

Bordertown Showdown

BY R. KELLY COFFEY



On the Carolina frontier in 1788, Waightstill Avery, one of western North Carolina's most prominent citizens, clashed with young Andrew Jackson.

On a hot August evening in 1788, just outside the town of Jonesborough, Andrew Jackson and Waightstill Avery faced each other with pistols in hand, ready to defend their honor. The story behind this dramatic event played out in and around the Blue Ridge Mountains of western North Carolina, where Avery was a distinguished leader and where Jackson began his rise to fame — and almost ended it.

Today, Andrew Jackson is well known for his military exploits against Indians and the British, as well as his success in politics and government. Few modern Americans, on the other hand, are familiar with Waightstill Avery. Ironically, the distinction of the two men was entirely different in 1788. At the time, Andrew Jackson was an obscure frontier lawyer. Waightstill Avery was a well

known Indian fighter, Revolutionary patriot, and prominent politician.

The ambitious frontiersman

Andrew Jackson grew up in the Carolina Piedmont when it was still a frontier area. Jackson came from an ordinary, backcountry family and received little formal education. Nevertheless, he was an ambitious young man with a high sense of pride and honor, which he protected with a fiery temper. Having grown up on the frontier, Jackson would not defer to anyone claiming to be socially superior. This trait was impressed on him early in life when, as a boy during the Revolution, he was beaten for refusing to clean the boots of a British officer.

Before he reached the age of 20, Jackson headed west to Morganton at the foot of the Blue Ridge. He wanted to



After the courtroom altercation with Waightstill Avery, Andrew Jackson issued a challenge in writing, which Avery's family preserved for generations.

become a lawyer and was looking for an established attorney who would support and train him in the profession. Arriving in Morganton, he inquired about a position with Waightstill Avery, the eminent lawyer in the region. Avery turned him down. A lawyer's apprentice customarily boarded in the attorney's home, and Avery claimed that he had no room for Jackson in his house. Consequently, Jackson left Morganton for Salisbury, where he found a lawyer willing to accommodate him. Jackson and Avery, however, were destined to meet again.

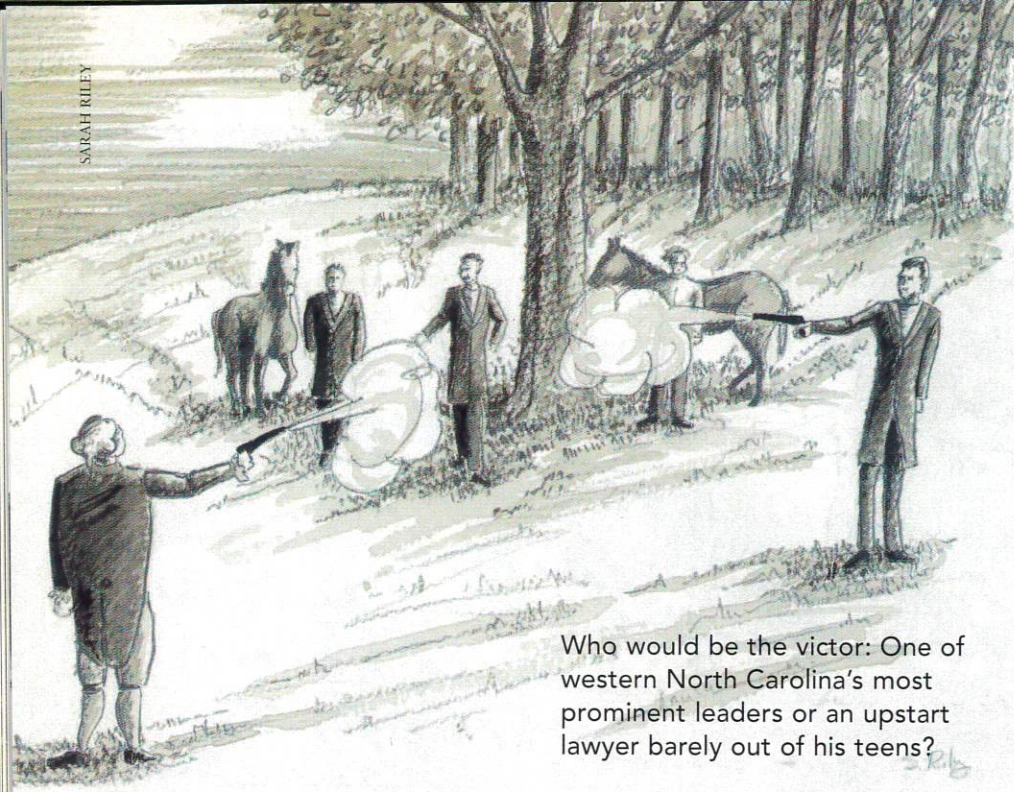
In 1787, Jackson completed the training necessary to become an

