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CAUTIOUS REBELLION: SOUTH CAROLINA'S OPPOSITION TO THE STAMP ACT

MAURICE A. CROUSE *

South Carolinians were determined to resist the British policies introduced after 1763, but they chose cautious rather than daring means of opposition. In the years before 1770, the province generally followed where others, particularly Massachusetts and Virginia, led. Even in the "Wilkes Fund" controversy, which South Carolina originated, the opposition was essentially conservative, emphasizing the "time-honored" prerogatives of the Commons House and defending them against the "innovations" of government by royal instruction.¹ The pattern for this caution was firmly established by the maneuvering in the first major confrontation, the Stamp Act crisis, in which the province was able not only to thwart the execution of the Stamp Act, but also to do it without defying the act, and even by using the act against itself.

South Carolina's Assembly was the first to respond favorably to the call by Massachusetts for an inter-colonial congress, choosing as its delegates Christopher Gadsden, Thomas Lynch, and John Rutledge, men who in earlier disputes had taken strong stands for the rights of colonists in opposition to British policies, and who proved to be highly influential in the proceedings of the Stamp Act Congress.² The people of Charleston, for their part, responded to the Stamp Act by staging a street demonstration on October 19, 1765, which culminated in the stoning and ransacking of the house of a man who was rumored to have some connection with the stamps. The disturbances persuaded both George Saxby and Caleb Lloyd, respectively the Inspector and the Distributor of Stamp Duties, to renounce their positions, and prompted Lieutenant Governor William Bull to post a conciliatory notice that the stamps were nowhere in town but would be stored at Fort Johnson until such time as it might be necessary to remove them. To show their pleasure at these developments,

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¹ See Jack P. Greene, "Bridge to Revolution: The Wilkes Fund Controversy in South Carolina, 1769-1775," *Journal of Southern History*, XXIX (1963), 19-52.

² A. S. Salley, ed., *Journal of the Commons House of Assembly of South Carolina, January 8, 1765-August 9, 1765* (Columbia, S. C., 1949), 141, 150, 158; George Bancroft, *History of the United States of America, From the Discovery of the Continent* (New York, 1886), III, 120-121, 149-156; Edmund S. and Helen Morgan, *The Stamp Act Crisis: Prologue to Revolution* (Chapel Hill, N. C., 1953), 102-113; *Proceedings of the Congress at New-York* (Annapolis, Md., 1766), *passim*.

the people of Charleston had a general celebration on the afternoon of October 28, complete with bells, drums, oboes, shouts, firing of cannon, and other noises, and "refreshment" at Dillon's Tavern.³

The newly elected General Assembly met during the excitement of the celebration, and after falling far short of a quorum on the 28th (there were only seven members in attendance), the Commons House proceeded the next day to organize itself and to elect Peter Manigault as its Speaker. Although the journals are not specific on this point, it appears that the Commons House turned to Manigault for leadership because the previous Speaker, Rawlins Lowndes, was not willing at that time to advocate strong resistance to the Stamp Act. It was virtually unheard of to refuse a Speaker re-election to the office. The Commons House must have had a real grievance against Lowndes. In the light of later events, it is clear that his opinions did not coincide with those of the majority. At the time of the elections of March 1769 he launched, under the pen-name of "Friendless," a sardonic attack on "Peter Pounce" for having taken advantage of the situation to displace him: "Perhaps some lucky hit, some happy occasion, similar to the *Stamp-Act*, may present itself, and give me an opportunity of ingratiating myself again into your good graces, and wiping away the foul reproach my then conduct brought upon me." Since the Commons House was bent on opposition to the Stamp Act, Lowndes' great offense probably was that he urged submission to the act.⁴

³ The demonstrations are described in Edward McCrady, *The History of South Carolina under the Royal Government, 1719-1776* (New York, 1899), 546-572; *South-Carolina Gazette*, October 31, 1765; and William Bull to Board of Trade, November 3, 1765, in W. Noel Sainsbury, comp., *Records in the British Public Record Office Relating to South Carolina, 1663-1782* (transcripts in South Carolina Department of Archives and History, Columbia, S. C.), XXX, 281-289. The accounts are somewhat contradictory as to the sequence and dates of events.

