



Bar Briefs

Lifetime Members to Be Honored

Holiday Party Set for December 11

The New Hanover County Bar Association's most popular event, the annual Holiday Party, has been set for 7 p.m. Saturday, December 11.

The Holiday Party will be held in the Louise Wells Cameron Art Museum on 17th Street at Independence Boulevard.

During the event, three new Lifetime Members of the Bar Association will be formally recognized.

These members are Dumay Gorham, Harold Laing and Frank Martin. With the addition of these three, there will be some 25 Bar Association members who are at least 65 and who have been a member of the group for at least 30 years.

The Holiday Party also will feature a buffet catered by the museum restaurant, The Forks. The menu will include roast beef, salmon, sesame pecan chicken, penne pasta, vegetables, a cheese and fruit tray, and an array of desserts.

Music will be provided by The Imposters, a jazz trio

consisting of guitar, acoustic bass and percussion.

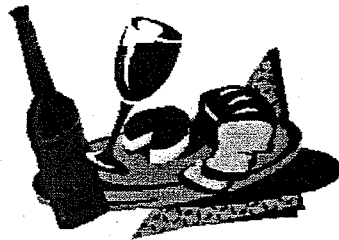
Because adult libations will be served, free taxi service will be available.

The museum's galleries will be open to those attending the Holiday Party, including the current special exhibition, "Matisse and More," which features some 25 rare works on paper from the renowned Cone Collection of the Weatherspoon Art Museum at the University of North Carolina at Greensboro.

This special exhibition includes early 20th century works never shown in Wilmington, including images by Henri Matisse and Pablo Picasso.

To attend the Holiday Party, RSVP to Kelly Hanley at 341-1161.

The Bar Association will collect toys at the door for the Toys for Tots program. Members are encouraged to bring new toys, in original box or wrapping, for distribution by the Marine Corps Reserves.



New Hanover Bar Association News, Announcements

New Legal Aid Attorney

Sebastian Kielmanovich, a 2004 Duke Law School graduate, joined Legal Aid of North Carolina, Inc.-Wilmington Office as a Clifton Everett Fellow in September. Mr. Kielmanovich, is a native of Argentina and is also a licensed attorney in that country. As a staff attorney, Mr. Kielmanovich will concentrate on domestic violence cases.

New Family Law Mediator

Bob O'Quinn has received his certification to conduct mediated settlement conferences in Family Financial cases and to conduct mediations in Workers' Compensation cases. He has practiced law in New Hanover

County for 28 years and has served as a Superior Court mediator since 1996. A substantial portion of his practice is alternative dispute resolution. Telephone is 256-0037.

Organizational Changes

Lawrence S. Craig and Charlotte Noel Fox are now practicing as Lawrence S. Craig & Associates, P.A., and have moved to 701 Market Street, Wilmington 28401. Telephone is 815-0085, fax is 815-1095, and e-mail is mail@LSCLawfirm.com.

In an amicable dissolution, members of Ryals, Robinson, & Saffo, P.C. have parted ways effective November 15, 2004. Robin Robinson will continue her practice under the name of Robin Wicks

Robinson, P.C. Telephone is 763-3374, and fax is 763-4004. Tony Saffo will operate his practice under the name of Saffo Law Firm, P.C., at 1508 Military Cutoff Road, Suite 203, Wilmington 28403 (in the Port City Capital Bank building), and can be reached at 256-3364.

New Locations

Miriam Mason Thompson and Jeff Noecker have moved to 307 North Fifth Avenue, Wilmington 28401, where they share space in the building that once served as offices for the late Fred Anderson and Aaron Goldberg. For Jeff, telephone 762-8600; fax 343-0776; and e-mail jenoecker@aol.com. For Miriam, telephone 342-0760; fax 343-0776; and e-mail mmtlaw@bellsouth.net.

Bar Association Honors Outgoing President

The New Hanover County Bar Association held its annual get-together and business meeting at Hugh McRae Park on October 16.

John Collins arranged for Cobb Melton and his crew to prepare a sumptuous feast of fish, shrimp, barbeque, corn-on-the-cob and other great "fixin's" that were enjoyed by about seventy-five members in attendance, not counting the children, who were plentiful.

Music was provided by Paco Strickland, who was constantly surrounded by the children who seemed entranced with his guitar and engaging style.

At the business meeting, officers were elected: John Smith was elected president, John Collins vice president, and Kelly Hanley secretary/treasurer. Cindy Locklear, Jeff Noecker and Alex Dale were elected to the Board of Directors.

At the conclusion of the business meeting, the new president presented outgoing president Jenna Butler with a framed certificate of appreciation from the board reading as follows:

The Board of the New Hanover County Bar Association wishes to express our sincere appreciation to Jenna F. Butler for the excellent manner in which she has filled the office of President of The New Hanover County Bar Association for the 2003-2004 term.

We especially appreciate the effective manner in which she has conducted the business of the Association,



John Smith, Jenna Butler and Sara Frances Butler

and the competence, style, and image she has brought to the Association through her positive efforts on our behalf. Be it resolved unanimously that our complete and enthusiastic thanks are spread upon our minutes and a copy of a resolution so stating shall be delivered to her personally.

Everyone congratulated Jenna on a job well done, and a good time was had by all. For those who attended, some great photos were taken of the children. If you are interested in copies, see Judge Smith.

District Bar Luncheon Meeting Planned

Members of the Fifth Judicial District Bar are invited to the District's Annual Meeting, continuing legal education seminar, and free lunch on December 10 in the Grand Ballroom of the Wilmington Hilton Riverside.

Registration, with coffee and Danish, will start at 9 a.m., followed by the Annual Meeting for the election of District Bar officers.

The nominee for District Bar Councilor is Robert White Johnson, who now holds the position and who is eligible to succeed himself for another term.

Officer nominees are Stephen Baynard, president; Stuart Edgerton, vice president; Lawrence Boehling, secretary-treasurer; and Stephen Coggins, at-large member.

