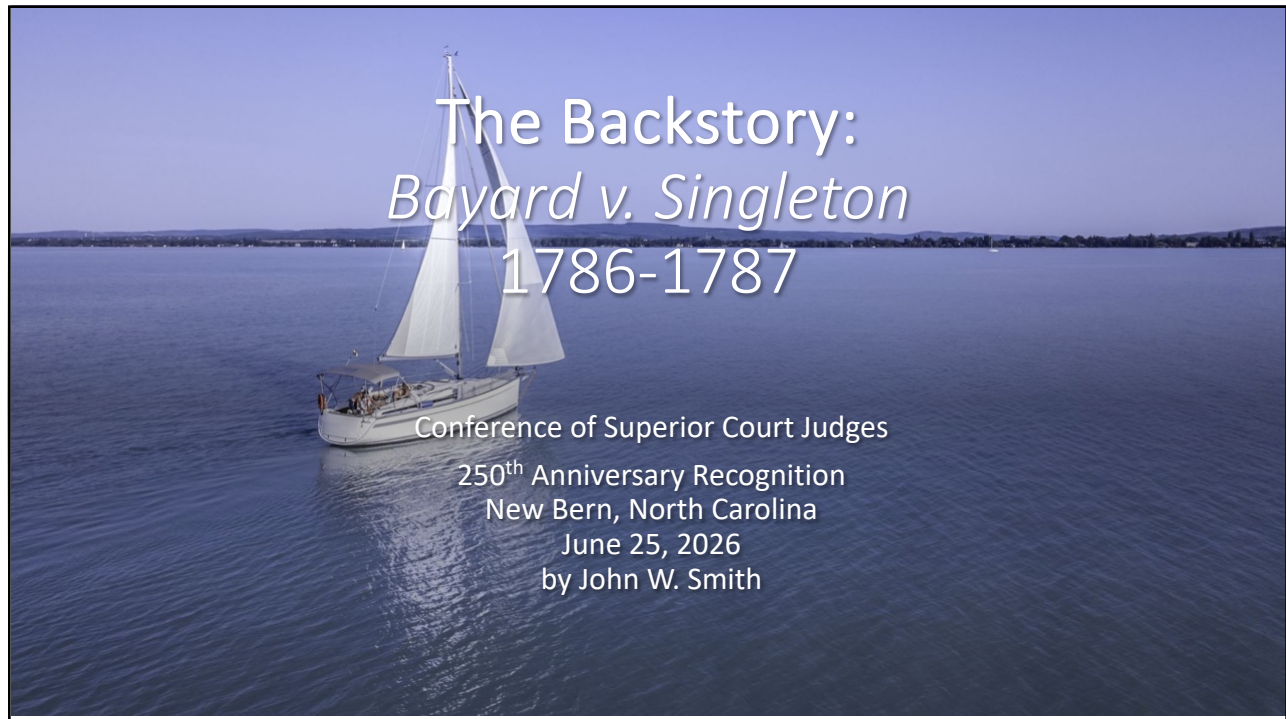




1

Samuel Cornell

1730-1781

- Came from N.Y. around 1754
- Wealthiest man in Colonial North Carolina, supporter of Tryon
- Case arose from his role as a Loyalist and conveyances of property he made to his daughter Elizabeth Cornell Bayard
- Online Portrait from Tryon Palace (The family genealogy contains similar drawing with a reference to this portrait in NC archives)

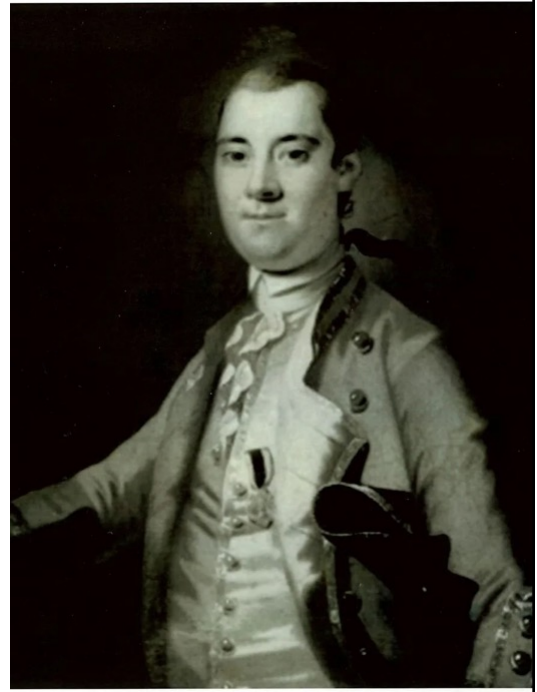


2

William Tryon

Royal Governor 1765-1771

- Came to N.C. from New York as Royal Governor in October 1764
- Portrait painted in New York in 1767 by John Wollaston. This oil portrait is marked on the back: "Govr. Wm. Tryon of No. Carolina-J. Wollaston, Pinxt. New York-Anno D. 1767."



