

PRESENTATION OF THE PORTRAIT

OF THE LATE ASSOCIATE JUSTICE
OF THE SUPREME COURT

WILLIAM REYNOLDS ALLEN

SEPTEMBER 6TH, 1922

BY THE

HONORABLE FRANK A. DANIELS

JUDGE DANIELS said:

May it Please Your Honors: Few men have been more fortunate in their ancestry, the place of their birth, their environment and education, than William Reynolds Allen, late an Associate Justice of this Court, the second son of William A. Allen and his wife, Maria Goodwin Hicks Allen, born at Kenansville, Duplin County, North Carolina, on 26 March, 1860.

The father, William A. Allen, was a native of Wake, a member of the large and influential Allen family of that county, farmers as far back as they can be traced, of intelligence, industry, economy, and character, with an occasional county officer or member of the Legislature among them, having no professional offshoots, except one physician, who settled in Tennessee, until William A. Allen began the practice of the law. He grew up on his father's farm, was educated at Wake Forest, and, beginning the practice, was elected and served as a member of the House of Representatives from Wake at the session of 1852, having as his colleagues Romulus M. Saunders and Gaston M. Wilder.

Soon afterwards he removed to Kenansville, where he was associated with William J. Houston, an able lawyer and eloquent advocate, as junior member of the law firm of Houston & Allen, until the War Between the States called both partners into the service of the Confederacy, in which William J. Houston, with the rank of Captain, was killed in battle in Virginia, and his associate became Lieut.-Colonel of the 51st Regiment. Upon the termination of this service, he returned to Kenansville and resumed the duties of his profession. He was, during the whole of his career, a diligent and discriminating student of the law, and became an able and learned lawyer, having the respect and confidence of a large clientele, and held in high esteem for his upright Christian character and the stern, unbending integrity of his professional, public, and private life.

In the troublous days following the War he was elected a delegate from Duplin to the Convention which met in Raleigh in 1865 to determine the method of restoring the State to the Union, and was an active member of a body composed of many of the ablest and most distinguished statesmen of that period, among whom were B. F. Moore, Judge M. E.

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Manly, William P. Bynum, Judge Robert P. Gilliam, Judge George Howard, Thomas J. Jarvis, Judge R. P. Dick, Judge E. J. Warren, Judge D. H. Starbuck, Bedford Brown, and Patrick H. Winston.

The ordinance adopted declared that the ordinance of 21 November, 1789, by virtue of which the State of North Carolina became a member of the Federal Union, "had at all times since its adoption been in full force and effect, notwithstanding the supposed ordinance of 21 May, 1861, which was declared to have been "at all times null and void."

Nine States Rights Democrats, who had always entertained a deep conviction of the right and power of the State to repeal the ordinance of 1789, and withdraw from the Union, willing, in the interest of peace, to adopt an ordinance providing for the simple repeal of the ordinance of 1861, refused to vote for the ordinance adopted, which they regarded as a reflection upon the loyalty and patriotism of the people of the State. They were, among others, William A. Allen, Judge Howard, M. E. Manly, Thomas I. Faison, and A. A. McKoy. The action of the Convention, based upon grounds these members could not approve, began the process which, though tedious and full of peril and suffering, eventually resulted in a large measure of settled government, peace, and order, to the attainment of which these protestants gave their constant and efficient labor and support.

In 1868 the people of Duplin called Colonel Allen to serve them in the Senate, but he and eight other Senators were denied their seats because their political disabilities had not been removed. He afterwards served as Senator at the session of 1870, and again at the sessions of 1872-1873, during which last sessions he was chairman of the Judiciary Committee.

He thereafter continued the practice at Kenansville until 1881, when he removed to Goldsboro and engaged in the practice in Wayne and Duplin until his death in 1884.

Maria Goodwin Hicks Allen, wife of Colonel Allen, a descendant of William Hicks, an ensign in the Continental Army, was a member of the prominent and highly respectable Hicks family of the county of Granville, for generations living upon their farms and engaged in agriculture. She was a woman of unusual intelligence and vivacity, of great kindness of heart, and given to a gracious hospitality of which I have the most grateful recollection. Her devotion to her husband and her children, and her loving ministry to all who came within her sphere of life, endeared her to all who knew her. After the death of Colonel Allen, she blessed the home of her younger son, William R., with her presence until her death in 1900. Two able and distinguished lawyers of the State, Hon. T. T. Hicks of Vance, and Hon. A. A. Hicks of Granville, are members of the same family and near kinsmen of Mrs. Allen.