⁴ S. C., Commons House Journal, October 28-31, 1765, XXXVII, Part One, 3-10. (All references to Commons House and Council journals are to the fair-copy journals in the South Carolina Department of Archives and History.) *South-Carolina Gazette*; and *Country Journal*, March 23, 1769. The identification of "Friendless" with Lowndes and "Peter Pounce" with Manigault is made in Richard J. Hooker, ed., *The Carolina Backcountry on the Eve of the Revolution: The Journal and Other Writings of Charles Woodmason, Anglican Itinerant* (Chapel Hill, N. C., 1953), 268-269. Lowndes eventually redeemed himself with the patriotic party, becoming Assistant Judge in 1766, Speaker of the Commons House once more in 1772 upon the resignation of Manigault, and President (Governor) of the state in 1778. But he was always conservative by nature. As late as 1775, when many patriots had already passed far beyond that position, he made a speech before the Commons House upholding the general supremacy of Parliament, although denying its power to tax the colonies. *Dictionary of American Biography*, s. v. "Lowndes, Rawlins"; McCrady, *S. C. under Royal Govt.*, 789. In his "Liberty and Property, and No

Little was done at the October session. Using the excuse that time was needed to hold special elections to fill a large number of vacant seats, but actually to allow time for the return of the three delegates to the Stamp Act Congress, the Assembly adjourned to November 25. At the November session Gadsden read the texts of the several documents which had been adopted in New York, and the Commons House adopted its own set of resolutions protesting the illegality of taxation by a Parliament in which Americans were not represented, and listing other grievances as well. Most were very similar to those passed by the Stamp Act Congress, but several were modeled after those passed by Pennsylvania and Massachusetts, and there were two original resolutions. After ordering the publication of the resolutions, the Commons House requested and received permission to adjourn to January 7, 1766.⁵

Meanwhile, the Stamp Act had gone into effect. Lieutenant Governor Bull wrote the Board of Trade in mid-December, "The Courts of Common Law, Admiralty and Ecclesiastical Jurisdiction are all silent, no Grants of Land are passed, all the ships remain in the Harbours as under an Embargo, every transaction requiring Stamps is at a stand."⁶ But the stillness was deceptive. Behind it were attempts to shunt aside the Stamp Act and to ignore its literal requirements.

When the Assembly reconvened in January, the Commons House conducted a dispute with Bull as to whether the Stamp Act itself had ever been officially received in South Carolina. Because no one could recall seeing an authenticated copy of the act, it occurred to someone that there might be a technical excuse for ignoring it. The controversy ended with Bull's assuring the Commons House that he and the Council were convinced of the authenticity of the act and of the duty of the province to obey it. But Bull left an opening for the opponents of the act by promising that he would not cause distress to the province

Stamps: South Carolina and the Stamp Act Crisis" (unpublished Ph.D. dissertation, Western Reserve University, 1966), Robert M. Weir covers much the same ground as this article and arrives at similar conclusions on most points. However, Weir attaches no special significance to the failure of the Commons House to reelect Lowndes as Speaker. I agree that the available evidence does not allow positive conclusions, but I believe that the theory of a *coup* is more consistent with the total evidence.

⁵ S. C., Commons House Journal, October 31, November 26, 28, 29, 1765, XXXVII, Part One, 12-25, 31-32. For the texts of the various documents, see Edmund S. Morgan, ed., *Prologue to Revolution: Sources and Documents of the Stamp Act Crisis, 1764-1766* (Chapel Hill, N. C., 1959), 51-52, 56-59, 62-63.

