

into mere corporations, while itself would become a great National consolidated government (P. 101) whatever might be its present appearance. That the United States were too populous, too extensive, and too diversified in their interests, to be governed by any one consolidated government that should be republican, and preserve and protect their liberties.- Hence that such a government must necessarily fall to pieces of itself, whenever it obtained the point to which it ultimately tended; unless the powers of its executive were made stronger and more efficient than they then seemed to be. But if this was done (and such most probably would be the result) whatever might be the name by which the Chief Magistrate was designated, he would be a King in fact, and the government become essentially monarchical. In one word that the preservation unimpaired of all the rights and powers of the State authorities, was indisputably necessary to the freedom of the people; and that the operation of the proposed government was inconsistent with this. Such were the opinions of the Antifederalists generally, and certainly of Judge Taxewell, as I have often heard them expressed by him. Whether they were well founded or not time is yet to decide. But altho' the proceedings of the Government of the United States, since the adoption of this Constitution, has certainly contributed much to induce the belief with many, that the consequences apprehended from it were without cause and its dangers imaginary, yet I am not one of those who believe that the experiment is yet complete. Thirty odd years of experience, but has also presented these awful questions, whether the union of these widespread states so diversified in interest, habits, and pursuits as they are can be preserved without a more vigorous government than the Constitution offers. And whether any government effectual to preserve the Union of the States, must not be too strong for the liberties of the people.- If to preserve our freedom, we are at any time prepared to sacrifice our union, will not the hazards of conflict to which neighboring states are always exposed, necessarily beget a species of government as incompatible with political liberty as any to which consolidation itself can lead? At least we are but trying an

experiment to ascertain the truth of the maxim, that extent of territory is inconsistent with the duration of republican government.- And if we too find it correct, the only question will be whether our government shall rule an extended or contracted empire. (P. 102) In October 1788 a new organization of the judicial establishment of Virginia was created of three judges, Pendleton, Byrnes, and Blair.- The general Court was composed of five judges only, Carrington, Fleming, Lyons, Norcar and Tazewell-- And the Court of Admiralty of three Cary, Henry and Tyler.- These eleven judges constituted the Supreme Court of Appeals, in which none of the judges sat on the examinations of the decision of their own courts. The adoption of the new Federal Constitution, by transferring all admiralty to the United States, would when this government went into operation, necessarily extinguish the state court of admiralty. A new arrangement therefore of the Court of Appeals was indispensable. ~~A~~ ~~Scheme~~ A scheme of Courts of assize had been adopted in 1784, but had been postponed from time to time in its ~~exec~~ execution. As the project however required the agency of all the eleven judges of the Court of Appeals, whose numbers would be reduced to eight by the extinction of the Court of Admiralty, the modification of that scheme became also requisite. In this state of things the Assembly repealed the law establishing Courts of Assize, and passed the various acts altering the Court of Appeals, and General Court and creating District Courts. Under the new system, the Court of Appeals was made a district Court and five judges were appointed to this Court exclusively. The High Court of Chancery remained as before but was to be held by a single judge only. The state was divided into five different Circuits each containing four districts and two judges of the general court was assigned to each Circuit, in all the districts of which courts were to be held by two judges, on certain appointed days twice in each year.

In the designation of the Judges to these different courts Mr. Pendleton, and Mr. Blair were taken from the Court of Chancery, Mr. Carrington, Mr. Lyons, and Mr. Fleming, the senior judges of the General Court were taken from that court and these

five were made judges of the new Court of Appeals.--Mr. Wythe the other judge of the Court of Chancery, preferred remaining in that Court, and was therefore made the sole Chancellor. Mr. Mercer and Mr. Taxwell being thus left the only two judges of the General Court, it became necessary to add eight others to their number, in order to provide a sufficient number of judges for the five circuits into which the state had been divided. The three judges of the former Court of Admiralty were therefore appointed judges of the General Court, and five new judges of this court were also elected by the Assembly which completed the establishment (p. 103) of the new General Court. This new system was the first severe blow aimed at the judicial establishment of the State.--It's effects soon began to be felt and seen everywhere; but instead of producing a wish to retrieve the ground lost, it was the immediate cause of introducing the present system, which was adopted some years since and which has reduced both the bar and bench of Virginia from the lofty eminence they before held, to the humble state in which they now considered as standing-- Formerly when all the important business of the country was found in the General Court and High Court of Chancery, every lawyer of standing or promise in State resorted to Richmond, where these Courts were held.-- The assemblage of such a body of lawyers, and their daily discussions, was well calculated to produce emulation and invite improvement even with these, And their example plainly marked out to the young aspirants for political professional distinction, the attainments they must they must possess before they could expect to enter the lists successfully with such competitors. Thus a perpetual source was provided, from which vacancies on the bench might be at all times supplied with lawyers of the first distinction, and to this fund while it lasted, the Assembly always resorted to procure such a supply.-- But when the new system was adopted, by distributing the business of the old general court into the different circuits, it broke up the bar of that court and distributing the legal rays in twenty foci instead of concentrating

then in one, thus necessarily diminished their heat and force. Less emulation and excitement of course then existed, the old therefore did not improve as much and the young necessarily felt the influence of their example. - The depreciation was considerable but still the collection of counsel at the bars of the different district courts, altho' much reduced in numbers was yet respectable. - The same leveling principle went to work again, and dividing out the business of the different districts amongst the present superior courts, all the bars of the state were then filled with mere county court practitioners and very soon there will be none other. - From such a stock all the judicial appointments have been and must be made filled. The judges therefore must soon become worse lawyers than those at the bar; and the time must come, when if the judicial system of the country be not altered, it will become the cruellest curse Virginia will have to deplore.

