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## Martin

artillery company but saw no field service. He was a very active member of the Pennsylvania Historical Society and bequeathed a large collection of manuscripts of his books and other historical and genealogical data to that organization. He never married.

[J. W. Jordan, *Colonial and Revolutionary Families of Pa.*, vol. III (1911); *Reg. of the Officers and Cadets of the U. S. Mil. Acad.*, 1838-41; Martin's *Chester* and his manuscript autobiography in the possession of the Pa. Hist. Soc.; *Pub. Ledger* (Phila.), Apr. 9, 1906; the *Legal Intelligencer*, Apr. 20, 1906.]

J. H. F.

**MARTIN, JOSIAH** (1737-1786), colonial governor of North Carolina, was the son of Col. Samuel and Sarah (Wyke) Martin of Antigua, West Indies, and one of twenty-three children. He was an army officer from 1757 until ill health induced him to sell his lieutenant-colonelcy in 1769. In 1761 he married his cousin Elizabeth, daughter of Josiah Martin at whose country seat, "Rockhall," on Long Island he resided at various times. To this union were born eight children. Commissioned by the Crown as governor of North Carolina early in 1771, he sailed from Long Island in July and took the oath of office before the council at New Bern on Aug. 12.

Though reports of his amiable character preceded him, he soon became involved in protracted conflicts with the sensitive assembly, first, over the sinking-fund tax, whose discontinuance in 1771 he disallowed as illegal and violative of public faith; and, beginning in 1773, over the right of the courts to attach property in North Carolina for debts of non-residents to North Carolinians. The assembly, dominated by the eastern planters and merchants, would pass no new court law without the "foreign attachment clause"; and Martin, who was under positive instructions from the Crown, would not assent to a law containing the clause. Consequently, the judicial system of the colony collapsed in 1773, and the ensuing confusion and resentment was accentuated by the emergency creation by royal prerogative of criminal courts whose expenses the assembly in December refused to bear. The sinking-fund tax was not collected generally, and the province remained without courts for the trial of civil cases involving more than £20. The survey of the North Carolina-South Carolina boundary line in 1772, as decreed by the Crown, deprived the colony of much claimed territory and created dissatisfaction. In bold defiance of the governor, the Patriot leaders convened at New Bern in August 1774 a revolutionary provincial congress which elected delegates to the first Continental Congress and inaugurated a

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system of county committees of safety which gradually superseded the royal government as the source of authority. With his authority and influence gone and fearing personal violence from the local militia after the battle of Lexington, Martin fled from New Bern, arriving at Fort Johnston on June 2, 1775. In July he was driven aboard a British vessel in the Cape Fear River.

Though a military man without previous political experience, somewhat stubborn and insistent on prerogative, and unappreciative of the colonial position, Martin was accomplished, energetic, able, honest, faithful, as well as sincere and patient in his efforts to promote the public welfare and to conciliate the colony without violating his positive instructions and his conception of the duties of his office. He sought to become informed of conditions in the colony, to eliminate abuses in administration, and to pacify the Regulators, but he was not able to reconcile the tempers, aims, and political philosophies of colony and mother country. Aboard ship in the Cape Fear, he formulated a plan for the subjugation of the Southern colonies which was approved by the British government; but the Loyalist Scotch Highlanders, assembled under his direction, were defeated at Moore's Creek Bridge, Feb. 27, 1776, before the British reinforcements arrived off the Cape Fear. In May, Martin departed with the British for an attack on Charleston; he returned in the summer to "Rockhall," and in 1779 joined the Clinton expedition against South Carolina, serving with usefulness and credit as a volunteer with Cornwallis in the campaign of 1780-81 in the Carolinas.

Declining health caused him to leave Cornwallis at Wilmington in April 1781, and sail via Long Island for London, where he died in the spring of 1786. He drew his salary as governor until October 1783, and was granted compensation for his confiscated North Carolina property by the American Loyalist Claims Commission, before which he testified in behalf of the claims of many North Carolina Loyalists.

[*Colonial Records of N. C.* (10 vols., 1886-90); *State Records of N. C.* (16 vols., 1895-1905); *Journal of a Lady of Quality* (1921), ed. by E. W. Andrews; M. deL. Haywood and S. A. Ashe, "Josiah Martin," in S. A. Ashe, *Biog. Hist. of N. C.*, vol. III (1905); William Betham, *The Baronetage of England*, vol. IV (1804); transcripts of British records in N. C. Hist. Commission.]

