

WILLIAM GASTON
A SOUTHERN FEDERALIST OF THE OLD
SCHOOL AND HIS YANKEE FRIENDS—
1778-1844¹

BY R. D. W. CONNOR

“MY apology for this letter is that I consider Mr. Gaston as a *Federalist* of the old school not absorbed in the personal factions of the day.”² Thus, many years after the Federalist party had passed into the limbo of history and ambitious politicians of Federalistic leanings had sought refuge under the aegis of a less unpopular designation, wrote the son of one of the Fathers of the Constitution and founders of the Federalist party to William Gaston, who for more than thirty years had prided himself on belonging to “the proscribed sect of Federalists.”³ Every generation of American politicians has had its candidate for the exalted title of “Last of the Romans”; William Gaston would have much preferred to be called “Last of the Federalists.”

¹This paper is based chiefly on the private correspondence of William Gaston (1778-1844), at present in custody of the writer, and unless otherwise stated all citations are to documents in this collection. It is intended to deal with only a single phase of Gaston's life and is not in any sense a biography. There is no adequate biography of Gaston, but there are numerous short sketches, of which the following are the best: Richard H. Battle, “William Gaston” in *Biographical History of North Carolina* (S. A. Ashe, editor, 8 v., Greensboro, 1905-1917), II, 99-107; William H. Battle, “William Gaston,” in *Lives of Distinguished North Carolinians* (W. J. Peele, editor, Raleigh, 1898); Henry G. Connor, *William Gaston, 1778-1844* (Raleigh, 1915); the same author's sketch in *Great American Lawyers* (William Draper Lewis, editor, 4 v., Philadelphia, 1908), III, 39-84; J. Fairfax M'Laughlin, “William Gaston: The First Student of Georgetown University” in *Records of the American Catholic Society*, vol. vi, no. 3, 225-251; Edward F. McSweeney, “Judge William Gaston of North Carolina,” in United States Catholic Historical Society, *Historical Records and Studies*, xviii, 172-188; reprinted in *Gastons*, (Edward F. McSweeney, editor. Privately printed, 1926. The same volume contains sketches of Governor William Gaston and Colonel William A. Gaston, of Massachusetts).

²Allen J. Davie to William Gaston. Jamestown, N. C. June 22, 1833.

³Gaston so styled himself in a speech in the North Carolina House of Commons, in 1807. Raleigh *Minerva*, Dec. 24, 1807.

Though now half-forgotten, in his own day Gaston was one of the most eminent of American statesmen and jurists. Probably no other American who had so brief a public career every enjoyed among his contemporaries such an extraordinarily wide and favorable reputation for statesmanship and legal learning. Aside from a few terms in the state legislature, his career as an office-holder began and ended with two terms in Congress and eleven years on the Supreme Court of North Carolina. Two-thirds of his adult life was spent as a country lawyer in private practice. Yet during those years jurists and party leaders in every section of the Union laid their problems before him and begged for light. Story and Kent consulted him on knotty questions of law, Webster and Marshall on grave constitutional problems. A senatorship, a cabinet position, were his for the acceptance; and in 1834 the son of Alexander Hamilton urged him to come to the rescue of the Hamiltonian conception of the Union by running for the Whig nomination, in opposition to Webster and Clay, for "the Presidential choice."¹ To all these calls he turned a deaf ear in order to devote himself to the administration of justice on the Supreme Court of his native state.

For nearly two centuries the Gaston family has been distinguished in a dozen American states, particularly in Massachusetts and the Carolinas. The New England and the Carolina Gastons trace their descent from a common seventeenth-century ancestor. Judge William Gaston of North Carolina was a descendant in the fourth generation, Governor William Gaston of Massachusetts in the fifth, of Jean Gaston who was born in France about the year 1600. A Huguenot, this Jean Gaston in 1640 fled to Presbyterian Scotland to escape religious difficulties in Catholic France. A quarter of a century later, when Scotland was torn by the religious controversies that followed the Stuart Restoration, three of his sons sought peace and quiet

¹From John C. Hamilton, New York, Sept. 27, 1834.

in the North of Ireland. The Gastons soon found, however, that it was the acme of optimism to look for peace of any kind in Ireland, and in the next generation two of Jean Gaston's grandsons, John and Alexander, leaving behind a brother, William, fled from Ulster to America to escape that "outburst of Episcopalian tyranny" which followed the passage of the Test Act of 1714. These two immigrant brothers, settling in Connecticut, became the founders of the New England branch of the family. The third brother, who remained in Ireland, had a son, Alexander, who seems to have been an Anglican.¹ This Alexander was the father of Judge William Gaston of North Carolina who under the tutelage of his mother broke away from the Protestant traditions of the family to become a Catholic. In the third decade of the nineteenth century his faith plunged him into a fierce contest in his native state in behalf of political equality for Catholics, from which he emerged in triumph. Thus the struggles of the Gastons for religious toleration which began in the seventeenth century with the flight of Protestant Jean Gaston from Catholic persecution in France ended in the nineteenth century with the victory of Catholic William Gaston over Protestant bigotry in America.

The first of the North Carolina Gastons was Alexander, son of William Gaston of Ballymena, County Antrim, Ireland, and nephew of the founders of the New England branch of the family. He was born in Ireland; studied medicine at the University of Edinburgh; entered the British navy as a surgeon in time to participate in the capture of Havana in 1762; resigned his commission in 1765; and settled at New Bern, North Carolina, to practice his profession. He was successful, accumulated a small estate, and soon won the respect and confidence of the community. A few years after his arrival, there came to New Bern to visit her two brothers, merchants of that town,

¹*Colonial Records of North Carolina*, vii, 35-36.

Margaret Sharpe, a young Englishwoman of Catholic parentage. At New Bern she met and in 1775 married Alexander Gaston, and by him had two children, Jane and William.

William Gaston was born in New Bern, September 19, 1778. He was only three years old when the death of his father occurred under such circumstances as to make a profound impression on him. Dr. Gaston was an ardent patriot in the War of Independence, and his zeal in the cause made him a marked man in the eyes of the local Tories. In 1781 a combined force of British regulars and Tories captured New Bern, sought out Dr. Gaston, and in the presence of his wife and children murdered him in cold blood. Judge Gaston, once asked to relate these incidents, said: "I have so often heard them repeated by my weeping mother that I cannot ever forget them." Thirty years later Great Britain and the United States were again at war. Gaston was then one of the Federalist leaders in Congress who were vigorously assailing the Madison administration for having declared war against Great Britain. On the evening of July 12, 1813, almost at the very moment that he, on the floor of Congress, was repelling charges of pro-British sympathy, his wife was visiting a neighbor in New Bern, when somebody rushed into the room and in wild excitement exclaimed that enemy ships were approaching the town. Mrs. Gaston hurried home, reported her physician, "became very much agitated, and at about eight o'clock was seized with violent convulsions which continued until within a few minutes of 3 o'clock at which time she expired. What could be done in such a case was not neglected; but unfortunately the attack was so violent as to leave no hope from the first."¹

Orphaned at the age of three, William Gaston's situation gave but little promise of future success and eminence. His widowed mother, already deprived by

¹Dr. Peter Custis to Gaston, New Bern, July 16, 1813.

death of her two brothers, and his infant sister were the only persons of his name and lineage in his native state. Dr. Gaston's death had "left his affairs in confusion" and his widow found herself possessed of an estate barely sufficient for the support of her little family.¹ She was a strict adherent of a proscribed faith and in this faith reared her son. "Trained from infancy," he said in 1835, "to worship God according to the usages, and carefully instructed in the creed of the most ancient and numerous society of Christians in the world, after arrival at mature age, I deliberately embraced, from conviction, the faith which had been early instilled into my mind by maternal piety."² Following also his deliberate convictions he aligned himself politically with the minority party in his state. He possessed, therefore, none of those advantages—family influence, wealth, powerful social, religious, or business connections—upon which most men rely for professional and political advancement.

Dr. Gaston's death left the rearing of his children to the sole care of their mother. She must have been a very remarkable woman.³ Said to have been "gifted with a beautiful person, fine properties of mind, and a character of unusual strength,"⁴ everything that we know of her leads to the conviction that this description is no exaggeration. Her life testifies to her high courage, her superior intellect, her serene temperament, and her profound and unaffected piety. All of these characteristics, except perhaps her serenity of temperament, reappeared in her son. His portraits show that he inherited her physical beauty, but his temperament was that of his Irish father and more than once, he confessed, might have led him into trouble had not his "impetuosity of disposition been so

¹*State Records of North Carolina*, xvi, 470.

²*Proceedings and Debates of the Convention of North Carolina which Assembled at Raleigh*, June 4, 1835, 265.

³A sketch of Margaret Gaston is in E. F. Ellet, *Women of the American Revolution*, ii, 136-41.

⁴M'Laughlin, *William Gaston*, 225.

carefully restrained" in early youth by "maternal tenderness and maternal care."¹

Margaret Gaston devoted her life unreservedly to the care and education of her children. Her daughter became the wife of the first Chief Justice of the Supreme Court of North Carolina, her son one of that court's most eminent members, and one of her granddaughters the wife of one of his successors. The great object of her life was the education of her son. In his thirteenth year she sent him to Philadelphia to be prepared for college. From Philadelphia he proceeded to Georgetown, where he was enrolled as the first student of Georgetown University. A few weeks later, the president reported to Margaret Gaston that her son was "the best scholar and most exemplary youth in Georgetown."² After two years at Georgetown, he withdrew on account of ill health. Then followed a year at the New Bern Academy. In the fall of 1794 he entered the College of New Jersey at Princeton, from which he was graduated in 1796 with the first honors of his class. Returning to New Bern, he spent the next two years reading law under the guidance of the learned and eccentric Francis Xavier Martin, and in 1798 was admitted to the bar.

It was the young lawyer's good fortune to find a ready-made practice awaiting him. His admission to the bar was coincident with the elevation of his brother-in-law, John Louis Taylor, to the bench and Gaston fell heir to his practice. He rose rapidly to the forefront of his profession and by the close of his first decade at the bar commanded an extensive practice in both state and federal courts. When Governor Swain of North Carolina, himself a jurist of great learning, first attended the Supreme Court of North Carolina in 1822, he found practicing before it an exceptionally strong bar, of which, in his opinion, "Gaston was *facile princeps*."³

¹To Jane Gaston Taylor, Raleigh, June 16, 1803.

²Robert Plunket to Margaret Gaston, Georgetown, June 23, 1792.

³David L. Swain, *Early Times in Raleigh*, p. 26 (Raleigh, 1867).

In the opinion of the public, especially of the lay public, Gaston's abilities were best displayed as an advocate. It is a curious fact that his long practice at the bar and experience in the halls of legislation never enabled him to conquer a certain nervous timidity which, to the embarrassment of his hearers as well as of himself, he always displayed when first rising to speak. "Who can forget," wrote one of his contemporaries, "that noble form, as he rose to address the jury . . . ; the head slightly declined, the calm grey eye, the expansive jutting brow, . . . ; the embarrassed beginning, hesitating, pausing, stumbling along; the words falling singly, slow, like drops of rain before the storm."² A colleague who sat next to him during two sessions of the legislature, said of him: "He had, or seemed to have, when he first arose to speak, a modesty that was embarrassing to himself as it was to his audience. He trembled perceptibly at first, but after a few moments, his emphatic and deliberate manner and subdued tones commanded profound silence and attention. He became perfectly possessed and commenced his argument with matchless and thrilling eloquence."²

It is not likely that Gaston's professional brethren would have ranked him higher as an advocate than as a counselor. In North Carolina, the bar considered Badger³ and Ruffin⁴ as his only rivals; those three, wrote Judge Murphey, were "the only persons at the Bar, qualified for the appointment" as successor to Chief Justice Taylor.⁵ In 1829 and again in 1832,

¹Matthias E. Manly, "Memoir of William Gaston," in *N. C. University Magazine*, vol. x, no. 4, November 1860, p. 197.

²John H. Wheeler, *Reminiscences and Memoirs of North Carolina and Eminent North Carolinians*, p. 138. (Columbus, Ohio, 1884).

³George E. Badger (1795-1866), Superior Court Judge, 1820-25; Secretary of the Navy, 1841; U. S. Senator, 1846-55. He was nominated to the Supreme Court of the United States by President Fillmore, 1853, but was refused confirmation by a politically hostile Senate.

⁴Thomas Ruffin (1787-1870), Superior Court Judge, 1816-18, 1825-28; Associate Justice of the Supreme Court of North Carolina, 1829-33; Chief Justice, 1833-52; again Associate Justice, 1858-60.

⁵Murphey to Ruffin, Haw River, February 3, 1829. *Papers of Archibald D. Murphey*, vol. i, p. 380. (W. H. Hoyt, editor, 2 v. Raleigh. 1914).

Gaston was urged to accept an appointment to the Supreme Court, but declined. In 1833, however, the death of Chief Justice Henderson created a situation in which the profession with practical unanimity declared it his duty to reverse his former decisions. Judge Ruffin spoke for himself when he wrote to Gaston: "I had rather serve with you than any man on earth"; he spoke for the entire profession when he declared that Henderson's successor must be one whose concurrence in an opinion will be a confirmation of it and whose doubts will be honestly expressed and make it thought worth while by an associate to review first impressions and reconsider even settled conclusions; . . . possessed of and entitled to the confidence of the good and intelligent citizens of the Country; . . . in fine, he must be a sound lawyer and a sound man. Where is such a person to be found? . . . This communication proves my opinion, who is one such. . . . "*Thou art the man.*"¹

Gaston's reputation as a lawyer was quite as firmly established in other states as in his own. Joseph Hopkinson again and again urged him to remove to Philadelphia where he would be welcomed by the members of the Philadelphia bar who "would rejoice to have a helpmate of congenial feelings" with whom they could "do their business on the same liberal and honorable terms they always extend to each other," and also where he would find himself "on a theatre worthy of your [his] talents, and able to reward them as they ought to be."² Chancellor Kent, who corresponded with him on intricate questions of law, was disappointed that upon his election to the Supreme Court he did not become Chief Justice. "I have not the honor of any kind of acquaintance with your associates," he wrote, "and I don't doubt they are perfectly fit; I only *know* you are."³ Judge Story considered him "one of the most distinguished of American lawyers in the highest sense of the phrase";⁴ and in 1831 entertained a

¹Raleigh, Aug. 21, 1833.