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The home of Colonel and Mrs. Allen, in which two sons, Oliver H. and William R., grew to manhood, and which was brightened by the presence of their only daughter, Elizabeth A., now one of the most useful and accomplished teachers of the State, was typical of the homes of that community, and characterized by "plain living and high thinking."

The population of the county was, as we learn from the interesting and valuable historical sketch of Duplin County, from the pen of L. A. Beasley, Esq., of Kenansville, composed of descendants of a colony of Irish, among whom were the Owens, Kenans, and Walkers, of Presbyterians from Ulster, English brought in by McCulloh, Germans, French, and Swiss who came over with DeGraffenreid, Scotch from the upper, English from the lower Cape Fear, and English and Scotch from other colonies, with little admixture of any character, so fused and assimilated as to become a homogeneous people, scions of the great nations of the earth, who, while not forgetful of their ancestry, had been for more than a century, in thought and deed, thoroughly American. Their patriot soldiers, under Col. James Kenan, took part in the battle of Moore's Creek, John Grady of Duplin being the first North Carolinian to give his life on a contested battlefield for the cause of independence, and were active throughout the Revolution for the patriot cause.

The people of Duplin were early interested in education; and, in 1785, established Grove Academy, which continued its work until after the Civil War, and at which many of the county's most prominent citizens were educated. In the later years, Hon. B. F. Grady, one of the most learned of the educators of the State, Prof. R. W. Millard, an accomplished and thorough teacher, and others, conducted schools of high reputation and great usefulness. In consequence, a large number of educated and intelligent men and women have, in every generation, given tone to social life and furnished leaders in religion, government, and agriculture.

Duplin possessed until recently practically only one industry—that of agriculture. The people lived generally on their farms and, in the main, cultivated them with their own hands, though there were numerous plantations cultivated by tenants and hired labor. Scattered over the county were many handsome and comfortable homes, which dispensed a friendly and genial hospitality, and there were few homes, however humble, in which the spirit of hospitality and good will did not abound. The manners of their inhabitants were simple, unassuming, and kindly; their sentiments humane and sincere. Industry and economy gave them a reasonable prosperity, and none were very rich or very poor.

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They were a religious people, among whom skepticism and infidelity were almost unknown. They loved freedom, detested oppression, and were always ready to fight for their convictions.

In short, they were genuine North Carolinians, with many of the virtues and some of the faults that have appertained to this separate and distinct aggregation of the human family. They made their own wine and brandy, and some of them partook, at times, too freely of the products of their vineyards and orchards in the days when adulterated and poisonous liquors were unknown, and before the doctrine of total abstinence had been universally accepted.

I recall a scene in a court, presided over by a judge of great wisdom, humanity, and profound knowledge of human nature, before whom a young man was arraigned with a codefendant charged with a sanguinary affray, committed while the parties were intoxicated, and for whom his counsel entered a plea of guilty. The judge seemed much attracted to the defendant, who was barely more than a boy, and who was apparently decidedly the worse for the rencounter, inquired where he came from, and learning that he came from Smith's Township, Duplin County, proceeded to deliver a powerful lecture on the evils of intemperance, during which he stated that he had known the father and grandfather of the defendant, had often visited in their homes, and that he had never known two better men, their only fault being that sometimes they drank too much, and strongly appealed to the young man to cut out their vices and emulate their virtues. He concluded by suspending the judgment on payment of costs, but made such an impression that the defendant became a sober, industrious, law-abiding citizen. I need not say that the presiding officer of the court was Judge Oliver H. Allen, nor call attention to the hundreds of young men in this and other states who owe the incentive and opportunity for repairing the errors of youth and developing the virtues of good citizenship to the humane and considerate administration of the law by a Christian judge who, after more than a quarter of a century of helpful and beneficent service on the Superior Court Bench, is now about to retire from active labor and assume the duties of an Emergency Judge, as provided in a recent act of the General Assembly. It is but just to add in this connection that the people of Duplin, in their desire to improve conditions, long before the passage of the general prohibition act, secured the prohibition of the sale of intoxicating liquors within their boundaries.

