250th Birthday Commission of the City of Wilmington

The Lower Cape Fear Historical Society has arranged for the publication of this definitive history of Wilmington as a part of its contribution to the celebration of the City's 250th birthday. The 250th Birthday Commission of the City of Wilmington is pleased to recognize this expression of the Society's leadership in historical scholarship, and commends the Society for its service to the community. The history will serve as a reference for all who will join in the birthday observances during 1989.

Thomas Price
Chairman

Wilmington: A Town Born of Conflict, Confusion, and Collusion, Part 2
by Alan D. Watson

James Murray, a friend of Governor Johnston in Scotland, carefully planned his Carolina venture. Sufficient capital, the support of the governor, cheap land in the colony, and the prospects of an increasing population in the Cape Fear made North Carolina attractive. Five years after settling in Newton, Murray occupied an impressive house and store on Front Street between Princess and Chestnut which boasted "a large Room 22 by 16 feet, the most airy of any in the Country, two tolerable lodging rooms & a Closet up stairs & Garrets above, a Cellar below divided into kitchen with an oven and a Store for Liquors, provisions, &c." And that only marked the west end of the building. The other half of the structure "is the Store Cellar below, the Store and Counting House on the first floor, & above it is partition'd off into four rooms, but this is not plaister'd...."26

Perhaps the imposing building in the town, however, was "Wimbleton Castell," the name given to a turret under the House on James Wimble's map of 1733. Located on Lot No. 132, the third lot south from the corner of Nun and Front streets, the building commanded a high bluff overlooking the Cape Fear River. Perhaps Wimble fortified his home with cannon to thwart predatory incursions by the Spanish or other enemies, giving it the appearance of a castle. In 1769 a map drawn by Claude Joseph Sauthier showed a large house, 36 by 36 feet, accompanied by several outbuildings and garden plots, which was located on Wimble's former lot and was probably occupied by Captain William Wimble, son of James Wimble.27

In addition to the merchants a variety of support craftmen and service people congregated in Newton. Among the various residents of the town were Michael Dyer, shipwright, James Carver and Nicholas Brewer, millwrights, Richard Ogden and Thomas James, tailors, Jonathan Ogden, cordwainer, William Norton, Sr., blocker, Thomas Hedges, Edward Mitchell, and Peter Morris, house carpenters, Edward Davis, barber, Francis Veale and Richard Veale, both described on occasion as hatters, and physicians Roger Rolfe, Armand John deRosset, and Samuel Green. Many others called Newton home before the incorporation of Wilmington, including Morgan Morgan, Nathan Bunn, Richard Hellier, Joshua Johnston, Thomas Sawyer, John DuBois, and Peter Morris. Several planters, for example, Solomon and Jonathan Ogden, William Ford, and Edward Mitchell, owned houses in Newton as did mariners such as Matthew Higginbotham.28

The few inhabitants of Newton (New Liverpool) and its vicinity in 1735 requested the governor and council formally to recognize the town. The proposal was approved with the proviso that the residents erect six brick houses, 40 feet long and 30 feet wide, along the principal streets of the town within two years. But the executive order was never effectuated. At the time the lower house of General Assembly contested the right of the executive to create precincts (counties) solely by the royal prerogative. By inference the House of Commons opposed exclusive executive control over the erection of towns as well.29

Thus the House of Commons ignored the gubernatorial order when it next met and considered instead legislation to establish "a Town in New Hanover Precinct by the name of Wilmington at a place now called Newton." Final action was not forthcoming, however, for the governor prorogued the legislature in a dispute over a quitrent bill, and the Wilmington legislation received only a first reading. The erection of Wilmington had become enmeshed in the ongoing controversy between the governor and the House of Commons.30

Despite the delayed transformation of Newton to Wilmington, the legislature showed its appreciation for the village. In 1735 the General Assembly enacted quitrent legislation that designated both Newton and Brunswick Town as collection sites for that tax. Quitrent bills considered by the legislature in 1736 and 1739 failed to mention Brunswick Town, requiring payments to be made at Newton only.31

(Cont'd on Page 3)
PRESIDENT’S MESSAGE

Serving as the society president for the past twelve months has been enjoyable and interesting. During the period, the society increased its membership and activities. Such achievements were due entirely to the efforts of the board members, committee chairs and the committee members. My sincere thanks to you all.

