

**ROBERT GOODLOE
HARPER**

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Robert Goodloe Harper by C. W. Sommerville

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Robert Goodloe Harper

BY

C. W. SOMMERVILLE, A. M.

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of the Johns Hopkins University for the
Degree of Doctor of Philosophy.



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Of those distinguished men who graced the Maryland bar in the early part of this century, General Robert Goodloe Harper ranked among the first. It is the aim of this paper to set forth the main facts in his life in its public and national relations. Materials for this purpose were abundant, but scattered. They included a brief manuscript account of his life written by General Harper about 1801; files of letters and documents, to which access was given by Mr. W. C. Pennington, of Baltimore; two volumes of Harper's Works (Baltimore, 1814), and sundry pamphlets published by him. Further information was gathered from newspapers, journals, biographies and reports.

My thanks for suggestions are due to Professor Adams, to Drs. Steiner, Vincent, Ballagh and Willoughby.

Baltimore, June, 1899.

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CALIFORNIA

ROBERT GOODLOE HARPER.

By C. W. Sommerville.

ROBERT GOODLOE HARPER was born on a Virginia farm near Fredericksburg, in January, 1765. His father, Jesse Harper, and his grandfather, Abraham Harper, had lived for years in Spottsylvania County, Va. The family is traced far back in English history. In Virginia its members had intermarried with the Minors and the Goodloes.

Robert Goodloe Harper was the only boy in a family of nine. When he was about four years old his father moved into Northern North Carolina, and there the family has remained. Harper was taught at home until about his tenth year, when he was sent to the grammar school.

When the British Army, under Lord Cornwallis, having defeated General Gates near Camden, overran North Carolina, Harper, though but a lad of fifteen, left his books and joined a volunteer corps of cavalry, which served under General Nathaniel Greene, until the British left the State for Yorktown.

Harper now tried to study again, but he found books too dull after an experience in the field of arms, and after the promotion his efforts had gained. He had been made Quartermaster to his corps.* His efforts at study were made the harder by a tempting offer of a lieutenancy in a regular cavalry regiment. His father dissuaded him from accepting the lieutenancy, and Harper agreed to continue his studies until he was twenty years old, on his father's promise then to equip him for military service.

Peace with England soon relieved the father of his part of the agreement, and a surveying tour in 1783 in "the Kentucky and Tennessee countries" took Harper away from books again. This visit to the West gave Harper a knowledge of that great territory and also a turn for land specula-

*R. Walsh, Jr., in "Encyclopedia Americana." Walsh had read law in Harper's office.

The facts in this chapter are found in unpublished manuscripts, to which I have had access through the courtesy of Mr. W. C. Pennington, of Baltimore.

tion; facts which influenced his future to some degree. He acquired at this time some of the western lands, but from surveyors' frauds and his own neglect little profit came of them.

For some time after his return from the West, Harper indulged in idleness, dissipation and gambling. Finally he accepted his father's offer to send him to college, and in June, 1784, he set out for Princeton College, N. J. When his slender means were exhausted, he applied to President John Witherspoon for employment in a grammar school which the President had established in the college. Rev. Dr. Samuel Stanhope Smith also engaged him to teach some boys who had been put in Dr. Smith's care. This work in teaching consumed eight hours a day, so that when college duties were done there was little time left for rest or exercise. In the spring vacation of 1785 Harper went to New York and had an interview with Governor Spaight, of North Carolina, who loaned the student means for the next session at college. Harper carried the junior and senior classes together the next term, and on September 28, 1785, he was graduated Bachelor of Arts, received the Essayist's Medal, and delivered a discourse on "The Proper Objects of Education."^{*}

When Harper left college it was his desire to see the world. He went with a fellow student to Philadelphia and determined to sail for England and make the tour of Europe on foot. He planned to give lessons in London and to use his knowledge of tools, if need be, at the joiner's trade, until his means were better. But ice in the Delaware delayed shipping for weeks.[†]

This delay was fatal to Harper's plan, and he determined to go to Charleston, S. C., and teach and study law.

As Harper stood a penniless stranger on the Charleston wharf in November, 1785, he was accosted by the father of one of his former pupils at Princeton, and received great kindness and help from him. In Charleston he engaged as usher in a large school kept by Mr. Thompson. He thus made forty guineas a year and at the same time studied law in the office of two young Parkers, who were then making a reputation at the bar. Colonel Hawkins, of North Carolina, was in Charleston during the winter, and having known the Harpers, introduced Robert Goodloe Harper to General

^{*}New Jersey Gazette, October 10, 1780, quoted by Moore in his "American Eloquence," page 489.

[†]Robert Walsh, Jr., in "Encyclopedia Americana."

Pinckney, Mr. Edward Rutledge and other persons of prominence. In the fall of 1786, Harper was admitted to the bar. He soon located in Ninety-six District, in the upper part of South Carolina. Here he gained some political notice by a series of articles on a proposed change in the State Constitution.*

In the latter part of 1789, Harper removed to Charleston, where he engaged in a growing practice, and was soon in the State Legislature.

In 1791 he renewed his connection with land speculation, then rife. A company which had contracted with the State of Georgia† for a large territory on the Mississippi engaged him as their manager, offering him five per cent. of the purchase for his services. He went that summer to Philadelphia to sell the stock of this land company.

