

PRESENTATION OF THE PORTRAIT
OF
HON. WILLIAM T. DORTCH

TO THE
SUPREME COURT OF NORTH CAROLINA

BY
HON. H. G. CONNOR

23 MAY, 1916

Judge CONNOR said:

May it please Your Honors: Edmund Burke gave expression to a profound and very practical truth when he declared that "A people will not look forward to posterity who do not look backward to ancestry." As of all human virtues, pride of ancestry becomes a vice—using the word in its correct sense—an element of weakness, enervating character, when made the basis of claim to consideration in the absence of those qualities which have marked a strong, honorable ancestry. When, however, as said by one of North Carolina's wisest and best, who illustrated in his own life and character the truth which he so clearly expressed, "pride of ancestry inspires the exercise of the noblest patriotism, not prompting to empty boasting, but quickening every generous impulse and stirring the purest ambition," it should be stimulated and strengthened, because thereby is preserved and projected into our social and civic life the strongest and most permanent incentive to high endeavor and noble living. The presentation to the State of memorials of citizens who, in public and private station, have rendered service, or illustrated high and noble qualities, we take as an evidence of that generous and ennobling pride of ancestry described by Mr. Davis. Prompted by these sentiments, the children and grandchildren of William T. Dortch have extended to me the privilege of presenting to the Court, with the request that it be appropriately placed in this building, the portrait of their honored ancestor. With the permission of your Honors, I desire to ask your consideration of some thoughts concerning the life and character, the service and example, of this man, honored in his day and generation, whose memory we would perpetuate and whose example we would commend to the present and future generations of North Carolinians. When measured by the standards which, with us, have fixed the position of men, their work and influence among us, he is worthy a place with those whose portraits are placed on the walls of this building erected by the people for the purpose to which it has been dedicated.

William Theophilus Dortch, son of William Dortch and his wife, Drusilla, was born on his father's plantation, situate in Nash County, about 5 miles from the town of Rocky Mount, 3 August, 1824. Surrounded by, and living under, the conditions, existing at that time,

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in an agricultural community, in which there was neither large wealth nor poverty, but honest work and plain, healthful manner of life, he attended during the early years of his boyhood the neighboring schools, usually taught by those who believed in thoroughness of training in the elementary preparatory studies and a rigid discipline in morals and manners. At the appropriate age he was sent to the Bingham School, then located at Hillsboro under the superintendence of William J. Bingham, with a board of trustees upon which appear the names of Francis Nash, Francis L. Hawks, James Webb, and others. It is of interest to note that at this time it was said that the increase in number of pupils and growth of the school in the confidence of parents was found "in the thorough mode of teaching, and the consequent scholarship of the pupils; the mild yet strict, energetic, and uniform discipline of the school, the regular and close supervision of the moral deportment of the scholars, as well out of as in school." The system of instruction was based upon the principle "that the rate of progress depends on the age, intellect, and application of each individual. The more active are not retarded, nor are the slow-paced dragged over books without understanding them. That it is better to have a perfect knowledge of a few books than a mere superficial acquaintance with many. . . . Solidity should not be sacrificed to dispatch. A fine superstructure should rest on a solid foundation; it can rest on no other." Many illustrations of the practice of these essential truths have been seen in the lives of those who came from this school, which has, for so many years, and through several generations, rendered invaluable service to this State. After completing the prescribed course of study, Mr. Dortch entered upon the study of law under the direction of the Honorable Bartholomew F. Moore, then living at Halifax, N. C. That he was industrious and diligent in the pursuit of his studies and availed himself of the advantage of having as his preceptor a lawyer of such profound learning is shown by the fact that at the January Term, 1845, he was admitted by the Supreme Court to practice in the Court of Pleas and Quarter Sessions, and one year thereafter, as provided by the rules of the Court, received his license as an attorney and counselor in all of the courts of the State. The ties of friendship formed during this period between preceptor and pupil continued with increasing strength during the life of Mr. Moore, whose memory Mr. Dortch ever held in sacred regard. They were of different political faith, but each entertained for the other perfect esteem and unquestioned confidence. Mr. Dortch settled and spent the first three years of his professional life in Nashville, the county town of his native county—where Mr. Moore had laid the foundation of his long career, ending, at an advanced age, as the acknowledged leader of the State Bar. This, I think, was an

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evidence of the wisdom which controlled Mr. Dortch in his later life. The season of preparation was well spent in the quietude of the village, in which there was a fine social life, affording him an opportunity to become accustomed to the practice as conducted in the county courts and forming the acquaintance of the people of the county. The diary of a young lawyer who, in 1843, settled at Nashville discloses that the then Attorney-General, Spier Whitaker, Perrin Busbee, Henry W. Miller, B. F. Moore, R. M. Saunders, and other distinguished lawyers of that time, attended the court at Nashville. An amusing and interesting view of Mr. Moore and his conversational powers is given by the young lawyer. We find in the diary the following entry: "Arrived at Nashville, 13 July, 1843, in company with B. F. Moore, Esq., the great lion of the Bar in these parts. . . . Talked me nearly to death—politics, banks, subtreasury, tariff, bankruptcy laws, *et id omne genus*. He is altogether the most incessant talker I ever saw." The "diary" contains an account of several trials in the county court, with interesting and amusing incidents in which these eminent lawyers appeared.