3

Josiah Martin

Last Royal Governor 1771-1775

-
- Resided in Tryon Palace until he fled to the Lower Cape Fear in 1775 on the eve of Revolution
 - Returned to New York
 - As the Revolution unfolded, Tryon, Martin, and Samuel Cornell were all in British-occupied New York



4

Richard Caswell 1729-1789

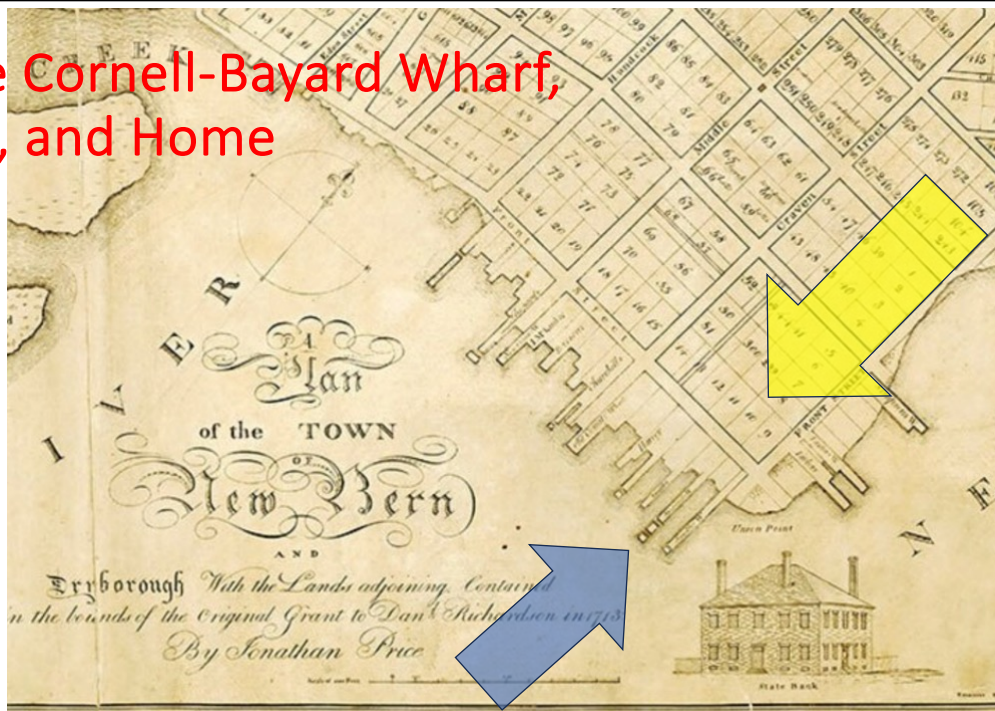
1st Gov. after Independence

- From Kinston area, admitted to the Bar in 1759.
- Supported Tryon in the War of the Regulation
- Fought at Battle of Moores Creek Bridge
- Became NC Governor Dec. 1776, and served through 1779. Reelected 1785-87
- Close friend of Samuel Johnston
- Portrait from N.C. Archives

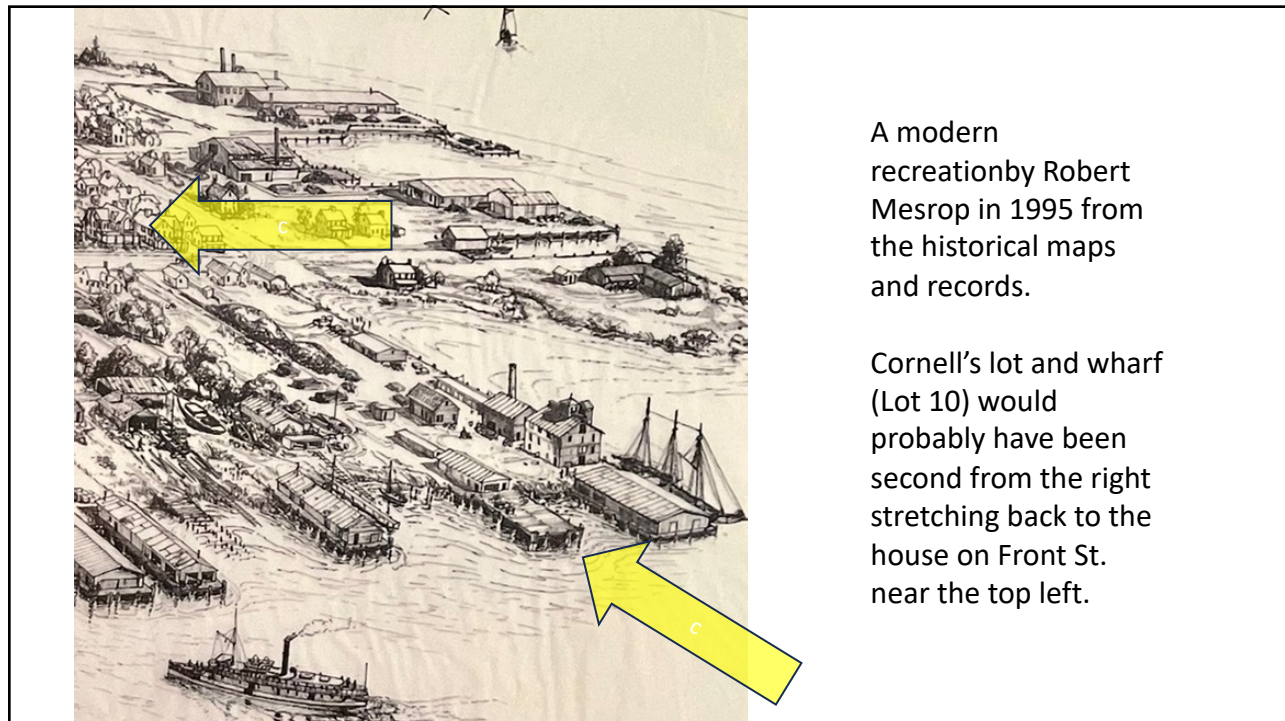


5

The Cornell-Bayard Wharf, Lot, and Home



6



7

Confiscation Laws

Continental Congress recommended to states seizure of Loyalist property

Archibald Maclaine named to study and report to legislature

First act, contained right to jury trial

Second act, named Cornell, right to jury trial

Third act, named Cornell, right to jury trial

Fourth Act, cut off right to jury trial, ordered dismissal of cases

8

Cornell arrives in New Bern Aboard the *Edwards*, Dec. 4, 1777

- A Brigantine similar to the *Edwards*, the one on which Samuel Cornell arrived in New Bern under a flag of truce during the Revolution.

