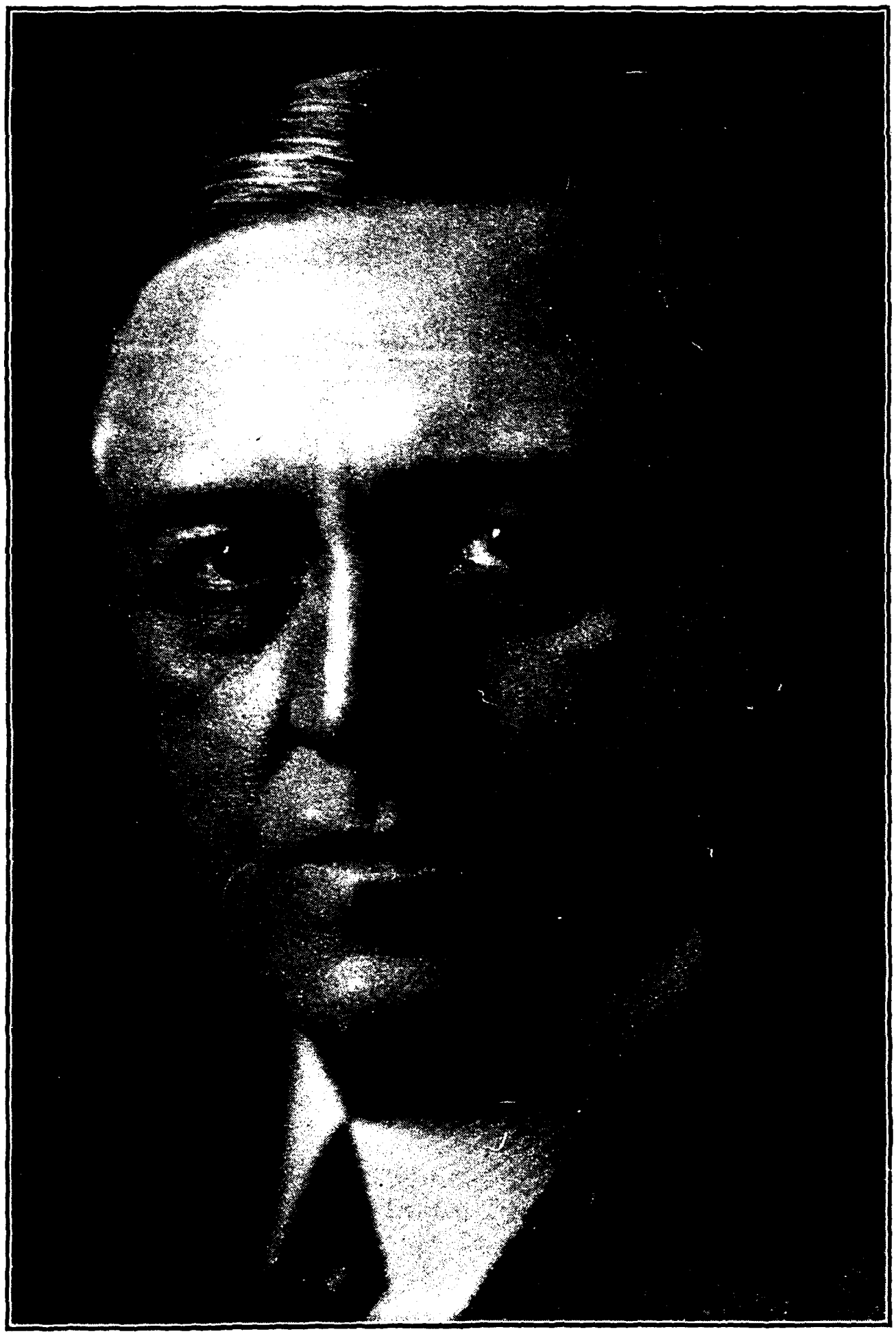
American towns have usually "jest growed" after the manner of Topsy, but Henderson is an example of city planning in 1797. It had four streets one hundred feet wide and two miles long, laid off parallel with the Ohio River and cut at right angles by twenty-five streets equally wide. A municipal park—said to be the first west of the Alleghenies—and the entire river front, where Audubon was to build his famous "infernal mill," were given to the citizens. These generous plans are largely responsible for Henderson's reputation for being one of "the most beautiful of Kentucky's many charming little cities."

Families came out from Virginia and North Carolina and, even in those pioneer times, made homes of refinement and culture through town and county, establishing a reputation for conservatism that clings yet.

It has been said that this "old Transylvanian town, rich in traditions of its pioneers, its heroes of many wars, with its old planter ideas, valued a city, as did the Greeks, according to the quality of its people rather than their number." From these people of Henderson, John James Audubon went out bearing with him much of the work that was to be the basis of his fame; Col. Phillip Barbour, to be the first American to die in the Mexican War; James Bethel Gresham, to be the first lad to fall of the American Expeditionary Force in the World War. She gave three Governors to Kentucky and inspired a woman citizen to originate the Mother's Day celebration. Many others

have had fine visions and realized them; many more will do so now that she has become the keeper of that story "of romance and of tears" which is her historic background, the story of the Transylvania Company.

Susan Sterling Towles.



Robert Worth Bingham.

Descendant of James Hogg, a member
of the Transylvania Company.

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Of the University of North Carolina

MEMBER

American Historical Association
Mississippi Valley Historical Association
Ohio Valley Historical Association
Kentucky Historical Society, Clark County Historical Society, Henderson County Historical Society, etc., etc.

History is never true. At no moment in the course of historical recording are all the facts known. The documents come to light serially, sporadically; all of them are never available at the same time. Centuries may elapse before the story of the World War is adequately told. A century, two centuries may pass before even a single movement or episode in a nation's history is understood.

Nor is it easy to arrive at the truth, even when all the essential factors in the historical problem or situation are ready to hand. For all history, as the great Italian critic, Benedetto Croce, has brilliantly pointed out, is contemporaneous. The writer, in dealing with times remote, interprets ideas, movements and events in the light of his own personal knowledge, experience and temperament. He cannot step off his own shadow. Even when he is writing of his own age and is strictly contemporaneous, he suffers the handicap of writing with insufficient data. History, written by a contemporary, is likely to be less accurate, less truthful than the history of the past written by someone living in the present.