When, in the year 1881, I came to know the people of the county, I was greatly impressed with the large number of strong, intelligent, and patriotic men who had participated in the stirring controversies preceding the Civil War, who, at the call of country had fought the battles of the Confederacy, and who, when the cause was lost, returned to their

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impoverished and desolated homes and quietly and bravely took up the burdens of reconstruction. They were the friends and associates of Colonel Allen and his family, and his sons, growing up under their influence, received inspiration from the example, the character, and the wisdom of these simple great men.

The village of Kenansville, nine miles from the railroad, was the county-seat, and, during court, attracted a large attendance from the country. During the rest of the year it was as quiet and restful a spot as could be found anywhere, with its shaded streets, its antique courthouse, built in 1785, and its ancient spring coming down from Indian days and furnishing the purest water for man and beast. There was no telegraph, no telephone, no radiograph, no moving picture, and no automobile to contaminate the pure air or disturb the speaking quietude of that peaceful scene. Its homes were the abodes of quiet, simple hospitality in which there was much of culture and refinement. The whole atmosphere was conducive to normal living, familiar social intercourse, to reading, study, reflection, and the enjoyment of the wholesome pleasures and recreations of country life. Its young men grew up strong and fit, many of whom, moving out into larger fields of usefulness, enriched the business and professional life of many communities, while its young women, clothed upon with modesty, purity, and goodness, exemplified in their lives the noblest attributes of Southern womanhood—the glory of our civilization.

With such parentage, in such environment, began the education of the subject of this address, with results differing widely from those that attended "The Education of Henry Adams."

His childhood was passed in a Christian home, presided over by parents whose precept and example laid the foundation of a character that won and held throughout his life the esteem, and often the affection, of those who knew him.

There he grew into a quiet and thoughtful youth, in daily association with his father and his older brother, whose serious and practical outlook on life entered deeply into his early experiences, and constantly stimulated by the bright, active mind of his mother, whose wide and intense interest in all that concerned the community and its people, became an enduring portion of his inheritance.

He attended the school of Prof. R. W. Millard, where, under that model teacher, who held that the thorough mastery of essential studies, rather than the discursive pursuit of many, was the chief requisite of any wise and effective scheme of education, he was prepared for college, peculiarly fortunate in having acquired habits of intelligent, orderly, and systematic application. While engaged in this preparation he read

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extensively the best literature and mingled in the sports and the social life of the town, where his quick intelligence, tact, and kindness of heart made him a general favorite.

Entering Trinity College, he came under the influence of the great intellectual and spiritual head of that institution at a time when colleges were not crowded, and when the contact between the president and the student was close and intimate. Here he pursued the prescribed courses until the completion of his junior year, and formed strong friendships among his fellow-students, many of whom have since attained distinction, which he prized most highly and which lasted unbroken until his death. He always spoke of the president, Dr. Braxton Craven, in terms of the deepest respect and veneration. The year following his retirement from college he taught school at Auburn, in Wake County.

Returning to Kenansville, he began the study of the law with his father and brother, and, after careful preparation, passed his examination for license at the Spring Term, 1881, of this Court, but, being under twenty-one years of age, his license was withheld until he reached his majority.

Members of the class of 1881, of which his name is alphabetically first, have been greatly honored:

William R. Allen, member of House of Representatives, judge of the Superior Court, and Associate Justice of the Supreme Court.

Charles B. Aycock, district elector, elector at large, U. S. District Attorney, and Governor of North Carolina.

Edwin F. Aydlett, U. S. District Attorney and President North Carolina Bar Association.

William Black, Presbyterian minister and evangelist, much beloved and of great usefulness.

George McD. Bulla, clerk of House of Representatives.

Evan D. Cameron, minister of the gospel and Superintendent of Public Instruction of the State of Oklahoma.

Frank A. Daniels, State Senator and judge of the Superior Court.

Rodolph Duffy, member of House of Representatives and solicitor.

W. A. Gash, member of House of Representatives.

James M. Moody, State Senator, solicitor, and member of Congress.

William C. Newland, member of House of Representatives, district elector, solicitor, and Lieutenant-Governor.

Joseph E. Robinson, man of letters and editor of the *Goldsboro Argus* for nearly forty years.

John H. Small, member of Congress, 1899 to 1921.

Harry W. Stubbs, North Carolina's veteran legislator, member of the General Assembly, Senate and House, continuously since 1889, and chairman of the Joint Legislative Committee for compiling, collating,

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and revising the public statutes of the State of North Carolina, published 1919, and known as Consolidated Statutes of North Carolina.

