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PORTRAIT OF CHIEF JUSTICE PEARSON

PRESENTED TO THE SUPREME COURT ON WEDNESDAY, 15 MARCH, 1893

Attorney-General Osborne, addressing the Court, said:

May it please your Honors: Complying with a request that I could not refuse, feeling grateful for a selection which is, indeed, an honor to me, at the same time distrustful of my ability to perform the delicate task in a befitting manner, I am before you today in behalf of his family to present the portrait of Chief Justice PEARSON to this Court.

His life is a part of the history of our State, known and read of all men. Nothing that could now be said could add to his fame as a lawyer, his reputation as a man and a patriot. Not intending, therefore, to utter anything original, nor to unfold any novelties concerning him, there are still some things which I wish to say, as the representative of his students, who loved him, and to whom that fame and reputation are and always shall be dear. That he was great and held high honors amongst his people as a fitting reward of that greatness is admitted by all; but that he was a kind father, a tender husband, a faithful friend, the possessor of quiet virtues, hidden from the gaze of the world, those alone know who knew him as we knew him; and thus knowing him, of course, I could speak only words of gratitude and praise concerning him—no undeserved praise, however, for I could do no greater wrong to his memory and to his living friends, nor more poorly represent the dead than to exaggerate his virtues or conceal his faults. It is said that when Oliver Cromwell sat for his portrait, and the artist proposed to omit the wart from his face, he replied: "Paint me as I am; let posterity see me as I was, and not as thou wouldst have me to be." That was a grand reply. If Chief Justice PEARSON were beside me today, he would command me to paint him as he was, and if not that, as he seemed to be, for no man ever lived on this earth that was nearer exactly just what he seemed than was the Chief Justice. He loved the truth for its own sake; it was to him the one thing beautiful; he despised all ornamentation and gloss, but show him a genuine emotion or a true thought, he worshipped it. Place him in contact with a true man, recognizing a kindred spirit, he loved him. He would not deceive others; analyzing his own motives, he could not deceive himself. He builded his life on this principle, for he knew that the love of truth was the "oak around which all other virtues cling; that without it they fall and wither, and die in weeds and dust."

This plain and simple man, thus discarding the false and clinging to the genuine, carried his principles so far into social life that he neglected all conventionalities, discarded all mannerism, and sometimes seemed to be even blunt and rude to his friends, but beneath that rough exterior, that seeming bluntness and rudeness, there beat a heart warm, tender and generous, keenly alive to all human suffering, responsive to every lofty thought and manly desire. Rather than pretend to virtues which he did not possess, he concealed those that were his own, and left his faults bare and open to the gaze of all; thus he was generous, and the world knew it not, for he was one of those who did his alms in secret. He was not prodigal of his substance, for all that he had, he had earned in the sweat of his face. He had learned the value of

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money in a hard school. That school was poverty—not the “chill penury which represses noble rage and freezes the genial currents of the soul,” but the poverty which is the strongest incentive to tireless exertion—that poverty which has really been the foundation of the careers of a Clay, of a Webster, of an Andrew Jackson, and nearly all the great ones of this republic. Judge PEARSON was poor like these, and having like them determined to succeed by his own exertions, he did succeed. Assisted in early life by the generosity of a distinguished brother, he could not forget the kindness, and he showed his appreciation of it by assisting all others who struggled as he had struggled. He willingly helped any one who was thus battling with adverse fortune to begin an honorable career. He never turned a student from his door for lack of means. He invited all such to come to him. He trusted to their honor and ability to pay him in the future; if that failed, he quietly endured the loss. This was his habitual charity, but he gave to others of his accumulated fortune. Pursuing such a course as this, he won the heart of every young man with whom he was thrown in contact, and as much by these unselfish acts as by the teachings of a powerful intellect he gained through his students such an influence as has never been exercised before or since by any judge over the bench and bar of this State. For, year by year, for over forty years, there went forth from his home at Mocksville, and afterwards from the quiet shades of Richmond Hill, a small body of men, thoroughly instructed in the law by the finest teacher in State, prepared to take their rank in the front ranks of the profession which for a long time has controlled its destinies—some to fill the position of Governor, others to sit upon the Superior Court bench, and, in the person of one of your Honors, to adorn the Supreme Court. And when Judge PEARSON's hour of trial came, as come it must to every man of prominent position and positive convictions in stirring times, these men, well knowing the purity of his character, his great ability, and having an abiding faith in his love for his native State, which with him was a passion, rallied as one man to sustain and defend him. His life up to that time had been singularly successful, not only in attaining high position, but also in inspiring confidence in his fellow-men.