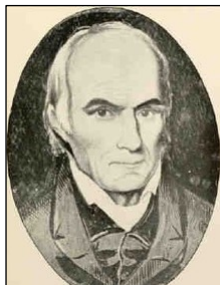


9

What to do with a Loyalist in port?

Governor Richard Caswell

Speaker of the Senate
Samuel Ashe



Speaker of the House
Abner Nash



10

The 1777 transaction that begins the story

November 15:	Legislature convenes
December 4:	Cornell arrives, sends letter to Governor Caswell
December 5:	Legislature debates what to do about Cornell
December 11:	The deed of Dec. 19 is backdated to this date
December 13:	Legislature refers decision back to Gov. Caswell
December 15:	Cornell permitted to land, inventory property
December 18:	Inventory presented to Governor
December 19:	Cornell executes deed to Elizabeth & lease to Singleton
December 20:	Exchange of letters about Date of Departure
December 23:	Legislature passes forfeiture act
December 24:	Legislature adjourns
December 26:	Letter to governor concerning property of Mary Edwards
December 28:	Date set for departure of the <i>Edwards</i>

11

Seven Years Pass

- 1777 Cornell and Family Leave for NY
- 1779 Singleton unsuccessfully litigates to preserve Cornell/Bayard rights
- 1781 Battle of Yorktown
- 1782 Singleton purchases Cornell property at confiscation sale
- 1783 **Treaty of Paris:** Negotiations affect rights of former Loyalists
- 1784 Multiple cases Filed on behalf of Elizabeth Bayard and her sisters
by Samuel Johnston

12



13

Elizabeth Cornell Bayard 1763-1854

- She was 14 or 15 when she acquired title in December 1777
- She was 23 or 24 when suit was filed.
- Portrait painted in 1793 at age 30 or 31 by Gilbert Stuart (private collection)
- The family cemetery is preserved in the heart of the NY financial district.



Fig. 71. Elizabeth Cornell Bayard, 1793-94. Oil on

14

William Bayard

1761-1826

- Married Elizabeth Cornell in New York October 4, 1783.
- Came from very successful family of financiers.
- It was to his home in New York that Alexander Hamilton was taken and died after the duel with Aaron Burr.
- 1794 Portrait by Gilbert Stuart
Princeton University Art Museum



15

Spyers Singleton

Circa 1745-Circa 1814



- Neighbor and fellow merchant of Cornell
- Former Justice of the Peace and Legislator.
- Paid substantial sum for three-year lease.
- Unsuccessfully defended the Title of Elizabeth against forfeiture with jury trial.
- Paid substantial sum to commissioner of confiscated property for Deed to land.

16

The Legal Teams of Record

FOR THE PLAINTIFFS ELIZABETH CORNELL BAYARD & WILLIAM BAYARD

- **Samuel Johnston**
- **William Richardson Davie**
- James Iredell?

FOR THE DEFENDANT SPYERS SINGLETON

- **Abner Nash** (died 12/2/1786)
- **Alfred Moore** (Attorney General)

17

Samuel Johnston of Edenton 1733-1816

- Hayes Plantation near Edenton
- Attended Yale, served in the colonial assembly, sponsored legislation against the Regulators, served in Provincial Congress, U.S. Constitutional Convention, Continental Congress, US Senator.
- Photograph of the miniature portrait of Samuel Johnston by Charles Willson Peale. Image from the North Carolina Museum of History
- He was 52 years old when our case was first heard



18

Our case is reported and cited in Clark's edition of
The North Carolina Reports as 1 N.C. 5.
The designation and format of the case name
is set out exactly as follows:

DEN ON THE DEM. OF BAYARD AND WIFE v. SINGLETON

19

1784 (Johnston's Complaint, Docket)

John DEN, *on the demise of* BAYARD & WIFE , vs. Richard FEN

1786 (New Bern Docket)

DEN, *on the demise of* BAYARD & WIFE , vs. FEN, SPYERS SINGLETON

1796 (1 Martin 45)

DEN, *on the demise of* BAYARD & WIFE , vs. SINGLETON

1896 (Battle-Clark)

DEN ON THE DEM. OF BAYARD AND WIFE v. SINGLETON

20

William Richardson Davie of Halifax June 20, 1756-Nov. 29, 1820

- Portrait by Charles Willson Peale.
- “Father of the University of North Carolina”
- Attended College of N.J (Princeton)
- Licensed to practice law in 1780.
- Represented Town of Halifax in the General Assembly
- He would have been 29 years old when he made his arguments in our case.



21

James Iredell of Edenton 1751-1799

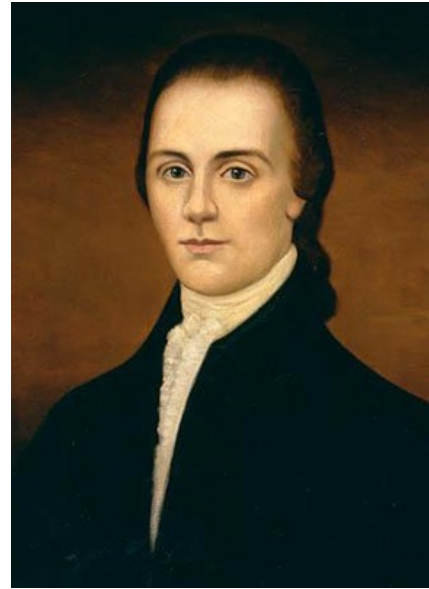
- His role in the case is unclear
- Son-in-law of Samuel Johnston, studied law under him.
- One of the original three judges elected by legislature upon adoption of state constitution of 1776 but resigned in 1778 after one circuit.
- Had represented Spyers Singleton.
- Preceded Moore as attorney general and as Justice of the US Supreme Court
- He was 34 years old when our case was first heard



