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Politics of the personal in the old north state: Griffith Rutherford in Revolutionary North Carolina

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POLITICS OF THE PERSONAL IN THE OLD NORTH STATE:
GRIFFITH RUTHERFORD IN REVOLUTIONARY NORTH CAROLINA

A Dissertation

Submitted to the Graduate Faculty of the
Louisiana State University and
Agricultural and Mechanical College
in partial fulfillment of the
requirements for the degree of
Doctor of Philosophy

In

The Department of History

By
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To My Parents

Acknowledgments

I would like to thank my committee for their support and suggestions during the writing of my dissertation. As a student, I had the good fortune of taking seminars with each member beginning with my first graduate class at LSU. Mark Thompson became director late in the course of the project and generously agreed to chair the committee during the last semester. Dr. Thompson provided sage advice and helped keep me on task with chapter submissions.

This dissertation is dedicated to my parents, Diane Mac Donald and the late John Mac Donald. During my childhood, our family vacation destinations read like a roll call of famous historical places in the northeast. From the Freedom Trail in Boston to Colonial Williamsburg, our summer adventures aboard the station wagon encouraged my curiosity. Somewhere in between my car ride lectures about the Yorktown campaign and scene setting talks on Cemetery Ridge, they must have realized they created a monster.

My wife Anna Tapia endured long months of rarely seeing her husband emerge from his cabinet with the exception of taking meals. Her perceptive inquiries about Rutherford's life helped me clarify points throughout the dissertation. Anna's steadfast patience and sense of humor helps create an oasis of sanity in our home.

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Abstract

In the annals of North Carolina history, few figures stand out more than Griffith Rutherford. An orphan when he arrived in the new world, Rutherford settled in the North Carolina backcountry two decades before the American Revolution. Almost immediately he ascended a social and economic ladder in Rowan County in his service as a soldier and elected assemblyman. A consummate “fixer” during his military career, Rutherford continually rushed to scenes when a Loyalist insurrections or party of marauding Indians threatened the state. As a militia general during the Revolution he was responsible for the defense of the entire western quadrant of the state.

When he was not engaging insurgents or leading an army into Cherokee villages, Rutherford served in several elected offices. His first came during the 1766 Regulator insurrection that disrupted North Carolina. After helping draft the state constitution in 1776, Rutherford served in the state Senate, a post he held in between military campaigns that took him to Georgia and South Carolina.

This dissertation is the story of how Rutherford, in spite of his humble origins, eventually became one of the most prominent men in his state. Though the information about his life is often scant, enough can be gleaned to utilize Rutherford as an example of a rapidly ascending backcountry figure. By taking full advantage of the opportunities and connections afforded him, Rutherford illustrates how late colonial North Carolina was a place where rapid advancement could take place.

Rutherford proved unusual, however, in the way he combined politics and military service at various times in his life. On several occasions, Rutherford underwent a grueling military campaign and upon his return quickly jumped in the current political

debate. His experience in one service always affected the other and shaped his decisions as a militia officer and as an elected official. Though he lacked the legal or formal education of many of his contemporaries, Rutherford earned the respect and sometimes rage of the individuals who helped secure and create the state of North Carolina.

Introduction

Along Route 74 in Rutherford County in North Carolina, a highway sign marks the location of Fort Hampton. The marker, not far from my family's home in the foothills, is one of many reminders of a bygone colonial frontier. Fort Hampton served as an outpost of defense against loyalists, British troops, and Native Americans in the Carolina wilderness. Driving on Interstate 40 east of Asheville, one can see an exit sign marking the spot of Old Fort, at one point the farthest reach of colonial settlement in North Carolina. During the opening days of the Revolution, it became a rallying point for displaced settlers during the Cherokee War of 1776. Moving toward Asheville near route 25, among strip malls and fast food restaurants, one can find another series of markers indicating the location of "Rutherford's Trace." In these locations, the signs simply read that "The expedition led by Gen. Griffith Rutherford against the Cherokee, Sept. 1776, passed here."¹

Highway markers are some of the only reminders left from the life of Griffith Rutherford. They are scattered in what was once the frontier of the colony of North Carolina. One such marker identifies the location where his home stood just outside Salisbury in Rowan County. Others, located in western counties near the border of Tennessee, indicate the places where his militia force went into the woods to attack Cherokee settlements in 1776. Although little else of Griffith Rutherford's legacy remains visible in contemporary North Carolina, he was one of the most important people in the history of the colony.

¹ Michael Hill ed., Guide to North Carolina Highway Historical Markers (Raleigh: Division of Archives, 1990), 180,181, 191.

An orphan when he landed in the New World, he arrived in the colony in his early thirties. Within a short time, he purchased significant tracts of land, married, and started a family. War on the frontier provided him another opportunity to advance as an officer in the army. In time Rutherford used this military notoriety to initiate a political career. As an elected representative Rutherford served first in the colonial assembly and later in the revolutionary government of North Carolina. Later, his fame as an officer helped him reach the highest echelons of power. In that capacity Rutherford shaped policies in his state.

For the biographer, Griffith Rutherford poses a host of challenges. His family background is cloaked in mythology and conjecture. Almost nothing is known about his first thirty years of life. Early histories of the state portray him as a Daniel Boone type, the quintessential mountain man who dabbled in politics and saved the western part of the state from annihilation when the Cherokee attacked in 1776. Some contemporaries liked to think of him as an undereducated annoyance, often playing to policies that his western constituents would approve of. Of his military skills, one loyalist called him “a perfect savage.” To one historian of the state, he was “by far the most important military man during our Revolutionary struggle in North Carolina.”²

During his life Rutherford rarely failed to tell people what he thought. And for our twenty-first century sensibilities he definitely would not win humanitarian awards. He owned other people in order to make his existence more comfortable. At the beginning of the Revolutionary War he led a column of militia that decimated Cherokee Indian towns in the mountains of North Carolina. The campaign was marked by looting,

² Robert Gray, “Observations on the War in Carolina,” in John Rhodehamel ed. The American Revolution: Writings from the War of Independence (New York: Library of America, 2001), 766; Samuel A. Ashe, Biographical History of North Carolina (Greensboro, NC: Charles L. Van Noppen, 1905), 2: 381.

scalping and shooting unarmed men. After returning to the legislature, Rutherford began a legislative crusade against Loyalists in the state. To him, they were traitors; Rutherford failed to see any reason to keep allegiance to the King of Great Britain. And he became a thorn in the side of Moravian settlers living on the other side of the Yadkin River. A critical element to the Moravian Church included pacifism. During the recruiting of troops or securing materials for the state, Rutherford as a military man often seemed insensitive to the Brethren community.

In spite of such failings, one can argue, Rutherford above all was an advocate for the state of North Carolina. He worked in the legislature to make improvements in his county. Along with other western representatives, Rutherford successfully petitioned to create more counties, thereby giving the region more of a voice. Few settlers moving up against and over the mountains during the 1770s could forget his efforts to insure the safety of the frontier.

Recovering Rutherford from the past is a difficult challenge. There remains the simple fact that Rutherford disappears from the record for great periods of time. Little is known about his early life in the American colonies before he came to North Carolina. With few exceptions military and political topics make up his collection of surviving letters. His scant education made him conscious of his writing limitations. Since Rutherford had little formal schooling, his letters are to say the least, rough around the edges. Historian Alfred F. Young ran into a similar problem writing his book on Deborah Sampson. It required detective work, hunting for small clues that might lead to discoveries about a subject.³ Visiting the sites Rutherford would have been familiar with

³ Alfred F. Young, Masquerade: The Life and Times of Deborah Sampson, Continental Soldier (New York: Alfred A. Knopf, 2004), 15-16.

is one way to a better understanding of his life. Visiting the town of Salisbury, Rutherford Trace, Historic Halifax, and the Camden battlefield are small ways of following this trail to get a better grasp of my subject.

Rutherford's story in some ways is similar to several men who took advantage of crises like war to make a name for themselves. George Washington and Andrew Jackson, for example come to mind. Though neither man was born to privilege, each took pains to acquire an education in a trade and in the art of war. Historian David McCullough believes experience served as the teacher for young George Washington.⁴ Washington and Rutherford had limited educational opportunities but found early success as surveyors. This trade gave them the opportunity to serve a need on the frontiers of Virginia and North Carolina, respectively. The similarities, however, do not end there. War served as a training ground for Washington and Rutherford, their success propelled them into political careers during the crisis with Great Britain during the 1770s. Rutherford fought in three conflicts; the French and Indian War, the Cherokee War of 1776, and the War of American Independence. All three made a mark on this soldier that influenced his decisions as a politician. The Seven Years War served as his military school. He learned to fight in the woods, against the often elusive forces of organized Native Americans. This experience helped him lead an army into the Carolina frontier twenty years later.

His successful campaign against the Cherokee cemented his reputation among the Revolutionary leaders of the state. Desperate for military commanders with some experience and success, governors of North Carolina came to rely on their militia officers

⁴ David McCullough, 1776 (New York: Simon & Schuster, 2005), 45

to keep the state safe from foreign and domestic threats. Rutherford, throughout the rest of the war, took charge in keeping the colony safe from dangers from outside and within the state. For the first years of the fighting that threat came from Native Americans and Loyalists.

In other ways Rutherford is comparable to Andrew Jackson. Both men claimed Scotch-Irish ancestry and grew up without a stable family life. Self-educated soldiers, Rutherford and Jackson built a reputation fighting Native Americans along the edges of white settlement. Each man's repute in battle helped vault them into politics. Rutherford also can claim firsthand knowledge of Salisbury in Rowan County, North Carolina. Jackson studied law in the town before settling in Tennessee.

In the only substantive work on Rutherford, written thirty years ago, Robert Claude Carpenter chose to emphasize the frontier thesis as a way to examine the life of his subject.⁵ While this approach is effectual, scholarship in the colonial period has continued to evolve during the intervening years. Fortunately, where insights about Rutherford are often scant, the literature on the colony of North Carolina can tell us a lot about the society he knew firsthand. When Griffith arrived in North Carolina the colony was only in its infancy. He came to the backcountry when opportunities for young free men were abundant since land in the colony was inexpensive and could be readily obtained. Rutherford spent the next five decades in the state, making significant contributions politically and militarily.

With a stunted early growth as compared to Virginia and South Carolina, North Carolina continues to lag behind in the breadth of scholarship concerning the colonial

⁵ Robert Claude Carpenter, "Griffith Rutherford: Frontier Military and Political Leader" (M.A. thesis, Wake Forest University, 1974)

period. Until A. Roger Ekirch's *Poor Carolina* appeared in 1981, few studies of North Carolina explored the unique condition of its backcountry. According to Ekirch the backcountry of the province enjoyed an exceptional situation during the 1750s. Opportunities for social advancement were more fluid than in the eastern Albemarle region. Western areas in fact became populated faster than the colony could organize them, remaining more open to economic and social advancement.⁶ Rutherford is one of many immigrants who hailed from other colonies and countries before making their way to North Carolina. New arrivals did much to shape the backcountry of the colony.

This quick population change made North Carolina a unique British colony. Helping to mitigate the drastic lifestyle change of immigrants arriving in the colony, the legacy of the Scotch-Irish and Highland clan structure provided the necessary support system in the new world.⁷ Highlanders moved from Wilmington up the Cape Fear River to Cross Creek. Across the state in Rowan County, where Rutherford settled, a different group of Scots moved in between established settlements and Native American communities.⁸ Forty-five percent of this population was made up of Ulster Scots, many of whom had traveled overland from northern colonies to settle in North Carolina.⁹

⁶ A. Roger Ekirch, "Poor Carolina: Politics and Society in Colonial North Carolina, 1729-1776" (Chapel Hill: University of North Carolina Press, 1981), 36-37.

⁷ Harry Roy Merrens, Colonial North Carolina in the Eighteenth Century: A Study in Historical Geography (Chapel Hill: University of North Carolina Press, 1964), 53; David Hackett Fischer, Albion's Seed: Four British Folkways in North America (New York: Oxford University Press, 1989), 665.

⁸ Bernard Bailyn, Voyagers to the West: A Passage in the Peopling of America on the Eve of the Revolution (New York: Random House, 1986), 503.

⁹ Daniel B. Thorp, "Taverns and Culture on the Southern Colonial Frontier: Rowan County, North Carolina, 1753-1776," Journal of Southern History 4 (November 1996): 664.

In both the eastern and backcountry migrations, settlers traveled together as families.¹⁰ The parents of Griffith clearly risked the oceanic voyage to North America for a combination of reasons that promised cheap land, religious toleration, and joining up with extended kinfolk. Even when this plan took a tragic turn with the death of his parents, Griffith obtained some level of independence from his family connections. This idea of strength in numbers brought him to North Carolina in 1752.¹¹

The frontier helped shape Rutherford's life and career in North Carolina. On the edge of white settlement, the frontier is often glamorized as a place where rebellious individualism created a unique region, unlike the more established, landed eastern towns. Combining this wild environment with Rutherford's Scotch-Irish character explain many of the decisions he made later in life. At times he was suspicious of eastern leaders of the state and harangued them about their half-hearted war measures. When he sensed hesitation from his colleagues concerning the revolutionary cause, Rutherford did not hesitate in advocating swift, punitive actions. This behavior can be traced to his reputation as a man of the backcountry. Frontier prejudices and self-righteousness showed themselves against those he fought in war and in politics.¹² Though lacking the scholarly background in law or philosophy enjoyed by his contemporaries, Rutherford could call upon a well of practical experience to guide his decisions.

¹⁰ Carl Bridenbaugh, Myths and Realities: Societies of the Colonial South (Baton Rouge: Louisiana State University Press, 1952), 135.

¹¹ James G. Leyburn, The Scotch-Irish: A Social History (Chapel Hill: University of North Carolina Press, 1962), 185; Gregory H. Nobles, "Breaking the Backcountry: New Approaches to the Early American Frontier, 1750-1800," William and Mary Quarterly 4 (October 1989): 651.

¹² Albert H. Tillson, Jr., "The Southern Backcountry: A Survey of Current Research," Virginia Magazine of History and Biography 98 (July 1990): 405; Andrew Burstein, The Passions of Andrew Jackson (New York: Random House, 2003), 23.

Rutherford had the keen ability to turn one opportunity into another. He speculated in land, seeing great potential in owning large tracts for himself and for future leasing. This level of economic independence allowed him to build a military and political career. A colonial surveyor also enjoyed other advantages in a new and burgeoning county. His name is on scores of legal documents in the Rowan county collections, as a surveyor, assistant surveyor, or witness to a title or deed transaction. Settlers arriving in Rowan quickly might have come in contact with Rutherford during a transaction of land or court proceeding. His name recognition helped him rally neighbors in western counties when North Carolina came under attack.

One of the sure ways to advance in life came about by using personal connections. This happened to Rutherford in several ways, through marriage, patronage of a colonial official, or the auspices of a local leader. Rutherford took advantage of all three types of relationships. He married the daughter of an established landowner in Rowan County. It became one of the most significant decisions of his life. Rutherford then used a family connection to Lord Granville to purchase land in his new home. With abundant land, and the income he derived from sales and leasing parcels, he could develop a comfortable income. Once contented economically, his ambitions brought him into military service and then politics.

For Rutherford, the 1765-1771 War of Regulation marked a turning point in his life. Up to that point, he worked within the colonial system, using patronage and connections from the crown to enhance his status and the comfort of his family. When members of his Rowan community joined protests in neighboring Orange and Anson counties, it forced Rutherford to ponder several controversial decisions, as sheriff, and a

member of the assembly. The ensuing violence in the backcountry proved a wake up call; in the aftermath Rutherford helped guide legislation through the assembly to establish additional western counties, giving that region more representation.

Rutherford's life is a case study in the possibilities for success one could achieve in the American colonies in the middle of the eighteenth century. Certainly the factor of timing afforded Griffith advantages that many of later generations would not be able to enjoy. However, being in the right place at the right time allowed him the opportunity to achieve a level of success personally and professionally.

In many respects, Rutherford represents one class of what James Kirby Martin called the "men of rebellion." In fact, Martin uses Rutherford as an example of this scenario when he compares the lives of planters, lawyers, and merchants on the eve of the Revolution. In a few paragraphs on the North Carolinian, Martin calls Rutherford the "norm of the new revolutionary executive elite."¹³ He owned more land than many of his fellow residents of Rowan, but less than the established planters on the east coast. After gaining some level of economic success, Rutherford entered politics with the help of supporters in Rowan. His wealth and local offices of sheriff and surveyor set him apart from his the rest of the community. Rutherford's neighbors could feel good about sending their socioeconomic better to represent them in the colonial assembly.¹⁴

What is unique about Rutherford was his ability to function in both the British colonial system and the revolutionary government of North Carolina. Only once during his early political career did he find his office in jeopardy because he was out of step with

¹³ James Kirby Martin, Men in Rebellion: Higher Governmental Leaders and the Coming of the American Revolution (New Brunswick: Rutgers University Press, 1973), 83.

¹⁴ *Ibid.*, 61.

popular opinion. He never allowed this to happen again. As a green Assemblyman in 1766 he deftly maneuvered to keep his elected office and kept his hold on positions of power. A hesitant Revolutionary, Rutherford became one of the most tenacious advocates for American independence. Native Americans, Loyalists, and neutral members of Carolina society all felt the wrath of a man totally committed to the cause. Political opponents often resented his heavy handed tactics in the field and as a representative of the people. Rutherford simply had little patience for anyone seeking conciliation or moderation. Having lost a son and many possessions during the six years of fighting, he made the independence of his state and punishment of her enemies his passion on the battlefield and in the halls of government.

When he retired from both military and political service after two decades, Rutherford, in his eighth decade, moved his family over the mountains into Tennessee. By this time the land he obtained as a reward for his service was secure, and he felt safe enough to relocate out of the state of North Carolina. Among transplanted North Carolinians who fought with him in the Revolution, he lived the rest of his years in relative quiet.

Chapter One

Early Life

Very little is known about the first third of Griffith Rutherford's life. He makes his first appearance in a primary source around 1753, the year Rutherford arrived in North Carolina and entered a land transaction. County records and grant records mark his first appearance in that colony, but details from the previous three decades of his life are virtually unknown.

Sources differ on Rutherford's birth date and place of birth. Several secondary sources use 1731. In an interview with Griffith's son Henry by the historian Lyman Draper the family believes the year of birth to be 1721.¹ From the date of his birth, until the time he arrived in North Carolina in the early 1750s, little is known about his first thirty years of life. In fact, more is known about his family history beginning in Scotland, than about Rutherford's adolescence.

It is always tempting for a biographer to find character traits in his subject's lineage that would help explain the behavior and actions of that person. Though the record is scattered and vague, enough is known about the Rutherford clan to trace a lineage of rebelliousness and resistance to authority. His family hailed from the lowlands of Scotland, near the English border.

Reverend Samuel Rutherford, Griffith's grandfather, a leader in the Scottish Presbyterian church, first came to the attention of the crown in 1644 with the publication of the "Lex Rex." A work of Protestant criticism of the Anglican Church, *Lex Rex*, after

¹ Interview of Henry Rutherford, 1844, in Minnie R. H. Long, General Griffith Rutherford and Allied Families (Milwaukee: Cuneo Press, 1942), 104.

the reformation of the Stuart monarchy, was ordered to be burned. Reverend Samuel, its author, found himself under indictment from the crown, charged with high treason. He missed his chance to be burned at the stake or beheaded by dying before his trial in 1661.²

Before his death Samuel also fell out of favor with fellow Presbyterians in Scotland and decided to move with others in the Rutherford clan to the Ulster region of Ireland. Here, the Rutherford's found fellow countrymen who moved to Ireland during the early 1700s. The Irish migration bore fruit and is a fortunate circumstance for Griffith. It was there Griffith's father John met and married a Miss Griffith, a Welsh lady. John Rutherford may have worn out his welcome in Ireland as fast as his father did in Scotland. John and his new bride made plans to leave Ireland around 1730, with their young son Griffith. Economic concerns also could have pushed the family into deciding to leave. Whatever the case, the family of three left for America.³

Historian Lyman C. Draper gleaned a bit of information about Griffith's young life. Around 1730 the Rutherford family decided to leave for the new world and boarded a ship. Even before the family reached Pennsylvania, the destination of thousands of Ulstermen, calamity changed Griffith's life. Young Griffith was now an orphan in a strange world until relatives in New Jersey took in their kinsman. From that point on, few details of Rutherford's life are known until he arrived in North Carolina.⁴

² Samuel Ashe, "Rutherford's Expedition Against the Indians, 1776," North Carolina Booklet 4 (December 1904): 24-25; Jethro Rumble, A History of Rowan County, North Carolina Containing Sketches of Prominent Families and Distinguished Men (Salisbury: J.J. Brewer, 1881), 105.

³ Carlton Sims ed., A History of Rutherford County (Murfreesboro, TN: Carlton C. Sims, 1947), 21.

⁴ H. Tyler Blethlen and Curtis W. Wood Jr., From Ulster to Carolina: The Migration of the Scotch-Irish to Southwestern North Carolina (Raleigh: North Carolina Department of Cultural Resources, 1998), 24-25, 29; Long, 104.

The early death of his parents proved unfortunate to young Griffith. The relatives who took him in provided the young boy with a basic, but not thorough education. Rutherfords, going back to Scotland, prided themselves on their learning. While far from illiterate, as one early scholar claimed, Rutherford clearly had only a rudimentary education. The letters that survive are written with a forceful, though crude hand.⁵ It is clear from reading his dispatches in his military career, that at times the General's prose was edited by a more educated person. In more hurried occasions, his correspondence was littered with creative spelling and grammar.

In his twenties, Rutherford probably lived among other Rutherfords in Chester or Lancaster County, Pennsylvania. Beginning in the 1720s, the area took in thousands of Scotch-Irish who settled near the fertile lands around the Delaware River.⁶ Sometime in his early life in the northeast, Rutherford learned the surveyor's trade. Taught to young Griffith by a family member or skilled expert, the vocation provided a necessary service for the expanding colonial population. Surveyors measured plots of land, and the eventual sale was recorded in a land office. His compensation depended on the size of the tract of land measured.⁷ A talented surveyor could earn as much as L125 per year, the same as a skilled artisan in colonial America.⁸

⁵ Herbert B. Adams, The Life and Writings of Jared Sparks (Boston: Houghton Mifflin, 1893), 1:257.

⁶ William S. Powell ed., Dictionary of North Carolina Biography vol. 5 (Chapel Hill: University of North Carolina Press, 1994), 275.

⁷ William S. Powell, North Carolina Through Four Centuries (Chapel Hill: University of North Carolina Press, 1989), 131.

⁸ John Ferling, The First of Men: A Life of George Washington (Knoxville: University of Tennessee Press, 1988), 13.

By the time Rutherford reached adulthood however, conditions in Pennsylvania caused many to search for a new home. Historian Robert Ramsey, who studied the northwest frontier of North Carolina, cites many reasons for Scotch-Irish movement out of the northeast to Carolina. As hard as it is to believe, in colonial times eastern Pennsylvania began to suffer from overcrowding. An influx of German settlers and attacks from Native American tribes caused many Scotch-Irish to consider Pennsylvania an unstable place to live. Fighting among the Penn descendents also initiated a migration out of the region.⁹ As a young surveyor Rutherford could see firsthand the increasingly limited opportunities of dealing in land. Remaining unsettled parcels continued to rise in price, provoking newly-arrived immigrants to search for land in other colonies.

A young bachelor with few attachments in the northeast, Rutherford started for the south around the year 1750. According to one family history Rutherford stopped first in Lunenburg County, Virginia, in the year 1751. There, young Griffith witnessed or was part of a land deed transaction, as well as serving as a witness to a will.¹⁰ The stay in Virginia did not last long; opportunities further south caused him to move again. Many settlers quickly discerned that moving further south into North Carolina presented a host of other advantages. Land was inexpensive, the Indian tribes peaceful, and religious toleration widespread.¹¹

The search for a safer colony with more open economic opportunities led many Pennsylvania settlers, including Rutherford, to the backcountry of North Carolina.

⁹ Robert W. Ramsey, Carolina Cradle: Settlement of the Northwest Carolina Frontier, 1747-1762 (Chapel Hill: University of North Carolina Press, 1964), 174, 200.

¹⁰ William K. Rutherford and Anna Clay Rutherford, A Genealogical History of the Rutherford Family (Shawnee Mission, KS: Intercollegiate Press, 1969), 732.

¹¹ Sam J. Ervin, A Colonial History of Rowan County, North Carolina (Chapel Hill: University of North Carolina Press, 1917), 10.

Rutherford followed in the footsteps of a more trailblazing relative in his move out of Pennsylvania. According to his son Henry, Griffith stayed with family members upon his arrival in North Carolina.¹² Arriving in the eastern region of the colony, he quickly learned that the best opportunities for new arrivals existed in the very unsettled western region of the state.

When Rutherford first arrived in North Carolina, he stayed with Robert Wheatley, a kinsman to the Rutherford clan. This family connection afforded Rutherford his first opportunity in North Carolina. And the kindness Weakley showed was not lost on Griffith, who in his 1792 will names Wheatley's son a trusted executor. There, Rutherford's surveying skills proved a benefit. His connection with the Wheatley family got him a coveted position. Another member of the Wheatley clan, Benjamin served as land agent to Lord Granville, a man who owned a substantial part of the colony.¹³

By the time Rutherford reached North Carolina at age thirty-two it is possible to establish a bit about his appearance. Few, scattered details concerning his adult features have been handed down from his son. According to Henry Rutherford his father as an adult stood five feet eight inches tall and weighed about 180 pounds. Today he would be called stocky; his family depicted him as "compactly formed."¹⁴

Robert Wheatley helped get Rutherford the position as surveyor to the Earl of Granville, a large landowner in the colony. The jobs took him to the sparsely settled lands in the North Carolina piedmont. Upon arriving in the west, Rutherford first met his

¹² Long, 104.

¹³ Ibid., 64; Margaret Hofmann ed., The Granville District of North Carolina, 1748-1763 Abstracts of Land Grants vol. 1 (Weldon NC: Roanoke News, 1986), ix.

¹⁴ Long, 66; Sims, 23.

mentor, John Frohock, a surveyor for Henry McCulloh. Surveyors headed into the western piedmont to begin surveys, and in the case of Rutherford and Frohock, purchase land of their own. Up to that point, the land around the Yadkin River was positioned in the western area of Anson County. When Rutherford inspected the area, the traders and trappers made up more of the population than actual settlers.

Rutherford arrived in a colony very much in its infancy. A royal colony since 1729, North Carolina seemed insignificant compared to her wealthier neighbors, Virginia and South Carolina. Only a few years before, the crown considered simply adding the territory of North Carolina to its northern or southern neighbor. Six counties, all along the inlets of Albemarle Sound, constituted the entire organization of the colony. Up to the middle of the eighteenth century, the area had the unsavory reputation as a haven for pirates, who used their knowledge of the treacherous inlets to seize ships along the coastline.¹⁵

Further stunting North Carolina's growth was the fact that it never developed a cash crop like its neighbors. Tobacco could be grown along the eastern shore, but the lack of a decent port made its export extremely difficult. Instead of tobacco or rice, the colony produced naval stores of two types. Pitch, rosin, and turpentine were critical for sealing wooden hulls. Other forest items were devoted to boards, barrels, and staves for transport. With Great Britain relying heavily on her Navy during wars in Europe, North Carolina quickly became significant for what it could contribute to the British fleet.¹⁶

¹⁵ Ekirch, *Poor Carolina*, 4; Powell, *North Carolina Through Four Centuries*, 81.

¹⁶ Hugh T. Lefler and William S. Powell, *Colonial North Carolina: A History* (New York: Charles Scribner's Sons, 1973), 161.

That economy did not rely dramatically on slave labor early on. Thanks to its treacherous shoreline, ships carrying human cargo stayed away from the Carolina coast. The colony relied on the overland trade from its northern and southern neighbor in the early decades of the eighteenth century. A headright practice instituted by the proprietors of the colony encouraged white and black settlement. Slavery blossomed in the agricultural and export areas of the state. Along the northeastern corridor bordering Virginia, where tobacco plantations dotted the landscape, slave ownership could be as high as sixty percent. Further south, along the Cape Fear River, naval stores, lumber, and rice production required large labor forces. Here, the concentrated wealth of the colony emerged in the middle of the 1700s.¹⁷

The backcountry evolved much differently than the coastal region. Without a major cash crop there was no demand for slave labor. Subsistence farming, grain production, and cattle export did not encourage the creation of large plantations. While some Cape Fear counties contained black majorities by the eve of the Revolution, the west never followed the pattern of the naval store and tobacco regions in the east. A recent monograph on slavery in North Carolina has examined the population figures for different years in the colonial period. For 1755, out just under 4,700 residents, Rowan County, where Rutherford lived during his years in North Carolina, had only 102 blacks. The next year sampled, 1767 put the number of blacks at 719, a significant increase. Yet

¹⁷ Jeffrey J. Crow, Paul D. Escott, and Flora J. Hatley, A History Of African Americans in North Carolina (Raleigh: Division of Archives and History, 1992), 3; Jeffrey J. Crow, The Black Experience in Revolutionary North Carolina (Raleigh: Department of Cultural Resources, 1977), 2; Donna J. Spindal, Crime and Society in North Carolina, 1663-1776 (Baton Rouge: Louisiana State University Press, 1989), 7.

white population tripled during the intervening years as thousands more migrated to Rowan, Orange, and Anson counties in the west.¹⁸

Before Rutherford made a name for himself as a soldier and politician, he identified himself as a farmer. He owned thousands of acres of land in the backcountry and used some of it for producing crops. Tasks and chores around his homestead required extra labor. During his life in Carolina Griffith Rutherford owned slaves, probably no more than five or six at the most. Surviving tax lists of 1768 from Rowan County list a “Negro Poett” as a taxable in his household. Nothing is known about Poett who was the lone slave in the household. Poett worked either as a house slave, or assisted in tending to any small grain crops Rutherford planted on his land. Despite Rutherford’s substantial land holdings, the inability to grow a rich crop prevented him from becoming a plantation patriarch.¹⁹

Even without a staple export like tobacco, the colony had little trouble developing a successful agricultural base. For those living in the piedmont and backcountry, the soil, known in the area as Cecil clay, was able to support small grain.²⁰ The Scotch-Irish had first-hand experience with this type of harvest from Ireland and Pennsylvania. In addition, the swift tributaries and creeks of the Yadkin could churn grain mills to support small family farms. It is not hard to imagine Rutherford having a gristmill at his homestead, keeping grain for the family and perhaps trading other stores in the nearby burgh of Salisbury.

¹⁸ Marvin L. Michael Kay, Slavery in North Carolina, 1748-1775 (Chapel Hill: University of North Carolina Press, 1995), 222.

¹⁹ Rowan County, North Carolina, Tax Lists, 1757-1800, 67.

²⁰ James S. Brawley, Rowan County: A Brief History (Raleigh: North Carolina Division of Archives and History, 1974), 4.

The favorable nature of the land Rutherford would one day occupy was observed and appreciated as early as 1700. Englishman John Lawson passed through the area near the Yadkin River and observed Sapona Indians living along the banks of the river with the same name. Lawson proclaimed it was the finest area he ever saw in Carolina. The region is a “delicious country,” he declared. Lawson decided the Sapona, later named the Yadkin River was “as noble a River to plant a colony in, as any I have met withal.”²¹

The land contained numerous advantages that first attracted Lawson and beginning in the late 1740s settlers moving onto it. Besides the abundant creeks, the land between the Yadkin and Catawba consisted of fertile, treeless meadows. The region was destitute of forest, a virtual open prairie suitable for cattle grazing. In this area the Scots-Irish from Maryland and Pennsylvania started arriving around 1745. A large group of people settled on the western side of the Yadkin, only a few years before Germans, including the Moravians, settled on the eastern side of the river.²²

During the late 1740s, this area of the colony was the property of John Carteret, grandson of George Carteret, Lord Granville. Granville in 1663 owned one-eighth of Carolina, and refused to sell it when the crown offered to buy up the land from the other seven proprietors. George II honored this agreement and granted John a territory which ran from the Atlantic west of Salisbury in the piedmont. Granville’s land included about two-thirds of the colonies population.²³

²¹ John Lawson, A New Voyage to Carolina, ed. Hugh T. Lefler (Chapel Hill: University of North Carolina Press, 1967), 52-3.

²² Ramsey, 6-7; Brawley, 4-5.

²³ Johanna Miller Lewis, Artisans in the North Carolina Backcountry (Lexington: University Press of Kentucky, 1995), 21.

In 1753, settlers from Anson County, the westernmost county in North Carolina, petitioned the colonial assembly for admission as a new county. As the main reason for their request, they cited the hardships of traveling into Anson. Acting Governor Matthew Rowan signed the bill into law in the spring. It effectively split the western half of the state along a line that demarked Rowan as the northwest county, running to the mountains.²⁴ With the county established, residents created the legal machinery for administrating the county. Almost immediately after the Governor created Rowan County, the Court of Pleas and Quarter Sessions met in June 1753. One of the first justices appointed by the crown was Squire Boone, father of Daniel Boone. Daniel and Griffith Rutherford became friends during this time, taking long hunting trips into the woods.²⁵

During his surveys of the area and excursions with Boone, Griffith Rutherford must have fallen under the spell of the land in the western piedmont. A short time after his initial surveys of the area, he contemplated an initial purchase of land. In colonial North Carolina purchasing land required a five step process beginning with finding an unclaimed parcel and then going through the legal procedure of getting title to the land. Rutherford, as a surveyor, would have been familiar with much of that progression going back to his days in Pennsylvania. Once a settler requested a piece of land, a colonial official sent a surveyor to measure the land and draw a map, which was then filed and

²⁴ Brawley, 4-5.

²⁵ Ibid.

kept in the capitol. When all the fees were paid, a clerk could deliver the grant to the settler had who first applied for the entry.²⁶

Within a short time of his surveys near the Yadkin, Rutherford made two significant improvements in his life. He purchased a 656 acre-tract of land on what was known at the time as the Irish Settlement. This parcel of land sat just seven miles southwest of the little settlement known as Salisbury. In the spring of 1753, Rutherford made a second set of land purchases in the North Carolina backcountry. The first parcel consisted of 700 acres in Anson County, near the Catawba River. Subsequent purchases were made in Anson and Rowan Counties. Within five years, he obtained over 4,000 acres of land. Being among the early settlers in the region, he arrived ahead of those who traveled overland to North Carolina. He also located and kept the most desirable plots of land for himself.²⁷

His favorite parcel, situated on Grants Creek, a tributary of the Yadkin River, became his home for the next four decades. Rutherford scouted the land in late 1753, and James Carter, the founder of the town of Salisbury did the surveying on the tract. It took nearly three years for the grant of land to become official, giving Rutherford title in November of 1756. That same month, the grant for an additional 656 additional acres in Rowan County was approved. Though a series of fees were necessary before a settler could legally claim land, prices in colonial North Carolina were miniscule. A square mile

²⁶ Margaret Hofmann ed., The Granville District of North Carolina 1748-1763, Abstracts of Miscellaneous Land Office Records, Volume 5 (Ahoskie: Atlantic Printing, 1989), 330; Charlotte R. Carrere, An Introduction to North Carolina Land Records (no pub. Place or Date), 9-10.