After three years spent in Nashville, Mr. Dortch, during the year 1848, removed to the new and rapidly growing town of Goldsboro, lately made the county-seat of Wayne County. It was here that he spent the remaining forty years of his life. By reason of its location in the center of a group of large and, for those days, wealthy counties, and later the construction of the North Carolina and the Atlantic and North Carolina Railroads, Goldsboro offered superior opportunities for a lawyer engaged in circuit practice, and of these Mr. Dortch at once took advantage. He attended the courts of Wayne, Johnston, Lenoir, Greene, Edgecombe, Nash, and, upon its formation in 1855, of Wilson counties, building up and retaining a large and leading practice. By heredity, environment, and conviction Mr. Dortch accepted, and was always ready to defend, the principles and policies of the Democratic Party. He was elected to the House of Commons from Wayne County at the Session of 1852, and returned to the Session of 1854, serving as chairman of the Judiciary Committee, thus giving evidence that he had made a favorable impression on his colleagues. Among the men who achieved distinction in the service of the State, members of the Legislature of 1854 were Samuel P. Hill, Speaker, Governor Vance, Daniel M. Barringer, Sam F. Patterson, Jesse G. Shepherd, James M. Leach, John A. Gilmer, John F. Hoke, Asa Biggs, William A. Graham, Samuel F. Phillips, Walter L. Steele, Thomas Settle, William M. Shipp, William Eaton, William A. Jenkins, Giles Mebane, and Josiah Turner. At the Session of 1858 he again represented the county. It was at this session that a debate was had, running through several days, between Governor Morehead and R. R. Bridgers, Samuel J. Person, Dennis Ferebee, and Mr. Dortch,

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upon the proposition to enact a charter for a railroad connecting the North Carolina Railroad at Greensboro with Danville, Virginia. It was declared by those who witnessed it to have been one of the most remarkable debates in our Legislative history. The question involved sectional interest and strong political convictions and seriously affected the railroad policy of the State. The bill was defeated by a strict party vote. To meet the military necessities growing out of the conditions existing during the Civil War, the road was built and the connection formed under an act of the Confederate Congress. Probably the only citizen of the State now living who heard the debate says that it was truly a battle of the giants. Judge John Kerr, then a Representative from Caswell, says of the men engaged: "They were strong men and the House felt the shock of the battle while the conflict lasted."

At the Session of 1860 Mr. Dortch was chosen Speaker of the House of Commons. Upon the passage of the Ordinance of Secession, 20 May, 1861, and the ratification of the Constitution of the Confederate States, he was, together with Mr. George Davis, chosen Confederate States Senator. He held this position during the life of the Confederacy, giving to the administration of Mr. Davis his loyal support.

At the age of 41, at the fall of the Confederacy, Mr. Dortch had rendered valuable service to the State and held high and honorable position. By the passing of the issues, and the change in conditions, which had engaged his attention, he was, like others similarly situated, confronted with problems, in his private and public relations, growing out of the results of the war. Like all others who had either favored the course pursued by the majority or "gone with the State" and loyally supported the cause to which she adhered, Mr. Dortch, with that sorrow and regret which came to all sincere Southern men, accepted the result in absolute good faith and conformed to the requirements of the National Government to enable himself to resume his civic relations and the practice of his profession. Such property as he had saved from his practice during the years preceding the war was swept away, his law library was partially destroyed by Federal troops when they entered Goldsboro. He had married early in life, and found himself confronted with the duty of providing for the support and education of a large and growing family. It is not easy, at this day, to understand or appreciate the difficulties and perplexities which confronted those men who, having passed the preparatory period of life, living and working under conditions existing prior to the Civil War, were called upon to act, and counsel others in acting, after four years of war, ending disastrously and revolutionizing the political, social, and industrial life of the South.