Nominations may be made from the floor.

After the meeting there will be a free three-hour professional responsibility seminar that will fulfill two hours of the ethics requirement and one hour of the

substance abuse/mental health awareness requirement for three years.

Speakers for the seminar will be Stephen D. Coggins of Wilmington, Jay Reeves of Chapel Hill, Robert W. Johnson of Wilmington and Robert A. O'Quinn of Wrightsville Beach.

Mr. Coggins will speak on health and substance abuse issues.

Mr. Johnson, who is the District's Councilor to the State Bar, and Mr. O'Quinn, who is chairman of the District Grievance Committee, will speak on grievance avoidance and procedures.

A complimentary lunch will follow the seminar.

Members of the Fifth Judicial District Bar may attend any or all of these events. Those planning to have lunch must reply no later than 5 p.m. Monday, December 6. Telephone Robin Robinson's office at 763-3374 or fax to 763-4004 to reserve a seat at the luncheon.

Wilmington's Legal Legacy, IX
 The Moore Family: Maurice and His Son, Alfred
 Part I: Maurice Moore, Colonial Judge and Patriot

By John W. Smith

The Moore family may be considered one of the "First Families" of the Lower Cape Fear. Colonel Maurice Moore and "King Roger" Moore were among the first settlers of the region, moving up from the "Goose Creek" area near Charleston, South Carolina, to receive huge land grants from Governor Burrington during the period of the Lords Proprietors. The history of this illustrious family has been well documented by many eminent historians.¹ Two descendants of this family deserve special attention in this series. Col. Moore's son, also named Maurice Moore, served as a Colonial Superior Court Judge; and his son, Alfred, became a justice of the United States Supreme Court after the Revolution.

Maurice Moore was born either near the town of Brunswick below Wilmington or on a family plantation near Rocky Point around 1735 in what was then New Hanover County.² His father, who was a founder of the town of Brunswick, was Colonel Maurice Moore and his mother was Mary Porter Moore. His uncle was "King Roger" Moore who is interred at Orton Plantation. His life is well documented in major biographical works, such as the 20 volume *Dictionary of American Biography*, and his activities have been carefully examined by eminent historian William S. Price Jr. in his historical pamphlet, *Not a Conquered People*.³ Moore first married Sarah Ann Grange⁴ and following her death remarried a relative's widow, Mary Paris Davis.⁵

Maurice Moore was educated in the northeast, and was elected to the "lower house" of the Colonial General Assembly November 22, 1757. He continued to serve in the assembly off and on through 1773.⁶ He appears to have been an active

legislator, and was appointed to various committees, including one to develop procedures for the "Court of Chancery."⁷ This service overlaps the judicial tenure of Chief Justice Charles Berry, featured in an earlier article, and it is of interest that the evolution of our local resistance to the Stamp Act was critical to the lives of both of these contemporaries.⁸ Moore attracted the attention of Governor Arthur Dobbs, who attempted to have him elected to the Colonial Council, which served as the upper house and governing board of the colony. In 1760 Dobbs appointed

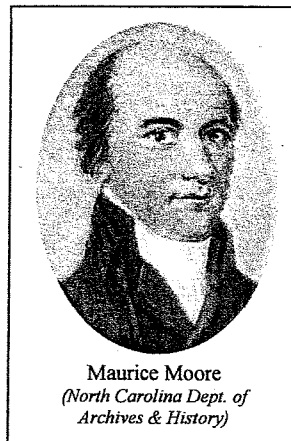
him to a temporary seat to fill a quorum on the council.⁹ Moore held this office for approximately one year. He then returned to the lower house where he sought but did not attain the speakership.¹⁰ He was an active participant as a legislator and attended regularly.

In a memorandum dated January, 1763, Governor Arthur Dobbs, with the approval of the Colonial Council, appointed Maurice Moore as an Associate Judge of the Superior Court.¹¹

Thus began his nine years of

service in the judiciary during one of the most turbulent periods though which our courts have passed.¹² Two events during his tenure are critical to this history. The first is a Revolutionary-period pamphlet he authored against the Stamp Tax Act, and the second is his involvement in what is known as the "War of the Regulation."

Moore came to the bench just as William Tryon arrived in Wilmington to replace Dobbs,¹³ and just as local sentiments over the passage of the despised stamp tax by England erupted as described in some detail in the previous article on Charles Berry. Berry began serving as Chief Justice in 1759; and his



Maurice Moore
 (North Carolina Dept. of
 Archives & History)

¹ [A REPRINT WITH LARGER FONT FOOTNOTES IS AVAILABLE FROM THE AUTHOR] Samuel A. Ashe, *Biographical History of North Carolina*, II, 293. Col. Maurice Moore (Sr.) had a plantation at Rocky Point (near the Ashe family) and was buried there in 1743. He was related to many who have been featured in these articles, including Ashe, Swann, Waddell, Davis, & Mosley families. See also: Powell, *North Carolina Biographical History*, and works cited hereafter. S.A. Ashe in his *History of N.C.* (1925), I, 191, says "...Maurice Moore...being allied with the strongest family connection in the province, for a generation exerted a large influence in its affairs."

² The date and place of birth are uncertain, but inferences can be made from the settlement of Brunswick by the father in 1726 and his activities through at least 1735. See Lawrence Lee, *Lower Cape Fear in Colonial Days*, chapter 9. His father had a house near Brunswick known as "Kendal" which he sold. He also had a home in Brunswick. His brother, James, is believed to have been born in 1737 at "The Vats" in Rocky Point. The birth date of a sister, Mary Rebecca, is not reliably reported. Lee details the efforts by the Moores to settle the area and explores the possibility they intended to create a separate independent province in the Lower Cape Fear region.

³ Price, William S. Jr., *Not a Conquered People* (Raleigh, 1975). This is a pamphlet of the North Carolina Bicentennial Series edited by Jeffrey Crow of the North Carolina Department of Archives and History.