The Annual Membership Meeting will be held in the beautiful Incorporators’ Garden, recently under the care of D. Alan Jones. The program will include election and installation of directors and officers for the 1988-1989 fiscal year and the presentation of the society’s Clarendon Award (named for the original county encompassing the Lower Cape Fear) and the Society Cup.

The Clarendon Award signifies one of the major purposes of the society—recognizing outstanding contributions and preservation of the history of the Lower Cape Fear. Generally, the Clarendon Award is given to authors of historical works, those people who have added to the knowledge, expanded the interpretation and increased the appreciation of the unique, long history of the Lower Cape Fear.

The Society Cup recognizes meritorious and outstanding contributions to the aims and work of the society and/or the appreciation and interpretation of the history of Wilmington and the region of the Lower Cape Fear.

Recognizing that in 1987 neither the Clarendon Award nor the Society Cup was presented, the Board of Directors decided that it was appropriate to present both cups for both 1987 and 1988.

The society wishes to recognize and thank this year’s Award Committee for their outstanding work: Walter Allen, Jr., Chairman; Dr. Joanne C. Corbett, and Susan T. Gerdes.

Also, I would like to advise that our 1988-1989 budget, adopted by the board calls for a $4,000 increase, in recognition of the increased activity of the society.

Looking forward to seeing you at our May 1 Annual Meeting, I remain.

Sincerely,

Joe Dunn

GIFTS TO THE ARCHIVES

Anonymous donor: 1,000 volume library of Americana and funding for shelving.


Mrs. Frederick S. Burr—photograph of Tistin School, ca. 1880 showing Amy Morris Bradley with her staff and students.


St. John’s Museum of Art—desk and two straight chairs.

Dr. and Mrs. Emile Werk, Jr.—Ninety-five volumes of Americana including Bancroft, George. History of the United States, [10 vols.], 1866.
Governor Johnston likewise advanced the fortunes of Newton to the detriment of Brunswick Town by showering the newer village with executive favors. In March 1735, Johnston announced that his council would meet in Newton, where it continued to hold its sessions regularly through 1739. At the same time Johnston decided to conduct a court of exchequer and a court of oyer and terminer in Newton as well. In 1736 and 1738, the governor held additional courts of oyer and terminer in Newton, and on February 14, 1739/40 ordered biennial meetings of the provincial court of chancery to meet in the town.32

A bitter rivalry developed between Newton and Brunswick Town. Although James Murray, the Scot merchant who arrived in the Cape Fear in 1735, determined not to become involved, he could not avoid the complications. He first rented a house from Roger Moore but “intimacy with some gentlemen [in Newton] was so disagreeable that [Moore] told me to turn out…” wrote Murray. Within a year Murray had bought a house in Newton and became one of the chief proponents of the village, believing that Newton would soon become the principal town on the river, if not the “Metropolis of the province…”33

Commissioners of Customs in England to make Brunswick Town the seat of Port Brunswick but Brunswick Town was the more appropriate location for shipping affairs on the river. Large vessels were impeded in their upriver travel by the “Plats,” shoals in the Cape Fear at the mouth of Town Creek about equidistant between Brunswick Town and Newton (Wilmington). Stationing the customs officers in Newton imposed a hardship on captains of deep draft vessels who might not choose to trade in Newton and yet had to go to the town to enter and clear their ships. When Roger Moore called upon James Murray, who had been appointed deputy naval officer by Johnston, to come to Brunswick Town to clear a vessel, Murray firmly refused. He advised Moore to present his case to the Treasury Board in London if he thought that “his Majesties Revenue or the interest of the Country is injured” by having the naval officer reside in Newton.34

At this juncture Johnston felt more independent of the Family than at any time since his accession to the governorship. He had just secured approval by the General Assembly of quitrent legislation (later annulled by the King in Privy Council) that seemed to settle a longstanding problem of the payment of those taxes and guaranteed the executive an income independent of the provincial legislature. Operating with greater freedom and confidence, Johnston directed his attention to developing a deep water port and “metropolis” at the branches of the Cape Fear. This in turn meant the transformation of Newton into Wilmington.35

Having the most immediate impact upon the success of Johnston’s scheme, however, was legislation in 1739 that altered the conception of North Carolina’s court of oyer and terminer. Before the arrival of Johnston that court had not met in the southern part of the province. In order to provide relief for the people below the Neuse region the General Assembly converted the court of oyer and terminer into a circuit agency of judicature which would convene in the various sections of the colony. The law directed that biennial sessions for the southern district, comprising New Hanover, Onslow, and Bladen counties, would be held in Newton.36