If history is always contemporaneous and never true, there would seem to be no reason for its existence. The best excuse for the historical writer is that it is his function to correct the most glaring errors, to fill in the most yawning lacunae, in the writings of his predecessors. In so doing, he is giving a "new slant" to interpretation, or furnishing a new platform from which his successors may enter new fields of research.

Kentucky affords a singularly pertinent illustration of the above generalities. The history of this great State, especially during the early and pioneer periods, has been written "from the inside looking out." In consequence, it appears distorted, warped and out of perspective to the man who is "on the outside looking in." For example, historical scholars are beginning to discover that the pioneer history of Kentucky will have to be entirely rewritten, in the light of thousands of documents hitherto unused by historians or inaccessible to them.

An outstanding example of this new type of historian is Prof. Clarence Walworth Alvord, the author of the most distinguished work on the vast medial valley of the continent, seen from the British end of the telescope. This is "The Mississippi Valley In British Politics." The real leaders in the opening of the West he finds, not in hunters of wild game and the pioneer contestants with the red men, but in the exponents of big business, the speculators on a grand scale in furs and goods and lands.

A George Washington of Virginia, a George Morgan of Pennsylvania, a James Hogg of Scotland, a Richard Henderson of North Carolina—in figures such as these he discerns the true leaders in the opening of the West. "In the unbroken wilderness across the mountains," says Professor Alvord in his great work, "the speculators were in advance of the actual home-makers. The historic muse has always delighted in singing of the daring deeds of the explorer wandering through the dark forest or paddling his canoe on unknown rivers; and even the homesteader, with family goods packed in his prairie schooner, has had his exploits chanted in majestic measures; but few have noted the fact that both explorer and homesteader were frequently only the advance agents of the speculator who dreamed of large enterprises in land exploitation. From that distant date when Joliet and La Salle first found their way into the heart of the great West, up to the present day when far-off Alaska is in the throes of development, 'big business' has been engaged in Western speculation. The Mississippi Valley has been explored, cleared and settled in large measure through the enterprise and financial boldness of moneyed men who have staked fortunes in opening up the successive lines of the American frontier."

The history of the Transylvania Company, which has never been told save in the barest outline, and fully only in spots, furnishes an illustration, ready to hand, of Professor Alvord's thesis. To this day, the great majority of Kentuckians labor under the delusion that Kentucky was first opened up and settled by Virginians. The notion is a natural one, since Kentucky was originally a Virginia county; but it is none the less erroneous. The establishment of the Colony of Transylvania, short-lived though it was; the founding of Boonesborough as the first fortified station of importance in Kentucky and that one which bore the brunt of Indian attacks; the organization of a central government for the infant settlements, the stabilization of the white occupation of Kentucky, affording a point of departure for George Rogers Clark in his meteoric campaigns in the Northwest: all these things, together with the blazing of the trail from North Carolina through Tennessee to Kentucky, were accomplished through the agency and under the direction of a great North Carolina land company, known as the Transylvania Company.

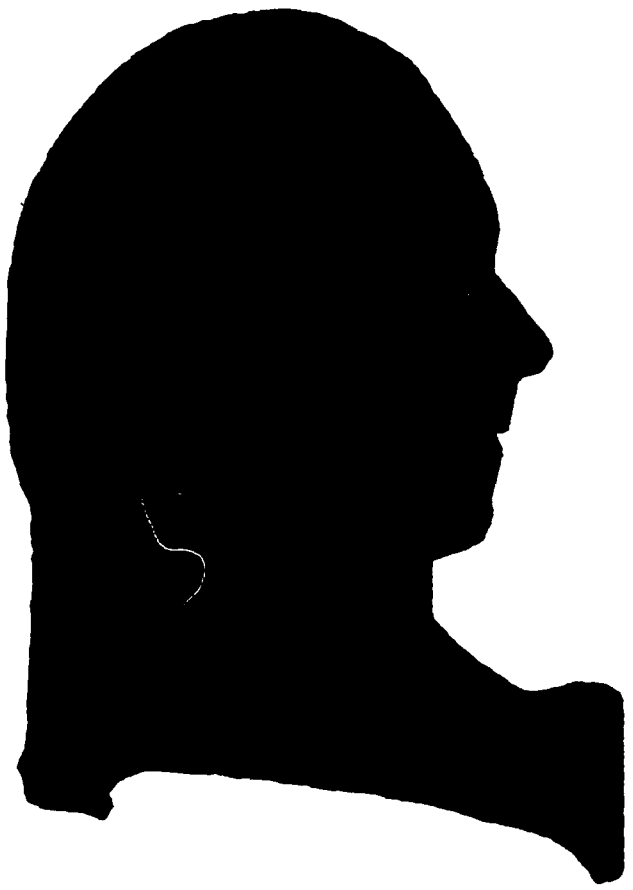
In the epic movement of American expansion, which found its true inauguration in pioneer advance and its true romance in border struggle, the colony of North Carolina assumed the predominant role. Kentucky would be impoverished indeed, shorn of the great measure of the incomparable magic of her origin and rude beginnings, if bereft of North Carolina's epochal contribution, the exploring instinct of Christopher Gist, the pioneering genius of Daniel Boone, the colonizing spirit of Richard Henderson, the economic and expansionist ideas of

the canny Scots, James Hogg and William Johnston, the vigor, bravery and resolution of Jesse Benton, sire of the "Great Pacificator," the Harts, Thomas, David and Nathaniel; the Hendersons, Samuel, Nathaniel and Pleasant; the Boones, Squire and Jesse; Isaac Shelby, Felix Walker, John Luttrell, Richard Callaway, Robert Burton, Bromfield Ridley, John Williams, John Gray Blount, Leonard Henley Bullock, William Bailey Smith and many others, less spectacular in their achievements, yet little less important. It is overlooked or ignored that Daniel Boone, although born in Pennsylvania, lived for a quarter of a century in North Carolina—the longest period of time he ever lived in any American colony or state; and that others, although born elsewhere, were living in North Carolina at the time of their invasion of Kentucky in 1775.

It is a singular fact that no historian has taken into account the personnel of the Transylvania Company, or viewed that company in its own environment, the colony of North Carolina.