In the year 1789 Mr. Blair one of the judges of the Supreme Court of Appeals in Virginia, was appointed one of the judges of the Supreme Court of the United (P. 104) States; and the vacancy thus produced was filled soon after by appointing Judge Mercer - the chief justice of the general Court - to Mr. Blair's seat in the Court of Appeals. When this appointment was made Judge Taxewell became of course the Chief Justice of the General Court. In this situation he remained until the year 1793, when the death of Judge Mercer occasioning a vacancy in the Court of Appeals he was transferred to that bench. And here I cannot avoid mentioning a curious circumstance in the public life of Henry Taxewell which seems to have brought him either to the beginning or the end of every public institution into which up to this period he had ever been introduced as a member. He commenced his public career as a member of the Assembly in June, 1775; and this was the last session of the last House of Burgesses that ever met under the colonial government. He was a member of the Convention and of the Committee, which prepared and adopted the existing Constitution of Virginia in May 1776;

and this was the last Convention that ever met, during the interregnum caused by the abdication of the royal governor, and the want of any established government in the country. He was next a member of first house of Delegates that convened under the new constitution in October 1775 1776. While a member of the house of delegates in 1785 he was placed on the bench of the old general Court, of any reputation there who was ever made a judge, and the last judge of that court ever appointed. When the present General Court was created, in 1785, he was the second judge on its bench, and by the death of Judge Mercer very soon became its chief justice. And when in 1793 he was translated to the bench of the Court of Appeals, he was the last judge of the old general court, who was so transferred. Up to this period the Assembly had always filled the bench of the Court of Appeals, by translating hither the senior Judges of the other courts. No departure from this rule had ever occurred except in the case of Mr. Wythe, who did not wish to quit his own court.- But after the old stock of judges drawn from the bar of the old general Court, had become exhausted by the appointment of Judge Tazewell, no instance has ever occurred, in which a senior judge has ever been translated to the Court of Appeals, altho' the practice has still continued of filling that bench with Judges taken from the other Courts. From hence we may infer what must be the character of the Judges of the General Court generally in the opinion of the Assembly at least; and reasonably conclude, what must one day be the fate of the Court of Appeals while depending upon such materials.- (p. 105) Judge Tazewell did not long remain a member of the Court of Appeals. Richard Henry Lee and Mr. Grayson the two first senators from Virginia in the Congress of the United States had both died and Colonel John Taylor of Caroline and Mr. Monroe the present President of the United States had been elected to supply their places.- In the year 1794 the latter of these gentlemen had been appointed by President Washington Minister to France, and the former resigned his seat in the Senate, thus leaving Virginia unrepresented in

that body. So soon as these events were decided upon by Mess. Monroe and Taylor, they each of them notified Judge Taxewell of what they contemplated and both most earnestly solicited him to fill the seat which each would leave vacant and when it was known generally through the state that these vacancies would exist, applications were made to Judge Taxewell from every quarter to consent to fill one of them. He was at this time probably the most popular man in Virginia, and his letters about this period were filled with applications to him, from most of the prominent men in the state, requesting him to suffer himself to be put in nomination, for all the most important offices in Virginia, which either then were vacant, or were expected to become so. These applications directed his attention to the Government, to to Congress &c &c. Three causes may be assigned as the principal reasons of his popularity. His situation as one of the Judges of the general Court, by imposing upon him the duties of riding the circuits, had necessarily made him known to all the influential men in every part of the State. With a great majority of these he concurred in opinion in relation to the system of policy then adopted by the Government of the United States. And the urbanity of his manners, and uniform correctness of his deportment, together with the high reputation he had acquired as a lawyer placed him very high in the estimation of all who knew him altho' many of these were opposed to him in politics. Under such circumstances he had only to decide as to the one as to the situation he would occupy, and his election might be considered as certain. After much deliberation he selected the Senate of the United States as the station which he preferred and chose to be the successor of Colonel Taylor in that body; he was accordingly appointed to that office in December 1794 by a very large majority of the General Assembly. In 1795 he was elected President of the Senate of the United States, in which capacity he continued to act during the remainder of that session. At this period, and for

several years afterwards, the Senate of the U. S. held all its sessions with closed (p. 106) doors, but little opportunity therefore was afforded to any others than the members of the Senate itself, to judge of the powers and efforts of the different Senators- How highly Henry Tazewell was estimated however by the members of the Senate, may be conjectured from the fact of his being made President of that body, so soon after he had become one of its members.- The Journals of the Senate show that he was generally opposed to the Acts Measures of the of the administration, while he continued a member of that body; and by the prominent part he was represented to have taken, in opposition to the ratification of the Treaty between the U. S. and Great Britain, in 1795, as well as to the proposed impeachment of Mr. Blount as Senator from the State of Tennessee, exalted him very high in the opinion of all the Democratic party throughout the U. S. In opposition to the latter measure, Henry Tazewell for some time stood alone in the Senate. But his opinion upon this point ultimately prevailed, and by universal consent and has ever since been regarded as the true interpretation of the Constitution. These circumstances go far to establish the soundings of his judgement and the firmness of his conduct.

The period for which he had been first elected to the Senate would have ~~terminate~~ terminated on the 3rd of March 1799, it therefore became necessary for the Virginia Assembly to fill this station after that period, during its session commencing in 1798. Parties at that time ran very high, and the known and decided political opinions of Henry Tazewell, arrayed against him almost all the Federalists as they were then called in the Assembly. Their efforts however to prevent his election proved entirely unavailing, and he was again elected a Senator of the U. S. for six years from the expiration of his then existing term of service.

His health at this time was not very good, but as the session of Congress

had already commenced, and some important business was expected to be brought before the Senate at an early day of its session, he felt it his duty to proceed to Philadelphia so soon as he was able to travel.- He therefore made a rapid journey in 1799, passing through Richmond without stopping anywhere.- The season was inclement and he caught a violent cold, which very soon became an acute bilious pharyngitis, that terminated his existence in three days. The customary honors were paid to his memory by the Senate, and his mortal remains were interred in Christ Church yard in Philadelphia, over which I had a marble monument erected. Henry Tazewell was in stature above the middle (p. 107) size. His limbs were finely proportioned and his figure graceful while he was young.- Altho' his skin was brown yet it was so clear, that his complexion was healthful and ruddy during his early days.- His picture which I have was a very excellent resemblance of him at the age of twenty three, when it was taken by Peale In the year 1780 however he had the small pox most dreadfully indeed. It was long before he recovered the effects of this disease but after he did so he became very corpulent and fat. Seamed with scars his face & was then deprived of all its former beauty and comeliness, and his unwieldy bulk showed nothing of the agility and grace his form had once exhibited.

