

PRESENTATION OF THE PORTRAIT
OF
PATRICK HENRY WINSTON
TO THE
SUPREME COURT OF NORTH CAROLINA
BY
HIS EXCELLENCY, LOCKE CRAIG
MARCH 31, 1914

His Excellency said:

I have the honor to present to the State the portrait of Patrick Henry Winston, the gift of his daughter and his three living sons.

He was born in the county of Franklin, on the 9th day of May, in the year 1820. His mother was Anne Fuller, daughter of Bartholomew Fuller, a man whose power and genius are potential in descendants of this generation. On the paternal side Mr. Winston comes from a family long illustrious both in England and America, a family whose public services and private virtues have exemplified in the highest degree the greatness of the English race. Son of a Winston mother was John Churchill, Duke of Marlborough, who saved England from the dominion of France; son of a Winston mother was Patrick Henry, who saved America from the dominion of England.

Of such stock William Winston, immigrant, came to Virginia in 1666, seeking in the new world fame, fortune, and honor. The records of the Virginia land office show his eagerness for acquiring land, and the vestry records of St. Peter's Parish, New Kent County, manifest his piety and hospitality.

From the virile loins of William Winston came a stock of men and women, unsurpassed in the annals of America for genius, for character, for achievement. In the second generation was William Winston, colonel in the Colonial Army, conspicuous for bravery in the French and Indian wars, "a greater orator than Patrick Henry," says William Wirt; in the third generation was Patrick Henry and his cousin Joseph Winston, hero of King's Mountain and Guilford Court-House; in the fourth generation was Dolly Madison, and her cousin, William Winston Seaton, founder of modern journalism, editor of the great Whig organ, the *National Intelligencer*; in the fifth generation were John Anthony Winston, Governor of Alabama, and Patrick Henry Winston of North Carolina, whose portrait is before us.

But Patrick Henry Winston has a title to nobility more indefeasible than that of descent. When the courtiers of Napoleon would please him by tracing back his pedigree to the Dukes of Treviso, he cut them

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short by saying: "My patent of nobility dates from the Battle of Montenotte."

The early life of Mr. Winston was spent in manual labor on his father's farm. His only teacher was his mother, whose untimely death left him a plow-boy in the field, among his father's slaves. But a larger spirit stirred within him, and so, at the age of 18, he ran away from home and entered Wake Forest College, where he supported himself by manual labor, and accomplished in one year the studies that usually required three. Leaving Wake Forest, he taught for three years the Oak Grove Academy in Bertie County, and continued his education by intense and unremitting private study. His ambition now fully aroused and his views of life enlarged, he went to Washington City, and entered the Columbian University, where after three years of study he was graduated with the highest honors as valedictorian of his class. He then returned to North Carolina, and completed the course of study in the University Law School at Chapel Hill.

A characteristic incident concerning Mr. Winston during his law course at the University is told by the late Samuel F. Phillips, who was at the same time a student in the literary department of the University: "On the night of the grand commencement ball," says Mr. Phillips, "as I was going to my room, between midnight and day, I passed the open door of Winston's room, and found him intently reading 'Coke upon Littleton.' He had not left his room during the festivities of the occasion, but had studied all night long, as eagerly as the other boys had danced and frolicked." It was the keynote of his life. He was as fond of pleasures as any man, but he was their master, not their slave.

Obtaining license to practice law, he settled in Windsor, Bertie County, where he had previously taught school; and was married on 1 January, 1846, to Martha Elizabeth Byrd, to whom he had been betrothed while a teacher. He now took rank at once at the head of his profession; and maintained it for forty years, at a bar that had no superior in the State. He knew the foundations of the law, and his learning was accurate and profound. As an advocate he was unique in his originality. By the force of logic and earnestness he compelled courts to his conclusions. He turned to view every side of a question, exposing fallacies, stripping off veneering, getting at the heart of it, illustrating every phase of it with homely illustrations drawn from everyday life, illuminating the driest legal points with quaint, irresistible humor, or broad, side-splitting fun. His courtroom speeches attracted people from far and wide. By the strong analytical light of his intellect abstruse propositions of law became clear, and complicated questions of fact were reduced to elemental simplicity. He did not declaim in high-sounding phrases and

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splendid superlatives, but conjured judges and juries by the charm of convincing power.

In the town of Windsor Mr. Winston was a colossal figure. He walked along the streets thoughtful and with the calm dignity of conscious strength. He was always well dressed, immaculately clean, a perfect specimen of magnificent manhood. If he sat down in front of a store, he at once became the center of a group that listened with admiration to original utterances from a mind full of strong common sense and philosophic reflection, stored with learning, conversant with all the phases of human life. You did not feel constrained by courtesy to laugh at his humor, but laughter was spontaneous, the irrepressible expression of delightful emotion, when by the flash of his genius some person or position was exposed in ridiculous proportions.