In the first stage of its development, the North Carolina land company was a modest affair, its principal object being to have various hunters, notably Daniel Boone, Samuel Callaway and Henry Skaggs, explore the unknown, transmontane lands of Tennessee and Kentucky and to report on desirable locations for settlement. The first name of this company was Richard Henderson & Co.; and this name was used in all legal documents, power of attorney, deeds and the like issued by the company throughout its entire existence, even when publicly known by other names. The original partners of this company, it appears from all extant evidence known to me, were Richard Henderson, the founder of the company; John Williams, his law partner, and Thomas Hart, the father-in-law of Henry Clay. In speaking of the expedition into Tennessee, when Daniel Boone cut upon a beech the inscription, "D. Boone killed a Bar on this tree 1760," the late Theodore Roosevelt in his "The Winning of the West" says, "On the expeditions of which this is the earliest record, he, Daniel Boone, was partly hunting on his own account and partly exploring on behalf of another, Richard Henderson." Again in the autumn of 1764, Boone made a tour of Tennessee and, according to Judge John Haywood of North Carolina, Chief Justice of the Supreme Court of Tennessee, an intimate acquaintance of the Henderson family and the author of the famous "History of Tennessee," Boone on his hunting and scouting expedition of 1764 joined the Blevens party of hunters and made inquiries of them in order "to be informed of the geography and locography of these woods, saying that he was employed to explore them for Henderson & Co." In 1769, when Boone, guided by John Findlay and accompanied by four other backwoodsmen, made his famous two years' exploration of Kentucky, he was again acting as the secret agent of Richard Henderson & Co. Writing of events of the year 1770, A. W. Putnam, the intimate acquaintance of the leading pioneers of Tennessee and Kentucky, says in his notable work, "The History of Middle Tennessee," "Daniel Boone and others had been employed by Col. Richard Henderson to examine the same country (the headwaters of the Tennessee River); they had passed beyond the mountains, and discovered the rich lands upon the Cumberland and Kentucky Rivers, and the extensive barrens or open lands in Kentucky."

Acting upon the glowing account and exhaustive reports of the Tennessee and Kentucky areas, brought back by his agents, Judge Henderson set about organizing a great land company. This action was delayed until the expiration of his term as one of the justices of the highest court in North Carolina, which took place when the court itself ceased to exist in 1773. The plans were gradually and carefully matured; and it was not until the summer of 1774 that the company was finally organized, under the name of the Louisa Company. A few months later additional partners were taken in, and the reorganized company was entitled the Transylvania Company.



JAMES HOGG.

In regard to the personnel of the Transylvania Company, it is unnecessary here to do more than mention its organizer and president. Controversy has raged about Richard Henderson for a century and a half. He has been described as "the political father of Kentucky" and "the most brilliant and eccentric genius in America—if not in the world." He has been denounced as an "undesirable speculator" and as an "infamous land pyrate." Independent in spirit, soaring in imagination, enterprising and energetic, he displayed the qualities of the great executive in choosing men of character, ability and personal force for carrying out his designs. In addition to the eight other partners of the Transylvania Company, he associated with himself such leaders and pioneers as Daniel Boone, James Robertson, John Donelson, William Cocke, John Floyd and Isaac Shelby in establishing and solidifying the settlements at Boonesborough and the French Lick (afterward Nashville, Tenn.).

Of the partners of the Transylvania Company, James Hogg was conspicuous as captain of industry and as diplomat. One of the most influential men of his day in North Carolina, he belonged to the family which produced the famous Scotch poet of the same name, "the Ettrick Shepherd;" and his wife, McDowal Alves, was a second cousin of Sir Walter Scott. A native of East-Lothian, James Hogg was a resident of the parish of Reay, near Thurso, Scotland, at the time of his emigration to North Carolina. A cultured man, possessed of considerable wealth, he engaged in business with his cousins, Robert and John Hogg, who carried on mercantile enterprises at Fayetteville and Wilmington. Shortly after his arrival in Hillsborough late in 1774, he acquired an extensive tract of land extending for a mile and more along the south bank of the Eno River, opposite the town. It was primarily through his influence that the University of North Carolina was located in Orange County, rather than elsewhere.

Judge Henderson's law partner and right-hand man in transacting the most important affairs of the Transylvania Company was John Williams. A large landowner in Granville County, Williams enjoyed

as a lawyer an extensive practice. As an advocate he held his own with the famous lawyers of the Carolina circuit, Hooper, Davie, Iredell, Martin and Burke. He was held high in public esteem as a man of sound judgment and approved common sense; and the distinguished Iredell speaks of him as "one of the most agreeable men in the world." First Richard Henderson and afterward John Williams served on the highest court in North Carolina.

Three brothers, all men of power and ability, were members of the Transylvania Company. Thomas, Nathaniel and David Hart were children of Thomas Hart and Susanna Rice of Hanover County, Virginia. Emigrating to North Carolina prior to 1760, along with his widowed mother and the five other children, Thomas Hart quickly began to take a prominent part in the life of the colony. In 1762 and 1763 he was High Sheriff of Orange County; and in those troublous and turbulent times prior to the period known as the Regulation, when sheriffs were notoriously backward in rendering their accounts, he stood out conspicuously as one who settled his accounts promptly and to the last farthing. Attaining in turn the ranks of captain, major and lieutenant colonel of county militia, he fought under Governor Tryon at the Battle of Alamance. He served as justice of the peace from 1764 until the outbreak of the Revolution, as Representative in the Assembly in 1773 and 1775, and as delegate to the first provincial convention which met at New Berne on August 25, 1774. At Hillsborough his commercial interests were in a store and mill. Later he had as partner in Hillsborough, Col. Nathaniel Rochester, afterward the founder of Rochester, N. Y. This partnership continued after their removal to Washington County, Maryland, where they set up a flour mill and a rope and nail manufactory.

