

# THE ALABAMA HISTORICAL QUARTERLY

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## EDITORIAL

The material presented herein is intended as a collection of data referable to the Confederate period of the State history. An examination of the contents will demonstrate that an effort was made to get together a sort of overall group which would not only be informative but interesting to those who want to know something about those who participated in the life and activities of that period.

P.A.B.

# THE STARS AND BARS \*

By Peter A. Brannon

Madam Chairman, Ladies of the Andrew Barry Moore Chapter  
U. D. C.

Ladies and Gentlemen:

You have gathered on this occasion to do honor to a fellow-townsmen who you claim as the designer of that particular one of the flags of the Confederate State of America, historically known as the "Stars and Bars." By the placing of this commemorative tablet of enduring bronz set onto this granite boulder, — man's decorative handiwork superimposed on God's natural substance, — you have chosen to thus express your faith, as well as to show your determination that future generations may see it and know of this man's interest and his willingness to assist in furthering the designs of those at Montgomery, seeking to make permanent the life of that embryonic nation so lately come into existence.

It was on Monday, March 4, 1861, that this banner, destined to be short lived but whose glory will never die, was flung first to the south breezes.

Your efforts are all the more commendable when it is realized that you seek to honor Nicola Marschall, the native of Prussia, and then a fellow-worker in one of your cultural centers, when the four organizations, The United Confederate Veterans, The United Daughters of the Confederacy, The Sons of Confederate Veterans, and the Southern Confederated Memorial Associations, have one, all and collectively, endorsed the claim made by Mayor Orren Randolph Smith, of Louisburg, North Carolina

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\* An address presented on the occasion of the unveiling of a commemorative marker, Monday, March 4, 1945, by the Andrew Barry Moore Chapter, U.D.C., Marion, Alabama., to Nicola Marschall, Designer of the first Confederate flag. Subsequent to this meeting the United Daughters of the Confederacy and the United Confederate Veterans organization formally endorsed the selection of Mr. Marschall as the actual designer.

to the honor of designing the original flag of the Confederacy. Officially he, and not Mr. Marschall, is the designer of the flag.

You seek to prove by your faith and by recently established evidences that Mr. Marschall designed the flag. What I may say on this occasion will probably not be new to those of you people of Marion who have kept in touch with the efforts of these women so zealously attempting to bring forth facts on the basis of which the judgment, opinions and reports relative to this design may be substantiated for your claimant. General C. Ervine Walker, chairman of the Stars and Bars Committee of the U.C.V., in his report made at the Richmond Reunion in June, 1915, apparently admits that the claim of Major Smith was endorsed because of the fact that all evidence proved that Major Smith submitted a model of the flag to the Committee of Congress sitting at Montgomery. According to a sworn declaration of Major Smith the design as adopted was the same as a drawing which he sent and which was subsequently chosen to be the flag of the Confederacy. While there were certain ones who claimed that Mr. Marschall made a model and that the flag as finally adopted was to all appearances identical with Marschall's, at the same time, the report specifically says: "There is no evidence to show that anyone testifying, saw Mr. Marschall's model or to their own knowledge knew that such was made, or that it was handed to the Confederate Congressional Committee. If it was handed to Governor Moore of Alabama it is by no means indicated that it ever reached or was intended for the Congressional Committee." It is therefore obvious that the efforts which have been put forth in the last five years to prove that Nicola Marschall's flag was carried to Montgomery, were not being pressed and that his claim or the claims in his behalf, were never brought to the attention of this official Flag Committee.

Speaking personally, disclaiming any intension to interpret officially, and on my own behalf, my own authority, and without premeditated prejudice, I am disposed to believe that the endorsement of the three organizations which followed in subsequent years in the footsteps of the general U. C. V. organization, were influenced by this report rather than being independently

considered on the fact of the claim as presented. At the same time, it is not improbable that you women of Marion, and perhaps the organization in Alabama as a whole, might be in a measure blamed because you were not insistently, consistently and persistently active in bringing about these claims to the attention of the several organizations as was the fair daughter of the North Carolina major.