⁴ Hewlett & McEachern, *Attorneys of New Hanover County* (1979) 109 gives the name as Grainger (although an earlier 1976 draft gave it as Grainge). Ashe gives her name as Grange. *N.C. Biog. Hist.* II, 303. John Grange was a member of "The Family" with the Moores, and a John Grange served in the Colonial Assembly from Bladen in 1796. See Lee, 102. In 1729, the elder Moore and Grange were on the St. James Vestry at Brunswick., *Colonial Records 2nd*, X:316.

⁵ Widow of his first cousin (?) William Moore of Orton Plantation. Latimer House Files.

⁶ He was the first representative of the town of Brunswick after it was granted borough representation while still a part of New Hanover. Cheney, *N.C. Government, A Statistical Survey* (1979), and Price give his dates of service as 1757-'59, '62, '64, '66-'68, '70-'71, & '73. He continued serving as the town representative after Brunswick Co. was formed in 1764. Town

representation (Wilmington, New Bern, Halifax, Edenton, Bath) gave the east increased voting power in the assembly.

⁷ Saunders, *Colonial Records* (Hereafter cited CR, Bk:Page) volume VIII, page 386 (8:386).

⁸ Berry and Moore were both present at the Council meetings in 1760-'61. CR VI: 347 *passim*. Moore did not appear to take his oath as a member of the House while on the Council. VI:363. He was on the Council when George III was proclaimed King at the meeting on Feb. 7, 1761.

⁹ CR VI:243.

¹⁰ CR VI:893. Reelected as representative from Town of Brunswick Nov. 1762. Price, 6. His father, Maurice Moore, served as speaker of the "First Assembly" of 1725. Cain, *North Carolina Government, A Statistical Survey 1585-1979*, 35.

¹¹ See CR 7:690 (Council Journal, Wilmington, Mar. 1, 1768); 7:691 (qualified in Salisbury Mar. 5, 1768) The Council Journal from Brunswick Jan. 1, 1763, recorded: "His excellency asked the Opinion of the board who they thought a proper person to Act as Judge of Salisbury Court They unanimously recommended Maurice Moore Esquire as a proper Person." Serving on the Council at the time were James Murray, James Hasell, John Rutherford, Lewis DeRosset and John Sampson. CR VI:1007. Council Records also report that he was appointed a Justice "under the General Commission of the peace" (JP) on Nov. 23, 1764, in Wilmington. CR VI:1087.

¹² Moore would have served as an Associate Justice under Chief Justices Charles Berry (1759-65), Martin Howard (1767-74) and James Hasell (1766-67 & 1774-1776).

¹³ Tryon arrived in October 1764. Dobbs died March 1765.

celebrated *Simpson-Whitehurst* trial¹⁴ which drew the ire of Governor Tryon occurred in October of 1765. Chief Justice Berry committed suicide over these stresses in December of 1765. So Moore was serving as a royal judge as the tax resistance cauldron began to boil. Maurice Moore was in the thick of these events, and although eminent historians have found his overall actions ambivalent and sometimes contradictory,¹⁵ one document which he wrote places him at the forefront of the American Revolution. In 1765, Moore published in Wilmington a sixteen-page pamphlet titled "The Justice and Policy of Taxing the American Colonies in Great Britain Considered." In it he made an extended legal and practical argument against the stamp tax. The document is reproduced and discussed by Price. The full title sets the tone for the extended argument which follows:

{ Frontispiece} *"The Justice and Policy of Taxing the American Colonies, in Great Britain, Considered: Wherein is shewed that the Colonists are not a conquered people: That they are entitled to be taxed only by their own consent: And that the imposing a Stamp duty on the Colonists is as impolitic as it is inconsistent with their Rights. Non Sibi Sed Patrie [Not for self, but for country] By Maurice Moore, Esq., Wilmington, North Carolina ...{4} The inhabitants of the Colonies upon the Continent ...have always thought, and I believe will ever think, all the rights and liberties enjoyed in Great Britain, at the time they departed from it, their Birth-Right, and that they brought them over with them to America, among which, that of being taxed only by their own consent, is one of the most essential. {6} [T]hey cannot, with the least degree of justice, be taxed by the British parliament, in which they are not represented, no person in that assembly being authorized to signify their consent.... {7} It hath indeed pleased some of the honorable members of that august assembly to say, that the Colonies are virtually represented in parliament; but this is a doctrine that only allows the Colonists a shadow of that substance which they must ever be slaves without. {14} To impose a Tax on the Colonies, in the British parliament, appears to me, to be a measure almost as impolitic, as it is inconsistent with the rights of the Colonists; for as they are unalterably of opinion that such an imposition is no less arbitrary than oppressive, it will by degrees alienate their affections from the Mother Country; the seeds of discontent will be sowed in the Colonies, and children will be taught to hate the name of those who have enslaved their country; the principles of disaffection will increase with their years, and the spirit of rebellion grow formidable with their numbers...."*¹⁶

When Tryon, still residing in Brunswick below Wilmington, read this, he immediately suspended Moore from the bench.¹⁷ When circumstances cooled down after the repeal of the Stamp Act, Tryon restored Moore to the bench. Historians

record that Tryon felt that Moore's subsequent conduct redeemed him.¹⁸

The second major historical event in which Maurice Moore figured predominately occurred during what became known as the "Regulation" or "War of the Regulation" in the area around Salisbury and Hillsboro between 1768 and 1771. The events of the rebellion are well documented; but briefly: protestors in the Salisbury area engaged in a coup towards public officials who were alleged to be corrupt. Ironically, Wilmington patriots sided with Tryon, and joined him in his westward march to crush the rebellion.¹⁹ The Regulators had invaded the courtroom, and literally drove the royal judges from the bench.²⁰ Several chaotic legal proceedings in the area occurred, but the court records for most of this period have not survived. Among those which have, one set dated September 24 and 28, 1768, show that Judge Moore participated in Tryon's "Council of War" as he tried to deal with the Regulators.²¹ He also presided in Hillsborough with Martin Edwards and Richard Henderson when the grand jury indicted one of the principal Regulators, Herman Husbands, on one count out of four counts of rioting. Husband was surrendered to the court and at trial he was acquitted. One of the royal officials, Edmond Fanning, was indicted for seven counts of extortion, as had been alleged by the Regulators. He was tried by a jury and convicted but was fined "one penny" and the costs. Tryon then apparently pardoned some Regulators who were convicted, but the Regulators "were not appeased."²² Later, the judges were so intimidated that that they dared not return.²³ Tryon, with his troops, including militia from Wilmington led by William Hooper, defeated the rebels.²⁴ In Tryon's journal, he records that as the troops marched from

