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# THE MISSISSIPPI VALLEY HISTORICAL REVIEW

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## RICHARD HENDERSON AND THE OCCUPATION OF KENTUCKY, 1775

In that 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 a truly national rôle. Two such men as Richard Henderson and Daniel Boone — Henderson, colonizer and lawgiver, Boone, explorer and Indian fighter — flowering at a single instant out of the life of North Carolina endow her with a distinction of peculiar eminence as a creative force in westward expansion. Kentucky would be sorely impoverished, shorn of the greater measure of the incomparable romance and wonder 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 ideals of the canny Scots, James Hogg and William Johnston; of that sire of the "Great Pacifier," Jesse Benton; of the Harts, Thomas, Nathaniel, and David; 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 others less spectacular in their achievements yet little less important. They were the crest and foremost fringe of that mobile wave which welled up from the fountain source of American liberty, the ancient colony of North Carolina, swept irresistibly through the "high-swung gateway" of the Cumberland, and held this fair region within the circle of

its protecting wall until Kentucky had weathered the storms of border warfare and was swept triumphantly into a Union of free and independent states.<sup>1</sup>

History has been strangely and tortuously written about the career of the territorial expansionist, Richard Henderson. The vast project devised by his constructive imagination, planned with statesmanlike foresight, and executed with unswerving valor, rolled back the tide of aboriginal predatory conquest, and first established in the heart of the West a solid and enduring bulwark. That twilight zone, delimitating the domain of white supremacy from the ancestral hereditament of the savage, through his endeavor lost its legendary character as a *terra incognita*, extravagantly empurpled by the riotous imaginations of far-away hunters. This lordly hunting preserve and battlefield of warring savages became for the white man a habitable country of green pastures and still waters. The promised land became a blest fulfillment. When Richard Henderson, at the head of his little band of colonists, halted in Powell's Valley to gaze upward at the granite wall of white rock towering above like a lion — the last barrier reared by nature between the white man and the delectable country beyond — well might he have quailed before the dark future its passage presaged. But born and bred of an indomitable race, he turned his course unswervingly to the passage through the great gap, and with fixed resolve accomplished definitively that classic crossing which has been the inexhaustible theme of romantic history and historic romance.<sup>2</sup>

Those epic ships of 1607 which beached their keels upon the shores of tidewater Virginia bore in their bosom the English, Scotch, Irish, and Welsh breeds who peopled the Appalachians and gave to the New World a new meaning of liberty. The great-grandfather of Richard Henderson, named Samuel, emigrated from Dumfries, Scotland, to Jamestown, Virginia, in the early years of the seventeenth century. And for more than a century and a quarter, the family lived in Virginia the simple and hardy life of colonial settlers. Richard Henderson's father,

<sup>1</sup> A. Henderson, "The Pioneer Contributions of North Carolina to Kentucky," in *Charlotte Observer* (North Carolina), November 10, 1913.

<sup>2</sup> A. Henderson, "The Beginnings of American Expansion," in *North Carolina Review*, 1: no. 12, p. 1 (September, 1910), 2: no. 1, p. 15 (October, 1910).

also named Samuel, who was born March 17, 1700, became high sheriff of Hanover County, and was married there to the daughter of a wealthy emigrant from Wales, John Williams. After his removal to North Carolina in the year 1742, he again served as high sheriff, this time of the extensive county of Granville. Owing to the lack of schools in the county, his children, notably Richard, were taught at home by a private tutor — an unusual privilege in those days of hardy virtues, but limited educational facilities. Because of frequent absences from home in the prosecution of the affairs of his office, Samuel Henderson entrusted the education of his children not solely to a tutor, but in considerable degree to his wife, a woman of sterling virtues and fine intelligence.<sup>3</sup>

In the office of his father, Richard Henderson served as constable and undersheriff; and studying law at a very early age under his cousin, John Williams, he became in due course of time king's attorney and, at the age of thirty-three, judge of the highest court in the colony. His active participation in the practical duties of his father's office gave him, in Draper's words, "that enlarged knowledge of men and things for which he became so eminently distinguished in after life." His brilliant legal talents and general popularity were responsible for his elevation to the judgeship. In writing to Lord Hillsborough, Governor Tryon speaks of Richard Henderson as "a man of probity and a firm friend of government as well from principle as from the duty of his office."<sup>4</sup> He found a worthy mate for his brilliant talents in the person of his wife Elizabeth, the daughter of Lord Keeling, an English peer. Because Henderson, while serving as judge, refused to accede to the revolutionary proposals of the Regulators, during the period of the peasant uprising known as the Regulation, his court was broken up, and his dwelling house, stables and crops were burned in the dead of night. It is stated in a standard history that because of his great ambition and ostentatious mode of life, Henderson "soon became involved in speculations which embarrassed him

<sup>3</sup> Memoir of W. F. Henderson, in T. B. Kingsbury, "Chief Justice Leonard Henderson," in *Wake Forest Student*, 18: no. 2, pp. 80-95; Memoir of Pleasant Henderson, in Draper MSS., 2CC21; L. C. Draper, *Life of Boone*, in Draper MSS., 3B.