Even then however there was a dignity in his carriage, such as I have seen any other possess, and his appearance on the Bench of Justice or in the Presidents chair in the Senate commended more than ordinary respect from all who ever saw him in such situations.

His disposition was gay and cheerful, and he was very fond of society. In company he was generally vivacious and sprightly, but when alone with his family he was remarkable for his taciturnity and for an apparent reserve in his manners which gave him the semblance there of morose sternness. Nothing was more erroneous

however than such an opinion, for his temper was exceedingly mild and amiable and he was an affectionate and indulgent parent and a kind relation.

After I was old enough to observe and judge of him correctly he was never studious, and I do not think at any period of his life he could have been fond of books consequently—but his penetration was very quick, his understanding vigorous and his judgment sound; and aided by such qualities, his opinions and reasoning were formed with less labor, and in the general were more accurate and correct, than those of others formed upon more research.— He was more pleased with active pursuits than sedentary occupations, and most of the leisure his public employments allowed him was employed in rural sports of which he was as passionately fond, that he indulged in them to great excess.— He was remarkably attentive to his person, and invariably dressed twice each day, altho' at home and quite alone. The correctness of his general conduct, the dignity of his manners and the character of his understanding, qualified him in a high degree to preside on the judicial bench, or over the deliberations of a public assembly, in each of which situations he was most conspicuous and admired. As a practitioner of the law he met with great and I believed (p.108) well merited success; but of this I cannot so well judge, as he had relinquished his practice before I was old enough to form any correct opinion.

Henry Taxewell (as I have stated) was married before he was of age. He began to act for himself in 1774 and died very early in 1799 just after he had entered upon his 40th year of the interval between his manhood and his death a period exceeding twenty four years were dedicated by him to public in some situation or other which precluded him from engaging in any other pursuit. The profits and emoluments of his public offices did not probably much exceed the expenses necessary incident to them; so that ^{there} remains a period of only ten eleven years during which he had any opportunity to increase his fortune. Of this period he was ten years a member of the State legislature and the frequent interruptions of his professional pursuits, occasioned by this cause, and the long and repeated of the Courts of justice during the revolution, together with his

frequent changes of abode, left but a short time for him to employ in bettering his condition in pecuniary matters. He lost some of his property too by the ravages of the British army, and his habits were rather expensive.- So that his circumstances at his death, were not much better than when he commenced life; and altho' he died possessed of property of much greater value, yet he left it heavily encumbered with debts, which I afterwards paid.

When he came of age he went to reside in the County of Brunswick where his father had lived.- Here he continued so long as my mother lived- but soon after her death he purchased an establishment in Williamsburg from his uncle Mr. John Tazewell and removed hither in 1778. The removal of the seat of government to Richmond, and the events of the war, induced him to sell this establishment in 1780 and he afterwards unfixed until 1784. Mr. Fanning - his stepfather died in 1782, when the situation of his mother and sister and daughter rendering it proper for him again to locate himself somewhere; and the peace with Great Britian in 1783, having once more restored tranquility to the country, he then purchased another establishment in Williamsburg, and brought hither his mother and her family. In 1787 he purchased Kings-mill; and in the autumn of that year removed there, where he ever afterwards resided. He acquired from his father two landed estates in the County of Brunswick, both of which he sold during his life, and purchased two others near (p. 109) Williamsburg. One on York river called Capahonick, and the other on James River called Kingsmill. These he devised to me by his will, together with all the rest of his estate, chargeable however with the payment of his debts which were of considerable amount and with the payment of a legacy of 2,000 pounds to my sister.

Altho' Henry Tazewell became a widower in 1777, when he was not twenty four years of age, yet he never married again. My mother (of whom I have no recollection) left two children, myself, and my sister, who was younger- She married Mr. Benjamin Taliaferro in the year 1795 by whom she had several children, all of whom however died infants Her husband died in 1801, and after his decease she again married Col. Sarkin Smith by whom she also had several children, all of whom are now dead. My sister died in 1812.

Besides the several situations I have mentioned as being filled by Henry Tazewell, he discharged the duties of many others I have omitted. Two only I will here mention- While in the practice of the law, about the year, 1784, he was unanimously elected chosen Recorder of the Borough of Norfolk. He had never resided in Norfolk, and this honorary appointment was conferred upon him, merely as a testimonial of the esteem in which his legal talents were held by the citizens of that place, to most of whom he was personally unknown- In the year 1790 he was appointed by the Assembly one of the revivers of the existing Statutes. Mr. Pendleton who had been placed at the head of this body, declined to act, in consequence of which Henry Tazewell became its chief; and the report to the Assembly of 1792 is the work of his hand.

I have thus brought down our little family history to my own day. In what will follow I shall of course be more minute, since it will relate exclusively to myself; but I shall for the most part confine myself to the to the bare facts, leaving to such of you as may choose to continue this work here after, to fill up the picture I shall draw of myself; a task your personal- knowledge of me will enable many of you to perform much more correctly probably than I could.