Mr. Dortch, like all who had rendered service to his State, prior to and during the war, was politically disfranchised and, until pardoned

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pursuant to the plan adopted by the National Government, deprived of the rights of citizenship. With the consciousness of having obeyed the promptings of his best judgment and dictates of his heart, he loyally worked for, and with, the people who had trusted and honored him, cheerfully sharing with them the suffering and hardships which came as the result of defeat of a common cause. He made no concession of mental or moral convictions nor asked any favors for himself which were not accorded to all other citizens of the State with whom he had acted. He gathered the few books which had been saved from the wreck, opened his office and made a new start in his private and professional career. The problems arising out of the conditions following the war, the abolition of slavery, the use, for four years, of a constantly depreciating and ultimately worthless currency, the loss of property and the accumulation of indebtedness by their clients, demanded of the lawyers of those days a resort to first principles in dealing with the questions which they were called upon to solve in giving counsel and directing adjustments involving the present interest and future welfare of their clients. The people, conscious that it was in those who were loyal to them in the days of strife and suffering that in their private business troubles they could safely trust, brought to such men as Mr. Dortch the settlement of their disordered business requiring the counsel and management of learned and experienced lawyers. The adoption of the Code of Procedure, resulting in radical changes in the procedural law, in which the lawyers of the age of Mr. Dortch were trained and with which they were familiar, and other changes in the statute law of the State, imposed upon them the necessity and duty of close application and study.

For twelve years Mr. Dortch devoted his entire time and energies to the practice of his profession, giving to his large clientage his untiring and devoted service. He took a deep interest in, and in such manner as he could, gave to the Democratic Party his aid in its struggle for supremacy in the State and relief from the evils brought upon the people by the reconstruction policy of the dominant party. At the election of 1878 he responded to the call of his party and people to represent the district composed of Wayne and Duplin counties, in the Senate. He was re-elected to the Sessions of 1881 and 1883, being chosen President of the Senate at the Session of 1879, and serving as chairman of the Judiciary Committee at the Session of 1883. At the Session of 1881 the necessity for codifying the statute law of the State was manifest. The Revised Code of 1854, with Battle's Revisal of 1875, had become of little practical value by reason of the numerous and radical changes in the statutory law. The Legislature directed that the entire statute law be codified, incorporating such amendments and changes as had been made since the last revisal. For this very important work Mr. Dortch as chairman,

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Hon. John Manning, and Hon. John S. Henderson were appointed a commission. No better or wiser selections could have been made. All of the members were lawyers of large experience, accurate learning, and industry. That the work was well done is manifest not only by its acceptance and adoption, without change, by the General Assembly of 1883, but by the judgment of the Bench and Bar of the State. Mr. Dortch gave to the duties of the position his most careful consideration and active service. The Code of 1883 was the authoritative evidence of the statute law of the State for twenty years and until the adoption of the Revisal of 1905. This was the last and crowning public service rendered by him to the State. During his service in the Senate, Mr. Dortch was the author of a number of important public statutes. As a legislator he was conservative, watchful of the public interest, and attentive to the proceedings of the Senate. He was author of the "Dortch Bill" providing for enlarged facilities for the common schools.

Mr. Dortch was named by Governor Vance (1877) on the board of directors of the Western North Carolina Railroad, a work in which the people of the State, especially the west, were deeply interested, and to the building of which by the State the Administration was committed. Its completion was to mark the consummation of the North Carolina system, adopted and begun with the construction of the North Carolina and Atlantic and North Carolina Railroads, and the realization of the vision of the people of the State of a transportation system connecting with the sections, beginning in the mountains and terminating at the ocean—making Beaufort and Wilmington the seaports of the State. The work had been delayed by the war and the lease of the North Carolina Railroad for thirty years, expiring in 1900. The construction of the road from Greensboro to Danville, which Mr. Dortch and other statesmen of the east had so strongly and, prior to the war, successfully opposed, seriously affected the completion of the "system." Mr. Dortch was deeply interested in the completion, by the State, of the Western road, looking to the establishment of the system at the expiration of the lease of the North Carolina Railroad. Many difficulties were encountered, the cost was very large, and the people of the eastern counties, embarrassed by the loss of their property as the result of the war, and suffering from the administration of their local governments, by existing political and industrial conditions, were restless under the burden. These and other causes presented practical and to many it appeared insurmountable difficulties. The wisest and most patriotic men of the State held variant views in regard to the best course to pursue. During the year 1880 a proposition was made to Governor Jarvis by a syndicate of Northern capitalists to purchase the property and complete the construction of the road. The questions which divided the counsel of the