I am personally convinced beyond peradventure that the claim for the Marion, Alabama design is not only sound but reasonably. Perhaps it will be said that I am prejudiced, and perhaps I have not gone deep enough into the other side of the question. I must be allowed to frankly state that I am surprised that the major should have waited forty-nine years before he claimed the honor and as well, that the people of Marion and Alabama should have waited until long after 1900 before they set on record their claim that it was Mr. Marschall whose design was accepted. This fact, if I may be permitted to diverge for a moment, should here impress itself, that down life's pathway, as accomplishments are consummated and as seeming great movements press forward, we should not leave unsaid that which may subsequently redound to the glory of that incident.

It is claimed by your local group, that Mrs. Lockett asked Mr. Marschall to sketch for the Committee a suggestion for a flag. You further claim that Governor Moore carried this suggestion to Montgomery. Certain affidavits bring out that fact that even as late as March 2 no concerted agreement among the members of the Committee had been reached. The journals of the Confederate Congress, as well as the current newspaper accounts, show that on the fourth day of March, Monday, the Flag Committee brought in a report and that at half-past three in the afternoon the adopted flag of the Confederate State was hoisted over the dome of the Alabama State Capitol, the then meeting place of the Confederate Congress, by Miss Letitia Tyler, granddaughter of the tenth president of the United States.

Investigating committees which have endeavored to reconcile the differences between the North Carolina and the Alabama

claims have considered always that the design as finally accepted was the one claimed to have been previously submitted by Major Smith, of North Carolina, but my personal viewpoint is that the discerning public at this late date should carefully consider the fact that Major Smith says that he transmitted to the Congress a design made by one of his girl friends, Miss Becky Murphy, later Mrs. W. B. Winborne, at least several weeks prior to the adoption. Major Smith's flag could not possibly be the one run up on the flag pole (which it is claimed that it was) as when he transmitted his suggestion, not more than four of the seven states whose stars were represented on the flag of March 4 had joined the Confederacy. The Marion claim that Mr. Marschall made his design about a week in advance of the date is more reconcilable in that at that time certainly five, if not the seven states represented by stars on the flag, had left the American Union. In this case the Smith claim that his flag was represented is disproved, but it is not disproved that the flag carrying his design was raised.

The official investigating committees have doubted that Mr. Marschall's design ever reached the hands of the Congressional Committee. It is not necessary to think this unreasonable. The governor of Alabama in whose hospitality this congress was meeting, would reasonably have been allowed the courtesy of suggesting the adoption of a submitted design.

Even so, your local committee's claims are reconcilable and highly probable in that your statement that the women of Marion prepared a flag and that a committee accompanied Governor Moore to Montgomery after one of his week-end trips and that this flag made by your Marion group was the identical one which was on that occasion flung to the breeze on that March day. There is a local tradition that on the afternoon before the flag was hoisted a group of Montgomery women gathered in the basement of Court Street church and hastily prepared, in accordance with the to be accepted design, a flag to be raised on the morrow. Both of these traditions must be carefully weighed. If he, Governor Moore, announced on his arrival that the Flag Committee had adopted the Marschall design, he was presuming

as the evidence is preponderant that the official announcement was not forthcoming until Monday morning, and there is a statement that within two hours after the announcement the flag was flying in the breeze. Hence the announcement was officially made at 1:30 P. M. It is historically recorded that Mr. Alexander Clitheral, anticipating the decision of the Committee, had directed the preparation of a flag for the occasion, to be used as soon as the announcement was made, and that this flag was the one hoisted. Mr. Clitheral was the secretary to the President of the Confederacy. It is not impossible that the Marion flag was used and it is not impossible that Mr. Clitheral may have requested Governor Moore to have a flag prepared in advance and in accordance with Marschall model. The local tradition at Marion as to the making of the flag during Governor Moore's stay at home over the week-end is proven by the letter to Miss Fannie, which is:—

Note—

Marion, Ala.

Dear Miss Fannie:

I am sorry Mr. Cocke is sick this morning and I can't come to help make this flag too, but all the silk left from making the Cotton Plant Flag is rolled up together in a bundle and is here. When I opened the bundle and found that all left of Mrs. Sumter Lea's wedding dress were in with the other silk left, I sent over to ask her about using it in this Confederate Flag too, but she is out of town this morning, and it is impossible to get in touch with her, but I feel sure she would be willing for it to be used for this flag if she could be consulted, and I am taking the responsibility of sending it with the others. If Mr. Marschall's design for this flag requires white silk for one bar only which you said, there is a width which is plenty wide and long for that, and the stars can be easily made from the waist, which was not touched. The silk pattern which Cornelia's father brought to her from Mobile I am sending which can be used for the

red. Hope you all will have no trouble in finishing it to-day — if you need her Peggy could come and help sew on it. I know there is no time to spare — In haste

Julia Anne Cocke.