The following is taken from Mr. Grissby's Discourse on the Virginia Convention of 1776. "Another member of that youthful group of which Randolph from" his stature, and more developed form, was a more prominent figure," was Henry

Tazewell. He, too, was in the twenty third year of his age, rather above than below the middle stature, and though not as postly as Sandolph as he himself subsequently became, possessed a form of of perfect symmetry, and was a model of model of manly beauty. He was (p.110) descended from William Tazewell who came over from Somersetschire in 1715, who married a daughter of Col. Southey Littleton, and who engaged in the practice of the law Henry Tazewell's father Littleton Tazewell resided in the County of Brunswick, where in 1753 Henry was born. He lost his father in early life, became a student of William and Mary, and studied law with his uncle John Tazewell, who was the Clerck of the Convention then sitting of which he was now a member, and was soon admitted to the bar. Like Pendleton, he may be said hardly to have known a father's care, and like him married before he was of age: and shared with him the misfortune of losing the bride of his youth in the short space of three years after their marriage. Her name was Berothea Elizabeth Waller. Tradition has handed down to us a ⁱⁿ glowing picture of young Tazewell the first flower of his manhood. Fortunately an admirable portrait by the older Paule sustains the impression which he made upon his contemporaries. At the court of Elizabeth of the second Charles, his mere physical qualities would have won his way to the highest offices in the state. His face was extremely beautiful. His bright hazel eye shaded by long black lashes, his nose of Greek rather than Roman mould, his forehead full and high, his auburn locks, parted at the foretop, and falling not beneath his shoulders broad, presented a striking picture: while the tints of his skin, partaking more of the Italian than the Saxon hue,

bespoke, like his name, which, though assuming an English form, was of French origin,- the foreignblood in his veins.- His carriage was altogether becoming, and blended the freedom of the cavalier with the more, chastened demeanor of the scholar. But, however prepossessing as his personal appearance undoubtedly was, none knew better than he none ~~knew better~~ ~~think~~ that at a time when man's lives and liberties and those of their children were dependent upon the wisdom and courage of their representatives other and far higher qualities were indispensable to a successful public career; and to attain such qualities had long been the scope of his ambition. He had thus prepared himself with the utmost deliberation for the scene which was now opening before him. In 1775, in the twenty second year of his age, he was returned by the county of Brunswick to the House of Burgesses, which was convoked to receive the conciliatory propositions of Lord North and with an alacrity that did him much honour, he prepared an answer in detail which was read and approved by Nicholas and Pendleton, but from a casual accident absence or from some trifling accident he was anticipated (p. 111) by Mr. Jefferson whose answer was ultimately adopted. That at so early an age he should have prepared with- such promptness on so important a question a paper which received the sanction of two of the ~~most~~ ablest members of the house, reflects the highest credit upon his intellect and his patriotism. In the Convention now sitting he appeared as a delegate from Brunswick, and young as he was, was placed on the grand committee which reported the Declaration of Rights and the Constitution. He was regularly returned a member of the House of Delegates, for some years under the new Constitution until his elevation to the bench; and it was in that school he earned some of his most precious titles to the esteem and gratitude of his countryman. Nor could a better school be found for statesmanship than the House of Delegates from the declaration of independence to the adoption of the federal constitution. All the leading topics of a republican

system, all the great measures of domestic legislation, were perpetually brought into view and were discussed with extraordinary ability. The law of primogeniture, the laws of entails, the expediency of a church establishment, paper money, the payment of taxes in kind, the confiscation of British debts, the discrimination in regard of emigrants, the mode and means of conducting the war, the expediency of forming the Articles of Confederation, and, subsequently, of amending them, the regulation of commerce, the disposition of the public lands, stretching to the northern lakes in one direction and to the Mississippi in another; these were some of the subjects discussed at that time by the public men of the new Commonwealth; and it was in this school that the talents of Tazewell were displayed with such effect as to make a strong impression of his qualities as a jurist and as a statesman.

It has been observed that Tazewell engaged early in the practice of the law. He soon relinquished the ordinary county business, and confined himself to the General Court, at the bar of which he rose to eminence and enjoyed a large and general lucrative practice. Hence in 1785, at the early age of thirty two an age when others were in their novitiate at that bar, he was elected to a seat on its bench, and consequently became a member of the first Court of Appeals. In 1793 he was elected a member of the Court of Appeals now consisting of five judges; and in 1795 was chosen a Senator of the United States, as the successor of John Taylor of Caroline, even though the name of his friend Madison was put in opposition to his own. The office of a Senator the United States has always been held in high honour; not in its importance likely to be (p. 112) diminished with the expansion of our territory and from the controlling position which this country must ere long maintain among the nations of the

earth; but it would be improper to overlook the fact that the relative importance of the individual members was greater more than fifty years ago than it is now, and that the body itself consisted of men of a higher order of talent than is now to be seen in the present day. The number of Senators was then small, hardly exceeding that of the independence committee of the Convention now sitting or of the committee on the legislative or the judiciary department in the Convention of 1829-30, and did not exceed thirty members. A single vote would have ordinarily to decide the most serious questions. A single vote would have rejected the treaty with Great Britain negotiated by Mr. Jay. Moreover the time when Tasswell took his seat in the Senate, was one of unprecedented difficulty. It was indeed a sphere congenial to his tastes and for which his career in the House of Delegates eminently qualified him; still his position was peculiar and deeply responsible. He was the youngest member whom Virginia had yet sent to the Senate. As an American and above all, as a Virginian he cherished the highest admiration and the warmest affection for that illustrious man who then presided in the federal government; yet, painful as the office was, he was constrained by his own sense of duty and by the well known wishes of his constituents, to oppose the great measures of the administration. The question of the assumption act, and of the Bank of the United States, had already been settled; but he was called upon immediately to consider the British treaty which the president had just communicated to the Senate, and to oppose its ratification with all its zeal. In the discussions on the merits of the treaty he bore a distinguished part, and proposed a series of resolutions embodying the principal objections to that instrument, which involved one of the most memorable debates in our history, and which were ultimately lost by one vote of twenty to ten. But we cannot dwell longer on his course in the Senate than to observe that he performed with unqualified applause the office of leader in the republican party during a period of five years the most remarkable in our annals. As a state politician, he approved the abolition of primogeniture and entails, and the church from the state. He was a friend

of religious freedom in its largest sense; and when Priestly, flying from a persecution which had reduced his library to ashes, and threatened his life, arrived in this country, he became his friend; and a copy of his work on (P. 112) History, presented to him by the author, is still to be seen in the library of his son. On the subject of state taxation he was in advance of his times; and after the war resisted the policy of the payment of taxes in kind as equally injurious to the interests of the planter and of the Commonwealth; and although that system was upheld by Henry Pendleton, Cabell of Union Hill, and other prominent men, he finally succeeded with others in effecting a change. His career in the federal councils drew to a sudden and close. He was taken ill from exposure on his journey to Philadelphia in which city Congress then held its sessions and died in the winter of 1799 in the ~~forty-sixth~~ forty sixth year of his age. There his remains repose near those of the eloquent Insull. Thus passed away one of the most distinguished of our early statesmen, who from his youth in the sunshine of peace and amid the storms of revolution, had devoted all his faculties to the service of his country; and if the light of his glory in the long lapse of years has seemed to grow dim, it is a subject of gratulation that it has been lost; as his fondest wishes would have led him to lose it, in the blaze which the genius of his only son has kindled about his name.