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people have ceased to be of practical interest and the actors in the controversy have passed away. That they all desired to promote the interest of the State and secure to the west the long promised and long delayed connection, by a railroad, with the east must be conceded. Governor Jarvis called a special session of the Legislature for the purpose of taking into consideration and accepting or rejecting the proposition to buy the road. Mr. Dortch, as a member of the Senate, strongly opposed the sale, but was overborne by a majority of the Legislature. The sale was made and the road finally completed. It is not my purpose, by so much as suggestion, to open the long closed controversy which at that time divided the opinion and with some the deep convictions of men of that day. Whether the completion of the Western North Carolina Railroad by the State was practicable, or whether, if completed, the maintenance of a State system of transportation operated by the State was possible, under changing and changed transportation systems, must remain an unanswered question, in regard to which, like so many other questions of public policy, there is ample room for difference of opinion, which must, of necessity, be speculative. It is, however, of interest to note several propositions submitted by Mr. Dortch, because illustrative of his wise foresight and practical cast of mind in dealing with questions affecting the public welfare. He proposed to amend the bill authorizing the sale by inserting the provision: "That like total rates of transportation charged over said Western North Carolina Railroad, and other roads with which it may at any time form through lines of traffic to or from or through seaports in adjacent or other States, shall likewise be enjoyed on traffic to or from or through seaports within the State of North Carolina. The Western North Carolina Railroad will neither charge nor participate in higher rates than may be applied on like traffic between points in adjacent States than are of similar distance from the destination thereof, as are charged said points within the State." The proposed amendment was defeated. What effect the protective provision would have had, in the light of Federal control of interstate rates, it is unnecessary to inquire. It was the loyalty of Mr. Dortch to the welfare of the people of the State, and his courageous stand, in the face of defeat, to secure to them the benefits which were expected by those who had labored for the establishment and maintenance of a North Carolina system of transportation, giving to the people of all sections fair and equal rates of traffic, which is of interest in estimating the value of his public service. Mr. Dortch was essentially conservative in his cast of mind—slow to adopt or advocate changes in the laws until convinced by reason and personal investigation; inclined to oppose departures from things fixed. North Carolina has had no more loyal citizen nor one who, in her

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councils, served with more wisdom, fidelity, and patriotic devotion to her highest interests.

It is, however, as a man and a lawyer that we find in his character and conduct those qualities which we think upon most pleasantly. Mr. Dortch was not given to speculation or refinement in the practice of the law; he was not a reformer, in the usual and ordinary sense in which that term is used. He found a larger interest in using, in the administration of justice, the methods and procedure which he found in existence than in devising new ones. Trained in the common-law procedure in force in our courts prior to 1868, he opposed the new Code of Procedure, as did many others of the lawyers of his age. When, however, it was adopted, he familiarized himself with its principles and provisions and came to recognize its value. To him the definition of the complaint as "a concise statement of the facts" constituting his clients' cause of action and the answer as an equally concise denial, with such matter of defense as he intended to rely upon, was easily adopted. His pleadings were models of conciseness, clearness, and freedom from evidential and irrelevant matter. Neither court nor counsel found difficulty in drawing issues upon them, and, in this, I venture to commend his example to many of our brethren of the Bar.

While Mr. Dortch was a safe and wise counselor, an accurate and well informed lawyer, giving close attention to all interests committed to his care, it was in the courthouse and before the jury that his preëminent ability and finest powers found their fullest expression. From the impaneling of the jury, the reading of the pleadings, until the rendition of the verdict his interest increased, his mind became ever more active and alert—he was at his best. With his case thoroughly prepared, the order of introducing his evidence logically arranged, the weak points in the armour of his adversary anticipated, and exposed by the adroit and skillful cross-examination of witnesses, when the moment came for going to the jury he was master of the situation and, usually, the victor when the verdict was rendered. He wasted no time nor weakened his cause in the mind of the jury in fighting over irrelevant and immaterial preliminaries. He dealt frankly with the court, fairly with counsel, knowing when to make concessions, waive formalities, and preserve the substantial rights of his client. He was always in command of the litigation, securing and retaining the confidence of his client; he did not hesitate to assume responsibility and managed the cause from start to finish as a skillful commander, granting such favors to opposing counsel as he deemed just, making such admissions as in his judgment were proper, and taking the responsibility for the result. He carefully avoided encumbering the record and endangering the verdict which he anticipated by pressing or objecting to evidence of doubtful admissibility. He seldom

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asked for special instructions. I recall that when trying cases in which he appeared I would ask him if he wished to present prayers for instruction, he would reply, "No, your Honor will take care of the law and I will look after the facts." The Reports of this Court show but few appeals from judgments obtained by him. No lawyer knew better when the interest of his client was to be served by compromise of a doubtful case or exhibited more courage in so advising his client, and this one of the wisest lawyers and men known to me, or from whose counsel I derived benefit, said was one of the best tests of a safe and wise lawyer.

A former Chief Justice of this Court who lived in the same town, practiced in the same counties, and was more frequently opposed to him in the trial of causes than any other member of the bar, said of Mr. Dortch: "He was attentive and skillful, and gave satisfaction to those who relied upon him to defend their interests. He was true to every one because he was true to himself. He approached the court with a plain statement of his case; his facts were well digested and forcibly presented to the jury. His work was thorough. He was cautious and waited until he was ready, and when he so announced his opponent soon met victory or defeat." One who knew him well, heard him frequently in the trial of causes, and admired no less his great power of mind than the loyalty, integrity, and sterling honesty of his character, correctly and clearly describes his manner in addressing the jury, saying: "He spoke in a smooth conversational tone of voice; but as he would warm with his theme, he would become animated, and his face, radiant, . . . would glow with intellectual beauty. . . . There was no effort at display, or stage effect, or playing to galleries. In none of his speeches did he ever say anything to elicit applause, but he spoke to convince the reason and judgment of men. His favorite gesture was with his index finger, and when he would point it at the jury to give emphasis to some point he was making, or clinch an argument," he was invincible. His use of simple, short words—sentences pregnant with meaning and easily comprehended by the jurors—held their attention and carried conviction to their minds.