²⁷ Margaret Hofmann ed., Colony of North Carolina 1735-1764, Abstracts of Land Patents, Volume 1 (Weldon: Roanoke News Company, 1982), 17, 59, 318.

of land cost only three shillings, a small fraction of what Rutherford could collect on a surveying job.²⁸

The land Rutherford first scouted and sought to purchase constituted part of what was known as the Irish Settlement. Located west of the Yadkin River, this region contained many attractions for settlers moving out of Pennsylvania or Virginia down the Great Wagon Road. The Yadkin and its creeks were rapid flowing streams, offering settlers the chance to establish mill sites. Open pasture suitable for grazing dotted the landscape between the thick forests of the western piedmont. For Scotch-Irish settlers, familiar faces and agricultural practices meant the transition from Pennsylvania or Maryland was a smooth one.²⁹

Settling in the Irish Settlement proved providential for Rutherford. Soon after arriving in the colony, his personal life changed as well. In 1754 Griffith married the daughter of his neighbor, James Graham, an early settler of the county, who also emigrated from Ireland.³⁰ Born in 1714, James Graham was only seven years older than Griffith, meaning the age difference between Griffith and Elizabeth was at least ten or twelve years. The couple wasted little time starting a family. Their first child, a daughter named Jane, arrived in 1756; a son, James arrived two years later. All together the couple had ten children, all born in Rowan County.³¹

²⁸ Hofmann, 383; John Mark Faragher, Daniel Boone: The Life and Legend of An American Pioneer (New York: Henry Holt, 1992), 29.

²⁹ Faragher, 29; Ramsey, 117.

³⁰ William S. Powell ed., Dictionary of North Carolina Biography, 275; Ashe, "Rutherford's Expedition," 25; Sims, 22.

³¹ Long, 80-81.

After his initial purchase of land, Rutherford continued to be on the lookout for desirable pieces of property in Rowan and Anson counties. His trade as a surveyor proved fortuitous in this pursuit. He could evaluate pieces of land while looking for the best ones to buy and subsequently sell or lease to the hundreds of settlers streaming into the region. To maintain a steady source of income, Rutherford continued to participate in the surveying of land.

Once granted to him, Rutherford decided to sell parcels of his original holdings. In July of 1756, he divided his tract in half, selling 328 acres to the sons of Robert Luckie, a settler from Lancaster County, Pennsylvania. Samuel and Joseph each bought one-half of Rutherford's original Granville grants of land along the Fourth Creek in the Irish Settlement.³² After considering the value of both areas of land he owned near the Yadkin, Rutherford kept his Grant Creek land and made it his permanent home. Located a short distance from the town of Salisbury, he enjoyed easy access to water as well as to the center of political life in Rowan County.

Rutherford's truncated education never seemed to affect him adversely during his early years in North Carolina. He did, however, rely on the kindness of neighbors and fellow pioneers to facilitate his upward mobility. Often there is a temptation to portray the frontier as a tabula rasa where hard work and rugged individualism would carry a person as far as he wanted to go. Talent and skill opened many doors for Rutherford in his early life. He learned the trade of surveying in his early life in the northeast. This vocation served him the rest of his days, even after his military career ended. A competent surveyor could make a decent living. It paid well enough so that Rutherford,

³² Ramsey, 117; Jo White Linn, Abstracts of the Deeds of Rowan County, North Carolina 1753-1785 vols. 1-10 (Salisbury: Mrs. Stahle Linn Jr., 1983), 12.

upon his arrival in North Carolina, could purchase a substantial piece of land to build a home and start a family. His land holdings became a source of income as he leased parcels to his Rowan neighbors.

Rutherford's rise on the social and economic ladder never happened solely through his own efforts. Timing and luck played a big part in his rise from orphan to respected member of Carolina society. Rutherford, with surveyor's equipment in hand, arrived in the colony of North Carolina at a time when only the eastern third could be considered settled. White settlement in the piedmont proceeded slowly from those moving farther inland. That stage of development for the colony changed dramatically around 1750. A surge of migration from the north started filtering into North Carolina from Virginia and Pennsylvania. Rutherford, as a surveyor, provided a necessary service to both Royal officials in the colony, as well as the stream of settlers arriving in the piedmont in the years after 1753.

Rutherford achieved a certain level of success because he befriended prominent people in Rowan who saw promise in the young man. Even the most gifted and ambitious of the founders did not reach a level of success without help along the way. George Washington achieved early success because of his wealthy and connected neighbor William Fairfax. Fairfax opened doors to young Washington which otherwise might have stayed shut. "Interest," a series of familial, friendship and local ties helped facilitate the quick rise of Rutherford in Rowan. According to Paul Johnson, interest and land mattered more than almost anything in colonial society. Washington took advantage of it, and so did Rutherford.³³

³³ Joseph J. Ellis, His Excellency George Washington (New York: Knopf, 2004), 10-11; Paul Johnson, George Washington: The Founding Father (New York: Harper Collins, 2005), 12-13.

One of his first famous acquaintances, Daniel Boone, moved with his family to Rowan County around 1750. Boone quickly developed a reputation as an able marksman and hunter, talents suited for the backcountry of the colony. Boone and Rutherford often hunted together in the area around the Yadkin River. In that area, plentiful game such as bear and deer roamed the woods, providing both sustenance and skins for Rowan settlers. On these hunts Rutherford became proficient with a weapon he may have seen in his youth: the Pennsylvania rifle. He also adopted a particular mode of dress suited for woodland hunting, a mixture of Native American and white frontier dress which included a long hunting shirt, leggings, and accoutrements for the rifle.³⁴

Rutherford had barely established himself and his family in North Carolina when an international crisis between Great Britain and France began to impact the English colonies. Tension between Great Britain and France over control of the Ohio Valley erupted in the woods around Fort Duquesne in 1754. Though the initial fighting was isolated to western Pennsylvania, within a very few years the effects of the war would be felt in North Carolina. Residents in Salisbury in no way could remain isolated from the war. On her western mountain border, the powerful Cherokee Indian nation called North Carolina its home. The Cherokee in 1754 constituted the largest Indian nation in contact with the British colonies. With a total population of 8,500, Cherokee villages stretched from Virginia to the Savannah River.

Even if he had never traveled to the Cherokee towns prior to the French and Indian War, Rutherford would have been familiar with Native Americans. A small contingent of Catawba Indians lived on the forks of the Catawba River, just west of

³⁴ Long, 108; Faragher, 31, 20.

Salisbury. Rutherford, soon after his move to North Carolina, purchased tracts of land in this region. A smallpox epidemic in 1738 obliterated the Catawba nation, shrinking their numbers to under 1,000. Smaller in population than its neighbors and with the powerful Tuscarora and Cherokee counted as their enemy, the Catawba kept friendly relations with the English.³⁵

Occasions of violence in the backcountry did occur in conjunction with the war between England and France. In 1754 Indians, allied with the French raided along the Broad River in North Carolina, killing sixteen settlers. Friendly Catawbas tried to catch those guilty of the attack but failed to do so. The incident proved that as far removed as North Carolina was from the battle, the colony could not escape the effects of this world war. Attacks in the backcountry also put leaders in the east on notice that North Carolina was ill prepared for frontier defense. In the aftermath of the Indian attack, hastily-organized militia units arranged to patrol the frontier. To serve as a second line of defense, the assembly voted funds to build a fort near a tributary of the Yadkin in Rowan. Named Fort Dobbs in honor of the Royal Governor, the walled structure, close to Salisbury, served as a haven from further attacks.³⁶

The first four years of the war had been marked by disappointment and frustration, especially in the Ohio valley. By 1758 Great Britain prepared to launch a more vigorous effort to win North America from the French. Expeditions under George Washington and Edward Braddock failed to reduce Fort Duquesne. During planning for

³⁵ E. Lawrence Lee, Indian Wars in North Carolina, 1663-1763 (Raleigh: Division of Archives and History, 1997), 57; James H. Merrell, The Indians' New World: Catawbas and Their Neighbors from European Contact through the Era of Removal (New York: W. W. Norton, 1989), 136-137.

³⁶ John R. Maass, "All This Poor Province Could Do": North Carolina and the Seven Years' War, 1757-1762," North Carolina Historical Review 89 (January 2002): 4; Lefler, Colonial North Carolina, 142.

a third attempt to capture the fort, resources from neighboring colonies, including North Carolina were utilized. To better defend the southern frontier, an offensive campaign would be launched against Duquesne. Winning in the Ohio country became for the English not only a strategic goal but a matter of pride.³⁷

To help this renewed effort, North Carolina sent three companies of troops to join the expedition under British general John Forbes. Forbes asked Governor Dobbs to provide reliable soldiers, “able bodied good men, capable of enduring fatigue, and that their arms be the best that can be found in the province.”³⁸ Forbes and his subordinate Hugh Waddell found a dedication to duty severely lacking among the troops. Most decided that militia service in their state did not extend to an expedition into Virginia and simply left. A small percentage under the command of Hugh Waddell and Captain Rutherford stayed with the Forbes expedition and marched west through the Pennsylvania woods.³⁹

A strong sense of adventure must have motivated Rutherford to travel north as part of the North Carolina contingent to the Forbes expedition. Considering scores of his fellow militiamen left the campaign when faced with the prospect of leaving the state, his enthusiasm had to be strong. At his home on Grant’s Creek, Rutherford left behind a wife and toddlers. Perhaps the thrill of combat pulled him away from hearth and home. Daniel Boone, a teamster on the failed Braddock march to Fort Duquesne, might have filled Rutherford’s ear with exhilarating stories of the Virginia woods.

³⁷ Lee, 65; William Fowler, Empires at War: The French and Indian War and the Struggle for North America, 1754-1763 (New York: Walker and Company, 2005), 155.

³⁸ John Forbes to Arthur Dobbs, March 21, 1758, Alfred Proctor James, Writings of General John Forbes, Relating to his Service in North America (Menasha, WS: Collegiate Press, 1938), 59-60.

³⁹ Maass, 12; E. Milton Wheeler, “Development and Organization of the North Carolina Militia,” North Carolina Historical Review 41 (July 1965): 315.

Determined not to repeat the mistakes of Braddock, Forbes brought an overwhelming force to bear on Fort Duquesne. The troops cut a road across the wilderness, advancing slowly towards the French fort. Serving with Forbes, Colonel Hugh Waddell and the Carolinians made up a strike force under George Washington who raced to the fort ahead of the vanguard of the army. North Carolina troops served as rangers in the campaign, scouting ahead of the main army and helping to foil an ambush by Indian allies of the French. By late November of 1758, the French commander in Duquesne knew of the approaching British column and decided his position was untenable. But before abandoning the fort, he blew up the fortifications, keeping an intact position from falling into enemy hands.⁴⁰ Though the British had to rebuild the ruined works at Duquesne, the campaign removed at the very least, a significant French presence from the contested Ohio Country. For Rutherford, his time in the campaign exposed him to countless new experiences. He fought his first pitched battle along the trail against Native American allies of the French, who attacked an outpost on the British supply line. All around him, he absorbed the lessons of woodland warfare, and the value of organization and planning when an army marched into the forest.

Upon his return, Rutherford became an integral part of the plan to keep the frontier safe from further Indian attacks. He joined a “ranging company” with the express purpose of providing a frontline defense of the western areas of North Carolina. Rangers patrolled wooded outskirts of colonial settlements gathering intelligence and serving as a defense for Indian hit-and-run raids.⁴¹ For his service as a ranger,

⁴⁰ Fred Anderson, Crucible of War: The Seven Years' War and the Fate of Empire in British North America, 1754-1766 (New York: Alfred A. Knopf, 2000), 282; Maass, 12.

⁴¹ Rene Chartrand, Colonial American Troops, 1610-1774 (Oxford: Osprey Publishing, 2003), 21.

Rutherford received payment from the colonial government for the expenses his company accrued. Donning the clothing he wore on hunting trips, he utilized his skills in the woods to search out and attack roving bands of Cherokee who posed a serious threat to the colony by 1758. His service in the Forbes expedition also won him a prestigious appointment. Governor Arthur Dobbs awarded Rutherford a commission as a provincial Captain in Colonel Osborn's Regiment of Foot. With an official rank in the army, Rutherford was at the beginning of a military career which would last throughout his years in North Carolina.⁴²

While Rutherford won battlefield experience and plaudits, frontier settlers paid a high price for the British failure to maintain Indian allies. Attacks along the North Carolina frontier had been sporadic since 1756, but when white settlers skirmished with Cherokee warriors going home from the Forbes campaign, the Carolina backcountry exploded in 1760. Angered by being denied the weapons and goods that the English once provided and encouraged by the French, the Cherokee attacked settlements as far east as Salisbury.

The Cherokee's offensive put the North Carolina backcountry in a state of emergency. A thin line of militia and rangers stood between war parties of the Cherokee and white settlement. Fear among inhabitants of Rowan pushed the line of settlement farther east as desperate refugees moved across the Yadkin seeking a safe haven within the Moravian settlement of Bethania. The situation became so serious between 1756 and 1761 that the taxables for Rowan dropped from 1,500 to fewer than 800. By 1760 more

⁴² Walter Clark ed., The State Records of North Carolina (Goldsboro: Nash Brothers Printers, 1895-1905), vol. 22: 820, 827, 844 Future references to this work will be abbreviated as NCSR; Jo White Linn ed, Abstracts of the Minutes of the Court of Pleas and Quarter Sessions Rowan County, North Carolina 1753-1762 (Salisbury: Salisbury Printing Company, 1977), 99.

than land and property was at stake for the people along the frontier. Salisbury, the young town on the frontier stood in the path of a possible Cherokee onslaught. Already in 1759, only a few years after its creation, the town had already become Rowan's center of economic and legal activity. A court system heard cases between parties, and roads connected Salisbury to Virginia and South Carolina. Twenty-two different trade artisans lived in the town, and the increase in population showed no signs of slowing down.⁴³ Indian attacks along the frontier had the potential to curtail the promising growth Salisbury enjoyed just a few years after its creation. A series of concentrated Cherokee attacks against Salisbury could destroy the burgeoning commercial and legal center for the region.⁴⁴

All of these facts were driven home on February 27th of 1760 where manned by only a few companies of western militia, Fort Dobbs came under attack. The men in the fort, including Hugh Waddell, Captain Rutherford and other frontier detachments, were alerted to the threat by the sound of barking dogs during the evening. The Indian assault failed to capture the fort, but the Cherokee refused to let this setback stop an extremely effective terror campaign. From the stockaded homes or reinforced Moravian towns, settlers continued to see Cherokee braves' campfires as a constant reminder of the colony's precarious position.⁴⁵

Hoping to turn the tables, South Carolina initiated a direct campaign into Cherokee lands in an effort to end attacks on the frontiers. Organized in 1760, an expedition marched into the lower towns bordering South Carolina, but a spirited Indian

⁴³ Lewis, 58, 60.

⁴⁴ Brawley, 11; Lewis, 160.

⁴⁵ Maass, 16; Ervin, 29; Lee, 80.

resistance prevented the British commander from moving further west. In this campaign, white soldiers came to the harrowing conclusion that the Cherokee had a strong advantage as they were armed with rifles, weapons more effective in woodland warfare than the English musket. The 1760 march failed to bring the war to a conclusion, forcing another trip into the Cherokee towns in 1761.⁴⁶

This second attack was again led by an English regular officer, James Grant. Since the foray into the Cherokee towns during the previous year failed to end the conflict, Grant decided to lay waste to the essentials needed for Indian survival. He made a part of his army a fast-moving, lightly-equipped force, able to separate from the main body of troops and attack the Cherokee middle settlements. In spite of its best efforts, the expedition could not bring the Cherokee to battle. The Indians sniped at the army, while many others disappeared into the woods, abandoning villages before the onslaught of the army.

To the officers and soldiers in the Grant expedition, the march in the woods proved to be grueling and difficult. Cherokee attacks came without warning and ended just as quickly. Fatigued in their effort to move swiftly, the army spent itself before it had the chance to march further west into the Overhill settlements. Without an enemy to attack, Grant's men burned houses and corncribs, destroyed crops, and commandeered livestock. Facing a harsh winter, the more accommodationist Cherokee leader Little Carpenter sued for peace in August of 1761. After two grueling campaigns, the Cherokee

⁴⁶ Ian K. Steele, *Warpaths: Invasions of North America* (New York: Oxford University Press, 1994), 230; Matthew C. Ward, *Breaking the Backcountry: The Seven Years' War in Virginia and Pennsylvania, 1754-1765* (Pittsburgh: University of Pittsburgh Press, 2003), 197.

lost little land, and in subsequent years rebuilt destroyed villages.⁴⁷ Left unscathed by Grant's column, this set of villages would prove significant for future settler-Indian relations.

The peace terms agreed to by white and Indian negotiators kept the frontier safe for a number of years. During the war Salisbury, the struggling legal and trading center, had been threatened by the Indians during the war. This caused migration to Rowan came to a standstill as families hesitated to move into the dangerous frontier. Two powerful cultures collided in the Carolina woods: one trying to survive among the broken promises and encroachment of white settlers, the other clinging to a new life on frontier while facing European and Indian enemies.

Despite the destruction wrought by Grant's campaign, the condition of the Cherokee remained largely status quo antebellum. In the months to come, Carolina negotiators helped draw a line between white and Cherokee settlement. The crown went one step further, closing further settlement across the mountains in 1763.⁴⁸ Colonists, who considered themselves winners in the French and Indian War were now shut out of the spoils of victory. Virginia and Carolina pioneers bled in the woods to keep access to these areas open and to force Indian surrender of contested lands. Now the King told his subjects that they could not enjoy the fruit of their sacrifices.

The Cherokee War made a significant impact on the life of Griffith Rutherford. It exposed him for the first time to military conflict within and outside of his own colony. He met military leaders at the local level as well as professional soldiers in the King's

⁴⁷ Theda Perdue, Native Carolinians: The Indians of North Carolina (Raleigh: Division of Archives and History, 1985), 34; Lee, 86; Anderson, 467.

⁴⁸ Anderson, 467; Fowler, 287.

army. On his march to Pennsylvania, he took note of the importance of supplies and the need to provision and supply an army moving deep into hostile territory. Rutherford also witnessed woodland combat with Native Americans. The thick woods of the Appalachians were nothing new to him. He had hunted and ranged as soon as he arrived in North Carolina. However, during the campaign with Grant, Rutherford took note that the best way to destroy an enemy meant devastating their ability to make war.

For Rutherford the experience of war served as immediate instruction to a man with little textbook training. Military service, including all the sights and sounds of combat shaped Rutherford's character, providing a second profession for a forty year old man. In the years to come, Griffith probably considered himself lucky to be a part of the war, learning from both successes and failures. During the next conflict in the Carolina woods, Rutherford would be more than an officer in training; he would be the commander.⁴⁹

To westerners, the end of the conflict produced numerous lessons for Carolina settlers. The Cherokee remained a powerful force residing just west of white settlement. Even considering the destruction caused by Grant's army, the Indians surrendered little in the way of power and land in 1763. If pioneers decided to flaunt the Crown's proclamation, a strong, well-organized Indian nation stood in the way of any movement west. Moreover, British Indian agents discovered during the Cherokee War that a generational difference existed in the Cherokee nation between young, aggressive braves, and older, more accommodating chiefs. The older men urged caution when relations deteriorated with the English in 1758. Yet they had little control when younger, nativist

⁴⁹ Anderson, 289, 292. In this passage, Anderson applies the military lessons to a young George Washington. They also apply to Rutherford, as both men saw extensive combat during the war and had little formal training.

chiefs urged attacks on the frontier.⁵⁰ A similar dilemma confronted the nation fifteen years later in the opening months of the American Revolution.

During the next conflict with the Cherokee in the mountains, issues from the Cherokee War and access to western areas would come to the surface again. This time, illegal encroachment of whites onto Indian lands would be set in the larger perspective of a colonial revolution. By 1763, the British hoped to avoid war on the colonial borders by closing settlement along the mountains. Peace in the western areas meant security for the hundreds of settlers living near Salisbury. For Rutherford, the experience helped benefit him personally. He turned his soldiering notoriety into a career in politics, hoping to serve his colony in another capacity.

⁵⁰ Anderson, 468.

Chapter Two

A Primer in Politics

The Cherokee War brought a level of attention and fame to Griffith Rutherford. At the end of the fighting he was forty-two years old, married with four children. He owned substantial parcels of land in Rowan County and could be considered one of the few experienced field officers in the region. Attacks by the Cherokee threatened everything he and his fellow settlers held dear - home, land, and the town of Salisbury. That danger, once settled, meant that North Carolina could continue to grow at a healthy pace.

The French and Indian War temporarily stunted the growth of western North Carolina. With Cherokee raids at regular intervals, settlers huddled in fortified homes or moved east to safety. At the end of the fighting, the removal of the dual threat of France and Native American tribes re-opened the floodgates of migration to the western piedmont. The new royal governor, William Tryon, noticed immediately the explosion of population in his colony. Within a short time, he predicted the settlements would reach the mountains, a fact that spoke well of the industry of western settlers.¹

Among these settlers, Griffith Rutherford hoped to make a name for himself as more than just a family man and landed member of society. During critical periods in the history of the colony, he offered his services and skills. His name appears on scores of Rowan County deeds as a witness to land transactions and wills. In addition, he served terms as a juryman in Rowan County, a service which did not require extensive

¹ Jack Claiborne and William Price eds., Discovering North Carolina: A Tar Heel Reader (Chapel Hill: University of North Carolina Press, 1991), 17.

knowledge of law but served another purpose. With a signature on a legal document, his name listed on a court decision, or credit given on a land transaction, Rutherford by the middle of the 1760s developed name recognition in his region of North Carolina. He could be proud of his service as an officer in the King's army, having served in ranging duties on the frontier. Rutherford also took part in a punitive expedition against the Cherokee, the success of which for a time kept the western areas of the colony peaceful.

He never gave up his peacetime profession as a surveyor. After the French and Indian War, Rutherford received an appointment to be deputy surveyor for Henry McCulloh.² McCulloh owned several grants of land south of the Rowan County line that began to be occupied by settlers moving into the colony from the north after the war. By the middle of the 1760s McCulloh hoped to turn his father's land into a money-making business by collecting rents on his land in the western piedmont.

It turned out to be the vocation that helped Rutherford enter North Carolina politics for the first time. The man Rutherford worked directly under, John Frohock, did more than anyone to launch his political career starting in 1766. By choosing Rutherford as Frohock's assistant surveyor, Rutherford partnered with one of the most influential men in Rowan County. Together, the two led or served as part of surveying teams helping to map out new land. The deed books of Rowan County in the late 1750s and early 1760s show dozens of entries with both Frohock's and Rutherford's names on land transactions.

In Virginia during the 1750s, William Fairfax provided George Washington with royal connections early in life. In turn, Washington used the fame won in the French and

² Powell, Dictionary of North Carolina Biography, vol., 5, 275; Hofmann, Granville District of North Carolina 1748-1763, 330.

Indian War to fulfill the next part of his squire's life: he entered politics, winning election to the House of Burgesses. For Rutherford, local connections in Rowan facilitated his professional career at the end of the war. Rutherford's equivalent to Fairfax was John Frohock. Frohock achieved a level of success Rutherford hoped one day to have. Like Rutherford and many settlers in North Carolina, Frohock moved to the Carolina backcountry from another colony. Starting in Pennsylvania, he resettled to North Carolina around 1750, after a stint in Maryland. Frohock's association with the McCulloh clan of speculators helped him acquire choice land in Rowan during the 1750s. By 1762, he owned at least 6,000 acres.³

A multiple office holder, and member of the militia, Frohock never failed to parlay his office-holding to his own benefit. As clerk of the Rowan county court and surveyor, he could readily identify the most coveted plots of land in the region. For Rutherford, getting to know someone like John Frohock gave him opportunities to advance in the colonial system. By the end of the French and Indian War, Frohock was considered the wealthiest and most influential man in the region. He owned thousands of acres of land, thirty-eight slaves, and his plantation home, considered one of the most elegant in the area, sat on one of his many tracts of land in Rowan County.⁴ To Rutherford, Frohock represented everything he hoped one day to achieve. Frohock began a political career in 1760, using his east coast connections to improve his standing in Salisbury.

³ William S. Powell, Dictionary of North Carolina Biography, vol. 2:245-246; Ramsey, Carolina Cradle, 114.

⁴ Ekirch, Poor Carolina, 172; Powell, Dictionary, 246.

Under Frohock's tutelage, Rutherford was elected to lower house in the North Carolina assembly in 1766. During his many surveying jobs in the backcountry, Rutherford must have made a good impression on Frohock. Getting support from such a prominent man gave Rutherford an inside track to a local or state office. It is not hard to imagine the two discussing the future of their colony as they took and recorded measurements. Frohock turned his prominent position as surveyor into successful election to the North Carolina Assembly. Before the decade was through, his dabbling in different local positions made him a hated target for organized groups of settlers who hoped to regulate corrupt practices among officeholders in the piedmont.

A relative ease in finding cheap land had always been characteristic of North Carolina. Those settlers lucky enough to get title to a large tract might have success in farming or leasing land to new arrivals in the colony. Rutherford enjoyed a comfortable level of economic success because he purchased land in the Granville district, a relatively unregulated swath of the colony. Through his surveying profession Rutherford held the advantage of acquiring the best parcels of land. His surveying fees also provided the cash necessary to purchase these tracts.

Many settlers who arrived in North Carolina after the French and Indian War did not have these same benefits. Suffering tribulations and attacks during the war, frontier settlement pushed east to Salisbury, where the town itself lived tenuously with the threat of Indian attack. Migration slowed to a trickle and placed in jeopardy the future of the region. In the aftermath of the war, as settlers tried to catch their collective breath, another threat from absentee landowners presented a challenge to their fragile existence. Henry McCulloh, who employed John Frohock as his surveyor, determined to make

money from the land settlers lived on rent-free. Unlike his father, who never set foot in the colony, Henry McCulloh took up residence in North Carolina beginning in 1761. He began to collect quitrents from settlers on his father's land. His insistence that the settlers pay him made McCulloh one of the most hated men in the colony. The timing could not have been worse. Having just survived the harrowing experience of the Cherokee War, newcomers to the colony who delayed moving because of frontier troubles now had to face a challenge to their livelihood.⁵

McCulloh, to his credit, went about wooing the local members of Carolina society. He courted men like John Frohock and effectively won their allegiance, realizing he needed their help in getting any kind of economic recovery from families on his land. It proved a wise move, since many westerners rejected his claim to the land and his unrealistic demands for rent. While several settlers on the land paid for it outright, others moved off the land, unable to afford the price or the rent which McCulloh demanded be paid in sterling notes. Some families threatened McCulloh and the surveyors he brought out to measure the parcels and demand the settlers obtain title to the tracts they occupied.⁶

Through his effective use of patronage, McCulloh put the legal means in place to remove settlers from his land. His associates, John Frohock among them, were given positions of power in several colonies and could be expected to enforce his collection of rent. Residents who could not pay in the cash strapped colony either had to leave the area or take McCulloh to court. Challenges to land titles involved lawyer fees and court costs

⁵ Paul David Nelson, William Tryon and the Course of Empire: A Life in British Imperial Service (Chapel Hill: University of North Carolina Press, 1990), 22.

⁶ Marjoleile Kars, Breaking Loose Together: The Regulator Rebellion in Pre-Revolutionary North Carolina (Chapel Hill: University of North Carolina Press, 2002), 38-40; Nelson, 22.

many western residents could not afford. Facing an eviction sanctioned by the legal system, or rent payments based on future profits, several settlers took matters into their own hands.⁷

Attacks on the McCulloh surveying team became the opening chapter in what is known as the Regulator movement in North Carolina. Beginning in 1765 backcountry residents in Anson, Orange, and Rowan counties began to blame county officials for their economic difficulties. The Regulator movement in North Carolina, more than any other period in the history of the colony, is the subject of debate among early American historians. Early historiography deemed the movement a first salvo in the fight against Great Britain. Since then, the Regulation has been considered a regional dispute, class conflict, and more recently, the manifestation of settlers with a distinct dissenting Protestantism.⁸ Concentrated in the western counties of Orange, Anson, and Rowan, the movement dominated backcountry politics for six years. Rutherford's position as a county representative put him directly in the middle of this episode of North Carolina history.

Compounded with frustrations concerning land holdings, residents in western counties had become increasingly frustrated with their local government. The county government by 1765 had become out of control because of multiple officeholders embedded in "courthouse rings." These county institutions owed no allegiance to the people, since the governor appointed offices such as justice of the peace, sheriff, and

⁷ Kars, 40-45.

⁸ John Spenser Bassett, "The Regulators of North Carolina, 1765-1771," American Historical Association, Annual Report, 1894 (Washington D.C., 1895), 142-212; Marvin L. Michael Kay, "The North Carolina Regulation, 1766-1776," in *The American Revolution*, ed. Alfred F. Young (De Kalb: Northern Illinois University Press, 1976), 71-123; Andrew C. Denson, "Diversity, Religion, and the North Carolina Regulators," *North Carolina Historical Review* 71 (January 1995): 30-53.

town commissioners.⁹ These offices were chosen by the governor in the eastern capital, who approved their selection based on the recommendations of county assemblymen. When the courthouse rings combined with lawyers and land speculators, small farmers began to believe a conspiracy existed to drive them off of land in order to enrich county officials.¹⁰

Roger Ekirch, who wrote a study of North Carolina during the colonial period offered a convincing explanation for the source of corruption about which Regulators criticized. According to him, a new group of men entered politics in the piedmont and quickly became tainted, by holding multiple offices. Using dire language, the Regulators spoke in terms of their very future being threatened by leeches in society who benefited from legal fees and foreclosures against honest, hard working farmers. To these men, the local officials, merchants, and lawyers rose to wealth and prominence at the expense of the struggling settler. Adding insult to injury, several men who ascended the ladder of county leadership, among them Henry McCulloh and Edward Fanning, had only recently arrived in the colony. Outsiders; merchants, and lawyers, according to frustrated farmers, were leeching off the hardworking, honest frontier family.

Upon arriving in New Bern in November of 1766, Griffith Rutherford tried to prove he was not deaf to the complaints of his fellow backcountry farmers. He sponsored legislation that would have carved new counties out of Rowan, allowing for more representation to the backcountry. New districts would, he hoped bring some relief to the

⁹ Lewis, Artisans in the North Carolina Backcountry, 114; Hugh T. Lefler and Albert Ray Newsome, North Carolina: The History of a Southern State (Chapel Hill: University of North Carolina Press, 1973), 167.

¹⁰ Elisha P. Douglass, Rebels and Democrats: The Struggle for Equal Political Rights and Majority Rule During the American Revolution (Chapel Hill: University of North Carolina Press, 1955), 76; Merrill Jensen, Founding of a Nation: A History of the American Revolution, 1763-1776 (New York: Oxford University Press, 1968), 30.

western counties by more evenly reflecting the population dispersion in North Carolina. This bill failed to pass during either the 1766 or 1767 session. Rutherford did, however, get an appointment to a Committee on Propositions and Grievances an assignment which would allow him to evaluate Regulator complaints more carefully. Apart from Rutherford's assignment to a committee to cut and clear a road through several western counties, the session turned out to be uneventful for him.¹¹

Following in the footsteps of Frohock, Rutherford took on further responsibilities while serving in the assembly. His connections to influential east coast men got him the coveted position of Sheriff in Rowan County for 1767. A local office appointed directly by the Governor, a county Sheriff carried a host of tasks. At the basic level he served as the chief executive of the county. Custody of the jail fell to the sheriff, who imprisoned criminals, and inflicted the death penalty for capital offenses.¹² As sheriff, Rutherford performed many of these duties, including executing two men for horse stealing, and another for murder.¹³

In addition, part of the sheriff's duties included collection of parish and county taxes. For this unpopular action, the sheriff received a list of taxables in the county, which included white males over sixteen and slaves. After a successful completion of collections, the sheriff obtained a small fee. In other words, the sheriff had to enforce the

¹¹ Legislative Journal in William L. Saunders ed., The Colonial Records of North Carolina (Raleigh: Josephus Daniels, 1886-1890), vol. 7: 345-346, 571, 354. Future references to this source will be abbreviated NCCR.

¹² Alan D. Watson, "The Appointment of Sheriffs in Colonial North Carolina: A Reexamination" North Carolina Historical Review 53 (October 1976): 385; William Conrad Guess "County Government in Colonial North Carolina" James Sprunt Historical Publications 11(1911): 30.

¹³ 1759-1768 Rowan County Sheriffs Accounts, in Rowan County, North Carolina Tax Lists 1757-1800, 39-40.

will of the local county court, otherwise known as, the “courthouse rings.”¹⁴ Oftentimes the justices of the peace, who set tax rates, also served as sheriff or after a term in one office, moved to another county position. Collecting public money entailed a huge responsibility, but it also proved a tremendous temptation for those fresh in power.¹⁵ Special scorn was reserved by Regulators for the office of sheriff. Backcountry sheriffs had the reputation of being notoriously corrupt. Men who held the office often failed to turn in all monies to the colonial treasury.¹⁶

Rutherford as sheriff became embroiled in the Regulator crisis right after his selection to that office. He already held the position as justice of the peace, a prerequisite to becoming sheriff, the year before he took the post in 1767.¹⁷ Rowan County, along with Anson and Orange, was considered one of the hotbeds of Regulator activity after 1768. When Rutherford took this thankless position, the machinations of John Frohock already caused anger among the people in his county. Sheriffs who preceded Rutherford failed to collect the necessary taxes dating back to 1765. In a county of 3,000 taxables, more than 2,000 refused to pay for the year 1766. The next year proved even worse, when Sheriff Andrew Allison collected from just 205 taxables.¹⁸

Perhaps Rutherford, who since the mid 1750s served his county as surveyor and soldier, thought his name recognition might allow him to redeem the embattled county

¹⁴ Guess, 30.

¹⁵ Lewis, Artisans in the North Carolina Backcountry, 117; Paul Woodford Wager, County Government and Administration in North Carolina (Chapel Hill: University of North Carolina Press), 14.

¹⁶ Ekirch, 178, 181; Lefler and Newsome, 168; Jensen, 30.

¹⁷ Lefler and Newsome, North Carolina, 168-169.

¹⁸ Brawley, Rowan County, 17; Ervin, Colonial History of Rowan County, 36.

office. In spite of his best intentions, the people in the county seemed unlikely to hand over their money to anyone after 1766. During the legislative session of 1768, Rutherford saw firsthand the challenges in the sheriff's office during a tax revolt. An audit by the Assembly found Rutherford owed the colony 868, for the year 1767.¹⁹ This amount represented the shortage for tax collection that year. This value reflects one of two scenarios. Either Sheriff Rutherford's accounts stood in arrears because he enriched himself during his first year, or the citizens of Rowan County failed to pay their taxes. The latter scenario seems more likely, but future developments in the Regulator controversy do not rule out the first. The finances fell into such disarray that Rowan went without a sheriff in 1770.

When repeated attempts at reform legislation failed to pass the legislature, angry backcountry residents organized themselves into Regulator associations and attacked courts, lawyers, and freed arrested leaders of their organization.²⁰ In 1768 Governor Tryon personally attempted to intervene to stop the lawlessness in Orange County, a hotbed of the Regulator movement. In September, Tryon accompanied by members of the Assembly left New Bern and traveled to Hillsborough for the Superior Court session. He spent a good part of the summer collecting militia from Rowan, anticipating possible violence from several hundred Regulators who gathered near the town.

His show of force helped avert violence and allowed for the peaceful conduct of court proceedings. As a measure of good faith, Tryon agreed to pardon all but seven insurgents if the Regulators delivered the most vocal leaders of the rebellion. He came to this conclusion after a discussion with his militia officers and the six men, including

¹⁹ Ervin, 36; Assembly Journal, NCCR, 8:280-281.

²⁰ Jensen, 30-31.