22

Abner Nash of Halifax and New Bern 1740—Dec. 4, 1786

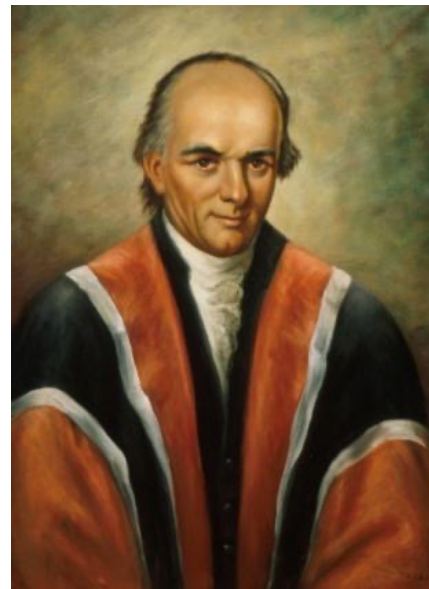
- Licensed in Va., moved to New Bern
- Second state governor (1780-81)
- Long-time member of the Continental Congress, first speaker of state Provincial Congress.
- Represented Singleton in his earlier lawsuit seeking to defend Bayard title.
- He was 45 years old when arguments were made in May 1786. He Died while serving in Continental Congress meeting in N.Y. in December of that year (1786).



23

Alfred Moore of Brunswick and Wilmington 1755-1810

- Followed Iredell as attorney general.
- Served as Attorney General during trial.
- Would probably have taken over defense after the death of lead counsel Abner Nash in N.Y. on Dec. 2, 1786.
- Notation of his independent position in companion case.
- He was 30 years old when arguments were made in our case. He was 31 when the court ruled the act unconstitutional. He was 32 when the jury decided in favor of Singleton.
- Followed Iredell to the U.S. Supreme Court (portrait), on the court when Chief Justice John Marshall announced *Marbury vs. Madison* decision.



24

A Note About the Court System

- Three Judges of the “Supreme Court of Law and Equity,” Superior Court
- Seven Court sites:
 - Edenton
 - Halifax
 - Hillsboro
 - New Bern: District consisting of:
 - Craven
 - Jones
 - Hyde
 - Pitt
 - Johnston
 - Wayne,
 - Dobbs (Lenoir & Greene)
 - Beaufort,
 - Carteret
 - Salisbury
 - Wilmington,
 - Morganton was added in 1782 and Fayetteville in 1787.

25

A Note About the Court System of 1776

- The three judges comprised the Superior Court, also known as the “Supreme Court of Law and Equity”
 - Sessions usually scheduled twice a year per district. New Bern sessions were in May and November.
 - Sat together, issued opinions separately, no chief justice.
 - One judge often opened session but two required to conduct court. All three usually presided. Decisions were final with no appeals.
 - Elected by the legislature and served for life under good behavior.
 - Samuel Ashe, James Iredell, Samuel Spencer: our first judges
- County Courts continued to exist, presided over by Justices of the Peace elected by the general assembly
 - Evolved after independence from royal system, responsibilities similar to a combination of our district courts, small claims courts, and county commissioners.

26

The Judges

1776

- Samuel Ashe
- Samuel Spencer
- James Iredell

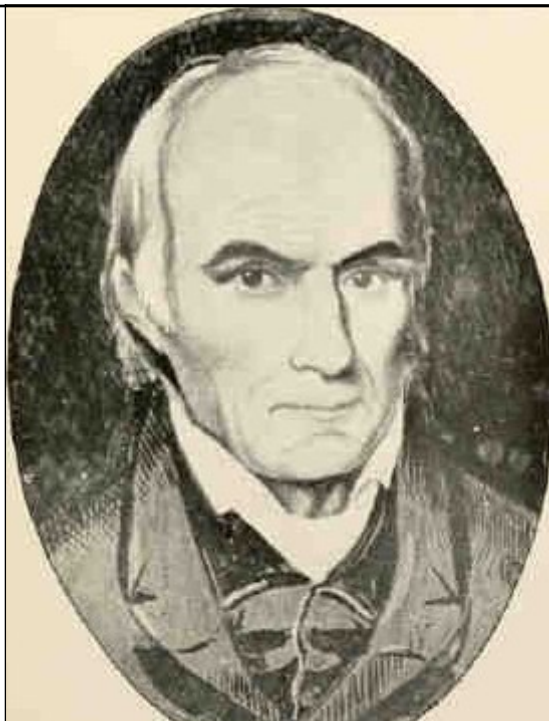
1779

- Samuel Ashe
- Samuel Spencer
- John Williams

27

Samuel Ashe
of Cape Fear
1725-1813

- From Rocky Point in New Hanover Co. (Now Pender)
- Served in the Colonial Assembly, Provincial Congress,
- One of the original three Judges
- Asheville, Ashe County, Asheboro, and Ashton are all named for him.
- He was 76 years old when our case was first heard