VII Littleton Waller Taxewell

I was born on the 17th of Dec. 1774, in the city of Williamsburg, and in the house of my mother's father which is now occupied by Mr. William Waller his grandson. My mother (who then resided in the County of Brunswick) like all other women, preferred being with her mother, at the time of the birth of her first child, and there came to Williamsburg to prepare for this event which soon afterwards took place.

So soon as I was able to bear the journey, I was taken to my father's house in Brunswick and remained there until the death of my mother in May 1777.- When this event occurred I was carried home by my maternal grandmother, to be taken care of by her; and my sister was taken for the same purpose, by some of my father's relatives.

My mother's father (as I have stated) lived in Williamsburg; but the disturbed or exposed state of that part of the country during the storm of the revolutionary war, had induced him to remove from thence once or twice, when the peril was deemed most imminent; at last being wearied out with the inconvenience of such temporary removals, the old gentleman determined to fix himself in some secure place at once, and to remain there during the war. The county of Brunswick was then considered as offering a perfectly safe retreat, and the residence of his daughter (pilk) in that part of the country, decided her father to fix himself here. A short time before her death therefore he had purchased an estate near my father's and removing thither had fixed himself very comfortably, and as he supposed safely. A few minutes therefore sufficed to translate me from the house of my father to that of my grandfather Waller. Here I remained until the next year 1778, about the last of which the long state of peace which Virginia had been suffered to enjoy since its evacuation by Dunmore and his crew in the year 1776, having induced my grandfather to believe that the tranquillity of Williamsburg would not be again interrupted by the enemy he ventured to take his family back to that place, and I was taken with them.- Soon after our establishment in Williamsburg having completed my fourth year I was put to school to an old woman by the name of Matton, who resided near my grandfather's house; Under her instruction I first acquired the rudiments of the English language, which I learned how to spell and even to read a little.- The only occurrence of this period of my life, which I recollect, that deserves mention is, that while at school with Mrs Matton, in some of my childish gambols, I fell from a small height and broke my right arm.

I continued to reside with my grandfather in Williamsburg going to school to Mrs. Matton until the autumn of the year 1780, when the invasion of Virginia by the British forces under the command of General Leslie, putting Williamsburg once more in a state of peril, my grandfather's family again

prepared for a temporary removal, and I was sent by my father to the County of Greenville to Mr. Fanning's who had married his mother after the death of my paternal grandfather. At Mr. Fanning's I saw for the first time my friend Mr. John Wickham who the events of the war had also driven from his home in the State of New York, and who like myself had sought a place of safety and tranquility in the house of Mr. Fanning- his uncle.- He was then a youth probably about eighteen years of age, who having little else to occupy his attention, undertook the superintendance of my commencing education; and under his direction and that of my father Mr. Fanning himself, I continued my English studies, until the latter end of the year 1781.- By that time I had learned to read pretty well; and being then seven years of age, I was placed under the tuition of the Rev. Arthur Emerson, to begin the study of the Latin rudiments. Mr. Emerson had married an aunt of my father's and at that time kept a small school in the County of Greenville, but a few (p. 115) miles from Mr. Fanning's, whose house was still considered my home.

I will recollect that the commencement of my Latin studies was delayed some time, by the want of a Latin grammar which could not be then procured in that part of the County. At length however my father succeeded in purchasing one of Ruddman's in Williamsburg for which he had to pay \$10.00, in the depreciated paper money of that day! !

I did remain very long at Mr. Emerson's, for the death of Mr. Fanning in 1782, making necessary for my father to find out a new home for me, and the very great probability then existing, that a restoration of peace might soon be expected, indeed my grandfather, who had but a short time before lost his wife, to desire to have me with him once more. So in August 1782 I left the County of Greenville, and returning to my grandfather in Williamsburg, remained with him ever afterwards so long as he lived. And here I will make a remark which

the events of that day, and my subsequent experience, amply justified I think - that whenever a war of invasion occurs in any country, it is folly for any of its inhabitants to remove from one part of it to another, under the expectation of finding a place of quiet and safety. My grandfather (who had never had the small pox and was very apprehensive of its effects upon his advanced years) removed many times from Williamsburg, whenever invasion threatened to avoid this disease which ever followed in the train of the British army.- Wearied out at last by such repeated removals, he determined to remain at his home, which the enemy had never yet visited, He had not made this resolution long however, before the British army under Lord Cornwallis appeared in Williamsburg, and he contracted the very disease he had ever been so solicitous to avoid, and which had very nearly proved fatal to his life. And during the war every spot in Virginia to which he had ever fled for safety, was in like manner visited; so that he had better have staid where he was from the beginning.-

The County of Greensville, which my father had selected as the safest retreat for me and whither many of the inhabitants of the lower country had also fled for safety, presented to every probable calculation of that day, so fair a prospect to escape the visits of the ~~of the~~ enemy, any ~~where~~ other in the state. But yet I had not long been fixed there, when Lord Cornwallis passed with his army through this county also, and all of its inhabitants were just as much exposed as those of any other part of the state. Having now given an account of myself from my birth to the year 1782, when I was (p. 115) again restored to my grandfather, whom I never afterwards left, before I proceed further with this account, it is proper that I should here acquaint you with this excellent man, whose conduct towards me had so much influence upon all my succeeding life- It is a debt of gratitude I owe to this my earliest benefactor to whom I have ever ascribed whatever worthy of imitation there may be in any part of my character; and who if he could have been spared to me yet awhile longer would I doubt not have improved greatly the good foundation he ^{his} began; and by precept, and example, and continued care, have eradicated every evil germ my nature produced- He certainly would have assayed this task,