Born in 1805, in the town of Mocksville; graduating at Chapel Hill at the age of 18 with the highest honors of his class; receiving his license at 21; elected to the Legislature for four successive years; placed upon the Superior Court bench at 31; promoted to the Supreme Court at 41; elected by his associates Chief Justice at 53, and holding that position until 1868, when, as the nominee of both political parties, he was again reelected—surely, in the presence of such a record, I am justified in saying that no man in our State ever held higher positions in quicker succession, nor more largely inspired the confidence of his fellow-men.

Far be it from me to refer to these days for the purpose of stirring up the ashes of old political fire. For over fourteen years the dust has lain upon his coffin. I believe that all political animosity lies buried beneath that dust. In the grave should all passions and prejudice born of conflict lie buried. “Justice should hold the scales in which the acts of the dead are weighed,” but the time has come when we can pass upon the motives which inspired the great Chief Justice in his decision of the famous *habeas corpus* case. Here, before your Honors, in this the highest Court of the State, where you daily mete out justice to the living, I claim this measure of justice for the dead, that the judgment rendered in our political haste should be reversed, and that hereafter men in passing upon the motives which inspired Judge PEARSON, in *Ex parte Moore* (63 N. C., 397), shall find that they are the same which guided him in a long line of able decisions universally acquiesced in by the profes-

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sion—love of justice and of truth. Judge PEARSON himself cared not for difference of opinion as to the law, but that those whom he respected should for one moment doubt the sincerity of his convictions, or question the disinterestedness of his conduct, was, indeed, to his proud and sensitive heart, a deep and serious wound. How he bore that wound, how he endeavored to parry the thrusts and stabs of his political foes, have been described by those who knew him in those days better than I, and were far abler to describe them. One friend has said that he complained bitterly of the injustice done him; another, that he suffered as the martyr suffers, crying aloud when pain was past endurance. As for me, I saw none of this, though I knew him but a short time after the exciting scenes to which I refer. There was no murmur then. He was as silent then as his portrait is silent now. He presented to my mind the aspect of some moral hero who, conscious of the rectitude of his own intentions, had elevated himself to a position of independence upon that consciousness, looked down upon his detractors, and, expecting no justice from his contemporaries, placed his vindication upon his exposition of the law, and confidently expected a complete triumph in the judgment of posterity. Surely that appeal will not be in vain, for none dare willingly to appear before that bar who have not done, written or said something worthy to be remembered. The forgotten are not there, the base fear to come. Judge PEARSON, fired by an honorable ambition that burnt as fiercely in his heart as it ever burned in the heart of a Caesar or Napoleon, wrote to conquer distant thought. He wrote his decisions, not for his own day, "nor for an age, but for all time"; and when the recollection of the Kirk war shall have passed away, when persecutors and persecuted are alike forgotten, men, in reading that splendid biography written by his own hand in the pages of our Supreme Court, will gladly admit that he was a great judge and upright man. As was said of another, "For, high above all his marvelous intellectual gifts, beyond all the positions that he held, the ermine that he wore, rises his integrity like some grand old mountain peak—there it stands, firm as the earth beneath, and pure as the stars above."

North Carolina has, indeed, produced great statesmen, like her Badger, orators like her Miller, but their fame is unsubstantial and traditional, in that they have left behind them but little written record of their greatness. They entrusted their best thought to the evanescent spoken word. She must depend for her intellectual eminence upon her great jurists, her RUFFINS and her PEARSONS, and these two—the one, by common consent, her great expounder of equity, the other the grandest common-law lawyer of the land—have sustained her prominence not only among her sister States, but carried it across the sea and firmly fixed it in the birthplace of English law. It is impossible to think of either one of these great judges without thinking of his great rival. The difference between their intellects has been best described by Justice READE: "If RUFFIN had more scope, PEARSON had more point; if RUFFIN had more learning, PEARSON had more accuracy; if RUFFIN was larger, PEARSON was finer; both were great."

Permit me to add one more word to this distinction: PEARSON was more original; and it was well for this State that he did possess originality, for the lines of his life fell in the days when a great revolution swept over this country, sweeping away all ancient landmarks. New principles were established upon the field of battle, an old Constitution was abolished, a new one erected upon its ruins. Reconstruction laws were passed, statutes enacted in pursuance thereof. It became his duty to expound and apply all these new laws. He could not depend upon precedent, for there was no precedent to guide him in this darkness. He had to blaze a new road through an unbroken forest, where the footstep of a man had never trod. Such an exigency required more

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than a mere case lawyer, than an index to decisions, a follower of the opinions of others. The times demanded a lawyer profound and original, and such a man was PEARSON. He knew all the great authorities that set in motion and directed the currents of legal thought. In the words of another, "He traced these currents back to their fountain-head to ascertain the reason of the law, and ran them forward to their logical conclusion, making them by their expansiveness and flexibility to cover and protect every possible phase and condition of human affairs."

