

Governor Abner Nash



ADDRESS

BY

J. G. DE ROULHAC HAMILTON

NOVEMBER 15, 1909

PRESENTATION OF PORTRAIT
OF
GOVERNOR ABNER NASH

TO THE STATE OF NORTH CAROLINA

IN THE

Hall of the House of Representatives, at Raleigh,

NOVEMBER 15, 1909,

BY THE

NORTH CAROLINA SOCIETY OF THE SONS
OF THE REVOLUTION.



ADDRESS

BY

J. G. DE ROULHAC HAMILTON,

Alumni Professor of History in the University of North Carolina,
a Member of the Society.

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ADDRESS.

May it please your Excellency:

On the part of the North Carolina Society of the Sons of the Revolution, I present through you to the State of North Carolina the portrait of Abner Nash, patriot legislator, and second Governor of the Commonwealth.

THE LIFE AND PUBLIC SERVICES OF ABNER NASH.

In the year 1730, or thereabouts, there came to Virginia John Nash, best known to North Carolina as the progenitor of three of her distinguished public men, namely, Abner Nash, lawyer, legislator, and governor; Francis Nash, legislator and soldier; and Frederick Nash, legislator and chief justice of the Supreme Court of the State. Before emigrating he married Ann Owen, a daughter of Sir Hugh Owen, of Tenby, Pembrokeshire, Wales. Thus well equipped for life, he sought fortune in the New World, settling first in Henrico county and later in Prince Edward, in the fork of the Bush and Appomattox rivers, where he purchased a large estate, to which he gave the name of Templeton Manor. In his new home he won prominence and honor, filling at various times the offices of justice of the peace, high sheriff, member of the House of Burgesses, lieutenant of the county, and captain in the Indian war. Later he was chairman of the county committee of safety and a member of the Virginia convention of 1775. He was one of the founders of Hampden-Sydney College and permanent chairman of its board of trustees. He died in 1776. To him were born four sons and four daughters.

The third son, named Abner for his grandfather, Abner Nash, of Tenby, Wales, was born about 1740. Nothing is known of his early life or training, but he showed throughout life the signs of a liberal education and considerable culture. In 1762 he appeared in Rowan county as an attorney before the county court, and in 1763 he came to Hillsboro with his younger

brother, Francis, who settled there about this time, but he did not remain. Probably he was viewing the country before settling down to the practice of law. He seems finally to have located himself in Halifax, for from there he made his first public appearance, in 1764, as a member of the Assembly. Although failing to select Hillsboro as his residence, he was there frequently in the following years, visiting his brother and practicing in Orange Court. He became the owner of a number of town lots there, and, after placing a dam across the Eno, erected the first mill within the corporate limits of the town.

In 1765 Nash was again a member of the Assembly from the town of Halifax, and in 1769, 1770 and 1771 he represented Halifax county, but soon thereafter he removed to New Bern and entered actively upon the practice of his profession. After the death of Governor Dobbs he married his young and attractive widow, whose maiden name was Justina Davis. Out of this marriage grew the famous Martin court quarrel. Dobbs, by his will, left £2,000 to Mrs. Dobbs, chargeable upon his lands in North Carolina. Upon the failure of Conway and Richard Dobbs, his executors, to pay this, Nash, who by this time had acquired a personal as well as a professional interest in the legacy, sued them, and an attachment was issued under the Tryon Court law. The defendants at once procured an injunction, which the Provincial Chancery Court made perpetual. The Privy Council, however, upon Nash's appeal, reversed this decision. In the Privy Council at this time were Lord Hillsboro, Secretary of State for the Colonies, and Lord Hertford, the Lord Chamberlain, both close friends of the Dobbs family. Through their influence, it is supposed, the instructions against the provisions of the court law relating to attachments were given to Governor Martin, which led to the angry quarrel between him and the Assembly that resulted in the disappearance of courts in the province of North Carolina and gave a great impetus to the revolutionary movement.

Mrs. Nash died in 1773, and not many years later Nash married Mary Jones, an heiress from Chowan. He continued to

reside in New Bern, and from there he was a delegate to all four of the Provincial Congresses. He was a member of the Provincial Council in 1775 and was speaker of the first House of Commons, in 1777. The next year he was elected to the Continental Congress, but declined to serve. In 1779 he was sent to the Senate from Jones County, which had been newly erected, and upon the resignation of Allen Jones he was unanimously chosen speaker. In 1780 he was elected governor by a large majority and served until June 25, 1781. He was again elected to the House of Commons in 1782 from Jones, where his residence now was; and in the same year he was elected to Congress, of which body he remained a member, with the exception of one small interval, until his death, December 2, 1786.