28

Samuel Spencer of Anson Co. 1734-1793

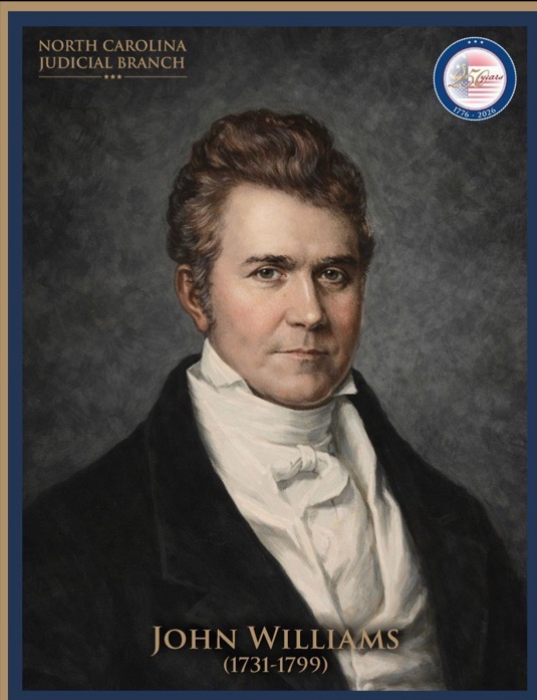


- No known image exists.
- One of the three original judges under our state constitution
- Resided near Wadesboro in Anson County
- Military Service: He served as a colonel of the Anson County militia during the early years of the American Revolution.
- A leader of the Anti-Federalists, he argued strongly against the ratification of the U.S. Constitution at the Hillsborough Convention (1788) because it lacked a Bill of Rights.
- He was 51 years old when our case was first argued.

29

John Williams of Granville (Vance) 1731-1799

- Resided in Williamsboro in Granville Co. (now Vance), had a practice in Hillsborough
- Was attacked and beaten by the Regulators in Hillsborough
- Friend of Daniel Boone
- Followed Iredell upon Iredell's resignation from the court after one circuit
- Signer of Articles of Confederation
- He was 55 years old when our case was first argued



30

Attempt to IMPEACH the three judges: December 1786, Meeting in Fayetteville

Unlikely Allies: in the General Assembly

- William Richardson Davie (House, Town of Halifax)
- Archibald Maclaine (House, Town of Wilmington)
- Richard Dobbs Spaight (House, Craven)
- John Hay (House, Cumberland)
- Abner Nash (House, Jones, until elected to Continental Congress in 1786, died in N.Y. Nov. 4, 1786)

31

Alfred Moore's Ambiguous Position

- Letter to Iredell of December 14, 1786: "Mr. Spencer and Mr. Williams will set off with me tomorrow for Fayette. The Assembly have resolved that I shall attend them, but do not say for what purpose."
- The notation at the session for Tuesday, May 29, 1787, under Hannah Cornell vs. Edward Linker reads: ... *"Mr. Atty Gen. [Alfred Moore] by permission of the court withdraws his plea and the cause now stand as under the motion of May Term 1786."*

32

Net Result of Impeachment Attempt

- Case was first heard May 1786: Taken under advisement
- Grand Jury Presentment quashed by the court at May session
- November 1786: case continued
- December 1786: Joint Committee appointed (Impeachment)
- January 1787: General Assembly found no wrongdoing on sharply divided vote, expresses thanks to judges for their service
- May 1787: further arguments, motion to dismiss denied, statute unconstitutional
- November 1787: Jury trial, “not guilty” verdict for Singleton.

33

TIMELINE OF EVENTS IN BAYARD V SINGLETON

- **1777 Cornell conveys property to Elizabeth Cornell Bayard, Lease to Singleton**
- 1779 Singleton unsuccessfully litigates to preserve Cornell/Bayard rights
- 1781 Battle of Yorktown
- **1782 Singleton purchases Cornell property at confiscation sale**
- 1783 Treaty of Paris
- **1784 Cases Filed** on behalf of Elizabeth Bayard, et al, by Samuel Johnston
- **1786 May: Motion to Dismiss**, Judges take under advisement, **Davie Presentment**
- 1786 December: Attempt to **Impeach Judges**
- **1787 May: Statute ruled unconstitutional**, ruling for Bayard by Judges
- **1787 December: Jury Trial:** ruling for Singleton by Jury

34

Samuel Ashe responds to threat of impeachment

Wilmington, Dec. 14th, 1786....

***"If my opinion of our Constitution is an error I fear it is an incurable one,
for I had the honor to assist in the forming of it and confess I so designed it."***

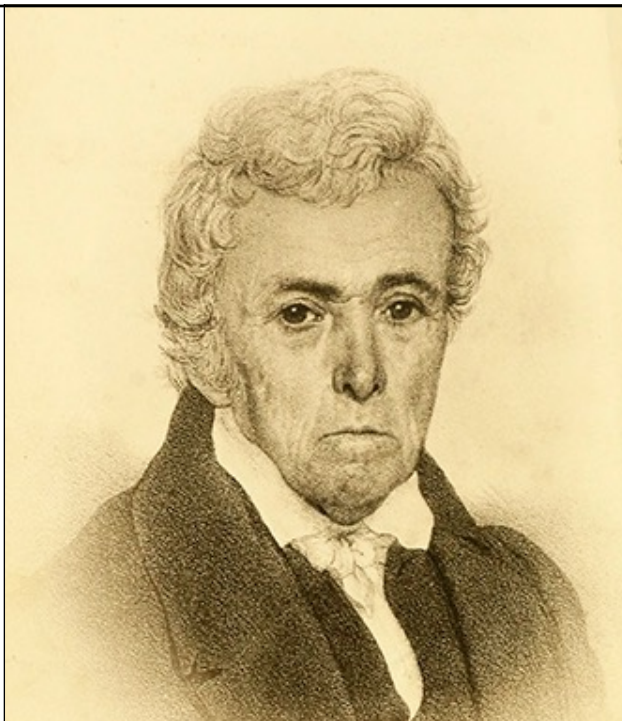
Judge Samuel Ashe

In his letter to the General Assembly upon being summoned by the joint legislative committee for not complying with an Act of the General Assembly in *Bayard v Singleton*. He declined attending. He was 61 years old at the time.