<sup>4</sup> *North Carolina Colonial Records*, 8:525.

in his pecuniary relations, and cramped his resources.’<sup>5</sup> It was the incendiary fury of the Regulators, and not “his great ambition and ostentatious mode of life,” which “embarrassed him in his pecuniary relations and cramped his resources.” Financial ruin was the penalty Richard Henderson paid for his devotion to due process of law. It was civic duty, and not speculation, which procured him a wasted home smoking in black ruins.<sup>6</sup>

In his day, Richard Henderson was generally regarded by his associates as a man of especial eminence in his profession. As an orator, he was known as “the Patrick Henry of North Carolina.” He was destined to display his judicial and legislative talents, not only in affairs of colonial judicature, but more signally in an enterprise of national interest and vast scope. For years his mind had dwelt upon the project of the acquisition of some of the uncharted and tenantless territory which stretched out endlessly to the westward. For years the greatest pioneer of his age explored the wilds of Virginia, Tennessee, and Kentucky as his confidential agent and scout. The expiration in 1773 of the term of the superior court provided by the North Carolina judiciary act of 1767, and the consequent dissolution of the court, enabled Judge Henderson to devote himself to the project towards which the investigations of years had led. From this time forward, he sheds the glamour of merely local fame and enters into national history as the most notable constructive pioneer in the early history of the American people.<sup>7</sup>

The proclamation of George III that the vast “hinterland” west of the Allegheny and Appalachian mountains should be closed to further settlement, it has been claimed, was the prime cause of awaking the resistance of the American people to senseless British tyranny.<sup>8</sup> It is true that, in their steady westward propulsion of the frontier line and their progressive settlement of lands from which they were debarred by royal proclamation, the colonists silently defied the sovereign authority claimed and

<sup>5</sup> This fiction, given currency by the Tory spy, Dr. J. F. D. Smyth, has been mechanically repeated by numerous historians, notably L. Collins in his *History of Kentucky* (Covington, 1882), and T. Roosevelt in his *Winning of the West* (New York, 1889-1896).

<sup>6</sup> *New York Gazette*, October 5, 1770.

<sup>7</sup> A. Henderson, “Forerunners of the Republic: Richard Henderson,” in *Neale’s Monthly*, 1: 67-75 (January, 1913).

<sup>8</sup> E. Reich, *Foundations of Modern Europe* (New York, 1908), 9.

exercised by Great Britain. The encroachments of determined settlers upon the Indian lands created a critical situation along the frontier; and the proclamation of 1763 was indubitably designed to allay the alarm of the Indians. Nevertheless, it has been conclusively shown that it was not the design of the board of trade to set permanent western limits to the colonies.<sup>9</sup> The real object of the board of trade was to control, not to prevent, expansion westward. This was fully realized by the contemporary students of the western situation, notably George Washington. And it was the realization of the true situation which inspired Richard Henderson and his associates to send Daniel Boone scouring through the wilderness of Tennessee and Kentucky in search of the most desirable lands for settlement and colonization.

After his long series of investigations, carried on through his trusted agents, Daniel Boone and James Robertson, and extending over a period of ten years, in regard to the character of the western lands and the possibility of securing title thereto, Richard Henderson with the coöperation of John Williams and Thomas Hart, now proceeded to organize more definitely a land company.<sup>10</sup> In looking about him for the purpose of enlisting capital in his daring enterprise, Henderson fully realized two things: that a large sum of money was needed for the purpose of securing the Indian title; and that the partners in the company must be men willing to share with him great personal risk, of life as well as of fortune, in the hazardous enterprise. It is a singular fact that no historian has ever hitherto taken into account the personnel of the Transylvania Company, or viewed that company in its own environment, as well as in its own period.

<sup>9</sup> C. W. Alvord's elaborate papers: "The Genesis of the Proclamation of 1763," in *Michigan Pioneer and Historical Collections*, 36: 20 *et seq.*; and "The British Ministry and the Treaty of Fort Stanwix," in Wisconsin Historical Society, *Proceedings*, 1908, pp. 165 *et seq.*

<sup>10</sup> In "The Creative Forces in American Expansion: Henderson and Boone," in the *American Historical Review*, 20: 86 (October, 1914), the writer endeavors to exhibit, in just perspective, the larger aspects and creative causes of westward expansion. In a later paper, he intends to rewrite the story of the Transylvania Company (1774-1800) in the light of the great mass of new materials which he has discovered. No trustworthy or adequate account has yet been given of this significant episode in our national annals.

In selecting the men whom he wished to interest in the western scheme of colonization and promotion, Henderson chose men of resource and of action, ready for any hazard of life and fortune. John Williams, Henderson's able lieutenant in the affairs of the company, was a large landowner in Granville County and an attorney with an extensive and lucrative practice.<sup>11</sup> As an advocate he held his own with the famous lawyers of the Carolina circuit — Hooper, Jones, Burke, Martin, Davie; was known as a man of sound judgment and excellent common sense, and was described by the distinguished Iredell as "one of the most agreeable men in the world."<sup>12</sup> Having served as deputy attorney general for the district of Hillsborough in 1768, he was of great value in all the preliminary arrangements for the organization of the land company.

Thomas Hart, who had been intimately associated with Henderson and Williams in the earlier phases of the western project, was generally known as a man of approved integrity and simple sterling worth. In the period immediately preceding the Regulation in North Carolina, when sheriffs were notoriously backward in rendering their accounts, Hart stood out conspicuously as one who settled his accounts promptly and to the last farthing. As justice of the peace from 1764 to the Revolution, captain, major and finally lieutenant colonel of the county militia, representative in the assembly in 1773, and delegate from Orange County to the first provincial convention at New Bern on August 25, 1774, Hart had demonstrated his capacity both as soldier and legislator. At Hillsborough his commercial interests were chiefly in a store, and in his mill, known as Hart's mill, on the old road to Haw River, about half a mile from the Eno.<sup>13</sup>

In the maturing of the plans for the hazardous venture of

<sup>11</sup> In a single year, 1753, Williams conveyed to others 1727 acres of land. The law firm of Henderson and Williams, preëminent in Granville County, ranked with the leading firms in the colony.