Rutherford, who represented the Assembly. Pondering this over night, most of the several hundred Regulators simply went home, agreeing to nothing.²¹ Returning to the capital late in the year, Rutherford again tried to do his part for the cause of reform. Along with two other western men, he helped prepare yet another bill for dividing Rowan County, making another district in the piedmont.²²

If Rutherford needed a reminder about the danger of becoming involved in the “courthouse rings” he got one in the 1770-1771 Assembly session. That year, Rutherford and other assemblymen investigated Thomas Person, an assemblyman charged with extortion, usury, and exacting illegal fees. While investigating this matter, Rutherford’s persistence at reform measures paid off. The 1771 session approved the separation of a part of northern Rowan County to be called Surry County. Swept up in the cause of reform, the creation of a new county could at least provide representation for the fastest growing area of North Carolina.²³

With Surry County created, the machinery of a new county could begin and take some pressure away from Rowan County, which at one point made up the entire western portion of the colony. Residents of Rowan asked their representatives for this change, and after several sessions of stalling, the request passed. Perhaps inspired by this legislative victory, Rutherford, in a rare recorded vote, supported a bill for regulating and ascertaining several county positions including Chief Justice and Clerk of the Crown.

²¹ Proceedings and Resolutions of the Council of War held at Hillsborough Camp the 22^d and 23^d September 1768, NCCR, 7: 840-842; Wayne E. Lee, Crowds and Soldiers in Revolutionary North Carolina: The Culture of Violence in Riot and War (Gainesville: University Press of Florida, 2001), 63; Nelson, 75.

²² Legislative Journal, NCCR, 7: 929.

²³ Assembly Journal, NCCR, 7: 326, 330.

Though he left the job as sheriff, and the pressures and scandal attached to that office, Rutherford in this case supported a reform measure. Perhaps he kept in the back of his mind Assemblyman Person, under investigation for abuse in office.²⁴

When he accompanied Governor Tryon and his militia to Hillsborough in 1768, Rutherford and other Assemblymen kept the peace in an effort to allow due process to run its course. Two years later in Hillsborough, Regulators seized the court in the town, attacked officials of the county, and assaulted the hated Edward Fanning. Fearing that anarchy had taken over in western counties, the Assembly passed the Johnston Act, giving Governor Tryon the legal means to call out militia and enforce the law. Passions and rumor filled backcountry counties as news of the Johnston Act made its way west. Stories in the New Bern claimed an army of Regulators were on the march, heading for the capital.²⁵

One of the organized groups of Regulators met outside the town of Salisbury in the spring of 1771. By this time members of the Rowan community had become well aware of the militant stance taken by the Governor and legislature. Responsive to the anxious situation, but compelled by duty to enforce the law, Rutherford found himself in a difficult situation. He sympathized with the Regulators, helping to introduce new legislation to improve conditions in the west. At the same time, his military stature compelled him to follow the dictates of the governor. In March of 1771 Rutherford paraded his militia company in the town of Salisbury; a brave but undermanned show of

²⁴ Ibid., 330, 385, 422.

²⁵ Nelson, 81-82; Lee, Crowds and Soldiers, 75.

authority. In doing this, Rutherford carried out the orders of Governor Tryon, who asked his county militia officers to enlist volunteers for service against the insurgents.²⁶

Though Rutherford could muster a small contingent of troops, in reality he represented crown policy in a sea of disgruntled North Carolinians. Facing this situation, and with several Regulators grumbling for a fight, a group of Rowan officials met with Regulator leaders to help alleviate the tense situation. Among the fifteen Rowan Regulators was James Graham, Rutherford's father-in-law, who sat down with the county leaders, who represented surveyors and sheriffs of the county. Among these men an agreement outlined by the two parties gave satisfaction to both groups. All of the county officials gathered agreed to repay to the persons in the county all excessive fees charged "through inadvertency." Rutherford in his capacity as surveyor signed his name on this document, along with his one time tutor in politics John Frohock.²⁷

Frohock and Alexander Martin, two of the men who put their name on this agreement, then wrote Governor Tryon to inform him of the situation. The letter implied that unlike Hillsborough, the Rowan Regulators had no intention of becoming violent and interrupting proceedings of the court. If the situation escalated, several militia companies, including Captain Rutherford's could be called upon to protect the court. Frohock and Martin hoped the letter outlined the general sentiment of the people of Rowan County: Regulator fatigue. To the minds of the officials, the meeting achieved

²⁶ Deposition of Waightstill Avery, March 6, 1771, NCCR, 8: 520-521; Nelson, 81.

²⁷ Agreement for restitution by Rowan County officials to the Regulators, March 7, 1771, NCCR, 8: 521-522.

the needed results, for the people “gave three Cheers and returned to their homes without using Violence to any Person whatsoever.”²⁸

Governor Tryon however did not share the sentiment of the Rowan officials. He reprimanded this arrangement as “unconstitutional, Dishonourable to Government and... dangerous to the peace and Happiness of Society.” By meeting with the Regulators, Tryon implied, the Rowan men were all but admitting they had gouged the citizens of the county. Tryon scolded the men for any abuse in office while at the same time he resented the mediation.²⁹

Meeting with members of the Rowan committee to discuss his collection of fees probably saved Rutherford’s political career. While never formally admitting wrongdoing, he tried to appease the members of Rowan County. What ameliorated his wrongdoing more than anything else was that he was not alone. Earlier sheriffs in Rowan had failed in their duties, either by enriching themselves or failing to collect all the taxes in their district.³⁰ By choosing to mediate with Regulator leaders in Rowan, the situation defused, in spite of the outrage it caused Governor Tryon.

Although Rowan has been considered one of the hotbeds of Regulator resistance by historians, by meeting with representatives of the organization, Rutherford and others avoided the fate of her eastern neighbors. In more radical Orange County, the violence continued into the fall of 1770. When Regulators in that region unleashed a spree of violence that stopped the Hillsborough Superior Court, officials asked the Governor to call out the militia in surrounding counties.

²⁸ John Frohock and Alexander Martin to Governor Tryon, March 18, 1771, NCCR, 8: 534-536.

²⁹ Nelson, 82.

³⁰ Lewis, 120.

When Tryon marched his militia into the backcountry, Rutherford as a militia captain rallied the willing members of Rowan to organize a support column and come to the aid of the governor. By the time Tryon became aware of the negotiation in Rowan County his army was on the march. Rutherford, in the role he would play for many years to come, served as both politician and military officer. His efforts at negotiation helped resolve the tense situation in Rowan, but Regulators remained armed and organized in other parts of the colony. Rutherford helped settle Regulator grievances and thereby kept Salisbury from descending into the chaos of Hillsborough. But his duties as a militia officer meant he had to fulfill the commands of the governor. In May 1771, Rutherford reunited with his commander from the French and Indian War, Hugh Waddell, near the Yadkin River. Waddell organized a force of western militia to come to the aid of Tryon's force, which was marching from the east. Two converging armies, it was hoped, could bring the large Regulator army near Alamance Creek to bay.

The presence of a strong force of Regulator militia on the Yadkin River forced Waddell to call his officers into a council of war on May 10th. Captain Alexander swore before Rutherford that the large Regulator force extended a quarter of a mile, with ranks seven or eight deep. If the information was credible, this would be a substantial force for Waddell's men to face. Though the intelligence turned out to be a gross exaggeration, the officers took it as a sign that a substantial force ten times their number organized against their troops, and advised Waddell to retreat behind the safety of the Yadkin.³¹

Even without the assistance of Waddell's column, Tryon defeated a Regulator force along the Alamance Creek on May 14th. Tryon then left the theater of battle,

³¹ General Waddle's Camp, Pott's Creek, 10th May 1771, NCCR, 8: 608; Lee, 83.

entrusting Waddell with marching his army through Rowan and Tryon Counties as a show of force. Rutherford stayed with this army for a short time, but left the field in June, retiring to the Moravian town of Salem to recover from a spell of gout.³²

Throughout the Regulation, Rutherford attempted to walk a fine line between his responsibilities as a county official and his sympathies with other farmers in Rowan. He was not unaware of the fact that in contentious Orange County armed farmers had interrupted court proceedings and become violent towards their most despised enemy, Edmund Fanning. He maneuvered adroitly in the spring of 1771, cooling the tempers of disgruntled Rowan residents while fulfilling his duties as a loyal militia officer.

Rutherford's ability to play to popular politics served him well in another controversy that arose during the Regulator uprising. In 1770, he became embroiled in a religious predicament that forced him to choose between his adherence to the official church and his own political positions. A devout Anglican early in life, Rutherford served as a vestryman in St. Luke's Episcopal Church in Rowan, but by 1770 he began to have a falling out with the parish church. Much of his frustration had to do with the excessive fees ministers could charge for performing marriage ceremonies.³³

Many citizens of Rowan, not just Rutherford objected to the monopoly of the Church of England in North Carolina. Presbyterians and Baptists dissenters who dominated the population of western counties resented laws that allowed only Anglican ministers to perform religious ceremonies. In communities already loathe to pay taxes because of corruption, the Governor found it hard to force dissenters to pay for an

³² Nelson, 85; Adelaide L. Fries and others, eds., Records of the Moravians in North Carolina (Raleigh: State Department of Archives and History, 1922-1969), vol.1: 476, 443.

³³ Long, Griffith Rutherford, 67.

Anglican clergyman. By 1770 in complaints to the legislature, Tryon linked backcountry dissenting to a repudiation of the crown.³⁴ That year, in the middle of the Regulator crisis Governor Tryon became adamant about enforcement of the Orthodox Clergy Act. Responding to a petition from Rowan Anglicans to send a minister for the local parish, Tryon dispatched Theodorous Swaine Drage to Rowan, and at this point he came in conflict with the county's two representatives to the colonial assembly.

Recent elections determined the people of Rowan overwhelmingly did not want an Anglican vestry to serve their religious needs. To Griffith Rutherford and Matthew Locke, the residents of their county had already spoken on the matter. Working with Baptist minister Joseph Murphy, Rutherford and Locke kept out any legally sanctioned Anglican by promising to help elect a dissenter to the vestry who refused to take the oath to the Anglican Church. Any minister who refused to take this oath was imposed with a fine. But the dissenters in Rowan favored paying a fine as opposed to the tax due from all citizens in the county that supplied the salary for an Anglican minister. Rowan dissenters established a fund to pay the fine in upcoming elections, preventing any Anglican for years to come from serving in an official capacity.³⁵

Drage, by all accounts a kind, gentle man, grew increasingly frustrated at Rutherford's and Locke's reluctance to aid his efforts. Drage made his case to the people of Rowan, but found many in the region contemptuous of the church and the crown. Nevertheless, he promised Governor Tryon that his logic convinced many residents of the legality of the establishment. Rutherford and Locke however, were another matter. Both

³⁴ Nelson, 28.

³⁵ William Tryon to the Assembly, January 7, 1771, William S. Powell, The Correspondence of William Tryon and other Selected Papers (Raleigh: Division of Archives and History, 1981), 2: 560; Kars, 180-181.

men seemed disinclined to expedite Drage's business, leading the minister to observe, "sincerity and confidence are herbs scarce to be found in this climate." Unable to extract any obedience from a region already full of discontent for authority, Drage gave up his cause and left the area, calling the Rowan voters "rotten nuts."

Increasingly after 1770, western counties in the middle of the Regulator movement began to link an erosion of their civil liberties to the practices of the English Crown.³⁶ To Rutherford and Locke, the principle was simple; elections by the Presbyterian majority in the county had outright rejected the Anglican candidates. By attempting to send Drage into the county, Tryon went against the popular sentiment of the people Rutherford and Locke represented. Many residents of Rowan County had moved to the area from Virginia and Pennsylvania to escape the Anglican or Quaker church. Even Drage could recognize this powerful sentiment; he informed Tryon any intrusion on religious prerogatives "dangerous in itself not with respect to this county and the neighboring counties, but to the whole Back Frontier of America."³⁷

The episode proved that governors and assemblymen alike had to dance carefully during this heightened time of anxiety. In 1771, not all Rowan citizens championed the Regulators. Tryon realized forcing obedience to the Church of England could eliminate any remaining support he might enjoy within Rowan County. The controversy also permanently drove the Rutherford family out of the Anglican Church. Late in life, after

³⁶ Nelson, 29; Reverend Draige to Governor Tryon, May 29, 1770, NCCR, 8: 206.

³⁷ Quoted in Nelson, 29.

he moved to Tennessee, Griffith and Elizabeth Rutherford became charter members of the Shiloh Presbyterian Church.³⁸

The extent to which Rutherford enriched himself at the expense of his Rowan neighbors can never be known. What is clear is that his agreement to hand back funds obtained as sheriff indicates his membership in the courthouse ring fattened his pockets. The Regulator movement in Rowan during the years of 1768-1771 provided a remarkable education in politics. The tightrope Rutherford needed to walk proved to be very thin, indeed. His tutor in politics, John Frohock, lost his seat in the assembly during the crisis because of his excesses in office. Furthermore, Frohock became a despised member of the western planter elite, an ally of the hated courthouse ring member of Orange County, Edmund Fanning. Frohock's protégé Rutherford managed to survive because he maneuvered carefully enough to stay in office. Rutherford served as sheriff for one year; the difficulty in collecting taxes or flaw in the fee system dissuaded him from staying in the position. By agreeing with other Rowan official to pay back excessive fees, the voters of Rowan continued to send him to the Assembly.

Rutherford grew sympathetic to the demands of the Regulators in his region of the state. A decade before, the creation of Rowan County out of Anson was seen as a much needed development for the future of the backcountry. By 1770, with the Regulator movement becoming more violent, he believed carving out a new county from Rowan would assuage the residents of his region. More representation in the west could provide for passage of measures demanded by Regulator leaders.

Rutherford's stance on the establishment of Anglican clergy in Rowan proved to be a timely position as well. Against Reverend Drage, Rutherford gained support

³⁸ Long, 67.

because he answered the demands of fellow dissenting Protestants. In both instances, Rutherford played the role of a concerned representative of his county. If his deeds were simply posturing to keep him in office; both of Rutherford's courses of action were the exploits of a man with increasing political acumen.

As a westerner, Rutherford tried to keep the interests of his constituents close to heart. If he enriched himself as sheriff, his efforts to pay back excessive fees redeemed him in the eyes of the people of Rowan County. For a time however, his experience in the center of the Regulator movement threatened his political future at a critical juncture. If the people of Rowan lost enough confidence in Rutherford, he easily would have been voted out of office at a decisive moment in the history of the colony. It seems more likely that by 1770 and 1771 heavy-handed actions of Governor Tryon left Rutherford concerned about the position of North Carolina in the British system.

By surviving the Regulator crisis, Rutherford witnessed the next watershed event in North Carolina's history. Even as Tryon violently stopped the western uprising, protests against the King and Parliament began within the colony. North Carolina led a concentrated effort at protesting the Stamp Act and Tea Duty. While his participation against these actions of Parliament is unknown, Rutherford continued to serve in the assembly during the Imperial Crisis, listening as the relationship between colony and crown became more and more strained.

It is likely that Rutherford, like other Assemblymen from western districts, distrusted the motives of the leadership of the colony's eastern elite. He needed the sponsorship of these men to attain office, yet many of these same individuals opposed

and stymied legislation enacted to alleviate the burden of Regulator grievances.

Whatever he may have thought of the eastern elite leading a revolution against the Crown, service to the rebel government put Griffith Rutherford on the fast track for promotion. In the new system, birth or name meant far less than ability. An experienced field officer like Rutherford, stationed in the vast expanse of the Salisbury district, gave the revolutionary government eyes and ears in the backcountry.

In spite of any misgivings he may have harbored, Rutherford signed his name to the Continental Association in April of 1775. The Association condemned British actions in Massachusetts such as closing Boston Harbor and initiated a boycott of English goods. Soon after the spring meeting of the Provincial Congress in New Bern, minutemen and British soldiers battled at Lexington and Concord. During the next meeting of the Provincial Congress, representatives in North Carolina contemplated their reaction to the bloodshed in Massachusetts.

In August the Provincial Congress named Rutherford a member of the Rowan Committee of Safety. These committees, organized in each county, helped enforce boycotts and acted as committees of correspondence to keep Provincial Congress members in communication with one another. Rutherford's appointment led to his promotion to Colonel of the Rowan Minutemen. Throughout the fall of 1775 Rutherford received numerous assignments within the Rowan Committee of Safety. Members of this group kept a careful eye on the sentiments and allegiances of citizens in the district. In the months to come, as a member of the Committee of Secrecy, Intelligence, and

Observation, Rutherford's duties included spying on and arresting anyone who showed wavering allegiance to the Provisional government.³⁹

For all intents and purposes, the Committees of Safety served as the county government for the Provincial Congress before a formal break with Great Britain was established. In Rowan County, the list of responsibilities included watching suspected Tories, managing county affairs, and organizing military affairs. Keeping tabs on Loyalists proved one of the more challenging duties after Lexington and Concord in the spring of 1775. Tories organized early in Rowan County that year, and the Safety Committee legally could arrest and jail suspects or make them swear allegiance to the state.⁴⁰

For the Carolinas during the year before independence, the biggest threat to each colony did not necessarily have anything to do with British armies invading eastern shorelines. During 1775 and 1776, both South and North Carolina dealt with dangers posed by residents within each colony. No incident reflects this more than the late 1775 uprising of South Carolina Loyalists. When the South Carolina government attempted to send ammunition and powder as a token of friendship to Cherokees in the state, a band of Loyalist militia intercepted the cache. Loyalist leaders claimed the supplies were to be used against them in an Indian raid. The provincial government of the colony quickly organized, sending Andrew Williamson to stop the Tory army. Instead of recapturing the

³⁹ Second Provisional Congress Journal, NCCR, 9:1181; Third Provincial Congress Journal and Rowan County Safety Committee Proceedings, NCCR, 10: 206, 215, 252, 312.

⁴⁰ Bessie Lewis Whitaker, "The Provincial Council and the Committees of Safety in North Carolina," James Sprunt Historical Monograph 8 (1908): 1; W.C. Allen, "Whigs and Tories," North Carolina Booklet 2 (September 1902): 10-11.

stolen goods, Williamson found he faced a force three times his own, and hastily built a fort near the trading center of Ninety Six.⁴¹

Considering the situation desperate, the Provincial Congress of South Carolina applied to North Carolina for help. Three western North Carolina counties sent a total of 750 men to the south, to relieve the siege at Ninety Six. Griffith Rutherford raised 200 men from Rowan, including his son James, and marched to Williamson's aid. Hearing of a large Patriot army on the move, the Loyalist force tried to scatter, but remnants of the force fell into the hands of the Patriot militia. As the Carolina troops marched home in December of 1775, an amazing thirty inches of snow fell in the backcountry, giving the winter march the name of "Snow Campaign."⁴²

The incident makes clear the fact that as Carolina revolutionaries waited for an imminent attack from the British army and navy, the threat from Tories within each state posed an even more serious crisis. For the Rutherford clan, the Snow Campaign made a significant impact. Only a teenager, James Rutherford left school to join his father in the march. James's youthful quest for glory, which began in the snows of South Carolina, would end tragically in the swamps of that state six years later.

Upon his return from South Carolina, Rutherford participated in the most significant of the revolutionary meetings in the colony of North Carolina. At the Fourth Provincial Congress, permanent steps were taken to move North Carolina towards a final

⁴¹ John S. Pancake, This Destructive War: The British Campaign in the Carolinas, 1780-1782 (Tuscaloosa: University of Alabama Press, 1985), 76; Robert Weir, Colonial South Carolina: A History (Millwood NY: KTO Press, 1983), 324-325; Rachel N. Klein, Unification of a Slave State: The Rise of the Planter Class in the South Carolina Backcountry, 1760-1808 (Chapel Hill: University of North Carolina Press, 1990), 83.

⁴² Autobiography of Colonel William Polk, Joseph Graham to Archibald Murphy, July 14, 1821, William Henry Hoyt ed., The Papers of Archibald D. Murphy 2 vols. (Raleigh: E. M. Uzzell & Co, State Printers, 1914), 2: 401-404; () to Colonel Richard Richardson, December 3, 1775, NCSR, 15: 684; Long, Griffith Rutherford, 106.

break with Great Britain. In April of 1776, this body passed the Halifax Resolves, directing North Carolina Delegates to the Continental Congress to vote for independence. These resolves made North Carolina the first colony to take action making independence official. The Provincial Congress created a Council of Safety as the governing body of the state. To aid the military situation, the Congress divided North Carolina into six military districts.⁴³

Because of his military experience, the Council assigned Rutherford to several committees worthy of his knowledge. These included groups that ascertained the amount of ammunition in the colony, and others that organized, regulated, and paid militia.⁴⁴ One of his most important obligations during the session included a report on the conduct of insurgents. In one of the lengthiest reports of the Provincial Council journal, Rutherford's committee detailed all of the Loyalists involved in the recent failed attempt by Carolina Highland Scots to rise against the new state government. Most of the men were charged with crimes against the state. The Highlanders must have thought it ironic that the men charging them with disloyalty were in the process of committing treason against George III.

In the span of less than six months, Rutherford dealt firsthand with two Loyalist threats to the Carolinas. During the previous December Rutherford and his son braved the winter of the Snow Campaign in South Carolina. In late February, he marched east to help put down the Highlander rebellion. His militia arrived after the battle had been

⁴³ Powell, North Carolina Through Four Centuries, 183-184; Lindley S. Butler, North Carolina and the Coming of the Revolution, 1763-1776 (Raleigh: North Carolina Department of Cultural Resources, 1976), 65.

⁴⁴ Provincial Council Journal, NCCR, 10: 502, 507, 519, 515, 579.

decided, yet the experiences helped illustrate that dangers to North Carolina did not always wear a red coat.⁴⁵ Unable to punish Tories in the field, Rutherford made it a part of his political agenda to punish their continued allegiance to Great Britain.

Thanks in large part for his service to the state in the recent Snow Campaign the state of North Carolina promoted Rutherford from Colonel to Brigadier General for the Salisbury district. This promotion was no doubt flattering, but encompassed an incredible amount of territory: the entire western sector of the state. Barely had Rutherford been given his assignment as Brigadier when rumors of an Indian uprising in the west shocked the Provincial Congress into taking action. Before leaving that assembly Rutherford obtained permission to take a substantial amount of gunpowder along with him on his return trip to Salisbury.⁴⁶

Stirrings among the Cherokee began as Rutherford took a command role in his region's preparations for breaking away from Great Britain. In both the eastern village of Halifax and in Rowan, he witnessed firsthand the dramatic changes sweeping the colony during 1775 and 1776. Unlike Massachusetts, North Carolina did not have a British army living within its borders. Instead of the explosion of violence among minutemen and troops, North Carolina parried against organized Tory attacks in the Highland strongholds, and in South Carolina.

By spring of 1776, a new threat from the west emerged as the most serious cause of concern for Carolinians living in frontier counties. The Cherokee nation, stung by a series of land invasions, mobilized their younger warriors and prepared to attack white

⁴⁵ Powell ed., Dictionary of North Carolina Biography, vol. 5: 275.

⁴⁶ Provincial Congress Journal, NCCR, 10:530, 633.

settlers living over the mountains in North Carolina. Although smallpox and the 1760 Grant campaign reduced the nation's population the Cherokee continued to remain a powerful force bordering four states. By 1775 the Cherokee numbered 12,000, of whom 3,000 could be considered warriors.⁴⁷ For Griffith Rutherford, Indian attacks would prove to be the most challenging chapter of his career. Given responsibility for the western quadrant of the state, he faced a monumental task: putting the frontier areas on a defensive footing while waiting to see if a combined English-Cherokee thrust might be launched against the homes he promised to protect.

Since the conclusion of the French and Indian War, North Carolina governors tried to keep their land-hungry settlers east of the mountains in obedience to the Proclamation Act of 1763. Nevertheless, avaricious settlers attempted at every turn to press the settlement line into Cherokee land and hunting grounds. Governor Tryon, at the request of the Cherokee, personally led an expedition in 1767 to draw a settlement line from South Carolina to Virginia. This action was intended to keep whites off Indian lands, as well as to require settlers to move to the eastern side of the dividing line.⁴⁸

An amicable relationship between colonist and Indian did not last. In spite of the fact that western areas of North Carolina remained sparsely populated, a strong desire for westward migration filled the minds of thousands of settlers. The Regulator movement and difficulty getting title to lands claimed by men like Henry McCulloh may have had something to do with it. Other men, former militia soldiers from the 1760 Cherokee

⁴⁷ Colin G. Calloway, The American Revolution in Indian Country: Crisis and Diversity in Native American Communities (Cambridge: Cambridge University Press, 1995), 196-197.

⁴⁸ John Richard Alden, John Stuart and the Southern Colonial Frontier (Ann Arbor: University of Michigan Press, 1944), 219-220; Louis De Vorsey Jr., The Indian Boundary in the Southern Colonies, 1763-1775 (Chapel Hill: University of North Carolina Press, 1961), 108.

campaign, were drawn to the mountainous areas during their service in the French and Indian War.⁴⁹

In spite of the best efforts of Royal officials, individual settlers and families decided to negotiate separately with willing Cherokee chiefs for the lease and purchase of land. As early as 1769 cabins appeared in the valleys of the Watauga, Holston, and Nollichucky Rivers which run along the border of North Carolina and Tennessee. This was part of a lease between western settlers, known as Wataugans, and willing Cherokee chiefs. During 1775, without sanction by the Crown, the Cherokee sold large tracts of land in what is now Kentucky to the Transylvania Company, headed by North Carolinian Richard Henderson. In addition, the Cherokee sold lands along the Holston and Watauga Rivers to families who arrived in the late 1760s.⁵⁰

Desperate to avoid war in the distant western theater, British Indian agent John Stuart tried to keep the peace and stem the show of support excited by young Cherokee leaders like Dragging Canoe, who clamored for war. He demanded the Wataugans leave their illegally-gained land. Watauga leaders, who hoodwinked the Cherokee for ten years, responded with a clever ruse. One crafty settler forged a letter supposedly written by a British official to another claiming the English army would march from Florida, rally Creek and Cherokee Indians, and attack the settlers. In actuality, the British agents tried desperately to hold back Indian attacks. Realizing the Cherokee would be doomed if they faced an enraged frontier population, John Stuart and his brother Henry did not

⁴⁹ DeVorse, 25.

⁵⁰ Philip M Hamer, "The Wataugans and the Cherokee Indians in 1776," East Tennessee Historical Publications No. 3 (January 1931): 111; Dan L. Morrill, Southern Campaigns of the American Revolution (Baltimore: The Nautical and Aviation Publishing Company of America, 1993), 28-29.

want to anger frontier colonists wavering in support of the Revolutionaries or put under the knife loyal subjects living in the contested lands.⁵¹

A turning point occurred in early 1776 when a delegation from the Iroquois nation visited the Cherokee in Chota. As Colin Calloway has noted, the arrival of the northern Indians sparked a Cherokee revolution, in the middle of the American Revolution. Younger braves led by Dragging Canoe committed to war after a promise of support from northern tribes. The older chiefs, who made the land sales that put the nation in its current predicament, lost favor and respect among their people. For over a year after the Henderson land deal, Dragging Canoe vowed to fight further white encroachments. His militant stance flew in the face of Cherokee elders, including his own father, Attakullaculla.⁵²

To the settlers in the contested region, any attacks on whites served as part of the British plan to ally Indians and Loyalists in an effort to crush the revolutionary cause. Though the theory that the British encouraged the Cherokee to strike along the frontier has been proven untrue, the perception among settlers of the Watauga and Transylvania communities made this fiction a reality. To the whites living in river valleys close to Cherokee villages, British agent Stuart seemed intent to destroy their freedom and their lives.⁵³

⁵¹ Morrill, 29; Jack Sosin, The Revolutionary Frontier, 1763-1783 (New York: Holt, Rinehart, & Winston, 1967), 90; "Henry Stuart's Account of his Proceedings with the Cherokee Indians about going against the whites," August 25th, 1776, in NCCR, 10: 763-785.

⁵² Calloway, 196-197; Gregory Evans Dowd, A Spirited Resistance: The North American Indian Struggle For Unity, 1745-1815 (Baltimore: Johns Hopkins University Press, 1992), 48.

⁵³ J. Russell Snapp, John Stuart and the Struggle for Empire on the Southern Frontier (Baton Rouge: Louisiana State University Press, 1996), 3.

Though divided in the course of action to take in the spring and summer of 1776, the Cherokee attacks began sporadically, then in a more organized fashion. At the end of a long decade of discontent, the Cherokee had reached their limits of patience. White settlement on their land and encroachment in their towns reached a boiling point by 1776. Although the leadership of the nation remained at odds, the militant faction won the argument. Leaders like Dragging Canoe were savvy enough to realize the whites themselves had become divided thanks to the start of the Revolutionary conflict.⁵⁴ For the Cherokee, the consequences of the ensuing war would be dire.

⁵⁴ Sosin, 87; Hamer, 126.

Chapter Three

The Cherokee Expedition

Attacks on settlers began in the spring of 1776; with intermittent raids on isolated families scattered around the frontier. News of the violence terrified residents in western counties, as far east as the Moravian communities in Surry County.¹ The reports filled the Moravians with tension in the spring of 1776. At that time, news arrived in Salem that residents near the Holston River were fleeing the area or gathering together in a defensive stance. This action could not have been an easy task considering the mountains received six inches of snow during the early part of April.² The attacks became more widespread and coordinated in July, as forts on the Holston River became targets to the Cherokee. Warriors also moved as far east as Crooked Creek, near present day Rutherfordton.³

Rumor and conjecture filled the correspondence of the people of North Carolina. With the Carolinas already threatened by an invading British force at Charleston, it made perfect sense to many that the British would naturally try to create chaos in the colony by inciting Cherokee allies. This was the general opinion in the east, as one man blamed the “wicked and diabolical superintendent Cameron who resides in the over Hill Cherokee

¹ Robert L. Ganyard, “Threat From the West: North Carolina and the Cherokee, 1776-1778,” North Carolina Historical Review 45 (January 1968): 49.

² Fries, ed., Moravian Diary, April 13, 1776, 3:1061.

³ Ashe, “Rutherford’s Expedition Against the Indians,” 11.

Towns.”⁴ As discussed in the earlier chapter, British officials did not approve of these attacks, but younger Cherokee warriors refused to heed their advice.⁵

At his home outside of Salisbury, Griffith Rutherford heard of the news sometime in late June or early July. The first letters exchanged with civilian authorities begin in earnest during July. In late June, the Council set a tone for dealings with the Cherokee. Their letter to Rutherford repeated their suspicion that agents of Great Britain provoked the Cherokee into attacking white settlements. But at the same time, they urged caution. “It is the Intention of this Council that you Cautiously avoid and to the utmost of your power endeavor to prevent the Inhabitants of this colony from committing any Depredations on the Indians.”⁶

The Committee asked that Rutherford contain not only himself, but the settlers in the western areas, no small task considering most settlers would naturally want a concerted retaliation from the state. But Rutherford was reminded not to act unless the Indians extended their attack across the boundary line, east of the mountains. This commitment to restraint was also accompanied by the Council’s promise that everything was being done to secure lead sent to Salisbury by way of Cross Creek, present day Fayetteville.⁷

The words of the council did little to alleviate the tension in the Salisbury district. Rutherford continued to ask for instructions on how to handle matters, telling the Council that their instructions were not explicit enough. And considering Halifax is over 200

⁴ Thomas Jones to James Iredell, July 23, 1776 in Don Higginbotham ed., The Papers of James Iredell, 1751-1799 (Raleigh: Division of Archives and History, 1976), 1: 415.

⁵ Moravian Diary, July 6, 1776, 3:1065.

⁶ Committee of Safety to Griffith Rutherford, June 24, 1776, NCCR, 11: 303.

⁷ Ibid., 303-304.

miles from Salisbury, the General had cause for his anxiety about the council being out of touch with matters in the west. He felt limited in acting since he could not pursue war parties out of his district. The General wanted to deploy ranging parties, men who could quickly move and counter Cherokee attacks. In the meantime, Rutherford asked the council to consider writing the governments of both South Carolina and Virginia in an effort to launch a combined expedition. This would in Rutherford's mind ensure "a final Destruction of the Cherokee Nation." To finish the letter, he thanked the Council for their work in getting him much needed supplies, which were beginning to drift into Salisbury.⁸

Rutherford's call for coordinated action is just what the leaders of North Carolina had in mind. Already the Council of Safety drafted letters to the leaders of the neighboring states with the intent to send a three-pronged assault into the mountains. With a British army preparing to storm Charleston, and on the heels of a Tory uprising the previous winter, South Carolina needed little urging to make a strong show of force against their Cherokee neighbors. Virginia and North Carolina also seemed little interested in fighting a two-front war and exercised a good deal of cooperation over the next few months. This spirit of mutual aid displayed itself among the commanders in the three states responsible for leading each campaign into the Cherokee lands.

As July went on, the situation on the frontier became more critical. Rutherford received more shocking information about Cherokee raids on western settlements. As Brigadier for Salisbury letters were arriving daily giving updates from settlers about the conditions on the frontier. Colonel William Graham wrote to Rutherford that he acquired information about families killed on the eastern side of the mountains. He asked for help

⁸ Ganyard, "Threat From the West," 56; Rutherford to Council of Safety, July 5, 1776, NCCR, 10: 652.

stating “the county will be ruined if not immediate assistance.”⁹ He told the council on July 12 that “I am applid to Daley for Relefe,” and that he needed more instructions on how to proceed. He also requested more gunpowder and salt from merchants at Cross Creek.¹⁰

Conditions had become critical in the west. Rutherford’s letter also brought the Council up to speed about the level of destruction wrought by Cherokee warriors. The Indians had moved as far east as the head of the Catawba River, near Crooked Creek. Rutherford knew the size of the Cherokee force was substantial, and that the Indians killed a Mr. Middleton. He reminded the Council that letters for relief were arriving daily, and asked for clear instructions.¹¹

Insuring the safekeeping of the entire western quadrant of the state meant Rutherford had to keep his military district safe from foreign and domestic enemies. The serious threat from the organized Cherokee war parties represented one, but not the only threat to the safety of the frontier during the summer of 1776. Thousands of North Carolina residents refused to embrace the revolutionary government of that state when it officially broke from Great Britain that year. In the middle of Rutherford’s preparations for an expedition into the Cherokee towns, residents of the western counties brought news east that Tories remained active and a serious threat to the safety of the region. One writer even mentioned Rutherford by name, pleading to the Council to send Rutherford and some militia to put “those Rascals to death on site.” Tory threats served as an unwelcome distraction to General Rutherford. He directed the Safety Committee of his

⁹ William Graham to Gen. Rutherford, July 3, 1776, NCSR, 22: 778.

¹⁰ Rutherford to Council, July 12, 1776, NCCR, 10: 662.

¹¹ *Ibid.*

home town to arrest a John Auston from Tryon County, south of Rowan, and place him in jail.¹²

The Loyalist presence became an unwelcome distraction to the government of North Carolina. Indian raids however, proved to be more immediate. For planners of the expedition into Cherokee country, the facts seemed clear: British agents infiltrating the Cherokee towns were guiding Indian actions, creating havoc on the western settlers. A letter to this effect came to the attention of the leaders of North Carolina. This testimonial provided gruesome details about Alexander Cameron's activities among the Cherokee. He instructed them to take no prisoners, kill all the white men they could, "and steel all negroes & drive away all Cattle & horses they Can find."¹³

With information on supplies and intelligence pouring into Salisbury, Rutherford followed up his July 12 letter to the Council of Safety with a blunt assessment of conditions in his district. The Indians, Rutherford explained, were "making Grate prograce, in Distroying & Murdering, in the frunteers of this County." He claimed thirty-seven settlers were killed the week before, and that a militia officer along with 120 women and children were under siege on the Catawba River. Rutherford fully expected them to perish and implored the Council to send him more supplies. Finally, he asked for men from the neighboring Hillsborough district to join the proposed expedition to the Cherokee towns. Before leaving to march a relief column to help the surrounded settlers,

¹² Ransom Southerland to Council of Safety, July 13, 1776, NCCR, 10:664; Proceedings of the Safety Committee in Rowan County, July 13, 1776 in *ibid.*, 667.