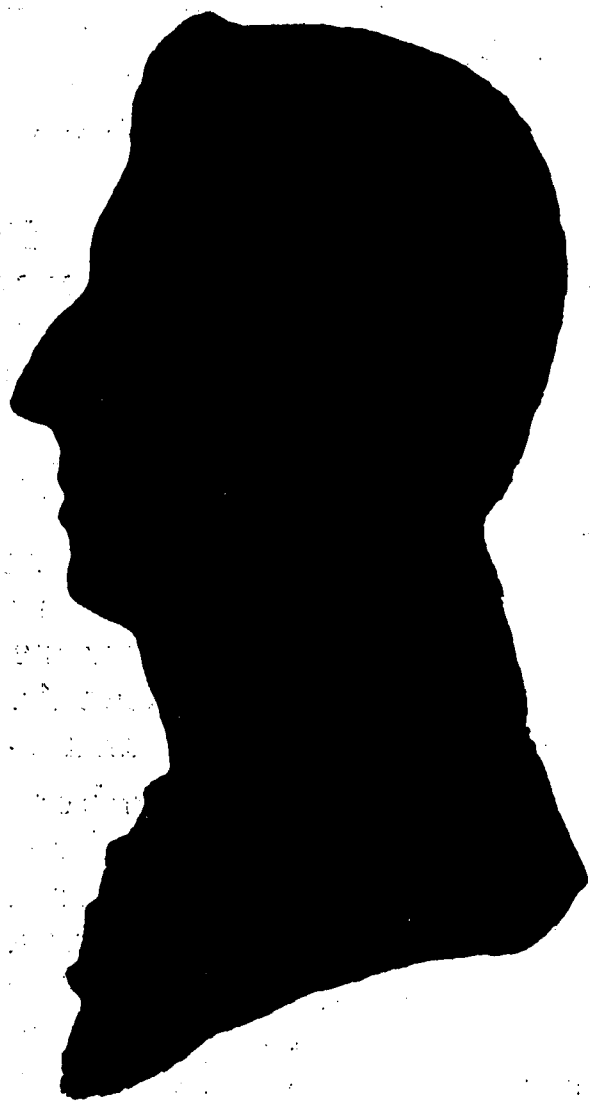
Nathaniel Hart, a leading spirit in the opening of Kentucky and the establishment of Boonesborough, resided in Caswell County, North Carolina, at his famous seat, known as the Red House. At the Battle of Alamance, Capt. Nathaniel Hart commanded a company of infantry in Tryon's army; and it is said that, after the battle, he was "handsomely complimented by the officers of the Government for the gallant and spirited behaviour of the detachment under his command." A man of affluence and social position, he was influential in organizing the Transylvania Company and arranging the preliminaries to the Treaty of Watauga at Sycamore Shoals. A half-share in the Transylvania Company, or one-sixteenth part of the whole, was taken by David Hart, brother of Thomas and Nathaniel.

A prominent member of the Transylvania Company, who held the responsible position of secretary, was William Johnston, only son and heir of Robert Johnston of Hartwood, Lochmaben Parish, Annandale Shire, Scotland. He was among the most substantial of the Scotch merchants who, after 1764, settled near Hillsborough, N. C., and there established "stores that contained a good assortment of European merchandise." William Johnston was a near relation of Gov. Gabriel Johnston and nephew of Samuel Johnston, the distinguished North Carolina statesman. He was associated in business at Hillsborough with James Thackston, afterward a gallant soldier during the Revolution. The firm of Johnston & Thackston carried on an extensive mercantile trade—not only supplying the inhabitants of Orange County with foreign goods, but also doing a large wholesale exchange business

with mercantile establishments in Eastern North Carolina. Through his extensive business affiliations with the Scotch merchants at Cross-Creek, afterwards Fayetteville, Johnston was able to negotiate the purchase of the vast quantity of goods for the treaty at Sycamore Shoals. The bonds for the various bills of supplies were underwritten by the partners of the Transylvania Company.

Another bold adventurer, who threw in his lot with the fortunes of the land company, was John Luttrell of Chatham County, North Carolina, the husband of Susanna, only daughter of John Hart, brother of Thomas, David and Nathaniel. He had served as clerk of the crown in Hillsborough in 1770, and later won laurels as a soldier in the Revolution. "Lieutenant Colonel Luttrell," records a contemporary, "was a man of fiery courage, active, enterprising and firmly attached to the cause of his country." A half-share in the company, or one-sixteenth part of the whole, was taken by one of Judge Henderson's neighbors on Nutbush, whose family had removed from Hanover County, Virginia, to Granville County, North Carolina, shortly after 1752. This was Leonard Henley Bullock, sometime High Sheriff of Granville County and brother of Agnes, widow of George Keeling, who was subsequently married to Judge John Williams.

Judge Henderson had studied with care the entire situation for years. The operations of the Vandalia Company, the terms of the successive treaties with the Indians, the demarkation of the final boundary line run by Col. John Donelson in 1772 were known to him. Through correspondence with legal authorities in England, he had become possessed of the legal opinion rendered by Councillor Charles Yorke in 1769 or earlier, to the effect that purchases from the Indians by individuals were legal, the right of eminent domain remaining vested in the crown. By the year 1774 all bars, legal and governmental, to the purchase of the Tennessee and Kentucky areas had been removed. By the Treaty of Lochaber in 1770, and the additional negotiations, ending in the running of Donelson's line in 1772, Virginia had confirmed to the Cherokees their right to the vast territory lying to the west of the boundary line. This boundary line, accurately delineated for the first time in any history in the author's "The Conquest of the Old Southwest," ran as follows at the back of North Carolina and Virginia: Beginning at Tryon Mountain on the South Carolina boundary, running straight in the direction of Chiswell's Mine until it crossed the North Carolina-Virginia boundary line, thence due west to a point six miles east of Long Island of Holston, thence in a straight line in the direction of the confluence of the Ohio and Great Kanawha Rivers until



WILLIAM JOHNSTON.

it struck the Kentucky River, and thence along the Kentucky River to its junction with the Ohio River. The entire State of Tennessee, and all of the State of Kentucky south of the Ohio and west of the Kentucky River as these States are now bounded, were confirmed by the royal colonies of North Carolina and Virginia, with the active co-operation of John Stuart, Superintendent of Indian Affairs in the Southern Department, to belong to the Cherokees as aboriginal occupants of the soil.