²Hopkinson to Gaston, Bordentown, May 11, 1818.

³New York, Feb. 3, 1835.

⁴Joseph Story to William Sullivan, Salem, Oct. 22, 1826.

young North Carolina visitor "with much legal conversation and remarks on the legal talents of our country, in the first rank of which he placed Messrs. Webster, Mason of New Hampshire, Wirt, Gaston."¹ During the Fall Term, 1828, of the United States Circuit Court at Raleigh, Chief Justice Marshall presiding, Badger wrote to Ruffin:

I have been employed for some days past in the Circuit Co: of U. S. where brother Gaston is all in all—and though I have heard much and seen a little of *leaning* yet never saw I, or heard I of such complete supporting upon a lawyer as of the Ch. J. upon Gaston. The Ch. J. seems to be but his echo, though he is not aware of it, for his integrity is certainly pure.²

Gaston's contemporaries, who saw him only in action, were accustomed to attribute his success at the bar and in the forum to his brilliant intellectual gifts and the force of his personality; but one who has had a peep at him in his study knows that it rested on a more solid foundation. His achievements were the result of hard work. In his work he adhered to a systematic program. About to leave Raleigh for New Bern, he wrote to his daughter: "I look forward to my employments when I return home without uneasiness or disgust. I purpose to rise early, to arrange my occupations systematically, to amuse myself with literary and social recreations and on the whole to spend my time pleasantly."³ Two months later he thus outlined his daily program: "In my office every morning from sunrise till ten—at the Bank till one⁴—a short solitary dinner—the whole of the afternoon engaged in reading and writing—I scarcely see a person except on business, and scarcely know what those around me are doing."⁵ He read widely in law, history and biography, theology, economics, and literature, not only in Eng-

¹William A. Graham, Journal of a journey from Hillsboro, N. C. to Boston in 1831. Ms. copy in possession of the N. C. Hist. Commission at Raleigh.

²*The Papers of Thomas Ruffin*, vol. 1, pp. 455-56. (J. G. de Roulhac Hamilton, editor, 4 v. Raleigh, 1918-1920).

³To Susan Gaston Donaldson, Raleigh, June 29, 1828.

⁴Gaston was president of the Bank of New Bern.

⁵To Hannah Gaston, New Bern, Aug. 26, 1828.

lish but also in Latin, Greek, and French, and his tenacious memory, carefully trained from boyhood, enabled him to command the services of these allies at will. Among his papers are innumerable "notes" and "rough drafts," all in his own writing, which show his careful study of questions with which he had to deal. He never went into the trial of a case, a parliamentary debate, or an occasional address without thorough preparation.

Gaston began and ended his political career as a Federalist. Some of his biographers have found difficulty in accounting for his political affiliations. One of them attributes it to "some unaccountable, mysterious reason";¹ another, recalling that he was the "son of an Irishman, an orphan through the savage cruelty of British emissaries, a member of the Roman Catholic Church," found but little in such a combination "from which to fashion an ardent disciple of Alexander Hamilton," and could offer no better solution of the mystery than that Gaston's political principles were "the result of intellectual conviction, rather than of personal or local sympathy."²

One is not disposed to take issue with this conclusion. By training and conviction Gaston was a conservative. The New Bern of his youth was an ultra-conservative community. Princeton College during his student days was a stronghold of conservatism. He once confessed that he always regarded "bold experiments with some degree of apprehension"³ and avowed his "unaffected respect for all those long-settled and habitual opinions which give character to the State, and which cannot be uprooted without injury to its fundamental institutions."⁴ In religion this reverence for the established order and this distrust of change

¹M'Laughlin, *op. cit.*, 232.

²Connor, H. G., "William Gaston," in *Great American Lawyers*, iii, 44.

³*Debate on the Bank Question* (Raleigh, 1829).

⁴Letter to a Committee of Alabama Whigs, declining an invitation to address the Whig State Convention, giving as his reason that the people of North Carolina cherished a "deeply-rooted sentiment that their Judges ought to keep aloof from political contentions." New Bern, Sept. 29, 1840.

led him into the bosom of the most ancient and conservative of Christian sects; in politics, they carried him straight into the arms of the most conservative political party of his time. Upon reaching manhood, wherever he turned he beheld a world in upheaval; in Europe and in America revolutionary ideas abhorrent to his mind and soul were sweeping to destruction the institutions of the old order in both church and state. Where else, looking for stability in religion, could he have found satisfaction save in the Roman Church, in politics, save in the Federalist party? At any rate, whatever "the unaccountable and mysterious reason" that determined his choice, the Federalist party had no more faithful adherent than William Gaston, who embraced its tenets with all the unreasoning fervor of a Crusader.

To the founder of the Federalist party, he gave the devotion of a neophyte. Alexander Hamilton was his political pope. Replying to John C. Hamilton's request for assistance in the preparation of a life of his father, Gaston declared that while any undertaking to throw light on the institutions and history of his country would always command his interest, "even this is feeble compared with my solicitude that justice may be done to the spotless patriotism, heroic virtue and eminent services of your illustrious father."¹ Among statesmen, the personification of "honour, patriotism and wisdom,"² Hamilton loomed above all others as the "ablest expositor and advocate" of the Constitution, "whose radiant intelligence poured on every question to which it was directed, a flood of light, and whose candid soul disdained artifice or deception."³

From this knowledge of Gaston's adoration of Hamilton, it is easy to infer his opinion of Jefferson. He accepted without rebuke a Federalist friend's characterization of the author of the Declaration of

¹New Bern, Aug. 1, 1833.

²To John C. Hamilton, Raleigh, July 17, 1834.

³*Annals of the 15th Congress*, 2nd sess., vol. i, p. 840.

Independence as "that grand *Machiavellian Humbugger*,"¹ and wrote that at Jefferson's political opinions "my heart and my judgment revolt."² In the Legislature of 1807, protesting against a laudatory address to Jefferson endorsing his administration and urging him to consent to re-election, Gaston went so far as to admit that the President "possessed talents" and was "not without his virtues," but added: "I am far, very far from believing that they merit the encomiums which have been poured forth with such unsparing profusion. . . . These observations, sir, come from one who belongs to the proscribed sect of Federalists. This circumstance alone may be with some a sufficient reason why they should be disregarded."³

One of Gaston's biographers declared that he looked upon Jefferson as "a dangerous proletariat, half Jacobin and half Voltairean."⁴ It would, indeed, be difficult to say whether his antipathy to Jefferson was inspired chiefly by the latter's political principles or by his religious views; perhaps in his own mind, Gaston made no distinction between them. In 1805 he published an open letter to Jefferson excoriating him for having written a letter to "the infamous Thomas Paine" inviting him "to return to this country in a national ship," in which he proceeded to tell Jefferson exactly what he thought of him, under the guise of telling him what he thought of the author of the "Age of Reason."

Can it be possible, Sir, that the character of Thomas Paine is unknown to you? Unfortunately for your reputation, and unfortunately for the reputation of the country over which you preside, it is too well known to the World [before which] he stands "*Monstrum nulla virtute redemptum*." . . . The American exulting in the freedom and independence of his country, . . . blushes with shame and indignation that the name of Thomas Paine should be enrolled in the catalogue of revolutionary Patriots. . . . You cannot but know him as the Author of the infamous letter to Genl. Washington, . . .

¹From W. B. Grove, Fayetteville, N. C., March 12, 1804.

²To the *Freemen* of his Electoral District, New Bern, Sept. 19, 1808.

³Raleigh *Minerva*, *op. cit.*

⁴M'Laughlin, *op. cit.*, 234-35.

as the base slanderer of the Father of his country. . . . You know him also as the Author of the infamous "Age of Reason." You are not ignorant that he is the man, who has ridiculed, vilified and blasphemed that holy religion which he once pretended to teach at Sandwich and in Moorfields. . . . It is impossible that you should not, even in your philosophic solitude of Monticello, have heard of and have seen "Paine's letter to Washington" and "Paine's Age of Reason." How then has it happened that with this knowledge of the man he is treated by you with such attention and respect . . . ? Surely, Sir, it has not already escaped your recollection that amongst the reasons urged against your election to the Presidential chair, none seemed to have more influence, or were more confidently relied on by your opponents, than that you were believed to deny the truth of divine revelation, and that you were the idol of men, who had opposed and abused our never-to-be-forgotten Washington. . . . Was it wise of you, Sir, to strengthen this unfavourable impression by manifesting your friendship for the calumniator of Washington and the reviler of the Christian Faith?¹

Gaston's legislative career embraced four terms in the State Senate and seven in the House of Commons. No man ever condemned the "evils of parties" more vigorously than Gaston was wont to do; nevertheless, in all matters involving party politics, his own course was dictated by strictly partisan interests. One does not impeach his sincerity, yet one is amused to note that he became alarmed at manifestations of party spirit only when it was invoked by the enemy. The Legislature of 1811, in order to assure to Madison in 1812 the state's fifteen electoral votes, changed the method of selecting electors by districts to appointment by the legislature. Ignoring the disagreeable fact that in 1798 the Federalists had proposed to do the same thing in order to defeat Jefferson, Gaston denounced the Act of 1811 as "an alarming departure from the spirit of the Federal Constitution" and as having "a tendency to aggravate all the evils of faction, and to introduce an aristocracy unfriendly to

¹Signed "A North Carolinian." Draft in Gaston's writing, endorsed: "Addressed to Mr. Jefferson, first published in the Raleigh Minerva." I have not been able to find a copy of the *Minerva* in which it appeared.

the principles of a Republican Government,"¹—truly an alarming prospect to an ardent Hamiltonian who had just written a letter to a Pennsylvania committee of Federalists opposing their suggestion to change the name of the party for one less obnoxious to the people and urging them not to depart from "the venerable and hallowed *principles of Federalism.*"²

In all matters unconnected with partisan politics, Gaston pursued a liberal and enlightened course. He was an earnest and consistent advocate of public schools, humanitarian institutions, internal improvements, a sound banking system, and legal reforms, and many of the North Carolina statutes dealing with these matters may be traced to his authorship. The jurisprudence of the state especially bears the impress of his genius. He was the author of the statute passed in 1808 for the regulation of descents, which remained with a single amendment the state's canon of descent until 1868, and so continues substantially to this day. In 1818, as chairman of the Senate judiciary committee, he drafted a report, and the accompanying bill, which established the Supreme Court. Opponents of the Court in the Legislature of 1819 attempted indirectly to destroy it by reducing the salaries of the judges. This attack brought from the Senate judiciary committee a report written by Gaston in which he stated "with great force and clearness the principles by which the state should be guided in the selection of her judges, and the settling of their compensation." The salary bill was defeated, and the organization and jurisdiction of the Court remained as Gaston had framed them until the adoption of a new Constitution fifty years later. A successor of Gaston on the Court classed his two reports with Webster's speech in the Massachusetts Convention of 1820 on the Independ-

¹Undated draft of a resolution in Gaston's writing.

²Reply to a letter from the Philadelphia Committee of Correspondence of the Federalist Party to John W. Stanly and William Gaston, Philadelphia, Aug. 13, 1813. Undated draft in Gaston's writing.

ence of the Judiciary and with Choate's speech in 1853 on Judicial Tenure.¹

One of Gaston's greatest parliamentary battles came in the Legislature of 1828, and was reminiscent of the contest he had waged together with Webster and other Federalist leaders in the Thirteenth Congress for the renewal of the charter of the Bank of the United States. A strong and not overly scrupulous group in the House of Commons, ably led, made a determined effort to destroy the state banks. They charged them with numerous illegal practices and introduced a bill directing the attorney-general "to issue writs of *quo warranto* for their dissolution and the confiscation of their property." The proposal proved popular and the bill passed its early stages by overwhelming majorities. Upon Gaston, who has been president of the Bank of New Bern, fell the burden of the defence, which he conducted in a masterly way. Although "sneered at and reviled by such men as Potter, and although met with force by some much abler and better men," wrote a fellow member, "day after day did he labor and toil against this furious majority; day after day did he take captive some of his opponents by the mere force of his arguments, until he at last succeeded in bringing the vote to a tie—thus saving the bank from destruction and the state from disgrace."²

Gaston made his debut in national politics as a candidate for presidential elector in 1808. He entered the race simply because the only other candidate for elector was for Madison. In his announcement he undertook to analyze the qualifications of the four presidential candidates—Clinton, Monroe, Madison, and Pinckney.³ Clinton and Monroe were unceremoniously thrown out of court—Clinton because he had been "originally a warm and decided enemy to the Federal Constitution, and it is not certain that

¹Connor, H. G., *op. cit.*, iii, 51.

²Quoted in Connor, H. G., *op. cit.*, 52.

³*To the Freeman*, etc., *op. cit.*

this enmity has been succeeded by as warm and decided an attachment"; Monroe, not only because he, too, "was originally an opposer of the Constitution," but also because it was doubtful whether his "talents were of that pre-eminent kind, as ought to be desired in a Chief Magistrate of the Union."

The choice, therefore, lay between Madison and Pinckney. For Madison's talents as a political theorist and writer, Gaston professed profound respect. His mind was certainly "conversant with theories of government, fraught with metaphysic learning, and stored with historical knowledge"; his style was "perspicuous, neat, often elegant, and not deficient in energy." Moreover, Gaston was willing, in a pinch, to concede his "personal integrity." These qualifications, "certainly not lightly to be valued," might fit a man "for many useful and honourable stations in life, for a professor in a University, a co-adjutor in a political controversy, a writer of State Papers, or a framer of legislative resolutions," but not for great executive responsibilities. In short, one might be justified in inferring that Gaston would cheerfully have recommended Madison for a professorship of political science in their *alma mater*, or even as chief of a bill-drafting bureau for the Virginia Legislature; but surely only one whose judgment was warped out of all semblance of sanity by "the extravagance of party zeal and indiscreet admiration" could think him qualified for the presidency of the United States.