Having thus briefly sketched his career as an introduction, I ask your attention to a consideration of Abner Nash, first, as a lawyer and citizen; second, as a legislator, state and national; and, third, as Governor.

AS LAWYER AND CITIZEN.

When Abner Nash came to the bar in North Carolina there were about forty-five lawyers in the province. This small number argues a large practice for most of them, and Nash soon shared in it and took the prominent place to which his talents entitled him. We can, fortunately, from evidence nearly contemporary, form an estimate of his ability and power as an advocate. Archibald Maelaine Hooper said of him: "The name of Abner Nash always brings to my imagination the inflamed energy of Demosthenes, and produces some of that perturbation which is felt in reading his orations. The eloquence of Nash and Hooper must, indeed, have exhibited a fine contrast. Nash was vehemence and fire; Hooper was stately and diffusive eloquence." Among his associates at the bar were such giants as Iredell, Moore, Hooper, Maelaine, Burke and, towards the latter part of his career, William Richardson Davie. By them he was regarded with respect and with admiration, and by most

of his associates he seems to have been held in great affection and personal esteem.

We know but little of the details of his professional life, but the few facts known are interesting. The most notable of his early cases was, of course, the Dobbs case. Almost his last was *Bayard vs. Singleton*, famous as one of the earliest cases in which the power of the judiciary to declare the unconstitutionality of a legislative act was asserted. Here he appeared for the validity of the act. There are many contemporary allusions to his position at the bar, among them that of Governor Martin, who, in writing to Lord Dartmouth, spoke of him as "an eminent lawyer," but, in view of his Whiggish activity, added, "but a most unprincipled character."

Nash was of a type not infrequent in that day. Genial, easy of manner, luxurious in taste and habit, convivial and somewhat given to extravagance, without due thought of the morrow, he lived on a large and fine estate near New Bern, called Pembroke, in memory of the old home of the Nashes in Wales, where it was his delight to dispense a gracious and charming hospitality to the many friends of the family. Here he lived until Major Craig captured New Bern when he took to flight. In this way his books and papers were lost, and for that reason our knowledge of his is far less than his career deserves. When the Revolution began he was possessed of a large fortune, but at its close all was lost, and the worry and anxiety consequent upon his position had caused a total breakdown of his health. By the time of his death he had in some measure replaced his fortune, but he was never a well man again.

In common with the leaders of his time, Nash favored education, and we find him among the original trustees of Queen's Museum. He was also one of the trustees of Granville Hall.

As was to be expected from his associations and sympathies, he was a member of the Tryon party during the Regulation, and, in fact, was a major of brigade, or brigadier general, in the force raised by Governor Tryon for the suppression of the outbreak.

Living in the stormy period in which he did, at the center of provincial government, a vigorous thinker, who was deeply interested in public questions, it was not unnatural that his voice was soon raised in behalf of his country and that his best efforts and most devoted service were given to her. We thus come to his career as a legislator.

AS LEGISLATOR, STATE AND NATIONAL.

Nash's first legislative service, as has already been mentioned, was in the Assembly of 1764, in which he represented the borough of Halifax. His only action of importance, so far as can be judged from the journal, was a motion to establish a post road from Suffolk, Virginia, to the South Carolina line. In 1769 he was again in the Assembly, this time from Halifax county, and was returned in 1770. His reputation had grown by this time, and his prominence in the body is shown by his committee service, for he served on no less than nine general committees, besides many special ones. Lack of time forbids the mention of these, with the single exception of one notable for the men who composed it. The committee to answer the governor's message, besides Nash, was composed of Robert Howe, Samuel Johnston, Edmund Fanning, Maurice Moore, Cornelius Harnett, and Joseph Hewes, all of whom, except Fanning, were later to become distinguished for their zeal in the patriot cause. Few colonial committees could be found that had such a group of talent upon them. In the Assembly of 1771 he was also quite active. This service made him well acquainted with the condition and sentiment of the province and was a valuable preparation for his later Revolutionary activity.