¹³ Letter from Charles Roberson and James Smith, July 13, 1776, in NCCR, 10:665-666.

he asked the Council to move west to the town of Hillsborough, in an effort to speed communication.¹⁴

Idle for three months since the initial attacks, Rutherford hoped to get official sanction from the Council to proceed against the Cherokee. But with a significant group of besieged settlers facing certain doom, he obliged his natural combativeness and swung into action. He hinted at this action in his last letter to the Council and moved on the 14th of July. First marched to Quaker Meadows on the Catawba River, Rutherford's militia pushed west to Davidson's Fort just east of the mountains. Leaving much of his force at the fort, he traveled through the mountains against an estimated 200 warriors on the Nollichucky River. Moravian records from the summer of 1776 indicate that a battle was fought at the head of the Catawba, with casualties inflicted on both sides. Among the Indian dead were two whites, which caused a great stir among the Moravians.¹⁵ Their presence only added more ammunition to the charge that Tories and British Indian agents helped instigate and organize attacks on the settlers.

With the immediate threat to besieged settlers momentarily settled, Rutherford and the Council went about coordinating the efforts of three states to crush the Cherokee problem in the west. As he scattered Cherokee braves amassed on the Catawba, the Council of Safety for North Carolina dispatched letters to South Carolina and Virginia informing each governor of conditions on their frontier. South Carolina recently had parried a British attempt to capture Charleston and could now devote more attention to their frontier. On July 7th, General Charles Lee, commanding all troops at Charleston and John Rutledge, president of the South Carolina Council of Safety, wrote to both North

¹⁴ Rutherford to the Council of Safety, July 14, 1776, NCCR, 10: 669.

¹⁵ Ashe, 13-14; Fries, Moravian Records, 3: 1070, 1099.

Carolina and Virginia authorities stating their belief that the Cherokee had instigated nothing short of a war against the southern states. While hoping to get cooperation from her neighbors, the civil authorities in South Carolina ordered Major Andrew Williamson to attack the Lower, Middle, and Valley settlements of the Cherokee. South Carolina leaders hoped her neighbors to the north could organize an expedition against the Overhill settlements.¹⁶

In an effort to better share information between the provinces, North Carolina sent a packet of letters to both South Carolina and Virginia respecting the Indian situation. The packet contained testimonials from Rutherford and another militia colonel concerning the conduct of the Indians and the Council of Safety's efforts to secure ammunition and supplies.¹⁷ To General Charles Lee, a General in the Continental Line, the Council of Safety pledged their cooperation, assuring Lee that in Griffith Rutherford, the western counties were in good hands. The council expressed optimism about the upcoming Cherokee expedition, telling Lee, "the Troops Brigadier Rutherford carries with him are as chosen Rifle Men as any on this Continent and are hearty and determined in the present cause. We have every expectation from them."¹⁸

On the same day, the Council sent Rutherford news that they received his letters detailing atrocities against settlers in the west. The Council asked Rutherford to coordinate his activities with the field commanders of South Carolina and Virginia. This correspondence formally informed Rutherford that his march into Cherokee lands

¹⁶ Ganyard, 56.

¹⁷ Council of Safety to President of the Virginia Convention and Governor John Rutledge, July 13, 1776, NCSR, 11: 313-314.

¹⁸ Ganyard, 57; Council of Safety to General Lee, July 16, 1776, NCSR, 11:316.

constituted one third of a coordinated expedition with North Carolina's neighbors.¹⁹ The Council pledged to Rutherford "every assistance" to "put an end to this cruel unjust & wicked Indian War." Rutherford also learned more powder was coming and the letter closed by the civil authorities stating "all other matters we leave entirely to your discretion."²⁰

This would not entirely be the case. Throughout the beginning, middle, and end of the planning stage of his march, the Council of Safety gave specific instructions about troop dispositions, the importance of conserving supplies, and their impossible hope that a peaceful settlement might be reached. At first, when news of Indian attacks reached Halifax, the new state government acted slowly. In fact, Rutherford at first was at a loss as to how to proceed against the sporadic attacks against settlers in his district of North Carolina. It must have been fairly frustrating for Rutherford, 200 miles closer to the frontier than the leaders of the state, to stand idle as Cherokee warriors could inflict terror on the frontier. Even with the swiftest horses in the colony, instructions from Halifax were slow in arriving in Salisbury, and as spring became summer, the situation looked more desperate.

Virginia already organized its part of the expedition, an attack on the Overhill towns, further west than the Valley and Lower towns that the Carolina armies planned to sweep. With this coordination in mind, the leaders of Virginia asked North Carolina for more troops. Concerned that the eastern towns might retreat and rally near the Overhill locations, Virginia requested any available North Carolina militia. Its appeal was passed to Rutherford. In addition to the men, the Committee of Safety instructed him to provide

¹⁹ Letter Sent Genl. Rutherford Respecting Indians, July 16, 1776, NCSR, 11: 317.

²⁰ Council of Safety to Rutherford, July 21, 1776, NCSR, 11: 318-319.

both powder and salt to the detachment sent to Virginia. Both the supplies and men constituted precious commodities for a 2,000 man army about to march into hostile territory.²¹

General Rutherford accepted the request of the council with something less than unbridled enthusiasm. He wanted to keep men from Surry County, which bordered Virginia to the south, in North Carolina unless an expedition left for the distant Cherokee towns. With the combined expedition taking place, it seemed necessary to bring these men along. Now, however he had orders to allow them to reinforce the Virginians. Rutherford felt frustrated and expressed his aggravation on August 6th in a letter to the Council. This made Rutherford in effect responsible for a two-front war in the western counties. His responsibilities included keeping a careful watch on Loyalist activity. With this in mind, Rutherford could not recruit from the several counties that had the potential to provide able-bodied troops.²²

The depletion of his army was not the only concern Rutherford shared with the council. More and more of his troops became sick with fever as the army waited for supplies from the east. He needed men and suggested 500 be raised from the Hillsborough district in the piedmont. Unfortunately for Rutherford, the Hillsborough area had a reputation for balking at civilian authority since the unrest during the Regulator movement. In fact, the problems in the district came to the attention of the government of North Carolina, which instituted court martials against the militia recruiters responsible for drafting men into service. Rutherford shared their frustration, he closed his letter, lamenting “No wonder that this and many more Distresses and

²¹ Ganyard, 57-58; Council of Safety to President Page of Virginia, July 30, 1776, NCCR, 10: 680.

²² Rutherford to Council of Safety, August 6, 1776, NCCR, 10: 727.

Disorders should attend us, when Gentlemen to whom we ought otherwise to look up, and from whom we ought to have had many and necessary Orders have denyed their Presence.”²³

With the expedition in the last stages of planning, commanders of the three armies began to coordinate their movements in an effort to inflict what they hoped would be a crushing blow to the Cherokee nation. On August 5th, Rutherford wrote William Christian, commander of the Virginia troops, hoping the three armies could meet. He planned to leave the head of the Catawba River as soon as Christian’s forces were ready. Rutherford passed along the news that Colonel Williamson of South Carolina had about 2,000 men in the field and that Rutherford had attempted to coordinate the attacks with armies of both states. He closed by reminding Christian that the goal of the expeditions was to “crush that treacherous, barbarous Nation of Savages, with their white abettors, who lost to all sense of Humanity, honor and principle, mean to extinguish every spark of freedom in these United States.”²⁴

In distant Philadelphia, on the heels of declaring the colonies of Great Britain an independent nation, North Carolina’s contingent to the Continental Congress gave their express approval of the expedition to the Cherokee towns. To help, the delegates ordered gunpowder sent to North Carolina to help the “distressed and defenceless situation” in their state. A follow up letter reminded the Council of Safety that with the eastern shore of North Carolina clear from danger, all efforts should be made against the Indians. Their attack on the settlements, the delegates reasoned, “shuts them out from every

²³ Ibid; Minutes of Council of Safety, August 23, 1776, NCCR, 10: 703-704.

²⁴ Rutherford to William Christian, August 5, 1776, NCCR, 10: 650-51. The letter is dated July 5th, but since Rutherford mentions his approval to march from the Council of Safety, the letter is probably from August 5.

pretension to mercy.” The Council of Safety would be failing in their duty to whites on the frontiers if they did not “carry fire and Sword into the very bowels of their country and sink them so low that they may never be able to rise and disturb the peace of their Neighbours.”²⁵

For almost a month, Griffith Rutherford had wanted to take bold action against those who disturbed the peace on the frontier. His civilian superiors in Halifax urged caution, hoping to avoid open warfare. Now it seemed that North Carolinians in distant Philadelphia echoed the General’s sentiments. In his book on the South Carolina Cherokee, historian Thomas Hatley argues the North Carolina delegates actually envisioned a conquest of the Cherokee nation. Their letter to the leaders in North Carolina does little to mitigate this view. The delegates spoke in near-Biblical terms, believing the mission into the Cherokee towns allowed the combined armies “to extinguish the very race of them and scarce to leave enough of existence to be a vestige in proof that a Cherokee nation once was.”²⁶

With the endorsement of both the Committee of Safety and the Delegation to the Continental Congress, Rutherford had the full support of civil authority to wage a campaign against the Cherokee villages in the mountains. After calling out the necessary number of troops from surrounding western counties, the leadership of the state procured for Rutherford the supplies and arms needed to take a substantial army into the thick woods of western Carolina.

²⁵ Letter from the North Carolina Delegates in the Continental Congress to the North Carolina Council of Safety, August 6, 1776, NCCR, 10: 727-728; Ibid to the North Carolina Provincial Council, August 7, 1776, NCCR, 10: 730-731.

²⁶ Thomas M.Hatley, Dividing Paths: Cherokees and South Carolinians Through the Era of Revolution (New York: Oxford University Press, 1993), 193; North Carolina Delegates in the Continental Congress to the North Carolina Provincial Council, August 7, 1776, NCCR, 10: 731.

While the expedition had been quickly organized, Rutherford still carefully went about putting in order the essential stores needed for this journey. A resident in North Carolina for over two decades, he knew the outlets for acquiring food supplies and staples needed to keep his army in the field. And in Old Fort, he chose a rallying point western settlers knew first hand. On the western extreme of white settlement, Old Fort then and now sits just east of the Swannanoa Gap, a cut in the mountains the army would have to cross in order to get into the Cherokee villages.

Like Rutherford, the commanders of the South Carolina and Virginia troops had roots in the frontier and experience as soldiers. William Christian, born in Staunton, Virginia, actually resigned his commission in the Continental Line of his home state to lead the militia against the Cherokee. Christian's early military experience came in Dunmore's war of 1774. Andrew Williamson also claimed the frontier as home, owning a homestead near the outpost of Ninety Six in South Carolina. Williamson first served as an officer in the Cherokee War of 1760 and later fought Loyalists in his home state in 1775.²⁷ All three men going into the woods had experience leading men in battle, and all three had knowledge of fighting an often elusive Native American force.

Plans for the expedition hoped to coordinate attacks on the Cherokee towns by three armies. The execution of the assault however failed to execute a planned pincer move that would simultaneously sweep through the Indian villages. Difficulty in eighteenth century communications combined with the fact that all three armies were not ready at the same time made the synchronization nearly impossible.

²⁷ J.G. de Roulhac Hamilton, ed., "Revolutionary Diary of William Lenoir," William and Mary Quarterly 6 (May 1940): 250.

Rutherford, anxious to move his army continued to be delayed by a lack of supplies. He also griped about the fact that a portion of his troops were siphoned to the Virginia forces on their march to the Overhill towns. These villages were situated farther west than the Middle and Lower towns, the target of the armies from North and South Carolina.²⁸

As Rutherford waited for supplies at his rallying point east of the mountains, the South Carolina troops got a head start. By the middle of August, Williamson's troops stormed into the lower towns, finding nothing more than abandoned villages. The army did not find Indians to fight or Loyalists to capture. As predicted by the civilian planners of the expeditions, Cherokee scouts learned of the South Carolinians' approach and instructed villagers to flee across the mountains into the Overhill settlements.

Williamson in a best case scenario thought he could capture Alexander Cameron, but repeatedly found the Cherokee villages empty. With Cameron gone, and the Indians scattered, the South Carolina troops went about systematically destroying crops, houses, and hundreds of abandoned deerskins. From his camp at the village of Keowee, Colonel Williamson drafted a letter to Rutherford.²⁹

Williamson expressed his desire to meet Rutherford at the Middle settlement of Necasa on September 9th. During his time in the Lower towns, Williamson's army made sure that "desolation is spread all over the lower towns," and he hoped the same fate awaited the Valley and Middle settlements. In a postscript, Williamson offered Rutherford a careful assessment of the campaign in the Lower towns. The letter gave a

²⁸ Ganyard, 58; James H. O'Donnell, The Cherokees of North Carolina in the American Revolution (Raleigh: Division of Archives and History, 1976), 18.

²⁹ O'Donnell, 18.

blueprint for what the North Carolinians might expect when marching into the Middle towns.

According to Williamson Cherokee resistance proved to be scattered and inconsistent. Only a few warriors remained near the towns and these men did not seem anxious to offer Williamson's army battle. A group of Cherokee tried to stop the South Carolinians from making a river crossing, but failed to halt their progress. On another occasion, a scouting party came under fire from warriors on hills surrounding a village. After a sharp skirmish, the Carolinians triumphed and scalped the fifteen Cherokee bodies found. Williamson's casualties were light, one dead and several wounded, and he continued to burn dwellings and destroy all stores he found.³⁰

Based on the subsequent actions of his army in the field, Rutherford took this advice to heart. Because he received Williamson's letter before his own troops set off into the woods, Rutherford had ample time to consider the recommendations of his counterpart from South Carolina. Rutherford knew that speed and surprise were critical components of an army operating in hostile territory. From his years as a ranger, he absorbed the best woodland tactics of both Anglo and Indian armies. With Williamson and Christian on the move and proposing combined operations, Rutherford must have been anxious to leave.

Commanding Virginia's troops, William Christian did his best to effect a rendezvous with Rutherford in the Overhill towns. Christian proposed a meeting on the distant Holston River, a far trek for the North Carolinians, especially considering Rutherford made meeting the South Carolinians his first priority. Nevertheless, civilian authorities knew the Cherokee would retreat to the Overhill towns after the approach of

³⁰ Colonel Andrew Williamson to Griffith Rutherford, August 14, 1776, NCCR, 10: 745-747.

two armies from the Carolinas. In his letter to the North Carolina general, Christian gave Rutherford news from the distant north, where George Washington prepared to meet an army 20,000 strong on the islands around New York.³¹

At the end of August, as he waited for the last shipments of supplies, Rutherford received his final letter of direction from the Council of Safety. The Council made preparations to move to the General's hometown of Salisbury in order to keep in closer contact with the frontier. Their latest reports indicated that the Cherokee had fled to the Overhill settlements. With this bit of information, and news that Williamson's troops encountered only abandoned villages in the lower towns, the Council had every reason to believe that the Virginians would face the toughest opposition. Rutherford received instructions to garrison men on the frontier as a measure to protect the vulnerable western counties. With every man serving against the Cherokee, the Council reasoned, some had to be left behind to conduct a defensive-offensive strategy.³²

Finally, on September 1, Rutherford and his army left the head of the Catawba River and marched west toward the Cherokee towns. The commander expressed his anxiety at the late date, giving the Council of Safety a brief description of the men and supplies he took on the expedition. Rutherford, now struck with the fever making its way through camp, estimated that he commanded 1,971 men, with a complement of eighty light horse. Following the wishes of the Council, the General left a total of about 400 men dispersed in three companies "to Range and defend the forts on the frontiers."

Though the delay in gathering supplies concerned him, Rutherford had 1,400 pack horses

³¹ Colonel William Christian to the Commander of the South Carolina Troops, August 15, 1776, NCCR, 10: 748; Christian to General Griffith Rutherford, August 18, 1776, *ibid*, 751.

³² General Rutherford from Council of Safety, August 23, 1776, NCSR, 11: 346.

and over 250 drivers to supervise the movement of supplies. He conceded that the Cherokee might evacuate the Middle and Valley towns, and left open the possibility of marching into the Overhill towns. His field decisions had to do with his supplies. Rutherford's army carried forty days provisions, and could only operate in enemy country for as long as these stores lasted.³³ A fast sweep through the Middle settlements might allow him to march further to the west.

Eighty miles in the distance, through a cut in the mountains, the Cherokee Middle towns were the target of Rutherford's army. Able to move in relative secrecy with the help of friendly Catawba Indians, the army remained free from attack during the first fifty miles of the march. With Williamson's troops to the south hoping to rendezvous with Rutherford in the Middle towns, the commander of the expedition pushed his men. After crossing the Black Mountains at Swannanoa Gap, Rutherford wisely kept his army on the mountain rivers. After three days and thirty miles, the troops crossed the French Broad River just below present day Asheville.³⁴

William Lenoir, an officer of Surry County, left one of only three accounts of the expedition's progress after it departed Davidson's fort on September 1. Like Rutherford, Lenoir had little formal education but a driving ambition. Lenoir spoke of the devastation along the Catawba as his fellow troops marched to meet Rutherford at the rallying point. His detailed diary, which notes the number of miles the army traveled each day, is the most detailed account of the North Carolinian's progress.

³³ Griffith Rutherford to Council of Safety, September 1, 1776, NCCR, 10: 788-89.

³⁴ O'Donnell, The Cherokees of North Carolina in the American Revolution, 19; Ashe, 15; Douglas Summers Brown, The Catawba Indians, The People of the River (Columbia: University of South Carolina Press, 1966), 48; Roy S. Dickens Jr., "The Route of Rutherford's Expedition Against the North Carolina Cherokees" Southern Indian Studies 19 (October 1967): 6.

Rutherford's army faced two daunting tasks. First, they had to cross the difficult terrain of the southern Appalachians. Second, Rutherford knew speed and the element of surprise were critical for the march. The Council warned Rutherford that if the Cherokee abandoned the Middle and Valley towns, the Indians might rally in force at the Overhill villages. Civilian and military leaders held on to a sliver of hope that the army from each state taking each set of towns by surprise and defeating them.³⁵

Less than a week into the march, Rutherford's men made contact with Indian skirmishers. A soldier from Mecklenburg County spotted five Indians and gave chase after getting reinforced by fellow troops. The army began to run into Cherokee scouts stationed along the river paths Rutherford's troops followed. Unable to detain the Indian scouts, the warning of the approaching army spread to the Cherokee in the Middle Towns. As the expedition approached the Tuckasegee River, Reverend James Hall shot at a black man, a trader who lived among the Indians known as John Scott. Hall mistook Scott for an Indian, a mistake which indicated the high tension within the troops on the march.³⁶

After his first firefight over the mountains, Rutherford felt it necessary to increase the speed of his march. If Cherokee skirmishers warned the villages of the presence of his army, any element of surprise would be ruined. He detached a group of 1,000 men under his Rowan neighbor Francis Locke to race beyond the Tuckasegee and attack the Cherokee living on the outskirts of the Middle towns along the Little Tennessee River. This advance group participated in the first pitched battle with a contingent of Cherokee.

³⁵ O'Donnell, Southern Indians in the American Revolution (Knoxville: University of Tennessee Press, 1973), 46.

³⁶ William Lenoir Diary, 254-255; Ashe, 16; Dickens, 6.

The Indians wounded one of the soldiers in the foot. William Lenoir, a part of this detachment, could not say if the Indians suffered any casualties. Most troops seemed to quarrel among themselves over who could share in the danger and participate in the action.³⁷

The following day, this advanced group reached the Middle town of Watauga and found it deserted. On September 9, Rutherford arrived with the remainder of the army. He found that Williamson and the South Carolina troops had not arrived. Guessing Williamson to be on his way, Rutherford detached a force of 600 men to move south and look for the South Carolina army. The remaining troops began slowly to explore the towns near Nuquassee, the appointed meeting spot of the Carolina forces.³⁸ Rutherford at this point clearly felt comfortable enough about the military situation in the Middle towns to disperse his troops into smaller units. No part of the army strayed further than a few miles apart from each other. This allowed for quick reinforcement should one section find itself in a fight. Without any concentrated force of Indians, Rutherford kept Nuquassee as his base camp and broke his army into light, fast moving strike forces.

One such force encountered strong Cherokee resistance at a place called Sugartown, a triangular shaped village on the confluence of two rivers. Indian warriors opened fire when soldiers came into the town and a rescue party of men from a neighboring town quickly came to aid the pinned down troops. The army as a whole then moved upstream along the Little Tennessee to the major Middle town village of Cowee. As William Bartram described it only a few months prior to the army's arrival, Cowee

³⁷ Lenoir, 255; Letter from the North Carolina Council of Safety to Governor Patrick Henry, of Virginia, October 25, 1776, in NCCR, 10: 860. This letter contains a report from William Sharpe, a member of the Council of Safety who accompanied Rutherford on the expedition. Hereafter cited as Sharpe's Report.

³⁸ Lenoir, 255.

consisted of about 100 dwellings on both sides of the river. Bartram noted substantial buildings, including a large council house “capable of accommodating several hundred people.” From Cowee, Rutherford sent another advance party north to Allejoy. This detachment of soldiers killed and scalped an Indian squaw, according to Lenoir. In an exchange of musketry, a soldier from Rowan County died on this mission.³⁹

Harming women and children is just what the Council of Safety warned Rutherford against in a letter written after he left for the Cherokee towns. The Council reminded Rutherford that “we have to desire that you will restrain the Soldiery, from destroying the women and Children.” It was hoped Rutherford could join William Christian’s force of Virginians if the Middle and Valley towns were abandoned. Finally, the council hoped their general could construct a stockade fort on the frontier, and supply it with confiscated corn and single, unattached men who would be willing to serve there.⁴⁰

Two weeks after the expedition left, Rutherford gave up waiting for Colonel Williamson. The fifteenth of September opened with a church service by Reverend James Hall conducted on an Indian temple mound in the town of Nuquasee. Afterwards, Rutherford assembled his officers for a council of war. He decided to lead a contingent of his most able bodied troops and continue west towards the Valley towns. Keeping the remainder of his corps in Nuquasee in case Williamson ever made it out of the Lower towns, Rutherford took command of a 1,200 man detachment. The troops left in good spirits and with high hopes but became hopelessly lost in the march west. Lacking an experienced guide, the troops swung too far south and strayed off the more direct route to

³⁹ Mark Van Doren ed., Travels of William Bartram (New York: Dover, 1928), 296-297; Lenoir, 255.

⁴⁰ Letter to General Rutherford from Council of Safety, September 11, 1776, NCSR, 11: 350-351.

the Valley towns. The troops grew surly as individual and small groups of Indians shot at the column. Getting lost also caused a great deal of embarrassment to the officers, and could not have instilled a great deal of confidence among the men.⁴¹

The wrong however, turn proved to be a fortunate development for the North Carolina troops. At Waya Gap, the more negotiable cut through the mountains, 500 Cherokee braves set up an ambush. This Indian force offered the most organized and concentrated resistance any of the three armies would face in the campaign. Without an experienced guide to take the army through the woods, Rutherford's troops swung almost ten miles to the south. Though lost and facing more difficult terrain, the army avoided what could have been a significant setback.⁴²

Williamson's South Carolinians were less fortunate. On September 18th, his army made it to Nuquassee, nine days after the date agreed upon by the commanders. Learning from the officers in Rutherford's army that a detachment of North Carolinians had already left for the Valley towns, Williamson immediately gathered his army and chased the North Carolinians. Williamson's army had better luck finding the easier crossing at Waya Gap. Upon their arrival, the Cherokee sprang the trap. A sharp fight ensued. As the troops maneuvered into line of battle, both sides took casualties. The din of battle was loud enough to send a detachment of North Carolinians from Nuquassee who rushed to the sounds of musketry. The engagement ended by the time this force caught up with Williamson's troops. Scouts around Nuquassee could find no other Indian force in the area. Losses to the South Carolinians were twelve killed and twenty wounded. The

⁴¹ Lenoir, 266-256, Sharpe's Report, 860.

⁴² Dickens, 13.

Indian losses amounted to at least fourteen dead, based on the number of bodies found on the field.⁴³

By the time of the ambush, Rutherford had already reached the Valley town of Quanassee. Over the next week, the army raided the abandoned Valley towns, encountering little Indian resistance. Nevertheless, Rutherford remained attentive to the fact that his army was divided. His troops remained in isolated Indian country, and only through dumb luck had he missed marching into a concentrated attack of Cherokee warriors. Remaining cautious, he sent a force of 200 into Chowa, which he later reinforced by cavalry. All the while, he kept an eye out for Williamson, moving west with his force after the skirmish at Waya Gap.⁴⁴

With few Indians to fight, Rutherford's army became glorified pillagers. The detachment he led into the Valley towns methodically destroyed corn and, according to William Sharpe, "took nine Indians, and make prisoners seven white men from whom he got four Negroes." In addition to taking winter stores, the army also confiscated gunpowder and lead, hoping to eliminate further Cherokee resistance.⁴⁵

On September 26, the meeting of the Carolina armies finally took place, seventeen days after the initial plan drafted by the generals. Playing the part of upstart commander, Rutherford gathered all of his light horse cavalry in tow when Williamson entered camp. The South Carolinians received a thirteen gun salute upon their arrival. Within a short time the two commanders adjourned to discuss the next move of the combined armies. It took the men less than a day to decide that neither would continue

⁴³ Pension Statement of James Martin, in NCSR, 22: 146; Ganyard, 60.

⁴⁴ Lenoir, 256.

⁴⁵ Sharpe's Report, 861; Ganyard, 60.

north to the Overhill towns. Combined, the two armies had destroyed thirty-six towns in the Cherokee country. Both officers felt little need to trek across more difficult mountain passes only to have a concentrated force of Indians waiting for them. In other words, William Christian's Virginia troops would have to go it alone. Out nearly a month, logistics also had to be considered. Taking forty days' rations in the field, a trip into the Overhills meant living off the land. A general jeopardized the support of his men if they marched hungry.⁴⁶

A trip to the Overhills risked much, for perhaps little gain. With a substantial force from the state of Virginia already in the field, it seemed risky to cross more mountainous terrain. Williamson and Rutherford learned the hard way that the further they headed into Indian territory, the more the danger. It is doubtful that either man wanted to force a march to the north and fight a combined force of warriors from the Lower, Middle, Valley, and Overhill towns. For all intents and purposes, the men accomplished the mission both outlined in the weeks before. Cherokee warriors had scattered, villages lay in ruin, and the winter food stores were either destroyed or taken. Little reason remained to stay in the mountains. Only after the expeditions safely returned was it learned that while some Indians disappeared into the mountains or into the Overhill towns, most fled to the Coosawatee River, seeking refuge with the upper Creeks.⁴⁷

Following the decision to head back to their respective states, the armies parted. Though the troops were disappointed at not finding a substantial Indian force to fight, the commanders were glad to avoid a protracted, blood campaign. Rutherford decided to

⁴⁶ Lenoir, 257; Ganyard, 60.

⁴⁷ Sharpe's Report, 861.

follow the route east that would take him through Waya Gap, where Williamson met the Cherokee ambush. The North Carolina troops were envious of the troops who had engaged in a sustained firefight and hoped to prove their own mettle. But the warriors disappeared into the woods, leaving the army to quietly pass through Waya Gap. While noting meticulously the towns and terrain he passed, William Lenoir could not help but observe “the most beautiful Valy I ‘de seen,” as the army marched east along tributaries of the Hiwassee River. As the troops passed Waya Gap, Lenoir witnessed the carnage from eleven days earlier. Some of the Indian dead were gathered and buried; others remained where they had died on the ground. By September 29th, the two sections of the army united at Nuquassee.⁴⁸

From there, with little threat of attack, the army marched east back to Davidson’s Fort, the departure point almost one month before. Following the orders from the Council of Safety, Rutherford had his men carve out a road from the Cherokee towns that afterwards became known as Rutherford’s Trace. The troops moved at an amazing pace; Lenoir claimed as much as twenty-five miles during some days. Companies from Tryon and Anson County seemed to consider the return trip a race and strived to out-distance the other. William Lenoir reported in his last diary entry that he made it home on October 7th.⁴⁹

On his return trip to Salisbury, Rutherford could reflect on the events of the last several months and enjoy some satisfaction. The greatest threat to the safety of his region, the Cherokee Indians, would have to endure a difficult winter short of supplies and foodstuffs. During the six weeks in the woods, Rutherford and Williamson destroyed

⁴⁸ Lenoir, 257.

⁴⁹ Ashe, 20; Lenoir, 257; Dickens, 18.

thirty-six towns, devastating the Indian's ability not only to make war, but to survive a Carolina winter of cold and snow. Casualties on both sides proved light - twelve Indians had been killed, while Rutherford lost only three men.⁵⁰ The expedition against the Cherokee towns proved to be an overwhelming success. In the months ahead, representatives of the states and the Cherokee leaders would meet to end hostilities by way of a treaty.

In the meantime, Rutherford relished his success. Responsible for the western part of the state, a charge given to him with the promotion to Brigadier, he received the gratitude of a relieved state. For his benefit, the expedition had far-reaching effects. Rutherford grew as a military leader by directing his first large scale operation. He took charge of recruitment, logistics, and direct command of men in the field for the first time. The outcome of this march into the unknown enhanced his stature among his peers. Delegates to the state Constitutional Convention could meet with the knowledge that Rutherford left the frontier a safer place. Western counties continued to endure sporadic violence in 1777 after his army returned from the Cherokee villages, though nothing like the terror of earlier in the year. In the fall of 1776, as he prepared to assist constructing the state government, Rutherford could justifiably enter Halifax with his head high. For Rutherford, his next set of battles would move to the halls of government.

Though the Cherokee expedition consumed Rutherford in the summer and fall of 1776, his role as a soldier-politician required him to switch gears quickly. When he returned to Salisbury in October, his thoughts already drifted to politics. With the situation on the frontier momentarily stabilized, leaders of North Carolina kept one eye

⁵⁰ Ganyard, 60; North Carolina Council of Safety to Governor Patrick Henry, of Virginia, October 25, 1776, NCCR, 10: 860-861.

looking towards the west waiting for a permanent resolution to their Indian problem. In the meantime, priorities turned to politics, specifically, constructing a new government for the state of North Carolina.

As he marched his army east after laying waste to the Middle and Valley towns, the final chapter of the Cherokee war opened near the Overhill towns. William Christian took his army out of Virginia and crossed the Holston River in October 1776 just as Rutherford and Williamson left. The sporadic skirmishing he encountered with Cherokee braves led Rutherford to believe he might meet significant resistance in the towns. Christian, however, enjoyed the advantage of having an experienced guide, the trader Isaac Thomas. Thomas directed the Virginians near the Overhill towns with expertise, putting the troops there two days before Christian anticipated.⁵¹ Aside from Thomas's information, Christian worked with very little information. Almost six weeks had passed since Christian heard from Rutherford; he probably had no idea the North Carolinians were heading home as he inched toward the Overhill towns. His troops expected to meet a concentrated force of warriors, perhaps led by Dragging Canoe himself, but cooler heads prevailed upon the warriors to move into the mountains of Georgia and live among the Upper Creeks in north central Alabama.⁵²

In spite of the fact that the Virginians functioned alone, the operations of the Carolina armies proved effective in cooling the warlike ardor of the Overhill leaders. Christian moved into the outlying Overhill towns and quickly burned five of them. Fortunately for the Cherokee, other towns such as Chota avoided similar destruction

⁵¹ William Christian to Patrick Henry, October 6, 1776, NCCR, 10: 837-838; O'Donnell, Southern Indians in the American Revolution, 48.

⁵² O'Donnell, The Cherokees of North Carolina in the American Revolution, 20.

when negotiators put a halt to hostilities. One of the village elders, Raven, sent out a flag of truce to Christian's army, agreeing to meet the Virginia commander. Christian proved reluctant at first; he still believed a significant force of warriors had assembled to ambush his army. He also wanted Raven to deliver Alexander Cameron, "that enemy to white & red people." But Cameron slipped out of the Overhills and fled to Creek country. Without Dragging Canoe or a British Indian agent to encourage resistance, Raven led a peace delegation hoping to spare any untouched towns.⁵³

Ready to negotiate, Christian extracted a series of promises from Raven and the Cherokee who remained in the towns. These included promises to deliver John Stuart or Alexander Cameron. Leaders of the three states that sent armies into the Cherokee lands still operated under the assumption that these men had encouraged the initial attacks on white settlers during the previous spring. Raven's peace feelers put a halt to further destruction. Nevertheless, the Cherokee faced a difficult winter and spring after three armies had devastated their winter food stores and scores of dwellings. Shelters could be erected quickly with efforts from the members of the tribe, but food was another matter. The combined expeditions against the towns disrupted the cycle of festivities, harvests, and hunting.⁵⁴

According to the agreement between Christian and the chiefs, an exchange of prisoners would also take place as a sign of good faith between the two peoples. Christian also hoped to insure a truce by agreeing to forbid anyone entering the Overhill

⁵³ William Christian to Patrick Henry, October 14, 1776, NCCR, 10: 844-845; O'Donnell, Southern Indians in the American Revolution, 48.

⁵⁴ James H. O'Donnell, "The Southern Indians in the War for American Independence, 1775-1783," in Four Centuries of Southern Indians, ed. Charles M. Hudson (Athens: University of Georgia Press, 1975), 51; O'Donnell, Cherokees of North Carolina, 20.

towns without proper authorization. This preliminary agreement began with the intention that a more permanent peace would be established by representatives of both parties during the following spring. By mid-November, with peace on the frontier, the Virginians went home.⁵⁵

Conditions in the west never escaped Rutherford's mind. As he served constituents in Rowan, a follow up expedition, under his orders, moved into Cherokee towns in November of 1776. William Moore led 100 Light Horse as far as the Middle town of Cowee. Moore's men witnessed the reconstruction of homes within the town only a few short weeks after Rutherford's army leveled most of it. Some villagers returned but most retreated into the mountains forewarned about the approaching troops.⁵⁶

This follow up foray into the Cherokee towns produced some of the uglier incidents in frontier warfare. While chasing Indians in the woods, Rutherford's men repeatedly scalped captured Cherokee men. Captain Moore, commanding the cavalry detachment reported that Indians stole horses from his men at night. The severe act of scalping may have been in retaliation for these acts, but Moore's report is riddled with incidents of men acting on their own, firing guns which ruined surprise attacks, and abundant plundering.

When Moore's men finally brought in prisoners, they demanded the opportunity to sell them as slaves. Moore, probably knowing live prisoners could serve as a bargaining chip in the upcoming negotiations reminded his men that the prisoners were to

⁵⁵ O'Donnell, Southern Indians in the American Revolution, 49; Ashe, "Rutherford's Expedition Against the Indians, 1776," 21.