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for he doted on me as the comfort and solace and sole companion of his declining years; and he alone could have achieved it; for I loved him with an affection approaching devotion; For several years we lived together, seldom separated for a single day, and always to our regret even then. When the occasion passed which had taken me from him even for an hour, I flew to his bosom as to that of my best friend, and he pressed me there with a warmth which told me I was its choicest treasure. I heard him breathe his last sigh, and although but a child, I felt I had lost what my heart valued most dearly, and would most willingly have gone down with him into the same grave.

Benjamin Waller my maternal grandfather was born in the year 1716, of parents both of whom were English, and who had migrated to Virginia many years before. He was the youngest child of a numerous progeny, and was born in the county of King William on the Mattaponi river, opposite to what is now called Walker-town, where his father Edmund Waller then dwelt. I have often heard him speak of the antiquity and respectability of his descent. He claimed to be a connexion of Edmund Waller, the poet, in the time of Charles the second, and traced back his lineage to the days of Henry the fifth, saying that one of his ancestors greatly distinguished himself in the battle of Agincourt, where he made prisoner one of the royal peers of France, and that in testimony of this Henry the fifth gave him as a crest, the arm of France suspended on an English oak, with the motto "Hæc Fructus Virtutis" To which armorial insignia suspended in his great hall, the old gentleman often drew my attention, for the purpose of stimulating my exertions. His father was a plain planter, who altho he possessed a competent fortune, was not wealthy, and had a numerous family, when my grandfather was about ten years of age, John Carter esqr; the then Secretary of the colony, a man (p. 117) of immense wealth, and whose office placed him in a situation inferior to none in the colony save only that of the Royal Governor himself was occasionally detained at the house of old

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Mr. Waller by some difficulty he experienced in crossing the Mattapony river, while making a journey from Williamsburg to his seat at Curratoman in the Northern Neck.

In the course of the evening my grandfather came in from school and the Secretary, either to amuse himself, or please his host, calling the little boy to him began to question and examine him upon the subjects of his school studies. Struck with the quickness and correctness of the boy's replies and supposed that he had found boy of uncommon parts which would not probably be full developed in his situation, for the want of a proper education, the Secretary observed to old Mr. Waller, that he must give him that boy, and he would make a man of him. To this the old man assented very readily, supposing however that the Secretary was not in earnest. Mr. Carter thereupon stated, that he should return that way on a certain day, and expressed a wish that the boy might be got ready in the mean time, to accompany him on his return to Williamsburg. On the very day appointed, the Secretary, punctual to his promise, again came to old Mr. Waller's, he never having believed the Secretary to be serious in what had been said as not supposing therefore that he should ever be called upon to comply with his promise, had done nothing towards getting his case ready to leave home, during the Secretary's absence, and so stated. Mr. Carter was vexed at this and insisted upon taking my grandfather with him as he was; this being at last consented to by his parents, he was placed in the Secretary's charge and carried by him to Williamsburg. Upon his arrival in Williamsburg he was immediately placed by the Secretary in William and Mary college where he remained a student for several years, during which he completed his college studies, with such reputation to himself, and to the great satisfaction of his patron. Having finished his college education when he was between sixteen and seventeen years of age, he was then placed by Mr. Carter in the Secretary's office under the direction of a Mr. Kempe the clerk of the General Court. This establishment I have before described in speaking of my paternal grandfather, who was also brought up in it at a subsequent period.

My grandfather remained in the Secretary's office for several years, in the course of which time he made himself an excellent (p. 118) clerk. When he was about twenty years of age however, that is to say in 1736, his patron the Secretary, advised him to study the law, to which he readily assented, as all the wishes of this venerated friend were to him commands, requiring the most and implicit obedience. The Secretary therefore obtained permission of Lady Randolph, the widow of Sir John Randolph, the former Attorney General to allow my grandfather the use of her deceased husband's excellent law library, and he commenced the study of the law, which he prosecuted most indefatigably at every leisure moment when the business of the Secretary did not require his attention on other subjects.

He obtained a license to practice about the year 1738 and immediately entered upon his professional career in the County Courts in the vicinity of Williamsburg. After he had been engaged in the practice of the law a few years, the Clerk of the County of James City then one of the most valuable clerkships in Virginia, died suddenly. In about the same period Mr. Kempe the clerk of General Court died also. The Secretary was absent from Williamsburg when these events occurred; and as the session of each of these Courts was soon to commence, and business of great importance required, that these sessions should not be prevented by the want of a clerk, my grandfather (who was ever watchful to everything regarding the Secretary's interests) dispatched him an express to him to acquaint him with what had happened and to state the necessity existing for the early appointments to the vacant clerkships.

Immediately upon the receipt of this express, the Secretary repaired to Williamsburg where he arrived on the very morning of the day appointed for the day appointed for the session of James City court. Upon his arrival he sent for my grandfather, and directed him to bring with him a blank commission for a

Clerk of James City County. This was accordingly done, when the Secretary, after amusing himself for some time in affecting doubts as to the proper person to whom this commission should be given, and in pretended consultations with my grandfather upon this subject, at last directed him to fill the blank in the commission with his own name.- This act of favour and kindness on the part of the Secretary towards him, was not expected at all, and was received with the warmest gratitude. The liberality of the good Secretary was not yet satisfied. So soon as James City Court adjourned, he again sent for my grandfather, (P. 119) directing him as before to bring a blank commission with him for the clerk of the General Court; this was then one of the most lucrative appointments in the Colony, and as the Clerk of the general Court had the principal direction of the Secretary's office, the various duties of which required such skill, it had ever been filled with much caution and circumspection, by all preceding Secretary's.- My grandfather who was then about twenty five years of age only, and had so recently received so signal a proof of the Secretary's regard for him, had not the most remote expectation that he would confer upon him this office also.- But he did so, accompanying the commission with the most gratifying compliments, and saying that he had always intended the appointment for him whenever it became vacant, for that there was none whom he thought deserved it so well.