A. R. N.

**MARTIN, LUTHER** (c. 1748-July 10, 1826), first attorney-general of the State of Maryland, member of the Continental Congress, member of the Federal Convention, and an eminent lawyer,

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was born near New Brunswick, N. J. The date of his birth is generally given as Feb. 9, and in some accounts is assigned to the year 1744. There is uncertainty also about the names of his parents, but it is probable that he was the third in a family of nine children of Benjamin Martin, a farmer, and his wife Hannah. His ancestors, who were of English stock, had been farmers in America for several generations. After attending the grammar school of the College of New Jersey (now Princeton University), he entered the college in 1762 and was graduated with honors in 1766. He went to Maryland to seek a position as teacher, and obtained a school at Queenstown, Queen Anne's County. Among his pupils were the children of Solomon Wright, a lawyer, in whose home he became a frequent visitor and whose library he was permitted to use. In 1769, after teaching nearly three years at Queenstown, Martin gave up his position and left for Somerset County, Md., to devote a year to the study of law with friends there. Shortly afterward, while making a brief visit in Queen Anne's County, he was served with five writs of attachment for debts; but Wright, acting as his attorney, succeeded in striking off the writs in the spring of 1770. In the summer of that year Martin left Somerset County to become superintendent of the grammar school at Onancock, Accomac County, Va. Here he served one year, continuing the study of law in the meantime. In 1771 he applied at Williamsburg for admission to the Virginia bar, was accepted, and in September qualified as an attorney in Accomac County. After practising a short time in Virginia, he decided to settle in Somerset County, Md., where his practice was lucrative until the outbreak of the Revolution.

In the fall of 1774 Martin was named on the patriot committee of Somerset County, and in December was a delegate to the convention of the Province of Maryland at Annapolis. In 1777 he published a reply to the appeal issued from the British fleet by Lord Howe; and his address, *To the Inhabitants of the Peninsula between the Delaware River and the Chesapeake to the Southward of the British Lines*, was circulated in handbills. On Feb. 11, 1778, Martin was appointed by Gov. Thomas Johnson, upon the recommendation of Samuel Chase, as attorney-general of Maryland; and qualifying on May 20 he took up his residence in Baltimore. During the remaining years of the war he prosecuted the Loyalists with great vigor. In 1785 he was a delegate to the Continental Congress. He was also a delegate to the Federal Convention at Philadelphia, where he opposed the plan

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of a strong central government. Before the convention was over, he walked out with John Francis Mercer [*q.v.*] and returned home without signing the Constitution. He assailed the proposed form of government before the Maryland House of Delegates in 1787 in a speech which attracted wide attention. In 1788, as a member of the Maryland convention, he made a futile effort to prevent the ratification of the federal Constitution.

On Dec. 25, 1783, Martin married Maria (sometimes referred to as Mary) Cresap, eldest daughter of Capt. Michael Cresap [*q.v.*], Maryland frontiersman. Cresap was charged with the murder of the family of the Indian chief, Logan; and Thomas Jefferson, in his *Notes on the State of Virginia*, quoted Logan's speech. To defend Cresap's character, Martin published letters (1797-98) in the Baltimore newspapers in reply to Jefferson (John J. Jacob, *A Biographical Sketch of the Life of the Late Capt. Michael Cresap*, 1826). Jefferson refused to make any reply in the newspapers, holding that Martin's object was to gratify party passions (P. L. Ford, *The Writings of Thomas Jefferson*, vol. VII, 1896, p. 137). Martin's domestic life was unhappy. His wife died young, leaving two daughters. He courted a wealthy client, the widow of Jonathan Hager, of Washington County, Md., but she married another man. (The letters of entreaty written by him to Mrs. Hager in 1800 and 1801 are in J. T. Scharf, *History of Western Maryland*, 1882, vol. II, pp. 1013-15.) Martin's daughters married when very young, against his will, and both of the marriages ended tragically. Maria married Lawrence Keene, a naval officer, but soon separated from him and died insane. Eleonora eloped with Richard R. Keene (unrelated to Lawrence), son of a Queen Anne's County farmer, who had entered Martin's office in 1799 and became a member of the bar in 1801. Martin condemned Keene in a series of five pamphlets entitled *Modern Gratitude*, printed in 1801 and 1802. The son-in-law replied in a pamphlet of fifty printed pages, *A Letter from Richard Raynal Keene to Luther Martin, Esq.* (1802). Martin later became infatuated with the beautiful Theodosia Burr [*q.v.*], who was already married; his "idolatrous admiration" for her doubtless served to blind him to the faults of her father's character (W. H. Safford, *The Blennerhassett Papers*, 1861, p. 469).

Martin, now allied with the Federalist party because of his hatred of Jefferson, went to the aid of Justice Samuel Chase [*q.v.*] in the impeachment trial before the United States Senate in 1804. In 1805, after twenty-seven years of