⁶ Sainsbury Transcripts, XXX, 299.

willingly, thereby indicating that he might be persuaded to yield to the demand for "business as usual."⁷

Bull had already furnished another opening by compromising his stand. In December he had allowed a ship carrying provisions for soldiers in East and West Florida, Bermuda, and New Providence, to clear the harbor without stamps. Several masters of vessels petitioned for relief so that their vessels too might sail, and a notary public added a deposition that the masters had been given a gigantic runaround by the Naval Officer, the Collector of Customs, and the Surveyor General of the Customs, and had received no satisfaction at all. Surveyor General Peter Randolph, it was asserted, had intended to open the port as he had done in Virginia and elsewhere, but Hector Berenger de Beaufain, the Collector of Customs, had argued against it. Caleb Lloyd had refused categorically to go back on his declaration of October 28 that he would have nothing to do with the stamps.⁸

Bull indicated a desire to comply with the wishes of the Commons House, which supported the ship-owners, but he felt that the law clearly bound him to enforce the Stamp Act and he felt obligated to follow the advice of his Council. The Commons House, however, demanded and got a letter which Bull had written to Randolph, telling of Bull's willingness to certify that no stamps were available and asking Randolph what he intended to do to relieve the province. It ordered all the documents printed and made public. The officials were finally compelled to make an agreement that vessels could sail after paying a fee that was equal to the cost of the stamps if they had been available.⁹

Having succeeded in opening the port of Charleston in defiance of the literal requirements of the Stamp Act, the patriots now turned their efforts to opening the courts of justice which had been completely inactive since the first of November. Chief Justice Charles Shinner had opened the Court of Common Pleas on November 12 as scheduled and had called a meeting of all practitioners of law and the Provost Marshal at Dillon's Tavern at six o'clock for the purpose of discussing informally

⁷ S. C. Commons House Journal, January 23-25, 28, 1766, XXXVII, Part One, 46-53.

⁸ Bull to Henry Seymour Conway, December 17, 1765, Sainsbury Transcripts, XXX, 277-278; S. C., Commons House Journal, February 1, 1766, XXXVII, Part One, 58-60. In opening the ports of Virginia, Randolph had had Governor Fauquier certify that stamps were not available, and Collectors also obtained waivers of damages from masters in case vessels were seized at their destinations for lack of proper clearances. Morgan, *Stamp Act Crisis*, 160.

⁹ S. C., Commons House Journal, February 3, 1766, XXXVII, Part One, 61, 65-66; Bull to Conway, February 6, 1766, Sainsbury Transcripts, XXXI, 22-25.

the Stamp Act and its effect on the legal system of the province. Ironically, Shinner did not have a copy of the act and had to ask Charles Pinckney to bring his copy. The act was read paragraph by paragraph, and according to Shinner, everyone agreed that it was binding and that no legal business could be transacted without stamped paper.¹⁰ In accordance with what he believed to be the consensus of all the lawyers, Shinner announced the next morning in court that since no stamped paper was to be had in the province, the court had no alternative to delaying its business. He adjourned to December 3, and by several more adjournments for the same reason, to March 3, 1776.¹¹

The effort to open the courts was coordinated with the Commons House's campaign to open the port. Shortly before noon on January 22, 1776, seven attorneys of Charleston—William Burrows, James Parsons, Charles Pinckney, Robert Williams, Jr., John Rutledge, Thomas Bee, and Joshua Ward—entered the office of Dougal Campbell, Clerk of Common Pleas, and demanded to know if he would issue process as usual. Surprised but not overawed, Campbell reminded them of their meeting at Dillon's in November. Rutledge and Williams objected that they had not been at the conference. Campbell replied wryly that he knew Rutledge had not been there, but at the congress in New York. Parsons then wanted to know if Campbell would affix the seal of the court to writs of execution if he were so directed by the Chief Justice. Campbell retorted that there would be time enough to think about it when the occasion arose. To supply an occasion, Williams then took out a forty-shilling note and demanded a writ. Campbell had none on hand to offer, and the group, seeing that it was accomplishing nothing, left to speak with Shinner directly.

Shinner was equally evasive with the attorneys. He refused to make any promises and suggested that the lawyers put their request in writing and present the petition in open court. After seeing them off, Shinner sent immediately to Bull, and asked him for a copy of the Stamp Act, which he still had not received. Bull told him ruefully that he, the Lieutenant Governor, had had to borrow a copy and needed it constantly for reference. Shinner was able finally to get a copy from George Saxby. Then, anticipating what might have been a tactic of the attorneys, he ordered Campbell to collect all the unissued writs and

¹⁰ Sainsbury Transcripts, XXXI, 88-89. The meeting at the tavern was completely unofficial; there is no note of it in the minutes of the court.