His office of clerk necessarily excluded him from the bar of the General court, and the duties his new appointment imposed upon him, ~~seem~~ constrained him to limit his practices, which had by this time become very extensive and lucrative. The profits of his profession however were not diminished by the limitation he imposed upon the extent of his practice. At that time the most valuable business done by the lawyers of the country, was the collection and securing of the debt due by the colonists to the British merchants who had

debts to a large amount due then in Virginia- These arrangements were for the most part effected at the meetings of the merchants of Virginia, which took place twice every year, in Williamsburg at the close of the session of the General Court there.

The residence of my grandfather upon the spot, the character he very soon established for industry, punctuality, integrity and skill very soon recommended him to all the British merchants, a very large proportion indeed of whose business fell into his hands, and was managed by him up to the commencement of the Revolution. I have often heard him state, that he was indebted for this part of his success, very much to the recommendation of Sir William Gooch the Royal Governor of Virginia, whose friendship for him was manifested repeatedly in many other modes besides.

After his appointment to the clerkship of James City and of the General Court, my grandfather finding himself in a situation of independence, and capable of supporting a family, married a lady to whom he had been for some time attached, Miss Martha Hall, her (p. 120) parents had formerly resided in North Carolina, but were both dead; parents and she herself had lived for several years with a relation of hers in Williamsburg.- This event took place I believe in 1746, for I have heard him say he was married on the very night that the capital in Williamsburg was burned, and this seems to have occurred in that year.- Some years before his marriage, he had been elected a member of the Assembly for the County of James City, which county he continued to represent in that body ever afterwards, until the year 1769.- The difficulties with the mother country, which afterwards led to war, having then commenced, and my grandfather being then advanced in years, and holding several appointments directly from the crown, such as King's Advocate in the court of Admiralty; he did not think it right to oppose the measures of the administration and could not reconcile it to himself to oppose those proposed by his countrymen, he therefore declined a re-election and soon after relinquished all his other public appointments, and retired into private life.

After the organizing of this government however, he was induced by the entreaties of his friends, to take some place under it and accepted a place seat at the Council board for a short time.- From thence he was translated into the Court of Admiralty, of which he was made the chief-judge, and the session of which were still held at Williamsburg and even after the removal of the seat of the seat of government to Richmond, solely to accommodate him. This office he resigned a short time before his death, which took place in May 1786.-

The reputation of my grandfather as a lawyer was as high as that of any lawyer in Virginia of his day. He was called upon, for more opinions than any other either before or since his time; and his opinions were always considered as conclusive by all who saw them. I have seen many of them since I came to the bar. They were remarkable for their clearness and brevity; and all I ever saw I thought I ever saw I thought unquestionably correct. So early as the year 1745 he was appointed by the Assembly one of the Committee to revise its laws; and the revision of 1745 as it is called was the work of his hands almost exclusively. He was very regular in his attendance as one of the members of the Assembly, while he continued such; and was one of the most active and influential members of that body. Through his exertions the (p. 121) enormous fraud committed upon the Treasury by the Speaker Robinson, in 1766 was first detected detected; and his efforts upon this occasion drew down upon him for a time, the resentment of many of the speaker's friends, some of whom were amongst the most conspicuous men in Virginia at that day.- My grandfather was a very laborious man of studies and very regular habits, who notwithstanding his numerous public engagements still found time to read a great deal. He was an excellent scholar, and kept alive his scholarship learning until his death. In his family he was ever kind affectionate and cheerful, living beloved by all who knew him, and died regretted by a numerous circle of friends comprehending almost every man of note in the country at that day.- He left many children

at his death, and had lost several who had married and died during his life, amongst these my mother was one. Of his family, so far as I know any thing of it the following will be found a correct account. His eldest child Martha, married Mr. William Taylor, a most respectable man who was clerk of the county of Lunenburg, where he resided. This lady is still there, and has a numerous family, none of whom however are known to me except two, Wailer Taylor her son, who was last year a member of the U. S. Senate from the state of Indiana, and a young gentleman - her grandson, now a Lieutenant in the U. S. Navy. His second child Molly, married Mr. John Taylor Corbin of Laneville in the County of King and Queen, an amiable and very wealthy man. She died many years ago leaving a numerous family also. - I was intimately acquainted with her three eldest sons, and served for several years as a member of the Virginia Assembly, with Richard Corbin the eldest of them, who represented first the County of Middlesex, and afterwards that of King and Queen. - They are all now dead leaving descendants. - His third child Mr. John Waller, who was bred up by his father in the Secretary's office, and received from Secretary Nelson the appointment of Clerk of Spotsylvania, before the Revolution while he resided in this part of the country he married a Miss Page of Hanover, and my grandfather, who had purchased from his elder brother the old family seat in King William, to which he had added other contiguous lands, giving him this estate. Mr. John Waller resigned his clerkship, and moved to King William. After the death of my grandfather, he purchased an estate in the neighbourhood of Williamsburg, and removed thither. He died some years since leaving several children. My mother was the fourth (p. 122) child of my grandfather, and Anne his fifth, she married Mr. John Gousk, a very wealthy and worthy man, who was the clerk of Norfolk County, and died without issue during her father's life. Benjamin Carter Waller was my grandfather's

sixth child. He was bred by his father to the bar and practiced the law in the neighborhood of Williamsburg with much success. To him my grandfather resigned his clerkship of James City and gave him the estate adjoining Williamsburg on which his son Robert F. Waller now resides. He also married a Miss Page, the sister of his brother's wife, and died a few years since in Williamsburg, where he had always resided I shall have occasion to speak of him hereafter.-