<sup>12</sup> James Iredell to Mrs. Iredell, May 23, 1783, in G. J. McRee, *Life and Correspondence of James Iredell* (New York, 1858), 2:47; Frank Nash, "John Williams," in *Biographical History of North Carolina* (Greensboro, North Carolina, 1906), 3:427 *et seq.*

<sup>13</sup> For facts in regard to Hart, I am indebted to Miss Lucretia Hart Clay and Mrs. Thomas Hart Clay of Lexington, Kentucky, and to Mr. Frank Nash of Hillsborough, North Carolina; J. H. Wheeler, *Historical Sketches of North Carolina* (Philadelphia, 1851); *North Carolina Colonial Records*.

western settlement, Thomas Hart was assisted by his brother Nathaniel, a name afterwards famous in Kentucky history. They were both born in Hanover County, Virginia, and accompanied by their mother and other members of the family settled in Orange County, North Carolina, about 1756. During the period of his residence in North Carolina, Nathaniel Hart lived at his famous seat, the Red House, in Caswell County. At the battle of Alamance, between the governmental forces under Governor Tryon and the insurgents, the Regulators, Captain Nathaniel Hart commanded a company of infantry under Tryon, and after the battle "was handsomely complimented by the officers of the government for the gallant and spirited behaviour of the detachment under his command." Nathaniel Hart was a gentleman of wealth and social position; and his personality and means were effective instrumentalities in the formation of the company.<sup>14</sup>

Another bold adventurer, associated with the new company, was John Luttrell of Chatham County, North Carolina, the husband of Susanna, only daughter of John Hart, brother of Thomas and Nathaniel. He had served as clerk of the crown at Hillsborough in 1770; and along with John Williams and Thomas Hart was the innocent victim of the vindictive rage of the Regulators at Hillsborough, in September, 1770, when Judge Henderson's court was broken up. "Lieutenant Colonel Luttrell," says a contemporary, "was a man of fiery courage, active, enterprising, and firmly attached to the cause of his country."<sup>15</sup>

Finally, Henderson and the Harts interested in the venture one who, both by business ability and extensive credit, assisted in the financial floating of the company. Shortly after 1764, a number of Scotch merchants had settled near Hillsborough, and there established "stores that contained a good assortment of European merchandise."<sup>16</sup> The most substantial of these Scotch merchants, a man of abundant means, was William John-

<sup>14</sup> For information in regard to Nathaniel Hart I am indebted to Mrs. C. D. Chenault of Lexington, Kentucky, and to Mrs. J. Oscar Clore of Henderson, Kentucky; also, Mrs. Sarah S. Young, *Genealogical Narrative of the Hart Family* (Memphis, 1882).

<sup>15</sup> "Reminiscences of Colonel Guilford Dudley," in *Southern Literary Messenger*, 11:281-287, 370-375 (May, June, 1845).

<sup>16</sup> "Autobiography of Col. William Few of Georgia," in *Magazine of American History*, 7:344 (November, 1881).



ston, only son and heir of Robert Johnston, of Hartwood, Lochmaben Parish, Annandale Shire, Scotland. A near relation of Governor Gabriel Johnston, he was also the nephew of Samuel Johnston, the distinguished North Carolina statesman.<sup>17</sup> Late in 1767, he arrived in Hillsborough and soon formed a business partnership with James Thackston, afterwards a distinguished soldier of the Revolution. The firm of Johnston and 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 the eastern Scotch merchants and with large mercantile establishments at New Bern. Through his extensive business operations, of barter and sale, with the Scotch merchants at Cross Creek, Johnston was very largely instrumental in securing the vast quantity of goods needed to effect the purchase from the Cherokee. The bonds for the various bills of supplies were underwritten by the partners of the land company.

These men, at the call of Richard Henderson, met at Hillsborough during the tense period of the provincial convention, which convened at New Bern on August 25, 1774, to appoint delegates to the Continental Congress. One of the partners, Thomas Hart, was absent from the meeting of incorporation, being a delegate to that convention from Orange County. The land company, formally organized on August 27, was given the title of the Louisa Company, the name given by Dr. Thomas Walker, the Virginia explorer, in 1750 to the river now known as the Kentucky River.<sup>18</sup> In their articles of incorporation, the partners state that they desire either to “rent or purchase” a tract of western land from the Indian owners of the soil — and this for the avowed purpose of “settling the country.” In anticipation of the extreme hazards involved in the enterprise, they solemnly bound themselves together, not only to be “equal sharers of the property,” but also “to support each other with our lives and fortunes.”<sup>19</sup>

<sup>17</sup> F. Nash, *Hillsboro, Colonial and Revolutionary* (Raleigh, North Carolina, 1903); G. J. McRee, *Life and Correspondence of James Iredell*.

<sup>18</sup> J. S. Johnston, *First Explorations of Kentucky* (Filson Club Publications, no. 13 — Louisville, 1898); J. P. Hale, *Trans-Alleghany Pioneers* (Cincinnati, 1886). The western country was generally known as the Louisa Country. In the McAfee MSS., the name is spelled “Levisa,” supposedly from La Visée.

<sup>19</sup> Draper MSS.