Francis D. Winston, member of House of Representatives, State Senator, judge of the Superior Court, district elector, elector at large, Lieutenant-Governor, U. S. District Attorney, and President of the North Carolina Bar Association.

Hugh M. Wellborn, State Senator.

Others of this class have also been prominent and useful citizens and have attained distinction at the bar.

Not as brilliant as some members of his class, he equalled any and excelled most in his thorough preparation, capacity for sustained mental effort, power of analysis, practical judgment, and clear, direct presentation of the subject under discussion. Withal, a modest young man, of quiet dignity and unaffected manner, tactful and friendly, he gained the respect and high regard of all his classmates.

He began the practice with his father at Kenansville, continuing it at Goldsboro until the death of Colonel Allen in 1884, when he became a member of the law firm of Faircloth & Allen, of which Hon. J. Y. Joyner, afterwards State Superintendent of Public Instruction, was at one time a member, which lasted until 1889, when he and William T. Dortch became partners under the name and style of Allen & Dortch.

In the meantime, in 1886, after a courtship that began in boyhood, he was happily married to Miss Mattie Moore, one of Duplin's fair daughters, at the home of her father, Dr. Matt Moore, a member of one of the oldest and most prominent families of the county.

Before taking this important step he consulted another impecunious young lawyer, recently married, who shall here be nameless, stating that he had heard that a married couple could live on what the husband had spent while single, and requesting the benedict's opinion upon the point. His friend gave him such encouragement, by his grave and confident assertion that before marriage he had spent all he made and that since marriage he had accomplished the same result, that the marriage was not long delayed.

The junior member of the new law firm, a son of Hon. William T. Dortch, inherited a large measure of his distinguished father's ability, his vigor of mind and body, and, as he approached middle age, much of his impressive personality and power of speech.

To Colonel Dortch the trial of a hotly contested case before the jury, the skillful examination and cross-examination of the witnesses, the development of the evidence, closing with one of his powerful and effective speeches, was a constant source of the highest pleasure. No one who saw him at his best, with all his great talents in action, the light of battle in his eyes, and the confidence of victory in his tones, ever forgot the spectacle.

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While the senior, with rare skill, wise management, and clear, convincing argument, took part in the trial of their more important cases, he preferred the quiet ways of his profession. From the beginning of his practice he was an untiring student of law, not only as a means of earning his livelihood, but from a deep love of the great principles of law and equity which inspired him from his youth and until the shadows closed in upon his earthly career. No labor in the preparation of his cases was too arduous or long-continued, and his legal papers, his pleadings, his requests for instructions, and his briefs were models of accuracy, clearness, and order.

The practice of the firm grew, and he argued their cases in this Court, where his arguments and briefs, evidencing painstaking care, sound judgment and learning, with high powers of reflection and discrimination, and citing all pertinent authorities, were highly regarded, and where few practitioners have enjoyed more the confidence and esteem of the personnel of this great tribunal in whose labors he was destined in after years to participate.

He became so familiar with our decisions, and cited them so frequently and so accurately, that he was regarded by some members of the profession as a great "Case Lawyer," and so he was, but any implication that he was only a "Case Lawyer" was far astray.

He was thoroughly grounded in the great principles of the law, which he magnified and used with great effectiveness, but he delighted in well considered cases that recognized and illustrated these principles and applied them to varying states of fact, and referred to them so readily as sometimes to give color to that mistaken impression. It was to him a pleasant exercise to explore "the codeless myriad of precedent," cull "single instances" from the "wilderness," and skillfully combine them into a comprehensive and satisfactory view of some great topic of the law.

He, too, had, perhaps, profited by the tasks set by our loved preceptor, A. K. Smedes, who, giving only the facts of an opinion handed down by the Court, required the young members of the Goldsboro Bar to write our own independent opinion and compare it with that of the Court, and who, for our encouragement, would sometimes declare ours the better opinion.

In the trial of causes he was fair and candid in the statement of his contentions, deferential to the presiding judge, kind and courteous to his brethren, considerate of witnesses, and clear, direct, and forceful in his address to the jury. He had no such gift of eloquence as that possessed by his associates, often his opponents, Charles B. Aycock and W. S. O'B. Robinson, but his quiet, simple, persuasive speech often attained results beyond their reach. In some of his intellectual qualities

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he somewhat resembled that Christian gentleman and learned and industrious lawyer, W. C. Munroe, without a certain subtlety that distinguished Mr. Munroe's mind, and with a more practical bent.