The ablest lawyers of the State practiced in Windsor, and at the other courts that Mr. Winston attended. But he had no rival in the opinion of the people of Bertie. It was always assumed before court that the side on which Mr. Winston had been employed would win. This prejudice by the people was nearly always affirmed by the courts and juries. As long as he practiced law, the universal confidence in his prowess was never shaken. His characteristic, original sayings passed, as current coin of thought, through all the eastern counties. Even negroes and illiterate laborers treasured his apt sayings and homely illustrations; loved his rich, broad humor; imitated his droll and charming mannerisms. For nearly half a century Mr. Winston was retained in every important case in the courts of northeastern North Carolina. His professional standing and his rare ability were recognized in his selection in the celebrated Johnston Will Case to make the leading argument in behalf of the will before the Supreme Court of the State. This case is reported on page 260 of Phillips' Law. Four weeks were consumed in the trial, presided over by the late Chief Justice Merrimon, then Superior Court judge. The place of the trial was the historic town of Edenton in the courthouse of colonial days. Dr. Hammond, the famous alienist, was relied upon by the caveators to break the will. There was never before at a trial in the South a more powerful and celebrated array of lawyers: Graham, Bragg, Vance, and Eaton were against the will; W. N. H. Smith, Bartholomew F. Moore, Judge Heath, Judge Gilliam, Edward Conigland, Samuel F. Phillips, and Patrick Henry Winston were for the will. It was a forensic contest that has passed into the history of the State. The feeling was intense, and has not abated to this day. By this will one of the largest estates in North Carolina passed from the heirs of the blood to those who were not of kin. The case involved the largest amount of property up to that time

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in litigation in the courts of the State, and the compensation to the attorneys was likewise the largest ever paid up to that time. Mr. Winston's argument for the will exhibits every resource of a strong, fertile, and vigorous mind, well trained in law and skilled in lucid exposition. The will was sustained.

In 1850 and again in 1854 the people of Bertie chose Mr. Winston to represent them in the House of Commons. His career here made him hosts of friends and a State reputation. His powers as a speaker, his varied and profound learning, his accurate scholarship, his broad vision of life, as well as his charming personality and his rare social gifts, fitted him for a great public career. Political honors of the highest order invited him. With calm deliberation he put them aside, and resolved, for the sake of his wife and children, to spend his life at home. He never swerved from this high resolve, except under the greatest public emergencies.

In 1861, at the beginning of the Civil War, the Legislature elected him, together with Bartholomew F. Moore and Samuel F. Phillips, as a Board of Claims, one of the most important executive-judicial offices in the State, to pass upon claims against the State arising out of the Civil War. In this work Mr. Moore was always economical, Mr. Phillips always generous, so the real decision was made by Winston. He, himself, with characteristic humor, sized up the board as follows: "To Moore a silver dollar looks as big as a cart wheel; to Phillips, as little as a sixpence; to Winston, just the right size."

Mr. Winston's record on this board caused him to be appointed by Governor Vance financial agent between the State of North Carolina and the Confederate Government at Richmond. In this office he settled millions of dollars of claims, and protected the financial interests of the State with conspicuous fidelity, ability, and integrity. During the entire Civil War he was the intimate friend and counselor of Vance. From 1862 to 1865 few days passed without their meeting in council.

In 1865, at the close of the Civil War, Mr. Winston was selected by his native county of Franklin, where his family had resided as refugees during the Civil War, to represent it in the great Constitutional Convention of that year, a body of men chosen for wisdom, patriotism, and integrity, to deal with the most momentous problems that ever confronted the State. Mr. Winston's record in this convention was not surpassed by any member. The leaders of the convention united and formed a new party called "Conservative." Mr. Winston was urged for Governor in the approaching elections; but, recognizing the unwisdom of his own selection because of his prominent services in behalf of the Confederacy, he refused to be considered; and, in conjunction with other

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leaders, brought forward Jonathan Worth, a Quaker of Randolph County, who was nominated and triumphantly elected. During Governor Worth's administration, Mr. Winston was president of the Council of State.

In 1868 he was urged by the people of the First Congressional District to represent them in Congress, but he declined the nomination, and henceforth devoted himself exclusively to the practice of law, the repairing of fortunes shattered by war, and the education of his children. In all of these purposes he was eminently successful. His law practice was the largest in the district, his plantations among the most valuable in the county, his children were all at school or college, and the delicious roe herrings of his Terrapin Point Fishery were famous as a breakfast dish from Baltimore to Atlanta.