attorney. He was seeking to move up in the world and saw opportunity west of the Blue Ridge. With his sights on Jonesborough (then a part of North Carolina), Jackson returned to Morganton the following year. From there he followed an old Indian path that ran west of Linville Gorge, crossed the Toe River Valley, and wound its way through the gap between Yellow Mountain and Roan Mountain into the western valleys and ridges of the Appalachians. Although he eventually moved farther west to the Cumberland settlements (later known as Nashville), Jackson remained in Jonesborough several months and made a living by

providing legal services in the town.

Jackson and Jonesborough

At the time of the Avery and Jackson incident, the state of North Carolina stretched all the way to the Mississippi River and included the town of Jonesborough. Jonesborough, the first town established on the western side of the Appalachians, was only 10 years old when Jackson arrived and consisted of about 60 log cabins. In 1790, North Carolina (along with other eastern states) ceded its sparsely settled western lands to the newly formed federal government to be organized as a territory of the United States. Six years



Who would be the victor: One of western North Carolina's most prominent leaders or an upstart lawyer barely out of his teens?

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later, this former appendage of North Carolina entered the Union as the state of Tennessee.

Jackson subsequently became a judge in Tennessee and returned to Jonesborough several times in this capacity — and even had another brush with violence in the town a few years after the Avery encounter. Jackson and John Sevier, a popular Tennessee leader, had been in a well-publicized political dispute. While Jackson was in town on judicial business, a mob of Sevier partisans gathered outside the inn where he was staying and threatened to tar and feather him. Jackson confronted the crowd, made a subtle threat of his own, and the crowd melted away.

The cabin Jackson lived in when he first arrived in Jonesborough still stands today (the Christopher Taylor House), as well as the inn where he lodged as a visiting judge (the Chester Inn).

The backcountry aristocrat

Waightstill Avery was everything that Jackson was not. He had an aristocratic background — born in Connecticut and educated at Yale and Princeton. He eventually settled in North Carolina and became well connected with the most powerful men in the colony. Avery helped defend western North Carolina settlers against a Cherokee uprising and

soon was active in the patriot cause during the Revolution. He also was influential in the formation of a new state government following independence and served as a representative in the North Carolina legislature. After the war, having settled within sight of the Blue Ridge in Burke County, he became a private attorney and traveled the mountainous western North Carolina court circuit, which included what is now east Tennessee.

In addition to their different social backgrounds, Avery and Jackson were quite a contrast in their physical appearances as well. Jackson was a thin and wiry young man with a frontier manner, while Avery had a noble bearing and a plump figure resulting from his easygoing lifestyle, sedentary occupation, and middle age. As evidence of his distinguished background, Avery continued wearing a powdered wig at a time when this form of dress was going out of style, and in a frontier environment where such a display of culture was not always practical, nor popular.

In August 1788, Avery made his way up the Blue Ridge from his home near Morganton, heading for a court date in Jonesborough. He was unaware of the fact that Jackson was already in town, preparing for an upcoming trial. As Avery crossed the escarpment and entered the Toe River

Valley, he was reminded of how much he enjoyed the trip through the mountains to Jonesborough, especially in the summer when the change in elevation gave him relief from the Piedmont heat. The Toe River Valley was one of his favorite places, and over the years he bought and accumulated hundreds of acres in this mountain valley.

Tension builds

When Avery entered the Jonesborough courthouse (a log cabin at the time) for his scheduled trial, he found that Andrew Jackson was the attorney for the opposing side. Jackson's name and face were vaguely familiar to Avery, and he tried to remember where he had met him. Jackson was now 21 and had been practicing law only a short time since his apprenticeship. The fact that he was now on the same level as the man who had turned him away undoubtedly gave Jackson a sense of satisfaction.

The judge brought the court to order while Avery stared at Jackson and suddenly remembered the cocky young man who had asked him for law training a few years before. Avery probably resented the fact that Jackson now considered Avery his peer.