Newtonians, no doubt with the approval of Johnston, if not at his instigation, began to collect private subscriptions to build a courthouse in their town. At the time the justices of the New Hanover County court had never acted upon the legislation of 1729 that made Brunswick Town the seat of the county and authorized them to tax the county residents to build a courthouse and jail in the town. After the people of Newton had taken the initiative, the county magistrates met in December 1739 to levy a tax for a courthouse-jail complex in Brunswick Town. The four justices sitting on the court—Roger Moore, Nathaniel Rice, William Dry, and Jehu Davis—lived in or near Brunswick Town and opposed the development of Newton.37

When the next session of the General Assembly gathered at New Bern in February 1739/40, it received a petition that requested the erection of Newton as the town of Wilmington and the seat of New Hanover County. Drafted by the grand jury of the court of oyer and terminer that had met at Newton in December 1739, the document contained 108 signatures. The petitioners condemned the current location of the county seat as “remote[,] and the River, difficult[,] broad, & dangerous of Access for the Greatest part of the Inhabitants of … [the] County.” Newton, they felt, was more accessible and a more logical choice as a county seat, particularly since the legislature had just decided to hold circuit courts for New Hanover, Bladen, and Onslow counties at that place. Moreover, a courthouse had been built and the county could be spared the expense of a second structure if the county seat were moved to Newton.38

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Exacerbating the rivalry and threatening the foundation of Brunswick Town’s existence, its maritime commerce, was Johnston’s decision in 1739 to move the collector of customs and deputy naval officer of Port Brunswick from Brunswick Town to Newton. In its opposition the Brunswick faction legally and logically had the better of the argument. Not only had Johnston acted arbitrarily in abrogating the decision of the
Thus, on February 20, John Montgomery of Tyrrell County successfully moved for permission of the Lower House to produce a bill to incorporate Newton as Wilmington. He and William Bartram of Bladen County were ordered to draft the legislation, which Bartram offered to the legislators that afternoon. After its first reading Bartram and George Roberts of Craven County were ordered to take the bill to the Upper House. The bill easily moved through the House of Commons, receiving a second reading on February 21 and a third reading on February 23.39

While some dissension to the Wilmington bill may have existed in the House of Commons, adamant opposition appeared in the Upper House from the four councillors representing the Family and the economic interest of Brunswick Town—Roger Moore, Eleazar Allen, Nathaniel Rice, and Edward Moseley. (The council or governor's advisory body sat as the Upper House of the General Assembly during legislative sessions.) Johnston, of course, anticipated the opposition and prepared accordingly. Since he could count on the support of only three councillors—William Smith, Robert Halton, and Matthew Rowan, Johnston availed himself of his royal instructions to fill a vacancy on the board. The councillor appointment went to James Murray, close friend, deputy naval officer for Port Brunswick, and Newton merchant. Still, that left Johnston with an evenly divided council or Upper House, when the council sat as the upper chamber of the legislature. To secure a majority vote on the Wilmington bill, Johnston and the four pro-Wilmington councillors decided that William Smith, the eldest on the council, should be nominated "President" of that group and accorded a second, tie-breaking ballot in case of an even split.40

The Johnston faction of the Upper House successfully tested their dubious legislative ploy on February 20, when Smith insisted on a second vote to break a tie over a bill to appoint county treasurers in order to approve that measure. A protest from the Brunswick group followed. They asserted that Smith, the "first Councillor," did not, and should not, have the power to cast two votes in the Upper House. It was a practice for which there was no precedent in the American colonies and one that was "destructive of the rights of the Upper House...."41

The same sequence obtained for the Wilmington bill on its three readings in the Upper House. Following the third reading in both legislative chambers on February 23, the measure was sent to the governor, who assented to the bill on February 25, 1739/40. Two days later Johnston prorogued the General Assembly but not before the Brunswick faction had entered another protest upon the records of the Upper House. They felt that after Brunswick Town had been made the seat of New Hanover County many people in good faith had purchased lots and improved their property. To divest the town of its privileges without some breach of the law seemed unfair. The Wilmington opposition also questioned the propriety of creating a town on private property, a circumstance that obviously redounded to the benefit of a few individuals. The councillors again objected to moving the customs offices and, of course, protested the means by which the Wilmington legislation had been passed—by allowing one councillor to cast two votes.42