To realize Madison's deficiencies for that office, one had but to compare him with Washington. Washington certainly could not "model a sentence to the same critical exactness" as Madison, or "write a controversial treatise with the same subtilty"; but he had a "strong natural sense," a "commanding and comprehensive mind," to neither of which could Madison make any claim. Washington possessed, too a "practical knowledge of men," while Madison was "acquainted with mankind more from books than from observa-

tion" and was "more conversant" with the theories than with the practices of government. In Washington moreover, was found "that invincible firmness of nerves, which marked him as one destined by his Creator to watch over the interests and to wield the strength of a nation"; while Madison, "timid and irresolute" by nature, would be likely to "sacrifice the plain substantial interests of the nation to visionary schemes of fancied good, and often be perplexed with refined speculations, till the moment of prompt and vigorous action was gone never to return." But far worse than all these things was the fact that Madison was pledged to continue the foreign policies of Jefferson, and in dealing with Napoleon, who had "denounced vengeance" against all who undertook "to counteract or retard the execution of his fell resolve" to extirpate "those proud Islanders" of England, "other nerves than those of Mr. Jefferson or Mr. Madison are wanted to encounter with firmness his menaces and his frowns."

Among the four candidates, such nerves were to be found only in Charles Cotesworth Pinckney. Had not Pinckney been a brave soldier in the War of Independence? Had he not been "well known to Washington," and had not "that eminent Judge of worth and talents" selected him to displace the susceptible Monroe as minister to France? Had he not, while head of the embassy which President Adams had sent to "that arrogant government, succeeded in union with his colleagues in rendering the American character illustrious for wisdom, moderation and firmness"? To Talleyrand's insolent demand for a bribe, had he not shot back the famous reply: "My countrymen are ready to expend millions in defense of their rights, but they will never give a cent for tribute"? Finally, to clinch the matter, had he not been "a distinguished member of that band of worthies who framed the Federal Constitution"? James Madison had once been "one of the champions of the Constitu-

tion,"—"proud, and justly proud of the title of Federalist," but behold him now, with a "melancholy dereliction of principle," sanctioning practices "repugnant to the principles of our sacred Constitution"; on the other hand, behold Pinckney, who "has never abandoned the title of Federalist, by which its first friends were distinguished." If elected, "wisdom, moderation, impartiality, and decision" would characterize his administration, for "he, who has with equal success combated British arms and French arts, may well be expected to present to both Nations, that firm and undaunted front, which commands respect and secures peace."

Thus through fifteen pages of print, the young statesman, "avowing" his entire freedom from "party prejudice," gave the voters a peep at his views; finally, taking them into his confidence, on page 16, he frankly declared his purpose "if appointed an Elector, to vote for Charles Cotesworth Pinckney, as President," and at the polls received the due reward of his candor.

His foot once on the political ladder, he determined to climb higher. "There is in all ardent minds," he wrote some years later, "a solicitude for distinction, and in our country political distinction is the great object of excitement. I am far from insensible to its attractions.¹ . . ." Washington beckoned to him and in 1810 he announced his candidacy for Congress. Defeat did not dismay him, and two years later he returned to the fray as a peace candidate. His announcement was a severe indictment of Madison's war policy.² A declaration of war against Great Britain, he urged, was forbidden by both the interest and the honor of the United States. France, not England, he cried, was America's enemy. Great Britain, by the revocation of her Orders in Council, had removed the original cause of the war, and from its continuance he saw "nothing to hope, everything to fear." American

¹To Susan Gaston Donaldson, New Bern, Feb. 20, 1830.

²To the *Freemen of the Fourth Congressional District*, New Bern, March 15, 1813.

commerce is already destroyed; "an oppressive load of taxes" is breaking the backs of the people; "a Debt of countless Millions" is being piled up "to harass and crush" them for ages to come; "the union of the States is endangered"; and every day the war continued "a more intimate connexion is threatened, and in the nature of things is almost inevitable, between us and the Tyrant into whose scales our weight has been thrown—whose embrace is Death—the common enemy of Man and of Nations." He, therefore, proclaimed himself "the anxious FRIEND OF PEACE." Elected, he took his seat in the Thirteenth Congress on May 24, 1813.

In the House, Gaston found a group of able and ambitious young statesmen just rising into fame. Chief of the "War Democrats" who had pushed the "timid and irresolute" Madison into the war was Henry Clay, speaker of the House. Pressing him hard for leadership were the two Carolinians, John C. Calhoun and his more popular colleague, Langdon Cheves, who was soon to succeed Clay as speaker. There, too, were John W. Eppes of Virginia, chairman of the Ways and Means Committee but distinguished chiefly as the son-in-law of Jefferson; John Forsyth of Georgia; and Tennessee's own Felix Grundy, whose rasping manner and bombastic patriotism kept the temper of Gaston and his fellow Federalists constantly on edge. The Nestor of the House was Gaston's Carolina colleague, Nathaniel Macon, who had been speaker for three terms during Jefferson's administration. The temper of politics during those hectic wartimes did not admit of much social intercourse between members of rival parties and with none of these men, except Macon, did Gaston ever establish close personal relations.

Among his Federalist colleagues with whom he formed the closest personal as well as political ties were the two Marylanders, Charles W. Goldsborough and Alexander C. Hanson, "the brilliant and caustic

editor of the Baltimore *Federal Republican*”;¹ Thomas P. Grosvenor and John Lovett, both New Yorkers; Timothy Pickering and John W. Hulbert of Massachusetts; Richard Stockton of Pennsylvania; Roger Vose and Daniel Webster of New Hampshire, both of whom, like Gaston, were serving their first terms in Congress. A kindred spirit who joined this group in the Fourteenth Congress and found a warm place in Gaston’s heart was Joseph Hopkinson of Pennsylvania. In Washington, but not in the House, were three other men who must be included in this circle; in the Senate, Jeremiah Mason of New Hampshire, the great rival of Webster at the bar of their native state and later of Massachusetts; on the Supreme Court, John Marshall and Joseph Story.

Of them all, except Marshall, Webster was Gaston’s favorite. A fortuitous circumstance threw them together on the opening day of the session. Writing of his safe arrival at Washington, Webster said: “The House are getting together this morning. I have marked myself a seat; or rather found one marked for me, by some friend who arrived here before me. I am in good company. Immediately on my left Lewis and Sheffey—on my right Pearson, Gaston, and Pitkin.”² Joseph Lewis, Jr. and Daniel Sheffey were from Virginia, Joseph Pearson from North Carolina, and Timothy Pitkin, the Federalist nominee for speaker against Clay, from Connecticut—all, like Gaston and Webster, good men and true, steeped in the “venerable and hallowed principles of Federalism.”

Around the members of this group, together with a few others, centered the opposition to the administration. “We are trying to organize our opposition,” wrote Webster, “and bring all our forces to act in concert. There is recently appointed a kind of committee, to superintend our concerns, viz: Pickering, Webster,

¹Claude Moore Fuess, *Daniel Webster*, i. 155.

²To Ezekiel Webster, Washington, May 24, 1813. *Writings and Speeches of Daniel Webster*. National Edition, xvi, 14; also in *Letters of Daniel Webster*, 31–32 (Claude H. Van Tyne, editor).

Wm. Reed, Baylies, Porter, Pitkin, Grosvenor, Oakley, Stockton, Ridgely, Hanson, Sheffey, and Gaston. It will take us this session to find one another out."¹

They found one another out as much around the dinner table as in the halls of Congress. An intimate glimpse of the process which they employed is given in the following letter:

GASTON TO WEBSTER²

Newbern October 10th 1824

MY DEAR SIR,

I had the pleasure to receive your letter, which revived many agreeable recollections of common pursuits and common enjoyments. The period seems to be fast advancing on me in which we take more delight in remembering the past than in attending to the present. You are not quite as far advanced as I am in the journey of life, yet sufficiently forward to be disposed now and then to look behind and think with regret on pleasures past never to return. I fancy that I shall never laugh again as I have done with Lovett and Vose—and never unbend with such social ease as I was wont to do with Mason and Goldsborough and Hulbert and yourself over a glass of hot toddy in a cold winter's night at Crawford's. If we had not much wit, we had, what Dr. Primrose declares to be much better, much and hearty mirth. . . .

Present me kindly and respectfully to all inquiring friends, and believe me

Very affectionately yours

WM: GASTON

The Federalists undoubtedly carried their opposition to the administration to an extreme which, under similar circumstances, would not be tolerated by public opinion today. Administration leaders considered Gaston a chief offender and were often severely caustic in their criticism of his course. On at least two such occasions, his "impetuosity of disposition" incited him to make demands, fraught with significance in those days of the duello, for explanations of remarks which he thought were intended as personal affronts. In the

¹To Ezekiel Webster, Washington, July 4, 1813. *Writings and Speeches*, xvii, 236-37; also in *Private Correspondence of Daniel Webster*, i., 236-37. (Ezekiel Webster, editor.)

²*Writings and Speeches*, *op. cit.*, xvi, 90-91, footnote.

debate on the Loan Bill in 1814, after Napoleon's defeat at Leipzig, John Forsyth, commenting on a plea Gaston had made for moderation in debate, said:

The gentleman from North Carolina has recommended to the majority moderation, liberality, and forbearance. The advice was certainly excellent, but why was it confined in its application? Why not extended to the minority to which the honorable gentleman is attached? . . . But although we have the benefit of the gentleman's recommendation, we have not the benefit of his example. He has not shown either that moderation or that liberality in his strictures upon the majority, which he asks at their hands. It is true that his language is correct, gentlemanly, and polished. No harsh terms deform the smoothness of his periods. But what difference is there between a direct charge, and an allusion not to be misunderstood? The one is as offensive as the other. In the eye of reason it matters not whether the victim is struck down by the butcher's cleaver, or his blood is drawn by a glittering Spanish blade. The first makes a more unseemly wound, but the latter is equally painful and not less deadly. If there is any difference the latter weapon is more dangerous, because more difficult to elude. What means the dark insinuation, that now the majority could speak freely of the Emperor of France? Has there ever been a time when this majority could not speak freely of the French Emperor?¹

To these strictures, Gaston made no public reply, but privately demanded an explanation, which brought from Forsyth the following statement:²

The only remark made by me yesterday which can by any possibility of Construction be considered as personally offensive was that relating to a *dark insinuation*. I presume you must be satisfied with the result of our conversation but as others appear to have mistaken the meaning and application of the Term used I now say to you and I am perfectly indifferent how the declaration is used that this term was applied to the character of the thing insinuated and not to the motives or character of the speaker.

Hon.

W. Gaston

JOHN FORSYTH

Feb'y 24th 1814.

Gaston had a similar experience with Calhoun. Taking the minority to task for the character of their

¹*Annals of the 13th Congress*, 2nd sess., vol. 2, 1591-92.

²A. D. S.

opposition, Calhoun had said that "in a monarchy, the influence of the Executive and his Ministers requires continual vigilance, lest it obtain too great a preponderance," but in a republic, where "the Executive springs from the people, can do nothing without their support, and cannot therefore overrule and control the public sentiment," such an opposition was unnecessary and factious.¹ Gaston retorted that Calhoun had looked only "at the surface of things." The President's influence, he said, "is infinitely greater than that of a limited monarch." Party loyalty combined with the presidential patronage "produce an union almost indissoluble," and thus "the President's opinion becomes the criterion of orthodoxy," from which no member of his party dared dissent. To this Calhoun replied: "The gentleman made an assertion which I am bound to contradict. He asserted, without attempting to prove, that this House had degenerated into a mere registering body of Executive edicts. A sense of decorum prevents me from speaking of the charge with merited severity. . . . I assert that what the gentleman said is untrue in fact." Gaston sprang to his feet with an emphatic denial that he had used the word "registering," and turning upon Calhoun demanded with unmistakable significance "to know in what sense he used the word untrue." Members of the House stiffened to attention, but quickly relaxed at Calhoun's quiet reply that he had used the word "simply as implying that the fact is not as Mr. Gaston stated"; to which he added "that he had too much respect for him to have an allusion to any other sense."²

The first important debate in which Gaston participated, occurred on some resolutions introduced by Webster relating to the Orders in Council and the decrees of Berlin, Milan, and St. Cloud. A brief statement of the facts as known at the time is here neces-

¹*Annals, op. cit.*, 1573-74.

²*Ibid.*, 1692.

sary. In 1810 the Non-Intercourse Act of 1809 was superseded by an act of Congress which authorized the President, whenever either France or Great Britain revoked her decrees affecting American commerce, and the other refused to do so, to revive non-intercourse as to the recalcitrant power. On August 5, 1810, the French minister of foreign relations notified the American minister at Paris that he was authorized to say "that the decrees of Berlin and Milan are revoked, and that after the 1st November they will cease to have effect, it being well understood that, in consequence of this declaration, the English shall revoke their Orders in Council," or that the United States "shall cause their rights to be respected by the English." Madison thereupon gave Great Britain three weeks in which to revoke the Orders in Council, but the experienced British Foreign Office, denying that the French declaration was in reality a revocation of the French decrees, refused to move. France, therefore, continued to seize American ships and Great Britain pointed to those seizures as justifying her refusal to revoke the Orders in Council. In May 1812, the American minister at Paris inquired of the French government whether the Berlin and Milan decrees were still in force; whereupon the French foreign minister put into his hands a document purporting to be a decree signed by the Emperor at St. Cloud on April 28, 1811, declaring that the earlier decrees were definitely revoked as of November 1, 1810. Why had not this decree been communicated to the American government before? The French minister replied that it had been so communicated; but the American government denied it. A certified copy of the St. Cloud decree was immediately forwarded from Paris to the American minister at London and he, on May 20th, laid it before the British foreign secretary. Its importance was at once recognized, but the assassination of the Prime Minister prevented its immediate consideration. On June 23, however, the new ministry, though

doubting the genuineness of the document, revoked the Orders in Council, too late, however, to prevent the declaration of war by Congress on June 28th.

When the decree of St. Cloud was finally laid before Congress, the Federalists eagerly seized upon it as a ground for attacking the administration. Was it genuine, or was it a gross fraud, predated more than a year but actually prepared in May 1812 to placate the United States upon the eve of the Russian campaign? If genuine, had Madison, in connivance with Napoleon, suppressed it so that it would be "unknown in England until too late, by a repeal of the Orders in Council, to prevent war"? If a fraud, how could Madison escape the charge of having been made the cat's-paw of Napoleon? Ostensibly to ascertain the truth of the affair, on June 10, 1813, Webster introduced a series of resolutions calling upon the President for all the papers and all other information in his possession relating to the French decrees, and on these resolutions raged one of the bitterest debates of the session.