Following his return to the settlements in 1771, Daniel Boone had been sent by Richard Henderson as an emissary to sound the Cherokee in regard to a purchase. The conclusion to which Boone came, based upon the findings of James Robertson, was that the Indians would dispose of their title for a sufficiently valuable consideration. Owing to the confining nature of his labors as colonial judge, Henderson was unable to devote his time and consideration to the project of westward expansion until after the expiration of the court itself, which ceased to exist in 1773.

In the meantime, Boone had grown impatient over the delay in the consummation of the plans for western settlement. About this same time, Josiah Martin, the royal governor of North Carolina, in a letter to the Earl of Dartmouth, expressed grave alarm over the steady progress of unauthorized settlement in the back country. Nevertheless, Boone, with incredible foolhardiness ignoring both the question of title and the omnipresent dangers of encroaching upon the territory of hostile savages, proceeded solely upon his own responsibility to recruit a body of settlers; and on the twenty-fifth day of September, 1773, they started from North Carolina to Kentucky. Their advance was vigorously resisted by a party of Indians at Wallen's Ridge. Boone and his party drove off the Indians who seem to have been aware of this attempt to settle beyond the mountains and were determined to resist this unwarranted encroachment upon their territory. The whites, though successful in driving back the Indians, became disheartened for fear a larger body of Indians were gathering in their front to oppose their advance, and fell back to Snoddy's Fort. After a few days, the expedition was definitely abandoned.

This entire episode possesses a distinct significance as indicating that Boone was deficient in executive ability and the power to carry through plans made on a considerable scale. A remarkable scout, a great hunter, a man of balance and sagacity of judgment in coping with the dangers and difficulties of the wilderness, Boone lacked constructive and civic talents. It was not until the legal mind and executive genius of Henderson was applied to the vast and complex project of western colonization that it was carried through to a successful termination. As the

sequel shows, even this hazard of new fortune bade fair to prove a failure until Henderson, with unwavering resolution in the face of nameless dangers, answered the imploring message of Boone and hurried to his rescue.<sup>20</sup>

Following the incorporation of the Louisa Company, on August 27, 1774, three new partners were added. These were men of means and high standing in the colony. David Hart, brother of Thomas and Nathaniel, offered to take half a share, or one-sixteenth part of the whole. A similar offer was made by one of Henderson's neighbors on Nutbush, whose family had moved from Hanover County, Virginia, to Granville County, North Carolina, soon after the year 1752.<sup>21</sup> This was Leonard Henley Bullock, sometime high sheriff of Granville, and the brother of Agnes, widow of George, Lord Keeling, and now wife of John Williams. The third new partner, who has been described by the historian Battle as "one of the most influential men of his day," was the Scotchman, James Hogg, of the same family as the Ettrick Shepherd, and whose wife, McDowal Alves, was second cousin to Sir Walter Scott. A native of East Lothian, James Hogg was a resident of the parish of Reay, near Thurso, 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. One whole share was taken by him in the new company.<sup>22</sup>

On January 6, 1775, the three new copartners, David Hart, Leonard Henley Bullock, and James Hogg having been admitted, a new agreement was drawn up, and the reorganized company was entitled the Transylvania Company. In the agreement drawn up,<sup>23</sup> reference is explicitly made to the contingency of

<sup>20</sup> A. Henderson, "Forerunners of the Republic: Daniel Boone," in *Neale's Monthly*, 1:211-219 (February, 1913).

<sup>21</sup> *William and Mary Quarterly*, 11:236.

<sup>22</sup> K. P. Battle, "James Hogg," in *James Sprunt Historical Monograph*, 3:13-16; H. M. Wagstaff, "Letters of William Barry Grove," in *James Sprunt Historical Publications*, 9: no. 2, pp. 47-88. Transcripts of the Hogg MSS. were placed at my disposal by the Right Rev. Joseph Blount Cheshire, bishop of North Carolina.

<sup>23</sup> One of the original drafts of the agreement is now in the writer's possession.

“settling and voting as a proprietor and giving Rules and Regulations for the Inhabitants &c.” A proprietary form of government is clearly outlined. At this stage in the development of his plans, Henderson seems to have believed that the proprietary model, similar to that of Penn or Calvert, in prospect of the actual ownership of the settled land by a small group of capitalists, was best adapted for at least the preliminary stages of wilderness colonization. He trusted to the actual realization of permanent colonization for the logical evolution of a democratic form of government for a trans-Allegheny commonwealth.

The preliminary negotiations with the Cherokee had been effected through the personal efforts of Judge Henderson and Colonel Nathaniel Hart. On Christmas day, 1774, there was published broadcast throughout the colony the broadside entitled “Proposals for the encouragement of settling the Lands purchased by Messrs. Richard Henderson & Co. on the branches of the Mississippi River from the Cherokee tribe of Indians.”<sup>24</sup> This announcement created a genuine sensation throughout the colony; and Archibald Neilson, auditor of the colony, in a letter to Andrew Miller, inquired with anxiety and apparent reason: “Pray, is Dick Henderson out of his head?”<sup>25</sup> “Dick” Henderson was never more coolly in possession of his head than now; nor had he ever put it to uses of such momentous promise; for soon public sentiment was enlisted on the side of the Transylvania Company; and even Martin, the royal governor, acknowledged that the opinion prevailed in the colony that there was no law against leasing the lands from the Indians for an indefinite period.<sup>26</sup> Nevertheless, Martin, now gravely alarmed in anticipation of a coming revolutionary cataclysm, thundered in a forcible-feeble proclamation against “Richard Henderson and his Confederates,” in their “daring, unjust and unwarrantable proceeding.”<sup>27</sup> In writing to the Earl of Dartmouth, Martin speaks scathingly of “Henderson the famous invader,” and again of “the infamous Henderson and his associates,” whom he dubs “an infamous Company of land Pyrates.” He de-

<sup>24</sup> Governor Martin to the Earl of Dartmouth, May 4, 1775, P.R.O., C.O., 5.318.