⁵⁶ Report of Captain Moore to General Rutherford, November 17, 1776, NCCR, 10: 895-898.

be guarded and their fate decided by the civilian government of the state. Moore's men offered their commander a difficult choice, "the Greater part swore Bloodily that if they were not sold for Slaves upon the spot, they would Kill & Scalp them immediately." Moore acquiesced, telling Rutherford at the end of his letter that his command left him frustrated. Putting men together from different counties without a clear leader led to the incident of selling Indians into slavery. Moore wanted no further part of a second expedition with this type of command structure.⁵⁷

Moore's regret about the conduct of his men may have reminded Rutherford about his own disciplinary problems while on the march. William Lenoir, the young diarist on Rutherford's expedition, also took note of the arbitrary way the men took life. On the same day a Rowan county man died in a firefight with Indians, men scalped a Cherokee woman. In another incident, a Mr. Roberson killed an Indian prisoner in retaliation for a family member murdered in a tribal raid. Rutherford tried to place Roberson in custody for the act, but his men became incensed at the action, and the commander released the man.⁵⁸ Moore and Rutherford, commanding troops in an organized expedition tried to draw boundaries for the behavior of the soldiers. Unfortunately, their decisions could be easily overruled by a frontier sense of justice.

In the spring of 1777 when it appeared to the civilian leaders of North Carolina that full scale war with the Cherokee might start again, payment for scalps become legal. This rather macabre initiative, sanctioned by the state, hoped to enlist willing recruits to

⁵⁷ Ibid; Ashe, "Rutherford's Expedition Against the Indians, 1776," 23-24.

⁵⁸ Lenoir Diary, 255; Hatley, Dividing Paths, 201.

fill militia rolls.⁵⁹ The situation on the frontier remained tense, even after Rutherford and the combined expeditions returned. As early as February 1777, he received information about more attacks on settlers living in the Holston River. Rutherford told Governor Caswell that his source in the Indian towns, a white trader, brought him information that the Cherokee, Creek, and Chickasaw, instigated by British agent Alexander Cameron, “are determined for war.” As commander of the district, letters poured in to Rutherford asking for help, yet he hesitated to act, not knowing the extent of his authority in this situation. He also briefed Caswell about the Loyalist situation. Tories in western Surry County were organizing, and Rutherford needed instructions on how to proceed.⁶⁰

Caswell, to his credit, acted quickly after Rutherford’s letter reached him. He presented to the Council of State a letter describing conditions in the Washington district. The Council directed Governor Caswell to send militia from Salisbury to the region and station three companies in the frontier counties. Rutherford obtained the legal sanction to organize militia in the newly established Washington District, the furthest extent of western settlement. Along with this authority, the Council sent a substantial amount of gunpowder from the Halifax armory.⁶¹

A continuous state of tension on the frontier illustrated the necessity of establishing a permanent peace settlement with the Cherokee. As reports of murder on the frontier and organized Tory resistance reached Caswell, the Governor realized that fighting two enemies, perhaps three if British warships appeared on the coast, demanded

⁵⁹ Ganyard, “Threat From the West,” 62; “An Act for the Encouragement of the Militia and Volunteers employed in prosecuting the present Indian War,” NCSR, 24: 15.

⁶⁰ Gov. Caswell From Griffith Rutherford, February 1, 1777, NCSR, 11: 372.

⁶¹ Council of State Journal, February 5, 1777, NCSR, 22: 912-913.

that one potential danger zone be eliminated. South Carolina and Virginia by the spring of 1777 started efforts to make a permanent peace with the Cherokee. During the spring of the year skirmishes between white militia and Indians continued as Virginia and South Carolina dispatched commissioners to establish a permanent treaty with the Cherokee elders.⁶² The end result, a treaty at Long Island of Holston, ended hostilities between the two nations and ceded Cherokee land east of the Blue Ridge Mountains to the state of North Carolina. One stipulation of the treaty also limited white access to Overhill towns.⁶³

After the treaty was signed in the summer of 1777, commissioners from North Carolina urged Rutherford to meet with Indian representatives and appoint a commissary to the Cherokee who would provide supplies to the nation for the upcoming winter. In spite of this stipulation within the treaty, representatives from the state government complained about Rutherford's reluctance to hold talks with Cherokee representatives. The conference, according to commissioner Waightstill Avery, would show the Indians that Rutherford served as "Head War Captain over all the Warriors in the West End of North Carolina." In other words, it became important to Avery that Rutherford show himself to the Cherokee and make it clear that "all other Captains and Warriors in these parts must obey him." Rutherford seemed unmoved by this situation and hesitated in only in meeting with the Cherokee Leaders, but also in appointing a commissary to the Cherokee nation.⁶⁴

⁶² Gov. J. Rutledge to Gov. Caswell, March 10, 1777, NCSR, 11: 417; Charles Robertson to Gov. Caswell, April 27, 1777, NCCR, 11: 458-460.

⁶³ Ganyard, 64.

⁶⁴ Waightstill Avery to Gov. Caswell, September 5, 1777, NCSR, 11: 608; Avery to the Governor Concerning Cherokee Indians, September 15, 1777, *ibid*: 763-764.

Unfortunately for all parties involved, commissioners from the three states made settlements with a divided nation. Even as the tribal elders signed treaties, they could make no promises to bring Dragging Canoe and his 400 braves to the meetings. In spite of the fact that North Carolina, Virginia, and South Carolina had made peace with three sets of Indian towns, the younger, militant warriors continued the battle, forcing North Carolina and Virginia to take another militia force into the Georgia frontier in 1778.⁶⁵

The increasing number of settlers in western areas presented two concerns for the state of North Carolina. First, as the summer and fall of 1776 indicated, the encroachment of white settlers on Indian land forced the state to deal harshly with its Cherokee neighbors. Secondly, the territory would have to be organized. In the midst of putting together the expedition against the Cherokee, which consumed the Council of Safety, settlers on the Watauga and Holston rivers on the western side of the mountains sought the protection of the government of North Carolina. To secure it they applied to the state as the Washington District. With their attention squarely on making preparations for Rutherford's expedition into the Cherokee lands, the Council of Safety nevertheless approved the petition of the Washington District in August of 1776. The area became integrated into the state by a vote in the Fifth Provincial Congress in November of that year.⁶⁶

⁶⁵ John R. Alden, A History of the American Revolution (New York: Knopf, 1969), 428; Galloway, American Revolution in Indian Country, 200.

⁶⁶ Ganyard, "Threat From the West," 61.

Chapter Four

Creating the State of North Carolina

The Cherokee War consumed Rutherford during the summer and fall of 1776. And the planning of the expedition occurred during the same time North Carolina contemplated breaking her ties to Great Britain. Throughout 1775 and 1776, Griffith Rutherford found himself in the middle of the North Carolina revolutionary movement. He actively served in the Committee of Safety in Rowan, where his knowledge of military matters helped him gain rapid advancement. Rushing to the aid of South Carolina, Griffith and James Rutherford deflected the first challenge to the new revolutionary government: the Loyalist presence within the borders of the state. Then, when Cherokee attacks began in the western military district Rutherford served, he organized and led the expedition to remove the powerful Indian threat from North Carolina.

During the opening months of the rebellion, as he marched to points south and west, Rutherford continued to serve as one of the representatives from Rowan County. When royal authority crumbled, and the governor took refuge on a British warship, his service and allegiance shifted from colony to state. For a time, the Committees of Safety governed North Carolina through the challenges of a Tory uprising in the east and Cherokee attacks in the west. Leaders in the state however, realized independence would require a new, more permanent government. Barely had Rutherford returned from the Cherokee expedition when his duties in the legislature called him eastward.

The Provincial Congress met in the spring of 1776 but was unable to draft a constitution. During that debate, delegates could not agree on the qualifications for voters in the state. Several members of the group favored property ownership for voting, while others desired no prerequisites. Unable to come to an agreement, the Provincial Congress postponed the matter until the November meeting. In August the governing body of the state called for another election. This vote would be critical for the state of North Carolina. Legislators made a point of reminding constituents that the delegates chosen would craft a new state government.¹ The fact that Rowan sent Rutherford to this meeting shows their continued trust in a man who represented the county since 1766. In the interim between meetings of the Provincial Congress, Rutherford concerned himself with the organization of the march into Cherokee lands. Until the new Provincial Congress met in the fall, Rutherford as Brigadier for the Salisbury district answered to the Council of Safety, an interim body organized to exercise the powers of government until the fall congress convened.²

The 1776 election to the Fourth Provincial Congress in North Carolina continues to remain a subject of contention among historians. Elisha P. Douglass believed it to be one of the most tumultuous in the colonies. According to his chronicle of the period Douglass claims riots erupted in piedmont elections to the convention. In other parts of

¹ Robert L. Ganyard, "Radicals and Conservatives in Revolutionary North Carolina: A Point at Issue, the October Election, 1776," William and Mary Quarterly 24 (October 1967): 568; Frank Nash, "The North Carolina Constitution of 1776 and its Makers," James Sprunt Historical Publications 11 (1912): 15.

² Willi Paul Adams, The First American Constitutions: Republican Ideology and the Making of the State Constitutions in the Revolutionary Era (Chapel Hill: University of North Carolina Press, 1980), 81.

the state, concerted efforts were made to unseat long established aristocratic representatives in favor of more democratically-minded delegates.³

Subsequent evaluations have discounted the more violent aspects of the contest, agreeing that the election sent radical and conservative representatives to Halifax. Yet a decidedly moderate spirit marked the proceedings, evidenced by the fact that the meeting represented many interests, from military men to ministers. Upon his arrival at Halifax, Rutherford was assigned to the committee that would draft the constitution and bill of rights. Making this work more enjoyable was the fact that Rutherford knew most of the men on the committee. Richard Caswell would become a trusted comrade in arms during the ensuing years, and later governor of the state. Hezekiah Walker, part of the chosen drafting group, served as Rutherford's Commissary during the Cherokee campaign.⁴

The two competing groups who met in Halifax to draft a constitution each entertained different ideas about what type of government should take shape in North Carolina. One group, eastern conservatives, favored a separation from Great Britain but with a limited change to the government. These men believed the meaning of the Revolution was to be rid of the royal governor and crown, but in the process they did not expect to lose power themselves. Conservatives supported few changes from the colonial system, or significant revamping of qualifications needed to participate in government.

Rutherford sided with a group of more radical members, western men of middling wealth who preferred a wider franchise, elimination of privileges, and a stronger legislative branch. Radical Whigs required that religious freedom also exist, without an

³ Douglass, 122-23.

⁴ Norris W. Preyer, Hezekiah Walker and the Revolution in the Backcountry (Charlotte: Heritage Printers, 1987), 132-133; Ganyard, 569.

established state church.⁵ Rutherford's stand on this proposal is not surprising considering his efforts in 1770 to prevent an Anglican minister from serving in Rowan. With the committee divided ideologically the selection of Richard Caswell, a well-liked moderate, to manage the proceedings helped put aside partisan feelings separating the two factions.

Also influencing the drafting committee was the timing of North Carolina's effort to write a constitution. In the months between meetings of the Provincial Congress, several other states drafted their own constitutions, often choosing a bicameral legislature for the assembly. From western counties, instructions to the delegates in Halifax arrived during the months preceding the November gathering. Mecklenburg County hoped the convention would choose a simple democracy, and oppose government of the aristocracy or rich. Residents of Mecklenburg hoped the constitutional convention would allow all people to vote for both houses of the legislature. From Orange County, the onetime hotbed of the Regulator movement came a reminder that principle and superior power came from the people, and a derived power from the servants in the legislature.⁶

Developments in other states and instructions from western counties could not have gone unnoticed by the committee charged with drafting the constitution. Though Rutherford has been included in a group of radicals, the final evidence for the true measure of how sweeping the changes were in 1776 is the text itself. The Halifax assembly in the end produced a compromise document. Rutherford and his committee

⁵ Lefler and Newsome, North Carolina, 206; Powell, North Carolina Through Four Centuries, 186-187; John Richard Alden, The South in the Revolution, 1763-1789 (Baton Rouge: Louisiana State University Press, 1957), 311.

⁶ Gordon S. Wood, The Creation of the American Republic, 1776-1787 (New York: W.W. Norton, 1969), 238, 364; Earle H. Ketcham, "The Sources of the North Carolina Constitution of 1776," North Carolina Historical Review 6 (July 1929): 220.

spent less than a month on the manuscript, starting on November 13 and presenting it on December 6. For all the radicals demanded at the start of the session, the finished product could not be considered a drastic change from the colonial system. Yet, in many respects the finished product reflects the influence of the Regulation in several aspects. Each county in the new government enjoyed equal representation, regardless of population. This stipulation answered one demand from western counties during the Regulator movement. Rutherford attempted to correct this imbalance in the 1760s by creating more counties. Equal representation also gave western counties parity with older counties in the east. North Carolina, with a population that had grown six fold between 1750 and 1775 finally addressed a long standing controversy between the settled Albemarle region and the growing backcountry.⁷

If the radicals like Rutherford favored a more simple democracy with one legislative body, more conservative members steered the committee to a compromise of a lower and upper assembly. Radicals who supported a wider franchise would also have been disappointed that land ownership still preceded voting rights. Since concessions to both sides seemed to predominate the session, more reform minded members in the drafting committee could point to several innovations. North Carolina Senators would stand for election every year, and anyone owning 300 acres could qualify to run. According to Jackson Turner Main, the new requirement greatly opened access to this

⁷ Marc W. Kruman, Between Authority and Liberty: State Constitution Making in Revolutionary America (Chapel Hill: University of North Carolina Press, 1997), 67; Gordon S. Wood, The Radicalism of the American Revolution (New York: Knopf, 1992), 126.

chamber as compared to the system under the crown. Membership was higher than in colonial days, and tenure in the Senate short.⁸

Perhaps with other war matters on the mind of the Congress, Caswell's skilled leadership helped produce a frame of government that contained something for everyone. Another theory is that the radical members may have been influenced by the more moderate constitutions coming out of other states in the spring and summer of 1776. So happy were the delegates with the committee's product that only a small amendment was changed in the final document. Desiring to avoid a prolonged public debate, the Halifax convention did not send the finished text to the people for a vote. A direct election on a new state constitution would truly have been a radical innovation in eighteenth century politics.⁹

The speed with which the Provincial Congress drafted the new constitution illustrates that the new state had to deal with wartime measures in addition to forming a government. By early 1777, even though Rutherford and the combined expeditions destroyed the Cherokee's ability to make war, activities of Native Americans in the west had to be monitored closely. Vulnerable western borders forced Rutherford, as the Brigadier for the region, to keep militia posted in force along the foothills.

No one had to remind Griffith Rutherford that a second potential enemy existed within the state of North Carolina. The Loyalist presence preoccupied leaders of the revolutionary movement from the time news reached the south of the first battles in

⁸ Jackson Turner Main, The Upper House in Revolutionary America, 1763-1788 (Madison: University of Wisconsin Press, 1967), 154.

⁹ Don Higginbotham, War and Society in Revolutionary America: The Wider Dimensions of Conflict (Columbia: University of South Carolina Press, 1988), 70.

Massachusetts. Committees of Safety in each county included in their responsibilities observations of Loyalist activity. Within a year of Lexington and Concord, Rutherford marched to upstate South Carolina and eastern North Carolina in an effort to put down Tory revolts as they threatened the new independent state.

After the successful conclusion of the Cherokee campaign in 1777, Rutherford took advantage of his notoriety and won election to the North Carolina Senate. His efforts and those of the more democratically-minded drafting committee allowed for the popular election of state senators in the new constitution, provided a voter owned fifty acres of land.¹⁰ Rutherford, with abundant land holdings easily satisfied the constitutional requirement for Senate candidates. Senator Rutherford wasted little time weighing in on the issues confronting North Carolina.

As a man of action, Rutherford's experience in drafting the state constitution may not have been the most satisfying experience during his political career. He had negotiated popular politics enough to survive scandal during the Regulator movement. But as a surveyor and soldier, he may have felt a bit out of his league in this gathering of more educated men. Rutherford's political beliefs relied more on instinct, not on a deep reserve of legal history or philosophy. The men meeting to write the constitution represented professions such as merchants, soldiers, and lawyers. Though he could not be counted among the top legal minds of the state, Rutherford nevertheless used his experiences in local politics to help shape his views on representative government. No records of the committee debates at the convention exist to document each representative's contribution. In spite of his shortcomings on legal theory, Rutherford would have had few qualms about giving suggestions to the drafting of the constitution.

¹⁰ Powell, 186-187.

Certainly no one among the east coast elite expressed hesitation in giving Rutherford important committee assignments during the drafting of the document. Most criticism of him in the months to come centered on his more radical plan for government, which heavily favored the legislative branch. Others criticized his aggressive Loyalist legislation, which advocated confiscation before most of his fellow legislators considered the idea. Rutherford could only base his decisions on his own experience, including the Regulator movement. As always, military matters preoccupied the government of North Carolina, from provisioning their troops serving in other theatres to rallying forces within the state.

Safe from British invasion for the time being, the state turned to matters close to home during 1776 and 1777. The activities of Loyalists occupied the revolutionary government before Redcoats arrived on Carolina shores. The Tory threat concerned the Provincial Congress even before Rutherford marched west into the Cherokee towns. As a member of the Rowan Committee of Safety, Rutherford's charge included the entire western quadrant of the state. Before North Carolina became an independent state, the loyalties of her citizens weighed on the minds of her leaders.

The Continental Congress gave the states full authority to deal with Tories in their territory. Each state considered using oaths of allegiance or seizure of property. With as many as one third of the population remaining faithful to the King and Parliament, many states attended to this matter immediately following independence. For North Carolina, two concentrations of Loyalist support concerned state leaders. A large pocket of Scottish Highlanders lived in the Cape Fear region in the eastern part of the state. The allegiance of a second group, former Regulators in the piedmont counties, was unknown

in 1776. Most of this group probably wanted no part of the revolution and stayed neutral. Josiah Martin, the last royal governor of North Carolina, did his best to buy the loyalty of the Scots in the form of generous land grants.¹¹

As the tension within the colony mounted and a shadow rebel government came together, Governor Martin went about organizing allies of the crown. He also sent rosy predictions to London, promising the ministry that the rebellion in his colony was the work of only a few and most of the residents of North Carolina remained loyal. Governors of South Carolina and Virginia shared Martin's forecast, dictating that during the first year of the war a concentrated effort should be made against the south. Nevertheless, when the Highlanders rallied in early 1776, the rebel government acted quickly, crushing the Tories at Moore's Creek Bridge in February 1776. English planners shelved but did not forget the idea of employing the King's friends to aid a British invasion of the Carolinas.¹²

Backcountry residents were of a particular concern to legislators like Griffith Rutherford. Former Regulators, new arrivals to the colony, and Protestant Germans such as the Moravians could easily become suspicious of a revolution engineered in the most part by mostly eastern elite. Governor Martin realized this and planned to utilize

¹¹ Harry M. Ward, The War for Independence and the Transformation of American Society (Padstow UK: UCL Press, 1999), 35-37; Lindley S. Butler, "David Fanning's Militia: A Roving Partisan Community," in Loyalists and Community in North America, ed Robert M. Calhoon, Timothy M. Barnes, and George Rawlyk (Westport CT: Greenwood Press, 1994), 148-149.

¹² Robert M. Calhoon, The Loyalists in Revolutionary America, 1760-1781 (New York: Harcourt Brace Javanovich, 1965), 440; David K. Wilson, The Southern Strategy: Britain's Conquest of South Carolina and Georgia, 1775-1780 (Columbia: University of South Carolina Press, 2005), xiii.

suspensions in the backcountry counties, the most populous in the state, to crush the revolution in his colony.¹³

Griffith Rutherford became aware of the Tory danger before he led his expedition against the Cherokee. Sent to South Carolina in late 1775, he and his son helped defeat an upstate threat to the new revolutionary government. Though his militia arrived after the battle at Moore's Creek Bridge, the experience displayed the volatile situation in the colony. His military service completed for the time being, Rutherford used his political capital to punish those who threatened the independent state of North Carolina. As part of the Committee of Safety in Rowan, Rutherford spied on and watched potential Tories in his county and military district. After the Highlander's defeat, he sat on the committee which named each participant in the recent uprising.

In April 1777, Griffith Rutherford sat in the first meeting of the North Carolina Senate. During the previous fall, Rutherford participated in the convention that helped draft the plan of government. Immediately, he won appointment to committees, some in his field of expertise, others ceremonial. The Senate spent a good deal of time creating a body of rules for transacting business between the lower assembly and Senate. Protocol had to be established before the business of the state began. And though this seemed mundane business, Rutherford accepted this task and fulfilled his duties.¹⁴

More serious matters continued to gain the attention of the Senate in 1777, including the safety of the western border and military organization of North Carolina. Rutherford joined three fellow senators in forming a committee to consider stationing

¹³ Wallace Brown, *The King's Friends* (Providence: Brown University Press, 1965), 195.

¹⁴ Senate Journal, *NCSR*, 12: 10, 11, 17.

troops along the frontier. After a grueling campaign in the Cherokee towns, it seems likely Rutherford supported this suggestion; keeping his military district quiet from Indians and Loyalists consumed him for the remainder of the war. Assignments to military affairs occupied Rutherford in the Senate, including matters such as evaluating officer conduct and chairing a committee looking into his brother-in-law's behavior as a militia officer.¹⁵

In the 1778 Senate session, Rutherford weighed in on all of the issues affecting the state of North Carolina as it waged war. The Cherokee Indians along the western boundary of Rutherford's military district were a constant concern. A year before, he advocated stationing troops in the area to protect settlers near the mountains. A year after the peace treaty with the Cherokee, native leaders complained to state officials that Carolinians continued to trespass on Indian hunting grounds. Rutherford, mindful as always of western residents, understood the situation "may involve this state in a second war with the said nation." He requested the state to prosecute any offenders and requested that only licensed traders do business with the Cherokee.¹⁶

When he took his seat in the Senate, the legislature of North Carolina prepared to address the Loyalist threat. To Rutherford this became part of a very logical two-step method in dealing with Tories - defeat them on the battlefield and demoralize them politically. As a militia officer, Rutherford utilized his reputation to rally able-bodied men to take the field against Tory insurgents. In the chambers of government, he sought to punish anyone who impeded the progress of the Revolution.

¹⁵ Ibid., 28, 114, 161-162.

¹⁶ Ibid., 779.

That sentiment, at least in the immediate months after the Highlander uprising, was not shared by his fellow legislators. In the wake of the Tory defeat at Moore's Creek Bridge, the Provisional Congress arrested Tory leaders but overall favored a policy of conciliation. To Whig leaders, the Loyalists were simply misguided; a lenient policy would surely bring them to the Patriot cause. With that in mind, the state government removed those from the state responsible for the 1776 uprising and left the sale of property and estates to their own discretion. During the next Congress in the fall of 1776, with the separation from Great Britain made official, the Provisional government offered pardons to all who took an oath of allegiance to the state. Few Tories accepted this offer, forcing the new state government to take up this matter after it drafted a constitution.¹⁷

By the time the matter was brought up again, Griffith Rutherford had taken his seat representing Rowan County. North Carolina lawmakers made Loyalist legislation a top priority beginning in 1777. A year after an organized Loyalist uprising, many members of the Senate prepared to enact stronger anti-Tory measures. Lenient laws from the year before did not end the invisible threat to the state and most Loyalists simply tried to live quietly, without the notice of the state or neighbors.

When the legislature did act, it again passed a law defining treason, which seemed too moderate for many senators. For more spiteful Whigs like Rutherford, the bills coming before the Senate gave local authorities too much discretion in deciding who could escape the law. Furthermore, the 1777 bill did not specifically name any Tories

¹⁷ Lefler and Newsome, 217-218; Robert O. DeMond, Loyalists in North Carolina During the American Revolution (Durham: Duke University Press, 1940), 153.

who should be targets for confiscation. For the second year in a row, despite Rutherford's vote against the measure, moderates carried the day.¹⁸

Called away to South Carolina and Georgia in the fall of 1778, Rutherford missed part of the 1778 session but returned the next year more determined than ever to push his proposals through. He wanted to repeal the earlier, and in his mind, lenient Confiscation Act of 1777, which allowed numerous exceptions for taking a person's property. After the disastrous 1778 campaign in Georgia, Rutherford appeared to be in no mood for compromise. He proposed a repeal of the 1777 act; in his new version certain Tories could be identified by name and the profits from sales of assets deposited in the treasury of the state. In spite of Rutherford's best efforts, Senators failed to act on this new piece of legislation during the spring session. Fortunately for Rutherford and his allies a different mood predominated in the fall session. With finances bleak, and the constant threat of the British Navy appearing on the coast, Rutherford's patience was rewarded and the new 1779 act identified by name Loyalists who were subject to confiscation. How satisfying it must have been for former Regulators to learn that William Tryon and Edward Fanning were recognized in the 1779 Confiscation Act.¹⁹

The 1779 session of the Senate proved to be a triumph for Rutherford. His more radical Confiscation Act passed in both houses. During that session he wielded considerable power, submitting his ally Abner Nash to the position of Speaker of the Senate. He endured one setback in relation to confiscation. Moderate Senators defeated a provision for confiscation that allowed for the seizure of household goods belonging to

¹⁸ Senate Journal, NCSR, 12: 201, 252.

¹⁹ Senate Journal, NCSR, 13: 763, 835; Clarence H. Poe, "Indians, Slaves, and Tories: Our 18th Century Legislation Regarding Them" North Carolina Booklet 9 (1909): 13.

the relatives of Loyalists. Rutherford led a contingent of only three colleagues who supported this measure.²⁰

Indians and Loyalists were not the only groups with whom Rutherford and the Senate reckoned during the first year of the Revolution. Within the borders of the state, a group of Moravians lived in the piedmont communities of Salem and Wachovia. Going back to colonial times, the Moravians made special agreements with the King and North Carolina governors exempting them from military service. During the French and Indian War, the Brethren raised individual militia units for the defense of their towns in what they considered a desperate situation. This temporary arrangement helped preserve their lives and belief system.²¹

When North Carolina declared independence in 1776, Moravians simply changed their allegiance from King to state. Although the Moravians were well known to have conscientious scruples against bearing arms, the group remained subject to the militia act which enlisted able-bodied men from age 16 to 60. In 1776 as Rutherford organized the expedition to the Cherokee towns officers under his command attempted to recruit in both Moravian and Quaker communities. At the time Rutherford, commanding the Salisbury district, demanded that if the Moravians did not serve, they offer a substitute or pay a steep fine. The Brethren did not answer the militia call in 1777, and several who lived in Rowan County outside the Moravian villages paid a fine for refusal to serve.²²

²⁰ Senate Journal, NCSR, 13: 855, 898.

²¹ Daniel B. Thorp, The Moravian Community in Colonial North Carolina: Pluralism on the Southern Frontier (Knoxville: University of Tennessee Press, 1989), 168-169.

²² S. Scott Rohrer, Hope's Promise: Religion and Acculturation in the Southern Backcountry (Tuscaloosa: University of Alabama Press, 2005), 111-112; Ruth Blackwelder, "Attitude of North Carolina Moravians toward the American Revolution," North Carolina Historical Review 9 (January 1932): 11-15; Fries, Moravian Diary, 3: 1130.

By 1778, the military situation in North Carolina changed enough for lawmakers to revise the Militia Act for that year. The law required each county to provide a given number of troops based on the quota determined by the legislature. This legislation applied to the Moravians and forced them to pay a tax in lieu of service in the army. Leaders of the Brethren continued to argue that their beliefs should exempt them from the tax as well as compulsory military service. Others offered no opposition a tax to aid the efforts of the state government.²³

To Rutherford, the Moravian situation triggered his instinct against special privilege and against those who burned with less than his own revolutionary zeal. More than anything else, as a military man, religious niceties seemed secondary considering the long odds facing the revolutionary governments. In 1778 militia regiments continued to be undermanned and the principal concern for Rutherford became filling the ranks with men needed to defend the state. He also appeared to be keeping true to his radical political roots. During the course of his political career up to this point, Rutherford frowned upon special privileges given to any group. He impeded the appointment of an Anglican minister in 1770, and worked against extending preferential treatment to his Moravian neighbors.

Rutherford was not alone in this sentiment. Several fellow senators looked at the Moravian refusal to take the oath of allegiance as a way to simply stay under the protection of the British crown if the war went badly for the Patriots. For assemblymen who represented counties surrounding the Moravian communities, economic jealousies fed an underlying suspicion of allegiance. By claiming that an oath to the state of North

²³ Blackwelder, 15.

Carolina threatened European Moravian congregations, the Brethren, according to resentful legislators, could easily keep their thriving communities intact when the fighting came to the North Carolina backcountry.²⁴

In 1777 two Brethren took their petition for military exception to the legislature. By this time the Moravian leadership decided to pay the tax, which provided a service to the cause without risking the lives of their men. Rutherford would rather have a man in formation with a musket than the money, but acceded to this agreement. He remained stubborn on the Moravians unwillingness to take an oath in support of the state. Appointed to chair the committee that considered the Brethren's request, he used the opportunity to speak out against the measure which might exempt the Moravians from taking the oath. In the end, the government of North Carolina allowed the Moravians to pay a tax instead of mandatory military service, but insisted on the Affirmation of Allegiance.²⁵

In the short time since he took the revolutionary cause as his own, Rutherford clearly became defined as a radical in politics. The label seems crude; many of the positions he took hardly appear radical by the standards of the day. In his time however, shifting power from the executive to legislative branches and opening up political participation sat outside mainstream thought. His aggressive punishment of Loyalists identified Rutherford as a man with a mission. Anyone who impeded the progress of the Revolution in North Carolina effectively became an enemy of the state. This sort of all or nothing approach did not even allow the Moravians, who remained loyal to the state but outside of the fighting, to escape his wrath. Rutherford, a man of ambition and

²⁴ Rohrer, 110-111.

²⁵ Fries, Moravian Diary, 3: 1207, 1378, 1380-83.

adventure, coveted and received positions of great responsibility, and by 1778, his main attention shifted to the battlefield. That year, British ships again appeared in the south, ready to commence another invasion of Georgia and the Carolinas. In the months to come, Rutherford called on all of his patience and skills as an officer to rid North Carolina of internal enemies and repel an invasion by a trained and determined army of professional troops.

With a British army on the march, more was at stake in 1778 than simply the revolutionary cause. The very lives and fortunes of the North Carolina patriots came under direct attack by British arms and her Tory allies. From the time he arrived in western North Carolina, Rutherford surveyed and purchased land, selling parcels to fellow Rowan residents. By 1778, his taxable land holdings equaled 6400, a sizeable amount of property compared to his neighbors. With a large family, and a son in the service, the risks in taking up the revolutionary cause were considerable. The coming years would be the most difficult endured by the Rutherford clan.

Chapter Five

The Revolution Comes to North Carolina

After the French entered the war as an ally of the United States in 1778, the British revised their war strategy and renewed attempts to capture ports in the south. English planners dusted off the old tactic from 1776 that would use a combined force of regular troops and loyalists to re-conquer the southern colonies.¹ Their first target would be Savannah in the sparsely settled colony of Georgia. For North Carolina, the invasion of any part of the south entailed widespread mobilization in the state. During the Revolutionary War most governors believed in a “domino effect:” if one province fell to British arms, the others would not be far behind. As the season of war opened, Rutherford could report to his Governor, Richard Caswell, that if needed he could raise 10,000 effective militia for the defense of the state or deploy them to any region threatened by the British.² It turned out to be an overly optimistic prediction; Rutherford never commanded more than 2,000 troops during the remainder of the war.

As Rutherford would discover during the next two years, threats close to home had the potential to frustrate any campaigns the civilian leadership sought to organize outside of North Carolina. During the summer of 1778 he diligently monitored the activities of Loyalists in the Salisbury district. This area encompassed the entire western quadrant of North Carolina, a task that relied upon intelligence from informants and a quick response to any danger. This commitment to safety sometimes required extreme,

¹ John Shy, “British Strategy for Pacifying the Southern Colonies, 1778-1781,” chap. in A People Numerous and Armed: Reflections on the Military Struggle for American Independence (Ann Arbor: University of Michigan Press, 1990), 196.

² Rutherford to Governor Caswell, August 6, 1777, NCSR, 11:563-564.

extralegal measures. After he arrested Tory ringleaders in Tryon County, Rutherford suggested the men be put to death in order to “terrify their followers” in Rowan, Surry, and Guilford Counties. During the late summer, Colonel Francis Locke, acting on instructions from Rutherford held elections for militia officers in private, undisclosed places, instead of the better known common areas. The men wanted to take no chances in electing company officers who held the wrong sympathies. When the House of Representatives investigated this conduct, the legislature exonerated both men.³

As one of the most experienced officers in the state, Rutherford would be needed in the defense of Georgia, the first target of the English offensive. It became Rutherford’s habit to rush to trouble spots ever since the “Snow Campaign” in South Carolina during 1775. Despite the fact that Patriot armies defeated both a Loyalist uprising and an attack at Charleston in 1776, British planners continued to believe the soft spot in the rebellion existed in the south. A second invasion began in late 1778. With North Carolina for the time being not in the direct path of the British army, Governor Caswell made preparations for sending his militia south.

Rutherford’s campaigns in Georgia and South Carolina truly tested the mettle of the man and his troops. Unlike the Cherokee expedition, which left with specific goals and a concentrated timeline, extended campaigns with militia out of state proved difficult both physically and mentally. North Carolinians marching to save their homes was one thing, asking part-time soldiers to rescue South Carolina or Georgia was another. During the next two campaigns Rutherford learned all too well the challenges facing generals since the beginning of time. Feeding, clothing, and paying men who filled his ranks constituted a few of a series of difficult challenges he faced. Keeping troops in the ranks

³ Fries, Moravian Records, 3: 1376; House Journal, NCSR, 12: 861-863.

at all vexed Brigadier Rutherford throughout the years 1778 and 1779. Though by now keenly aware of the limitations of non-professionals in arms, the campaigns in Georgia and South Carolina demonstrated even more clearly the inherent faults of citizen soldiers.

In spite of the shortcomings, the roles defined for the militia became clearer during the fourth and fifth year of the war. Already by 1778, Carolina militia served as the main protection for the frontier in North Carolina. In Rowan, militia units had suppressed Tories since 1775 and marched on expeditions into Cherokee country. For short periods of time these temporary soldiers could be counted on to organize and fight other non-professional soldiers such as Tory units or Indians. In this limited and essentially local role, the institution performed extremely well.⁴ When operating on sustained campaigns far away from home, the reliability of these units suffered. As Rutherford discovered during these marches, a general could not ask these citizen soldiers to operate away from North Carolina for a sustained period of time.

Georgia became the location where the British chose to start the invasion of the south. Sparsely settled with half of the population made up of African-American slaves, the state represented the weakest point in the southern colonies. When Governor Caswell got word that the British had dispatched troops to the south, he ordered his militia units to organize. In late October 1778 Rutherford received orders from the governor. Almost immediately he busied himself with procuring supplies and other concerns having to do with the militia for the present campaign. As usual, he kept one ear pointed to the west,

⁴ Clyde R. Ferguson, "Carolina and Georgia Patriot Militia in Action, 1778-1783," in The Southern Experience in the American Revolution, ed. Jeffrey J. Crow and Larry E. Tise (Chapel Hill: University of North Carolina Press, 1978), 184, 190; Clyde R. Ferguson, "Functions of the Partisan-Militia in the South During the American Revolution: An Interpretation," in The Revolutionary War in the South: Power, Conflict, and Leadership: Essays in Honor of John Richard Alden, ed. W. Robert Higgins (Durham: Duke University Press, 1979), 258.

listening for rumors of the Cherokee joining other southern Indians just when his militia prepared to leave the state. After receiving his directives, Rutherford asked Caswell to take charge of the operations around Charleston, expressing the sentiment that “no man living will be more acceptable to me than yourself.”⁵

Two weeks later, Rutherford by obtained more detailed instructions from the governor. Caswell confirmed that a large British force had sailed from New York with the purpose of landing in the vicinity of South Carolina. Caswell passed along his instructions from the Congress, which asked him to send troops to aid his neighbors to the south. Caswell proposed meeting Rutherford in Kingston, North Carolina, on November 25, where the governor planned to give the militia a bounty for the upcoming service. Reading the letter the Governor sent, Rutherford could begin to understand the severity of the situation. Caswell urged him to “push on the men as fast as possible,” indicating the situation looked grave. He reminded Rutherford to get a good commissary, a man who could purchase and acquire stores needed for the march of the army. Finally, Caswell requested that Rutherford acquire a military secretary to serve during the campaign. He made a point of asking his brigadier to keep accurate accounts of commissary transactions and to make copies of any letters sent. Caswell probably knew from experience Rutherford’s reputation for creative spelling and syntax. For the sake of posterity, this turned out to be sound advice.⁶

As the organization for the campaign continued, Rutherford and Caswell went about the more mundane details of sorting out the preparations for the upcoming march

⁵ Hugh F. Rankin, The North Carolina Continentals (Chapel Hill: University of North Carolina Press, 1971), 185; Gen Griffith Rutherford to Gov. Caswell, October 25, 1778, NCSR, 13: 252.