By the Royal Proclamation of 1763, and again by the orders in Council of 1773, the Board of Trade, sitting at St. James' Palace in London, had expressly forbidden settlements west of the boundary line. In 1774 the crown itself could not grant lands to the west and south of the boundary line, even to officers and soldiers of the French and Indian War, without violating their solemn treaties with the Cherokee tribe of Indians. When Daniel Boone in 1773, and James Harrod in 1774, attempted to effect settlements in Kentucky, they were violating the Royal Proclamation of 1763, the orders in Council of 1773, the action of the Royal Governors of North Carolina and Virginia in running the boundary line and by solemn treaties confirming the Cherokees in their claim to the territory west of the boundary line, south of the Ohio and east of the Mississippi Rivers. There were only two ways, besides forcible trespass, to secure possession of land west of the boundary line, a grant from the crown or a purchase from the Cherokees. The first of these was excluded following the Treaty of Lochaber in 1770, and the running of Donelson's line in 1772. In 1774 Judge Richard Henderson, one of the ablest jurists of his day in the colonies, who had fully investigated the entire situation for years, recognized clearly that the only legal way to secure possession of the Tennessee and Kentucky areas was to purchase the territory outright from the Cherokee tribe of Indians. Boone's abortive and illegal attempt to establish a colony in Kentucky in 1773 was made independently of Judge Henderson and without either his sanction or support.

Following the lease for ten years by the Watauga settlers of a section of land to the west of the boundary line, effected through negotiation with the Cherokees, Daniel Boone learned from James Robertson and other Watauga leaders that at last the Cherokees were willing, for a sufficiently large consideration, to sell their lands to the west of the boundary line. Boone, who for many years had acted as Judge Henderson's confidential agent, now informed him that the Indians were ready to sell. The auspicious moment, for which Henderson had long waited and planned, was now at hand. Judge Henderson and Nathaniel Hart visited the head chiefs of the Cherokees at their towns in the autumn of 1774 and effected the preliminary arrangements for a treaty to be negotiated the following spring. In February, 1775, Judge Henderson dispatched Daniel Boone and other runners through the Cherokee country, summoning the entire tribe of Cherokees to assemble at the Sycamore Shoals of the Watauga River in March. In fair and open treaty, held here and lasting from March 14 to 17, 1775, Judge Henderson negotiated what is known as the Great Treaty. It was conducted with an honesty unparalleled at that day in such matters. For 10,000 pounds sterling in money and in goods, Judge Henderson purchased for the Transylvania Company an immense tract of territory—variously estimated at from 17,000,000 to 20,000,000 acres—comprising small

parts of North Carolina and Virginia, and the greater portions of Tennessee and Kentucky. This is the colony known in history as Transylvania.

So far as the voluminous records of the Great Treaty at Sycamore Shoals show, Daniel Boone had nothing to do with the negotiation of the treaty. His name nowhere appears in any of the official records. Nor is this surprising, in view of the fact that he was not even present during the four days of negotiation. From the long conference which he had held with the chieftains preliminary to the actual negotiation of the treaty, Judge Henderson was in no doubt as to the successful outcome of the negotiation. In anticipation of the almost super-human difficulties in leading a party of settlers into the wilderness and carrying wagons loaded with supplies through the tangled laurel thickets and over the rough paths and trails traversed only by the buffalo, the Indian and the hunter, Judge Henderson engaged thirty axmen, with Daniel Boone at their head, to cut out the way in advance of his coming. On March 10 Boone and his party of axmen set forth from the Long Island of Holston to clear a path through the forests to Kentucky. History owes to the Transylvania Company, which hired Daniel Boone and the other axmen to do the job, a debt of gratitude for commissioning the cutting out of the Transylvania Trail, or the Wilderness Road, as it has been often called. The lasting gratitude of future generations is due not only to the Transylvania Company, but also to Boone and his sturdy companions who risked, and in some cases lost, their lives, for cutting out the historic pathway to the heart of the Dark and Bloody Ground. Again and again the fate of the expedition hung in the balance. The resolute determination of Boone to drive off the Indians and to hold his ground was a capital factor in the situation. But in the final analysis it was the stubborn will to victory of the leader of this entire Western movement, Judge Henderson, and his unwavering resolve to go forward in the face of panic all about him and a thousand imagined dangers, which carried through the armed "trek" to a successful conclusion.

The subsequent history of the Transylvania Company in Kentucky has been more or less adequately recorded in such works as Ranck's "Boonesborough" and Starling's "Henderson, Ky." In calling together the duly elected representatives of the various settlements in the neighborhood, and presiding over the Legislature which opened at Boonesborough on May 23, 1775, Richard Henderson has been accorded by the historian, Benson J. Lossing, the title, "The Political Father of Kentucky." In his address to that assemblage, which Felix Walker, afterward a member of the National Congress, described as being "considered equal to any of like kind ever delivered to any deliberative body in that day and time," Henderson used these words, worthy of George Mason or Thomas Jefferson:

"You are called and assembled at this time for a noble and honorable purpose . . . You are about a work of the utmost importance to the well-being of this country in general, in which the interest and security of every and each individual are inseparably connected.

"You, perhaps, are fixing the palladium, placing the first corner stone of an edifice, the height and magnificence of whose superstructure can only become great in proportion to the excellence of its foun-

dation. If any doubt remains amongst you with respect to the force or efficacy of whatever laws you now, or hereafter, make, be pleased to consider that all power is originally in the people. Make it their interest, therefore, by impartial and beneficent laws, and you may be sure of their inclination to see them enforced."

Under a monarchy such sentiments at that date were as advanced as those of any man on the continent. "If Jeremy Bentham had been

WEST LUNETTE. THE TREATY OF WATAGA—THE CHEROKEE INDIANS SELLING KENTUCKY TO THE TRANSYLVANIA LAND COMPANY.

in existence of manhood," says Bogart, "he would have sent his compliments to the president of Transylvania." From one who, under royal rule, boldly asserted that the source of all political power is the people and that "laws derive force and efficacy from our mutual consent," Western democracy thus born in the wilderness was, as Van Tyne says, "taking its first political lesson."