35

Francois Xavier Martin
aka
Francis Xavier Martin
1762-1846

- Frenchman from Martinique.
- New Bern Printer and Publisher.
- Studied law under Abner Nash, licensed 1789.
- 1809: Appointed by President Madison as Superior court Judge of the Mississippi/Orleans Territory, part of the Louisiana Purchase.
- Longest serving justice of the Supreme Court of Louisiana, "Father of Louisiana Jurisprudence"
- Compiled Bayard from various sources a decade after the case was tried (including from contemporary newspaper articles he published.
- *Bayard v Singleton* Published in 1 Martin 45



36

A Few Historical Documents From State Archives (Dept. of Natural & Cultural Resources)

37

Letter from Samuel Cornell
written from the Brigantine
Edwards to Governor Richard
Caswell December 4, 1777,
Claiming "Flag of Truce".

Original in North Carolina
State Archives

Sir

On Board the Brig. *Edwards*
Decr. 4. 1777

We beg leave to acquaint your Excellency
with our arrival in this port, from New York, in the
Brigantine *Edwards*, in consequence of a Flag of Truce
Obtained from Lieut. General Sir Henry Clinton,
& Commodore Fleetham, in order to settle our
private Affairs in this State, and we wait your
Excellency's permission to come on shore.

We have the Honor to be, with the greatest respect
Sir Your Excellency's
Most Obedt. & most humble Serv.
Sam. Cornell
Governor Caswell.

38

To Mr Spyer Singleton

I am informed that you are in possession of or claim title to the Premises mentioned in this Declaration of Ejectment or to some part thereof and being sued in this Action as a Casual Ejector and having no claim or title to the same do advise you to appear the first day of the next Superior Court to be held at Newbern for the District of Newbern by some Attorney of that Court and then and there by a rule to be made of the same Court to cause yourself to be made Defendant in my stead otherwise I shall suffer judgment to be entered against me and you will be turned out of possession

Your loving friend
Richard Fen

Notice sent by Samuel Johnston to Singleton of case filing

39

Docket of New Actions, November Term 1784

S. I.	Dem on demise of Bayard & Wife	Executed	John Wright Stanley made Defend. enters into the common rule and pleads not guilty
52.	25	Ejectm.	
Ans.	For John W Stanley. tent.		
S. I.	Dem on demise of Bayard & Wife	Executed	Spyer Singleton made Defendant enters into the common rule and pleads not guilty
53.	25	Ejectm.	
Ans.	For Spyer Singleton Tent.		
S. I.	Dem on demise of Mary Edwards	Executed	Jacob Cooke made Defendant enters into the common rule and pleads Not guilty &c.
54.	25	Eject.	
Ans.	For Jacob Cooke Tent.		

Elizabeth's sister

40

Trial Docket,
November
1785

S. 7 M.D.	Don on demise of Bayard & wife			
94.	By	Just	Common rule and not guilty	Cont.
An.	John Wright Stanley	"		
S. 7 M.D.	Don on demise of Bayard & wife			
95.	By	Just	Common rule & not guilty	Cont.
An.	Spayer Singleton	"		
S. 7 M.D.	Don on demise of Sarah Cornell			
96.	By	Just	Common rule and not guilty	Cont.
An.	John Wright Stanley	"		

41

Trial Docket,
May Term
1786

Trial Docket to May term 1786				
S. 7 M.D.	Don on demise of Bayard & wife	Just	Common rule and not guilty	
95.	By			
An.	John Wright Stanley	Nov. 21		
S. 7 M.D.	Don on demise of Bayard & wife	Just	Common rule and not guilty plea in abatement dis	
96.	By			
An.	Spayer Singleton	"		
S. 7 M.D.	Don on demise of Sarah Cornell	Just	Common rule & not guilty plea in abatement dis	
97.	By			
An.	John Wright Stanley	"		
S. 7 M.D.	Don on demise of Mary Edwards	Just	Common rule and not guilty	
98.	By			
An.	Jacob Brooke	"		
S. 7 M.D.	Don on demise of Henry Chads wife	Just	Common rule and not guilty plea in abatement dis	
99.	By			
An.	Peter Honsion	"		
S. 7 M.D.	Don on demise of Henry Chads wife	Just	Common rule and not guilty plea in abatement dis	
100.	By			
An.	Thos. & Silas Ogden	"		

Elizabeth Cornell Bayard

Sarah Cornell

Mary Cornell Edwards

Susannah Cornell Chads

Hannah Cornell, not on this page

42

Docket Entries for Saturday, May 27, 1786

Saturday May 27th 1786. The Court met pursuant to Adjournment.
Present The Honble { Samuel Ashe } Esquires
{ Saml. Spencer }
{ John Williams }
William Bayard
Wife. { Motion of Thursday last by Arkath Esq. Deft.
Spyers Singleton { Attorney renewed.
The Court take time to consider of y.^e same.
The Court adjourned till 10 O'clock Monday Morn^g.

43

Davie Request to Take Depositions May 29, 1786

May 29th 1786
Writ Facias issue together with a writ of
Habeas Corpus directed to the said Sheriff
to Cause the property of the Defend^t. to be
Sold to Satisfy the Plaintiff his Debt & Costs
conformable to the tenor of the Judgement.
On affidavit and motion of Wm. Davie Esq. for a
Commis^s. to issue to New York to take testimony
in behalf of the Plt.