<sup>25</sup> Archibald Neilson to Andrew Miller, January 28, 1775, manuscript in the office of the secretary of state, Raleigh, North Carolina.

<sup>26</sup> *North Carolina Colonial Records*, 9:1175.

<sup>27</sup> *North Carolina Gazette*, February 24, 1775.

nounced their project as a "lawless undertaking," "an infraction of the royal prerogative;" and 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."

Henderson, the "famous invader" and his "infamous company of land Pyrates" remained unperturbed by the violence of Governor Martin's denunciations. By the various treaties of Hard Labor, Fort Stanwix, and Lochaber, the Cherokee were left as sole valid Indian claimants of the soil in question; and even Virginia had acknowledged the Donelson line run in 1772. The Cherokee themselves successfully maintained their claim that they were, in the language of the "Great Treaty," "the aborigines and sole owners by occupancy from the beginning of time" of the Kentucky area. Henderson and his associates now proceeded unhesitatingly to the negotiations; and in fair and open treaty — a treaty which "was conducted with an honesty unparalleled at that day in such matters"<sup>28</sup> — held at the Sycamore Shoals and lasting from the fourteenth to the seventeenth of March, 1775 — the Transylvania Company, for a consideration of ten thousand pounds sterling in money and goods, purchased from the Cherokee Indians some twenty million acres of land, comprising portions of the present states of Virginia and Tennessee, and the greater portion of the present state of Kentucky. History subsequently proved the validity of this title of the Transylvania Company as against the Indians.<sup>29</sup> It cannot be doubted that Henderson clearly foresaw the Revolution now impending, and hoped to forestall Great Britain in her plan to cut up the territory beyond the Alleghenies "into great proprietary domains, but with governments not unlike those of the existing royal provinces."<sup>30</sup> The colony of North Carolina was much more forward than any of the other colonies in her revolutionary attitude toward Great Britain; and in a letter to James Iredell as early as April 26, 1774, the famous William

<sup>28</sup> A. B. Hulbert, *Boone's Wilderness Road* (Historic Highways — Cleveland, 1903).

<sup>29</sup> Letter of Henry Clay to Isaac Shelby, February 18, 1818, in Draper MSS., DD11. Also Hart MSS. supplied me by Hart descendants in Kentucky.

<sup>30</sup> G. E. Howard, *Preliminaries of the Revolution, 1763-1775* (American Nation, 8 — New York, 1905).

Hooper wrote with especial reference to conditions in North Carolina: "With you I anticipate the important share which the colonies must soon have in regulating the political balance. *They are striding fast to independence, and ere long will build an empire upon the ruin of Great Britain.*"

In the "standard" histories of the United States, one generally finds the statement that Boone, after conducting the treaty of Sycamore Shoals, cut out the Wilderness Trail and founded Kentucky. Sometimes the names of both Boone and Robertson are mentioned—the one as the "Father of Kentucky," the other as the "Father of Tennessee." Sometimes neither is mentioned at all. In no case is found any mention of the Transylvania Company or its president, Richard Henderson. This is one of the singular, almost inexplicable omissions of history which enlarged knowledge and wider perspective will inevitably remedy.<sup>31</sup> On the days when the "Great Treaty" at Sycamore Shoals was concluded between "Carolina Dick," as Judge Henderson was called by the Cherokee, and Oconnostota, the "Groundhog," the great chieftain of the Cherokee, Daniel Boone was absent. For on March 10, Daniel Boone in the employ of the Transylvania Company, at the head of a party of some thirty axemen, was sent forward to cut out a path for Henderson and his party.

To Richard Henderson and the Transylvania Company, who engaged Boone and his party to cut out the Wilderness Trail, not less than to Boone who with his axemen executed that commission, is due the lasting gratitude of future generations. This is the historic pathway to the vast "hinterland" poetically phrased by a Cherokee chieftain at the treaty of Sycamore Shoals as the "dark and bloody ground." The hardships and dangers of Boone and his comrades are matters of history. Again and again, the fate of the expedition hung in the balance. The courage and energy of Henderson, ever the man of action, and his unwavering resolve to go forward in the face of all named and unnamed dangers, carried through the armed "trek" to a successful conclusion.

After Boone with his thirty axemen had been attacked by the

<sup>31</sup> In this connection compare A. Henderson, "Richard Henderson: his Life and Times," in *Charlotte Observer* (thirteen instalments), March 9—June 1, 1913.

Indians and two of his men killed, Boone dispatched to Henderson by special courier the famous letter of April 1, 1775. "*Your company is greatly desired,*" says Boone in that letter, "for the people are very uneasy, but *are willing to stay and venture their lives with you,* and now is the time to flusterate their [*the Indians'*] intentions and keep the country whilst we are in it. If we give way to them now, it will ever be the case."

Without hesitation, Henderson commanded a steady forward march; and though day after day meeting parties which in aggregate totaled twice the number in his little band, no thought of retracing his steps ever so much as entered his head. His little diary, yellow with age, so jealously preserved in the Wisconsin Historical Society Library, is laconically eloquent:

"The same day [*Friday, April 7*] received a letter from Dan. Boone, that his company was fired upon by the Indians, [who] killed two of his men, though he kept the ground and saved the baggage, etc.