The land scheme miscarried, but Harper's mind had been diverted from his profession, and his trip had created a decided relish for the Northern States, and had aroused ambitions towards a Congressional career.

A seat was offered Harper in 1792, but he declined because of the small pay of six dollars per diem allowed Representatives. Meanwhile land speculation was profitable and very attractive.

In 1794 he bought a plantation in Ninety-six, intending to remove there from Charleston. He then offered himself a candidate for the House of Representatives and was elected for Ninety-six District, meanwhile continuing in the Legislature of the State until the time for him to take his seat in Congress, December, 1795. Before this time arrived the death of Alexander Gillon caused a vacancy in the Orangeburg District. Harper was pressed to stand as a candidate for Orangeburg. He was elected as a Democrat, and took his seat on Monday, February 9, 1795.‡

In the importance of events and discussions, excitements of parties and the talents of leaders, that period may be termed one of the most remarkable in our annals as a nation. Harper was to take his place among the leaders of the dominant party. Madison wrote to Jefferson on learning of Harper's first election (November 16, 1794): "Hunter's successor (a Mr. Harper) will be a valuable acquisition, being able, sound and eloquent."§

*Harper's Works, 1: 42.

†Out of this grew the famous Yazoo frauds so long fought by John Randolph, of Roanoke.

‡Annals of Congress, 1793-'5, page 1206.

§Madison's Works 2: 20.

On Monday, February 9, 1790, Harper took his seat in Congress as a Representative of South Carolina,* and on the 17th he was assigned to his first committee.† We shall find him advocating measures of relief, internal improvements and of general welfare. His view extended to the whole country. In 1791 a survey of the coast of Georgia had been begun by private persons. Harper saw the utility of such a survey to shipping, and at once advocated a loan by the United States for completing such a work, because it was for the national benefit.‡ He rose above narrow state lines before harbor improvements or coast survey by the National Government had been thought of.

His experience with land speculations enabled him to give a complete historical argument vindicating the right of Georgia in the famous Yazoo land frauds,§ and in case of the Northwest Territory he opposed the sale of lands in large tracts to speculators. He was unsuccessful in his opposition, but he was on the side of wisdom, for he advocated the sale of lands in small lots to actual settlers. This would shut out speculators, give the Government a better price for them, and insure permanent and desirable settlers.¶

Harper's entrance into Congress was in the midst of the negotiations with England regarding the differences left unsettled since the treaty of Paris, 1783. Jay's treaty was signed November 19, 1794, but it did not reach Washington until March 7, 1795. When its provisions were known opposition to it swept the country with the violence of a hurricane.¶ Jefferson called it infamous; Jay was burned in effigy. As an appropriation was necessary to carry the treaty into effect, it had to come before the House. This brought out notable speeches.** Washington refused to send the papers asked for, because the treaty-making power, he said, laid with the Executive with the Senate's consent. Torrents of abuse fell on Washington. There was talk of impeachment. Speeches were fiery. "Never," said Marshall, "had a greater display been made of argument, of eloquence and of passion." One of the greatest speeches was by Fisher Ames. Gallatin asserted†† that a treaty is not valid until it

*Annals 1788-5, 1205.

†Annals, 1230.

‡Annals, 1793-5; p. 1249, and for 1795-6, pp. 149-158.

§Annals, 1795-6, p. 1279.

¶Annals, 1795-6; p. 858.

¶Whitelock, *Life and Times of John Jay*, p. 278.

**Annals, 1795-6; pp. 457, 747, 801, 888, 810, 955, 1171.

††Annals, p. 747.

has received the sanction of the House. Harper replied that in limited governments the treaty-making power may be limited. The treaty-making power had been given to the President and Senate, as legislative power to the House. A treaty is not a law and does not belong to the House. A treaty derives its origin from the consent of equals, while a law gets its from the authority of a superior. Laws are commands; treaties are compacts.

Treaties, he argued, lie in the province of the law of nations; the legislative power has to do with municipal law. The Legislature cannot make a compact, nor can the treaty-making power make a law. The House had nothing to do with treaties except to determine how far they could carry them out. Harper supported his views by citations from English and international usage. With as forcible arguments he maintained against Gallatin that treaties repeal all existing opposing laws.*

In defense of Jay's treaty Harper argued that the whole commercial part of it was to expire at the end of twelve years and might be terminated by the United States at the end of two years from the close of the war between England and France. Hard as the stipulations might be, they could not ruin trade in so short a while. We charged England with having failed to give up the western posts, as she had agreed to do in the treaty of Paris; with having carried away, contrary to that treaty, a number of slaves, when New York was evacuated, and with violating the law of nations by the capture of American vessels which were neutral in regard to England and France. But England claimed to hold the posts as a pledge for our payment of British debts; that the negroes carried away were not American property at this time, and that no American vessel had been taken against the law of nations. Now, said Harper, under these circumstances, there were but three courses to follow: Submit quietly; compel redress; negotiate redress. The first course would be dastardly. The second course might take the direction of war, commercial restriction, prohibition of intercourse, or sequestration of debts. As to war, we had not a frigate nor a regiment to spare from the Indian wars, commercial restriction would probably widen the breach,† and we would lose more than we gained. To suspend commercial intercourse would hurt us and do no good; and, finally, se-

*Annals, 1795-6; p. 758.

†Works 1: 12.