In his practice, as in his life, honorable and upright, he scorned the devices by which small men attempt to supplement their deficiencies, and there was never at any time or anywhere any question as to his character or his methods.

While pursuing his life-work, he was not unmindful of his duties as a citizen, taking part in every movement that promised benefit to the community or the State, and active and influential in advancing the success of the Democratic Party, to which he was devoted both by inheritance and by conviction.

He was elected a member of the House of Representatives of 1893 from Wayne, his able colleague in the Senate being Hon. Benjamin F. Aycock, and immediately took his place as one of the ablest and most resourceful members of that body, his principal committee assignments being the Judiciary Committee, of which he was chairman, and the Committee on Railroads and Railroad Commissioners, of which, under the chairmanship of Hon. F. S. Spruill, he was an active and useful member.

He served with Mr. Spruill and Hon. Cyrus B. Watson on the committee appointed to consider "questions of law, constitutional and otherwise," growing out of the proposition to repeal the tax exemptions of the Wilmington and Weldon Railroad Company, and strongly advocated the repeal of the tax exemptions in the charters of all of the corporations of the State, which ultimately prevailed. Among bills of general importance, he introduced the bill, prepared by himself and Hon. A. D. Ward, the able representative from Duplin, dividing murder into two degrees, which was passed at that session.

After the adjournment he returned to Goldsboro, where he continued the practice with Colonel Dortch until June, 1894, when he was appointed judge of the Superior Court.

In the ensuing election his opponent was his personal friend, W. S. O'B. Robinson, who was successful, and Judge Allen resumed, in January, 1895, his former partnership, which had been kept open for him by his loyal and devoted partner.

Again in 1899 he was a member of the House, and one of the leaders of as able and distinguished a body as has assembled in the history of the State, presided over by that great judge and eminent and beloved citizen, Henry G. Connor.

As a member of the Judiciary Committee and chairman of the Committee on Railroads and Railroad Commissioners, Judge Allen rendered valuable service. He redrafted the statute relating to the regulation of

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public utilities, abolishing the Board of Railroad Commissioners, and establishing the North Carolina Corporation Commission, which was enacted into law.

He was a member of the Committee on Constitutional Amendments, consisting of Messrs. Rountree, Allen, Winston (F. D.), Overman, Foushee, Justice, Robinson, Moore, and Currie of Bladen. With the other able members of this committee he gave helpful and unremitting assistance to the chairman, Hon. George Rountree, an accomplished and learned lawyer, who, more than any other Representative or Senator, had, before the beginning of the session, made a careful and exhaustive study of the suffrage provisions of the constitutions of the states of the Union, and who was thoroughly prepared to consider and discuss the amendments proposed to the State Constitution, embracing what was known as "the Grandfather Clause," having for its ultimate purpose the establishment of suffrage upon the basis of a universal educational qualification.

Largely, perhaps principally, through Judge Allen's influence and his tactful labors, the divergent views of members of both houses, most of whom favored the proposition but were divided in opinion as to the form in which it should be submitted, were harmonized, the bill submitting the amendment perfected and enacted, and the amendment was thereafter, under the wise and masterful leadership of Charles B. Aycock, overwhelmingly ratified by the voters of the State. It is now believed to be the consensus of opinion of thoughtful citizens of all political parties that no single act of legislation nor constitutional amendment has contributed in so large a degree to the peace and prosperity of all classes, nor to our educational and industrial progress, with the many humane and uplifting movements which have followed in their wake. Judge Allen approached the important questions which arose with great breadth of view and thoughtful consideration for the opinions of others, deliberating with open mind upon every argument from every quarter, but, when his conclusion had been reached, he was tenacious and unyielding, but so clear, tactful, and persuasive in the presentation of his reasons that misconceptions were removed, antagonisms overcome, and unanimity often attained.

At the same session acts were passed providing for the general supervision of the shell-fish industry of the State of North Carolina, out of which, and out of judicial action ensuing thereon, arose a controversy, involving much strife and bitterness, which engrossed to a large extent the thought and labor of Representatives and Senators at the succeeding session, and resulted in the impeachment of two Justices of this Court.

Judge Allen's last service in the Legislature was as a member of the House at the session of 1901, presided over by Hon. Walter E. Moore,

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the able representative from Jackson, whose valuable, unselfish, and patriotic services at the session of 1899 had greatly endeared him to his associates.