"Saturday, 8th. *Started about ten o'clock.* Crossed Cumberland Gap about four miles. Met about forty person returning from the Cantucky on account of the late murders by the Indians. *Could prevail on only one to return.*"

This is one of the most memorable pictures in all western history — Richard Henderson, "a man a little above average height, broad of shoulders, but not fleshy, clad in the rough garb of the pioneer," standing firmly planted in the Wilderness Trail on a ragged spur of the grey-grained Cumberlands, pointing significantly forward to the dark and bloody ground, and pleading ineffectually with the pale and disheartened fugitives to turn about, to join his company, and to face once more the dangers and vicissitudes of pioneer conquest. For this indeed was the destined mission of his career — to stand like a rock and to give bold heart to that precious, crucial movement in behalf of permanent western colonization. It must be the verdict of history that in that hour, when this first bold movement was on the point of being swept off its feet and hurled rudely backward, Richard Henderson and his companions, ignoring all obstacles, fared boldly forward to one of the real achievements of the age. It is a coincidence of historic significance that just one day after the embattled farmers at Lexington and Concord

“fired the shots heard round the world,” Richard Henderson with his faithful adherents reached the site of the future Boonesborough. The twentieth of April, 1775, which fittingly enough was the birthday of Richard Henderson, was also the birthday of the addition of the imperial area of Kentucky and the Ohio Valley to the domain of the American republic.

The initial steps taken by the pioneers to secure the rights and privileges of representative self-government are peculiarly interesting as characteristic of the type of democracy developed in the pioneer phase of civilization. No government could fail to be interesting whose first primitive legislature was held in the open air beneath the shade of a mighty elm. In his diary, Henderson modestly says: “Our plan of legislation, the evils pointed out, the remedies to be applied, etc., etc., were acceded to without hesitation. The plan was plain and simple; ’twas nothing more in its essence; a thousand years ago it was in use, and found by every year’s experience to be unexceptionable.” When Henderson was approached by some of the settlers with reference to the necessity for laws for the regulation of the community, his answer was that “all power was derived from the people”; and he at once recommended to the inhabitants of the various settlements to elect delegates to a general convention. In his able and comprehensive address to that convention, which Felix Walker described as being “considered equal to any of like kind ever delivered to any deliberative body in that day and time,”<sup>32</sup> Henderson used these really memorable words: “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 is inseparably connected.

“You, perhaps, are fixing the palladium, or placing the first corner-stone of an edifice, the height and magnificence of whose superstructure is now in the womb of futurity, and can only become great in proportion to the excellence of its foundation. — If any doubt remain amongst you with respect to the force or efficiency of whatever laws you now, or hereafter make, be pleased to consider that *all power is originally in the people:*

<sup>32</sup> Manuscript diary of Felix Walker loaned me by one of his descendants.



*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 were politically "advanced" in their full-blooded democracy. "If Jeremy Bentham had been in existence of manhood," is the quaint comment of Bogart, "he would have sent his compliments to the President of Transylvania."<sup>33</sup> From one who, under royal rule, asserts that the source of all political power is the people, and that "laws derive force and efficiency from our mutual consent," western democracy thus born in the wilderness was "taking its first political lesson."<sup>34</sup> It is noteworthy that Henderson and the proprietors never claimed or exercised any power other than that delegated to them by the people, with but one exception. Through a sense of sheer self-protection, they reserved to themselves the power of veto. For they clearly realized that if they resigned that power, the delegates to any convention, that might be held after the first, would have it in their power to annul the claims and rights of the proprietors.

The letters of the period cast a ray of forest charm, not untinged with the loneliness of the wilderness, athwart the scene of Henderson's hopes and endeavors. Dangers beset the lonely, isolated colony at all times; and the tiny settlement in Powell's Valley, commanded by that remarkable character, Captain Joseph Martin, bore its share in withstanding the attacks of the Indians. A letter of July 18, 1775, from Henderson and Luttrell to the other proprietors in North Carolina, contains the startling news that on June 23, 1775, an attack by the Indians, in which two men were wounded, greatly alarmed the people in Powell's Valley, causing them to build a fort at Captain Martin's Station and to work in companies. To Martin on July 20, Henderson writes: "Am extremely sorry for the affair with the Indians on the 23rd. of last month. I wish it may not have a bad effect. . . your spirited conduct gives me great pleasure." And in evidence of the high fortitude he always displayed, Henderson adds: "Keep your men in heart if possible,

<sup>33</sup> W. H. Bogart, *Daniel Boone and the Hunters of Kentucky* (New York, 1856).

<sup>34</sup> C. H. Van Tyne, *The American Revolution, 1776-1783* (American Nation, 9 — New York, 1905).