Although only four laws had been passed in that rather unproductive legislative session, Johnston had realized a longstanding goal—the incorporation of Wilmington. And the governor envisioned a bright future for the town. In a year or two he hoped to have all public business conducted in Wilmington, though he cautiously noted, "this must be done by Degrees." Eventually Johnston wanted to locate the provincial capital in the town.43

Wilmington was named for Spencer Compton, Earl of Wilmington and Johnston’s political patron in England. At age 25, Compton represented the borough of Eye in Parliament, deserting the tory principles of his family, obtaining the favor of the whigs, and serving as Speaker of the House of Commons in the 1720s. A favorite of George II upon that monarch's accession to the British throne in 1727, Compton enjoyed numerous royal favors and offices. At the time of the incorporation of the town of Wilmington, the Earl and the British government were deeply embroiled in a war with Spain, the War of Jenkins Ear. Wilmington succeeded the illustrious Sir Robert Walpole in 1742 as Prime Minister of England but died the following year.44

The General Assembly justified the incorporation of Wilmington by the residence of several merchants, tradesmen, artificers, and other persons "of good fortune" in the village, by its convenient location at the confluence at the two branches of the Cape Fear, and by its deep, safe, and accessible harbor, which rendered the site more appropriate for a town "than any other part of the... river." Governing Wilmington were seven commissioners—Robert Halton, James Murray, Samuel Woodward, William Faris, Richard Eagles, John Porter, and Robert Walker. The law bestowed upon them "all Powers and Authorities... as the Commissioners for the Town of Edenton have or possess...." At that time the Edenton commissioners were empowered to appoint a town scavenger, to decide "what things shall be Nuisances" to be removed from the town, and to enforce a legal mandate that required the penning of hogs within the town. Otherwise by inference they generally exercised control over civic affairs. Upon the death or removal of one of the Wilmington commissioners the governor would appoint a successor from a slate of three nominees submitted by the remaining commissioners.45

The legislation also invested Wilmington with the privilege of sending a representative to the General Assembly. Borough representation, which emanated from English precedent, was intended to allow the special economic interests of towns—the mercantile trade—to be heard in the legislature in conjunction with the predominant agrarian attitudes. At that time in North Carolina only New Bern, Bath, and Edenton enjoyed the right of borough representation.46

As was customary for that time the rights of representation and voting were restricted to those having an immediate material interest in the town. A town representative must have owned a 20 by 16 foot house having one brick chimney for at least three months prior to his election. Those qualified to vote included tenants of habitable houses at least 20 by 16 feet within the town and any inhabitant (except a servant) of a brick house, 30 by 16 feet, between the northern bounds of the town and Smith's Creek, and living no more than 120 poles east of the river.47

The statute designated Wilmington as the seat of New Hanover County, replacing Brunswick Town. Taxes imposed the preceding December by the New Hanover County Court to build a courthouse and jail in Brunswick Town were to be applied toward the construction of those buildings in Wilmington. All county elections, including those for assemblymen and vestrymen, were to be held in Wilmington. In the county court session of June 1740 the New Hanover magistrates decided to use the money already collected to build a jail in Wilmington and directed the town commissioners to pick a site and erect the structure. Interestingly, six of the justices (Woodward, Walker, Murray, Faris, Eagles, and Porter) were Wilmington commissioners, and another, Thomas Clark, was a prominent Wilmington merchant.48
In reporting to the Board of Trade in England on the legislative session of February 1739/40, Governor Johnston at first did not mention the conflict over the incorporation of Wilmington, though later he adverted to the "great opposition" to the measure. In any event the executive of the province justified the action because Wilmington was a convenient trade center and provided a safe harbor for most ships. Furthermore the town would not only contribute to the improvement of trade in the province but also to "the polishing [of] its Inhabitants." 49

While Johnston minimized the flap over Wilmington, the Brunswick group did not allow the matter to rest. At a May 1740, council meeting, ironically in Wilmington, the opponents of the Wilmington incorporation formally presented their case to the governor. In a lengthy memorial Moore, Allen, Rice, and Moseley objected to Johnston's presence in the Upper House during its debates, claiming that the governor inhibited discussion. They contended that Smith, though the eldest councillor, was not entitled to the appellation "President" and certainly was not entitled to cast two votes on the same bill. This was deemed "the greatest Innovation and Infringement that were ever made upon the privileges of all the rest of the Members of His Majesty's Council...." The dissident councillors opined that the Wilmington legislation was injurious to the province's trade and contrary to Johnston's instructions from the crown. 50