¹⁴ Price, 7 and cites therein. Also, Powell, *Correspondence of William Tryon*, II, 56: letter from Tryon at Brunswick dated March 14, 1768: "Your Lordship may observe the Gentlemen I have appointed Associate Judges agreeable to the last Superior Court Law, are Mr. Maurice Moore and Mr. Richard Henderson. The former Gentleman I suspended during the late distractions[sic.] in the Colonies, His proper Conduct and Behavior since that period, and the British Act of grace subsequent to those Troubles, induced me with the approbation of the Council, to reinstate Mr. Moore in his Office."

¹⁵ One historian explains the alliance of future Wilmington patriots Hooper and Hamett with Tryon as a sectional confrontation of the elite easterners perceiving the western Regulators as lower class rabble threatening the security of all. Kars, *Breaking Loose Together*, 209 et. al. and 212; Hugh Lefler, *History of North Carolina* (Lewis, 1956) Vol. I chapter thirteen.

²⁰ The chaos accompanying the establishment of these early courts is succinctly described by historian Hugh Lefler: "But the most dramatic incident was the 'Hillsborough Riot' of September 24-25, 1770. The court docket was filled with cases both for and against the Regulators, who according to the presiding judge, Richard Henderson, had been coming into town for days 'until the place was filled with a great number of these people called Regulators shouting, hallooing and making a considerable tumult in the streets.' When the court assembled, the Regulators marched in and occupied all the available seats. Then Jeremiah Fields, acting as the Regulator spokesman, informed judge Henderson that the Regulators had reason to believe that they could not obtain justice in his court, and hence they were determined to obtain it by their own means. According to Henderson's account, all went well for about half an hour; most of the Regulators withdrew from the courthouse, but within a short time bedlam broke loose. A local attorney was beaten as he attempted to enter the building. Fanning was chased, and when he hid behind the judge's bench, he was dragged out and pummeled through the streets in a vigorous manner. He finally escaped by running into a store. Henderson, fearing for his own safety, left for his home in Granville County, leaving 'poor Col. Fanning and the little Borough in a wretched situation.' The following day, the Regulators took over the deserted court and tried their own cases, with Fields acting as clerk. The entries made on the court docket were bitter, sarcastic, and vulgar, usually ending with 'plaintiff pays cost,' but with a little profanity interspersed. The Regulators also took out their wrath on Fanning by almost wrecking his house, after which they dispersed to their homes". Lefler, *History of North Carolina* (Lewis, 1956), Vol. I, 197.

²¹ CR 7:840-842.

²² Lefler & Newsome, *History of a Southern State* (3rd Ed.) 185-90. CR 7:842-844; Wheeler, II, 321.

²³ On March 18, 1771, Moore signed a letter with Chief Justice Howard resisting instructions by Tryon to attend court in Hillsborough. "We have conferred together upon the subject, and considering the Violences committed there the last Court, ...we cannot attend that court with any hopes of transacting the business of it, or indeed with any prospect of Personal safety to ourselves." Powell, II, 636. On the 18th, the Council agreed. It is interesting to note that the Assembly on Nov. 26, 1771, refused Moore's request for leave of absence to hold court in Wilmington and a resolution to allow him to be paid in lieu of attending was passed with some dissents. CR 9:144 He was serving in both capacities at the time.

²⁴ William Powell, *Correspondence of Tryon* (1980), II, 90-94, 750.

¹⁴ The trial is covered in the previous article on Chief Justice Berry.

¹⁵ William Price, *Not a Conquered People*, 9.

¹⁶ Price, *Not a Conquered People*, 37-48. Bracket numbers refer to pages in the original pamphlet.

¹⁷ CR VII, 199-200. Letter from Tryon written from Brunswick Town on April 28, 1766: "I have suspended Mr. Maurice Moore from the office of Assistant Judge for the District of Salisbury for his intemperate zeal and conduct in opposition to the Stamp Act. he is a leading man in this river, tho' he enjoys no great share of popularity in other parts of this province. The position of Assistant Judge I have given to Mr. Edmund Fanning." An almost identical comment to the Board of Trade two days later appears at p. 200. Reproduced in William Powell, *Correspondence of Wm. Tryon* (1980), I, 383-4.

one court-site to another, he promoted Maurice Moore as a commander of a troop of volunteers.²⁵

The Regulators seemed to have a special dislike for Moore, perhaps because he had been appointed by Tryon.²⁶ In a letter to Tryon from his court in Salisbury dated March 13, 1770, Moore informed Tryon that the Sheriffs were unable to serve legal papers in the region due to the resistance, and he said, "I wish it may not be found necessary to redress them by means equal to the Obstinacy of the People, who have given reason for it."²⁷ The records reflect that Moore was the signer of an affidavit alleging possibly treasonous conduct on the part of the Regulators which prompted Tryon to summon the militia which were successful in suppressing the rebellion.²⁸ One of the Regulators even expressed the desire to see Moore flogged.²⁹ The Assembly ejected Herman Husband who had been elected from Orange County, because he allegedly wrote and published a seditious letter addressed to Moore.³⁰ After the rebellion was suppressed, Moore apparently wrote Tryon requesting to be among the judges to try the alleged traitors, a request which Tryon approved by issuing a commission.³¹ While Moore presided with two other judges to sentence twelve of the Regulators to hang, he reportedly later advocated for mercy and leniency. Six were pardoned, and six were hanged. Tryon himself reported: "On the 9th of June, I returned with the army through the northern part of Orange County to Hillsboro', where the judges were waiting at an especial Court of Oyer and Terminer, to try the prisoners taken in battle. Twelve were capitally convicted as traitors, and two acquitted; six of which twelve were executed on the 19th of June... By the solicitations of the officers of the army, I suspended the execution of the other six till his majesty's pleasure should be known."³² Immediately following this expedition, Tryon departed North Carolina for New York.