¹¹ S. C., Minutes of the Court of Common Pleas, 1763-1769, 173-175, in South Carolina Department of Archives and History.

secured a promise from Roger Pinckney, the Provost Marshal, not to honor any unstamped writs that might be presented to him.¹²

When the court opened on March 3, Shinner found himself confronted with three men who presented their commissions as Assistant Judges of the Court of General Sessions and the Court of Common Pleas. Rawlins Lowndes, Benjamin Smith, and Daniel Doyley had received their commissions from Bull on February 27, 28, and March 1, respectively, and had taken their oaths of office before a magistrate before coming to court. Shinner was dumbfounded. For almost five years he had sat alone on the bench, for Assistant Judge Robert Pringle rarely appeared. Since the commissions were authentic, he had to allow the new judges to take their seats, although it was obvious to him that they had been appointed to overrule him in his decision to keep the courts closed.¹³

Shinner's suspicions were well based. The next afternoon Thomas Bee, attorney for the plaintiff in the case of *Jordan v. Law*, an action for debt, moved for judgment, since the time for pleading had long since expired and the defendant had made no answer. John Rutledge, attorney for the defense, made no objection. Peter Manigault, who was assisting Bee in the case, then "spoke very fully in support of the Motion." Other members of the bar also argued for judgment in the case, including Charles Pinckney, James Parsons, and even Rutledge, who was nominally defending Law. They said that they were not concerned particularly for the plaintiff in the case, but they did have an interest in a number of similar cases, and they wanted action on them.¹⁴

¹² Sainsbury Transcripts, XXXI, 91-97. The lack of official notification of the Stamp Act was general throughout the American colonies. Morgan, *Stamp Act Crisis*, 100.

¹³ S. C., Minutes of the Court of Common Pleas, 1763-1769, 176; Sainsbury Transcripts, XXXI, 99. It is evident that Bull, a native South Carolinian, was sympathetic to his compatriots. There is no evidence of pressure being brought to bear on him to appoint more judges. Indeed, it would appear that the proposal was his own. S. C., Council Journal, February 27, 1766, XXXII, 728. This was not the first time that Bull had leaned toward the popular side. In a controversy over control of finances in 1764, Bull had prevailed upon the Council to accept a Commons House bill which omitted a salary for the unpopular Governor Thomas Boone. S. C., Commons House Journal, August 22, 25, September 19, 27, October 3, 4, 1764, XXXVI, 244, 250, 252-253, 255, 265-268. During the Stamp Act crisis Gadsden thought Bull to be too obliging, too eager to please, and expressed contempt for his behavior. Gadsden to William Samuel Johnson, April 16, 1766, in Richard Walsh, ed., *The Writings of Christopher Gadsden, 1748-1805* (Columbia, S. C., 1966), 71.

¹⁴ S. C., Minutes of the Court of Common Pleas, 1763-1769, 176.

The main argument of the lawyers was that necessity takes precedence over the law. They contended that the law does not require the impossible and will excuse where there is no possibility of doing what is formally required. The law against killing was cited as an example. There were instances of killing in which the law did not apply, as in self-defense, where necessity dictated disobedience of the law. In the present case, it was impossible to obey the Stamp Act, since the Distributor had abandoned his office and stamps could not be obtained. It could not have been the intention of Parliament, it was argued, that Americans should suffer from accidental defects in the administration of the Stamp Act. With a sure instinct, the lawyers reminded the court that Magna Charta provided that justice should not be delayed or denied. The closing of the courts for lack of stamps was a violation of that principle, it was said. Justice was being denied to many persons in South Carolina because of circumstances that were quite beyond their control.¹⁵

The effort, persuasive though it might be, was not an exercise in law but in equity. Because stamps were not available in the province, South Carolina did not have to make a decision between using or refusing to use them. The lawyers had only to cite the damage done by the Stamp Act and attempt to justify the province's conducting legal business as it had done before the act was passed. As it was stated, the province's case in equity was good, but it did not face up to the problem of whether the act would have been obeyed if the stamps had been on hand for use. In fact, as will be seen, South Carolina never got to the point of openly defying the act.