The four councillors who favored the establishment of Wilmington responded in vitriolic fashion. Believing that the opposition to Wilmington was designed "to gratify the little Spleen (malice) and private Interest of a few people in the neighborhood of Brunswick," Smith, Halton, Rowan, and Murray steadfastly defended the governor without ever meeting directly the arguments of the Brunswick faction. They did correctly note that Wilmington was better located to tap the inland trade. It was a salubrious location, unlike Brunswick Town, where three customs collectors had died since 1734 in what was known to be "the most sickly unhealthy place in the whole Province[.]" The proponents also questioned the right of four men to obstruct the will of the province. Altogether, the pro-Wilmington faction was willing to trust their behavior to the people and to the home government. In fact, the Brunswick councillors appealed their case to England but to no avail. 51

The contention and confusion surrounding the incorporation of Wilmington prompted the next session of the General Assembly to reaffirm its previous action. According to legislation passed in August 1740, "several Disputes have arisen about the validity" of the earlier law which "have raised Doubts, and much perplexed the minds of the Inhabitants" of New Hanover County. Thus the legislature confirmed the incorporation of Newton as Wilmington and sanctioned all actions taken in the interim by the commissioners of Wilmington, by the county court, and by the churchwardens and vestry of St. James Parish. The law reiterated Wilmington's right to borough representation and decreed the establishment of all county offices plus those of collector of customs and naval officer for Port Brunswick in Wilmington. 52

A major departure from the earlier statute involved the governance of Wilmington. The new law allowed eligible town voters annually to elect a slate of five men from whom the governor of the province would select three to serve as commissioners of Wilmington. However, the action of the legislature only presaged its decision in 1745 to grant total self-government to Wilmingtonians by allowing them to choose their own commissioners. Wilmington was the first town in the province to be accorded democratic municipal government, a privilege later enjoyed only by New Bern and perhaps Brunswick Town and Martinsborough (Greenville) before the Revolution. 53

The lack of urbanization in the southern colonies has led scholars to deprecate its importance. Other than Charleston, seemingly an urban oasis in a rural desert, the few towns in the South appeared trifling, an impression reinforced by such eminent colonials as Thomas Jefferson and by foreign travelers accustomed to large European towns. Yet those unimpressive American villages, whether coastal, river, or inland communities, formed an integral part of an "urban system" whose "chief functions were the gathering, warehousing, and shipping of local commodities and to a lesser extent the distribution of imports...." 54

Before its incorporation Wilmington, as New Cartage, New Liverpool, and Newton, played a conspicuous role in the mercantile development of the Lower Cape Fear. By the time of the Revolution Wilmington had become North Carolina's foremost port. The Wilmington and (Raleigh) Weldon Railroad, completed in 1840, gave impetus to the town's commerce and made Wilmington the most populous city in the state during the last half of the nineteenth century. In the meantime wealth and consequent leisure produced a gracious style of living and a high plane of cultural achievement. As Wilmington celebrates its two hundred and fiftieth anniversary amid a continually growing population, an increasingly diversified economy, and changing lifestyles, it remains North Carolina's major port, a reminder of its inceptual origin and principal function.

FOOTNOTES

26 Tiffany, Letters of James Murray, 17-19, 63-64.
27 Cumming, "Turbulent Life of Captain James Wimble," 12.
28 Deed Book AB, passim.
30 Ibid.
33 Tiffany, Letters of James Murray, 28-29, 38. See Lennon and Kellam, Wilmington Town Book, 23 for other evidence of the rivalry.
35 Clark, State Records, XXIII, Tiffany, Letters of James Murray, 54-55.
36 Saunders, Colonial Records, IV, 337, 408; Clark, State Records, XXIII, 27.
37 Clark, State Records, XXIII, 234-237; New Hanover Court Minutes, December 1739; Lee, Lower Cape Fear, 124.
38 Saunders, Colonial Records, IV, 509.
39 Ibid., IV, 510-513.
40 Tiffany, Letters of James Murray, 54; Saunders, Colonial Records, IV, 448-452.
41 Saunders, Colonial Records, IV, 480-481; Clark, State Records, XXXIII, 131.
42 Clark, State Records, XXIII, 133-135; Saunders, Colonial Records, IV, 482-487, 524.
43 Saunders, Colonial Records, IV, 424, 515; Clark, State Records, XXIII, 131-135.
In Memoriam

Elise McKoy

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