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service, he resigned as attorney-general of Maryland. In 1807 he was one of the lawyers who came to the rescue of Aaron Burr at his trial for treason in Richmond, where he attacked the Administration with so much bitterness that President Jefferson in a letter dated June 19, 1807, wrote to George Hay, United States district attorney for Virginia: "Shall we move to commit L[uther] M[artin], as *particeps criminis* with Burr? Graybell will fix upon his misprision of treason at least. And at any rate, his evidence will put down this unprincipled & impudent federal bull-dog, and add another proof that the most clamorous defenders of Burr are all his accomplices" (P. L. Ford, *The Writings of Thomas Jefferson*, vol. IX, 1898, p. 58). After the trial, Burr, and Harman Blennerhassett were entertained by Martin in Baltimore; a mob threatened to do violence; but Martin's house was guarded by the police, and the mob spent the force of its indignation on the hanging of effigies (*American Law Review*, January 1867, p. 278). In 1813 Martin became chief judge of the court of oyer and terminer for the City and County of Baltimore and served in this office until the tribunal was abolished in 1816. In February 1818, forty years after the date of his first appointment, he was reappointed attorney-general of the state. His last important case was *McCulloch vs. State of Maryland* (4 *Wheaton*, 316), wherein as attorney-general of Maryland in 1819 he opposed Daniel Webster, William Pinkney, and William Wirt on the question of state rights, and Chief Justice Marshall held that a state tax on the Bank of the United States was unconstitutional. In 1820 Martin was incapacitated for active service by a stroke of paralysis, and although an assistant attorney-general was appointed he was obliged to resign in 1822. Always of a convivial disposition, he had become increasingly addicted to the use of intoxicants; his brilliant faculties had decayed and he now faced the world broken in health, worn out in mind, and financially destitute. His plight led the legislature to pass a resolution compelling every practitioner of law in the state to pay an annual license fee of five dollars to be turned over to trustees for the use of Martin (*Acts of Maryland*, December Sess., 1821, Resolution No. 60). During the time the resolution was in effect only one protest was made against it; and it was repealed in 1823 before its constitutionality could be tested (*Ibid.*, December Sess., 1822, Resolution No. 16). Martin, wrecked by misfortunes, drunkenness, extravagance, and illness, was now welcomed into Burr's home in New York, where he was permitted to remain

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until the time of his death. He was buried in the Trinity Churchyard in New York.

Martin's chief faults were his intemperance and his improvidence in financial affairs. He was a staunch opponent of slavery, and was known for his generosity and his loyalty to his friends. While not a polished orator, he became a leader of the American bar because of his thoroughness and extraordinary memory. Blennerhassett, following Mercer, called him the "Thersites of the law." Chief Justice Taney said that Martin was "strong in his attachments, and ready to make any sacrifice for his friends" (Samuel Tyler, *Memoir of Roger Brooke Taney*, 1872, p. 68). He has been described as "the rollicking, witty, audacious Attorney-General of Maryland; . . . drunken, generous, slovenly, grand; bull-dog of federalism, . . . the notorious reprobate genius" (Henry Adams, *John Randolph*, 1882, p. 141). At the time of the Chase impeachment trial, Martin was "of medium height, broad-shouldered, near-sighted, absent-minded, shabbily attired, harsh of voice . . . with a face crimsoned by the brandy which he continually imbibed" (A. J. Beveridge, *The Life of John Marshall*, vol. II, 1919, p. 186).

[No definite biography of Luther Martin has been written. An autobiographical sketch of his early life is included in the last pamphlet of his *Modern Gratitude* (1802), in which he states that he was eighteen years old in 1766. On the other hand, an obituary in the *N. Y. Evening Post*, July 11, 1826, states that he died in his eighty-second year. An early sketch of his life, in *The Nat. Portrait Gallery of Distinguished Americans*, vol. IV (1839), pp. 167-74, was followed by a sketch in *Am. Law Review*, Jan. 1867, pp. 273-81; an article in *Biog. Cyc. of Representative Men of Md. and D. C.* (1879); "Luther Martin: The 'Federal Bull-Dog,'" by H. P. Goddard, published by the Md. Hist. Soc. in *Fund-Publication No. 24* (1887); and "Luther Martin," by E. L. Didier, in *The Green Bag*, Apr. 1891. Later sketches include those by A. M. Gould, in W. D. Lewis, ed., *Great American Lawyers*, vol. II (1907); H. H. Hagan, *Eight Great American Lawyers* (1923); T. C. Waters, in *Am. Bar Asso. Jour.*, Nov., Dec. 1928; and J. F. Essary, in *Md. in Nat. Politics* (1915), pp. 59-78. An article, "The Influence of Luther Martin in the Making of the Constitution of the United States," by E. D. Obrecht, appeared in the *Md. Hist. Mag.*, Sept.-Dec. 1932.

Martin's address, *The Genuine Information, Delivered to the Legislature of the State of Maryland, Relative to the Proceedings of the General Convention, Lately Held at Philadelphia*, published in 1788, is included in *American Eloquence*, edited by Frank Moore (1859), vol. I, 373-400; and in Jonathan Elliot, *The Debates . . . on the Adoption of the Federal Constitution* (2 ed., 1836); a different draft of the speech, from a MS. in the Lib. of Cong., appeared in the *Md. Hist. Mag.*, June 1910, pp. 139-50. Charles Warren, *The Making of the Constitution* (1928), p. 792, refers to newspaper letters of Martin. See also Max Farrand, *The Records of the Federal Convention* (3 vols., 1911); E. S. Delaplaine, *The Life of Thomas Johnson* (1927).]

E. S. D.

**MARTIN, THOMAS COMMERFORD** (July 22, 1856-May 17, 1924), author, editor, was born in London, England, the son of Thomas