Some historians view this "Battle of Alamance" as the first battle of the Revolution at which American blood was shed.³³ There is some evidence Moore became increasingly critical of Tryon. But he continued in the royal service until the court system began to collapse in 1772 as the American Revolution took shape, and he accepted judicial commissions under Tryon's successor and the last royal governor, Josiah

Martin.³⁴ In 1774, he pointed out the illegitimacy of the courts, and as the Revolution approached, he joined the patriots. He was a delegate to the first Provincial Congress in Hillsboro on August 20, 1775,³⁵ and his sons became officers in the Revolutionary militia. His son, Maurice Jr., was killed by the British at Brunswick in 1776. His brother rose to the rank of General. His son, Alfred, may have fought at the battle of Moore's Creek³⁶ and became a justice of the U.S. Supreme Court.

As events moved forward towards the Revolution, Moore became a committed patriot.³⁷ James Sprunt describes him as being among those who marched to Brunswick in 1765 to prevent the British ships from offloading the stamped papers two months before Britain repealed the Stamp Act.³⁸ In 1775, he was sent on a mission by the Hillsboro Congress to the former Regulators he had opposed to try to convince them to join the patriot cause. The irony of this reversal of positions by both groups was not lost on later historians.³⁹

There survives a letter from Moore to Royal Governor Martin in which he recommends mercy for a young man condemned to die in his court. His own words frame the issue eloquently: "*The Bearer of this Letter waits on your Excellency with a Petition in favour of one Reynold McDugal, a boy of about 18 years of age whom Mr. DeRoset and I condemned on the 9th instant [August, 1773] for Murder. There is no reason to doubt of his having been guilty of the fact, the testimony against him was clear. But, Sir, I think from his appearance he is too young to be executed, to judge of him from his size and looks, one would not imagine him more than thirteen or fourteen years old.*" Moore's letter was forwarded to the king, and a royal pardon was granted. This occurred during a time when Moore himself had begun to question the legitimacy of the royal courts.⁴⁰

A month before the Battle of Moore's Creek Bridge, Moore was a member of the conservative wing of the patriots and sought compromise with England. He sent a letter to Royal Governor Martin in January, 1776, suggesting steps to defuse the

²⁵ Powell, II, 153: Tryon writes on September 13, 1768 in his "Orders of His Excellency of the Troops under Orders to March to Hillsborough [from Salisbury]: "Maurice Moore Esq. Is appointed Colonel Commandant (with the rank of Colonel) of a Troop of Gentlemen Volunteer Light Dragoons. This Troop to encamp on the right of the Brigade and to lead the column on the march." James Moore and John Ashe are also among the officers. See also CR 7:829-834.

²⁶ CR VIII, 519 f.; Atty. Gen. Waigstill Avery in an affidavit for Tryon on March 6, 1771, says he heard a Regulator say: "What business has Maurice Moore to be a judge, he is no Judge, he was not appointed by the King he nor Henderson neither. They'll neither of them hold Court. The Assembly have gone and made a riotous Act and the people are more enraged than ever, it was the best thing that could be for the County for now we shall be forced to kill all the Clerks and lawyers and we will kill them and I'll be damned if they are not put to death..." Avery goes on to say, "Some wished they could see Judge Moore at Salisbury that they might flog him, others that they might kill him." Similarly: Wheeler, *History of North Carolina*, (Pa. 1851) Vol. II, 15.

²⁷ Powell, *Correspondence of Tryon*, II, 431.

²⁸ Powell, *Correspondence of Tryon*, II, 514 f., 518

²⁹ CR VII, 519, 534, 539, 694.; VIII, 520.

³⁰ CR 7:xxvi; 8:546; Francois X. Martin, *History of N.C.* (1829) ii, 268. (The volume in the New Hanover Co. Library was presented by Alfred Moore Waddell and is embossed in gold lettering with Waddell's name.)

³¹ CR 8:694; Powell, *Correspondence of Tryon*, II, 619.

³² Wheeler, II, 17.

³³ Wheeler, I, 59: "After a conflict of two hours [May 16, 1771], the Regulators fled, leaving twenty dead and several wounded. The loss of the royal forces in killed, wounded or missing, was sixty-one men... thus ended the battle of Alamance. Thus, and here, was the first blood spilled in these United States, in resistance to exactions of English rulers, and oppressions by the English government." Others take a more complex view of the uprising, and Lefler & Newsome rebut the proposition in their *History of A Southern State* (3rd Ed.), 190.

³⁴ CR 9:607. He was appointed a judge to examine under oath those accused of treason as late as October 27, 1773. CR 9:691. He also was on committees to prepare responses to the governor and survey boundary lines, and appointed to be on the Committee of Correspondence between the colonies and England (1771). CR 9:501, 530 et al.; 11:237-238.

³⁵ His attendance is recorded in the records. CR X:167-175. He was appointed to a committee to draft the oath of allegiance.

³⁶ The Moores of Moore's Creek, and later judge Clifton L. Moore (1954-9), are not related to these Moores. They were all early settlers, but there may have been three separate Moore families.