In the course of the debate, Felix Grundy charged that the Federalists had set themselves "to work systematically to weaken the arm of this Government by destroying its credit and dampening the ardor of its citizens," and denounced their conduct as "moral treason," which deserved "public execration and the abhorrence of all good men."¹

This attack brought Gaston to his feet. He disliked Grundy, held his ability and learning in contempt, and despised his type of patriotism; Grundy grated on his nerves, knew it, and took a delight in doing so. Gaston thought Grundy's remarks were aimed especially at him. Though he had not intended to speak, he declared he could not remain silent in face of the "extraordinary harangue of the gentleman from Tennessee; an harangue evidently studied and elaborate."² That "a shameful fraud had been perpetrated" upon the

¹*Annals of the 15th Congress, 1st sess., vol. 1, 226.*

²*Ibid., 239-51.*

country, all must admit; "upon this imposture, he believed the war had turned." But he would not trace the history of the affair document by document. "I am sick of these documents," he cried, "because their perusal too plainly shows that we have been written into a war." He exonerated the President from participation in the fraud, but declared:

It is due to our citizens that they should know how the nation has been betrayed into its calamities. However mortifying the acknowledgment, better, far better that they should learn that their Government has been the dupe of France, than that they should suspect it of having been an accomplice in her perfidy. . . . I feel assured, that the result of the inquiry will prove, that the guilt, and the meanness, and the falsehood of this transaction have their origin in the Cabinet of Napoleon—that laboratory of frauds and calumnies.

Turning to the more personal aspects of the matter, he said that Grundy had "indulged himself in insinuations, where more seemed meant than met the ear, of a disposition to take the part of Great Britain, and of prepossession in favor of the enemy." Such a charge he denounced as "utterly untrue" so far as he was concerned. "It will not be deemed egotism, I trust, to add, that baptized an American in the blood of a martyred father, . . . never can I separate myself from the cause of my country, however that cause may have been betrayed by those to whose care it was confided."

To this, Sharp of Kentucky retorted that because men's fathers had "fought and bled during the Revolutionary contest for liberty," it was not to be supposed that "the sons should not easily be suspected of error. . . . The illustrious father is not infrequently cursed with a degenerate son."¹

Webster's resolutions were adopted and the Federalists were jubilant. Was it really true as reported, inquired one of Gaston's good Federalist friends in North Carolina, "that the debate and decision on Mr.

¹*Annals of the 13th Congress*, 1st sess., Vol. 1, 296.

Webster's resolution, produced a *Cholera morbus* on the President?" If so, he hoped the violence of the disease would "cure and purify him of any French disorder that some fear was operating on him."¹ But these rejoicings were premature; though the documents when laid before Congress clearly proved the perfidy of Napoleon, they proved with equal clearness that Madison had been neither his dupe nor his partner in the crime, and his opponents, unable to find any campaign material in them, were only too glad to let the matter drop.

It was the contention of the Federalists that since the Orders in Council were the sole cause of the war, peace should have followed immediately upon their revocation. They plainly insinuated, if they did not openly charge, that in continuing the war, Madison was lending his fingers to pull Napoleon's chestnuts out of the fire. What else could Gaston have meant when he said in 1813 that "a more intimate connexion is threatened, and in the nature of things is almost inevitable, between us and the Tyrant into whose scale our weight has been thrown?"² Or when in 1814, after Leipzig, he taunted the administration with having abandoned its "awful squinting" at an alliance with Napoleon? "No one courts the friendship of a fallen tyrant!"³ Administration leaders indignantly resented the charge and cited other grievances against Great Britain than the Orders in Council which not only justified the original declaration but also the continuance of the war until those grievances were remedied.

These differences were the subject of the great debate on the Loan Bill in 1814. In the House, the majority by a ruthless use of the rule governing the Previous Question had been able to shut off debate at will and had used their power to stave off Federalist

¹From W. B. Grove, Fayetteville, July 8, 1813.

²Address to the Freemen of the Fourth Congressional District. *op. cit.*

³Annals of the 13th Congress, 2nd sess., vol. ii, 1556-67.

attacks. But under the rules a finance bill upon its introduction had to go immediately to a committee of the whole where debate was unlimited; and the minority prepared to make the Loan Bill the occasion for their grand assault on the administration. Gaston and Grosvenor were selected to lead the attack. The Federalists had been anxious, wrote Webster, to discuss all public questions "freely and with spirit," but the administration forces had hitherto prevented their doing so. "But on the loan bill," he continued, "we hope to get a blow at them. That bill must go to a committee of the whole, by the rules; and the previous question cannot be called in committee of the whole. Gaston and Grosvenor are preparing to give great speeches on that subject."¹

Gaston's speech took a wide sweep which embraced every phase of the war—its true and its alleged causes, its conduct, its failures, its ever-mounting cost, and especially the purposes of its continuance after the original cause had ceased to exist.² The sole cause of the war, he declared, was the Orders in Council; and he assailed the administration for not having opened negotiations for peace immediately upon their revocation. "But, Sir, this was not done. No armistice could obtain the approbation of the Executive, unless it was preceded by an abandonment, formal or informal of the British claim to search for their seamen on board our merchant vessels." Why the insistence upon this point? Because "at that moment, the Canada fever raged high, and the delirium of conquest was at its acme. In a few weeks the American flag was to wave triumphant on the ramparts of Quebec." But the administration knew well enough that the American people would never countenance a war of conquest; some other reason, therefore, must be advanced for continuing the war. Then it was that Clay and Cal-

¹To Ezekiel Webster, Washington, Feb. 5, 1814. *Private Correspondence*, vol. i, 240-41; *Writings and Speeches*, vol. xvii, 240-41.

²His speech is in *Annals*, *op. cit.*, 1542-75. It is reprinted in *American Oratory, or Selections from the Speeches of Eminent Americans*, 277-302. (Philadelphia, 1826.)

houn and Grundy began to make the hall of the House ring with their demands for "free trade and seamen's rights." The Federalists considered themselves the guardians by divine right of American maritime interests and it angered them that the Republicans should steal their thunder. The "question of seamen," asserted Gaston, "was not a cause of this war"; it was nothing more than an attempt by the administration to drag a red herring across its trail to distract public attention from its designs against our inoffensive neighbors. He spoke for his party, and especially for its New England constituency, when he ridiculed the idea that the war was "for seamen and commerce" when, in fact, it was being waged "against the almost undivided voice of that section of our People where seamen abound and commerce was thriving." It was not odd that he himself "should feel attached to the rights of American sailors," but he thought it passing strange that transmontane statesmen from Kentucky and Tennessee should be so sensitive on this question.

I am a native of the seaboard. Many of the playmates of my infancy have become the adventurous ploughmen of the deep. Seafaring men are among my strongest political and personal friends. And for their true interests, their fair rights, I claim to feel a concern as sincere, and a zeal as fervent as can be boasted by any gentleman from the interior, or from beyond the mountains, who has heard of them but knows them not.

If the requested loan, he said, could be shown "to be necessary to accomplish any purpose demanded by the honor and welfare of the country," the minority would offer no opposition to it. "But, sir, this enormous sum is not wanted for these purposes; it is avowedly not necessary, except to carry on the scheme of invasion and conquest against the Canadas," and to this scheme he had "invincible objections, founded on considerations of justice, humanity, and national policy." To show its injustice and inhumanity, he painted a vivid picture of the horrors of a war of conquest. "Among us," he said, "some remain who

remember the horrors of the invasion of the Revolution—'and others of us have hung with reverence on the lips of narrative old age as it related the interesting tale.' " Moreover, it was condemned by true national policy. The conquest had been "contemplated as an easy sport"; it had proven a hard and dangerous enterprise. At first patriotism was relied on "to fill the ranks of the invading army"; this appeal had proved abortive. Now "avarice is resorted to—the most enormous price is bid for soldiers, that was ever offered in any age, or country." If avarice fails, what next? "It has been avowed that the next scheme is conscription."

Sir, I have been accustomed to consider the little share which I have in the Constitution of these United States, as the most valuable patrimony I have to leave to those beings in whom I hope my name and remembrance to be perpetuated. But I solemnly declare, that if such a doctrine be ingrafted into this Constitution, I shall regard it as without value, and care not for its preservation. Americans are not fitted to be the slaves of a system of French conscription, the most detestable of the inventions of slavery. Sir, I hear it whispered near me, this is not worse than the impressment of seamen. It is worse, infinitely worse. . . . But, sir, . . . I am not prepared to assent to the introduction of either conscription or impressment into my country. For all the British territories in the Western world, I would not.

The time was favorable, he argued, for an abandonment of the projected invasion. The enemy had offered terms of peace. The administration could "now suspend the execution of their scheme of invasion without an acknowledgment of its error." They could now, "without humiliation, restrict themselves to defence, although the war was in its origin offensive." A second opportunity was thus presented "of restoring tranquility to our once happy country. The first, the revocation of the Orders in Council, was suffered to pass unimproved. Let not this be lost—a third may not shortly occur. Your enemy has invited a direct negotiation for the restoration of peace. . . . The circumstance ought to produce an entire and essential change in your policy."

Gaston's party associates were delighted with his speech, not merely because of its style and substance, but also as the expression of the views of a Southern Federalist. James Robertson of Philadelphia paid it a left-handed compliment when he lamented "that such is the blindness and obstinacy produced by prejudice and party-feeling, even upon the minds of otherwise good men, that so much good sense, useful information, sound reasoning, and genuine eloquence, as your speech contains, should produce so little effect upon those to whom it was addressed."¹ Abijah Bigelow, of Massachusetts, wrote: "There have been many good speeches upon this occasion, but no one which better suited my taste than one delivered by Mr. Gaston yesterday."² Webster informed his brother Ezekiel: "I have sent Gaston's speech to Captain Benj. Pettengill, who I hear is one of us; if not, it will do him no hurt."³

The Federalists had long predicted that the war would bankrupt the nation and before the close of the Thirteenth Congress had the pleasure of seeing their gloomy prognostications realized. In January, 1815, the Secretary of the Treasury reported that the currency of the country was hopelessly disordered, that banks were unable to make specie payment, and that the national treasury was empty. His remedies for the condition were increased taxes and the establishment of a national bank. The Secretary's report was received with open dismay by the Republicans, with ill concealed glee by the Federalists. The onus of applying the proposed remedies the former would gladly have passed on to their opponents, but the latter were too wary to be caught in any such trap. George Tichnor, writing from Georgetown, records an incident which shows the dilemma of the two parties. He supposes

¹Robertson to Gaston, Philadelphia, May 24, 1814.

²"Letters of Abijah Bigelow," C. S. Brigham, editor. (American Antiquarian Society Proceedings, Oct. 15, 1930, vol. 40, pt. 2), p. 381.

³*Private Correspondence*, i, 243-44; *Writings and Speeches*, xvii, 244.

that his correspondent expected "from the headquarters of the assembled wisdom of the nation" something on politics, and passes on to him the following anecdote:

The last remarkable event in the history of this remarkable Congress is Dallas's Report. You can imagine nothing like the dismay with which it has filled the Democratic party. All his former communications were but emollients and palliatives, compared with this final disclosure of the bankruptcy of the nation. Mr. Eppes, as Chancellor of the Exchequer, or Chairman of the Committee of Ways and Means, read it in his place yesterday; and when he had finished, threw it upon the table with expressive violence, and turning round to Mr. Gaston, asked him, with a bitter levity between jest and earnest: "Well, sir, will your party take the Government if we will give it up to them?" "No, sir," said Gaston, in a tone which, from my little acquaintance with him, I can easily believe to have been as equivocal as that in which the question was put. "No, sir; not unless you will give it to *us* as we gave it to *you*."¹

How completely Gaston identified himself with the New England point of view may be inferred from his profound silence on the Hartford Convention. Although twenty years later, in public and in private, he unqualifiedly denounced nullification and every expression of disunion sentiment that proceeded from Southern Democrats, yet in none of his speeches in Congress, nor in any private letter that seems to have been preserved, did he make any reference to the disunion sentiment in New England during the War of 1812. Apparently his only public reference to it was in the announcement of his candidacy for Congress in 1813, in which he said: "The union of the States is endangered by a War, avowedly for seamen and commerce—yet against the almost undivided voice of that section of our People where seamen abound and commerce was thriving." And here his condemnation was not of those whose conduct "endangered" the Union, but of those who were fighting to preserve its independence. All other evidence of his views on the

¹George S. Hillard, *Life, Letters, and Journals of George Tichnor* (6th edition), i, 31.

subject is of a negative character, but perhaps none the less significant on that account.

What Gaston's admirers have always considered "the most brilliant" of his "legislative tournaments" was his reply to Clay in the Fourteenth Congress in a debate on the Previous Question. The rule as expounded by Speaker Clay and sustained by the majority had been used in the Thirteenth Congress to prevent the Federalists from offering amendments to administration measures and to stifle hostile criticism. Gaston denounced it as a denial of the constitutional right of every member "to bring forward any proposition he deemed beneficial to the country, and support it by whatever arguments he could adduce,"¹ and determined, at the first opportunity, as he said, to make an effort "to rescue my own rights and the rights of those whom I represent from the further oppression of this instrument of tyranny." His chance came on January 19, 1816, when the House resolved itself into a committee of the whole to consider a resolution from the committee on rules, of which Gaston's colleague, Richard Stanford, a North Carolina Democrat, was chairman, to expunge the rule relating to the Previous Question. Stanford briefly explained the resolution. John Randolph of Roanoke came to his support in a short speech. Thereupon, Clay took the floor in defence of the rule as he had construed and enforced it. He sought to justify it on the grounds of its necessity, the public interest, and the constitutional right of the House to make it.²

Clay's entrance into the debate gave Gaston the chance he had been waiting for.³ In his opening words he injected into his speech a personal note which drew the issue sharply between himself and Clay under whose enforcement of the rule he had so frequently suffered. He rejoiced, he said, at the resolution reported by his colleague.

¹*Annals, op. cit.*, 1545-46.

²*Annals of the 14th Congress*, 1st sess., 698-99. Only a brief summary of Clay's speech is printed.

³*Ibid.*, 699-718.

And, sir, I rejoice equally at the opposition which the motion of my colleague has encountered. If this hideous rule could have been vindicated, we should have received that vindication from the gentleman who has just resumed his seat. If his ingenuity and zeal combined could form for the previous question no other defence than that which we have heard, the previous question cannot be defended. If beneath his shield it finds so slight a shelter, it must fall a victim to the just, though long delayed, vengeance of awakened and indignant freedom. If Hector cannot protect his Troy, the doom of Troy is fixed by fate.