Not only did he display his originality, driven by the necessity of the times, but he did it from his own habit of thought. He did not walk in the same intellectual ways as other men. He could not bend his mind in humble idolatry to the past, and so he reversed time-honored decisions, more so than any judge of our State. As has been well said, it is a marvelous testimony to the strength of his intellect that the greatest lawyers acknowledged the wisdom of his judicial departures.

The distinguishing feature of his style was its clearness. There was no obscurity about his ideas, and consequently none in their expression. After he had once sent forth his opinion to the world, there was no mistaking its meaning. Explanation was useless, modification was impossible, for if you modified it, you reversed it. If he was wrong, there was no escape from his error, except by positive, unequivocal retraction. No flowers adorned the river of his thought. In a strong, clear current it surmounted every obstacle and rushed to a conclusion. Indeed, his writings abound with a wealth of homely illustrations that can scarcely be called ornamental, but, in the language of a great preacher of the present day, they served his purpose, for they *illustrated*. I do not say he always wrote well, nor in a manner worthy of himself, but he has written some things that we cannot permit to die—that will live as long as the English language lives and is used to convey legal thought.

If time does not fail me, one more word I wish to add concerning that intuitive perception with which he looked through a vast mass of irrelevant matter, long files of pleading, to the point in the case, more quickly even than those who had made the matter a subject of intense study; of his method of expounding the law to his students; how his object seemed to be to teach the pupil to think for himself, and not to overload his memory. In so expounding the law he did not seem to be producing, but, as was said of another, to be remembering, to be recalling from the vast storehouse of his admirably constructed and capacious memory, thoughts that had lain there in their proper receptacle for years, ready to be used as occasion demanded. Thus we did not see "his opinion in the making, but it came forth all cut and nicely shapen and fitted for its proper position, as the pillars of that temple where the sound of the saw and the hammer was not heard."

This is, indeed, but a feeble picture of the mental attributes of this great judge, but the portrait I present correctly represents his face and bust. You can see his clear, dark complexion, his brown hair, his small, symmetrically shaped head, his prominent brow and slightly Roman nose, delicately cut. It fails only where all portraits must fail—no limner can make the human eye speak from the canvas. Who can paint that window through which the soul looks out to its fellows? The crystal and its color are there, but gone forever is the light behind. And his eye distinguished him amongst his contemporaries as did the eyes of John Marshall and Aaron Burr as they looked at each other across the bar in the famous trial for treason in Richmond. Indeed, it was beautiful. It sparkled as the star, and in every ray there shone the light of a splendid intellect.

It is said that at the banquets of the Athenians and Romans it was their custom to bring forth the images of their illustrious dead and to place them

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beside the living at the festal board, in order that the virtues of the past should be remembered and posterity inspired to imitate them by this continual presence of the dead. It may be in obedience to such a custom that these portraits now adorn these walls. I know not. But this I have read, that "fortunate is the State which is great enough to recognize its great," both living and dead. "For what would this world be without its memories and its graves? 'Tis the voiceless only that speak forever."

Judge PEARSON was great, and his State recognizes his greatness. It is, therefore, fitting that his portrait should hang upon these walls, surrounded by his illustrious predecessors and associates, and look down upon your Honors, his successors, silently admonishing you of the brevity of human life, and inspiring you with the durability of human fame.

Chief Justice Shepherd, responding for the Court, said:

We accept with much gratification the portrait of the great Chief Justice who for so many years presided over this Court. His profound knowledge of the law, and most remarkable clearness of expression, as well as other rare qualities as a judge, are so universally recognized by the profession that they require no extended comment from us on the present interesting occasion. Fifteen years ago the members of this bar assembled for the purpose of doing honor to the illustrious dead, and their resolutions and eulogistic addresses have been incorporated into the records of the Court. These tributes of respect, together with his learned and luminous opinions, form even a more enduring testimonial of his greatness than the imposing structure which his devoted students have created to his memory.

Time, which, in its steady and unrelenting progress, obscures the brilliancy of so many reputations, only serves as a background to bring into increasing prominence this distinguished figure in the judicial history of North Carolina.

The memory of departed greatness may be revived by an occasional view of some monumental pile which affection has reared over the last resting place of all that is mortal, but to few has been vouchsafed the inestimable privilege of perpetuating their memory by works which do live after them. Chief Justice PEARSON lives in his opinions. Through them we still feel the power of his great intellect, and the influence of his deep and accurate learning. They continue to shed their light upon our jurisprudence, and are pointed to with pride by the people of our State. These, as well as the great example he has set of wholly devoting himself to the duties of his high position, will long preserve his memory in the minds and hearts of his professional brethren.

It is ordered that his portrait be placed in a suitable position on the walls of this chamber, by the side of the other great judges with whom he was so long associated in the labors of this Court.