Saturday March 2nd 1861.

The local tradition in Montgomery that women gathered in the basement of the Court Street church on the afternoon prior to the raising of the flag, forces the conclusion that their flag was made on Sunday. I am rather doubtful whether such conclusion can be based on facts. Such might have applied at the present time, but our views are different from those of the sixties, and I do not think that the women would have gathered on Sunday to make even as important a thing as this flag was destined to be.

The fact is, the documentary evidences and the current reports of the period all leave the opportunity for these committees which have been heretofore appointed to determine this question to arrive at the decision which they give. Major F. G. Fontaine who was a newspaper correspondent at Montgomery and who wrote under the nondeplum of "Personne", tells a very interesting story of the first Confederate flag. His March 5th contribution to the newspapers embodied wholly in a report of General Stephen D. Lee issued as general orders, No. 56, while he was Commander-in-chief and bearing date of June 3, 1906. This newspaper account must be given consideration and is without doubt not only of value but of pertinent contribution to the subject. There is, a very interesting feature of this report and on the basis of that, the Marion claim does have its strongest possibility. The statement is:

"It may prove an interesting historical incident that this first flag was raised by Judge Alexander B. Clitherall of Montgomery. By reason of his connection with the Provisional Congress, he was enabled to obtain in advance of its publicity, a description of the design agreed upon and with the aid of a number of ladies, he promptly fashioned a flag for use. Then, repairing to the roof of the Capitol, he

awaited halliard in hand the signal from the legislative hall below that should announce the vote of approval. But an instant elapsed after it was known, when the graceful folds of the standard were waving in the breeze.—”

Other historical current references, notably the account in the Montgomery Advertiser, say that two hours elapsed between the announcement of the decision and the actual hoisting of the flag. Major Fontaine's statement that only an instant elapsed is reconcilable when it is considered that Miss Tyler who had been previously chosen to raise the flag must be sent for. The statement that Judge Clitheral "by reason of his connection with the Provisional Congress was able to obtain advance of its publicity, a description of the design", actually makes possible the Marion claim that Governor Moore was able to announce at Marion that the committee had chosen the design suggested by Mr. Marschall. At the same time, you should not forget that the local Montgomery claim that the actual flag which was hoisted was the one fashioned by the hands of the local group brought together by Mr. Clitheral. Remember, listeners, if Governor Moore learned on Friday that the Marschall design would be chosen, Mr. Clitheral knew it then and the Montgomery ladies could likewise have "fashioned" their banner on Saturday as did the Marion ones. All in all, when one goes deeper into this subject the possibility of a conclusion, seventy-four years after the incident, is apparently insurmountably difficult.

The decision reached by the Sons of Confederate Veterans was that the claims of both sides were rather confusing, and the 1933 reconsideration by the Sons was that inasmuch as no proof had been forthcoming but that the Veteran's organization and the Daughters having concluded that the Smith claim was the most probable, they would adhere to their original decision, is at least, one of reasonable conclusion. Of course, it is not improbable that Governor Moore knew and that Alexander Clitheral knew that the members of the Committee were apparently unable to reach a decision as to which flag was acceptable to them individually but that there were enough votes to throw the decision in favor of the Nicola Marschall flag, yet there here is another phase of the

controversy to be reckoned with when it is realized that "the Committee could not agree upon a flag." This inability to agree as a committee is everywhere set out and never disputed. The journals of the Confederate Congress specifically set out that a recommendation was made that the designs be submitted to the Congress for selection. In 1872 Mr. William Porcher Miles, of South Carolina, chairman of the Flag Committee, wrote to General Beauregard that "they finally determined to submit four designs to Congress from which they should by vote select one. One of the four was the flag that was adopted — the first flag of the Confederacy———."