Launching then into an exhaustive history of the origin and development of the rule, he showed that in the British House of Commons, where it originated in 1672, in the Continental Congress, and in the Federal Congress previous to 1811, the previous question differed radically and essentially from the detested rule which he was attacking. "Our previous question," he said, "is altogether '*sui generis*', . . . and certainly in your Patent Office there is no model of a machine better fitted for its purposes than this instrument for the ends of tyranny." He gave an account of the fierce debate on the non-intercourse bills on that "memorable night of the 27th February 1811" when

the monster, which we now call the previous question, was ushered into existence, and utterly supplanted the harmless, useful being, whose name it usurped. . . . Thus liberated from every restraint, and armed with the newly forged weapon of the previous question, a mad majority, in the wantonness of power, at midnight, when all that was not passion was stupor, proceeded in their career of legislation. . . .

Full well do I remember the first instance in which I witnessed the use of this newly expounded previous question, and never shall I forget the feelings which it then excited in my bosom. . . . [It] was so abhorrent from all my notions of freedom, that new as I was here—an unfledged member—I dared join in an appeal to the House from the decision of the Chair [Clay], and vainly, yet zealously, exerted all my powers to reverse it. Use, sir, has rendered the previous question more familiar to me, but it has not diminished my abhorrence of it. On the contrary, use has but the more fully explained the detested ends which it can be made to answer.

He closed with a plea for Stanford's resolution. The moment was favorable "for an impartial decision."

The return of peace had "brought about a new order of things, which must be followed by modifications of parties impossible to be distinctly foreseen." The election of a new President and a new Congress was pending, and no man could say whether before the present Congress closed he would be found among the majority or minority of the House. "This then is the auspicious moment for putting down, with one consent, this odious tyranny. The victims of oppression should disdain to become its instruments; the possessors of arbitrary power know not how soon they may be compelled to feel its injustice."

Gaston's plea failed, but it brought him great reputation and has been frequently reprinted as a masterpiece of parliamentary oratory.¹ John Sergeant, for more than half a century the acknowledged leader of the Philadelphia bar, considered it "the best discussion of that subject he had ever met with."² Upon re-reading it seventeen years after its delivery, Kent wrote Gaston the following letter:

KENT TO GASTON

Thursday, Nov. 14 [1833]

MY DEAR SIR

I have found your Speech on the *previous Question* in one of the Volumes of my Pamphlets and I have now the gratification of sending it to you. I have read it again this morning, and permit me to say it is a masterly and conclusive law and constitutional argument, with the most diligent examination and keen, critical analysis of the documentary Authorities. It is an admirable Production.

I charge you upon your duty to see that the Volume is returned before you leave town, as I set a value upon the Volume beyond all Price, and that on two accounts.

Yours most truly

J. KENT³

¹The last reprint is in the *Congressional Record*, Feb. 2, 1922, pp. 2325-29, where it was inserted at the request of Representative Lazaro of Louisiana.

²Samuel Miller to Gaston, Princeton, N. J., June 7, 1830.

³Eight years later, Kent again referred to the speech in the following note: "You have, in every Point of view my highest respect, Esteem & regard. In the 1st Vol. of the 4th Edt. of my Commentaries, p. 238 you will perceive I have alluded to your Efforts in Congress on the Previous Question." New York, June 24, 1841. In his *Commentaries*, after explaining the operation of the rule, Kent refers to Gaston's speech as "a very able and well-informed discussion of the merits of the rule, and he regarded it as a formidable instrument of tyranny of majorities over minorities, and, to the extent to which it is carried, without precedent in the annals of any free deliberative body."

In 1817, Gaston retired from Congress, determined henceforth to eschew politics. His brief congressional career, though bringing him a fine reputation in Federalist circles, evidently had not brought him much "soul satisfaction," and there are reasons to believe that he lived to regret certain phases of his political conduct. In 1831 he earnestly advised a young friend just appointed to a judgeship, never to allow himself "to be seduced into a return to political life." As for himself he was conscious that he

had always endeavored to place country above party, and that yet, on a calm review of his whole course of life, too many instances presented themselves, when he convicted himself of having been influenced to an extent of which he had no suspicion at the moment, by other than purely patriotic considerations. In addition to all this, it had been his fate on repeated occasions to be most loudly applauded for what in his own conscience he regarded as least praiseworthy, and to be bitterly reviled for what he considered to have been the purest and most discreet acts of his public life.¹

His retirement from politics was permanent. In 1829 and again in 1840, he refused to permit his nomination for a United States senatorship when election was assured, and in 1841 he declined a place in Harrison's Cabinet.

Gaston's repugnance to political office did not extend to the judiciary, and upon the death of Chief Justice Henderson in 1833 he consented to accept a position on the Supreme Court of North Carolina. His decision requires a word of explanation. The Court had never been popular and almost every session of the legislature since its creation had witnessed efforts to abolish it. It was already resting on a shaky foundation when the death of Henderson removed one of its main props. Ruffin and Daniel, the surviving members, intensely disliked each other, and Ruffin had no respect either for Daniel's learning or intellectual integrity. Members of the bar, therefore, entertained fears that

¹Swain, *Early Times in Raleigh*, 11.

Ruffin might resign after Henderson's death, and were certain that his resignation would spell the doom of the Court. That these fears were well grounded appears from a letter of August 21, 1833, in which Ruffin urged Gaston to become a candidate for the vacancy.

I entertain firmly the belief and I mean explicitly to acknowledge it, that I can not—it is not in my power nor within my ability—to sustain the Court or duly administer the law, without having the place of that great luminary, lately extinguished [Henderson], supplied by an able, an honest, an efficient successor. . . . After the most deliberate and impartial consideration I am even now thoroughly satisfied, that it will be my duty to seek the retreat of private life, unless the member now to be placed on the bench be a man differing in almost all respects from the person with whom I now sit. . . . there lives not a human being to whom my mouth has been opened or to whom I have listened upon this delicate point. *You* are the *first* and *only* person, with whom I have permitted myself to have any interchange of thought on it. You will presently perceive, that I do not volunteer it now; but that an explicit declaration of the simple truth is rendered necessary by the occasion. I should never forgive myself, if upon my solicitation, you should be drawn into a situation planted with thorns without a friendly warning to put on sandals, at the least. . . . I come therefore to the declaration which I must make, but make with the greatest reluctance: That I can not serve with Judge Daniel, unless the third Judge be in capacity, character, temper and respect mutually entertained between him and myself, qualified to give and receive assistance in consultation and decision and impart to the decision, when made, the weight which attaches to a sensible opinion and an unsuspected impartiality. . . .

Although Ruffin had given no hint of his intentions, members of the bar understood the situation well enough and held the opinion that one thing, and one thing only, could save the Court—the election of Gaston. The Governor joined with two other eminent lawyers in a letter to Gaston frankly presenting the situation to him, and closing with the simple statement: “In a word, we think *your* appointment to the Bench the only event which will preserve the Court,

and certainly the only event which can make it *worth preserving*."¹

These appeals placed Gaston in a dilemma as unpleasant as it was unsought. Although anxious to respond to the call of duty, he was placed in a serious quandary by reason of the Thirty-second Article of the Constitution, which disqualified for office in North Carolina, among others, any person who should "deny the Truth of the Protestant Religion." Did this phrase disqualify Catholics? Gaston of course immediately raised the question. Commenting on the fact that he had once had occasion to examine it in connection with the appointment of his son as a justice of the peace, he wrote: "I then came to the conclusion, aided by one of the best legal understandings in the State, that whatever reason there might be to conjecture that some of the framers of the Constitution intended to prohibit R. Catholics from holding office, *judicially*, it must be expounded as not declaring such a disability."²

There is no necessity here to go into the technical points on which he based his opinion; it is sufficient to say that it was sustained by the best legal talent both within and without North Carolina. Badger put the question to John Marshall, who replied "in his emphatick way and with his peculiar force of enunciation, 'I declare, Sir, if I were a member of the N. C. Legislature I should not have *one moment's* hesitation.'" Marshall's idea "seemed to be that as the terms expressing the exclusion were so vague and indefinite, it must in every case be left to the individual to be appointed, to determine under his own responsibility and with his own conscience how far he is within the operation of the clause."³

After careful deliberation, Gaston consented to accept the office, and in November 1833, was elected.

¹From Governor Swain, George E. Badger, and Thomas P. Devereux, Raleigh, Sept. 3, 1833.

²To Devereux, New Bern, Aug. 19, 1833.

³Badger to Gaston, Raleigh, Nov. 14, 1833.

Ruffin, who had awaited the result with great anxiety, hastened to express his "most sincere satisfaction," in which he was sure "the lovers of virtue and the admirers of ability and great attainments and elevated character, throughout the nation," would share. All good men, he thought, would join in thanksgiving to that mysterious Providence which had "so signally dispelled the bitter passions of bigotry and intolerance."¹

Some of Gaston's friends assumed that as he had succeeded Chief Justice Henderson, he would himself become chief justice. But Gaston's Act of 1818 which created the Court, did not establish such an office. It merely authorized the judges to select one of their number as the presiding judge; the title of chief justice, therefore, was merely a courtesy title. Judge Daniel "peremptorily and promptly declined all claim to the distinction," and his declination left Ruffin and Gaston to decide the matter between them.² Writing to Chancellor Kent, Gaston said: "We are directed by law to appoint one of our body Chief Justice. He is merely the Chairman of the Court. On my taking my seat it was agreed that lot should determine on whom the title should be conferred. Chance decided it in favour of my brother Ruffin, and without affectation of modesty I must admit that she did not decide amiss."³ He received the following letter in reply:

KENT TO GASTON

New York Feb^y 3, 1834.

DEAR SIR

I was very gratified with the receipt of your Letter of the 24th ult. It is curious that the station of Ch. J. of a Court should be determined by Lot. It supposes every Person equally competent for it, and which is frequently not the Case. Lord Tenterden spoke once severely and even contemptuously of the mode of selecting Jurors *by Lot* as we do. But our free republican Institutions are founded on a broader and more liberal Scale than the narrow Institutions of England. We suppose

¹To Gaston, Allamance, Dec. 2, 1833.

²Gaston to Robert Donaldson, Raleigh, Jan. 3, 1834.

³Raleigh, Jan. 24, 1834. Kent Papers, Library of Congress.

that every human Being that is white and that is of age, is fit to vote and to be voted for every Office. In Mississippi they have lately made the Chancellor and Judges periodically elected by every Body. This is the very sublime of the Theory, and one single mistake as to the Intellect and virtue and learning of the Candidates, will give the Theory another transition. But I do not mean to find fault with your No. Ca. Theory. I have not the Honor of any kind of acquaintance with your associates, and I dont doubt they are perfectly fit—I only know that you are. . . .

Be assured of the highest Esteem and

Regard of your affect^e and humble Servant

JAMES KENT

The discussion as to Gaston's eligibility did not end with his election to the bench. There were critics, of course—he was too shining a mark in both church and state to escape the shafts of bigotry.¹ In 1835 the question came to the final test. On June 4th, a constitutional convention assembled at Raleigh. Gaston was a delegate. To this body had been referred, among several other important amendments, the question of striking out, or modifying, the Thirty-second Article. No other problem before the Convention excited a longer or an abler debate or brought forth such a variety of views.² These views ranged all the way from the complete elimination of the article to its retention "as Sleeping Thunder, to be called up only when necessary to defeat some deep laid scheme of ambition."³ Gaston supported the former view, but finding it impossible to bring the Convention to so liberal a position, finally threw his support to a proposal to substitute in the article the word *Christian* for the word *Protestant*. On this question he delivered what was certainly "the greatest speech made by him in any deliberative body."⁴ Packed with wit, humor, satire, eloquence, and logic, displaying a wide and

¹Robert J. Breckinridge, *Papism in the XIX Century in the United States* (Baltimore, 1841).

²*Debates of the Convention of North Carolina of 1835* (Raleigh, 1836).

³Phrase of Delegate J. S. Smith. *Debates*, 244.

⁴*Ibid.*, 264–305. Reprinted in U. S. Catholic Hist. Soc., *Hist. Records and Studies*, xvii, July 1926, 189–244.

profound knowledge of ecclesiastical and secular history, it carried conviction and won for its author a great personal as well as political triumph. The proposed amendment was approved by a vote of 74 to 52, but voting with the minority were twenty delegates who were opposed to any religious tests whatever.

Among the comments on his speech was the following letter:

KENT TO GASTON

New York November 26, 1835

MY DEAR SIR

I received the Papers containing your Speech in the N. C. Convention on the question of amending the Article in the Constitution, disqualifying officers who denied the Truth of the Protestant Religion, and I highly approve of its logic, and admire the whole Texture and Taste and Candor and Eloquence of the Production. You have placed the Catholic faith in a strong Point of View. The very great lawyer Mr. Butler did the same, and you have demonstrated the folly and absurdity of Instructions, and the narrow and persecuting Spirit that would retain the Clause in question, and which I think with you disgraceful to the State and to the Age. I have no time at present further than to add the assurance of my high Respect Esteem and Friendship.

JAMES KENT

In tracing the history of religious freedom in the United States, Gaston made use of Bancroft's story of Rhode Island and Maryland in the first volume of his *History of the United States*, which had just been published. Two years later, a common friend living in Boston sent Bancroft a copy of the speech, whereupon Bancroft wrote Gaston the following letter:¹

Yesterday Mr. Jones of N. C. put into my hands a newspaper copy of your speech in the North Carolina Convention in 1835. Need I express the delight and satisfaction I received in finding that you had made an honorable notice of my labors in American History, and still more—and what I value even still more highly than praise from a man whose name I have never heard mentioned but with praise, that what I had written furnished an argument in favor of intellectual liberty. It is the highest reward to which I could have aspired.

¹Washington, Oct. 9, 1837.

Mr. Cogwell had already written to me, what Mr. Jones confirms, that you had expressed a strong interest in my undertaking. In prosecuting my work I need the benefit of counsel from all sides; safe, I trust, against a heedless flexibility of judgment, I shall spare no pains to appropriate to my benefit every just criticism, every benevolent suggestion: and as I proceed, I shall hold it a very high privilege, on the one hand, to be strengthened by your opinion, and on the other, to gain the means of making my work better by your observations.

You will I am sure excuse my freedom in addressing you. On reading your speech, I could not but say to you, how much my heart is with the cause which you defended, and how deeply I was moved by finding myself summoned as a witness in its defence.