Egerton Leigh, the Attorney General, opposed the motion for judgment as a matter of course. He argued, from a thoroughly legalistic point of view, that the law manifestly required stamped papers for court documents, and that no business, including judgments, could be transacted without them. The court came to no decision on the matter but decided to postpone action until April 1. Before the adjournment, however, attorney Parsons presented a petition from several merchants, traders, freeholders, and other inhabitants of the province, asking for the opening of the courts in the interest of justice.¹⁶

When the court met again on April 1, there was a full bench, including Assistant Judge Pringle. Lowndes delivered the opinion of the court in *Jordan v. Law*, which was that judgment should be entered in the usual manner because stamped paper could not be obtained. In

¹⁵ *Ibid.*, 183. The arguments are not recorded directly, but they are summarized in the court's opinion of April 1, 1766.

¹⁶ *Ibid.*, 176.

replying to the petition presented at the previous session, the judges extended the decision in the case to a generalization: any case might be brought in the usual manner, so that there could no longer be the complaint that justice was delayed or denied.¹⁷

Lowndes presented a lengthy account of the reasoning behind the decision, in which the Assistant Judges seem to have gone beyond the arguments presented by counsel and indulged in some pleading in their own right. The decision amplified the arguments about necessity and argued further that the Stamp Act did not actually make void any documents not written on stamped paper. The absence of a stamp merely postponed the efficacy of such documents, which could be restored at any time by complying with the act and affixing stamps. The court maintained that the act had plainly foreseen the possibility of stamps not being available and had made this provision for validating documents at a later date. After all, the purpose of the Stamp Act was not to invalidate documents, but to secure the payment of the duty.¹⁸

There was implicit in this decision an invitation to Shinner to accept the distinction and permit business to be transacted, but Shinner would have none of it. He entered a vigorous dissent: "The Law declares that no man shall avail himself of his own wrong. The like Law pronounces that no Man shall carve out his own remedy, and it is a principle of equal notoriety that the Laws of England cannot be changed but by Authority of Parliament." In other words, the Carolinians had deliberately made it impossible to enforce the Stamp Act, and now they were trying to plead impossibility as a reason for ignoring it. Shinner warned that those who resisted the act might be guilty of treason through their actual or implied denial of the legislative power of King, Lords, and Commons over the American colonies. In concluding, he forbade anyone to test any writs or process in his name.¹⁹

The court then called on the Clerk, Dougal Campbell, to enter the judgment. Campbell refused, giving as his reason the fact that he considered himself subject to heavy penalties under the Stamp Act if he performed any act of his office on unstamped paper. The court refused to accept his excuse and ordered William Mason to act as Clerk and enter the judgment, which was done. After warning Campbell that his refusal would be laid before Lieutenant Governor Bull, the court then adjourned until May 13.²⁰

¹⁷ *Ibid.*, 177.

¹⁸ *Ibid.*, 182-191. Although rendered on April 1, the decision was not recorded until May 13, 1766.

¹⁹ *Ibid.*, 178-180.

²⁰ *Ibid.*, 177-178.

The Assistant Judges petitioned Bull on April 3 to remove Campbell from office for disobedience. Bull replied that he saw no reason for dismissal. Campbell's troubles were far from over, however. A committee of the Commons House questioned him about his conduct and recommended an address to Bull to have him removed. But the Commons House could not succeed where the Assistant Judges had failed. Bull replied that, in his opinion, Campbell had not acted out of disrespect for the court but out of respect for Parliament. Again he refused to remove Campbell. The Commons House vigorously protested Bull's decision, arguing that Campbell had arrogated to himself the power to construe laws and judge the possibility or impossibility of putting them into effect, which power belonged to the court alone. No one had denied the fact of Campbell's refusal to follow orders. What better reason, the Commons House wanted to know, could there be to dismiss a ministerial officer?²¹