But it is neither in that which a man does in public service, honorable and useful though it may be, nor in the field of endeavor in his chosen life work, however successful it may be, that we find expression of the essential qualities of mind and heart, that which impresses itself upon human life with which he comes in contact, that which touches and either blesses or curses, brightens or blights; but it is in the human relationships, the home and its inmates, the friends whom he makes, the associations which he forms, his influence in the community in which he spends the days of his strength and the declining years of his old age,

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that we must seek for that which lives after he has in the body passed away—that which does not die. The question is not so much what a man did as what he was. If the statesmen be not something greater and better, the lawyer something more, his work will not survive nor his influence be long felt. Above and beyond all of these things, mankind is ever seeking an answer to the question, What manner of man was he whom you ask us to hold in honored memory, whose character you commend to us for admiration, and example for imitation?

The work of the legislator is at best but tentative, and for a day; of the judge, ever undergoing examination, criticism, and frequently rejection; of the lawyer, evanescent and soon forgotten. But the man—that which for the want of a more accurate description we call the spirit, the soul, the essence—lives forever and is projected into the currents of and affects human life. The questions which we ask of every man, How did he use the opportunities which success brings?—if failure and defeat overtake him, how did he bear himself, and with what degree maintain his integrity?—to these questions, applied to the life of Mr. Dortch, a satisfactory answer may be given.

As a citizen, he was obedient to the laws of his State and country, and taught others to be so. That which was said of Archibald Henderson by Judge Murphey may with truth be applied to Mr. Dortch: "As he acknowledged no dominion but that of the laws, he bowed with reverence to their authority and taught obedience no less by his example than his precept. To the humblest officer of justice he was respectful. . . . He considered obedience to the law the first duty of the citizen, and it seemed to be the great object of his professional life to inculcate a sense of this duty, and to give to the administration of the law an impressive character. . . . As he advanced in life, he seemed more and more anxious that the laws should be interpreted and administered by the rules of common sense. He in a great degree lost his reverence for artificial rules. He said that the laws were made for the people and they should be interpreted and administered by rules which they understood whenever it was practicable."

Mr. Dortch was not given to professions of friendship, nor seeking the confidence of others; and yet no man was more strongly attached to those whom he admired, and no man ever doubted his absolute loyalty nor hesitated to confide in his integrity. To his chosen friends, and all who enjoyed his confidence, he was ready to give assistance to promote their welfare and happiness, preferring to do so in his own quiet, unobtrusive manner. Probably for no one, not of his own household, did he have more affectionate regard than for Judge Strong, with whom for many years he held most intimate personal and professional relations: resident of the same town until the latter moved to Raleigh, practicing

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at the same courts, differing in temperament and cast of mind, and yet having each for the other a strong, manly affection. Judge Strong wrote of him: "It seems that nature had formed a special place in my heart which he only could fill. . . . He was indeed one of the bravest, truest, best and greatest men that I have ever known."

Judge Howard said: "Dortch held, and deservedly so, a high place among our best men."

Judge Faircloth said of him: "We differed on political questions and met on the stump and were usually in opposition on the docket. It affords me much satisfaction to be able to say that on no occasion was a single offensive word uttered by one to the other. . . . Our personal relations were always pleasant, and I found that those who knew him best were most attached to him." To those who, as your Honors and myself, knew these men, and know that they could, when in opposition, give and take blows, given straight and bravely, these are not words of empty eulogy; they express sentiments honorable to both. No higher test of the qualities of a lawyer who by reason of age, experience, and ability has come to be the acknowledged leader can be applied than to inquire as to the moral, personal, and professional standards of the Bar—the estimation in which he is held by and the influence which he exerts over its younger members. No higher obligation is imposed by eminence and leadership than that he who possesses them shall fix high and in his own life illustrate the standards of professional ethics, personal relations, and civic duties of the Bar. Tried by this test, Mr. Dortch came up to the full measure of its obligation. During the last decade of his life, of which by association and personal experience I am able to speak, no Bar in this or any other State enjoyed or profited in a larger measure by the privilege of association and having daily before them the example of a good man, a wise counselor, and a great lawyer, than those who at the Goldsboro Bar were then entering upon their professional careers. Their achievement, their large success, and honorable service, no less than their personal merit, are written large in the history of the State and are being daily illustrated in the highest judicial positions. The relations existing between their leader and themselves, as I knew it, when holding my first term of court, were inspiring and beautiful. To myself, at this time of danger and doubt, he was as kind as if I had been his son.