³⁷ His patriotism is defended by J. Seawell Jones in *Defense of the Revolution* (c.1834) page 27 as follows: "One of the companions of Colonel Ashe deserves to share with him every tribute of reverence, which posterity may pay. Maurice Moore was early distinguished by his zeal in the cause of the people. He was, however, more of a student than a soldier, and had already acquired at the bar of the province, the reputation of an eloquent advocate and an honest attorney. Of Colonels Waddell and Ashe and Mr. Moore there can be no question but that Governor Tryon had great and serious apprehension. Colonel Ashe was irresistible among the people... Colonel Waddell delighted in war... Maurice Moore was a man of weight and consideration in the community in which he lived, as well as at the Bar. He would indeed have been an ornament to any society;... These three names are still conspicuous in N.C. for their exalted worth..."

³⁸ James Sprunt, *Chronicles of the Cape Fear River*, 97: "Surrounded by a bevy of his kinsmen, the venerable Sam and John Swann; his brothers in law, James, George, and Maurice Moore; his brother Sam Ashe, and Alexander Lillington...; by Howe, Davis, Colonel Lloyd, and other gallant spirits, was the speaker, John Ashe... How, on this momentous occasion, the spirits of these men and their kinsmen and friends who gathered around, must have soared as they passed on, resolved to maintain the chartered rights of their country!... they moved forward with a resolute purpose to sacrifice their lives rather than tamely submit to the oppressive and odious enactments of the British parliament."

³⁹ CR, X, viii; Durwood Stokes, *North Carolina Historical Review* (1967), 383.

⁴⁰ CR 9:683 f. See also 9:687, 816, 994. See 7:119 as to an "insane" horse thief. Moore also wrote a response to questions posed about enforcement of the notorious "Riot Act" and "Outlawry" orders on August 24, 1772. CR IX:336. As to Moore's criticism of the courts, see McRee, I, 201

pending confrontation and restore the relationship as it had been in 1763. His efforts proved futile although Martin appeared to be receptive.⁴¹ Not only did the confrontation at Moore's Creek frustrate the overture, but the days of his participation in these events which had swirled around him were numbered. Maurice Moore died in the early months of 1777.⁴²

No record of Judge Maurice Moore would be complete without a reference to a letter which had early been attributed to him which appeared in the *Virginia Gazette* on November 7, 1771, and apparently had a wide circulation after that date. It was extremely critical of Governor Tryon, often resorting to sarcasm and invective. It was signed "Atticus." In older North Carolina histories, the letter is specifically attributed to Judge Maurice Moore.⁴³ However, when viewed in the context of the times and Moore's actions, it seems to me unlikely that he was the author. Both the language and style of writing is quite different from his pamphlet and letters, and in view of his public disclosure of his authorship of the pamphlet it is hard to see why he would use a pseudonym in the letter. We can speculate as to how the letter came to be attributed to him, but there is no definitive explanation. Moore's subsequent support of the patriot side may have elicited a need for an explanation for his earlier alliance with Tryon and suppression of what some considered to be a rebellion against taxes. The letter filled a need to reconcile the apparent inconsistency between his views on taxes expressed in his pamphlet and his actions against the Regulators, who were

incensed at Tryon's tax to build his "palace" in New Bern. Some contend that the Regulators supported the King but did not support Tryon who was in the process of leaving to become governor of New York. Also, there was a clear regional division pitting eastern planters who needed trade with England against yeoman farmers of the interior who had no such need. Finally, the Moores may have needed to do something to distance the family from the Tories. But the assertion of historians such as J. Seawell Jones that Moore was sympathetic with the Regulators does not appear to be clearly established by the evidence, and he was clearly supportive of Tryon.⁴⁴

Moore's tenure as a judge was caught up in the controversy over the court system itself. It appears that the courts to which the governor appointed Moore were subsequently nullified by the Assembly, and he lost his position.⁴⁵ At a session of a special court commissioned by the governor pursuant to an act of the Assembly in Wilmington in 1774, William Hooper reports in a letter to James Iredell:

"I thank you for your account of your Court of Oyer. Ours met an untimely end – four days had elapsed of the Court – several offenders had been tried – one branded for larceny, and one convicted of murder. On the fifth day, M. Moore excepted to the Commission ... M. Moore very indecently reflected upon the legislature ... Mr. Moore has furnished me with many materials for yourself and friends, which I shall communicate to you some day or other: they are truly picturesque of the man and highly laughable. Be that as it will, the Commission was so truly defective that it seemed to be so intentionally.... It is replete with blunders of a smaller kind, and Atticus charges all of the Assembly."⁴⁶

In the early days of the Revolution, there is no question that the principal citizens of the Lower Cape Fear behaved ambiguously: in one series of events excoriating the King and the Stamp Collector; and on other occasions marching with Tryon to suppress rebellious sentiments in the "backcountry" of Salisbury and Hillsborough. But there can be no question that Maurice Moore always wanted to be in the center of things, sought powerful positions for himself, and pursued alliances with the region's most powerful figures. Thus, he was a major player as the saga leading to the Revolution unfolded for North Carolina and the Lower Cape Fear.⁴⁷

Our next edition will conclude the coverage of the Moore family with a sketch of the life of Maurice's son, Alfred Moore, who became the second of the only two North Carolinians to serve on the United States Supreme Court.

⁴¹ William Boyd, *Some N.C. Tracts of the Eighteenth Century*, *N.C.Hist.Rev.* (1925) ii, 489. The correspondence is reproduced in *Colonial Records*, 10:395-405 and 11:269, 721-27. Moore writes on Jan. 9 from Wilmington:

"...I wish your Excellency would give this unhappy Colony an opportunity of renouncing every desire of independency on the parent state... I verily believe, Sir, should your Excellency think it proper to call an Assembly it will be found to be the sense of this Province, that it is the duty of all the Colonies to submit and return with cheerfulness to the same political condition they were in in the year 1763." Governor Martin in a defensive letter to Lord Germain dated May 17, 1777 writes: "The proposition my Lord to which I refer, is contained in a letter from a Mr. Maurice Moore...brought to me by a person who acquainted me it was wished my answer might be calculated for the inspection of the Committee of Wilmington which it was supposed it must necessarily undergo, from the same messenger I understood it was the great object of Mr. Moore by this letter to open a way to a personal interview with me in which he intended to communicate a plan he had formed for the accommodation of the differences subsisting between Great Britain and her American Colonies. Knowing the man to be a most whimsical visionary in politics, & that he was strongly tainted with republicanism, imbibed, it may be supposed, in his education in New England I conceived no great hopes... I had my doubts too of his being authorized at all, or that he would be trusted by the People of the Colony to negotiate for them. For although his parts and extensive connections in the Country gave him pretensions to considerable influence in the Assembly of that Province, it was remarkable, that his caprice and fickleness had always disappointed his ambition.... inasmuch as it is averred, he has never carried a single point there of any importance, in a course of upwards of twenty years service, which is the more surprising as he has been evermore a zealous votary of the bubble popularity. His part in the present rebellion was long as undecided, as his political conduct has been on all other occasions. For after entering two of his sons in the rebel Army, he has affected to speak at times with disapprobation of violent measures, as I have heard." (p. 399f.)

A letter inviting a more personal communication from Martin to Moore was written from the Sloop Scorpion in the Cape Fear River on Jan. 11. The actions of Martin were being resisted by the Wilmington Safety Committee at the time according to the minutes published by McEachern and Williams. The correspondence was provided by Moore to the committee, and the minutes state Moore wrote with the committee's permission. CR X:431-2.

⁴² The circumstances and date of his death are unclear. Price states he died "sometime between January and April 1777," and questions accounts that he died Jan. 15, 1777, the same date and place as his brother. *Biographical History of N.C.*, IV, 305; also CR XI,456. The report that both died on the same date in the same house became often-repeated folklore. Genealogist Richard Booth of Cary lists his children as Alfred, Julian, Sarah, Mary, Maurice, and James. (Records, N.H.Co.Pub.Library. Ida Kellam excludes Mary and adds Ann, Latimer House records). He was buried on his father's plantation "The Vats" in Rocky Point (Rosalie Waters Carr Notes, Latimer House).

⁴³ Francois Xavier Martin, *History of N.C.* (New Orleans, 1829) I, Appendix lviii; Wheeler (1851), i 101; Seawell Jones, *Defense* (1834), 57; *Colonial Records*, VII, 718; *N.C. Historical Review*, (1941) XVIII, 48, 78; and Samuel A. Ashe, *Biographical History of N.C.* (1905) ii, 303. S.A. Ashe published his *History of N.C.* in 1908, and in a note states the letter is also "Attributed to Abner Nash. Perhaps it was their joint work." (i, 398). An 1821 letter from Ransom Sutherland in *The Papers of Archibald D. Murphy* (Hoyt, 1914, NC Hist. Comm., i, 201) attributes the letter to Nash. The sources for these attributions are all unclear. See also the ambiguous "Atticus" reference by Hooper in his letter to Iredell: McRee, I, 201, cited below.

⁴⁴ J. Seawell Jones, *Defense of the Revolutionary History of North Carolina* (c. 1834), 56 ff. Also, there is a record of a letter written by Judge Moore to Fanning on August 12, 1768, responding to some allegation of sympathy and encouragement for the Regulator cause, in which he makes clear that his views, to the extent he had communicated them to several, had been distorted and was a "calumny." Wheeler, i, 101; ii, 316. Wheeler describes Moore as "Deeply imbued with the true spirit of liberty, although his duty might cause him to sit in judgment upon the Regulators, yet his feelings deeply sympathized wit their oppressed condition." One possible source for the allegation of complicity may be that the justices approved a request by Regulators for a meeting in August 1766 "judiciously to enquire" as to alleged abuses of power by officials. The Justices approved the proposal. Martin, *History*, ii, 218, gives emphasis to "judiciously" as suggesting court approval in the eyes of Fanning and others.

⁴⁵ Gov. Martin had strict instructions from the King, and the sentiments of the Assembly diverged from the royal agenda. The issue is complicated and bound up with disputes about tenure "during pleasure" versus "good behavior," as well as jurisdiction over non-residents and taxes.

⁴⁶ McRee, I, 201. The objections are set out in some detail in the letter sent from Wilmington. It is dated Aug. 5, 1774. The first Provincial Congress convened in New Bern August 25.

⁴⁷ James Sprunt describes him thusly: "Judge Maurice Moore, of 'versatile talents, and possessed of extensive information, as a wit, always prompt in reply; as an orator, always daring the mercy of chance'...." *Chronicles of the Lower Cape Fear*, 76. The quote is from McRee, I, 194-5, also quoted by S.A. Ashe, *History of NC*, i, 379.

Lawyers, Students Enjoy Mock Trial Event

By JANET LEISE

Eight teams representing six high schools appeared in the New Hanover County Courthouse on November 13 for regional "trials" in the 13th annual Wade Edwards High School Mock Trial Competition.

Eight teams representing six high schools participated, including three of the four high schools in New

divulging that he/she suffers from multiple myeloma.

Each courtroom panel consisted of three evaluative attorney-jurors and a presiding judge. The teams were scored by the jury panel on the basis of presentation, use of objections, examination of witnesses, and opening and closing arguments.

There were three rounds of

to the New Hanover County bar and judiciary for its support of the mock trial competition:

Round I Presiding judges – Judge Jay Hockenbury, Alex Dale, Maynard Brown and George Rountree.

Evaluative jurors – Stuart Smith, Ellen Kiernan, Linda Sayed, Ashley Edwards, Bill Schell, Kent Stephens, Jenna Butler, Randall Rusch, Ken Campbell, Steve Coggins, James Morgan, Dean Hingston and Matt Thompson.

Round II Presiding judges – Judge Jay Hockenbury, Judge John Smith, Gary Shipman and Alex Dale.

Evaluative jurors: Randall Rusch, Linda Sayed, John Richard Newton, Aaron Low, Brian Geschickter, Todd McCurry, Kurt Fryor, Andrew Hanley, April Morey and Faison Gibson Sutton.