As a man of business, Mr. Winston realized Carlyle's definition of genius: he had infinite capacity for taking pains. He not only personally knew, but in a large degree personally supervised, all the details of his very extensive farming and fishing operations. He visited them as often as he could get away from his law practice. His visits brought a delight to everybody, men, women, and children. His love of fun, his kindly sympathy, his merry humor, his shrewd worldly wisdom, his big-hearted and big-brained personality made his visits memorable to all. No patriarch in the age of Abraham ever ruled more kindly, more lovingly, or more completely. But he was thoroughly modern and progressive in business ideas and management. He was both scientific and practical as a farmer and fisherman, adopting the latest machinery and taking the newest ideas. Probably the first telephone ever seen in North Carolina was installed by him in 1870 between his Terrapin Point and Hopewell Fisheries.

Mr. Winston was a member of the Episcopal Church. His faith was unfaltering and unostentatious. His strong talents and lovable qualities were displayed in his private and domestic life.

Mrs. Winston was a lady of rare beauty, sweet disposition, and lovable character. She lived with him more than forty years, and bore him ten children; she made for him and managed for him a genuine home, a home of hospitality, of love, confidence, and sincerity, of neighborly kindness and high ideals. The doors of "Windsor Castle" always hung wide open. It is a pleasure to note that the marriage ceremony of this happy and well-mated pair was performed by the Rev. Andrew Craig, the father of your speaker; and that the friendship between the two families has continued through three generations and is now entering upon the fourth.

Mr. Winston was the center of this family life. The whole family system revolved around him. He not only selected for his children the

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best schools and colleges, and personally supervised their education, but on their return home for vacation he personally examined them carefully in their studies, and tested both their knowledge and their mental habits. When they were at school or college in distant counties, or in other States, he lived with them day by day through letters. To one of his sons he wrote daily for five years; and even after graduation they exchanged letters three times a week for over ten years. His chirography was as clear-cut, regular and bold as copper-plate engraving. He would compress into one page a volume of instruction. The late Dr. Thomas D. Hogg of Raleigh, a warm personal friend, used to say that a letter from Winston received by him in Strasburg gave more information about the great cathedral and its wonderful clock than he could get in Strasburg. No person ever received a letter from him without being specially attracted by some striking peculiarity, quaint humor, finely turned phrase or pointed expression, as well as by its strong, practical common sense. His mind was never idle. He studied astronomy for thirty years and political economy all his life. During the long summer months he would read a play of Shakespeare each day after dinner, before returning to his law office. One of his sons, himself a scholar and teacher, says: "My father wrote me daily at Cornell University most interesting and instructive letters about my studies. He was especially interested in astronomy, political economy, mathematics, and Shakespeare. He knew more about these subjects than any of my teachers."

Mr. Winston's library was full of the best books, covering the whole range of human thought. Each child, as his mind grew, was taken to the library and introduced to some dear friend, to Scott or Prescott, to Webster or Everett, to the Bible and Shakespeare.

The spirit of the old South that was not crushed by the overwhelming disasters of defeat was nobly typified in Mr. Winston. In the day of ruin and the disintegration of our institutions many were discouraged; some in despair surrendered. The land had been smitten by the cruel, relentless hand of war. Eastern North Carolina and the county of Bertie had borne their full share of the sacrifice. The county was prostrate, her plantations were neglected, her homes were desolate, her property was gone, her children had been slain. The old men were hopeless; the young were reckless. An air of abandonment pervaded communities. The spirit of pride and culture and noble ambition no longer restrained and stimulated to high endeavor. The boys were not sent to college. The representatives of old families did not aspire to the positions of their fathers and sometimes went to dissolute and shameless lives. A tragedy more grievous than battle was enacted in the county once adorned by splendid citizenship.

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Mr. Winston stood erect amid the general demoralization. With unflinching courage he grappled and overcame the difficulties of this political, social, and industrial chaos. Regardless of cost and personal sacrifices he maintained the old traditions of home, and sent his children to the best schools and colleges to receive and worthily use the best culture and the highest inspiration of the age. As the head of his family he exemplified the highest ideals of our race; and from the loins of this father sprang a progeny inspired to noble accomplishment. His children have stood in the foremost ranks in politics, in law, in education, and in business; one an orator, whose brilliance was not surpassed, whose eloquence and humor were famous throughout the Union; one, the ablest educator of the South, ranking among the thinkers and philosophers of this generation. This is not the occasion to speak of the others who are yet in the strenuous activities of the contest.

The power of a man like this never ends; it grows ever broader and deeper. As Carlyle said of Robert Burns, and his virile father:

“His voice, fashioned by that old father there, does it not already reach like a great elegy, like a stern prophecy, to the ends of the world?”

To be ranked among the noblest of our State, to live after death in this our Pantheon of History, is a distinction he has nobly earned. And now, as he comes with the password of merit, he is welcomed by this exalted Order of the Immortals.