44

Presentment by Grand Jury
against
William Richardson Davie
May 1786

Page 1

*State of North Carolina Newbern District, Superior
Court of Law and Equity, May term 1786.*

*The Grand Jury, present and say that on Saturday
the 27th day of May 1786 William R. Davie Esquire
attorney at law in the County of his pleading said
in open Court (into the Judges and the Attorney
General present) report and say the Act of Assem-
bly intituled "An Act to secure and quiet in their
Possessions all such Persons their Heirs and Offspring
who have purchased or hereafter purchase lands
and Townships, Woods and Waters, which have
been sold or may hereafter be sold by Commission-
ers of forfeited Estates, legally appointed for that purpose
which was then produced in Court, was in every
respect unjust and capricious, against the
Constitution, that they said Act was the arbitary
act of a leading party, or faction of the Assem-
bly, that altho' it was passed by the Assembly
they said Act was null and void, and was not
law and ought not to be obeyed by the
People, or made fully to those purposes, that
in Consideration the Openly, and Commission-
ers of Confiscation or sale, and that they have
violently and unjustly seized the property*

45

Presentment by Grand Jury
against
William Richardson Davie
May 1786

Page 2

*of the People, with many other Opinions, &c.
saying that the Commission-ers were traitors of
the Assembly, as we conceive, highly criminal
and in the Nature thereof Treason, subversive
and dangerous to the peace and good government
of this State.*

*Presented appeared before the Grand Jury and
sworn to the facts herein contained. Upon which the
Grand Jury doth and doth not find the said
Persons Brown James Brown & Oliver (Males)
and Blackbarn good &c.*

*1. The Duty — January 1787 James Brown
2. David Johnson — 1787 Tho. Barclay Esq.
3. W. Thompson —
4. James Brown —
5. J. P. Whitman —
6. J. P. Moore —
7. W. Thompson —
8. R. H. H. —
9. Abram Brown —
10. James Parker —
11. James Brown —
12. Robert Ginn —
13. Thos. Haell —
14. Nathan Brown —
15. Nathaniel Hester —
16. Wm. Brooks —*

46

Docket Entries against Davie (May 31, 1786)



State
Vs. Present.
Wm. R. Davie

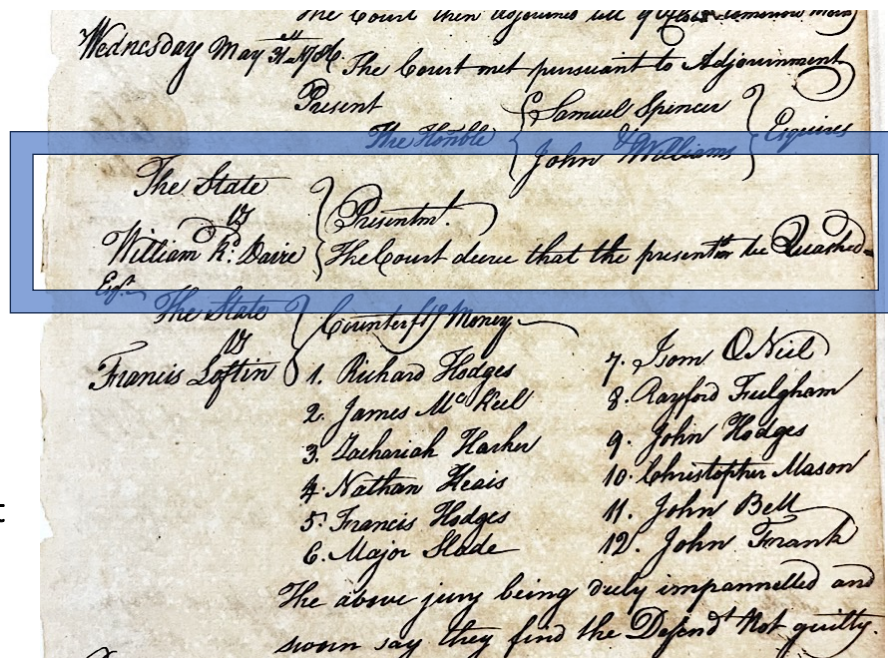
Return
May term 1786

47

Docket Entries (May 31, 1786)

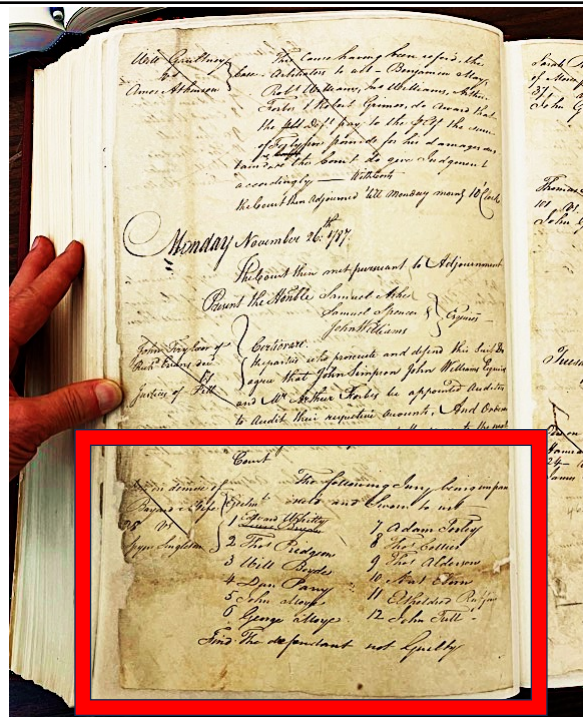
The State
vs
William R. Davie

"Presentment"
"The Court decree
that the presentment
be Quashed."