While not depreciating that personal, physical courage which every man has who places a correct estimate upon his personal rights and holds himself ready to defend them when invaded, it is moral courage which sustains a man in the hour of disaster and defeat which gives dignity to his character and commands the respect of all good men, which makes him afraid to do wrong and unafraid to do right, which marks a manly

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man—a gentleman. It is the man who meets and discharges, without complaint, or losing his sense of proportion, either of his own or the character of others, when overtaken with disaster, who asks only for purity of purpose, clearness of mind, and strength of heart to meet and discharge every obligation which comes to him, who is entitled to our respect when living and whose memory is worthy of preservation and honor when dead. And herein Mr. Dortch is entitled to hold a high position.

He was not, as men count success, a successful man. The most sacred relationships of life brought to him the purest pleasures, accompanied by responsibilities the discharge of which taxed his splendid mental, moral, and physical powers—all of which he wisely conserved that he might devote them to the demands of duty. He placed a proper estimate upon money, seeking to acquire it only as the just reward for honest service, and to use it for the benefit of those to whose welfare and happiness he had devoted his life. He was, in the best sense of the word, a prudent man; his personal habits were those of a man who understood his duty to preserve his health; in nothing did he indulge to excess. He was in all respects a healthy man, in mind and body, and this, as Carlyle says, "is no small matter." Having in all the relationships of life given to those entitled to it the best service of which he was capable, faithfully discharged his duty, he abided results with patience, if not satisfaction. He did not seek ease, but found pleasure in labor. He was an unusually industrious man, having but little patience with those who sought to live without work. Sincere and loyal himself, he had no sympathy with, and but little toleration for, insincerity and disloyalty in others. To those in whom he reposed confidence he was trustful and confiding; with men of devious methods and dishonest ways, either in thought or conduct, he had no sympathy. As with all men of strong character, the currents of his life ran deeply and quietly. There was that in his expression, his manner, his conversation, which impressed others with the feeling that there was in his character a reserve force which manifested itself only when called forth by occasion. His was in all respects a striking, unusual personality, impressing itself upon all with whom it came in contact. While not given to humor, his quiet smile gave unmistakable evidence of appreciation of a good story. His conversation when with friends, in his home, around the fireside on circuit, or on a walk before or after court, was interesting and enlightening. He was not a reader of many books, but well informed in regard to current events. He was more interested in what men did than what they wrote.

Mr. Dortch was of that temperament which we find in quiet, reserved men upon whom the experiences of life make a deep impression. He did not care, nor did he know how, to cast them off. He rather met

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them bravely, and carried them to the end. Upon such men the wear and tear of life tells strongly.

While attending a term of court at Nashville, where he began his professional work, the rupture of a small artery admonished his friends, his family, and himself that the time had come to him when rest, mental and physical, could alone prolong his powers for labor. Like too many brave, faithful men, he did not know how to rest. The demands upon him did not permit, nor did his strong, controlling sense of obligation allow him to rest. He continued to draw upon his weakened and overworked resources until the end came, and on 21 November, 1889, at 65 years of age, he passed away; worn and weary, he quietly and with gentle resignation slept.

Twenty-seven years have come and gone since, a few days before his death, I saw him alive for the last time. The impression made upon me as he then appeared has not passed, nor will ever pass away. His features, losing nothing in manly intellectual strength, told of courage and resignation, sustained by the assurance that he had found, in its divinely appointed way, that peace which passeth understanding.

Those who knew Mr. Dortch in the days of his strength have passed away. To those who, as your Honors and myself, knew and admired, he was "a genuine man, which is itself a greater matter. No affectation, fantasticality, or distortion dwelt in him; no shadow of cant. Nay, withal was he not a right brave and strong man"; and, after all, when life's fitful fever is over and the true measure of men's lives are taken, are not these the qualities which mark the highest point and the largest standard of character? Of such men it may be said, as of one of the manliest of men, when he departs, he takes a man's life along with him. Mr. Dortch, in his early manhood, married Miss Elizabeth Pittman of Edgecombe, and to them were born Harrod Pittman Dortch, Isaac Foote Dortch, Miss Corinne Dortch, Mrs. Mary D. Scholfield, William T. Dortch, Mrs. Annie B. Hill, Fitzhugh L. Dortch. His second wife was Miss Hattie Williams of Berryville, Va., and to them were born Dr. Allan W. Dortch, Miss Helen W. Dortch, James Tyson Dortch, and Miss Selene W. Dortch.