The trial began and the attorneys proceeded with their arguments in the stuffy courtroom with the summer sun blazing outside. Forty-seven-year-old

Avery was at home in court — his years of broad experience enabled him to handle cases with ease. As the trial progressed and the late summer heat wore on everyone in the courtroom, it became evident that Avery had the upper hand and Jackson was losing the case. Yet Avery mercilessly taunted Jackson and purposely made comments to show his longer experience and superior legal knowledge. Avery always had on hand Matthew Bacon's *Abridgement*, a legal authority that he heavily relied upon. In his efforts to belittle Jackson, he would lift the volume for everyone to see and, while patting perspiration from his forehead with a fancy handkerchief, quote long passages from memory in support of his case.

Silence in the court

As Avery droned on, Jackson stewed in his seat with sweat running down the side of his face. The older man's disparaging comments ate at Jackson until he finally exploded, "I may not know as much law as there is in Bacon's *Abridgement*, but I know enough not to

take illegal fees!" The courtroom abruptly fell silent as everyone drew their breath and turned their eyes on Avery. Jackson was referring to recent legislation establishing a lawyer's fee schedule and was accusing Avery of not following it. It is doubtful that a man of Avery's stature would intentionally break the law — he may not have been familiar with the new fee schedule. Nevertheless, Jackson had made the accusation in public, so Avery shot back, "It's as false as hell!" Enraged, Jackson tore a page from a law book, scrawled a message, practically threw it at Avery, and stormed out of the Jonesborough courtroom as the judge hammered his gavel to no avail. The content of the message is not known, but the next day Jackson followed his note with this formal letter:

August 12th 1788

Sir: When a man's feelings and character are injured he ought to seek a speedy redress; you recd. A few lines from me yesterday and undoubtedly you understand me. My character you

have injured; and further you have Insulted me in the presence of a court and larg audianc. I therefore call upon you as a gentleman to give me satisfaction for the Same; and I further call upon you to give Me an answer immediately without Equivocation and I hope you can do without dinner untill the business done; for it is consistent with the character of a gentleman when he Injures a man to make a speedy reparation; therefore I hope you will not fail in meeting me this day. From yr obt st

Andw. Jackson
Collo. Avery

P.S. This Evening after court adjourned

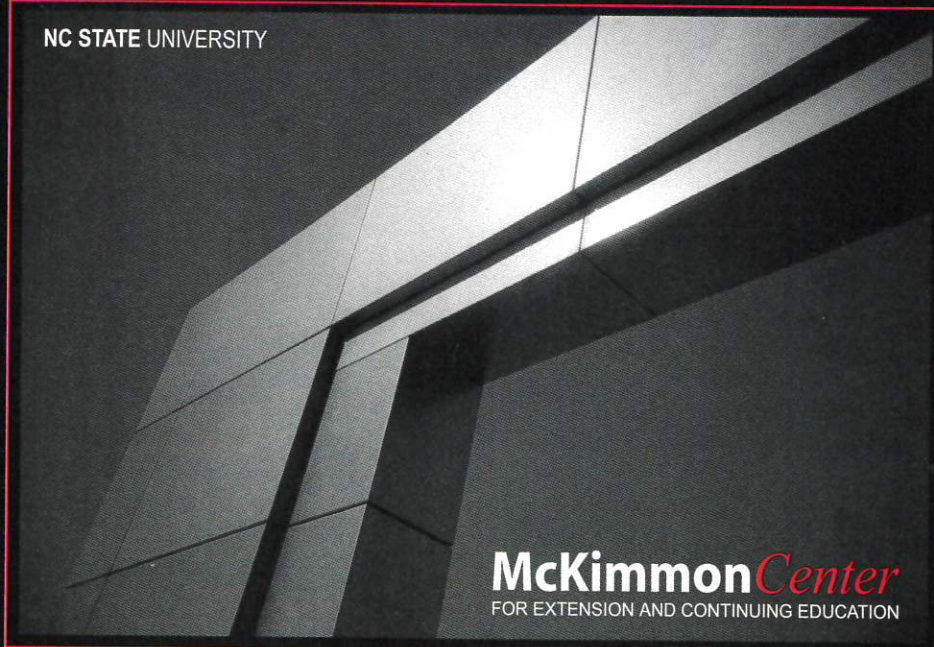
Andrew Jackson was demanding a duel with Waightstill Avery. Avery could not honorably refuse, since his honesty had been questioned by Jackson in a crowded courtroom. He agreed to Jackson's dueling proposal.