His work in the Convention was Gaston's last service in a parliamentary body. The remaining years of his life were devoted to his work on the bench, in which he found that deep intellectual and spiritual satisfaction which he had sought in vain in the political arena. In his last letter to his eldest daughter, he wrote:

To administer justice in the last resort, to expound and apply the laws for the advancement of right and the suppression of wrong, is an ennobling and indeed a holy office, and the exercise of its functions, while it raises my mind above the mists of earth, above cares and passions, into a pure and serene atmosphere, always seems to impart fresh vigor to my understanding and a better temper to my whole soul.¹

An appraisal of his judicial career does not come within the scope of this paper. It is sufficient to say that it fully justified the expectation of his associates and of the public. To Chief Justice Ruffin he was "a great judge"; and in the decade during which they sat side by side on the bench, popular opposition to the Court gave way to popular pride in the distinction and prestige which those two great jurists brought to it and to the state.²

After his retirement from active politics, Gaston found leisure to cultivate an ever-widening circle of friends and to observe and appraise public men and

¹To Susan Gaston Donaldson. Quoted in Connor, H. G. *Great American Lawyers*, iii, 84.

²The best account of Gaston's judicial career is that given by Judge Connor in *Great American Lawyers*, *op. cit.*

measures unswayed by personal ambition. His social instincts were highly developed. Handsome, genial, witty; brilliant in small talk as in learned discussion as the occasion required; his mind a storehouse of anecdote and wisdom drawn from wide reading and varied experience; considerate always of others, he found a welcome in any circle, irrespective of age or position, into which he chose to enter.

He enjoyed society and often looked in upon the gay parties of young people at New Bern and Raleigh. "I do delight in seeing young people innocently cheerful," he wrote to his daughter. "Twenty or twenty-five years ago, notwithstanding the earnestness with which I followed my professional and political pursuits, I was at such parties the gayest of the gay."¹ Young people enjoyed him. "My family all desire to be remembered to you," wrote Hanson. "Edward has spoken of you often. Today at dinner he pronounced you a better story teller than his father. This was provoking as I had bought a book of fables and took some pains in perfecting myself in the art of story telling."² Two "gay young fellows," on their way to college, when invited together with some of their elders to spend an evening with "the great man," found him "affable with dignity and companionable without familiarity,"—"a grand old man, just touching the verge of venerable age, with finely chiseled, classic features, calm, contemplative, thoughtful brow, and manly person; the scholarly stoop increasing rather than marring the *tout ensemble*." They were immensely flattered when he sometimes addressed his remarks to them, "making us feel that we were a part, though not *magna pars*, of the performance."³ The daughter of a kinsman with whom he lived while in Raleigh, wrote that "every Winter's evening when my Mother did not have company, he would sing to us or tell us tales from the

¹To Susan Gaston Donaldson, Kinston, N. C., April 12, 1824.

²Georgetown, June 12, 1814.

³R. B. Creecy, *Grandfather's Tales of North Carolina History*, 104-13.

Arabian Nights before we were able to read them. When we were older he read Telemachus to us translating from the French. . . . He taught us much of Astronomy, taking us out of doors at night and showing us the different Planets and Constellations. He loved the society of young people and was invited to most of the evening entertainments here."¹

Gaston was fond of the theater, and advised his daughter, when at school in Philadelphia, to attend "once or twice in the season under *proper protection* (such as that of Mr. and Mrs. Hopkinson) the performance of some well selected play."² In Seaton's *Memoirs* is a description of the audiences which attended the performances given by a club of amateur actors in Raleigh, in which Seaton was a leading spirit. The "wise and benevolent" John Marshall was frequently there; and also "the learned, genial Judge Gaston, who was equally happy in sentimental song and convivial chorus, or in racy anecdote, following, perchance, an elaborate 'summing up' from the Bench."³

It was, however, as a dinner guest that Gaston was at his best. "None could make the grave remark, none could tell the laughable anecdote better than he," declared one of his successors on the Supreme Court.⁴ "Who has ever met him at the social board," asked one who had often so met him, "who did not find time treading on flowers?"⁵ Some years after the jovial band at Crawford's had broken up forever, Richard Stockton said to a group of distinguished lawyers in attendance upon the United States Circuit Court at Trenton, N. J., among whom was the presiding judge, Justice Bushrod Washington, "there are about half a

¹Reminiscences of Lou N. Taylor. Undated Ms.

²To Susan Gaston, New Bern, Oct. 16, 1823.

³William Winston Seaton of the "National Intelligencer." *A Biographical Sketch*, p. 23. (Boston, 1871).

⁴M. E. Manly, *Memoir of William Gaston*, *op. cit.* Manly was Gaston's son-in-law. He was an Associate Justice of the Supreme Court of North Carolina, 1860-65.

⁵Edward Stanly, "Memorial Oration" at Washington, N. C. Jan. 29, 1844. *Raleigh Register*, Feb. 9, 1844.

dozen men whom I should like to see together with you, at my table—yourselves, of course; Sitgreaves, of Easton; Gaston, of North Carolina; and Dessausure, of South Carolina.”¹ “The table-talk of William Gaston,” said Webster, “would make a most interesting and instructive book.”²

Gaston's circle of friends extended far beyond the bounds of his own state. There were Marshall in Richmond, Hanson in Georgetown, Taney in Baltimore, Hopkinson in Philadelphia, Kent in New York, and in Boston, Tichnor, Sullivan, Mason, Story, Webster, and many others. After the death of Washington and of Hamilton, Marshall held first place in his esteem. North Carolina was in the Chief Justice's circuit; he was, therefore, a frequent visitor at Raleigh where he presided over the United States Circuit Court in which Gaston practiced. Professionally and personally the two formed a mutual admiration society. In 1812, replying to an inquiry as to the choice of the North Carolina Federalists for the Presidency, Gaston wrote that it was “directed more emphatically to John Marshall than to any other man in the Union.”³ Time made no change in his sentiments toward “the excellent old Chief Justice;”⁴ and twenty years later he referred to Marshall as “the man who stands higher in my reverence than any other living American.”⁵ Nevertheless he firmly declined the request of a Richmond publisher to become Marshall's biographer, for which his daughter took him gently to task, and incidentally paid her respects to one of the old Chief's political foes. She wrote:

I am sorry to hear you do not think of writing a life of Judge Marshall. *Don't* abandon all thought of it, my dear father. You knew him so intimately and can do justice to his great and good character—his death I fear is an irreparable loss to the

¹David Paul Brown, *The Forum: or Forty Years Full Practice*, i, 364.

²Connor, H. G., *Great American Lawyers*, iii, 83.

³Letter to the Philadelphia Committee of Correspondence, etc., *op. cit.*

⁴Gaston to Susan Gaston Donaldson, New Bern, May 30, 1833.

⁵To Thomas N. White, New Bern, Aug. 30, 1832.

country for the very few who are *worthy* to succeed him are the last that Gen'l J. would appoint. Mr. E. Livingston (whose place adjoins ours on the river) is talked of—I hear and learn that there is some talk of Chancellor Kent—but the President I can not think has magnanimity enough to appoint the latter.¹

Gaston particularly enjoyed his Yankee friends, who cordially reciprocated his sentiments. A North Carolinian, living in Boston, urging him to visit that city, wrote:

I am especially instructed by Judge Story and Mr. Tichnor to give them the earliest notice of your arrival in Boston and as these instructions were forwarded on a Surmise of mine that you might come on thus far, I have now to request and indeed beseech you to do so. Though I do not speak by authority except in the two honorable instances stated, yet I assure you all the good Gentlemen of the city would be gratified by such a visit. Old North Carolina stands well with the old Stock of Boston Gentlemen and as she is to be judged by her citizens I am the more anxious to see *you* at this time, "a visitor at Athens." . . . Jeremiah Mason is now a resident of Boston and the great Champion in opposition to Mr. Webster at the Bar. His beautiful daughter—for I do not know him particularly—tells me that he frequently speaks of you as one of his favourite friends.²

Gaston was one of the earliest members of the American Antiquarian Society. Among his papers is his "Diploma," bearing the signatures of Isaiah Thomas, President, and Rejoice Newton, Secretary, certifying to his election on October 24, 1814. For many years thereafter he served as the Society's counselor in North Carolina.

In 1826, Harvard conferred the degree of LL.D. upon Gaston, Levi Lincoln, James Lloyd, and William Sullivan, and the incident occasioned the exchange of the following letters:

GASTON TO SULLIVAN

Newbern, September 29th, 1826.

MY DEAR SIR

I learn from the public prints that at the late commencement of Harvard College the degree of Doctor of Laws was conferred

¹From Susan Gaston Donaldson, New York, Aug. 17, 1835.

²From Jo Seawell Jones, Boston, Nov. 8, 1833.

on me by that distinguished and venerable Institution. Strongly attached to Learning and deeply venerating learned Men, I can not receive this high honour from the College first in age and in reputation on our Continent, but with most grateful sensibility. Let me avail myself of your friendship and request [you] to communicate in such way as you shall judge most appropriate my very respectful acknowledgements to the Trustees and Faculty of the College of this their kind and flattering notice.

Allow me to add with great truth that on finding myself among the Doctors I was particularly pleased at being introduced with you and my excellent friend Mr. Lloyd.

And now, my dear Sir, let me ask of you *in confidence* to tell me what is usual—what is expected of him who is honoured—on such occasions. Is a Diploma to be requested? Are fees of office due on a Diploma to the President or Faculty? If so, what are they? I would fain do whatever is proper but must wholly rely on you to instruct me how to act.

My daughter and myself remember with delight the week [whic]h we spent at Boston. She is now on a visit to her friends in the District of Columbia or she would assuredly charge me with messages of respect and affection to those whose attention she can never forget. For me be pleased to say all that is grateful and kind to Mr. and Mrs. Otis, Mr. and Mrs. Ritchie, to Mr. and Mrs. Quincy and their family and to your Brother Richard and his.

For you and yours receive my best wishes and most affectionate regards. I always take pride and pleasure in declaring myself, my dear Sir,

Y^r obliged and faithful friend

WILL: GASTON

SULLIVAN TO GASTON

Boston, Nov. 4, 1826.

DEAR SIR,

It seems very proper that you should know that Judge Story has answered your inquiries, and how he answered them. I therefore send you his letter.

I thank you for your kind expressions, as to the company in which you have been noticed. I can reciprocate this civility quite as cordially to yourself as to either of the connexion. There are many things in these days which are not to be understood. That four *such* men should be selected to be made Doctors of, at H. U. at the same time; that Jefferson and Adams should be eulogized in the same discourse in Fanueil Hall, and by Daniel Webster, that Sanford and Van Buren should support Rochester for Gov^r of N. Y., while they deny to John Q.

Adams the rights which he has earned in the Jefferson school; and that Quincy is threatened with leave to retire, for not being a good mayor, and for not having been sufficiently observant of the pulses of those who might charge him with the sin of federalism; and so on—in truth, the world seems queerly out of joint. There are some things, however, which I do understand; and among them, that you promised to come again to our Yankee City; and your promise had all the parts of a definite and clear contract except as to the time of performance; in which case, it is to be performed, within a reasonable time. If you postpone it, till I am dead, or too old for social meetings, or until all my twenty years old wine is gone, I shall think the time chosen entirely unreasonable. But, when you intend to come, send notice—a week or two in advance so that those who want to see you, of which there are not a few, may be at home.

Offer to your daughter our affectionate respects. Bring her with you—and all that are, or may be hers. My round circle are all well and happy; I am going home now to sit down with them en famille, at an old fashioned New England dinner, viz., proper dun fish—and a beef steak—and an apple pie—and after dinner we will drink a health to you and your daughter.

Affectionately and respectfully

Your friend,

WM. SULLIVAN.

I commit to this mail Judge Story's copy of his oration sent to me to be sent to you. I wish you would do me the favor to acknowledge its receipt if it reaches you.

WM. S

STORY TO SULLIVAN¹

Salem, Oct. 22, 1826.

DEAR SIR

In reply to the inquiries of Mr. Gaston, which you have communicated to me, I beg to say, that it is usual for the President of Harvard College to send a letter, and usually also a diploma, to persons residing out of the State, who receive the degree of LL.D. The President will write to Mr. Gaston either before or when he sends his diploma, and until that time there is no necessity for Mr. Gaston to acknowledge notice of the degree.

You are right in the suggestion, that I took "an active part" in procuring this degree, for I admit, that the suggestion orig-

¹The original is in the library of Georgetown University.

inally came from me; but in justice I ought to add, that as soon as Mr. G's name was mentioned there was an instantaneous and unanimous assent on the part of the whole Corporation, as there was also in your case. My reason for naming Mr. G. was, because he is one of the most distinguished of American Lawyers in the highest sense of the phrase; because he is eminent as a Statesman; and because as a private gentleman is all that one could wish or desire. I had further reasons, if indeed further were necessary in so strong [a] case, one of which was that he was a North Carolinian, and hitherto N. C. had not shared our public honours as she deserved. Another was, that he is a Catholic, and I was most anxious that a Protestant University should shew its liberality by doing homage to gentlemen of a different faith, and thus to honour itself by a fair exhibition of Christian virtue.

I consider our appointment as conferring honour on ourselves, and not on Mr. Gaston. I am proud that he should stand on our Catalogue as truly a Doctor of Laws, whom to know was to respect.

I am sure you will cordially join with me in my opinion of Mr. Gaston. And I must ask you to do me the favour of sending him the Copy of my P.B.K. Discourse, which accompanies this letter, as a mark of my high respect for his talents and character. I trust that he will not misunderstand me, as Mr. Walsh of the National Gazette has done, in his historical allusion to Catholicism, because I disclaim ever having entertained any but the most liberal sentiments towards it.

I am very truly

your most obliged friend and servant

JOSEPH STORY.

Among American statesmen, Webster succeeded to the place in Gaston's affection and esteem vacated by the death of Marshall. Their friendship began the day they took their seats together in the Thirteenth Congress. From that day till Gaston's death, though after 1817 their paths seldom crossed, they kept in close touch with each other. Webster regretted Gaston's retirement from the national service, and Gaston watched Webster's rise to fame and power with great interest and pride. The following letters indicate their personal relations.

WEBSTER TO GASTON¹

Boston Sept. 8, 1824.