*now is our time, the Indians must not drive us.*" Well might Henderson have been disheartened at this time; for we find him writing to the proprietors two days earlier: "Our enterprise has now come to a crisis, and a few weeks will determine in the matter. Harrodsburg and the Boiling Springs Settlements, which sometime ago could have armed and turned out seventy or eighty men at a short warning, are almost abandoned. On the most emergent occasion they could not rally twenty men; and the better half of them are in the woods on the north side of Kentucky, and perhaps could not be summoned to our assistance in less than a fortnight. Boonesborough to-morrow night will not be able to muster more than ten or twelve men." Four days after the treaty of Sycamore Shoals, Governor Dunmore of Virginia had fulminated against "Richard Henderson and other disorderly persons, his associates, who, under a pretense of a purchase of the Indians, contrary to the aforesaid orders and regulations of his Majesty, do set up a claim to the lands of the Crown within the limit of the colony," 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. Far from civilization, Henderson might naturally have felt some dread of the effect upon the popular mind of such pronouncements; and there is a wistful note in his letter to Martin of June 12, 1775: "I long much to hear from you, pray write me at Large, how the matter goes with you in the Valley, as well as what passes in Virginia." Yet his courage is ever high, his head unbowed; on July 18, 1775, he writes to the proprietors: "Whether Lord Dunmore and Colonel Byrd have interfered with the Indians or not, Richard Henderson is equally ignorant and indifferent. The utmost result of their efforts can only serve to convince them of the futility of their schemes and possibly frighten some few faint-hearted persons, naturally prone to reverence great names and fancy everything must shrink at the magic of a splendid title." Henderson's solicitude for the welfare of the settlements and his desire to set up a stable form of government are clearly exhibited in his letter to Martin of July 20, 1775: "We did not forget you at the time of making laws, your part of the country is too remote from ours to attend our convention. You must have laws made

by an assembly of your own. I have prepared a plan which I hope you'll approve, but more of that when we meet which I hope will be soon." The plan which Henderson so solicitously prepared has never come to light; nor are we able to discover whether the form of local government he outlined was ever put into operation by Martin.<sup>35</sup>

A noteworthy yet little noted event in American history is the Transylvania declaration of independence. The legislature of the colony of Transylvania was "begun on Tuesday the 23rd. of May, in the Year of Our Lord Christ 1775 and the Fifteenth Year of the Reign of His Majesty, King of Great Britain." But this bold little band of pioneers, presided over by Judge Henderson, speedily asserted the right of local self-government and independence of alien authority. In addressing this remarkable and picturesque assemblage, the first legislative body on the American continent which ever convened west of the Alleghenies, Henderson boldly 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."

This bold declaration of independence, preceding by eight days the Mecklenburg resolves, and antedating the national declaration by nearly fourteen months, was at once unanimously endorsed by the legislature. In their reply to the "Proprietors' Speech" as Henderson's address was termed, they unhesitatingly declared: "That we have an absolute right, as a political body, without giving umbrage to Great Britain, or any of the colonies, to frame rules for the government of our little society, can not be doubted by any sensible mind — and being without the jurisdiction of, and not answerable to any of his Majesty's courts, the constituting tribunals of justice shall be a matter of our first contemplation. . . ."

It was the design of Henderson and his associates, beyond doubt, to establish in the heart of Kentucky a separate and independent government. Writing to George Washington on April 9, 1775, Colonel William Preston, surveyor general for

<sup>35</sup> S. B. Weeks, "General Joseph Martin and the War of the Revolution in the West," in American Historical Association, *Annual Report*, 1893, pp. 403-477.

Fincastle County under Governor Dunmore, says: "Henderson I hear has made the Purchase & got a Conveyance of the great and Valluable Country below the Kentucky from the Cherokees. He and about 300 adventurers are gone out to take possession, who it is said intends to set up an independent Government & form a Code of Laws for themselves." Fully anticipating the approach of the Revolution and defiantly ignoring that "infamous and scurrilous libel," the royal governor's proclamation, Henderson went steadily forward upon his course. For he was whole-heartedly committed to the plan of making the colony of Transylvania the fourteenth American colony. The government which he established at Boonesborough is assuredly the most unique colonial government ever set up on this continent. The proceedings of the Transylvania legislature — the advanced speech of Henderson with its thorough-going democracy, the prudence and foresight of Boone and the pioneer legislators which were displayed in the laws for protecting game, breeding horses, etc., the tolerance by no means common at that period shown in the granting of full religious liberty — all display the acumen and foresight of Henderson as well as the practical good sense and rough wisdom of the rude pioneers. These libertarian pioneers were for the most part lawless men — ignorant, unpolished, and utterly insubordinate, as described by a contemporary visitor at Boonesborough. In his diary, Henderson, who had led the most of them thither and profoundly admired their hardihood and self-reliance, humorously speaks of them as a set of scoundrels who scarcely believed in God or feared the devil! These primitive pioneer spirits, restless and uncontrollable, caused Henderson the gravest alarm. The very qualities for which they were most distinctive were qualities which harbored the seeds of danger. The proprietary form of government, although thoroughly democratized in tone, bade fair to evoke the dissatisfaction of the lawless pioneers, already intoxicated with the breath of freedom swept in on the first breezes of the Revolution. In their secret hearts these pioneers, indoctrinated with the insurrectionary ideas of the Regulation in North Carolina, regarded the vast wilderness which Henderson and his associates had bought but which they themselves now held and maintained, as a free public domain. In the light of modern

sociology, it is beginning to be realized that free land has constituted the basis of American democracy. The very buoyancy of the national character, as Frederic C. Howe maintains, is "traceable to the free democracy founded on a freehold inheritance of land."