Posterity will gaze on those features and emulate those virtues whose memorial we here dedicate, with high honor to ourselves and lasting service to the State.

ACCEPTANCE BY CHIEF JUSTICE CLARK.

The Court has listened with interest to the eloquent speech of the Governor of this State in presenting the portrait of one of the most distinguished lawyers whom North Carolina has produced. It was the good fortune of the speaker to begin the practice of the law at the feet of Patrick Henry Winston, and he will ever retain a touching recollection of his courtesy and kindness to young lawyers and will remember always the deep admiration which in common with all others he conceived of Mr. Winston's learning, his ability, his noble qualities, his deep insight into human nature, his kindly feeling towards his fellowmen, and his almost lightning-like perception of the merits of a cause and of the principles involved.

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When Mr. Winston himself came to the Bar conditions were very different from those of to-day. It was before the day of large aggregations of capital, when there were few railroads and no factories among us, when the coming of the judge to our little county towns was the event of the year, and when all persons of substance and leisure attended court to learn the law from the lips of his Honor. The relative importance of the Bar at that day was necessarily far greater than at present, and the influence of a leading lawyer like Mr. Winston left a deep impress, not only upon the people of the county in which he lived, but on the circuit which he rode, for in those days the lawyers as a body began the circuit with the judge and generally rode it with him to the end, in the old English style. The sayings of distinguished lawyers, especially one of Mr. Winston's ability and originality, were treasured up and repeated from one to another for years afterwards. He also came to the Bar at a time when the history of the law was an unopened book, and when law teachers impressed upon their students the sacredness of all the complex forms of actions, the inspired wisdom of the separation between law and equity, and especially that the greatest man that the Profession had known was Sir Edward Coke, and that the only lawyers who were possibly greater than he were the judges who had lived 400 years before him who in some inscrutable manner had discovered that "perfection of reason," the common law of England, "whose sources were as undiscoverable as those of the Nile." In short, it was heterodox for any lawyer to doubt that the farther back we went into the misty past the wiser were the judges and the greater were the lawyers and the law. This fiction narrowed the Profession and through them had its effect upon the public, with whom the Bar was the greatest single influence in the State at that time.

Mr. Winston, however, was one of those men whose natural ability, originality, and keen perception rose superior to this environment. While he did not, and no man can, altogether shake off the influence of his early education, he instinctively grasped the merits of every controversy in which he was engaged, and, as Governor Craig has well said, the side that retained him deemed that success was already assured.

In addition to the anecdotes which the Governor has mentioned, I recall one that still lingers in the traditions of the Bar in Eastern North Carolina and which has been printed in many of the law magazines. At his very first court an older lawyer put to him this question: "I have," said he, "an action for a tract of land in which my courses and distances are all right, except that when I start back from my last corner to the beginning, while the course is right, my distance overruns. Now, why can I not bend out to get my poleage?" To this the young lawyer, with

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that deliberation which throughout life marked his speech, said, slowly: "There is no reason in the world, except that this man on the outside, a miserable sinner, may say, why do you not bend *in* and get your poleage?" The old lawyer exclaimed that this was utterly preposterous; but young Winston had hit the nail on the head and had gone directly to the center of the proposition. This clear, crisp, and unanswerable answer like a flash of lightning reveals to us the lineaments of the man more clearly than yonder portrait, for "as a man thinketh, so is he." The outward form changes, but the mind is the man.

Mr. Winston was not merely the descendant of an illustrious line, but he was far more—he was worthy of his descent. He has left behind him, too, those who have added just luster to his fame. One of his sons, president of the State University, and of the State Agricultural and Mechanical College, and of the University of the great State of Texas, took his stand among the great educators of the South. His two younger sons have served with distinction as judges of the Superior Court of North Carolina, and one of these also as Lieutenant Governor of the State. While his other and eldest son, having achieved reputation as Attorney-General of a distant Commonwealth whose shores are washed by the waters of the Pacific, died on the threshold of still higher honors and sleeps far from the land that knew him first. His only daughter is the wife of one of the most prominent lawyers of our State.

It is to its great "leaders of the Bar" that the Profession must look for that high sense of honor which is shown by them in the conduct of causes, that courtesy to opponents in high debate and that fair treatment of witnesses which the heat of no contest can cause them to forget, and that high bearing on all occasions which shall retain for the legal Profession the confidence and respect of the public, which have made lawyers a power in years gone by, and which alone can render the pursuit of the Profession honorable to themselves and a credit to the community. Among these men, Patrick Henry Winston of Bertie is entitled to high place, and his memory should ever be cherished in honor by the Profession which he adorned.

The Marshal will hang his portrait in its appropriate place by the side of the other great leaders whom he met in forensic debate or followed or preceded, and in sight of the many volumes which preserve the legal lore which he loved and mastered.