Yet, with this statement by Mr. Miles and with much other contributory historical data hinting that the committee were unable to reach a conclusion, at the secret session of the Congress on Monday morning, March 4, 1861 and sometime shortly after ten o'clock in the morning, Mr. Miles presented the report of the committee which is:

"The Committee appointed to select a proper flag for the Confederate States of America, beg leave to report:

That they have given this subject due consideration, and carefully inspected all of the designs and models submitted of them. The number of these has been immense, but they all may be divided into two great classes. *First*. Those which copy and preserve the principal features of the United States flag, with slight and unimportant modifications. *Secondly*. Those which are very elaborate, complicated, or fantastical. The objection to the first class is, that none of them at any considerable distance could readily be distinguished from the one which they imitate. Whatever attachment may be felt, from association, for "the Stars and Stripes" (an attachment which your committee may be permitted to say they do not all share), it is manifest that in inaugurating a new government we can not with any propriety, or without encountering very obvious practical difficulties, retain the flag of the Government from which we have withdrawn. There is no propriety in retaining the ensign of a government

which, in the opinion of the States composing this Confederacy, had become so oppressive and injurious to their interests as to require their separation from it. It is idle to talk of "keeping" the Flag of the United States when we have voluntarily seceded from them. It is superfluous to dwell upon the practical difficulties which would flow from the fact of two distinct and probably hostile governments, both employing the same or very similar flags. It would be a political and military solecism. (It would produce endless confusion and mistakes. It would lead to perpetual disputes.) As to the "glories of the old flag," we must bear her in mind that the battles of the Revolution, about which our fondest and proudest memories cluster, were not fought beneath its folds. And although in more recent times — in the war of 1812 and in the war of Mexico — the south did win her fair share of glory, and shed her full measure of blood under its guidance and in its defense, we think the impartial page of history will preserve and commemorate the fact more imperishably than a mere piece of striped bunting. When the colonies achieved their independence of the "mother country" (which up to the last they fondly called her) they did not desire to retain the British flag or anything similar to it. Yet under that flag they had been planted, and nurtured and fostered. Under that flag they had fought in their infancy for their very existence against more than one determined foe; under it they had repelled and driven back the relentless savage, and carried it farther and farther into the decreasing wilderness as the standard of civilization and religion; under it the youthful Washington won his spurs in the memorable and unfortunate expedition of Braddock, and Americans helped to plant it on the heights of Abraham, where the immortal Wolfe fell, covered with glory, in the arms of victory. But our forefathers, when they separated themselves from Great Britain — a separation not on account of their hatred of the English constitution or of English institutions, but in consequence of the tyrannical and unconstitutional rule of Lord North's administration, and because their destiny beckoned them on to independent expansion and achievement — cast no lingering, regretful looks

behind. They were proud of their race and lineage, proud of their heritage in the glories and genius and language of old England, but they were influenced by the spirit of the motto of the great Hampden, "*Vestigia nulla retrorsum.*" They were determined to build up a new power among the nations of the world. They therefore did not attempt "to keep the old flag." We think it good to imitate them in this comparatively little matter as well as to emulate them in greater and more important ones. The committee, in examining the representations of the flag of all countries, found that Liberia and the Sandwich Islands had flags so similar to that of the United States that it seemed to them an additional, if not in itself a conclusive, reason why we should not keep, "copy," or imitate it. They felt no inclination to borrow, at second hand, what had been pilfered and appropriated by a free negro community and a race of savages. It must be admitted, however, that something was conceded by the committee to what seemed so strong and earnest a desire to retain at least a suggestion of the old "Stars and Stripes." So much for the mass of models and designs more or less copied from, or assimilated to, the United States flag. With reference to the second class of design — those of an elaborate and complicated character (but many of them showing considerable artistic skill and taste) — the committee will merely remark, that however pretty they may be, when made up by the cunning skill of a fair lady's fingers in silk, satin, and embroidery, they are not appropriate flags. A flag should be simple, readily made, and, above all, capable of being made up in bunting. It should be different from the flag of any other country, place, or people. It should be significant. It should be readily distinguishable at a distance. The colors should be well contrasted and durable, and, lastly, and not the least important point, it should be effective and handsome.