Even more serious dangers from without, however, now threatened the integrity of the colony of Transylvania. At the very time that the Transylvania legislature was in session, Governor Martin of North Carolina had ingloriously fled from his "palace"; and on the very day that his secret agent arrived in Boonesborough, Lord Dunmore escaped to the protection of a British vessel, the *Fowey*. The rapid spread of revolutionary sentiments throughout the colonies bade fair to render any form or suggestion of proprietary government, however modified by democratic features, distasteful to the colonists. At Oxford, in Granville County, North Carolina, on September 25, 1775, the proprietors of Transylvania held a meeting and elected James Hogg as a delegate, armed with an ably prepared memorial, to the Continental Congress then in session at Philadelphia, petitioning for the recognition of Transylvania as the fourteenth member of the united colonies. "Having their 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 every thing in their power, and give such assistance in the general cause of America as the Congress shall judge to be suitable to their abilities." While displaying genuine interest in the affairs of the wilderness colony, the Adamses, Samuel and John, voiced certain strong objections to some of its features. Jefferson advised the Virginia delegates to use their charter, not to destroy the claims of the Transylvania Company, but "to prevent any arbitrary or oppressive government to be established within the boundaries of it." To Hogg, Jefferson stated that "it was his wish to see a free government established at the back of theirs [*Virginia's*]

properly united with them." He would not consent, however, for Congress to acknowledge the colony of Transylvania, until it had been acknowledged by Virginia. Opposition was expressed to the proprietary form of government, quitrents were regarded as a form of vassalage, and the hope was generally expressed that the proprietors would establish a "free government" and, as Hogg narrates, "render ourselves immortal."

The failure of Hogg's embassy to Philadelphia marks the beginning of the end of the colony of Transylvania. Although Henderson, assisted by Willie Jones and Thomas Burke, representatives of the highest legal talent in North Carolina, exerted all the power of his persuasive eloquence and personal influence before the Virginia convention at Williamsburg, he was defeated chiefly through the opposition of two remarkable men. These were Patrick Henry, who sought to extend in all directions the power and bounds of the "Ancient Dominion" of Virginia; and George Rogers Clark, who represented Harrodsburg, the rival settlement to Boonesborough in Kentucky, and as a Virginian wished to see Transylvania legislated into a dependency of Virginia. The mantle of leadership in the West, worn by Henderson as colonizer and lawgiver, now fell upon the shoulders of Clark, who forced his appointment as virtual military dictator of the trans-Allegheny region. Under the pressure of Henderson's vigorous representations, Virginia finally acknowledged the validity of Henderson's claims as against the Indians, but frankly confiscated the purchase and made of Transylvania a county of Virginia. In consideration of the very great expense incurred by Richard Henderson and Company in purchasing 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," Virginia granted to Richard Henderson and Company two hundred thousand acres of land situated between the Ohio and Green rivers, opposite the present site of Evansville, Indiana. North Carolina later granted to the company a like amount on Powell and Clinch rivers in Tennessee. As just compensation, these grants were quite inadequate to measure the value of the service in behalf of permanent western colonization rendered by the Transylvania Company.

The daring project of western colonization in which Henderson and his associates ventured their lives and fortunes seemed at the time little short of a chimerical dream. These men were engaged in no shoddy speculative scheme from which they hoped to reap golden profits while leaving others to bear the brunt of danger, hardship, and disaster. Henderson in especial furnishes a commanding example of a man willing to take supreme personal as well as financial risk in vindication of his faith in a daring hazard of colonization and promotion. "From any standpoint," says Hulbert, "Richard Henderson's brave advance into Kentucky in April, 1775, must be considered as one of the most heroic displays of that typical American spirit of comprehensive aggrandizement of which so much is heard to-day." The purchase at Sycamore Shoals, the unrelenting march of Henderson and his little band over the blood-haunted Wilderness Trail, cut out by Boone and his axemen in the employ of the Transylvania Company, and the settlement of Kentucky may well be classed by historians as dramatic phases of a movement of incalculable moment and providential timeliness in our early history.

If George Rogers Clark was the "Hannibal of America," if Daniel Boone was her Marco Polo, Richard Henderson was her Cecil Rhodes. Just when Matabeleland seemed destined to pass irrevocably outside the sphere of British control, Cecil Rhodes organized a company, entered the country at the head of an armed band, purchased the mining concessions and the position of "most favored nation" from Lobengula, the native chief, and so saved the vast "hinterland" of what was afterwards to be known as Rhodesia for the British empire. Endowed with a like empire-building imagination, Richard Henderson incorporated a company just when the West, on the outbreak of the Revolution, seemed destined to pass beyond American control; purchased from Oconostota and his fellow-chieftains of the Cherokee tribe, the last Indian claimants, their title to this vast theater of savage warfare; marched at the head of an armed band to the objective focus of conflict; and by his unflinching courage and the moral influence of his company, saved the vast "hinterland," not only of Kentucky, but ultimately of Ohio, Indiana, and Illinois, to the American nation.

The Transylvania Company, after playing its momentous rôle

in American history, vanished from the scene. But the work of Henderson, Boone, Williams, Hart, Luttrell, and their compeers still endures. It is fortunate that the imperial tract of territory which Henderson and his associates gave up to the American people as the consummation of their daring adventure still bears the name of the sweet meadows of Ken-ta-kee. It is perhaps not wholly unfitting that the great trail and the historic fort, its destination, should both have been named for Boone, the pilot, rather than for Henderson, the captain, of the movement which brought them into being. Yet Henderson is not wholly forgotten. A truer perspective for the movement of westward expansion in American history is now in process of creation. A nation and an age which do honor to great hazards of life and fortune, to supreme ventures of personal safety, capital, and enterprise — to a Cecil Rhodes, a Robert E. Peary, or a James J. Hill — may well find in Richard Henderson, with his empire-building imagination, a forerunner of the great colonizers and captains of industry of today.

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