In behalf of his family, I request that the excellent portrait, the work of Mrs. Marshall Williams, whose talent is so well illustrated in a number of portraits on these walls, may be placed in company with other North Carolina statesmen, citizens and lawyers, who have served the State and illuminated her history.

ACCEPTANCE BY CHIEF JUSTICE CLARK

The Court is gratified to receive this portrait of Mr. Dortch. Judge Connor's excellent address has so graphically portrayed his career and his character that nothing can be added.

These portraits of the distinguished lawyers of the State shall be constant reminders to stir the emulation of young lawyers for all time. They are like the trophies of Miltiades which would not permit the young Themistocles to sleep.

The profession of law, as compared with the other two learned professions of medicine and theology, is of very recent origin. Medicine and theology date back to the beginning of the human race. There have been judges also from the earliest time, for there have always been controversies to be settled; but law as a profession is comparatively new. Some one has, inadvertently, of course, referred to "the great lawyers who drafted Magna Carta"; but, in fact, at that time there were no lawyers, either great or small, in all England. At that time every one was required to appear in court in his own behalf, both in criminal and civil cases. 1 Pollock & Maitland English Law, 190-196. No one could be represented in court by another until the statute of Merton in 1236, twenty-one years after Magna Carta. Professional lawyers were first authorized in England by the statute of Edward I, in 1291, Ridge's Constitutional Law of England, page 245—more than three-quarters of a century after the barons and bishops met King John at Runnymede. Indeed, counsel were not allowed to address the jury, in felonies in England, on behalf of the prisoner till 600 years later, in 1836, Ridge's Constitutional Law, 249; Century of Law Reform, 50.

For many centuries after the Conquest all the judges in England were ecclesiastics, with rarely, now and then, a layman, never a lawyer. Maitland & Montague, Eng. Legal History (Colby's Ed.), 97. The Lord Chancellors, the highest law position, and next to the King in rank, were all ecclesiastics till Sir Robert Bouchier in 1341. The solitary exception was a woman, Eleanor of Provence, in 1253, whom Lord Campbell in his "Lives of the Lord Chancellors" tells us sat in the *Aula Regis* and personally discharged its duties with vigor. Indeed, lawyers were so scarce that it is not certain that any lawyer was appointed to the Lord Chancellorship till Sir Thomas More in 1529, though among the few appointed to that office, who were not ecclesiastics, were some who had been judges; but the judges were usually laymen or bishops. Lawyers must have been scarce indeed, or they would have found the Lord Chancellorship, though it did not find them.

PRESENTATION OF DORTCH PORTRAIT.

When the Wat Tyler Insurrection broke out in England, caused by the poll tax, the cry which was then raised (and again a little later in Cade's Rebellion, Shakespeare 2 Henry VI, Act 4, Sc. 2), "Let us kill all the lawyers," was due, it seems, not so much to anything that lawyers had done, as to the fact that, being a new profession, the populace thought that they must be responsible for the imposition of the new and odious tax. 2 Stubbs Constitutional History of England (Oxford Library Ed.), 495. This tax was soon repealed, and, though long afterwards reënacted for a few years, no poll tax has been laid in England for now more than two centuries past.

Sir William Blackstone, in 1758, was the first professor of law in England, and he resigned in 1766 because he could not procure the establishment of a law school, which is a more modern evolution, for the famous "Inns of court" were not law schools, but noncorporate associations of lawyers and law apprentices who gathered in these great hostels and after the lapse of a certain time and on proof of having eaten a certain number of meals the law apprentices were "called to the Bar" by their seniors, Century of Law Reform, 32. In North Carolina, when the Court of Conference, which later developed into our Supreme Court, was continued by the Act of 1801, it was provided: "No attorney shall be allowed to speak or be admitted as counsel in the aforesaid court."

Nor was the profession of law of more ancient origin in other countries. In most of them the profession, as we now understand its duties and rights, took its rise after it did in England. It is true, there were advocates in Rome under the Republic, but they practiced mostly to obtain support for political office and were not allowed to charge for their services, receiving only voluntary gifts, which indeed for a long time was the case in England. In the later Roman Empire there were law schools, but the lawyers graduating therein were rather what were called jurisconsults, that is, they were advisers to the judges, who were often laymen, though there were some who became judges and others who became famous as law writers or codifiers, such as Ulpian, Paul, Papinian, and others. But in many essential respects their position under an arbitrary government was essentially different from the profession to which we belong.

When our Master said, "Woe unto you, ye lawyers," Luke xi:46, he referred to priests and theological students, for the Hebrew law was the old Scriptures, overlaid, it is true, like our law, with comments and traditions. But none the less those whom he addressed as "lawyers" were ecclesiastics, as was also "a certain lawyer who stood up tempting Him, saying." Luke x:25.

PRESENTATION OF DORTCH PORTRAIT.