My grandfather's seventh child, was Clara. She married first Captain Edward Travis, an officer of the Navy, who greatly distinguished himself at the battle of the Great Bridges.- By him she had several children; and Captain Travis dying she again married a Mr. Mordecai Booth of Frederick county after the death of her father.- She died several years ago, leaving many children by that marriage also- Mr. William Waller was my grandfather's eighth child. He was bred a merchant and established himself first at Hanover Town. While living there he married a Miss Mason of that county, and disliking his situation, he quitted merchandize, bought him an estate called Belfield situate on York river above York-town where he resided. He resided here ever afterwards until his decease which occurred in 1799. He also left children. To him my grandfather devised the estate in Greenville, which he had purchased during the war.- Robert Hale Waller was my grandfather's youngest son, and his ninth child. He was also brought up by his father as a clerk; and soon after he came of age my grandfather obtained for him the Clerkship of James the county of of York- To this my uncle added many years afterwards the clerkship of James City also, which he got from his brother. To this son my grandfather gave his family mansion in Williamsburg and a small estate he owned in the county of James City. He married a Miss Cannon, a daughter of the former President of William and Mary, by whom he left several children, and died many years ago since in Williamsburg, where he always resided. The tenth and

and youngest child of my grandfather whom I ever saw was a daughter Sarah. She was the only daughter who remained single at his death. She afterwards married a Mr. John Smith of Matthews county, by whom she left several children and died many years ago.- My grandfather had had other children, all of whom died young and before I knew them. (p. 123) All four of my uncles lived in or in the vicinity of Williamsburg when I began my professional career there. They were all warmly attached to me, and I derived great advantage from their society, especially from the countenance, knowledge and experience of my uncles Benjamin and Robert, the former of whom was still engaged in the practice of the law, and the Clerk of York and James City courts when I commenced my practice in those courts. They none of them equalled my grandfather in genius or acquirements, but all were worthy respectable men, of much consideration where they resided, and with the exception of Mr. Robert Waller (whose offices precluded him from being there) each of them represented frequently the counties of James City and of York, where they resided.-

All my grandfather's daughters who married during his life were most respectably and happily connected with men of property and worth.- The two who married after his death however (for Mrs. Travis was then a widow) formed connexions every way beneath them, and died in poverty.-

Having thus given a brief account of my excellent grandfather and his family. let me now resume my own narrative, This I have brought down to my eighth year, when I again returned to Williamsburg, and was once more happily established under the roof of my revered grandfather. This event as I have stated occurred in 1782.

At that time there existed no good Latin school in Williamsburg, During the war the College of William and Mary had been broken up and the professorship

of humanity put down by the Visitors entirely. Soon after my return to this place however, The Rev. John Bracken who had formerly been the professor of Humanity in William and Mary when this professorship was abolished, opened a private grammar school at his own house and I was immediately placed under his tuition.- My education had not been neglected before this, for I had been very regularly by my grandfather, than whom there was no one better qualified to improve me; and my uncle Robert who wrote a most excellent hand, taught me to write.- I did not receive such benefit from Mr. Bracken's tuition, during the short time I remained with him for altho' a very good scholar himself he was testy and petulant and my meek temper required much more gentle treatment than I received at his hands, but the kindness and care of my grandfather, amply compensated me for this; and I still continued to (p. 124) learn much more from him than I did at school. In the year 1763, some private business calling Mr. Bracken to England, he broke up his school, and I was again happily dependant upon my grandfather alone for instruction- His mode of educating me was most excellent. Besides my customary lessons, which I was made to recite to him twice a day, if any circumstance occurred during our recitations, or in the course of our conversation together, (for we were very seldom separated,) upon which he could lay the foundation of any anecdote or story, calculated to interest a child, he immediately told it, in a way most calculated to arouse my curiosity, as soon as he had excited my attention and interest to a high pitch, he soon affected to have forgotten some circumstance connected with his narrative, and I was sent to the study for a book in which stated, to assist his memory. From this book I was made to read him the whole account, in which he never failed to find numerous for new stories to whet my curiosity, and to produce an ardent desire to gratify it by continuing the reading of t e book we had begun, or some other of a like kind. By such means I was induced to read with great attention, t he whole of the Bible, all Plutarck's lives, many treatises on the Heathen mythology, and lрге portions from the

Greek and Roman histories, as well as from the History of England and many of the English poets, before I was twelve years old. These occupations gave me interruption to our regular studies, which went on unceasingly so that by the year 1784 I was well grounded in my Latin syntax, had gone through the Colloquies of Cordery, and the dialogues of Erasmus, and could write a fair hand and understood sufficiently well, the first rules of Arithmetic. In February 1784, Walker ^{Murry} who had formerly kept a grammar school with some reputation in the County of Orange finding that there were none such then in Williamsburg, removed thither and soon afterwards obtained an Act of Assembly, giving him the use of the old Capitol there, in which he kept the most numerous and for some years the best regulated grammar school I have ever seen. I was placed in this school so soon as it opened, and in a few days afterwards joined a class, which then began Eutropius. I remained at school with Mr. Murry for several years, during the greater part of which time, by the unwearied assistance of my grandfather, to whom I always recited my lessons before I went to school, and who examined and instructed me very minutely in everything concerning them, I kept at the head of a very numerous class, although much the youngest and smallest boy in it. And here (p. 125) I will mention a circumstance that occurred about this time, which most probably had ~~some~~ effect much influence upon my future destiny. To give more celebrity to his establishment, it was a custom with Mr. Murry to have occasional public examinations of his scholars. These examinations were generally made by, and always in the presence of, the visitors, governors, and professors of William and Mary college, and any other distinguished gentlemen, who happened to be in Williamsburg at that time. Upon one of these occasions it fell to the lot of my class to be examined by the venerable and learned chancellor the late George Wythe. We had just begun the lives of Cornelius Nepos, and placing myself at the head of my class fellows, I led them up to his chair, to recite their lesson from this work.- The recitation being finished, Mr. Wythe