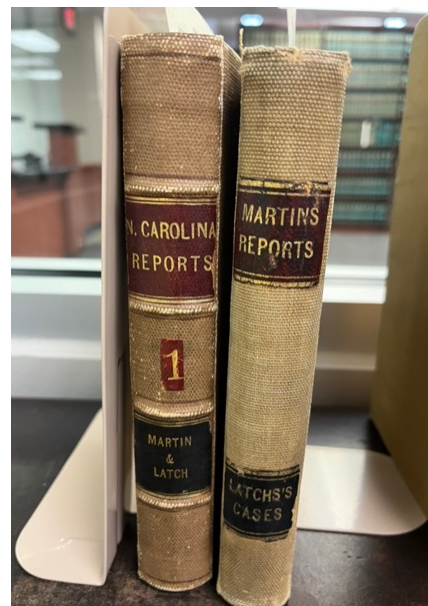
48

The Case Goes to the Jury November 26, 1787



49

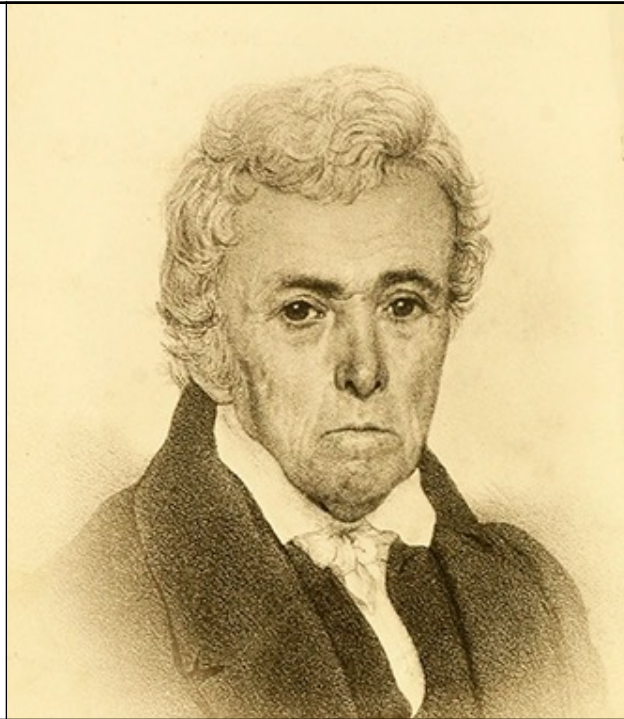
Francois Xavier Martin & His 1798 Reports



50

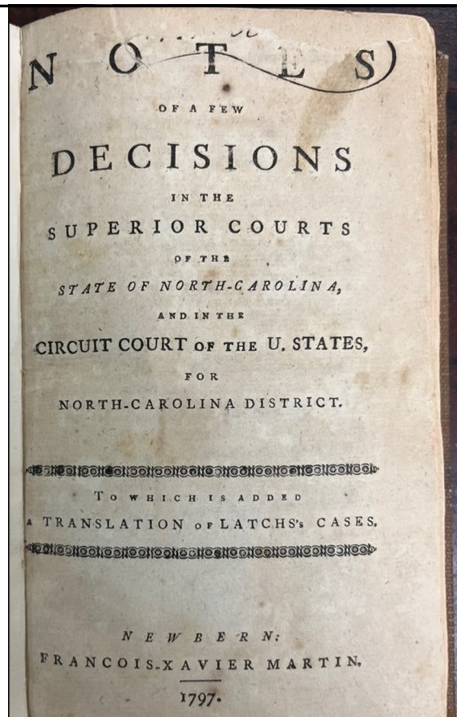
Francois Xavier Martin
aka
Francis Xavier Martin
1762-1846

- Frenchman from Martinique.
- New Bern Printer and Publisher.
- Studied Law under Abner Nash, Licensed 1789.
- Compiled Bayard from various sources a decade after the case was tried
 - Letter of Samuel Ashe to legislature.
 - contemporary newspaper articles he published while case was being tried.
 - Possible documents now lost he took with him to Louisiana.
- *Bayard v Singleton* Published in 1 Martin 45



51

Title Page of
1 Martin (1797)



52

THE publisher of these sheets, who is preparing a *Collection of Cases, determined in the Superior Courts of Law and Courts of Equity of North-Carolina*, has been induced to believe that the appearance of the following cases at an early period, would be agreeable to the gentlemen of the bar.

They were printed off as they came to his hands; chronological order has not therefore been attended to.

Martin's Introduction

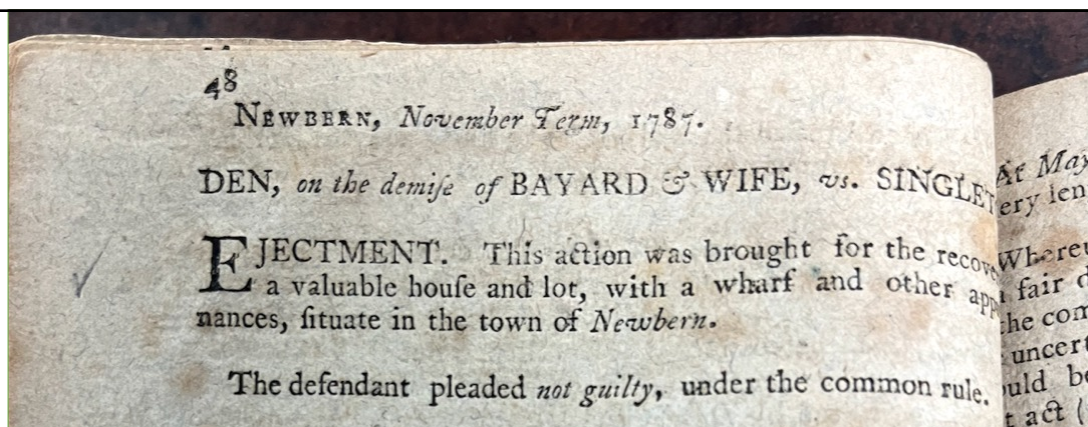
53

The publisher intends putting in the press, *the Collection of Cases, &c.* mentioned above, in a short time. Such gentlemen, as are in possession of adjudged cases accurately reported, and who have an inclination to favour him with them, are desired to communicate their intentions by post, or otherwise, and means will be taken to procure proper persons to transcribe them.

Newbern, July 15th, 1797.

Martin's Introduction

54



Martin's Reports, 1797 Vol.1, First Edition, Page 48

55

Subsequent Editors of the Reports



William Horn Battle
1843



Walter Clark
1901 (& 1937)

56