The committee humbly think that the flag which they submit combines these requisites. It is very easy to make. It is entirely different from any national flag. The three colors of which it is composed — red, white, and blue — are the

true republican colors. In heraldry they are emblematic of the three great virtues — of valor, purity, and truth. Naval men assure us that it can be recognized and distinguished at a great distance. The colors contract admirably and are lasting. In effect and appearance it must speak for itself. Your committee, therefore, recommend that the flag of the Confederate States of America shall consist of a red field with a white space extending horizontally through the center, and equal in width to one-third the width of the flag. The red space above and below to be of the same width as the white. The union blue extending down through the white space and stopping at the lower red space. In the center of the union a circle of white stars corresponding in number with the States of the Confederacy. If adopted, long may it wave over a brave, a free, and a virtuous people. May the career of the Confederacy, whose duty it will then be to support and defend it, be such as to endear it to our children's children, as a flag of the loved, because a just and benign, government, and the cherished symbol of its valor, purity and truth.

Respectfully submitted.

WM. PORCHER MILES,  
Chairman”

By the entry in the journal Mr. Whithers moved that the whole of the report of the Committee on The Flag be entered on the journal and it was so ordered. Another evidence, and a documentary one, of the fact that there is no question but that the Congress adopted the report of the committee and did not choose the flag by its own arbitrary selection.

It is of historic interest that F. G. Carpenter contributed to Lippincott's magazine in 1885 a very interesting article titled "The Stars and Bars." In discussing the organization of the Confederacy, he says: "and the convention adopted a constitution and chose the Confederate flag. When making their selection they received designs and letters from all parts of the South, and

these are now hidden away in an old scrap-book among the Confederate archives in the war department at Washington.

It is a ragged volume, eighteen inches long, twelve inches wide and four inches thick. Its paper, originally white, is now a faded pink. Its covers are worn, and its corners are dog-earned. In it are pasted 120 designs for a Confederate flag, which were presented to the Montgomery convention, and by their sides, or on the opposite pages, are the numerous letters which accompanied them. Some of these letters are addressed to Jefferson Davis, some to Alexander Stephens, some to Robert Toombs and a great number to William Porcher Miles, who was the chairman of the committee on flags.

The designs are of all sizes, shapes and colors. Some of them, especially those sent by ladies, are of silk, the different colors neatly sewed; some are of bunting, rudely painted; and a large number are made up of pieces of different colored paste-board or paper (joined) together into the design desired. There is little originality shown in these devices. Most of them are combinations of the colors and form of the stars and stripes, while not a few are modeled after the flags of other nations now in use.—

Of the long report of the committee on March 5, 1861, fully one-half is given up to an explanation why more of the stars and stripes could not be embodied in the flag presented. The report then states that the committee humbly think the following design combines the above requisites, and they submit it as "the flag of the Confederate States of America." "It shall consist of a red field, with a white space extending horizontally through the center and equal in width to one-third the width of the flag, the red spaces above and below to be the same width as the white. The union blue, extending down through the white space stopping at the lower red space. In the center of the union a circle of white stars corresponding in number with the States of the Confederacy." This report was adopted and the above design became known as the 'stars and bars'.—"The Journal of the Provisional Congress for Thursday, March 7, 1861, says:—"Mr. Miles offered the following resolution:

*Resolved*, That all models or designs for a flag of the Confederate States, which have been referred to the committee on the flag, be placed in the custody of the clerk of Congress, who shall return them to the several authors or contributors, at their own expense, whenever they shall apply for the same; which was agreed to, and the injunction of secrecy thereon was ordered to be removed.”

It is not strange that between 1885 and the early years of the nineteen hundreds no one seems to have interested themselves toward identifying or toward elaborating on any of these submitted designs? How easy it would have been and alas! how easy it is even yet, to go up into the records and possibly solve this question.

One of the strongest statements in behalf of the claim for Mr. Marschall is a deposition of General E. W. Rucker who says that General Forrest and he discussed his submission of the design in 1869. His deposition is:—

Birmingham, Ala.,

March 15, 1915.

In the spring of 1869 I was in Marion in company with General N. B. Forrest. Mrs. Napoleon Lockett, a leading spirit in Confederate affairs and a most talented and cultivated woman, invited us to dine. When we arrived we met there also ex-Governor A. B. Moore. The conversation turned much on Confederate happenings in Marion, and Governor Moore, turning to me, said, “By the way, you know Nicola Marschall, who designed the Confederate flag chosen by Congress, is a Marion citizen,” and he went to speak of Marschall’s genius as an artist and a draftsman. Both Governor Moore and Mrs. Lockett were proud that Marion held this honor.