The constitution or bill of rights passed by the Transylvania Legislature constituted a compact between the proprietors of the Transylvania Company and the Kentucky pioneers. It is conspicuous for its statute of religious liberty, and in general for the bold enunciation of democratic principles. In their answer to Henderson's assertion of freedom from alien authority, the pioneers unhesitatingly declared, "That we have an absolute right, as a political body, without giving umbrage to Great Britain, or any of the colonies, to form rules for the government of our little society, cannot be doubted by any sensible mind and being without the jurisdiction of, and not answering to any of His Majesty's courts, the constituting tribunals of justice shall be a matter of our first contemplation." The proprietary form of government, familiar to the colonists in the case of Penn and Calvert, is here thoroughly democratized. The proprietors reserved to themselves one prerogative not granted them by the people: the right to veto. Henderson clearly saw that unless the proprietors assumed this power of veto to which they were fully entitled through purchase and owner-

ship of the soil, the delegates to any convention which might be held after the first would be able to assume the claims and rights of the proprietors.

Richard Henderson, James Hogg, William Johnston, John Williams, the Harts, Luttrell and Bullock were all advanced patriots, determined to "risk their lives and fortunes" in the enterprise of establishing an independent colony. Even such patriots as George Washington, George Mason, William Preston were alarmed at the spirit of independence displayed by Judge Henderson and his associates. In addressing the Transylvania Legislature, Henderson unhesitatingly declared: "We have a right to make necessary laws for the regulation of our conduct without giving offense to Great Britain, or any of the American colonies, without disturbing the repose of any society or community under heaven." In proclamations issued by the royal governors, Martin of North Carolina and Dunmore of Virginia, the proprietors of the Transylvania Company were roundly denounced for their "daring, unjust and unwarrantable proceeding." Governor Martin threatened the Transylvania Company, if it persisted in its course, "with the pain of His Majesty's displeasure and the most rigorous penalties of the law." Lord Dunmore fulminated against "Richard Henderson and other disorderly persons, his associates" in a proclamation which, as Butler says, may well rank with the one excepting those arch traitors and rebels, Samuel Adams and John Hancock, from the mercy of the British monarch. William Preston foresaw that Henderson was planning the establishment of a free colony in the West; and in a letter to George Washington, April 9, 1775, observes with alarm, "Henderson . . . it is said, intends to set up an independent government and form a Code of Laws for themselves."

The alarm expressed by Washington, Mason and Preston in the spring of 1775 was fully justified. At this time these patriots were deeply concerned in effecting a reconciliation with Great Britain, whereas Richard Henderson, James Hogg and his associates were exerting every effort toward the establishment of an independent colony. As soon as affairs were reasonably stabilized in Transylvania, the proprietors of the company held a meeting at Oxford, in Granville County, North Carolina, on September 25, 1775, and elected the able and astute Hogg as an emissary, armed with an admirably prepared memorial, written by Judge Henderson, to the Continental Congress petitioning for the recognition of Transylvania as the fourteenth member of the United Colonies. "Having our hearts warmed with the same noble spirit that animates the United Colonies," the memorial sets forth, "and moved with indignation at the late ministerial and Parliamentary usurpation, it is the earnest wish of the proprietors of Transylvania to be considered by the Parliaments as brethren, engaged in the same great cause of liberty and mankind. The memorialists please themselves that the United Colonies will take the infant colony of Transylvania into their protection; and they, in return, will do everything in their power and give such assistance in the general cause of America as the Congress shall judge to be suitable to their abilities."

It is the verdict of history, since the facts are recorded and indisputable, that North Carolina, rather than Virginia or Massachusetts, was the foremost colony in moving for independence. The Watauga settlers of North Carolina established an independent government in 1774, and defied Governor Martin's proclamation of March 26

of that year. In May, 1775, the citizens of Mecklenburg declared themselves free and independent of Great Britain, and made laws for their own government preserved in the contemporaneously published Resolves of May 31, 1775. On May 23, 1775, Richard Henderson convened the Transylvania Legislature; and the delegates, under his direction, drew up laws and made preparations for the establishment of an independent colony. On April 12, 1776, at Halifax, North Carolina led all the American colonies in the explicit instructions to her representatives to concur with the representatives from the other colonies to vote for independence.

Early in June, 1775, when the Mecklenburg patriots sent a copy of their resolutions to Philadelphia, their emissary, Capt. James Jack, was sent back home by the North Carolina delegates, Hooper, Hewes and Caswell, with an appreciative word, but the definite statement that their proceedings were premature. At this time, be it remembered, George Washington was stating that he "abhorred independence." Like John Adams, John Hancock and all the members of the Congress at this time, says Ashe, the historian of North Carolina, Jefferson was expecting to remain a British subject, and desired, as he said, the "most permanent harmony with Great Britain."

This same state of affairs existed in Philadelphia in the autumn of 1775, when James Hogg appeared there to press the claims of Transylvania to recognition as an independent colony. The Adamses were entirely unwilling to give color to the charge that they favored independence. John Adams regarded Henderson, Hogg and the other proprietors as too republican and independent to be taken seriously, much less recognized. This is clearly shown by the following entry in the diary of John Adams of October 25, 1775:

"Last evening Mr. Hewes of North Carolina introduced to my namesake and me a Mr. Hogg from that colony, one of the proprietors of Transylvania, a late purchase from the Cherokees upon the Ohio. He is an associate with Henderson, who was lately one of the associate judges of North Carolina, who is president of the convention in Transylvania. The proprietors have no grant from the crown, nor from any colony, are within the limits of Virginia and North Carolina, by their charters, which bound those colonies in the South Sea. They are charged with republican notions and Utopian schemes."