⁶ Gov. Caswell to Genl. Griffith Rutherford, November 7, 1778, NCSR, 13: 267-269.

south. First among the priorities included paying and preparing the troops. Militia units seemed less willing to operate outside of their own state unless their service could be rewarded. A secondary concern for both men had to do with feeding the troops, and acquiring several months' worth of supplies. To do this, Rutherford and Caswell hired contractors or quartermasters who scoured the countryside and towns looking for everything from flour to beef and pork.⁷

Within his military district, which included his hometown of Salisbury, Rutherford could expect to find a good amount of provisions for the upcoming campaign. During this operation, the priorities for a commanding general changed drastically from the march against the Cherokee two years before. It had been easy to rally men near Salisbury and points west for the march into the mountains. Vulnerable frontier homes and families stood in the path of Dragging Canoe and his allies. In 1778, the threat did not appear as immediate; Charleston and Savannah were weeks away from the Salisbury district. Keeping that in mind, Caswell and Rutherford exerted themselves in keeping their troops compensated and provisioned.

Rutherford also needed to convince able-bodied men in his district that marching to South Carolina or Georgia constituted a worthwhile endeavor. By mid-November, as he informed Caswell of his intentions to march to Charleston, he received a reminder of the difficulties involved in his role of maintaining the safety of western North Carolina. As Rutherford tallied the men in his ranks, and conversed with militia captains, grave news arrived from Washington County. Born in the aftermath of the Cherokee expedition and subsequent treaty of 1777, the district, was located on the far western

⁷ Gov. Caswell to Peter Mallett, November 8, 1778, NCSR, 13: 269; Caswell to Rutherford, November 13, 1778, *ibid.*, 276-277.

border of North Carolina and now fell under Rutherford's charge when it became part of the state. Rutherford told Caswell that few troops could be expected from the area because of the constant threat from the Cherokee.

Based on his own assessment of the situation, Rutherford advised Caswell he thought "it prudent not to draft out of that County, Men, arms, or Ammunition." In no uncertain terms, he classified the situation as an unholy alliance of Tories and Indians. Everyone in the Washington District would be needed "in the suppression of the Savages and other inhuman hostile wretches, who have their livelihood from Carnage and Rapine." With most available militia from Rowan and Hillsborough Counties in South Carolina, the Tories took it upon themselves to "disseminate sedition" among the western residents. Conditions in the area seemed rife for retribution against those who sided with the revolutionary government. The situation left Rutherford little choice but to exempt the militia from the district during the current campaign and allow that region to deal with "these sons of darkness."⁸

Dangerous conditions in the west became an unwanted distraction to the military and civilian leaders in North Carolina. With either South Carolina or Georgia the target of the British army en route from New York, gathering men at rendezvous points delayed the march south. By early December, Rutherford's force moved only as far as upstate South Carolina, north of the town of Camden. While the willing members of the community made their way to his headquarters, Rutherford used a cavalry contingent to

⁸ Gen. Griffith Rutherford to Gov. Caswell, November 15, 1778, NCSR, 13: 282-283.

patrol parts of his district and round up the unwilling. He was encouraged by news that South Carolina called up the state militia for the upcoming campaign as well.⁹

As 1779 began, Rutherford's men set up headquarters in Purysburg, South Carolina, upstream from Savannah. During the time he and Caswell collected militia from the state, Savannah fell to British forces on December 29. A second army of British troops captured Augusta a month later. With these two strategic centers under British control, the patriot strategy now shifted to a defense of South Carolina.¹⁰

Observing the relative ease involved in securing Georgia, British planners became more willing to commit extra troops to the southern theater. If they knew the condition of the forces they faced, British confidence would have soared. Rutherford and his men remained in good spirits during the early days of their march to the south, but conditions deteriorated quickly. In an ominous sign, General Rutherford did not even know how many men served under his command as the year opened. What he did understand was that his regiments remained under strength because many of his militia did not believe even a successful campaign along the current front could bring the war to a conclusion. Men in such spirits would find it difficult to commit to a three or six month enlistment away from home and hearth under more peril the longer each man remained outside North Carolina. Rutherford could only lament the fact that his army would melt away in the coming weeks. He suggested a longer term of enlistment, perhaps sixteen months, with the promise of a generous bounty to all takers. South Carolina already offered that

⁹ Gen. Griffith Rutherford to Gov. Caswell, December 5, 1778, *ibid*, 317-318.

¹⁰ General Rutherford to Governor Caswell, February 11, 1779, *NCSR*, 14: 20-22; Pancake, *This Destructive War*, 32; Alden, *South in the Revolution*, 233.

guarantee; he held little hope his own state would do the same considering the relative safety and isolation that region continued to enjoy.¹¹

The strength of the force Rutherford faced led many Georgians to reconsider their allegiance and seek refuge with the British army. Others took up arms against the Patriot militia, making the Carolinian's encampment feel more like they operated in enemy country. Whig forces also had become stretched thin, chiefly because of troop shortages. Rutherford maintained his position across the Savannah River opposite the city with militia from both Carolinas. Another contingent kept an eye on the British in Augusta. A third force operated in the area between the towns. Even as 400 of his militia left at the end of their enlistment, Rutherford and the Carolina militia maintained contact with and occasionally skirmished with elements of the British army near Savannah.¹²

Short of clothing, his troops nevertheless did their best to observe British forces near Savannah. In early March his army moved near Two Sisters, opposite Augusta. Benjamin Lincoln, commanding all troops in South Carolina, dispersed his units in different positions in the 140 mile expanse from Augusta to Savannah. Believing he faced a much larger group of patriot militia, the British commander at Augusta abandoned the city and moved southeast towards Savannah. John Ashe, commanding a contingent of North Carolina troops, followed the British, with Rutherford five miles behind in support. On March 3rd the British forces turned and attacked Ashe's men near

¹¹ Alden, History of the American Revolution, 398; Rutherford to Caswell, February 11, 1779, NCSR, 14: 20-22.

¹² General William Moultrie to Col. Charles Pinckney, February 10, 1779, NCSR, 14: 263; Rutherford to Caswell, February 11, 1779, *ibid*, 20-22.

Briar Creek. Caught by surprise, Ashe's troops ran from the field in panic, not stopping until they reached Rutherford's camp four miles away.¹³

With the rout of Ashe's force, the task of forcing British forces out of Georgia became all the more difficult. A court of inquiry convened a week after the battle concluded that Ashe did not secure his camp in a manner suitable to his situation but refused to render a serious reprimand. Rutherford was not about to let the same fate befall his troops. Just days before Ashe's court of inquiry Rutherford wrote General Lincoln telling the southern commander he kept "horsemen constantly patrolling the camp but have made no discoveries of the enemies attempting to cross the river." Patriot units operated in small groups; Rutherford commanded only 800, but a surprise attack like the one against Ashe could be disastrous.¹⁴

Rutherford and the men did not remain in South Carolina to witness the end of the campaign. When their enlistments expired, militia from the Salisbury district began marching for home starting on April 10. With the campaign apparently stymied, and the state of North Carolina continuing to use short-term enlistments, commanders could only watch in frustration as components of the army packed up and left. Though ill-equipped during their service, Benjamin Lincoln might very well have wanted to keep these troops as he prepared to go on the offensive. Instead he chased the British to Charleston and

¹³ David B. Mattern, Benjamin Lincoln and the American Revolution (Columbia: University of South Carolina Press, 1995), 66-67; Council of War, March 1, 1779, D. L. Corbitt ed., Calendars of Manuscript Collections, vol. 1 Publications of the North Carolina Historical Commission (Raleigh: Edwards & Broughton, 1926), 113; Gen. John Ashe to Gen. Benj. Lincoln, March 3rd, 1778, NCSR, 14: 271; Rankin, North Carolina Continentals, 196.

¹⁴ "Court Martial upon Gen John Ashe," NCSR, 14: 275-77, 282; Griffith Rutherford to Benjamin Lincoln, March 10, 1779, Calendars of Manuscript Collections, 114

sent them reeling back to Georgia in the fall of 1779. Attempting to dislodge them, his forces launched a valiant but failed attempt to recapture Savannah in October.¹⁵

By this time, Rutherford became fully engaged in his own political and military campaign against the enemies within North Carolina. His soldiers meanwhile had little to be proud of during their sojourn along the South Carolina and Georgia border.

Concerned about springtime planting, they could not be convinced with pleas or promises of pay to remain in the field. More importantly, they learned little in the way of military affairs or combat, for that matter. This lack of preparation would have dire consequences for the campaign of 1780.¹⁶

Back in his own state Rutherford could not enjoy a respite from the duties of a brigadier. Soon after his return, the Governor and Assembly raised the possibility of returning to South Carolina in an effort to relieve the city of Charleston. In the summer of 1779, this came as unwelcome news to Rutherford. He conveyed to Caswell that “our Frontiers are greatly distressed with Tories and Robbers.” Loyalists in Burke County organized a conspiracy to capture and kill all of the civilian leaders in that area and do the same in neighboring parishes.¹⁷

He believed this situation would keep him from obliging the request of Governor Caswell to send men from the Salisbury district into South Carolina. Rutherford informed Caswell it was all he could do simply to organize sustenance for the 700 men already in the Palmetto state. He asked for 20,000 to pay for provisions given to the

¹⁵ Gen. John Ashe to Gov. Caswell, April 3, 1779, NCSR, 14: 54; Mattern, 85; Pancake, 34-35.

¹⁶ Rankin, 197.

¹⁷ Gen. Griffith Rutherford to Gov. Caswell, June 28, 1779, NCSR, 14:132-33.

troops during the last campaign. If the militia had any hope of being supplied for a future expedition, it would have to compensate the state for past generousities. More ominous information then arrived in Salisbury that forced Rutherford to send Caswell another urgent express. Tories were organizing near the New River in the northwest part of the state. In addition, several sources told Rutherford that Alexander Cameron, British agent to the Indians, had begun construction on a new fort in the lands between the Cherokee and Creeks nations. Rutherford promised Caswell that the men in the western sector could be mobilized if needed.¹⁸

Rutherford's evaluation of the challenges his region faced helped gain a respite from the leadership of the state. At the end of July, with the correspondence between Caswell and Rutherford before them, the Legislative Council temporarily relieved the militia from service in South Carolina. Based on Rutherford's information, they decided "the Militia ordered to be embodied are not now really necessary in the Southern States, a body of Men having Marched to their Assistance from Virginia." For the remainder of the year, Rutherford returned to the fall session of the Senate where, in spite of his military frustrations, he won a major victory with passage of a more stringent confiscation act.¹⁹

If Rutherford is to be taken at his word, perhaps the supplies he needed for another three or six month campaign into South Carolina could not be obtained. Or, aware of the incessant maneuvering of the armies and lack of a successful conclusion to affairs in South Carolina, he was in no hurry to be part of another inconclusive operation.

¹⁸ Gen Rutherford to Gov. Caswell, July 17, 1779, NCSR, 14: 161-162.

¹⁹ Council Journals, July 30, 1779, NCSR, 14: 332-333.

The absence of troops from Salisbury to South Carolina also threatened the district. Tories became emboldened whenever the available militia left on a prolonged campaign. This situation concerned Rutherford and added to the anxiety of an officer who had the threefold responsibility of watching Tory activity, keeping tabs on the Indian frontier, and possibly answering another call to march out of the state. Loyalist activity, a constant threat in a state passionately divided over allegiances, never could be put out of Rutherford's mind. If he could maintain a large presence of militia in his district, the threat might be reduced. Yet, if the British could march unimpeded into North Carolina, the state would have to fight both redcoats and a secondary army of Tories. For now, Rutherford remained in North Carolina, with the full authority of the Governor to deal with Loyalist threats as they developed.²⁰

A renewed British effort against Charleston in 1780 brought a request from the southern commander Benjamin Lincoln. While preparing the defenses of the city, he appealed to Rutherford's militia. Lincoln told Caswell that upwards of 10,000 British troops were bearing down on South Carolina with the intention of subjugating the state. Rutherford received Lincoln's request for 500 light horse and initiated plans to oblige him, writing to nine different counties and proposing a rendezvous for March 12.²¹

As the spring of 1780 wore on, it became clear that civilian and military leaders could not coordinate the forces needed for South Carolina. From John Rutledge of South Carolina came a request for Rutherford to march to the west, near the spot of the "Snow Campaign" of 1775. This appeared to be an effort to put down Loyalists in the region. Rutherford, however, continued to gather troops with the hope of relieving Lincoln, who

²⁰ Gov. R. Caswell to Gen. Griffith Rutherford, July 23, 1779, NCSR, 14: 175-176.

²¹ Gen. Griffith Rutherford to Governor Caswell, February 17, 1780, NCSR, 15: 340-341.

by late spring faced a siege by British General Henry Clinton. As April and May passed, the noose tightened; civilian leaders and Lincoln debated between holding the city and evacuating the army. Lincoln chose the former option and when the British began to bombard the city and reduce to rubble the homes of the wealthy state leaders, he received permission to surrender. The British captured over 5,000 Patriot troops, a tremendous blow to the war effort in the Carolinas. North Carolina now held its collective breath, waiting for Cornwallis to make the inevitable drive into their state.

Rutherford could not put his force in the field before the surrender of Charleston. It may have come as a relief in light of events after the Patriot surrender. General Charles Cornwallis unleashed his trusted cavalry commander Banastre Tarleton to capture a relief column of Virginia troops coming to the aid of besieged Charleston. When the men heard of the surrender, they turned back to North Carolina. Tarleton caught them first and summarily butchered the force as it tried to surrender. The Carolinas braced for the onslaught of British arms and the savagery of what became known as “Tarleton’s Quarter.”²²

After the surrender of the Patriot army at Charleston, Cornwallis turned his sights on North Carolina. Since the start of the war, Loyalist leaders had promised British regular officers that the Tory population was ready to rise against the rebel governments of the southern states. One such Tory leader, John Moore, rallied supporters near Ramsour’s Mill, northwest of Charlotte. Within a few short weeks of raising his

²² Alden, History of the American Revolution, 415-416; John Buchanan, The Road to Guilford Courthouse: The American Revolution in the Carolinas (New York: John Wiley & Sons, 1997), 84-85.

standard, Moore collected 1,300 men.²³ Although the Patriot forces appeared to be in disarray, bands of militia awaited orders from their generals and civilian leaders. When all seemed lost at Charleston, Rutherford turned his militia back to North Carolina, correctly anticipating that the British would next invade his state. After the surrender of Charleston, he called out the militia in the Salisbury district to rally near the town of Charlotte. In a short time, 900 men gathered and Rutherford deftly divided his men into three fighting forces. Two of his subordinates, William R. Davie and William L. Davidson, would fight with distinction in the remainder of the campaign.²⁴

Closer to the Loyalists at Ramsour's Mill, Francis Locke gathered 400 militia and marched against Moore's force. Rutherford, in an effort to bring a strong column against Moore, crossed the Catawba River south of Locke and attempted to combine Patriot regiments against Moore. Unfortunately, eighteenth-century armies did not always coordinate marches well, especially with citizen soldiers. Locke, being closer to Moore's force at Ramsour's decided to pursue an attack. Though outnumbered three to one, he sent his troops forward, gaining the upper hand in one of the most unorganized battles ever fought in the south. Appearances at the battle told everything about the civil war now taking shape in the Carolinas. Troops wore either white pieces of paper or twigs to differentiate friend from foe. No one wore uniforms at Ramsour's, and as John Buchanan has stated, "toward the end the fighting resembled an old fashioned Pier 6 brawl between longshoreman and strikebreakers, and not an Englishman within sight or sound."²⁵

²³ Christopher Ward, The War of The Revolution ed. By John Richard Alden (New York: Macmillan Company, 1952), 706-707.

²⁴ Ward, 707; David Lee Russell, The American Revolution in the Southern Colonies (Jefferson, NC: McFarland & Company, 2000), 153.

²⁵ Buchanan, 106-107.

Wanting to press the advantage, Locke sent word to Rutherford to hurry to the battlefield. Rutherford dispatched William Richardson Davie's cavalry to support Locke and rushed his own men to the scene. The fight at Ramsour's had all the makings of a family reunion for the Rutherford clan. Major James Rutherford and his uncle, Joseph Graham, serving under Locke's command arrived on the field during the battle. Griffith, it turned out, became the late arrival, getting to the field when the outcome had already been decided. When the two armies stopped during a truce, James Rutherford purposefully went ahead of his decimated lines to meet with a Loyalist emissary. James had no intention of letting his opponent see how the brawl reduced Patriot numbers. With audacity that would make his father proud he gave the Tories ten minutes to surrender. Moore used that time to tell his men to scatter.²⁶

Thanks to the efforts of his son and other partisan leaders, Rutherford kept up his campaign to clear the Salisbury district of Loyalist activity. He was well aware that a concerted Tory presence provided a real threat to the rebellion. These forces could offer Cornwallis men and intelligence needed to conquer the entire state of North Carolina. Though he had few troops at his disposal, Rutherford's familiarity with the region and terrain gave him the upper hand. His ranks swelled with new troops as he marched through the district. This advantage combined with his able subordinates afforded him the opportunity to clear the district and demoralize continued Loyalist activity.

The year 1780 in North Carolina marked a turning point in the war. After the surrender of the Patriot army at Charleston, the revolutionary forces and loyalists "waged an intermittent, vicious vendetta war." The civil war within the revolution started in

²⁶ Blackwell P. Robinson, William R. Davie (Chapel Hill: University of North Carolina Press, 1957), 43; Buchanan, 110.

1775, with checks on Tory armies in the Snow Campaign and Moore's Creek Bridge. But the length of the conflict combined with sustained calls for sacrifice and impending invasion by British redcoats made the battle for the Carolinas a desperate struggle. Tarleton's butchering of Continental troops trying to surrender outside of Charleston set the tenor for the campaigns over the next three years. Patriot forces were not above acts of retribution in this brutal phase of the war. Moses Hall, a Rowan County militia soldier witnessed the execution of British prisoners captured by patriot forces after a small backcountry battle.²⁷ The fight at Ramsour's mill, a brawl between two musket-swinging mobs, represented the nature of the conflict once consistent fighting broke out in North Carolina.

In the weeks after the battle at Ramsour's, Rutherford began an aggressive campaign deploying his army in fast moving units in an effort to surprise and flush out groups of Tories. One body of men under Colonel Bryant prowled the east side of the Yadkin River, hoping to gather men and march to South Carolina and link with Cornwallis. Apparently Bryant and his men had been shaken by news of the defeat at Ramsour's and by forced marches avoided both the main body of Rutherford's troops and the swift moving cavalry under William Lee Davidson.²⁸

The campaign met with the approval of the ranking officer of the North Carolina militia, Richard Caswell. In a letter to Governor Abner Nash, Caswell bragged that Rutherford and company had cleared the state of Tories, and the combined militia forces

²⁷ Charles Royster, A Revolutionary People at War: The Continental Army and American Character, 1775-1783 (New York: W.W. Norton, 1979), 277-278; John C. Dann ed., The Revolution Remembered: Eyewitness Accounts of the War for Independence (Chicago: University of Chicago Press, 1980), 196-204.

²⁸ General Joseph Graham to Judge A.D. Murphy, NCSR, 19: 982-984. Graham, Rutherford's brother-in-law provided a history of the 1780 campaign based on his own experience in the field.

could now prepare to meet Horatio Gates, commanding the Continental Army in the south. With this force, Caswell predicted, the British could be driven back to Charleston. Caswell's counterpart, Lord Cornwallis, also took stock of the situation in the summer of 1780. He realized the offensive in North Carolina would have to be postponed until the fall harvest. Cornwallis urged friends of the King to remain quiet until he could begin operations and march into the state. His knowledge of patriot troop dispositions proved very accurate; he could list the forces of regular army troops and Carolina militia.²⁹

Rutherford, after pursuing bands of roving loyalists around his district, seemed elated at having these groups on the South Carolina side of the border. To General Caswell, he expressed frustration at the daunting task of keeping his men in the field without supplies and short of arms. His men stayed in good spirits, although their condition remained worn down. To the southern army commander, Rutherford promised Gates a junction with his forces in August of 1780. In the meantime, his scouts patrolled the road to Camden, South Carolina, a likely intersection of two British forces in that state. Caswell, who expected to meet Rutherford north of Camden, seemed less knowledgeable about British intentions, but conveyed confidence that the union of forces would be achieved soon.³⁰

By the beginning of August Caswell and Rutherford united their forces north of Camden. The situation for the army looked distressing. Upstate South Carolina, where hundreds of troops from both sides marched and countermarched during the year of 1780,

²⁹ General R. Caswell to Governor Abner Nash, July 31, 1780, NCSR, 15: 10-11; Earl Cornwallis to Sir Henry Clinton, June 30, 1780, NCSR, 14: 866-867; Cornwallis to Clinton, July 14, 1780, *ibid*, 867.

³⁰ Rutherford to General Gates, July 30, 1780, NCSR, 14: 514-515; Rutherford to Caswell, June 29, 1780, Richard Caswell Papers; Caswell to Gates, July 30, 1780, NCSR, 14: 515-516; Horatio Gates to Griffith Rutherford, July 29, 1780, Horatio Gates Letterbook, North Carolina Department of Archives and History.

had been picked clean of provisions by late summer. Caswell passed this information along to Gates, acknowledging that Rutherford encountered the same problems. The only good news came from the British camp in early August. Facing a superior Patriot force, General Rawdon retreated south to the British supply base at Camden.³¹

In the American camp, the sunny optimism of General Gates concerned a number of his subordinates. He continued to march south, towards the British garrison at Camden, believing the Patriot force to be numbered at 7,000 troops. Even the enlisted men seemed to know better. Yet the 3,000 men actually under his command suffered from digestive ailments brought on by a steady diet of green pears and molasses. A debilitated, hungry army now faced the pride of Great Britain in the woods just north of Camden.³² Gates then made matters worse in his pre-battle arrangements.

For reasons known only to the Patriot commander, Gates placed his weakest troops, raw North Carolina and Virginia militia, on his left flank. In that position they faced Cornwallis's best troops, members of the 23rd and 33rd Regiment of Foot. When these troops advanced with a "Huzzah" and bayonets gleaming, the Virginia troops fled without firing a shot. North Carolina's militia followed suit, rushing past the Continental veterans as they ran from the field. One militia regiment, anchored to the Delaware Continentals, stayed on the field. Somewhere in this confusion of infantry and officers,

³¹ Caswell to Gates, August 3, 1780, NCSR, 14: 525-526; Paul David Nelson, General Horatio Gates (Baton Rouge: Louisiana State University Press, 1976), 228.

³² Christopher Ward, The Delaware Continentals, (Wilmington: Historical Society of Delaware, 1941), 342-343; William Seymour, "A Journal of the Southern Expedition, 1780-1783" Papers of the Historical Society of Delaware XV (1896), 5.

Griffith Rutherford remained at his post.³³ The Patriot hierarchy, including Gates and Caswell, were swept up in the chaotic retreat.

The clash at Camden was different from anything Rutherford had ever seen during his years in combat. Unlike a firefight between militia or an ambush by Native Americans, Camden proved to be an hour-long slugfest. It was as close to a set-piece European battle as any Rutherford would see. As the affair began, scarlet coated troops charged bayonet first into an undisciplined group of Southern militia. Somehow, even as his superiors were swept from the field, Rutherford stayed and simply watched the methodical British perform textbook military maneuvers. The Maryland and Delaware Continentals, outnumbered and surrounded, fought heroically until Tarleton's cavalry moved behind them, scattering the troops. In the sand and pines of upstate South Carolina, Cornwallis in effect annihilated the Patriot army. Gates did not stop galloping from the battle until he reached Charlotte, sixty-five miles to the north.³⁴

Rutherford stayed on until the end of the battle, rallying the remaining militia units who fought alongside the Continentals. With the commanding officer far from the field, and with no orders to retire, the Patriot army exchanged volleys with the English units until the sheer weight of numbers caused the survivors of the army to retire piecemeal. Officers in groups and as individuals retreated into the woods, making their own escape.

³³ Russell, 172; Buchanan, 168; Robert C. Pugh, "The Revolutionary Militia in the Southern Campaign, 1780-1781," *William and Mary Quarterly* 14 (1957): 160.

³⁴ Walter Edgar, *Partisans & Redcoats: The Southern Conflict That Turned the Tide of The American Revolution* (New York: Harper Collins, 2001), 110.

Hot on their heels were members of Banastre Tarleton's dreaded Tory Legion. These cavalry troops chased down and sometimes killed with sword blows troops fleeing from the scene of battle. The concluding moments of the battle of Camden were no exception. As one of Tarleton's troopers came across one soldier, he slashed at the man with a sword, cutting through a beaver hat. Griffith Rutherford, dressed in uncharacteristic head covering and wearing no military insignia, was saved by the timely plea of a fellow soldier who recognized the North Carolinian and prevented the cavalryman from ending his life. Along with members of his Carolina regiment, Rutherford became a prisoner of the British army.³⁵

Camden, a debacle for Patriot arms, destroyed the rebel cause in the Carolinas for months. Stragglers managed to trickle north, gathering in North Carolina during the days and weeks to come. Spirits were never lower. For Rutherford, captured by British cavalry, the campaign was over, at least for the time being. Along with other imprisoned officers, the future promised only miserable confinement at the whim of the British. His war ended in one of the worst disasters in American arms. Scattered and demoralized, the militia and regulars either waited in gloom for new orders or simply went home, their officers captured or driven from the field. Nursing injuries and a burning desire to take the field, Rutherford now watched the war from the sidelines, hoping the patriot cause did not die on the sandy fields near Camden.

Limping off the field with multiple wounds, Rutherford and other survivors were marched back to the village of Camden. Conditions there proved to be atrocious. The

³⁵ Long, *Griffith Rutherford*, 105; "Return of the North Carolina Militia Prisoners of War Who Were Wounded on the 16th and 18th of August 1780, at Camden," *NCSR*, 22: 523; Richard Caswell to Governor Abner Nash, August 19, 1780, Thomas Addison Emmet Collection, North Carolina Division of Archives and History.

British did not build facilities capable of handling the number of captives taken after the battle. Rutherford and others suffered from a lack of basic necessities. His undressed wound had the potential to cause infection or death. Rutherford did the best he could, dressing his leg however he could. Faced with sanitary and medical problems, the British took many of the men and moved them to Charleston. From there, a large group embarked on a prison ship bound for St. Augustine, in British controlled East Florida. For a time, no one knew the whereabouts of Rutherford or some of the other prisoners whom the British detained after the battle.³⁶

Capture by an opposing army was a prospect no soldier relished in a time of war. In ideal conditions, officers could expect better treatment than enlisted men, who often rotted in the hulk of a crowded British prison ship. Rutherford's ordeal did not turn out to be as traumatic. His one opportunity for early release came when British officers proposed parole for anyone who agreed to never take up arms against Great Britain. Most men declined the offer, a decision which surely condemned them to a longer imprisonment. Though passage from Charleston to St. Augustine was no pleasure cruise, his confinement in East Florida never became hell on earth. St. Augustine in fact served as the destination for officers and civilians captured in the aftermath of the Charleston campaign. Among Rutherford's fellow captives were the Lieutenant Governor of South Carolina, a speaker of the Georgia House, and civilian planters. During their captivity, the men could grow gardens, and they obtained permission to walk within certain limits of the town.³⁷

³⁶ Long, 42-42; Colonel William Davie to Governor Caswell, August 29, 1780, NCSR, 22: 777.

³⁷ Long, 42; "American Prisoners at St. Augustine, NCSR, 15: 391-398.

It must have been agonizing for Rutherford to be so far away from the action of the campaign. His capture came during the absolute low point of the war in the south. With South Carolina cowed and the North Carolina militia scattered, it appeared that Cornwallis could march unimpeded through the region. And Rutherford, hearing rumors from battles he did not participate in, could do nothing to stop it. His militia responsibilities for the time being were left to William Lee Davidson, who served with Rutherford during the summer of 1780.³⁸ Fortunately for the Patriot cause, a competent commander stepped in to change the course of the war.

While Rutherford nursed his wounds and sat out his confinement in an English jail, Carolina leaders tried to stop the tide of success the British army seemed to be enjoying. The situation looked incredibly bleak in the late summer of 1780. Cornwallis destroyed much of the Patriot army, dispersing militia units and scattering the survivors of the southern army. A comrade of Rutherford, William R. Davie, brought Governor Caswell up to speed on the state of affairs in the Carolinas. Davie told Caswell that the British did not follow up their victory at Camden immediately after the battle. Instead, the Tories returned to their homes and took it upon themselves to plunder the vulnerable upstate countryside. Davie hoped to rally the North Carolina militia, which numbered a scant 300 after the British sent hundreds of others running from the fields at Camden. Finally, Davie harbored no illusions about the future performance of the militia, who would be heavily relied upon once Cornwallis launched the invasion everyone knew was coming.³⁹

³⁸ Rankin, 247.

³⁹ Davie to Caswell, August 29, 1780, NCSR, 22: 776-777.

The British did not count on the stubbornness of the cause. In spite of the success during 1780, which included capturing Charleston and routing the rebel army at Camden, Cornwallis continued to feel disappointment that loyalists in the Carolinas did not flock to his army, either to fight or provide information needed to crush the rebellion. Even worse, the much-maligned patriot militia continued to fight in small numbers in both states. Partisan leaders like Thomas Sumter, Francis Marion, and Andrew Pickens challenged the supply lines and isolated outposts of the British army.⁴⁰ In William R. Davie, North Carolina chose a competent commander to lead the Salisbury district during Rutherford's absence. These units helped discourage loyalist organizations and aided the main southern army as it regrouped and played a cat and mouse game with Cornwallis during the winter of 1780-81.

Desperate not to lose the Carolinas and Virginia to the British, George Washington sent his most trusted commander, Nathanael Greene, south in an attempt to rally men to the cause and keep Cornwallis and his loyalist allies from running roughshod over the region. Greene was able to patch together remnants of the Continental regiments who survived Camden and rebuild his army with these veterans as his core troops. He hoped to stymie Cornwallis and revive the cause among the militia.

Almost immediately upon arriving in North Carolina, Greene broke every rule in the book of military convention. Facing two British forces, he divided his own and summarily went about driving the British from the Carolinas. His army lost every engagement it fought, starting in late 1780 and continuing into the late summer of 1781.

⁴⁰ Robert Middlekauff, The Glorious Cause: The American Revolution, 1763-1789 (New York: Oxford University Press, 1982), 495.

Late in that year he took on one of the last concentrated forces of troops at a place called Eutaw Springs, thirty-five miles northeast of Charleston.

Nathanael Greene systematically turned the war in the Carolinas around. His divided army scattered a mobile corps lead by the hated Tarleton in upstate South Carolina. Along the Carolina border in October, a group of “Over Mountain” men destroyed a loyalist force bent on quelling the backcountry. This victory forever quieted stories which doubted the allegiance of western settlers. Greene’s main army then forced Cornwallis on a costly chase across North Carolina into Virginia. Exhausted and far away from his base of operations, the British chased Greene around the piedmont until the two armies battled at Guilford Courthouse in March 1781.⁴¹

For James Rutherford, action in the Carolinas continued even as the fate of his father remained uncertain. Attached to one of Greene’s cavalry units, James Rutherford served in Wade Hampton’s mounted troopers. Details of Griffith Rutherford’s capture at Camden and subsequent imprisonment were known to the leadership of North Carolina and his family. James decided that he was bound by duty to carry on despite his father’s current condition. His own soldiering experience had begun six years earlier when father and son marched into the South Carolina upcountry during the Snow Campaign. James enjoyed fast promotion in the same manner his father had; by the time of the battle at Eutaw, he held a major’s rank. James chose to serve in the cavalry, one of the more glamorous units in an eighteenth-century army. The fastest troops on the battlefield, these men enjoyed mobility and a shock value once the shooting started.

⁴¹ Theodore Thayer, “Nathanael Greene: Revolutionary War Strategist,” in George Washington’s Generals and Opponents: Their Exploits and Leadership, ed. George Athan Billias (New York: Da Capo Press, 1994), 122-134; Thomas E. Baker, Another Such Victory: The story of the American defeat at Guilford Courthouse that helped win the War for Independence (New York: Eastern Acorn Press, 1992)

Nothing illustrated how conditions in the Carolinas had changed during 1781 more than the prelude to the Battle at Eutaw Springs. Greene's army marched within two miles of the British force commanded by Alexander Stewart. If the loyalist contingent had been stronger, or even inclined to help the British army, the attack would not have occurred with such surprise. In the swamps around the Santee River during that stifling summer day, the two armies fought fiercely for upwards of four hours. The tenacity shown on both sides may have concerned the fact the opposing generals commanded troops at one point had fought for the other side. In Stewart's force, a regiment of Irish Loyalists fought Carolina militia who once wore English scarlet.⁴²

After pushing Stewart's men back, Greene's attack became stymied when his troops sacked and began to loot the English camp. Reorganized, the British rallied and counterattacked, pushing the patriot force off the field. On the extreme left, one British unit led a tenacious defense along the banks of the Santee. Cavalry units under William Washington and Wade Hampton led headlong charges against the British position and took heavy casualties. Major James Rutherford placed himself at the head of one such attack, but his cavalry could not maneuver well in the thick brush near the British position. As he approached the enemy lines, a volley cut down Rutherford and scattered the patriot cavalry.⁴³

At the end of the day, Greene pulled his army away from the Santee River. Though he left the field again to the British, his army heavily punished the enemy. Never again did a British force of any size leave its two coastal confines in Wilmington, North

⁴² Pancake, 217.

⁴³ Pancake, 218-220; Buchanan, 398.

Carolina and Charleston, South Carolina. Even though James Rutherford died on the field, his family had the knowledge that he died bravely. His brother, Henry Rutherford, recounted that James suffered a wound through the front of his chest which exited his back, proving that James's final act involved a charge on his horse.⁴⁴

While the battle raged to win the Carolinas, Rutherford could only experience the campaign through whatever rumor or news reached the men at St. Augustine. Word that Greene battered Cornwallis in the North Carolina piedmont did make its way to the men in Florida during the spring of 1781. With Cornwallis chased to Wilmington, all Rutherford needed to get back into the field and vanquish the enemy was a timely exchange of prisoners and a long trip back to Salisbury.⁴⁵

⁴⁴ Pancake, 221; Long, 106.

⁴⁵ "American Prisoners at St. Augustine," NCSR, 15: 393.