Shinner also was having his share of trouble. On April 15 he learned that despite the promise not to honor an unstamped writ, Provost Marshal Pinckney had arrested Francis Stokes on a suit of Robert Graham, brought by that gadfly Thomas Bee. Upon being severely questioned by both Shinner and Leigh, Pinckney said that he remembered very well his promise. But he had done some reading in his law books and had found that he was subject to a suit by the plaintiff if the defendant escaped while he was showing the writ to the Chief Justice. He had chosen to incur Shinner's wrath rather than risk being sued. Shinner ordered Pinckney to release Stokes, but Bee went to the Assistant Judges and got a counter-order from Pringle and Smith, which Pinckney honored. Stokes then petitioned Bull and the Council, who could offer him no relief but pointed out that he might bring suit against his accusers later. It was a neat dilemma. As long as Shinner persisted in keeping the courts closed, he could not legally get Stokes freed.²²

Bee and his cohorts seemed to have no end to their stratagems. At their instigation, James Brown, a transient who certified that he was leaving the province in ten days, asked for a special court to bring suit against John Shute for debt. Bull felt obligated to grant the request and ordered Shinner to convene a special court. Shinner replied that he assumed Bull meant a court according to law, which was impossible at that time. At this point Othniel Beale, who was Bull's father-in-law,

²¹ Sainsbury Transcripts, XXXI, 39-46, 55-57; S. C., Commons House Journal, April 23-24, 28-29, 1766, XXXVII, Part One, 97-98, 101, 104-105, 107-108.

²² Sainsbury Transcripts, XXXI, 119-124.

stepped in to protect Bull. He informed Shinner that he would even loan Shute the money to pay the debt if it were necessary to stop the suit. This was apparently done, for Shinner received a note from an unidentified person the next day saying that Bee and Gadsden had been seen in the Exchange discussing the suit. Gadsden had said that the suit was settled, but that Shinner's refusal to hold the court was sufficient cause for complaint. Gadsden hinted that the papers involved could be secured by a committee of the Commons House, and Bee said that in any case the court would be opened in May. Shinner presumed from this information that he was to be attacked in the Commons House.²³

About noon on May 3, a sloop entered Charleston harbor from Barbados, carrying the news, which quickly spread throughout town, that on the motion of Secretary of State Conway, the repeal of the Stamp Act had passed the House of Commons by a majority of 108 votes. The people of Charleston were wild with joy. Gadsden was so overcome that he almost fainted. There were parades through the streets, demonstrations by the militia companies, and a general illumination of windows as a sign of celebration.²⁴

On May 5 Campbell asked Shinner if he intended to open the court. Shinner spoke with Bull, who said he believed the courts could be opened, but he refused to make Shinner's decisions for him. As for himself, Bull said, he thought the news of the repeal was authentic and he intended to open the Court of Chancery and the Court of Ordinary, over which he had authority. Shinner was horrified that Bull should act on rumors and vowed that he would not open the courts under his control.²⁵

But Campbell now deserted Shinner and opened the office of the Clerk of Common Pleas under Assistant Judge Robert Pringle's seal of arms, for Shinner had taken the official seal of the court with him. Official notification of the repeal still had not reached Charleston when

²³ *Ibid.*, 125-129. Gadsden wrote several months later that Bull held the court after Shinner's refusal to do so. Gadsden to Johnson, April 16, 1766, Walsh, ed., *Writings of Christopher Gadsden*, 70. The Commons House did not attack Shinner until April 1767. At that time it alleged Shinner's ignorance of the law and his unbecoming behavior and recommended his removal from office. A month later Governor Montagu suspended Shinner, despite a rather learned apology by Shinner. S. C., Commons House Journal, April 9, 18, May 19, 1767, XXXVII, Part One, 351-359, 391-392, 402-403, 429-449.

²⁴ *South-Carolina Gazette; and Country Journal*, May 6, 1766; Peter Manigault to Thomas Gadsden, in Maurice A. Crouse, ed., "Letterbook of Peter Manigault, 1763-1773," *South Carolina Historical Magazine*, LXX (1969), 90.