Within the next few years the long-standing discontent of the colonies with British administration led to open revolt. North Carolina did not lag behind the other colonies in resistance to arbitrary power. Governor Martin, who succeeded Tryon, was of a character and disposition that soon caused him to incur the enmity, distrust and contempt of the North Carolinians, and

their feeling was intensified by the long quarrel in regard to the courts. Nash was, from the beginning of the movement, an earnest and active patriot; and on August 9, 1774, he was elected by a public meeting, held in New Bern, one of the delegates to the first Provincial Congress, which met at New Bern August 25, 1774.

After the adjournment of the Congress, Nash was not idle, but in New Bern and the adjacent country was using his great personal influence and his fiery and magnetic eloquence in arousing the people. He was a member of the local safety committee and signed its address to the people in March, 1775. Governor Martin, indeed, supposed that he had written it, for, writing to Lord Dartmouth on March 10th, he said: "I enclose to your Lordship an advertisement of a committee in the town that may serve as a specimen of their atrocious falsehoods which are reported to stimulate the people to revolt. . . . It is supposed to be the composition of a Mr. Nash, one of the subscribers, who is an eminent lawyer, but a most unprincipled character of this country." On May 23d a meeting of the committee was held in New Bern, and afterwards a great crowd of the inhabitants waited on the Governor. Nash, whom the Governor now styled "the oracle of the committee" and "the principal promoter of sedition," presented the protest of the people against the dismounting of the cannon with which the palace was fortified. All of this time, the inhabitants, under the lead of Nash and a few others, were organizing military companies, and on May 30th Governor Martin took flight and royal authority ceased to exist in North Carolina.

How much the activities of Nash had grated upon the sensibilities of the Governor is to be seen in a letter to Dartmouth, written after his flight: "I hold it my indispensable duty to mention to your Lordship Cornelius Harnett, John Ashe, Robert Howe, and Abner Nash as persons who have marked themselves out as proper objects for such distinction [*i. e.*, proscription] in this colony by their unremitted efforts to promote sedition and rebellion here, from the beginning of the discontents in America

to this time, that they stand foremost among the patrons of revolt and anarchy.”

In the meantime the second Provincial Congress met at the same time with the last royal Assembly, on April 4th. Nash was also a member of this, though not of the Assembly. He was also a delegate to the third Provincial Congress, which met at Hillsboro, August 20th, but he did not attend, probably on account of sickness. By this Congress he was elected a member of the Provincial Council, then created as the central executive body of the rapidly developing independent State. He was present at all its meetings, and seems to have borne an active part in its labors. We find him with his colleague from New Bern, James Coor, in charge of the fortifications at Hanging Point, on the Neuse, and authorized to charter vessels and carry on an export trade from New Bern for the purpose of procuring arms and ammunition. With others, he was commissioned to equip armed vessels to go out from New Bern, and was directed to prepare for arming the province against British invasion. By the Council he was sent, in February, 1776, with John Kinchen to Charleston to confer with the South Carolina authorities in regard to defense.

The fourth Provincial Congress met at Halifax, April 4, 1776. Here Nash rendered his most important legislative service. Reaching there on the 8th, he was at once placed on the committee to take into consideration the usurpations and violences attempted and committed by the King and Parliament of Britain against America, and the further measures to be taken for frustrating the same and for the better defense of the province. To this committee, composed of Harnett, Allen Jones, Burke, Thomas Jones, Kinchen, and Person, in addition to Nash, belongs the honor of the 12th of April resolution, which is the brightest jewel in North Carolina's Revolutionary crown, and which entitles her, justly and without fear of contradiction, to claim priority in the movement for independence. Nash was also on the committees of secrecy, intelligence and observation, ways and means, to prepare a temporary civil government, to

consider defense of the coast, to prepare a form of commission for privateers, to draw up instructions for recruiting officers, to prevent the desertion of slaves; and, finally, when it became evident that the differences of opinion as to the form of government to be established were so serious that delay was necessary, on the committee to form a temporary civil government until the next Congress.

In the political division which appeared at this time Nash took the conservative side, without, however, becoming the partisan that many were. Because of his conservative views, he met with vigorous opposition in New Bern, but after a heated campaign he was triumphantly re-elected as a delegate to the fifth Provincial Congress, which met November 12, 1776.