Chapter Six

Fighting the “Imps from Hell”

After ten months as a prisoner of the British in St. Augustine, an exchange for Rutherford and other detainees was arranged in late June of 1781. At first told they would be marched through Georgia, the British put the men on a ship bound for Philadelphia. Away from the action, the last piece of news the prisoners received concerning the progress of the war concerned the battle between Greene and Cornwallis at Guilford Courthouse. With the British army making its way to the coast, Rutherford had plans swimming in his head during his return trip. Through the kindnesses of members of Congress and friends, Rutherford procured money, clothing, and a horse for the trip home.

Sometime in September, Rutherford arrived in North Carolina. Upon his return to Grants Creek he found the British had sacked his home on the way to the town of Salisbury. Cornwallis, having captured the man who frustrated his efforts to pacify North Carolina in 1780, made it a point during this march to stop at Rutherford’s farm. When Griffith returned, he found everything had been looted, even his bandanas.¹

During his absence, responsibilities for the Salisbury district were assigned to William Lee Davidson, an able subordinate who served with Rutherford in 1780 when the two men helped organize Salisbury militia after the surrender of Charleston. Davidson died in action in January of 1781 while contesting a crossing of the British

¹ “American Prisoners at St. Augustine,” NCSR, 15: 393; Long, Griffith Rutherford, 44-45.

army on the Catawba River. Command of the district's militia then fell to Francis Locke, Rutherford's brash son-in-law, commander of Patriot militia at Ramsour's Mill.²

In order to establish a base of operations along the coast, British generals sailed a small force to Wilmington, situated on the Cape Fear River. In late January of 1781, troops under Major James Craig occupied the town. A burgh of only 200 houses and 1,000 residents, Wilmington was intended to serve as a base of operations and supply now that Cornwallis had started operations in North Carolina. Immediately after raising the standard, and disarming the inhabitants of the town, Craig started organizing earthworks for the defense of the city.³

By the time Rutherford could lead another command, the situation in North Carolina changed dramatically. After Greene punished Cornwallis at Guilford Courthouse near present-day Greensboro on March 15, 1781 the British commander marched eastward to his base in Wilmington. Cornwallis issued a call to all loyal persons to join his army. Few rallied to his standard, probably because Cornwallis's proclamation was made as he headed east, in order to avoid another battle with Greene. Instead of turning south and aiding the outposts in South Carolina, Cornwallis took his tired army into Wilmington on April 7.⁴

² "In The House of Commons, 31 August, 1780," NCSR, 22: 1008; Ward, War of The Revolution 767-769; Papers of Nathanael Greene, Vol. 9: 186, n.4. Future references to this source will be abbreviated as PNG; Long, Griffith Rutherford, 80-81. Blanche Rutherford, the third child of Griffith and Elizabeth married Francis Locke. Locke was the son of Matthew Locke, who served with Griffith in the North Carolina Assembly.

³ Hugh F. Rankin, North Carolina in the American Revolution (Raleigh: Division of Archives and History, 1959), 61; Lawrence Lee, New Hanover County: A Brief History (Raleigh: Division of Archives and History, 1977), 28.

⁴ Rankin, North Carolina in the American Revolution, 59; Alden, South in the Revolution, 259.

Anxious to take the field after his imprisonment, Rutherford rallied the men of Salisbury beginning in September of 1781. He sent word to the quartermaster in the district to gather any military stores he could get his hands on, including muskets, cartridge boxes, and ammunition. James Mountflorencia, in charge of gathering supplies for Rutherford, asked Nathanael Greene to release supplies intended to go to his army, currently in South Carolina. It seems clear that Rutherford hoped to organize quickly and march through the piedmont to Wilmington, Cornwallis had left a small contingent of troops on the coast, the last British soldiers in North Carolina.

Rutherford's new superior officer, Nathanael Greene, spent the later part of 1780 clearing both Carolinas of the British army. After his pyrrhic victory at Guilford Courthouse, Cornwallis moved his army to the relative safety of the coastal town of Wilmington in April 1781. The British campaign of 1780, which started with such promise, never looked bleaker. After capturing Charleston, the largest seaport in the south, and routing a Patriot army at Camden, Cornwallis was poised to pacify North Carolina and move to Virginia. By the spring of 1781 however only Charleston and Wilmington on the east coast, belonged to British arms. Cornwallis stayed only a short time in the coastal city before moving north to the Virginia seaport of Yorktown.⁵

Greene's army was in no better shape. As much as the aggressive general wanted to go on the offensive, the condition of his troops prevented it. After the Battle of Eutaw Springs, where James Rutherford had given his life, Greene camped his army near Charleston, one of the last coastal cities remaining under British control. Any operations

⁵ Gregory De Van Massey, "The British Expedition to Wilmington, January-November, 1781," North Carolina Historical Review 56 (October 1989): 396-397.

in North Carolina at this point would have to be conducted by militia. Greene, commanding a small, exhausted army, had his hands full in South Carolina.

Fortunately for Greene, Griffith Rutherford, after a short reunion with his family, prepared to take the field again in the late summer of 1781. During the next several months, Rutherford's actions served as a sometimes unwelcome diversion to Greene's effort to secure the Carolinas. Nevertheless, he now could utilize the services of an experienced commander. The British withdrawal from the field and confinement in coastal havens put the Carolina countryside in a surprising amount of peril. Until the peace treaty and departure of the last British troops from the United States, Greene and other army commanders had no choice but to keep some organized force in the field. To many Americans, who had sacrificed and bled for six years, the war seemed to be over. But an absence of British forces, especially in the Carolina countryside, created a vacuum filled by roving bands of Tories and Whigs.⁶

North Carolina continued to be a dangerous place after Cornwallis left the state in 1781. In September of that year a Tory raiding party stormed Hillsborough, captured Governor Thomas Burke and all of the officers in that town and summarily took them to Wilmington. Rumors of murder and pillaging on both sides swept the countryside. Small bands of men carried out revenge of a very personal nature, knowing that Loyalists could no longer count on the protection of the British army.⁷

After surveying the damage at his home and farm, Rutherford immediately started planning operations which would clear the state of the continued Tory presence. In the summer of 1781 the strongest area of Loyalists remained in the eastern part of the state.

⁶ Pancake, This Destructive War, 236.

⁷ Ibid., Ward, War of the Revolution, 837.

Major James Craig, operating out of Wilmington, had no intention of hunkering down behind his earthworks waiting for an attack. On a small scale, he initiated the strategy that British generals had spoken of since 1776. Craig appointed David Fanning commander of the loyalist militia, who carried out a highly successful guerrilla war that included capturing Whig leaders of the state, freeing Tory Prisoners, and robbing homes. This was a campaign bent on demoralizing any part of the populace with rebel sympathies. It also stirred a great deal of resentment among Patriot militia and the officers who led them in battle.⁸

By August it was known that Rutherford was organizing the militia in his district for a campaign in the east. As in campaigns of the past, he sent officers to the counties in the Salisbury district and asked them to meet in Montgomery County, just southeast of Rowan, along the Little River. The destination of the army became Fayetteville, the old trading town of Cross Creek, renamed after Marquis de Lafayette. Rutherford correctly believed the main concentration of Tories, the bands of soldiers aiding in the plunder conducted by Fanning, operated between the Cape Fear and Pee Dee Rivers.⁹

As Rutherford waited for his militia to assemble his troops drilled and practiced maneuvers. This familiarized his horse soldiers with the scouting assignments they would undertake. Second, the show of force demonstrated to loyalist sympathizers and spies in his camp that Rutherford commanded a substantial body of troops. Fortunately for Rutherford, many of his cavalry served in past campaigns under William R. Davie

⁸ Robert M. Calhoon, "Loyalism and Neutrality," in Jack P. Greene and J.R. Pole eds., A Companion to the American Revolution (Malden MA: Blackwell Publishers, 2000), 245; Robert M. Calhoon, "The Reintegration of the Loyalists and the Disaffected," in The American Revolution: Its Character and Limits, ed. Jack P. Greene (New York: New York University Press, 1987), 61.

⁹ Graham Narrative, in William Henry Hoyt ed., The Papers of Archibald D. Murphy (Raleigh: E. M Uzzell, 1914), 2: 298-299; ?? to Colonel David Fanning, August 2, 1781, Lindley S. Butler ed., Narrative of Col. David Fanning (Davidson, NC: Briarpatch Press, 1981), 50-51.

and William Washington, giving him the advantage of a skilled corps of mounted troops. By October 1 the troops started the march to the east, moving at a slow pace to allow for any late-arriving units to catch the main army. By this time Rutherford commanded 1,400 troops, 350 of whom were cavalry. Though not as large as the force he took into the Cherokee towns five years before, the men made up in experience what they lacked in numbers.¹⁰

In addition to logistical details and organization of troops, Rutherford concerned himself with the void in civil authority. In the middle of his efforts to put together an army, the Governor of North Carolina, Thomas Burke, was captured by a raiding party under the direction of David Fanning. This development elevated Alexander Martin, Speaker of the Senate, to the governorship and caused a great deal of concern for Nathanael Greene operating in the High Hills of the Santee in South Carolina.

To Burke, Greene expressed his frustration at not being able to aid the state any further. Greene could only make the token gesture of sending one of his generals from the Continental Line to the state. He put his hope in reducing British forces in the state on Rutherford, who he understood was marching to Cross Creek. "Wilmington," Greene lamented, "is the root of the evil." With a secure base of operations, the bands of Tories could continue to sack and plunder unimpeded through the state. Nevertheless, Greene could do little from upstate South Carolina in the fall except inquire of Rutherford what his intentions were. He asked the North Carolinian about the forces under his command, their length of service, and a possible union with other militia coming from the northern part of the state. Greene gloomily told Rutherford that if the British garrison could not be

¹⁰ Graham Narrative, 299.

dislodged from the town, Tory activity would continue.¹¹ What Greene did not understand, without knowing the size of Rutherford's command, was that the Carolina brigadier had every intention of driving the British from Wilmington.

Unable to know Rutherford's intentions, Greene concerned himself with news he received in South Carolina. To Governor Martin, Greene drafted a strongly-worded letter addressing the news he received about Rutherford's army. Reports filtered to Greene that Rutherford "is driving all the tories, their wives and Children, burning their houses and laying waste their plantations." Greene concerned himself with the fact that indiscriminate destruction hurt friend and foe. It drove impartial Carolinians to the British and turned others "from a feeble and partial enemy a firm and determinate foe."

With General Washington's army in Virginia, Greene hoped a favorable outcome along the York peninsula would be more beneficial than ravaging homes and property of the neutral or loyalist citizens. If this Rutherford's policy Greene believed, all of the future retribution against Whigs in the state could be laid at the feet of Patriot commanders and their scorched earth campaign.

Separated from the action in North Carolina, Greene seemed to be relying on rumors brought from loyalist sympathizers or the militia who made their way south into Greene's army. With information passing only by horseback, the turnaround for letters regularly took several days. Greene was making the highest civil authority in the state aware of the behavior of one of his brigadiers. He hoped Governor Martin in no way sanctioned this "narrow principle of private resentment." Any stores, crops, or forage

¹¹ Alden, *The South in the Revolution*, 325; Nathanael Greene to Acting Governor Alexander Martin, September 27, 1781, *PNG*, 9: 400; Nathanael Green to Griffith Rutherford, October 3, 1781, *ibid.*, 422-423.

destroyed by well-meaning patriot militia could just as easily be used for his army if joint operations against Wilmington or Charleston could be initiated.¹²

Greene wrote his letter to Martin in order to establish contact with the new governor after Thomas Burke became a prisoner of the British. Greene sought to establish with the acting governor a principle that guided his actions in the Carolinas. Unable to take his weakened army into the field, he had to rely on the civilian authority and the judgment of militia officers to direct any offensive actions that might take place against the British. The last thing Greene wanted was a rogue general, who was bent on revenge and burned with some personal vendetta. With the possibility of victory so close, the final stages of the war could not become the place for a war of attrition.

Greene finally passed his thoughts along to Rutherford in October. Repeating many of the ideas written to Martin, he drafted a long missive, part grand strategy, part lecture, which responded to the news concerning Rutherford's behavior as his troops approached Wilmington. Greene was troubled with reports that "you are treating the Inhabitants denominated tories with great severity driving them indiscriminately from their dwellings without regard to age or Sex and laying waste their possessions destroying their produce and burning their houses." As a leader of men, Greene understood the motivation behind Rutherford's supposed actions remembering that "your sufferings in Captivity has been sufficient to exasperate you." Nevertheless, barbarities against the enemy could never be sanctioned.

¹² Nathanael Greene to Acting Governor Alexander Martin of North Carolina, October 9, 1781, [PNG](#), 9:438-439.

To Rutherford, Greene repeated many of the themes mentioned to the civilian leaders of North Carolina. Anything his army destroyed near Wilmington had the potential to hurt the Patriot war effort. No one could predict in what area the army might operate in during future months. Destroying crops and produce that at first might only hurt the enemy could one day “prove distressing to ourselves.” Finally, Greene made a personal appeal to Rutherford. He reminded the North Carolinian that “as I am answerable for the Southern operations generally I hope they will have their proper effect; for be assured I have nothing more at heart than the interest and happiness of this country.” He hoped his past service not only in the south but with Washington in the early part of the war made this sentiment clear.

Greene’s letter to Rutherford hit all the right notes. He assuaged Rutherford’s sense of vanity, realizing that a man who lost almost a year of his life in confinement might hold a grudge against his captors and their American allies. He sympathized with the troops in Rutherford’s army, understanding that resentment of past actions by the Tories could easily enrage the men under his command. But he warned Rutherford that “passion is a bad councillor and resentment an unsafe guide.” In the short run Greene conceded, cruelty to the enemy would make the Patriot cause look desperate. Harsh measures make the adversary a more dangerous foe, leading them to provide aid and comfort to the British, or to join the ranks as soldiers. Greene tried to set the little part of the war in North and South Carolina in a bigger picture. Give the British army or Parliament incidents of vindictive behavior, and these groups will give permission for their American allies to do the same.¹³

¹³ Nathanael Greene to General Griffith Rutherford, October 20, 1781, PNG, 8: 452-454; George Washington Greene, Life of Nathanael Greene (New York: Hurd and Houghton, 1871) vol. 3, 415.

Rutherford's response to Greene, which has not survived seemed to relieve Greene's concerns about the situation in North Carolina. By the time Greene drafted his inquiry, Rutherford's forces already engaged loyalist troops outside of Wilmington at a place called Raft Swamp. After marching for two weeks, Rutherford's screening force made contact with Tories near the Lumber River. As his troops and cavalry approached, he reached the Tory camp as their campfires continued to burn. Gathering intelligence from captured men, Rutherford and his officers discovered they were hot on the heels of a force of about 600 Tories.

After pursuing the Loyalist's force, cavalry units and mounted infantry caught up with the Tory units and charged the position. The Tories fled into a ravine near the swamp, but according to William Graham, an officer under Rutherford, their sand ponies could not outrun the mountain horses Rutherford's men brought from the Salisbury district. Rutherford's troopers killed sixteen Tories and wounded fifty. Following the battle, small units of cavalry also became targets of Tory bands firing from yards and potato patches.

In the days after the battle, Rutherford met with his officers to plot the next course of action. He determined to clear the surrounding swamps and marsh of any Loyalist forces that might be in hiding. The general likened his situation to that of Francis Marion, "The Swamp Fox," who followed the same course of action in South Carolina. Aside from frightening a family of civilians who lived in the area and scaring cattle his troops mistook for soldiers, this exercise did little in the effort to find or capture pockets of resistance. The effort did send many Loyalists out of the swamps and toward Wilmington. Even without fighting a second pitched battle, the news of patriot militia

wading in waist-deep muck and briars had the desired effect. As Graham recounts, “news soon spread through the whole hostile districts that Rutherford’s men were driving the swamps, and it is believed but few of the Tories took shelter in them afterwards.”¹⁴

As Rutherford’s army of 1,400 slowly approached the coast, Acting Governor Martin paid a visit to the militia camp. According to Graham, Martin “issued a very flattering address to the army, in which he noticed the officers who commanded when the Tories were defeated at Raft Swamp.” The call gave encouragement and a sense of purpose to the troops, and the visit allowed the opportunity for some needed rest.¹⁵

In the days after the battle of Raft Swamp, as Rutherford approached Wilmington, Greene’s follow up letter arrived, conveying the relief he felt that rumors about Rutherford’s pillaging turned out to be untrue. Greene told Rutherford that he always urged moderation in dealing with Tories. This was a sound policy because in each state he served, Greene found no uniform policy toward loyal residents residing in each state. Without Congress adopting a uniform course of action, Greene simply urged restraint and repeated relief that reports coming to him proved to be false. He finished the letter by asking Rutherford to send a contingent of troops en route from the mountains to his army, since Greene hoped to begin an offensive against Charleston.¹⁶

A great divide emerged at this point between the two men responsible for operations in the region. To Rutherford, the Tories constituted the enemy. And he had been away from the battle for a year after his capture at Camden. Before he left on his

¹⁴ Graham Narrative in Murphy Papers, 2: 301-303.

¹⁵ Graham Narrative, 304; Pierce Butler to James Iredell, November 16, 1781, Griffith J. McRee, Life and Correspondence of James Iredell (New York: Peter Smith, 1949), vol. 1, 560-563.

¹⁶ Nathanael Greene to General Griffith Rutherford, October 20, 1781, PNG, 9: 456-458; Greene to Colonel John Sevier, October 21, 1781, ibid., 462.

march east, he kept a patriot force in Anson County to pacify one region of the state. As he took his troops to the Cape Fear region, the general even went to the trouble of commandeering a guide for the trip; Rutherford doubted his own knowledge of the area. Greene tried to argue for the larger strategic picture, ordering that Carolina militia should not initiate a similar terror campaign against suspected loyalists.¹⁷ As a skilled political general, Greene clearly was looking farther down the road than Rutherford, toward conclusion of the war and the reconstruction of the Carolinas. He did not want Patriot arms to be associated with burning, looting, and theft. During the remainder of the time his militia stayed near Wilmington, Rutherford struggled to maintain the high ideals Greene outlined in his two letters to the Carolina brigadier.

The dilemma of how to treat civilians in the war vexed both British and Patriot commanders. Oftentimes officers became caught in the middle. Governor Burke, before his capture in the late summer, realized like Greene that the first side that created some stability in North Carolina would win support the of the people. Greene echoed this sentiment in letters to Acting Governor Martin and to subordinates such as Rutherford. Rutherford's antagonist in Wilmington, Major Craig, commanding all British forces believed disorder would prove only the Crown could keep order in the state. This became his rationale behind the campaign to unleash David Fanning into the eastern section of the state and disrupt civil government.¹⁸

With Fanning injured, and Craig undermanned behind the fortifications around Wilmington, the opportunity to strike the British stronghold seemed at hand. Once he

¹⁷ Colonel Thomas Wade to Nathanael Greene, September 24, 1781, PNG, 9:392; Calhoun, "Loyalism and Neutrality," 245.

¹⁸ Massey, 400.

reached Wilmington, his scouts gave him new information. British Redcoats occupied the town. Joseph Graham, Rutherford's brother-in-law, and an officer in the army noticed the intelligence gave his general pause. After six years of fighting, Rutherford could look back and catalog the behavior of the militia he fought alongside and sometimes commanded. They performed well in the Cherokee campaign but abandoned the southern army in Georgia. Troops his son commanded acted more like a mob in action against the Tories and later that summer ran from the field at Camden. When fighting Loyalist militia in the field, the King's friends were as likely to run as the farmers, artisans, and tavern-keepers Rutherford drafted from the western piedmont. Against disciplined redcoats, his troops had no chance.

Rutherford had developed several strong opinions about the militia. As an organized force, militia generally did not fight British regulars well. When he planned a strategy for capture of Wilmington, Rutherford considered two modes of attack. Up to this point in the campaign, he could count on his superior numbers and competent subordinates to drive smaller forces of Tories before his army. Before he left Salisbury, Rutherford organized his troops into infantry and cavalry. Many of his men, talented horsemen, rode to battle and fought as infantry. Others stayed mounted adding speed to his army.

Knowing the limitations of the men in their charge, Graham and Rutherford developed the only strategy available to them. Entrenched behind earthworks, any attack against the town would result in high casualties to the attacking forces. Rutherford sought a more prudent step of surrounding the town, looking for weak points, and preventing the countryside from re-supplying the garrison. With this knowledge,

Rutherford skillfully deployed his men using information from loyalist militiamen who changed their allegiance and joined his army. Though he enjoyed an almost three-to-one advantage in troops, Rutherford planned to surround Wilmington and keep anything from going in to supply the town. He positioned a combination of cavalry and infantry on the south side of the town to monitor activity on the Cape Fear River. Rutherford stationed himself and his troops north of the town to prevent any entrance overland.¹⁹

The plan was cautious and methodical. At one point, when it appeared a group of redcoats might be marching out to attack his force, Rutherford, knowing he would have to face professional troops, did everything he could to avoid a battle. His men could scatter a group of amateur Tory militia, but as Graham expressed the view of his men, “all knew the British regulars were a foe to be respected.” His lack of artillery also ruled out the option of storming the works. Within the city, Major Craig realized what was happening. He ordered all women and children known to be Whig sympathizers out of the town to conserve food.²⁰

Rutherford then began to close a fist around Wilmington. Any information he received about an open escape route or access to outside supplies became sealed off by his fast moving cavalry. He attacked any movements out of the town by loyalist militia, keeping a strong but distant perimeter around the city. As October gave way to November, Craig stopped venturing out of the town, and did not risk the health of his redcoats in an attack. With the river and sea lanes open, his troops could always escape by water. From inside the city, Craig faced a difficult situation. Rutherford’s army not

¹⁹ Graham, 304.

²⁰ Graham, 305; Massey, 409.

only kept stores and supplies out, but cut off all contact from loyalists outside of the town.²¹

A significant piece of information arrived from Virginia during the second week of November. Riding from Yorktown, Light Horse Harry Lee, brought news of the capitulation of the British garrison at Yorktown. With the surrender of Cornwallis in Virginia, other British commanders still clinging to port cities contemplated their next move. For Craig, who at this point was looking for any excuse to leave Wilmington, holding North Carolina at all seemed a silly assignment. The capture of the governor had not shaken the civilian government of the state. Cornwallis and his army, now prisoners of the American and French army, would not be coming back to rescue Craig. After reports reached him about the surrender on the York peninsula, he immediately organized a hasty evacuation.²²

Upon receiving reports of the British surrender, Rutherford's men began an immediate celebration; the general drew up his army and fired a feu de joie. Several gentlemen from inside the town approached the army and told Rutherford that the British were loading boats in preparation for sailing down the Cape Fear to the Atlantic. Rutherford slowly moved his army closer, cautiously observing British movements in an effort to verify Craig's true intentions. Rutherford ordered boats procured and moved

²¹ Samuel A' Court Ashe, History of North Carolina (Greensboro: Charles L. Van Noppen, 1908), vol. 1, 701.

²² Henry Lee, The American Revolution in the South, ed. Robert E. Lee (New York: Arno Press, 1969), 524; Lawrence Lee, The Lower Cape Fear in Colonial Days (Chapel Hill: University of North Carolina Press, 1965; Massey, 409.

them down the river just in time to see the sails of the British vessels drifting seaward. The British evacuation was completed on November 14.²³

Challenges for the residents of Wilmington did not end when the British evacuated. As Rutherford's troops moved in, the looting started. North Carolina militia troops treated the town as a conquered province. Rutherford placed guards at the homes of several inhabitants, protecting the private property of Whig and Tory alike. To his subordinate, Joseph Graham, Rutherford only ordered the taking of stores the British troops used during their occupation. This included salt, which he allowed to be put on wagons for the return trip to Salisbury.²⁴

Graham seemed to sugarcoat the incidents, stating only that stores of the enemy were the only things taken. Letters and secondary sources contradict this account. Rutherford dispensed no mode of punishment, but he would have been hard pressed to stop all of the acts of looting going on in the town. If his troops removed personal property from Wilmington, concealing these items would be a tall order for average militiamen. Certainly abducting African-American slaves, as one resident claimed, would not have been missed by the officers of the army. Those friendly to the cause of independence also suffered acts of confiscation. William Hooper endured destruction at the hands of both Craig's men and North Carolina militia. He complained to James Iredell that Rutherford's militia broke into his house, cut open beds, and took volumes from his extensive library.²⁵

²³ Graham Narrative, 310-311; Rankin, North Carolina Continentals, 367.

²⁴ Ashe, 703.

²⁵ Letter to Gov. Alexander Martin, December 19, 1781, NCSR, 22: 602-603; William Hooper to James Iredell, February 17, 1782, Life and Correspondence of James Iredell, vol. 2: 4-8.

For Rutherford, giving his men salt seemed a trifle, but in a poor state enduring its seventh year of war, provision was scarce in all regions. Whether he condoned random looting or confiscation is impossible to tell. It would have been difficult for Rutherford to control his troops as they encountered the homes or property of Loyalists in the area around Wilmington. During the previous campaign, as Cornwallis chased Greene through the piedmont, the homes and farms of his men became targets of British soldiers and the Tories who attached themselves to the army. British forces also swept through the town of Salisbury, commandeering supplies and taking whatever he wanted. Rutherford, having endured the ransacking of his own home by the British army, could surely understand the motivations of his men who pilfered household goods or stole food.²⁶

Nathanael Greene, commander of the Continental Army in the south, did not share Rutherford's sentiments. When he arrived in Salisbury in early December, more letters from Greene awaited the Carolina commander. The behavior of his troops caused more concern for Greene, a man who could not simply retire from the field and return to a home halfway across the state. Greene again asked Rutherford to answer for the conduct of his men as his militia approached and eventually occupied the town of Wilmington. As usual, the tone of the letter was civil, but the question was a direct one. Though he wanted to rebuke Rutherford, Greene needed his cooperation in securing supplies for his small army stationed outside of Charleston. As the highest military

²⁶ Brawley, Rowan County, 25-26.

officer in the large Salisbury District, Rutherford's authority would be necessary to procure items for Greene's army.²⁷

The surrender of the British army at Yorktown did not mean the end of the war. Though the British lost their post in Virginia, they continued to hold New York, Charleston, and Savannah. The final peace was more than a year away and troops needed to stay in the field and endure more hardships while negotiations in Paris continued.²⁸ Greene in 1782 had the unenviable task of keeping an army sustained when few in the populace realized the rebellion had not ended. While the rest of the south and the other members of the confederation began to rebuild their lives, several armies scattered around the country continued to require cattle, horses, and foodstuffs to keep the troops supplied.

These items needed to come from the willing citizens and respected local officials in the surrounding states. When Rutherford arrived at his home letters from the commander of the Southern department were already in Salisbury. Both concerned the treatment of "Enemies of our Country," to which Rutherford responded, "some of the Charges you mentioned I am not guilty of." The letter constitutes the only admission by Rutherford of any vindictive behavior carried out by his troops on the road to Wilmington. It is interesting that he admits some of the accusations may be true. Surviving accounts show that his troops did steal and take property in Wilmington.²⁹

²⁷ Terry Golway, Washington's General: Nathanael Greene and the Triumph of the American Revolution (New York: Henry Holt, 2005), 292.

²⁸ Ward, War of the Revolution, 837.

²⁹ General Griffith Rutherford to Nathanael Greene, December 10, 1781, PNG, 10: 32.

In his response to Greene, Rutherford believed he had the endorsement of state officials in this matter stating “as for my Behaviour tords that set off Miscrents I have the Law of my Country to Protect me.” This statement, at least in the administration of the current governor, was correct. In the middle of his campaign against Wilmington Governor Martin stated the Patriot militia could “chastise the present disaffection, long prevailing in some of the Counties of this State, by destroying, dispersing, and capturing ring-leaders and some of their adherents.” Clearly this was not *carte blanche* to pillage the property of loyalists, but coming only a month after Tory raiders captured Governor Burke, a definite tone had been established. Greene had to concede that he could do little to stop the actions of the militia in North Carolina other than warn them that depredations against loyalists only hurt the American cause.³⁰

In his last letter on the treatment of loyalists, Greene once again urged caution, stating, “I have always observed both in religion and politiks moderation answers the most valuable purposes.” At this point, Greene wanted to end the discussion and focus on a real problem facing his army. His army needed supplies; he beseeched the brigadier of the Salisbury district to help him. Though Greene warned Rutherford his treatment of Tories could injure his reputation, he needed Griffith’s standing in the community to obtain stores for his army, which continued to maintain itself in South Carolina. Along with Greene’s letter a circular addressed to the people of the Salisbury district praised their “zeal and patriotism” in the war, and asked for the necessary wagons to move items to his army.³¹

³⁰ Ibid; Governor Alexander Martin to Council of State, NCSR, 19: 871.

³¹ Nathanael Greene to General Griffith Rutherford, January 29, 1782, PNG, 10: 277; “To The People of Salisbury District, North Carolina,” *ibid.*, 278-279.

Many of the letters leaving Greene's camp in the late winter of 1782 concerned the acquisition of provisions from any area of North Carolina. Most of these supplies, it was hoped, could come from Salisbury and Charlotte, central gathering points for materials. Greene and his subordinates in the quartermaster department ran headlong into Rutherford, who could control wagons in the district and the pack animals required to move them. Several letters arrived at Rutherford's home imploring him to impress wagons for service to Greene's army. But the brigadier hesitated, stating he could send teams to posts in North Carolina, but not out of state. In other words, it was too much to ask the teamsters in his district to leave the state, but they would move to different supply gathering areas. To move as far as Greene's army, state quartermasters and drivers in their employ would have to be used. Added to this, Rutherford expressed the notion that during this time of year, commandeering wagons would not be a popular policy.³²

When Greene sent subordinates to investigate what was going on in the Salisbury district, two officers seemed to be under the impression that Rutherford continued to drag his feet in the matter. Greene, in a letter to Rutherford's subordinate in the 1780 campaign, William R. Davie, even threatened to go to the Governor if the action would resolve the problem. Slow mail service seemed to accentuate the problem for all parties involved. Greene's letter dated January 29 reached Salisbury on March 2. This represents either a very slow delivery or Rutherford's reluctance to open a letter from

³² Captain Edmund Gamble to Nathanael Greene, February 22, 1782, PNG, 10: 395 n.3

Greene.³³ Based on earlier missives, which contained sermons on how to run a campaign against loyalists, Rutherford's hesitation is easily understood.

Considering the dangers within the state of North Carolina in 1782, Rutherford's attempts at holding back supplies or pack animals makes sense. In an oft-repeated scenario since 1775, confrontations with the Cherokee Indians remained on the minds of many residents of western North Carolina. Sending supplies to an army in another state not engaged in fighting apparently struck many residents in the Salisbury district as wasteful.

Another factor may explain the entire situation. Many suppliers in Rutherford's district did not trust Greene's quartermaster, Edmund Gamble. These commissaries chose to withhold necessities for the army, rather than see them wasted under the shoddy management of quartermaster Gamble. This situation put Rutherford in a bad light, making it seem as if the people in his region did not want to aid Greene's army. Rutherford, once the urgency of requests finally arrived, promised to send anything citizens of his district were willing to part with. He conveniently presented to Greene a laundry list of abuses by Gamble, including abandoned guns and exposed gunpowder. Greene seemed satisfied with Rutherford's efforts in a letter which pointed out for the second time he was misinformed about the efforts of the North Carolina Brigadier. He conceded that during the affair there had been "great misrepresentations." By the end of the letter, Greene admitted that Gamble might have to be brought up on charges. He

³³ Nathanael Greene to Otho Holland Williams, February 9, 1782, PNG, 10: 341-342; Greene to Colonel William R. Davie, March 5, 1782, ibid., 444-446.

bemoaned the fact that “if the great public and individuals will not do more for our support than has been done it will be impossible for me to keep the army together.”³⁴

Though the issue seemed settled, Rutherford, playing the injured warrior, demanding Greene give him the names of those who accused him of cruelties in Wilmington. These “wolves, in sheeps Cloathing,” meant to ruin his name and make a bad impression on Greene. It pained him to think he invited “the Displeasure of a Gentleman of youre Merit, & that I should be so unhappy to have such Enemeys.” In conclusion, Rutherford called into question quartermaster Gamble, the subject of a previous letter and a convenient fall guy for any hesitation Rutherford underwent in forwarding stores to South Carolina.³⁵

A last issue passed between the two generals in the spring of 1782. For the third time a miscommunication plagued the relationship between the two men. Acting at the bequest of the British commander in Charleston, Greene inquired about the condition of prisoners of war in the care of the Salisbury jail. Reports reaching the British indicated that detainees in North Carolina might be suffering under harsh conditions. Again, Greene repeated his theme that abuse of prisoners reflected badly on the cause of America and hoped Rutherford used every method to prevent this rumor from becoming scandalous.

In his by now characteristic style of answering the Rhode Islander, Rutherford summarized his course of action and promised Greene that the men enjoyed provisions and fair treatment in Salisbury. Rutherford also commented that “this is the way that the

³⁴ Nathanael Greene to General Griffith Rutherford, April 3, 1782, PNG, 10: 577.

³⁵ General Griffith Rutherford to Nathanael Greene, April 15, 1782, PNG, 11: 70-71.

Prisoners are disposed of in those Parts. If it should meet sir with your approbation I would be glad to know, but this I know that I did not Receive such Liberty when I was a prisoner with the British.” Still smarting from losing almost a year of his life in confinement, Rutherford’s letter suggests a man who resented that his methods were being called into question. Ironically, the prisoners were captured at Eutaw Springs, where James Rutherford lost his life seven months before.³⁶

Rutherford concerned himself with more than jailing prisoners and gathering supplies in the spring of 1782. Threats from Cherokee Indians in the west distracted the Salisbury district and the state called on its brigadiers to organize another expedition west. At the same time letters from South Carolina were being addressed to Rutherford, he received correspondence concerning the start of another campaign into Cherokee territory. Griffith Rutherford had every intention of accompanying another journey against the Cherokee beginning in August. The march would be led by Charles McDowell, like Rutherford a westerner and militia officer.

McDowell only recently had escaped charges of impropriety before his march west. A court martial ordered by Rutherford had sought to investigate charges that McDowell took bribes from Tories and enlisted others to serve in General Greene’s army. Rutherford, who helped thwart elections of officers who might be Tories earlier in the war, cleared McDowell of the charges. In his letter to the North Carolina Assembly, Rutherford maintained that McDowell “has acted as a good officer & a real friend to his

³⁶ Nathanael Green to General Griffith Rutherford, April 12, 1782, PNG, 11: 41-42; Rutherford to Greene, April 23, 1782, ibid., 108-109.

country.”³⁷ McDowell, who barely escaped serious military reprimand, would lead the troops into Cherokee villages, with Rutherford playing the role of experienced guide. If the summer of 1782 proved one fact, it was that the amount of tasks which fell to a militia Brigadier, even when not in the field, could be staggering.

Though not in charge of the mission to the Cherokee towns, Rutherford made a significant contribution to the endeavor. On his return route from the Middle towns in 1776 his men cut a trail known as “Rutherford’s Trace,” a path that could be used for future offensive operations into the towns. Though the combined expedition of 1776 wreaked havoc on the Cherokee nation, Overhill leaders such as Dragging Canoe continued to field troops and threaten the western counties in three states. Faced with a prospective end of hostilities with Great Britain, finally ending the threat in the west constituted another part of a plan for peace.