²⁵ Sainsbury Transcripts, XXXI, 130-132.

the Court of Common Pleas met on May 13. When Campbell was ordered to return the writ of venire so that a jury could be assembled, he admitted that he had not issued a writ. The court's bad humor was not improved when it discovered that Shinner had not expunged from his dissent of April 1 the offensive words which implied that the Assistant Judges had denied the power of the King, Lords, and Commons over the American colonies. It reprimanded Campbell for his presumption in not entering the judgment in *Jordan v. Law* and his neglect of duty in not issuing a writ of venire, and fined him £100 proclamation money. Shinner tried to justify Campbell's actions—in effect, of course, he was justifying himself—and when he had concluded, he stalked from the chamber. In the absence of a jury, the court was reduced to transacting business which did not require a jury. Several suits were filed.²⁶

Toward the end of May, Campbell presented a petition to the court expressing his repentance for his past behavior. He claimed that the lack of court business had so reduced his income that he could not pay the fine imposed on him and prayed that the court would consider his case leniently in light of the "late favourable turn which American Affairs have most happily taken. . . ." (Bull had already intervened to suspend the fine until the King's pleasure in the matter could be known.) The court decided that Campbell's conduct had been a error of judgment rather than contempt of court and accordingly reduced his fine to £10 proclamation money. Virtually assured of victory, the court could afford to be magnanimous.²⁷

Official reports of the repeal of the Stamp Act arrived on May 30, shortly before the new Governor, Lord Charles Greville Montagu. The province's joy over the repeal could not be dampened even by Montagu's request, reenforced by an additional instruction which specifically required South Carolina's obedience, that the Commons House finally make provision for former Governor Thomas Boone's long overdue salary. The Commons House resolved that it would provide the salary as a show of gratitude for the repeal of the Stamp Act, thereby providing a graceful means of retreat on the question. The Commons House also drew up an address to King George III, thanking him personally for

²⁶ *Ibid.*, 133; S. C., Minutes of the Court of Common Pleas, 1763-1769, 181-182, 191-192, 194.

²⁷ S. C., Minutes of the Court of Common Pleas, 1763-1769, 194-196; Bull to Board of Trade, May 20, 1766, Sainsbury Transcripts, XXXI, 61-62. Shinner, however, could not forgive Campbell. He later abused Campbell severely for following the orders of the Assistant Judges, calling him "a very bad man, a very Vicar of Bray, . . ." Sainsbury Transcripts, XXXI, 170.

the repeal. It had earlier voted to have portraits painted of the three delegates to the Stamp Act Congress. At the autumn session it voted, despite the protest of William Wragg that the figure should be that of the King, to place a statue of William Pitt in the center of Broad and Meeting Streets, the largest public square in town.²⁸

Amidst all the rejoicing, there were indications that the province still had many grievances. A committee on the state of the province reported in June several matters which were of great urgency. The first of these was a demand that judges be appointed according to English law and not simply made to hold office during the pleasure of the Crown. There was also a demand that the practice of multiple office-holding be abolished. The committee cited two current examples: the offices of Attorney General, Surveyor General, and Judge of the Court of Vice-Admiralty were all held by a single member of the Council, Egerton Leigh; and Thomas Skottowe, another member of the Council, held the offices of Clerk of the Assembly, Clerk of the Council, and Secretary of the Province. A third recommendation was that approval be secured for the exportation of rice to the north of Cape Finisterre on the same terms as it could then be exported south of the cape, and for removal from the enumerated list of lumber and provisions of all kinds. A fourth recommendation was the repeal of the Parliamentary act which restrained the emission of paper currency, or if repeal could not be obtained, permission to emit sufficient quantities. Lastly, there was the pressing need for courts of justice in the backcountry.²⁹ These matters, and others, would provide a God's plenty of political fuel during the years to come.

But for the moment the crisis was ended. South Carolina had virtually nullified the Stamp Act, and, except for the several mob actions which were destructive of property, had done so without materially violating that or any other law. It is true that ships sailed from Charles-

²⁸ S. C., Commons House Journal, June 17, 20, November 19, 1766, XXXVII, Part One, 160-162, 164-166, 209; *South-Carolina Gazette*, June 9, 1766; McCrady, *S. C. under Royal Govt.*, 586; Joseph W. Barnwell, ed., "Correspondence of Charles Garth, the Pitt Statue," *South Carolina Historical Magazine*, XXVIII (1927), 79-93.