Nash was on the committee to review and consider all such acts of the Assembly as were then in force in the State, and "to prepare such bills to be passed into laws as might be consistent with the genius of a free people." He was also on the steering committee, as it would be called to-day; the committee on inquiry, the committee to form a bill of rights and Constitution, and a number of minor committees. What part he played in shaping our organic law, we unfortunately do not know, but, considering the vigorous personality of the man, it is not unreasonable to conclude that his voice was by no means an unimportant one.

In March, 1777, Nash was elected to the House of Commons from New Bern, and when that body assembled he was chosen speaker, the first of a long line of able and distinguished men who have since held that station. He presided with dignity and ability, and thereby won new friends and admirers, and the whole session was marked by complete harmony and absence of friction. The next year, also, Nash was a member of the House from Craven county, and by that Assembly he was elected to the Continental Congress, but declined to accept. In 1779 he was elected to the Senate from Jones County, and, as usual, was active in committee work, being a member of the steering, four other general committees, and many special ones. Later in the

session he succeeded Allen Jones as speaker, and was thus directly in line for the gubernatorial office, to which he was called in 1780.

Before discussing his administration, let us consider his later legislative service. As has been seen, he was in the House from Jones in 1782, 1783, 1784 and 1785. Here he was still foremost in active committee service. He was a leader in the General Assembly of 1784 in opposition to the recommendation of Congress that loyalists should be given full rights, and on a bill to repeal all such laws as were inconsistent with the treaty of peace he voted nay, thereby incurring the enmity of Archibald Maclaine, who wrote George Hooper that Nash and Blount, "destitute of principle and swayed only by motives of interest, headed the opposition." He voted for the cession of Tennessee in May, 1784, but, in November, like many others, voted for its repeal.

On May 3, 1782, Nash was elected to Congress. He had been a candidate for election the year before, but had been defeated by Benjamin Hawkins. He commenced his service on November 4th and remained until January 25, 1783. While there he was on the post-office committee and was one of a special committee selected to visit Rhode Island and urge the compliance of that State with a resolution of Congress imposing a duty on imports. But the matter was dropped before the committee could start, by reason of the news that Virginia had declined to ratify it. During his short service Nash saw the weakness of the national government in operation, and wrote Iredell that, if the nation was in distress, the fault was in the constitution of Congress, but that, if the difficulties pointed a remedy, all was for the best. This may have explained his failure to attend the next year, in spite of his election, though the fact that, in a sense, he was a candidate for the governorship may have had something to do with it. Then, too, we must remember that North Carolina was notorious for its indifference to Congress, and, indeed, to the national government. In 1784 Nash was again chosen, but did not attend. He failed of election in the

spring of 1785, but in December he was elected for the fourth time, and in the following November went to New York to attend the meetings. There he died, on December 2d, before he took his seat. In the meantime he had been appointed by Governor Caswell a delegate to the Annapolis convention, but was ill at the time, and so was not present.

Thus ended his distinguished legislative career. Had he lived he would almost certainly have been one of the framers of the Constitution and have added one more to his already numerous honors. For North Carolina regarded him as one of her most valuable public men. Harnett classed him with Burke and Johnston; and Blount deplored the loss to the State, by death, of so valuable a member.

AS GOVERNOR.

Having looked at Nash from two points of view, let us now consider him in the position of greatest responsibility among the many he filled, namely, that of Chief Executive of the infant commonwealth, weak and struggling against invasion from without and divisions within.

On April 21 or 22, 1780, Nash was elected governor to succeed Caswell, who was ineligible for re-election. He at once entered upon his duties and displayed great energy and activity in the military preparations, which, at that time, occupied most of the attention of the executive. Stores were collected, arms and ammunition gathered, and, not least in the estimation of the army, "many wagons loaded with spirits" were sent to the troops. So, when General Gates finally came south, the army was amply supplied, and almost entirely by North Carolina. Need there was of activity, for the State was sorely stricken by the fall of Charleston and the loss of the six battalions of veteran Continental troops, besides the one thousand militia there surrendered. North Carolina was apparently open to the advance of the British, but their delay gave much needed time, and when they came the State was ready for them. The dis-

aster at Camden, however, made it necessary for most of the work to be repeated, and in order to prepare for this Governor Nash called the General Assembly to meet at Hillsboro on August 20th, but, very few of the members being present, it was not until September 5th that a quorum was in attendance. In the meantime the governor had laid an embargo on provisions and spirits for thirty days, and such members of the Assembly as had arrived took power in their hands to protect the State.