Moving through Rutherford’s route, McDowell, John Sevier, and western militia moved into the Chickamauga towns, believed to harbor Dragging Canoe, and razed many of the villages. Their actions, in a campaign scarcely garnering a paragraph in scholarship, led to another treaty with Cherokee leaders, more land cessions, and more settlers moving farther into the territory over the Appalachian Mountains.³⁸

Lacking the urgency and excitement of the 1776 march, where three armies combined to destroy the Cherokee, the McDowell campaign nevertheless succeeded in removing the threat of an organized resistance to western settlement. For Rutherford, it

³⁷ Court Martial of Charles McDowell, Burke County, March 1782. Charles McDowell Papers, North Carolina Department of Archives and History.

³⁸ Alden, South in the American Revolution, 274; Calloway, American Revolution in Indian Country, 206; Gary B. Nash, The Unknown American Revolution: The Unruly Birth of Democracy and the Struggle to Create America (New York: Penguin, 2005), 384.

represents the last chapter of a storied military career; a quarter century as a soldier beginning and ending in battles against Native Americans. His other campaign, a rather vindictive one against those who tried to stop the cause of the United States, entered a new chapter, away from the battlefield and back in the halls of government.

With his military career apparently finished, Rutherford's political career seemed to be over as well. His captivity in 1781 forced him to forfeit his Senate seat, making it appear that his campaigns were behind him. Leaders of the state felt differently, and in 1782 the Assembly appointed Rutherford as Commissioner of confiscated property for the Salisbury district. The responsibilities and duties given by the state continued as Rutherford, now aged 61, won election from the Assembly as a member of a Council of State.³⁹

Upon returning to the Senate, Rutherford picked up his campaign against loyalists where it left off in 1779. In the middle of the war, he antagonized pacifist Moravians, and conservatives who favored conciliation with the Tories. With the fighting of the war concluded, he decided to resume his unapologetic efforts to punish the populace of North Carolina who according to Rutherford impeded the war effort against Great Britain. During the spring 1783 session of the legislature, Rutherford attempted to reprimand those who opposed efforts to ensure the survival of United States and others who did not make the same sacrifices as his family.

Anyone who expected mercy from General Rutherford would be sorely disappointed. One individual, James Kerr, a loyalist in Wilmington appealed to Rutherford for help in getting back together with his family. Kerr in some capacity

³⁹ Assembly Journal, NCSR, 16: 175.

helped Rutherford during his internment in St. Augustine after the battle of Camden. This kindness, Kerr believed, might make Rutherford more inclined to help him. As Robert DeMond has observed, several members of the legislature, who favored lenient laws or opposed confiscation did so in behalf of family members or in-laws who sided with Great Britain. Archibald Maclaine and James Iredell, members of the Senate, lobbied for the conservative, pro-Tory cause in the legislature.⁴⁰

Rutherford gave Kerr a thorough lecture on his beliefs about the two sides in the Revolution. If Kerr believed his past kindness would have any effect, he was sadly mistaken. He reminded Kerr that if he had taken Rutherford's advice before, concerning which side to take in the rebellion, circumstances could be different. He lamented that Kerr passed Rutherford's name around as if he enjoyed a friend in government. "You have cause to think you deserve countenance, but as an open enemy you must know that you deserve none, for if a blast of your mouth would have annihilated the 13 United States we have a right to believe you would have done it." As for being a friend in government, providing Kerr a favor would have violated the oath Rutherford took to the state. He suggested that Kerr travel to Nova Scotia "where I understand the Royal Brute of Britain has made provision for all his Loyalists in North America."⁴¹

This letter effectively summarizes Rutherford's state of mind after retiring from his many military campaigns as he began a campaign to support and draft bills which would punish loyalists. During the 1783 term, loyalist legislation in the postwar settlement occupied a good deal of time for the legislature. Rutherford wanted the

⁴⁰ DeMond, Loyalists in North Carolina, 164.

⁴¹ Griffith Rutherford to James Kerr, July 22, 1783, Griffith Rutherford Collection, North Carolina Department of Archives and History. The letter, filled with Rutherford's creative spelling is a transcription from the Public Record Office of London. I have corrected the spelling errors.

Moravians and all others who had not taken the oath of allegiance to the state to pay a twofold tax. The amendment lost by sixteen votes. Not losing a step after his defeat, Rutherford won passage of a bill to protect Whigs from lawsuits for damages from Tories. This law won approval by the Senate. Another relating to confiscation allowed commissioners to seize livestock and property from the loyalists. In a short time, Rutherford achieved victories for those who benefited from confiscation, and protected them under state law. The laws were considered and voted on rapidly, a reflection of the mood in the state after the surrender of Cornwallis and while the confederation waited for news from Paris.⁴²

One such law became an example of legislative compromise. Called “An Act of Pardon and Oblivion,” the law pardoned offenses committed against the state in an attempt to move on. But the law made certain exceptions when it refused to pardon by name Peter Mallet, Samuel Andrews, and David Fanning. These men, some of the most notorious and destructive Tories, could expect no leniency from the government. The law also enforced confiscations against persons named in 1779 and anyone guilty of murder, rape, robbery, or house-burning. One of the many debates in the Senate centered on who specifically would not be pardoned. Some senators, with personal animosities towards Tories in their district, wanted to add names. This included Rutherford, classified by one man as “blood thirsty old scoundrel,” who thought adding any person would be fine.⁴³

⁴² Senate Journal, NCSR, 19: 167-168, 172, 193-194; Laws of North Carolina, NCSR, 24: 488-489, 495-496.

⁴³ Senate Journal, NCSR, 19: 215; Powell, North Carolina Through Four Centuries, 211; Lefler and Powell, North Carolina, 242; Laws of North Carolina, NCSR, 24: 489-490; Hon. A. Maclaine to George Hooper, June 12, 1783, NCSR, 16: 965-966.

From the speed with which Rutherford and his allies tried to submit legislation, it seems clear the radical senators attempted to pass laws while the sentiment against loyalists remained strong. This strategy carried over into the next year when North Carolina had to deliberate the Treaty of Paris, which formally ended the American rebellion. Rutherford and his allies specifically objected to article five of the treaty which ordered a restoration of lands previously confiscated. Article five enjoyed little support in the North Carolina Assembly, and reaction to it in the Senate proved outright hostile. Rutherford, speaking against the measure, labeled all Tories “imps of hell.” Supporters of the article could not even marshal ten votes. Even as the Confederation Congress urged the states to pass all articles of the treaty, North Carolina would have no part of it. Confiscated land sales began again in earnest in 1782. Westerners like Rutherford supported provisions in the law that allowed payment for land in devalued soldiers’ certificates. During this time, both legislators and constituents, purchasing tracts of land large and small, began the revolutionary process of redistributing land in the state.⁴⁴

As indicated by the voice votes, Rutherford insisted on holding for much of the legislation he passed, the bills for confiscation and protection of Whigs in the aftermath of the war enjoyed support among his colleagues. Rutherford tried in his legislative efforts to never act alone. On one occasion, he offered an adversary in the Senate, Archibald Maclaine, who earlier called Rutherford a “scoundrel,” a gesture of conciliation. Rutherford made an effort to take Maclaine by the hand in an effort to vote

⁴⁴ Hon. A. Maclaine to George Hooper, June 14, 1784, NCSR, 17: 144-145; William Hooper to James Iredell, May 1, 1784, Life and Correspondence of James Iredell, 2: 99-100; Allan Nevins, American States During and After the Revolution, 1775-1789 (New York: Macmillan, 1924), 387; Jackson Turner Main, The Sovereign States, 1775-1783 (New York: Franklin Watts, 1973), 305-306; DeMond, 180.

on pending Tory legislation. Maclaine felt the gesture “not displeasing, considering his influence.” Rutherford’s bill to exempt persons from holding state office who sided with Great Britain since April of 1775 ended in a tie. An opposing amendment proposed to make the date July of 1776, the formal date of independence. When the vote ended in a tie, the moderate Senate speaker voted in favor of the July date. For Rutherford and his friends, the birth of the United States happened a year before the formal break with Great Britain. In this session, Rutherford tried to enlist an opponent on his side to pass harsh legislation.⁴⁵

The somewhat vindictive attitude Rutherford held towards Tories did not hurt his political career in the months after the end of the Revolution. He ably submitted bills that aimed to punish loyalists and exempt anyone who profited from seizure of land and property. His popularity earned him a nomination for governor in 1783. This historic nomination would have given the office to a westerner for the first time and put a truly radical leader in the state’s highest executive position. A final vote, in which Rutherford received no votes, indicated the nomination was flattering but not taken seriously by other members of the legislature. After losing the vote, Rutherford helped carry the bill that set the salary for governor at 700 and not 800.⁴⁶

The position of Commissioner of Confiscated Land occupied a good amount of Rutherford’s time after the legislature passed bills in 1782 and 1784. Opponents of the bills believed it violated the peace treaty with Great Britain and reflected badly on the new nation. The 1782 law allowed the sale of land belonging to Tories named in the

⁴⁵ Hon. A. Maclaine to George Hooper, November 25, 1785, NCSR, 17: 631-632; Senate Journal, *ibid.*, 20: 71-72; Laws of North Carolina, *ibid.*, 23: 732-733.

⁴⁶ Senate Journal, NCSR, 19: 136, 183-184.

1779 bill, and the selling started right away. By the end of 1783 Rutherford reported more than 19,500 cleared in the Salisbury District. Rutherford as a commissioner of property collected a two to three percent commission for the identification and sale of land. In neighboring Anson county, over 20,000 of property labeled by Rutherford sold starting in 1782. Though his name did not appear on any purchases, Rutherford received pay for his surveying services; each plot of land measured added to his income.⁴⁷ Thirty years after he arrived in North Carolina, Rutherford went back to dealing in land and surveying.

His reputation and service in North Carolina continued to allow him to participate in some of the most important events in the history of the state. In July 1788, the North Carolina Convention at Hillsborough met to consider adoption of the new Constitution. When the convention opened debate, ten states had already approved of the document. This circumstance did not sway the strong anti-federalist majority in Hillsborough. Rutherford, in the rare moments he spoke, probably reflected the sentiment of many delegates at Hillsborough. He wondered if the members could vote on certain paragraphs they objected to, indicating some provisions were to his liking. Samuel Johnston, president of the meeting quickly shot down this idea, reminding the convention that the express purpose of the meeting was not to write a constitution, but vote on the one in front of them.⁴⁸

⁴⁷ DeMond, 172-173; A.B. Pruitt, Abstracts of Sales of Confiscated Loyalists Land and Property in North Carolina (A.B. Pruitt, 1989), 3-4, 104.

⁴⁸ Jonathan Elliot, ed., The Debates in the Several State Conventions, on the Adoption of the Federal Constitution, as Recommended by the General Convention at Philadelphia, in 1787, 5 vols., 2nd ed. (Philadelphia: J.B. Lippincott & Co., 1859), 4: 11, 15.

Rutherford would have none of this argument. He won passage of a vote which allowed for discussion of the provisions clause by clause. The late day North Carolina took up discussion should have no bearing on their debates, he claimed. Rutherford believed “we ought to decide it as if no state had adopted it. Are we to be thus intimidated into a measure of which we may disapprove?” Federalists who supported the document did feel pressure however. At the start of the convention, ten states ratified the document, and an eleventh joined in the middle of the North Carolina deliberations.⁴⁹

Rutherford rarely spoke during the meeting, but his fellow anti-federalists expressed reservations about many of the provisions in the document. He favored free and open debate, not just of the document as a whole, but of provisions he and others might object to. After eleven days, and in spite of heavy lobbying by James Iredell, a strong supporter of the document, the convention overwhelmingly passed a resolution that neither approved nor rejected the constitution. Like other states, the members of the convention favored a bill of rights, and agreed to meet to reconsider the vote.

During the following year, sentiment in the state changed dramatically. Only Rhode Island and North Carolina remained out of the Union, and the new government could be expected to level economic sanctions against any state that remained outside the new government. Since the rejection of the document a year before, Federalists organized a public relations campaign to educate people of the state on the merits of

⁴⁹ Ibid; Lefler and Newsome, North Carolina, 268.

joining the union. In 1789 a second convention met in Fayetteville, where this time the Federalists enjoyed a large majority and promptly ratified the document.⁵⁰

Rutherford and Matthew Locke, who voted against the Constitution in 1788, became casualties of the change in public opinion. Both men lost their seats since the entire western region had gone Federalist, allowing for easy passage. This lack of support for the new government did little to hurt Rutherford's reputation among his colleagues. Though rejected by the qualified voters, his associates in the assembly chose him to serve as Councillor of State.⁵¹

Participation in the convention became one of the last services Rutherford performed in the state of North Carolina. Adventure and new land beckoned in the sparsely settled and promising future over the mountains in Tennessee. At almost 70 years of age, Rutherford decided to uproot his family and develop new land he obtained in his service to North Carolina. In 1792, the Rutherford clan moved west.

⁵⁰ Powell, North Carolina Through Four Centuries, 225-226; Alan D. Watson, "Revolutionary North Carolina, 1765-1789," in Writing North Carolina History, ed. Jeffrey J. Crow and Larry E. Tise (Chapel Hill: University of North Carolina Press, 1979), 72.

⁵¹ William Hooper to James Iredell, September 2, 1788, McRee, Life and Correspondence of James Iredell, 2: 238; Senate Journal, NCSR, 21: 412, 703, 778.

Conclusion

On to Tennessee

Griffith Rutherford associated himself with the western part of North Carolina. He moved to the farthest point of settlement in the early 1750s and helped insure its protection during the French and Indian War. In the colonial system, during his years in the assembly, he advocated creation of new counties as a way to alleviate Regulator grievances. His service to the state from 1775 to the end of the war became well known in different parts of North Carolina and especially in the west.

One of his highest hopes for the future of the state as it considered joining the new nation involved the creation of a permanent seat of government. Like other state capitals, North Carolina arranged to move her capital farther inland. The old location, in New Bern, had associations with colonial abuses and the unpopular Governor Tryon. Also by 1788, New Bern no longer represented the geographic center of the state. Isolated on the coast, western delegates found it time consuming to travel to the area. In spite of this inconvenience, successive assemblies deadlocked during debates about establishing a permanent seat, thus allowing seven towns between 1777 and 1794 the title of capital.¹

Frustrated by their inability to resolve the matter, many legislators decided the 1788 ratification convention would be the time to finally decide the location. Rutherford and other western representatives favored Fayetteville, the old colonial trading post on the road from Salisbury. The locality continued to be an important depot for overland goods and its commercial importance made it popular with more than a few assemblymen and senators. Rutherford helped introduce the legislation for choosing a permanent

¹ Lefler and Newsome, North Carolina, 243; Powell, North Carolina Through Four Centuries, 212-213.

capital in the middle of debates concerning ratification of the Constitution. Rutherford had reason to hope his site or another western location might be picked. As recently as 1782, Hillsborough in Orange County served as a temporary site. In his late sixties, he could appreciate any effort at shaving miles off the biannual trip to the coast.

Rutherford's stubborn allies continued to lobby for Fayetteville. They used the example of Williamsburg and Annapolis to show that a location of little commercial relevance could never become anything more than a village. But their arguments only postponed a final decision in subsequent sessions until the 1792 spring meeting bought plantation land in what would become the village of Raleigh.²

Rutherford's final service in North Carolina's government proved to be a frustrating experience. While he represented an overwhelming majority in rejecting the initial ratification of the Constitution, sentiment in the state changed 180 degrees within only a year. Voters in Salisbury sent Rutherford and Locke packing, choosing Federalist representatives in their place. Failure to put the seat of government in Fayetteville proved to be a final frustrating development. This series of events did not seem to affect Rutherford adversely; his fellow Senators continued to respect his reputation enough to choose him Councillor of State after the people of Salisbury voted in a new representative.

By 1790, his life reached a crossroads. North Carolina voted to join the union, the loyalists were vanquished or stripped of land and Native American resistance ended. For Rutherford, few enemies lived within the borders of his state. For adventure and challenge, Griffith Rutherford continued to indulge in land speculation and surveying to keep him active and test his skills. An appreciation of the outdoors and love of his

² Legislative Journal, NCSR, 22: 15, 34; Powell, 212.

vocation may explain why Rutherford continued to survey land and travel into the sparsely settled wilderness even as he approached seventy years of age. As the former British colonies waited to hear news of a permanent peace treaty, the state asked Rutherford to survey lands put aside for soldiers who served in the Continental line. These troops had been promised land during the end of the war as a reward for their service. For North Carolina, it provided a way to compensate soldiers in a state that always seemed short of funds. The state began issuing grants in 1783 for land in the Cumberland valley of Tennessee.³ Almost immediately, Rutherford became involved in this venture, taking an assignment from the governor as one of the surveyors charged with measuring parcels of land.

His own holdings in North Carolina remained impressive. At the end of the war he owned in excess of 2,000 acres in the Rowan county area. He acquired more land when he and his son Henry traveled to the Cumberland and surveyed land set aside for soldiers who served in the North Carolina Line. For at least the fourth time in his life, Rutherford journeyed through the mountains and into the land that became Tennessee. Like the Polk family and later Andrew Jackson, trips to this area cast a spell over visitors to the area; either in the course of a military campaign, or for the allure of inexpensive land. Griffith Rutherford traveled west from his home in Salisbury during hunting trips with Daniel Boone in the 1750s. Marches to the west provided more opportunities to trek from foothills to mountains and to explore the rugged scenery at the foot of the Appalachians. Perhaps Rutherford never lost the desire to acquire land and use it as a

³ Rankin, North Carolina Continentals, 379.

source of income. During Rutherford's last excursion to this area as a surveyor, he and his son possibly decided to settle the family in the area.

For this service, he obtained tracts of land in Rowan county and in Tennessee. During these early surveys, Rutherford deeded land in Rowan to his son Henry.⁴ Griffith decided to present his son with land as a wedding present when Henry got married in 1787.⁵ Clearly, Rutherford would have had little trouble justifying accepting the land grants from the state. During the war Cornwallis pillaged his home on Grants Creek. His oldest son James gave his life with Greene's army in South Carolina.

Rutherford's penchant for land speculation and dealing helped him get involved in one of the most elaborate land schemes in North Carolina history. The men involved, who included William Blount and John Sevier, were all former "over-mountain" men who settled in the mountains in North Carolina, Tennessee, and Virginia. Moving into the Watauga and Holston settlements that Rutherford had helped clear of Cherokee Indians, these men dreamed up elaborate ideas for making money in western lands.

Though his own participation was quite limited, it seems the promoters decided having Rutherford's name on the endeavor would give the project an air of legitimacy. Christened the Muscle Shoals Speculation, the project hoped to lure settlers to an area known as the Bend of the Tennessee, in what is now northern Alabama. At the head of navigation for the Tennessee River, settlers could use the connecting Tombigbee River to

⁴ Fries ed., *Moravian Records*, 5: 1978; Thomas P. Abernethy, *From Frontier to Plantation in Tennessee: A Study in Frontier Democracy* (University, AL: University of Alabama Press, 1932), 53-54; Jo White Linn, *Abstracts of Deeds of Rowan County, North Carolina 1753-1785 vols. 1-10* (Salisbury, Mrs. Stahle Linn Jr., 1983, 176; James W. Klutz ed., *Abstracts of Deed Books 11-14 Rowan County, North Carolina 1786-1797* (James W. Klutz, 1996), 139; Jo White Linn ed., *Abstracts of the Minutes of the Court of Pleas and Quarter Sessions Rowan County, North Carolina, 1775-1789 vol. 3* (Salisbury: Mrs. Stahle Linn Jr., 1982), 141.

⁵ Long, *Griffith Rutherford*, 81.

move goods south to the Spanish town of Mobile. William Blount, the driving force of the scheme, even urged his associates to make it appear that people were settling there by forging warrants for land.⁶

Rutherford added his name to the short-lived project but his involvement beyond that is unknown. At the time of the project, his thoughts centered on Tory legislation going through the Senate. John Sevier and Richard Henderson handled the land dealings involved with the project, as they could remain closer to the territory in question. The experiment did not last long, primarily because a series of political decisions changed the status of the land in which the investors hoped to profit.⁷

In 1784 North Carolina ceded its western lands to the United States. Western land adventurers saw this opportunity as a chance to form a new western state, combining part of eastern Tennessee, western Virginia, and the Muscle Shoals land. The idea seemed popular enough in the west, where settlers believed the eastern government of North Carolina had forgotten about them. They demanded western courts and protection from Indian raids, something the cash-strapped eastern government could not or would not provide. News of the cession reached westerners at the same time they heard of the effort of Thomas Jefferson to organize territories opened after the Treaty of Paris.⁸

Within a year, the North Carolina government had a change of heart and repealed the cession of western land. Since the settlers in the area already initiated the beginnings

⁶ William H. Masterson, William Blount (Baton Rouge: Louisiana State University Press, 1954), 78; Thomas Perking Abernethy, The South in the New Nation, 1789-1819 (Baton Rouge: Louisiana State University Press, 1961), 75; John R. Finger, Tennessee Frontiers: Three Regions in Transition (Bloomington: Indiana University Press, 2001), 113.

⁷ A. P. Whitaker, "The Muscle Shoals Speculation, 1783-1789," Mississippi Valley Historical Review 13 (December 1926): 365.

⁸ Alden, South in the Revolution, 366; Lefler and Newsome, North Carolina, 258-259.

of government, the land in the west, now called the state of Franklin, looked like a rebellious group of isolated counties with a rogue government. Unable by force to change the mind of Sevier, now the Governor of Franklin, Governor Caswell offered what the settlers first clamored for; representation in the North Carolina Congress for Sevier and an appointment of a Sevier ally as Brigadier General of the western district. The state of Franklin, now split among those pacified by the governor and others who clung to independence, collapsed in 1788. The next year, North Carolina ceded its western lands back to the United States.⁹

While he profited from surveys of confiscated Tory land, the real payoff for Rutherford came when North Carolina granted him thousands of acres of land in the middle district of Tennessee. The state awarded blocks of 3,000 to 5,000 acres beginning in 1788. Because he acquired both large and small tracts, it is evident Rutherford purchased the rights to several continental soldiers' holdings paying in cash. By 1790 he owned 13,000 acres. At this point, Rutherford seemed determined to occupy the land given to him by North Carolina. His son Henry, a trained surveyor, also received grants because he accompanied his father to measure the continental line grants. Either father or son broached the idea of settling in Tennessee after 1790. We can never be sure if this move involved a family negotiation or if the leader of the Rutherford clan in North Carolina made promises to his extended family. What is clear is that families tied to Rowan County for more than a generation decided to go along with them to Tennessee. The clannish structure of life in North Carolina persisted when the families decided to move over the mountains after 1790.

⁹ Powell, North Carolina Through Four Centuries, 220; Lefler and Newsome, 260.

Beginning around 1789, Rutherford began to sell his land in North Carolina. The next year, during the first Federal Census, Rutherford counted eight slaves in his household and was enjoying the fourth decade of marriage to the former Ms. Elizabeth Graham. We can never know who initiated the idea of giving up the homestead and land in Rowan and moving into the wilds of Tennessee. At least the political situation had improved since the region now made up part of the Southwest territory.¹⁰

After selling the 700-acre tract of land where he built his home, Rutherford and his family left North Carolina in September of 1792. Traveling with thirty wagons and at least one other family, the caravan arrived in middle Tennessee in November. Their new home in Sumner County proved isolated enough that the family built their new home in a stockade to guard against Indian attacks. Middle Tennessee in the 1790s was not altogether different from Rowan County in the 1750s.¹¹

Trading his North Carolina lands for those in Tennessee proved to be advantageous. His new holdings easily totaled 13,000 acres from grants by North Carolina and the purchase of continental soldiers' tracts. Immediately he started to use the land to establish income. His sales in North Carolina made him a hefty profit, and his first sale of land in Tennessee was finalized when he arrived at his new destination. Indentures and sale of land continued to provide income for the Rutherford clan through the 1790s.¹²

¹⁰ First Federal Census, NCSR, 26:1030.

¹¹ William Blount to General James Robertson, May 7, 1792, reprinted in Long, Griffith Rutherford, 61; William Blount to John Steele, November 8, 1792, H.M. Wagstaff, ed., The Papers of John Steele (Raleigh: Edwards & Broughton Printing, 1924), 1: 84; Rutherford Interview, Long, 107.

¹² Goldene Fillers Burgner, North Carolina Land Grants in Tennessee, 1778-1791 (Southern Historical Press, 1981), 101, 109, 110, 146, 170, 172; Wilson County Deeds, Marriages, 173.

Settlers in the territory wasted little time in taking advantage of the prominence of their new resident. After the Bend of Tennessee and State of Franklin schemes ended, the United States under the new Constitution exercised its authority in organizing land opened after the Revolution. North Carolina ceded western land to the United States in 1789. The next year, the Territory South of the Ohio was established. From this land emerged the Territory of Tennessee. Rutherford became involved again in politics.¹³

Once Tennessee was deemed a territory, its governor, William Blount, announced an election for the House of Representatives. From this group, a Legislative Council would be formed, and Blount chose the names of men to be nominated. Rutherford was placed on the list that eventually made its way to the desk of President George Washington. The President approved the nomination in July 1794. Joining Rutherford on the Council was John Sevier. The selection of familiar names helped provide a natural leadership of the new territory from several men who had political experience.¹⁴

Washington's approval only seconded the sentiment of many people in middle Tennessee. For Governor Blount, able to survive the Muscle Shoals and Franklin fiascos, Rutherford's name added legitimacy to the new government. Though his role in Tennessee politics was short, Rutherford addressed issues familiar to him from his four decades living in North Carolina. In the fall of 1794 the Legislative Council, with Rutherford as its President, sent a memorial to Congress concerning the Indian situation

¹³ Lefler and Newsome, 260.

¹⁴ Act of the Representative Assembly, 1794, James White to Edmund Randolph, April 16, 1794, Clarence E. Carter, ed., The Territorial Papers of the United States, vol. 4, The Territory South of the Ohio River, 1790-1795 (Washington, D.C.: Government Printing Office, 1936), 4: 328, 342; Dorothy Twohig, ed., The Papers of George Washington, The Journal of the Proceedings of the President, 1793-1797 (Charlottesville: University Press of Virginia, 1981), 311; Richard Buel Jr., Securing the Revolution: Ideology in American Politics, 1789-1815 (Ithaca: Cornell University Press, 1971), 82.

in the territory. Creeks and Cherokees continued to kill citizens of the territory, a matter that demanded the attention of the Congress.

In the ultimate irony, the new United States in 1794 played the role Great Britain had played during the colonial period. This time, the United States, through Indian agents tried to keep peace between its citizens and two Native American nations. As the council surmised, Congress favored treaties, but the leaders in Tennessee thought treaty talk only invited the Indians to be bolder. As a statement from the council to Congress indicates, the Tennesseans believed, “Fear, not love, is the only means by which Indians can be governed.” By feeling the sting of war, the council believed, the nations would appreciate peace. This lack of culpability and fiery language is reminiscent of the dialogue in 1776, when Cherokees attacked settlers in the valleys of western North Carolina.¹⁵

Like North Carolina before it, Tennessee rapidly filled with eager settlers. A 1795 census of the territory counted 65,000 free people, more than enough to petition for statehood. As political leaders made plans to create a state, Rutherford felt confident enough in the founders of Tennessee to retire. During his final months in the Legislative Council he may have crossed paths with another Scotch-Irish orphan from the backcountry who learned law in Salisbury; Andrew Jackson. Appointed to the drafting committee for the state constitution, Jackson would one day turn his frontier military

¹⁵ William Blount to John Gray Blount, July 29, 1794, Alice Barnwell Keith and William H. Masterson , ed., *The John Gray Blount Papers*, 3 vols. (Raleigh: State Department of Archives and History, 1962-1965), 2: 420-421. Governor Blount to the Secretary of State, July 28, 1794, Memorial of the Legislative Council and House of Representatives, to the Congress of the United States of America, September 21, 1794, in Carter ed., *Territorial Papers*, 4: 350, 355.

exploits into political endeavors. With his political career finished after Tennessee achieved statehood, Rutherford retired.¹⁶

Content to live the rest of his years on the Tennessee frontier with his family, Rutherford continued to profit from his land awards and purchases. He served as a witness to several land transactions after 1796 and for the second time in his life, he was a living witness to the growth of a frontier. As in North Carolina, the Tennessee experience remained a shared family experience. In the Tennessee Deed books, the names Weakly, Locke, and Graham appear on land transactions, proof that settlers of 1750s North Carolina moved together into Tennessee.

As he became aware he was living his last years, Rutherford included his family in sharing the vast areas of land he owned. In 1798 he gave a parcel of land to his recently married daughter and son-in-law's family, probably as a wedding present. The next year, he sold to Francis Locke, the man who served under him in the 1780 North Carolina campaign, a 160-acre tract on the Cumberland River. In 1802, one of his last transactions, the sale of a 320 acre piece of land involved his youngest son, Griffith Weakley.¹⁷

On August 9, 1805 Rutherford attended Presbyterian services at his local parish church. The next morning, according to the family history, he died peacefully in his sleep. In his will, Rutherford did well by his family, providing for several kinfolk living

¹⁶ H. W. Brands, Andrew Jackson, His Life and Times (New York: Doubleday, 2005), 76; Abernethy, South in the New Nation, 170-171.

¹⁷ Sumner County Deed Abstracts, 80, 35, 45, 73, 78, 69, 125.

in Tennessee. His son Griffith Weakley inherited 5,000 acres of land in middle Tennessee. To his married daughter Elizabeth, he left his slaves and household goods.¹⁸

Griffith Rutherford's life, filled with action and violence, ended peacefully. The day before his death, his trip to Sunday worship was made on horseback, an active pursuit giving no hint of impending death. Within a few months, his wife Elizabeth also died in her sleep. His descendants remained in Tennessee, several living in the county that after 1803 was named for the General.

Only a handful of soldier-politicians achieved the distinction of making a significant contribution to their state in the same way Griffith Rutherford did. All of these men, including Richard Caswell, William R. Davie, and William Lee Davidson served with Rutherford as officers or elected officials. All men garnered more attention than Rutherford because their writings were more extensive or the early years of their lives could be more fully chronicled. This should not diminish the importance of Rutherford to the state of North Carolina.

On a personal level, his most important contribution remains in the field of soldiering. In 1776, with the question of independence with Great Britain in doubt, the gravest threat to North Carolina came from political dissent by loyalists and the actions of Native Americans in the mountains. Within a twelve month period Rutherford confronted both threats in the form of military campaigns. The first put down Tories in neighboring South Carolina. A second demonstration supported the army marching to quell the Highlanders' uprising in the east.

¹⁸ Long, 107; Sumner County Willbooks, 11.

As important as these responsibilities were, Rutherford directed his full energies into organizing the expedition against the Cherokee. Like his contemporaries, Rutherford believed the British incited the Cherokee, urging them to strike against the scattered defenses of the foothills. In language shared by his civilian superiors, Rutherford blasted the Indian attackers, urging no mercy, and promising quick destruction. After a sustained Cherokee attack threatened Salisbury in 1760, Rutherford understood the commitment needed to keep the frontier safe. It took the British army three campaigns to finally bring a close to the Cherokee War. When his turn came in 1776, Rutherford prepared well and his efforts kept the Cherokee from becoming a serious threat for the remainder of the war.

This training started in the French and Indian War, where Rutherford, already a skilled hunter in the mold of Daniel Boone, received training in woodland warfare. Fortunately for North Carolina, he learned as much from the failed British efforts to defeat the Cherokee in 1760 as he did from the eventual success of James Grant. During his life, the only formal training Rutherford received was as a surveyor. His school for soldiering began in the backcountry of Virginia and ended on the coastal plains of North Carolina.

The same tenacity on the battlefield manifested itself in the halls of government. During the 1750s and 1760s, Rutherford dutifully served as an officer and official in the British colonial system, first as a surveyor, then as a provincial military officer. His connection to the crown remained tenuous as the imperial crisis of the 1770s worsened. Clearly, Rutherford used his connections to advance a political career. The Regulator movement proved any elective office; especially one tied to the controversial courthouse rings could easily come under attack or lose its valued status. Since Rutherford could

claim the mantle of reform by advocating the creation of western counties, he survived politically. By frustrating the establishment of the Anglican Church in his dissenting region, he won more supporters in Rowan County.

An ability to carry the mantle of reform allowed Rutherford as militia captain to keep the King's peace by enforcing the law against Regulator rioters. When confronted with his own possible excesses in office, he deftly maneuvered to correct any errors in judgment. This action kept him in the good graces of the people in Rowan and allowed him to serve the governor as the law abiding officer, marching to stop the Regulator army. Without this crafty tactic, Rutherford may not have had the opportunity to join the revolutionary government during the mid-1770s.

His sympathy and eventual identification with the revolutionary cause remains more difficult to evaluate. Some mistrust of a revolution led by easterners must have lingered in the mind of a westerner who could not get his Regulator laws passed. Perhaps, with appointments to the Committee of Safety, a commission as Brigadier, and vast responsibilities heaped on him by the state, Rutherford realized his personal success was tied more to the revolutionary government than the British. It remains a frustrating development for the historian to realize there is no moment or incident that made Rutherford choose one side over the other. Once committed, he gave everything to the cause, a rigid commitment that would run roughshod over Native Americans, Pacifists, or Tories during the years of the revolution.

If Rutherford seemed rough and vindictive to his enemies, they failed to understand the unique perspective of someone who led troops into battle, and only a few months later turned his attention back to lobbying for legislation in the state. Other men

in North Carolina underwent a similar experience; Richard Caswell as Brigadier General and governor is a similar case. Few soldier-politicians could claim the wide variety of experience that Rutherford enjoyed. He did not simply serve in a campaign and go back to work in a legislative capacity. Instead, he crisscrossed the state, traveling to the South Carolina-Georgia border and crossing the mountains to sack Cherokee villages. While Caswell reached the highest office in the state, Rutherford was chased from the field at Camden, running with his routed troops.

A measure of Rutherford's influence can be taken during the 1780 campaign in North Carolina. With a British army poised to invade the state, Rutherford called out the western militia. Within days he took command of troops in three counties. Though not strong enough to face Cornwallis's army, these men prevented the union of Tory and regular troops during 1780. Though his capture at Camden proved a blow to Patriot arms, the willingness of his militia to fight under other leaders proves that late in the war the militia system could operate well if the commanders understood the limitations of the system.

His acumen as a soldier also improved during the war. After the professional British army shattered the southern Patriot army, Rutherford learned what every officer who took militia into battle found out—they rarely could fight redcoats. Upon release from his St. Augustine prison, he rallied the militia again, bearing down on the last concentrations of troops in the state holding up on the coast at Wilmington. Along the way his infantry and cavalry drove Tories off the field. When his men reached the city, Rutherford paused and refused to send his army against British regulars within the town.

Although his men became targets of loyalist rage by their looting, his pause before Wilmington saved lives and quite possibly the town itself.

Rutherford never separated the often vindictive spirit of the battlefield from his struggle to shape policy of his state. He attempted to punish Tories with severe measures, advocating early in the war a more radical position concerning those who remained loyal to Great Britain. This attitude hardly lost its edge after spending a year in prison and learning of the death of his son in South Carolina. As late as 1782 he continued to associate loyalism with treason. He helped lead efforts to strip Tories of land and property, giving them no choice but to leave the state. Though he made enemies in government and was chastised by superior officers, he never expressed doubt about his way of carrying on the war.

At the end of his life, when he led the Rutherford clan with their extended members into Tennessee, Griffith Rutherford kept together the institution which helped him achieve success in North Carolina during his early years. The Lockes and Grahams he first met in North Carolina in the 1750s moved together to a new frontier across the mountains. By this time, Rutherford could live as the patriarch squire with grandchildren and family close by.

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