²⁹ Most of the demands were not met, as the correspondence of Charles Garth, South Carolina's agent in England, indicates. Garth to S. C. Committee of Correspondence, September 26, November 24, 1766, March 12, 1767, November 24, 1770, in Joseph W. Barnwell and Theodore D. Jervey, eds., "Garth Correspondence," *South Carolina Historical Magazine*, XXIX (1928), 46, 120, 216, XXXIII (1932), 118. Only the matter of courts of justice in the backcountry was eventually resolved to the satisfaction of both provincial and imperial authorities. See Richard Maxwell Brown, *The South Carolina Regulators* (Cambridge, Mass., 1963).

ton harbor without stamped papers. But their captains paid fees that were identical with those required by the Stamp Act. Doubtless, if they had been challenged by customs officials in other ports, the captains would have pleaded their adherence to the spirit of the act where obedience to the literal requirements had been impossible. It is true that the Court of Common Pleas transacted business without stamped paper while the Stamp Act was presumed to be still in effect. But that business consisted of a single entry of judgment for debt in a suit of long standing, and the court explained that the Stamp Act itself recognized such a practice when stamps were unavailable. It is true that Chief Justice Shinner's objections were overridden by "packing" the court. But the court was authorized four assistant judges, and the three vacancies could legally be filled at any time. Moreover, Lieutenant Governor Bull secured consent for the appointments from a Council which included in attendance that day the Attorney General.

There were two keys to this cautious response by South Carolina. Perhaps fundamental to the outcome of the controversy was the friendly disposition of Lieutenant Governor Bull. Had either Boone or Montagu held the chief executive's position at the time, the struggle would have been bitter; judged by their actions in other crisis, either could have been expected to be intransigent, and there might well have been widespread violence. The other key factor was the unavailability of stamps. The designated officials refused to handle them, and Bull refused or failed to appoint others. As Shinner said, the unavailability was the province's fault, but the fact remains—there were no stamps for use. Had the stamps been available, South Carolina would have had to make a difficult choice of strategy. As it was, the province chose an easy and cautious way out. There was no point in defying law when law could be used to frustrate itself; there was no point in rebelling when rebellion was unnecessary.

PARTY ISSUES AND POLITICAL STRATEGY OF THE CHARLESTON TAYLOR DEMOCRATS OF 1848

JON L. WAKELYN *

The significance of the presidential election of 1848 for the South has been the subject of much historical research. A popular Southern slaveholder and Mexican War hero, Zachary Taylor, managed to lure much rank and file support from the national Democratic party and carry the election for the Whigs, mainly with Southern help. In most cases the regular party organizations, even in the South, remained loyal to their respective candidates. Only in Charleston, South Carolina, nominally a Democratic stronghold, did party control break down.¹ There, despite the Democratic Executive Committee's support of Lewis Cass, a group of local Democratic politicians deserted the party and formed an organization known as the Taylor Democrats. Who were these Taylor Democrats? What issues did they argue, and what implications for the future of national parties can be derived from their rationalizations for supporting Taylor?

That a large segment of the Charleston Democratic party broke ranks to support Taylor was due in no small part to the political leadership of John C. Calhoun. Upon his return to the Democratic ranks in the late 1830s, his Whig opponents were forced to choose between taking sides in local Democratic squabbles and retiring at an early age.² Throughout the 1840s he maintained his strong control over state politics and projected a generally conservative image for South Carolina on the national political scene. In the mid-1840s a group of young, radical politicians in Charleston tired of appeasing the national party and considered deserting the Democrats during the presidential campaign of 1844. Their movement, called the Bluffton Movement, failed when Calhoun marshalled loyal party supporters to oppose them and thus

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¹ See Chaplain W. Morrison, *Democratic Politics and Sectionalism* (Chapel Hill, 1967), pp. 113, 169, 170-171; Joseph G. Rayback, *Free Soil: The Presidential Election of 1848* (Lexington, Ky., 1970); Nathaniel W. Stephenson, "Southern Nationalism in South Carolina, in 1851," *American Historical Review*, XXXVI (1931).

² Charles M. Wiltse, *John C. Calhoun* (3 vols.; Indianapolis, 1944-1951), II, III.