The previous General Assembly had made Caswell commander-in-chief of the militia and given him powers which interfered to a great extent with the constitutional powers of the Governor. At this session Governor Nash reported that his council would not meet, and did not assist him. He therefore recommended the creation of a Board of War, which should share with him the responsibility of the war when the Legislature was not in session. This was accordingly done, and John Penn, Alexander Martin and Oroondates Davis were elected. Their election was received with the utmost scorn and contempt by the military men of the State, and Nash soon found that the powers granted the board were in derogation of his own, as defined by the Constitution. The board was very active, fearless and, to an extent, effective, but its very existence marked a dangerous step in development, and Nash was thoroughly justified in his attitude towards it. Even if it were thought that two or three heads were better than one, the argument failed in this case, for frequently only one member of the board was present. Nor was the attitude of the body towards the Governor pleasant or marked by a proper respect. In consideration of all the facts of the case, and having become convinced that the board was not a constitutional body and was dangerous, Nash refused to fill a vacancy on it. This led to open enmity with the board, but did not check his activity nor dampen his ardor for the cause; and by the end of 1780 North Carolina had five thousand men in the field. As Nash wrote Willie Jones, "zeal and spirits rose with difficulties," and the State was more united than had been the case at any previous time. But the

situation was unbearable, particularly to a man of proud spirit. Nash wrote Burke that the executive power had been so divided and subdivided that, like the rays of the sun, it had lost its force, and "men, not knowing whom to obey, obeyed nobody." So, when the General Assembly met in February, 1781, he at once laid the matter before it and expressed the determination to resign immediately unless a change was made. His protest was dignified and conclusive, and its close is worthy of quotation here:

"I readily acknowledged the merit of the Gentlemen who compose the Board of War, & that I thought the establishment of such a board necessary. I also thought it necessary that extraordinary powers should be lodged somewhere, equal to the exigency of the times & agreeably to the recommendation of Congress, to be exercised on extraordinary occasions; and, being not ambitious of power myself, I recommended that the extraordinary power should be in the Board of War, so as to make them a legal basis for the support of the Executive; & this, as expressed by Congress, might have been in lieu of the Assembly sitting constantly. But, instead of giving them powers which lie dormant, except when the Assembly are in session, you give them powers comprehending and, of course, superseding those of the Executive, which was never Dormant. In short, Gentlemen, I hold at present but an empty title, neither serviceable to the people nor honorable to myself. It will therefore become an act of necessity, however disagreeable at a time like this, that I resign my office, unless you restore it to a condition as respectable as it was when you did me the honour to confer it upon me."

Immediately a committee was appointed to confer with him on the subject, and as a result the Council Extraordinary replaced the Board of War, but was also given unconstitutional powers. By act of the Assembly, Nash was continued as governor after April 12th, when his term expired.

The Assembly met again in June. Nash was nominated for re-election, but pleaded ill health, and his name was withdrawn. The Assembly thanked him for his "steady, zealous, patriotic

and arduous services as Governor of the State at a period so truly alarming," and, after assuring him of its intention to protect the executive, elected Thomas Burke. Apart from Nash's ill health and his disgust at the way he had been treated, the inroads upon his fortune had wrecked it, and it was necessary for him to begin anew. While the statement of his wife that his salary of £13,000 was scarcely sufficient to purchase her a calico dress may be regarded as an exaggeration, it was nevertheless far from being an adequate support. In 1784 Nash seems to have desired re-election to the governorship, but was defeated by Caswell, who received a majority of thirty votes in the Assembly.

In a most inadequate way I have shown you something of the man and his work. It is a sad commentary upon the State pride of our ancestors that scarcely any material remains from which to show his thought and character. That he was no ordinary man is sufficiently attested, not only by his public career, but by the attitude of his contemporaries. The distinguished honors paid his memory in New York upon the occasion of his death points clearly to a national reputation, for, behind his body, on its way to its temporary resting place in St. Paul's churchyard, came Congress in a body, foreign representatives, both diplomatic and consular, the Supreme Court and governor of New York, the national officers, civil and military; the mayor of the city, the faculty of the university, and a large concourse of citizens of every rank.

Shall we of to-day do him less honor? God forbid that the prophets of our greatness should remain without honor in their own country. From the walls of this building, the home of the State which he helped to create, may his face look down upon generations to come, and give inspiration to a patriotism such as guided him through life.

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