MY DEAR SIR

. . . Our portion of the Country is at this time exceedingly prosperous, upon the whole; and having had a little excitement from the visit of the good Lafayette, we are going on again in our every day pursuits. Our Congressional elections take place in Nov. No nominations have yet been made. Most of our present members will probably be re-elected. It is *possible* that our friend Mr. Mason may be chosen Senator again, from N. Hampshire—but this is only *possible*. The times, tho' tolerably good, are not quite good enough I fear for that.

I see Roger Vose now and then. He is as formerly, except that silver locks render his venerable appearance more venerable. He can laugh yet—and cause others to partake in the same exercise.

Poor Lovat [sic], you know, has been deceased some years. I had a short visit last year from Mr. Morris S. Millar [sic]. He is what they call in N. York a *Bucktail*. He and Mr. Shepherd [sic] think that opposition to the war was carried too far!

We have, My Dear Sir, a great many people in New England, who would be glad to see your face. Some of us think you bear a resemblance to the better class of Yankees. If you regard this as a reproach, come and disprove it.

Yours always affectionately,

DANL WEBSTER

SAME TO SAME²

Boston May 31, 1826.

MY DEAR SIR

I lose no time in answering yours of the 20th, which was recd yesterday. [Here follows a detailed discussion of politics.]

But, My Dear Sir, I will not avail myself of the little opening, which your letter affords, to inflict upon you a political epistle. I am, however, I confess, desirous of knowing more than I do know at present, of your sentiments, in regard to public affairs; and perhaps you will find leisure to tell me frankly what you think, and something of what you see and hear around you.

It caused me much grief not to be here last summer, when you did our town the honor of a visit. Your various friends will be gratified by your remembrance of them.

I am, My Dear [Sir], with unabated esteem and Regard,

Yours,

DANL WEBSTER.

¹The original is in the Gaston collection. It is printed in *Writings and Speeches of Daniel Webster*, *op. cit.*, xvi, 89.

²*Ibid.*, xvi, 134.

SAME TO SAME¹

Washington April 18, 1832

MY DEAR SIR

Will you have the goodness to run your eye over this Report, and if its view of the Constitutional question be wrong, just tell an old friend that he has fallen into error.

Yrs, with long standing and most sincere regard,
DANL WEBSTER.

SAME TO SAME²

Washington May 19, '36

MY DEAR SIR

I transmitted your letter to Mr. Vaughan, and now enclose his answer.

Of the things which would much augment my happiness, one is that I should hear from you oftener, and another, that I might see you sometimes. Shall I never meet with you, either here or at the North? As it is, to hear of you, as I do, and as much as I do, is no small gratification to the feelings of an old and true friend.

Adieu!

Yrs always cordially
DANL WEBSTER

Gaston's retirement from public office did not mean that he had lost his interest in "the great game of politics," but only that he preferred to view it from the sidelines rather than as a participant. The principles of Federalism were too thoroughly ingrained in his nature for him ever to lose faith in them; he could not easily readjust his opinions and sentiments to catch every passing breeze, and the fact that for a decade and a half after the disruption of the Federalist party there was no political organization in which he could feel entirely at home largely accounts for his withdrawal from politics. He remained a Federalist until his death. His correspondence was chiefly with those whose political views he shared, and his letters are filled with shrewd comments on politics and politicians.

¹*Writings and Speeches of Daniel Webster, op. cit.*, xvi, 219. The report was probably "A Report made in the Senate of the United States, on the 5th of April, 1832, on the Bill from the House of Representatives for the Apportionment of Representation." *Works of Daniel Webster* (16th edition, Boston, 1872), iii, 369-90; *Writings and Speeches*, vi, 102-23.

²The original is in the Gaston collection; printed in *Writings and Speeches*, xvi, 277.

Time modified some of the harsher prejudices of his early life. His opinion of Madison and Clay underwent such a revision. Writing in 1841 of the breach between President Tyler and the Whig party, he explained that it was Tyler's misfortune "to have imbibed in his youth certain political dogmas, not wanting in plausibility and even partially founded in truth," but "impracticable and absurd"; and declared that he "ought not to be severely blamed for not being able to free his mind entirely from the bondage of his early faith. It requires mighty powers to do this. Such intellects as those of James Madison and of Henry Clay, have been able to effect it, but not until much observation and long experience had demonstrated fallacies too plainly to be overlooked."¹

Madison was then dead, but Clay was still very much alive, and Gaston's opinion of him had not always been so favorable. Their relations had been badly strained by Gaston's speech on the Previous Question. Evidently taken by surprise, Clay was "flabbergasted" by the virulence of the attack and "retired from the contest somewhat soured." After Gaston withdrew from Congress the two did not meet again until they found themselves, in Burke's picturesque phrase, "pigging together, heads and points, in the same truckle-bed,"—the all-embracing arms of the Whig party. One evening in Washington, they met at the dinner-table of William Winston Seaton, editor of the *National Intelligencer*. As editor of the national organ of the Whig party, and as a warm friend of both men, Seaton wished to effect a reconciliation between them, and as they approached his table, bowing frigidly to each other, he looked pointedly at them and proposed the toast: "Friendships in marble; enmities in dust."² The ice was broken, the two adversaries smiled and clasped hands.

The evolution of Gaston's attitude toward his old

¹To U. S. Senator William A. Graham, Aug. 19, 1841.

²*William Winston Seaton, op. cit.*, 294-95.

foeman may be traced in his letters. Writing to Webster in 1824, he stated that the chief interest of the North Carolina Federalists in the presidential election was to defeat Crawford. As a candidate against Crawford, he himself preferred Calhoun, Adams, or Jackson, in the order named, to Clay.¹ By 1831, however, having lost confidence in Calhoun and being disgusted with Jackson, he began to have a change of heart toward Clay. "Mr. Clay is not a favorite with me," he wrote; "so that among all those likely to be candidates for the Presidency there is no one who commands my warm support"; but, "Upon the whole I believe Mr. Clay is to be preferred."² By 1840 a decade of devotion to Whiggism had so entirely emancipated Clay's mind "from the bondage of his early faith," that Gaston went over to him bag and baggage. He was so disappointed at Harrison's nomination for President that he hastened to confess to his son-in-law: "I do not feel the same interest in the election as I should have done had the nomination fallen on Mr. Clay."³ Two months later, although the practical politician had found consolation in the conviction that Harrison was the better candidate, "as with him victory is far more probable," the patriot "still greatly preferred Mr. Clay for President."⁴ By this time the reconciliation was complete, and in 1844, shortly after Gaston's death, when Clay with the Whig nomination at last safely tucked away in his pocket visited Raleigh he paid an eloquent tribute to the memory of his old adversary.⁵ This was, of course, good politics in North Carolina, but perhaps it would be ungracious to doubt the "Great Pacificator's" sincerity. Death heals many wounds.

Gaston's attitude toward John Quincy Adams

¹To Webster, Kingston [sic], N. C., April 11, 1824. *Letters of Daniel Webster* (C. H. Van Tyne, editor).

²To Robert Donaldson, New Bern, Sept. 3, 1831.

³To Donaldson, Raleigh, Jan. 30, 1840.

⁴To Donaldson, New Bern, April 13, 1840.

⁵Raleigh *Register*, June 25, 1844.

underwent a similar evolution and for similar reasons. He had been a strong partisan of Hamilton in his historic quarrel with the elder Adams and his prejudices against the father also embraced the son. These prejudices were strengthened by the latter's early political career. In 1824, after Calhoun's prospects for the Presidency vanished, Gaston wrote to Webster that he "would prefer Mr. Adams to either of the remaining candidates," but this merely meant that Adams was his choice of several evils. Adams's career as President, however, induced him to re-examine his views. He was particularly pleased with the President's message of March 15, 1826, on the Panama Congress, which "very much raised" his estimate of Adams's ability. "I knew that his acquirements were prodigious," he said. "But in this message there is an elevation of thought and a dignity of conception that would not dishonour a genius of the first and highest order."¹

These views he passed on to Webster, who replied in part as follows:

I thank you, My Dear Sir, for your kind sentiments towards my poor speech; but much more, I assure you, for the friendly dispositions which you express towards the Administration, and your disapprobation of this strange opposition. I believe Mr. Adams' feelings and purposes are extremely good. Be assured, there is nothing in him of narrowness, or illiberality, or local prejudice. The South, I very much fear, means to quarrel with him, right or wrong; or perhaps, it may be more charitable to say that it means to act on the presumption that he must and will be wrong, and act wrong in all things. . . . I have long wished to write you, on these subjects. but have been restrained from various considerations. I know the posture of your State; and how difficult and dangerous it is, or may be thought to be, to support the measures or approve the conduct of one, with a community that is disappointed at his elevation, and hopes soon to see his place occupied by another. Nevertheless, if you could spare a half hour to give me your views and feelings fully, I should be very much gratified. You see on what grounds the opposition places itself. The leading Jackson Journals make the

¹To John H. Bryan, New Bern, April 1, 1826. Bryan was then representing Gaston's old district in Congress.

great charge to be, a tendency in Mr. Adams, to stand well with Federalists.¹

It seems likely that Gaston's sentiments were communicated to Adams. At a Cabinet meeting on May 19, 1826, after it had been determined that Secretary of War James Barbour should be sent as minister to England, the President expressed the opinion that his successor should come from a Southern state; otherwise, he said, "we should be without a single vote in the Cabinet from the Southern section of the Union. . . . I therefore proposed Gaston, of North Carolina, and John Williams, of Tennessee, or either of them, as candidates for the office of Secretary of War." But the three Cabinet members present, Clay, Rush, and Southard, turned thumbs down on both, and the appointment went to Gaston's old colleague in Congress, Peter B. Porter of New York.²

One wonders if Gaston ever learned of Adams's friendly disposition toward him. Whether he did or not, his opinion of Adams grew steadily more favorable. On December 20, 1827, he delivered the keynote address before an Adams convention in Raleigh and was selected to draft an address to the voters in advocacy of his re-election. When he sat down to discharge this commission he found himself in a predicament. On the one hand, he must so frame his appeal as to hold the old Federalist element in line for his man, on the other, so as to win votes among the conservative element of the Jacksonian Democracy. The result was, indeed, a pretty dish to set before King People.³ Ignoring his own advice to the voters in 1804 and again in 1812, he planted his case squarely on the wisdom of conceding to a President without opposition "the accustomed mark of his Country's approbation—a continuance in office for a second term." It was a

¹The original is in the Gaston collection. It is printed in *Writings and Speeches of Daniel Webster*, *op. cit.*, xvi, 89.

²*Memoirs of John Quincy Adams* (Charles Francis Adams, editor), vii, 546-47.

³*Address of the Administration Convention*, Jan. 30, 1828.

peculiarly wise policy in the case of President Adams. Against his administration there could be "no well-founded and serious cause of complaint." Nor could there be any question of his "ability to discharge the high functions of his office—of his familiar acquaintance with its duties—of his patient and devoted attention to its labors." Why then discard him and entrust the affairs of the Nation to untried and inexperienced hands? Had not Adams been "pronounced by Washington among the first of our public characters?" Had he not been "tried, trusted, and approved by Jefferson, Madison, and Monroe?" What a trinity of character witnesses for William Gaston to summons in behalf of his client! —James Monroe, whose claims to the Presidency he had so cavalierly dismissed because he was unfit for the office; James Madison, the timid and irresolute statesman who had allowed himself to be duped by Napoleon into a betrayal of his country's interests; and Thomas Jefferson, whose invitation to the "infamous Thomas Paine" had brought shame to the hearts and blushes to the cheeks of all patriotic Americans. Truly politics makes strange bed-fellows! But Gaston was no sycophant; his change of heart was towards Adams the man, not Adams the President, and he expressed that change even more strongly after Adams had definitely retired from his place of power and patronage than when he held it. In 1832, when Senator Mangum wrote him that Adams's course in Congress was rapidly disabusing the minds of many members of their former prejudices, that he knew no man in Congress "who is more generally acceptable to all parties," and that "he seems to have placed himself in that position without seeking it and without effort,"¹ Gaston replied:

I am much gratified at the intelligence contained in your letter respecting the course and deportment of the Ex-President. In common with a large portion of those with whom I was accustomed to act I had taken up strong prejudices against him.

¹From W. P. Mangum, Washington, Jan. 19, 1832.

Of the injustice of some of these prejudices I became convinced several years since, and the conviction that I had done him wrong in the estimate I had formed of his motives renders me the more solicitous now to appreciate his worth.¹

Quite different was the evolution of his sentiments toward Calhoun. While in Congress, Gaston had learned to hold Calhoun's ability in great respect, though he detested his political principles. During the following seven years he had so modified his views that he wrote to Webster respecting the candidates for President in 1824: "While there was a prospect of electing Mr. Calhoun I felt a strong interest in his success. Since this prospect has vanished my concern in the contest has almost ceased."² By the end of another seven-year period, however, Calhoun had become the "Great Nullifier," and the pendulum of Gaston's opinion had swung back to its earlier position. "Mr. Calhoun could not but come out in favor of nullification, after having formed a party of zealous and devoted nullifiers," he wrote in 1831. "It is impossible however for any subtlety or sophistry to uphold a doctrine which involves such glaring and practical absurdities. What a pity that such a mind as his should be so warped from its rectitude by unholy passions!"³

Nullification in Gaston's mind was tantamount to the dissolution of the Union. That "our glorious Union must one day cease," being "human and therefore mortal," he held to be axiomatic, but he prayed that first it might "reach to a blessed old age, and then depart full of years of honours and of proud recollections" and not "fall a premature victim to political quackery, violence, or fraud." "It is no longer to be doubted or denied," he continued, "that there is a party in our land—how numerous I know not—who desire a dissolution of our Union and hope to erect

¹Raleigh, Jan. 23, 1832.

²To Webster, Kingston [sic.], N. C., April 11, 1824. *Letters of Daniel Webster* (C. H. Van Tyne, editor.)

³To Donaldson, New Bern, Sept. 3, 1831.

upon its ruins a Southern Confederacy," and he perceived with "mortification and horror . . . that these wicked and mad suggestions are countenanced if not upheld by men of weight and character in the Southern part of our Country."¹ It is probable that he communicated his views to some of his "Yankee friends," one of whom at least could view the prospects as calmly as Gaston had once viewed the threats of disunion emanating from New England.

SULLIVAN TO GASTON

Boston Dec 11, 1832.

MY DEAR SIR,

I was very happy to see your young friend Wm. Burgwyn; as I shall ever be any one who brings me to know something more of you.