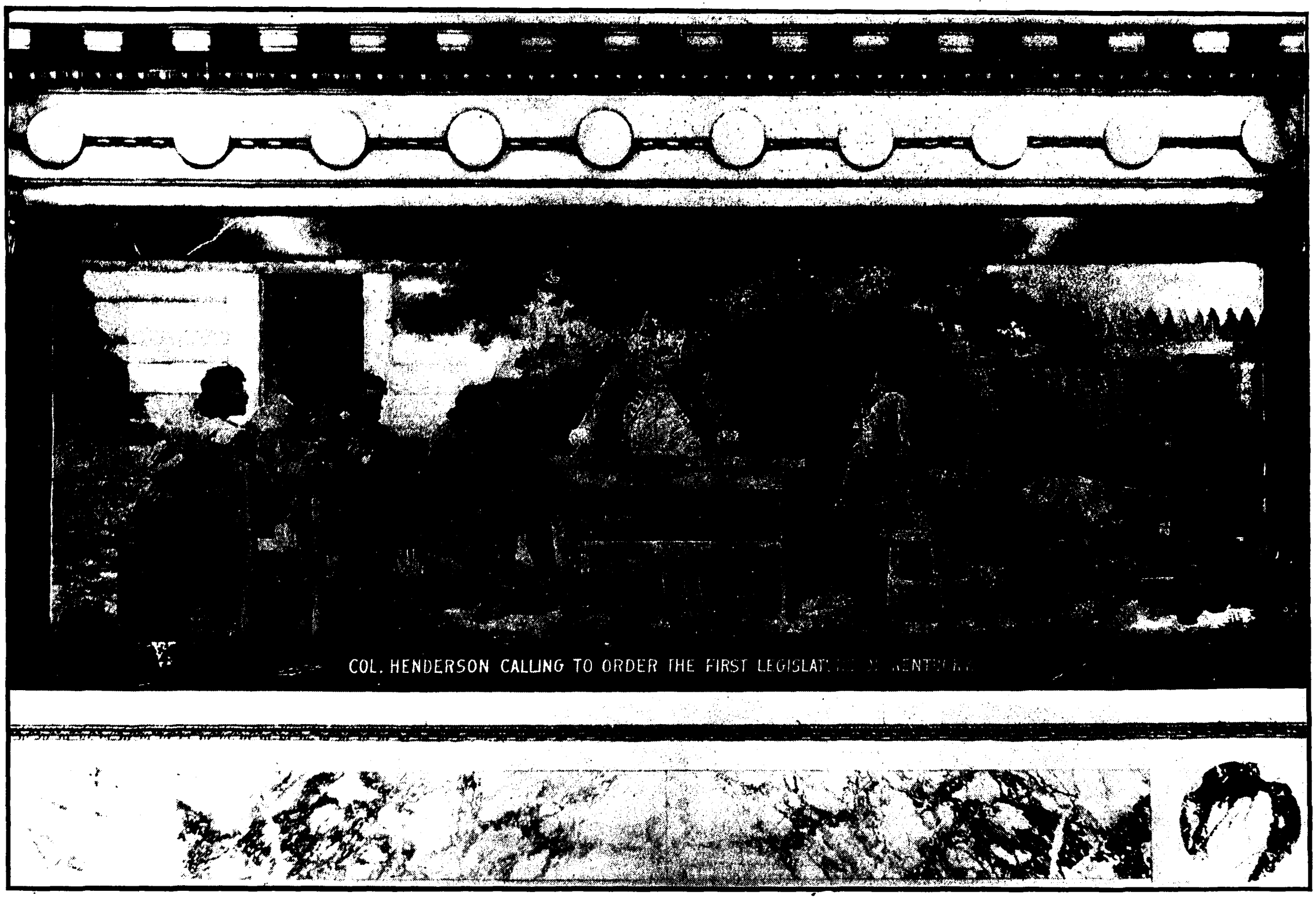
How eloquent today sounds this tribute to Henderson, Hogg and their associates from the loyalist John Adams of October, 1775. "They are charged with republican notions"—uttered with evident lack of sympathy for republican notions! In his historic letter to the proprietors of Transylvania, recording the history of his mission, Hogg explicitly states that John Adams warned him, in view of the efforts then making toward reconciliation between the colonies and the king, that "the taking under our [the Continental Congress'] protection a body of people who have acted in defiance of the king's proclamation will be looked on as a confirmation of that independent spirit with which we are daily reproached."

Thomas Jefferson was much more advanced than Adams in his views. The year before he had vigorously protested against the royal policy in closing the Western lands to settlement. He now assured Hogg that it was his wish "to see a free government established at the back of theirs [Virginia's] properly united with them," but he would

not consent that the Continental Congress acknowledge the colony of Transylvania until that colony had received the approbation of the Virginia convention. Although Patrick Henry, as a lawyer, had validated Councillor Yorke's opinion that individuals might legally purchase lands from the Indians, and had sought, under this decision, to make a purchase himself, in association with others, of a large tract of land from the Cherokees, he made a complete volte face as soon as he became Governor of Virginia. It was under his regime and with his approbation that Virginia, as an independent colony reasserting her long-extinct charter rights, abolished the colony of Transylvania. On December 7, 1776, such part of Transylvania as lay within the chartered limits of Virginia was erected by the Legislature of that State in the County of Kentucky. Two years later, "in consideration of the very great expense (incurred by the Transylvania Company) in making the said purchase and in settling the said lands, by which the Commonwealth is likely to receive great advantage, by increasing its inhabitants and establishing a barrier against the Indians," the Virginia House of Delegates granted to Richard Henderson & Co. 200,000 acres of land situated between the Ohio and Green Rivers. Upon this tract was founded the city of Henderson, Ky., which is planning a memorial celebration in honor of its founding. In 1783 the State of North Carolia, for the same reasons, granted a like amount of land to Richard Henderson & Co.

The Transylvania Fort, Boonesborough, Ky., Erected by the Pioneers. From Plans Made By Col. Richard Henderson.

Both Virginia and North Carolina, as Hulbert points out, frankly acknowledged that the Transylvania Company "had done a good work in giving an impetus to Westward expansion, by appropriately recompensing the North Carolinians for their expenditure and labors . . . This appropriation . . . to the Henderson Company cannot be viewed at this day as other than a payment for great values received . . . The Transylvania Company certainly conferred an inestimable



COL. HENDERSON CALLING TO ORDER THE FIRST LEGISLATURE OF KENTUCKY

good upon Virginia and North Carolina and the Nation when it marked out through the hand of Boone the Wilderness Road to Kentucky."

Judge Henderson's further activities as head of the Transylvania Company, especially in the founding of Nashville, Tenn., fall outside the immediate scope of Kentucky history. In the winning of the West, the trans-Allegheny West of the Eighteenth Century, three events stand out as the most conspicuous links in a long and unbroken chain. When Robertson, Sevier and their associates set up a mimic republic in Watauga, they set the "dangerous example" of an independent state in the wilderness. This was the ultimate event in a series of events which precipitated the action of Henderson and his associates in negotiating the Great Treaty at Sycamore Shoals, commissioning Boone and his axmen to cut out the Transylvania Trail, and erecting the Transylvania Fort which afterward was known as Boonesborough. The role played by the Transylvania Company in establishing a permanent settlement in Kentucky in 1775 has remained virtually unrecognized in American history.