Note that Ward & Smith sent four attorneys to this event and that Linda Sayed participated in all three rounds this year.

Thanks also go to the paralegal site volunteers. Paralegal Patty Jenson from Mr. Rountree's firm volunteered again this year, Teddie McLaughlin from Andrew Canoutas' office, April Morey from Troy Slaughter's office, Heather Mullins from Cox & Tillery, Yvonne Sneed from Stevens, McGee, Morgan and Toll and Sam Etheridge, a great friend to the mock trials.

The top 16 teams advance to the state finals to be held at the Mecklenburg County Courthouse on January 22-23.

The winner at the state finals will go on to the National Competition in May 2005.

The program, which began in 1992, is part of a national competition involving more than 40 other states. The 2005 National Mock Trial Competition will be held in Charlotte on May 5-7.

Hanover County. These three were Hoggard High School, coached by Billy Mason; Laney High School, coached by Ken Shanklin; and New Hanover High School, coached by Bill Shilling. Ashley High School's debate club was present to observe, preparatory to entering next year's competition.

Other teams were the defending state champions from Asheboro, as well as two teams each from East Carteret in Morehead City and J.H. Rose in Greenville.

The students tried a hypothetical case created by Regional Coordinator Andy McVey. In this employment discrimination case, a retail store manager for a high-end clothier is fired shortly after

trials, one in the morning and two in the afternoon.

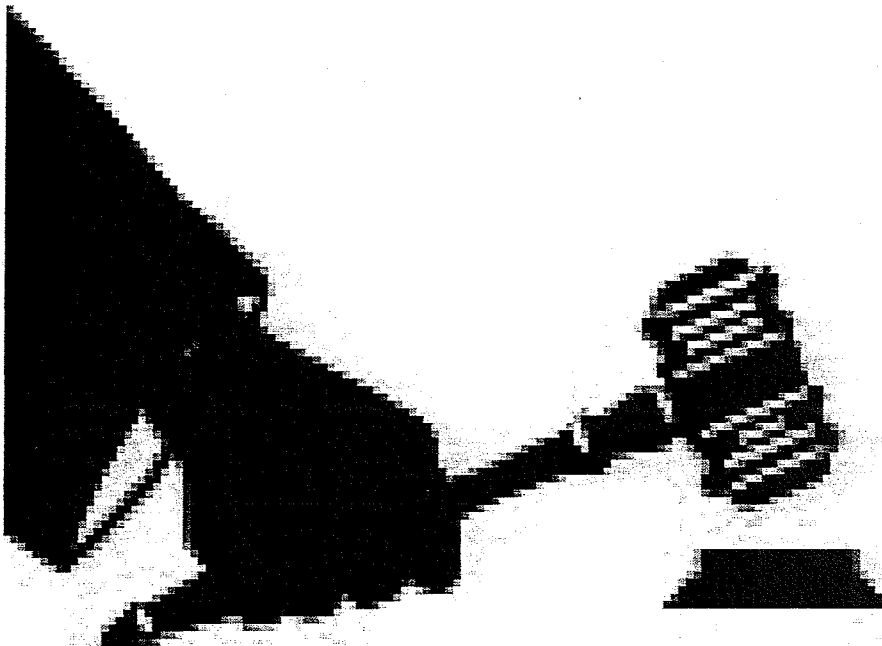
After each trial, the attorney jurors "deliberated" in the jury room and then returned to the courtroom to offer comments and pointers.

From round to round, teams had to switch roles. A team trying the plaintiff's case during Round I had to represent the defendant in Round II.

In Round III, finalists Asheboro and J.H. Rose competed. District Court Judge John Smith presided. The winner was a J.H. Rose team.

The Round III attorney-jurors were Janet Coleman, John Richard Newton, Kelly Hanley, Linda Sayed and Stuart Smith.

A great big thank you goes out



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Lawyers Recognized for Pro Bono Efforts

By ROSELLE MARGOLIS

The New Hanover County Bar Association and Legal Aid of North Carolina, Inc.-Wilmington Office, presented Pro Bono Awards at the New Hanover County Bar Association Luncheon on September 28.

Recipients of the Awards were area attorneys who have provided free civil legal service to low-income people and organizations. More than 75 attorneys gathered to recognize the accomplishments of their peers.

The 2002-2004 Pro Bono Award Recipients are:

– Kelly C. Hanley, Trial Court Administrator for the 5th Judicial District, who was recognized for her presentations to quarterly Family Law Clinics held through Legal Aid in cooperation with the Wilmington YWCA Resource Center for the last 2+ years, while she was Family Court Administrator for the 5th Judicial District.

– Christopher Leonard of Murchison, Taylor & Gibson, who has provided Pro Bono assistance in guardianship cases and low-income estate planning cases. He also participated in an Elder Law presentation at the New Hanover County Department of Aging.

– The law firm of Block, Crouch and Keeter, which has continuously contributed to Legal Aid's Pro Bono Program. This award recognizes particular contributions by two of the firm's attorneys, Christopher Behm and Linda Sayed. Mr. Behm assisted clients with housing issues and represented Helping Our Latin Americans (HOLA) in incorporating a nonprofit corporation. Ms. Sayed assisted numerous clients with guardianships and powers of attorney.

– Robin Wicks Robinson, who has throughout her career contributed Pro Bono time to needy people in New Hanover County in the area of

family law. In addition to providing direct representation of individual clients, this certified family law practitioner participated in five Family Law Clinics in New Hanover County in the last two years as a presenter.

Ms. Robinson was winner of the Addison Hewlett Award, presented in sponsorship by the New Hanover County Bar Association and Legal Aid of NC, Inc.-Wilmington Office.

The Hewlett Award is given for Outstanding Pro Bono Service to acknowledge and honor that attorney who has demonstrated selfless dedication to equal justice for indigents in New Hanover County.

The keynote address was delivered by Allan Head, Executive Director of the North Carolina Bar Association. Mr. Head's inspirational address emphasized the importance of attorneys' doing "no harm" in their practice.