I wish I were near enough to hear you discourse of the mournful prospects of our yet common country; I say yet common country because I think there is reason to fear that it will not long continue to be so. If S. Carolina persevere in her present course, and disunion follow, it will draw a line, probably, far north of your native land. The present excitement, and the incompetency of our rulers, to meet and command such a crisis, leads may a good man, this way, to consider that the term of our union draws to a close. We are so dissimilar in our views of policy from our Southern brethren, in many respects, that it will be more and more difficult to get on together. . . .

Affectionately and respectfully

WM. SULLIVAN.

On December 8, 1832, by request, Gaston addressed a great anti-nullification meeting at New Bern.² He drew a vivid contrast between the conditions that existed under the Articles of Confederation and those that followed under the Constitution. To the Union he attributed the growth, prosperity, and happiness of the country; he admitted that South Carolina had just grievances and pointed out the constitutional methods by which remedies could be procured; and he denounced nullification as the initial step toward

¹To Committee of Alabama Whigs, *op. cit.*

²Raleigh *Register*, Dec. 28, 1832; reprinted in *ibid.*, July 4, 1851.

secession and disunion. The speech was Gaston at his best—reminiscent of the aggressive young Federalist of 1813–17—and it greatly pleased his old friend John Marshall. “I have seen nothing on the subject,” wrote Marshall, “which pleased me so entirely.”¹

A few days later, Calhoun visited Raleigh where the legislature was in session. Gaston, who was there serving his last term, wrote to his daughter:

Mr. Calhoun arrived here yesterday morning, and although it was Sunday was occupied until night in lecturing on Nullification at the Hotel. I did not visit him, but heard several gentlemen describe the scene. He stood up in the large room—crowds around him—some on seats, others standing in the room at the door and near the door. He had a paper in his hands apparently containing notes upon which he expatiated with great zeal and animation. “Our government had remained unreformed upwards of forty years. No human institution could fail to require amendment after that length of time. The doctrine of nullification was perfectly understood in So. Carolina from the Judge who presided on the Bench to the humblest tenant of a log-cabin in the Piny Woods. Here he was surprised to find that it had some advocates—when it was more studied and better understood it could not fail to triumph. The citizens of the Northern and Middle States were an industrious, intelligent, hardy, economical people—excellent allies but hard masters, etc., etc.” I am told however that he protests that there will be no breach of the peace unless an attack be made on the Nullifiers.

I some times wish that I could withdraw my mind entirely from the consideration of all public concerns. It grieves me to see such happy prospects blasted or threatened to be blasted by Pride, Ambition, Perverted Ingenuity and wicked Selfishness.²

Gaston did not hold the North blameless for the situation. To his New York son-in-law, he wrote in 1833:

The strong and general expression of the American people against Nullification has “scotched the snake but not killed it.” There has been for several years, and there is now, a settled design among some of the leading bold and artful politicians on this side of the Potomac to establish a separate Southern Confederacy. Of this there is no doubt. The Tariff and Nulli-

¹Marshall to Gaston, Richmond, Dec. 20, 1832.

²To Hannah Gaston Manly, Raleigh, Dec. 31, 1832.

fiction were seized on as means for this end. These have failed—but the design has not been abandoned. It will be prosecuted with unabated perseverance; and the honest fears of the Southern Slave-holders and the fanaticism of the Northern Abolitionists are relied upon to bring about a conviction that the interests and feelings of the different sections of our country are too contradictory to render the Union consistent with the good and harmony of the whole. I consider Duff Green's Paper "the Telegraph" as the Organ of this band. Every number of it contains matter fitted to bring about the desperate result.¹

It is needless to say that by this time he had lost all confidence in Calhoun. His last reference to him is in the letter, already referred to, expressing his disappointment at the defeat of Clay and the nomination of Harrison in 1840.

As for Mr. Calhoun, you well know that I have long lost all respect for his political rectitude. I sometimes think that he has what the Scotch call "a bee in his bonnet" and I should not be greatly surprised if he should manifest unequivocal symptoms of that mental alienation which often attends an intellect of the highest order. His fancying himself perpetually stationary while all the world is changing around him—and in charity I presume that he does so think—is very much like an indication of that disease. Since I have known him he has never been still—he has always been oscillating like a pendulum from one extreme to the opposite.²

With these observations, the "Great Nullifier" passed out of the ken of the "Last of the Federalists."

Gaston apparently could not be happy without a political *bête noire*. In this rôle Jefferson was succeeded by Madison, Madison by Clay, Clay by Calhoun, and Calhoun by Jackson. The rise of Jackson's star caused him many a sleepless night and filled him with gloomy forebodings of national disaster. The burden of his address of 1828, advocating the re-election of Adams, was the unfitness of Jackson for the Presidency. One interested in the caprices of politics and the vagaries of politicians, will find it instructive to compare Gaston's

¹To Donaldson, New Bern, Dec. 8, 1833.

²To Donaldson, Raleigh, Jan. 30, 1840.

views on the qualifications demanded by that office expressed in this address with those expressed in his address on the same subject twenty years earlier. The naïve young politician of thirty, thought it obvious that the "strong natural good sense," the "commanding and comprehensive mind," the "practical knowledge of men," and the "invincible firmness of nerves" that distinguished Washington, marked him out "as one destined by his Creator to watch over the interests and wield the strength of a nation"; but the sophisticated statesman of fifty, though perfectly ready to concede Jackson's "good sense," decision of character, tenacity of will, and experience in "the ways of men," could but laugh to scorn the very idea of a "heaven-taught statesman." Jackson's unfitness was equally obvious when he was compared with Madison. Madison, though "conversant with theories of government," was unfit because he drew his knowledge of men from books; Jackson, though knowing men from practical experience, was unfit because "Political Science has never been his study." In 1808, Gaston warned the people against Madison because he would be too vacillating in a national crisis to seize "the moment of prompt and vigorous action"; in 1828, he warned them against Jackson because in such a crisis "his energy—his decision—his high spirit—his tenacity of reputation—and his promptitude of action" would be "fraught with danger" to the country and might "produce mischiefs of the most appalling kind."

If, despite his warnings, the people persisted in electing Jackson, the country could trust only to "a gracious Providence that these evils will not be realized." But it would not do to carry this trust too far. Gaston must have thought of the advice in one of Hanson's letters to him, written in 1814, in which he urged that the Federalists must bestir themselves to save their party from dissolution. "Providence," wrote Hanson, "seems to be on our side. But we must nevertheless put our shoulders to the wheel or Hercules will

not help us."¹ Gaston, too, was quite wary of putting too much reliance on Hercules. He thought it much safer for the country to put its trust in the learning, the sound judgment, and the experience of John Quincy Adams, but most of all in the newly discovered "tendency in Mr. Adams to stand well with the Federalists."

This address was far from satisfactory to its author. In a letter to the congressman from the New Bern district, he said:

You will have seen the address of our Convention before this reaches you. It was insisted that I should write it, and I accepted the task because I would not decline any proper responsibility. From the day on which the Convention met until a very short period before I left Raleigh I had not a moment of leisure. The first which was offered, . . . was embraced for the purpose. I had no one to consult with, and had much difficulty in deciding on the course to be pursued in writing it. Hoping nothing from the violent adherents to Jackson, I deemed it most wise to address it to the well meaning and quiet part of his supporters—and to *secure a hearing* from them I thought it necessary to be moderate, calm, and dispassionate. Should it be thought to err on the side of languor, and to omit topics that could be most energetically pressed, you will perceive the causes of such error and omissions.²

If the "languor" of his public address troubled Gaston's political conscience, he found a balm for it in the energy of his private utterances. He considered the contest between Adams and Jackson as a contest between "the friends of order and civil government" on the one hand, and on the other "the rowdies of the day who depend for their influence on appeals to the malignant passions of the vulgar and the prejudices of the ignorant." Never before had the country witnessed such a "strangely heterogeneous body" as the Jackson party—a party held together by no common motive or principle other than desire to share in the spoils of office. It astounded him to see "such men as McLane and Ridgely,³ pure in principles, federalists in the

¹Hanson to Gaston, Georgetown, June 12, [1814].

²To John H. Bryan, New Bern Feb., 15, 1828.

³Louis McLane and Henry M. Ridgely, senators from Delaware. Gaston had served with Ridgely in the Thirteenth Congress.

legitimate sense of the term, representing a state so firmly attached to the Union and deeply interested in good order, united with the wildest disorganizers, the rankest anti-federalists, and the crudest radicals"; but he found some comfort in the thought that before the election should be over it was impossible "that these gentlemen, and gentlemen such as these, should not discover how strangely they are misplaced, and with them to discover error must be followed by its correction."¹

Disgust at Jackson's election gave way to alarm for the Union when Calhoun began to preach his doctrine of nullification. Jackson's "utter unfitness" to deal with the crisis Gaston thought "must be obvious to all who see and who do not *refuse* to see."² In 1832, he found it impossible to keep his mind off "the tremendous bustle and excitement" of the contest between Jackson and Clay, but strove "to be calm and prepared for the result"; although he feared that the delusion, party spirit, and corruption which were banded together to support "the weak and violent idol of the day" could not be resisted successfully.³ However it was "not permitted to a good citizen to despair of the Commonwealth," and, therefore, he would "not abandon the hope of our ultimate deliverance from the thralldom of corrupt and factious misrule." But the prospect was "exceedingly unpromising," and he feared that, "Popular infatuation, the discipline of party, and the bribes of office combined are too powerful for reason, patriotism, and eloquence."⁴ The situation made him quite pessimistic. Lamenting that, "Our beautiful scheme of government demands for its permanent success more virtue and intelligence than can be found to uphold it,"⁵ he ventured to prophesy that: "If our united Republic should last so long as to render its history worthy of preservation the period of

¹To John H. Bryan, New Bern, March 1, 1828.

²To Donaldson, New Bern, Sept. 3, 1831.

³To Donaldson, New Bern, Oct. 25, 1832.

⁴To Senator Mangum, New Bern, Dec. 3, 1834.

⁵To Donaldson, New Bern, Nov. 14, 1834.

Gen'l Jackson's rule will be commemorated as its dark age."¹

Soon after the election of Harrison, the North Carolina delegation in Congress determined to bring to his attention "in the most delicate manner possible" the claims of the state "to some appointment of distinction" in his administration. Senator Graham wrote Gaston that if Harrison "should tender either the office of Secretary of State, or the mission to England or to France," they would recommend him; if he "should offer to the State the office of Attorney General, Mr. Badger would be designated." There were many rumors as to the other appointments in the Cabinet, but nothing was yet ascertained. "Mr. Clay of course, will not take office, and it is believed, would prefer that Mr. Webster should not. The latter, however, it is supposed will be offered the State or Treasury department, and is expected to accept."²

To this letter Gaston replied:

You are good enough to say that no answer is required, and I have felt some difficulty in determining whether an answer ought to be returned to the communication. As it was made without the knowledge of the other members of the delegation, I must conclude that it was the intent of that body that I should be ignorant of their purpose in a certain event to lay my name before the President elect of the United States, and of course that they should be ignorant of my wishes in regard to what was contemplated. But as the subject has been mentioned to me, and my silence might lead to a mistaken inference, I have deemed it expedient and most consistent with frankness, to say to you (leaving you at liberty to make such use of the information as you think proper) that I hope no such nomination will be made. My reason simply is that on the one hand I am reluctant to appear churlish, or to give offence to the people of No. Carolina, by rejecting public appointment—and on the other have a sincere desire to keep aloof from political life for the residue of my days.³

If anything could have induced Gaston to accept a place in Harrison's Cabinet, it would have been the

¹To Donaldson, New Bern, Oct. 25, 1832.

²From Graham, Washington, Dec. 16, 1840.

³To Graham, Raleigh, Dec. 27, 1840.

opportunity of renewing his official relations with Webster. Nevertheless he doubted the wisdom of Webster's entering the Cabinet. In a letter to his son-in-law, he wrote prophetically on this point:

We find various reports in circulation respecting the persons who will be selected to make up Gen'l Harrison's Cabinet. That which assigns to Mr. Webster the Department of State seems so generally credited that I presume that it may be regarded as well founded. His qualifications for that high office can not be questioned, and no doubt he has made up his mind to accept it. But I am by no means sure that he will thereby promote the ulterior object at which he is supposed to aim. The theatre in which he is now placed seems to me a far more favorable one for the display of his great talents and keeping himself before the notice of his admiring countrymen. Whether as Senator or as Secretary of State he will be certain to encounter obloquy and malignant criticism, but on the floor of the Senate he will have a far better opportunity of vindicating himself and gaining fresh triumphs over his enemies.¹

Gaston's career was now drawing to its close. On the morning of January 23, 1844, while sitting with his associates on the bench hearing arguments, he was stricken with apoplexy. It appeared to be but a slight stroke and caused but little anxiety among his family and friends. That same evening a group of friends, including the Governor and the Chief Justice, paid him a visit. They found him in a bright and cheerful mood and as usual in such gatherings the life of the party. To Chief Justice Ruffin, who suggested the application of fresh mustard plasters, Gaston said: "'Tis astonishing, Ruffin, with how much fortitude you bear *my* troubles."² A moment later he had his visitors shaking with laughter at his account of a convivial party he had once attended in Washington. As he was speaking he recalled that he had there met a man who boasted that he was a free-thinker in religion. Instantly his mood became serious. Describing the scene that followed, Governor Morehead wrote:

¹To Donaldson, Raleigh, Jan. 24, 1841.

²Eliza L. Taylor to Susan Gaston Donaldson.

The Judge then observed that a man might be honest who did not believe in a future accountability, but that he would not like to trust such an one, for, continued he, the man who does not believe in a God and that he is Almighty is not worthy to be trusted—raise me up, . . . said he. Immediately we raised him up, . . . and a convulsive shiver seemed to pass over his whole frame. He lay down again and immediately requested to be raised again. . . . Another of these convulsive shivers came over him,—we laid him back and he was dead without a struggle, I think not exceeding five, or it might have been ten minutes from the time he told us of this dinner.¹

He was buried at New Bern. Over his grave is a plain, massive block of marble, on which is carved one word—GASTON. Standing by this simple monument, Edward Everett said: "This marble, so polished, is a fit emblem of the great man whose dust it covers."²

¹To Robert Donaldson, Raleigh, Jan. 23, 1844.

²John H. Wheeler, *Reminiscences*, 139.

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