Judge Allen was again chairman of the Judiciary Committee, and was elected chairman of the Board of Managers for the Impeachment of the Judges, in which he made the opening argument before the court of impeachment. The trial resulted in an acquittal in which those who favored the prosecution cheerfully acquiesced in the belief that the purpose for which it had been instituted had been accomplished without injury or humiliation to the judges upon whose action it had been predicated.

Judge Allen's legislative career was one of much usefulness. A wise and constructive legislator, he ranked with the ablest statesmen of the period in which he served.

Again, in 1902, he was nominated for judge of the Superior Court, and again the opposing candidate was Judge W. S. O'B. Robinson, then closing a term on the Superior Court Bench in which he had impressed the people of the State with his love of justice, his hatred of fraud and oppression, his just but merciful administration of the law, and the brilliant and often humorous manner in which these great virtues had been demonstrated.

In this second contest between them Judge Allen was the victor, Judge Robinson retiring to the practice, but neither victory nor defeat could disturb their life-long friendship.

The change in his life-work so brought about was very grateful to Judge Allen, who might truly have said with Chief Justice Ames:

"I never designed to continue at the bar all my days. . . . I do not desire to be compelled to make the worse appear the better reason. I wish to pursue the better reason."

From Judge Allen's youth he had possessed so large an endowment of what, for lack of a better term, has been called "The Judicial Temperament" that those who knew him best had believed him destined to high judicial position.

He began his second service as judge of the Superior Court 1 January, 1903, held court in every county of the State, and, in that capacity, his learning, ability, and character won the instant recognition of the profession and the people. His orderly, prompt, and systematic conduct of the business of the court, his unflinching patience, tact, and courtesy, his impartiality and love of justice, his practical sense, the soundness of his rulings, and the clearness of his charges, which enabled juries easily to grasp complicated and troublesome questions of law and fact, marked him as one of the ablest trial judges the State had produced.

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In his political life he had gained a reputation for intense partizanship which he would not have denied. His conviction that the welfare of the people of the State and of the South was dependent upon the rule of his party was so strong and controlling that he looked with dislike and with a feeling somewhat akin to intolerance upon every organization or movement that threatened what he believed the muniments of our civilization. Consequently, his opposition was strong, unyielding, and sometimes lacking in the moderation that in all other respects distinguished his life and conduct. But while this was true, he cherished no animosity toward individuals, numbered among his friends many of his political opponents, lawyers and laymen, and in the performance of his judicial duties put aside all political bias, exhibited such qualities of fairness, impartiality and justice, and "was so clear in his great office" that men of all parties united to acclaim him a just, wise, and upright judge.

He regarded the punishment of those convicted before him as the most difficult and painful duty imposed upon a judge; but, while he strove to mitigate the severity of the law when youth, ignorance, or sudden passion had concurred in its violation, he always kept before him the great fact that the protection of society, in the administration of the law, is paramount to all other considerations.

After a service of eight years on the Superior Court Bench, he was, in 1910, elected an Associate Justice of this Court, and, taking his seat at the Spring Term, 1911, entered into the labors of the hardest worked tribunal known to our institutions.

His first opinion, *Taylor v. Wahab*, 154 N. C., 219, filed 22 February, 1911, and his last, *Jennings v. Jennings*, 182 N. C., 26, filed 14 September, 1921, after his death, are fair specimens of his clear, direct, and forceful style. Between these, the volumes of the reports for nearly eleven years abound in opinions written by him touching almost every phase of the law, and furnishing evidence of his ability, learning, good sense, and almost infinite industry. Under permission, I here quote from the remarks of Chief Justice Clark upon the presentation of the proceedings of the Bar of this Court, 16 September, 1921:

"Here he was a patient hearer of argument, and we found him in conference invaluable in the consideration and decision of causes. His active and trained mind was quick to sense every view of a question, and he carefully considered it in all its bearings. He was tireless in his examination of precedents and careful in the preparation of his opinions. Always courteous, he was a most agreeable as well as a most valuable member of this Court."

A feature of Judge Allen's opinions that gave much satisfaction to lawyers was the brief but accurate statement of facts which preceded or

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was a part of each opinion, and which threw light upon the legal propositions laid down. While his opinions were often short, he took care that brevity should not be sought at the sacrifice of clearness and a full understanding of the facts and the law governing them.