I had then never met Mr. Marschall, and the next day General Forrest and I went to call on him. We told him of what Governor Moore had said and congratulated him. Mr. Marschall was much pleased, and related in detail how Mrs.

Lockett came to him to design the flag and her suggestions as to how it should be, and of how Congress had chosen the first one he drew. I moved to Marion and lived there ten years, and was a frequent visitor to Mr. Marschall's, seeing much of him and his wife. That Marschall designed the Confederate flag chosen by Congress is well known in Marion and Alabama. I have heard many others speak of it, and the honor here was never denied him by anyone. I have in my home a splendid portrait of Forrest painted by Marschall, which I prize greatly.

(Signed) EDW. W. RUCKER,

Col. Comdg. Rucker Brigade, Forrest Company. (Cavalry)

Witness:

David Roberts, Jr.

Millie Beall.

It is not impossible that two minds may have run in the same channel. I reached the conclusion many months ago that Mr. Marschall and Major Smith may have both thought along the same lines. I read from clippings recently inspected by me that Miss Emma Augusta Jones, a grand-niece of Mrs. Lockett, called this very fact to the attention of a Birmingham paper in which this controversy long ranged, herself several months ago. I did not know of Miss Jones' conclusions and I feel sure that Miss Jones did not know of mine. We both thought alike and it is not improbable that the two claimants for the honor did also.

I wonder if the controversy as to the designer of the beautiful emblem is worthy of the temper, the excitement and the feeling to which many have gone. Of course, it is desirable to set right the facts of history. Unfortunately we seem to have waited too long to reach a positive conclusion—one that will be acceptable to all. Your *local* flag committee has much first-hand information but it is heavily weighted with hearsay and tradition. It is not documented to a final point. I think—and I here respectfully recommend—that you consecrate this stone to the memory of

Nicola Marschall whose design for a Confederate flag was adopted. At least in its major points it is a foregone conclusion that it was. You can at this late date see that you should not have waited to document your claims. The United Daughters of the Confederacy should have long since realized that the organization could have immortalized itself by zealous efforts directed while the participants yet lived. It is too late now to establish some points of history which must be set down by those who make it. Major Smith claimed, while living, that he drew the design and sent it on to Montgomery. Mr. Marschall asserted that he did, but those who have weighed both claims never had your lately compiled data and have obviously not considered it. It is not likely that the question will be revived—and I hardly think it advisable to suggest it—but in my humble opinion you have established more evidence to prove your contention than did the North Carolina claimant. Even if someone goes later into the files of the U. S. War Department and examines that Scrap Book, it does not necessarily hold that the Marschall design will be found there as the documentary evidence is that the Marschall design was not even sought until it became apparent that the Committee was having difficulty reaching a decision.

With the published evidence submitted to the several general organizations before me I, without equivocation, assert that I see no reason to endorse the Smith Claim to this honor, and disregard the claim for Mr. Marschall. The controversy cannot, for lack of space or time, be argued here but in my estimation Major Smith's claims have not sufficient weight. Until proven to the contrary, to my satisfaction, I shall believe that the last submitted "simple" design, the one "easily made" and "handsome", which the committee wanted was carried in during that last week of consideration by Governor Moore.

In consecrating this occasion to the memory of your fellow-citizen now on the other side of that stream separating us from those tumultuous times, please realize that the emblematic symbol represents far more in our ideals than the man who actually or physically set down this sign. Do not overlook the part played by Mrs. Napoleon Lockett who seems to have been the motive

force and to have furnished the enthusiasm which prompted the submission of this design. Of course, those women who made it, those women who furnished the silken goods said to have gone into it, themselves made sacrifices, but the patriotic emotion of this one Marion woman must have foremost place in any consideration of Marion's claims to the glory of this occasion. The romantic temperament of this Prussian native, his artistic ability and his cultural environment lent much influence as he casually sketched, in a passing moment, those submitted designs. From almost the beginning of this town's history its cultural atmosphere has predominated. Patriotism is that very evident adjunct to the character of any well-rounded people. Mrs. Lockett's love of her native health influenced her determination that Governor Moore make available this opportunity.

It seems only natural that from Marion should come the emblazoned standard of that "Storm Cradled Nation that fell."