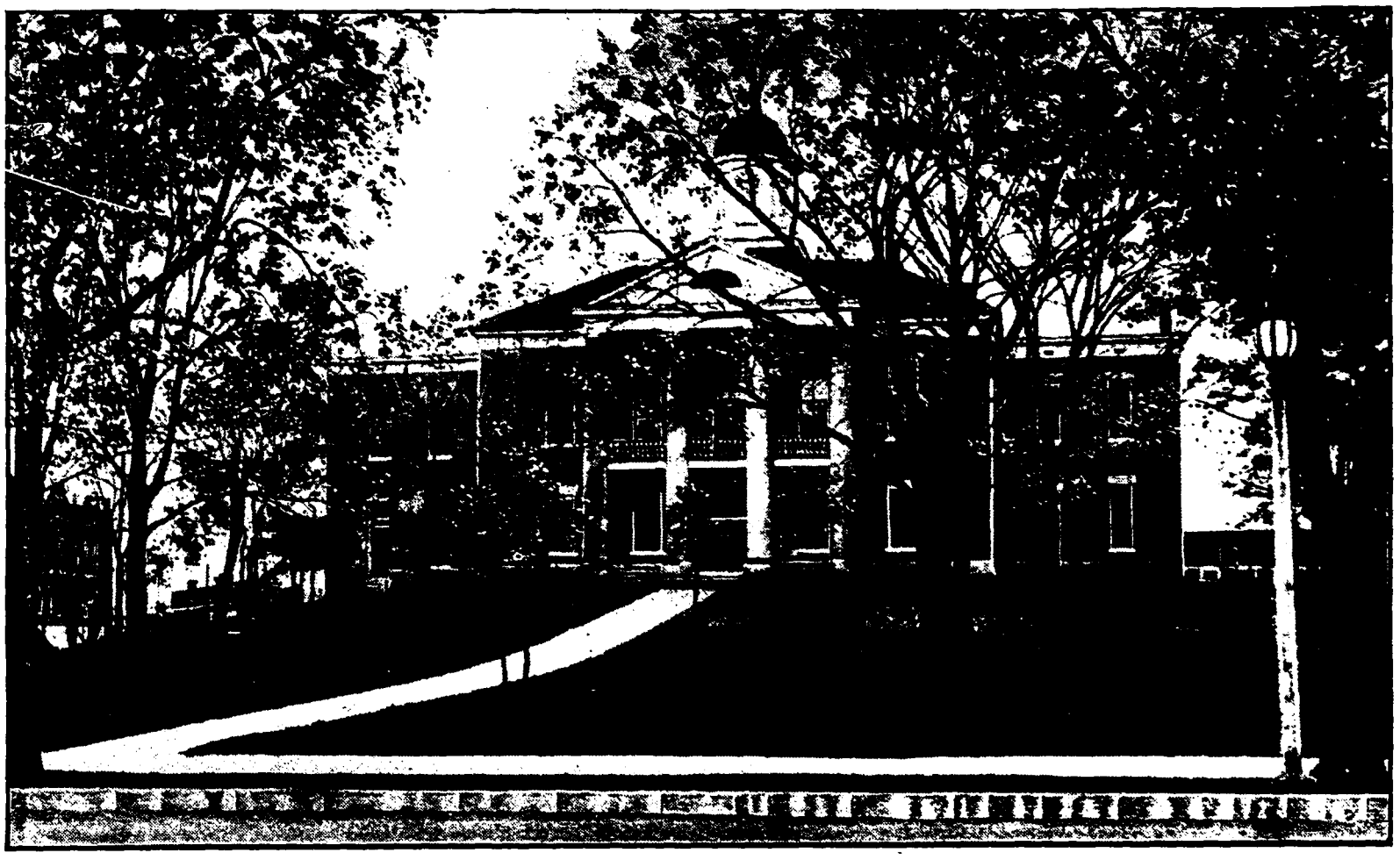
The successful defense of the Transylvania Fort throughout the Revolution, especially in 1778, was of national significance in its results. It must be remembered that the indomitable backwoodsmen who defended the Transylvania Fort—the Boones, the Hendersons, Kenton, Callaway, and their compeers were lost sight of by the Continental Congress and had to fight alone their battles in the forests. Had the Transylvania Fort fallen, the Northern Indians in overwhelming numbers, directed by Hamilton and led by British officers, would have swept Kentucky free of defenders, it can scarcely be doubted, and have fallen in devastating force upon the exposed settlements along the western portions of North Carolina, Virginia and Pennsylvania. The successful defense of the Transylvania Fort is deserving of commemoration in the annals of the Revolution along with Lexington and Bunker's Hill, King's Mountain and Guilford Court House.

"There seems no reason to doubt," says Roosevelt in speaking of Kentucky in the spring of 1775, "that the establishment of the strong, well-backed settlement of Boonesborough was all that prevented the abandonment of Kentucky at the time. Beyond doubt the restless and vigorous frontiersmen would ultimately have won their way into the coveted Western lands; yet had it not been for Boone and Henderson, it is most unlikely that the land would have been settled at all until after the Revolutionary War, when perhaps it might have been British soil."

The third crucial event in the winning of the West was George Rogers Clark's metoric campaign in the Northwest, resulting in the capture of Kaskaskia, Cahokia and Vincennes. The preparation, the recruiting, the secret mapping out and spectacular execution of those brilliant marches and maneuvers were made possible by the stabilization of white settlement in Kentucky. The Transylvania Fort and the other palisaded stations in Kentucky constituted the stable base from which Clark and his intrepid frontiersmen set off for immortal glory into the trackless forests of the great Northwest.

The establishment of the Watauga republic; the Treaty of Watauga at the Sycamore Shoals, negotiated by the Transylvania Company, the marking of the Transylvania Trail, and the erection

and defence of the Transylvania Fort known as Boonesborough; and the campaign of Clark in the Northwest, these constitute the indissoluble trinity of historic causation in the winning of the West—three in one and one in three.



HENDERSON COUNTY COURT HOUSE, HENDERSON, KY.

"THE DIVINE ELM."