He had a profound veneration for the Federal Constitution, with its first eleven amendments, but was not so deeply impressed with the subsequent amendments to that great instrument, believing that most of them dealt with matters solely within the jurisdiction of the states.

He had a great admiration for the genius and learning of Chief Justice Marshall, but in his views of government he was essentially of the school of Jefferson.

He believed in simple, economical government, and the greatest liberty of the citizen consistent with peace and order.

Realizing that most of the wholesome progressive movements of his day were based on community welfare, he gave them his earnest support, but was sometimes oppressed, as some of his opinions and conversations indicated, with the fear that, in pursuing the good of the whole, the rights of individuals were being impaired and personal initiative enfeebled and often destroyed. He had little sympathy with the line of the poet, either as the statement of a fact accomplished or as a poetic vision, that "The individual withers and the world is more and more," and gave his hearty assent to the proposition announced by Professor Roscoe Pound, in his recent volume, "The Spirit of the Common Law": "Although we think socially, we must still think of individual interests, and that greatest of all claims which a human being may make, the claim to assert his individuality, to exercise freely the will and the reason which God has given him."

While he did not underrate those technicalities of the law which protect the citizen in his life, liberty, and property, he was no slave to precedent, and his mind dwelt upon the essential justice and inherent equity of the causes that came before him which he endeavored to draw from the record and establish by force of reason and authority.

Desirous of improving the tools of his profession and of lightening the labor of his brethren, in the midst of the most exacting labor, he found time to prepare his Annotations, published in the 164th Report, and his Table of Cases Overruled, Modified, and Reversed which appear in the 171st. He was honored by the University of North Carolina, which conferred upon him the degree of L.L.D.

In the summers of 1920 and 1921 he delivered a series of lectures before the Law School of the University which were highly appreciated, and which, it is hoped, may be published.

He was fond of association with young people, and was helpful and stimulating to students and young lawyers.

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His relation to the members of this Court could not be better expressed than in the remarks of his friend and associate, Judge Hoke, at the memorial meeting of the Bar held shortly after his death:

"None know better than his former associates that a strong man amongst us has fallen; that North Carolina and its people have lost a great citizen, and the courts an upright, able, and learned judge. Going further, we realize that we have been bereft of a wise and warm-hearted friend, who was ever ready to spend himself in high-minded, helpful, and sympathetic service."

A distinct and unusual service was rendered by Judge Allen, especially in his later years, when his wise and mature counsel was sought by legislators and public men of all shades of political thought, and from all portions of the State, in matters of public welfare, in which to the last he manifested a deep and vital concern.

In his home community he was for years the general adviser of all classes upon almost all subjects, ranging from financial difficulties to the most intimate domestic relations. His professional brethren, his business associates, the richest and the poorest of his friends and neighbors, felt at liberty at all times to avail themselves of the patient, friendly, and helpful counsel which it was one of his highest pleasures to bestow on all who sought him.

His life and training had brought him in touch with every variety of problem affecting the lives of men, and his clear intelligence, his sympathetic understanding and practical judgment enabled him to render services, quiet and unostentatious, frequently unknown to any except the recipients, but often of inestimable value. I need not say that these fine qualities and their constant exercise had brought him troops of friends who loved him in life and who mourn him in death.

His attachments were strong and lasting. He was a man of emotion, seldom exhibited except when so deeply moved that his habitual self-control gave way under the stress of some dominating and overpowering feeling.

An affectionate and unbroken friendship existed between him and Charles B. Aycock, dating from their youth, and cemented by years of personal and professional association.

None knew or appreciated more the great and lovable qualities, the ability and eloquence, the noble ideals and high achievements of this honored and most beloved of North Carolinians.

No other speeches moved him as did Aycock's—sometimes to tears he could not hide. I recall a scene at the Democratic State Convention of 1900, when, after his nomination, the candidate for Governor came upon the platform to accept the honor conferred, in a speech of wonderful power that convinced, thrilled, and moved to action a whole people, and Allen listened, wept, and sobbed aloud.

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Judge Allen was not of a demonstrative nature.

It is doubtful whether he ever told any man he was his friend, but he performed all the offices of friendship with such unselfish simplicity and sincerity that none could doubt his attachment or his loyalty. Indeed, one of his most marked characteristics was the simplicity and sincerity of his thought, speech, and life.