Notwithstanding the recent origin of our profession, it has grown rapidly in numbers and influence in all free countries. In these it thrives so well and it is so essentially modern and democratic that in the United States, of the three great departments of the Government—Legislative, Executive, and Judicial—lawyers not only naturally, it might be said necessarily, fill all the higher positions of the judiciary, but on an average lawyers furnish more than 60 per cent of the Governors and Presidents and of members of the State legislatures and of both Houses of Congress—that is to say, a good majority of the other two departments of the Government.

As the judiciary in this country have claimed and exercised the irreviewable power to set aside any action of the Executive and Legislative Departments of the Government, and even to say to the people themselves, as some judges have claimed, “Thus far shalt thou go and no further,” no class of men exercise greater, or as great, power in this country than lawyers, and the entire people are interested in their conduct.

It is therefore highly important to keep high and clear the best standards of the profession, and that the life, the example, and the memory of the great lawyers who have led the way of honor and whose influence has been a restraint upon doubtful tendencies, should be ever kept before the profession.

Among the great lawyers to whom North Carolina owes much for his influence for good upon the legal profession was William T. Dortch. Though enjoying a large practice, he did not deem that the pecuniary rewards were the sole object of a lawyer’s profession. While successful in public life and attaining, among other honors, the position of Confederate States Senator, he did not permit ambition to swerve him from his duty. His face and figure bespoke power, restrained by moderation. In character, and I might almost say in lineaments, he recalled that ideal of the great race from which he sprung, the first William of Orange, the liberator of Holland, the opponent of Alva and of all intolerance in State and in religion.

Mr. Dortch was a strong man, conscious of his power, but moderate in its use. He achieved with out effort a foremost place at the Bar and in the State. His memory will always be held in veneration by both.

The marshal will hang his portrait in its appropriate place on the walls of the library of the Court.

A TABLE OF CASES OVERRULED IN WHOLE OR IN
PART, OR MODIFIED, OR REVERSED BY THE
SUPREME COURT OF THE UNITED STATES

PREPARED BY
ASSOCIATE JUSTICE W. R. ALLEN

It is impossible to prepare a complete table of overruled, modified, and reversed cases without an examination of each case in the Reports, and I have not had the time to do this. I have, however, been diligent to make the table complete, and believe it is approximately so.

I hope it will be useful to the Profession, and I remind those who may be disposed to criticise or complain if they find a case has been omitted, that it has cost them nothing, and the printer will leave space under each letter for the insertion of other cases. The Court has directed the publication of the table in the Reports, but without passing on the correctness of the classification of cases.

O opposite the case means Overruled, *M* means Modified, and *R* Reversed.

W. R. ALLEN.

A

- M.* Adrian v. Shaw, 82 N. C., 474, by Hughes v. Hodges, 102 N. C., 251.
- M.* Allen v. Bank, 21 N. C., 7, by Fisher v. Carroll, 41 N. C., 488.
- O.* Allison v. Allison, 56 N. C., 236, by Winston v. Webb, 62 N. C., 1.
- R.* Allison v. R. R., 129 N. C., 336, by same case, 190 U. S., 326.
- O.* Alsbrook v. Reid, 89 N. C., 151, by Alexander v. Gibbon, 118 N. C., 796.
- O.* Alston v. Clay, 3 N. C., 171, by Gaither v. Ballew, 49 N. C., 492.
- O.* Alston v. Davis, 118 N. C., 203, by Spencer v. Spencer, 163 N. C., 88.
- O.* Andres v. Powell, 97 N. C., 155, by Lee v. McKay, 118 N. C., 518.
- O.* Ashcraft v. Lee, 79 N. C., 34, by Ashcraft v. Lee, 81 N. C., 135.
- O.* Ashe v. Smith, 3 N. C., 305, by Lea v. Brooks, 49 N. C., 424.
- M.* Austen v. Staten, 126 N. C., 783, by King v. McRackan, 168 N. C., 624.

B

- R.* Balk v. Harris, 130 N. C., 381, by same case, 198 U. S., 215.
- O.* Bank v. Lineberger, 83 N. C., 454, by Fleming v. Barden, 126 N. C., 455.
- O.* Barksdale v. Comrs., 93 N. C., 473, by Collie v. Comrs., 145 N. C., 171.
- M.* Barges v. Hogg, 2 N. C., 485, by Rouche v. Williamson, 25 N. C., 148.
- R.* Beam v. R. R., 150 N. C., 753, by Beam v. R. R., 222 U. S., 444.
- O.* Bird v. Benton, 14 N. C., 179, by West v. Tilghman, 31 N. C., 163.
- M.* Bird v. Gilliam, 121 N. C., 628, by Sessoms v. Sessoms, 144 N. C., 126.
- O.* Blow v. Vaughan, 105 N. C., 198, by Perry v. Scott, 109 N. C., 374. See 119 N. C., 516.