The duel

According to the rules of dueling, each party obtained the services of an

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Who brought out the bacon?


The occurrence of the Avery-Jackson duel is documented by Jackson's written challenge, which the Avery family saved for several generations. The specific details of the duel, however, come from oral tradition. As with almost all legends, many versions of the same story exist. The course of events is generally the same in all versions, with the exception of the bacon incident — and here the accounts vary greatly.

In one version, Jackson (not Avery) quotes extensively from Bacon's *Abridgement* during the trial because of his inexperience in law. He tries to impress the jury with his use of the authority, keeping the book in a green satchel and dramatically withdrawing it each time he makes a reference. Avery grows tired of Jackson's amateur efforts and surreptitiously replaces the book with a slab of bacon. Jackson subsequently reaches into the covering, with his usual introduction, "Now let's just see what Bacon has to say about this ..." and whips out the bacon slab in full view of the entire court. The courtroom, of course, breaks down into riotous laughter and hoots. Jackson, embarrassed and enraged, immediately decides to challenge Avery.

Another account also has Jackson quoting Bacon during the trial. But in this version, it takes only a witty remark from Avery about Jackson "slicing the Bacon" to offend Jackson's honor. The duel proceeds, with Avery presenting Jackson the meat slab and making the joking remark at the end.

Which version is correct? No one can say for sure, but a couple of clues point to Jackson as the one who hid the bacon. Jackson already had a reputation as a practical joker, and Avery was more mature and genteel — not a likely candidate for courtroom folly. When Jackson became president, a congressman from western North Carolina brought up the duel when visiting the White House. When informed that Avery's second, John Adair, had told the story to the congressman, Jackson replied, "Well, did he tell you what happened on the ground immediately after the duel?" The congressman answered that he had not. Jackson laughed and said, "Well, then, I shan't." This exchange, although ambiguous, implies that the bacon joke occurred after the trial, not during it.

— R. Kelly Coffey



John Vanderlyn's portrait of Andrew Jackson gives no hint of the brash young attorney who issued Avery a challenge to duel.

assistant or "second," as the person was known. The seconds served as a communication link between the aggrieved parties, determined the specific details of the duel, and generally acted as objective participants in an otherwise passionate contest. Avery chose John Adair (later governor of Kentucky) as his second. The identity of Jackson's second is unknown.


As the sun was setting and the air began to cool, Jackson, Avery, and their seconds met at a location not far from Jonesborough. The rules were explained, the men prepared their weapons, and the signal was given. The two men raised their pistols, lifting the weapons high in the air, and fired far above each other's head.

Avery and Jackson had no intention of shooting each other — neither of the men really wanted to duel. After he cooled down from the courtroom confrontation, Jackson probably

realized that if he killed a man of Avery's standing, he would damage his reputation and diminish his chances for a successful law career. As for Avery, his lifestyle did not require experience with a gun, so he probably knew that his marksmanship was poor compared to someone brought up on the frontier. Avery and Jackson expressed these reservations to their seconds, and the seconds agreed on behalf of the duelists that each would throw away his shot.

After the duel, with each man's honor satisfied, Avery and Jackson shook hands and put the incident behind them. According to legend, Jackson brought out a wrapped package the size and shape of a large book. He presented it to Avery saying, "I knew that if I hit you and did not kill you immediately, the greatest comfort you could have in your last moments would be to have Bacon near you; and so I had my friend bring it to the ground." Avery opened the package and pulled

out a slab of bacon. They had a good laugh and parted friends.

Waightstill Avery continued his life and career in western North Carolina. Years after his death, a county bearing his name — Avery County — was formed and includes a portion of the Toe River Valley that he once owned. Andrew Jackson went on to greater fame — saving New Orleans from the British (Avery sent Jackson a note of congratulations following the battle), seizing Florida from the Spanish, and becoming the nation's seventh president. But Jackson's future and the course of American history hinged, for a brief time, on the outcome of a hotheaded argument on North Carolina's mountainous frontier. 

R. Kelly Coffey lives in Blowing Rock. Special thanks to Mary Lou Furr, an Avery descendant, for information and assistance in researching this article.