He had much of "that prudent, cautious self-control" which a great poet, who had little of it, described as "Wisdom's root." While he had at all times a just appreciation of his own powers, he was simple, unpretending, and without vanity or self-conceit.

During his service as judge of the Superior Court the training of their children, Mary Moore, William R., Elizabeth H., Oliver H., Dorothy S., who survived him, had devolved almost exclusively upon Mrs. Allen, who had devoted her life in wise and loving ministry to her children, her husband, and her home.

Near the conclusion of this service he decided to return to the practice, which would enable him to remain at home and aid Mrs. Allen more effectively in the education and training of their children, who were then reaching an age when the care of both parents seemed requisite.

His election, however, as Associate Justice, which permitted him to spend almost half of every week at home, where he prepared most of his opinions, gave him the opportunity he desired, and together they made the welfare of their children the supreme object of their lives.

He lived to complete the education of all of them, except Oliver H. and Dorothy S., and to see his namesake, William R., beginning the practice of his own profession.

It was my privilege for many years to be often in that home, in delightful association with its inmates, in the enjoyment of a life-long friendship with the father and mother, watching with affectionate interest the boys and girls grow up into young men and young women of intelligence, character, and refinement.

In early manhood Judge Allen became a member of the Methodist Episcopal Church, South, in which communion he continued until his death, and he was for a number of years a highly valued and useful trustee of the Methodist Orphanage at Raleigh.

He had the deepest conviction of the truth of the Christian religion, which became the inspiration and guide of his life.

After hearing arguments during the second week of the Fall Term, 1921, of this Court, returning, as was his custom, to his home in Goldsboro, where in tender and loving association with his wife and children, he experienced his highest joy, within an hour of his latest labor in the completion of his last opinion, on 8 September, 1921, he entered into the life immortal, happy in death as in life, in that the end came ere age and

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infirmities had sapped his physical strength or abated his mental vigor, but happiest in that he heard the summons unafraid, and departed this life "in the confidence of a certain faith, in the comfort of a reasonable, religious, and holy hope."

Commissioned by the kindness of his loved ones to present to the Court the portrait of Judge Allen, the work of his friend, the gifted artist, Mrs. Marshall Williams, of Duplin, I should esteem myself fortunate if I could believe my portrayal of his life and character as worthy of him as is her portrayal of the calm, benignant face that, in the company of the wise, the great, and the good, whose effigies adorn these walls, shall look down upon future generations of judges and lawyers as they minister at this altar of justice.

**REMARKS OF CHIEF JUSTICE CLARK UPON ACCEPTING PORTRAIT
OF LATE ASSOCIATE JUSTICE WILLIAM R. ALLEN IN
SUPREME COURT ROOM 6 SEPTEMBER, 1922**

We have heard with great interest the able and ornate address of Judge Frank A. Daniels, summing up the career and services of our deceased friend and associate. All lawyers know from Judge Allen's own pen the service he has rendered to the law and the State, as recorded in his opinions in 29 volumes of the North Carolina Supreme Court Reports. They will abide and carry to a later generation a just conception of what Judge Allen did while among us, and what he was. But to few comparatively can there abide a vivid recollection of his appearance, the outer personality of the man as seen and known by those among whom he lived and had his being.

Words are powerless to transmit this. It is only the painter's brush that can present and preserve this essential feature and constituent of any man. Hence, the portraits that hang on public buildings the world around recall to the memory of admiring friends the features of those whom they loved and honored in life, and which shall present them "in their habit as they lived" to the generations that are to come.

To this, to these methods of preserving the memory of those who have deserved well of their countrymen the ingenuity of the present age is adding the voice, and the very tones and words spoken by them as recorded on imperishable tablets.

We can add nothing to the admirable presentation by Judge Daniels of the character and services of our deceased friend. We can but quote the words of Tacitus over one who in his day also deserved to be remembered in honor by his countrymen. That great historian said in the

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sonorous tongue of old Rome: "*Quidquid ex eo amavimus, quidquid admirati sumus, manet, mansurumque est in eternitate temporum et fama rerum,*" "Whatever of him we loved, whatever of him we have admired, remains and will remain in the eternity of time, and in the fame of his deeds."

We accept this loving memorial from the hands of his family, and place it here where it will remain an inspiration to young lawyers and a proud memento to all as long as North Carolina shall reverence the laws and able and faithful service in their maintenance.

The marshal will place the portrait in its appropriate position and the proceedings on this occasion will be printed in the next volume of the reports.