

Presentation of the Portrait

of

THOMAS RUFFIN, JR.

Associate Justice
Supreme Court of North Carolina
1881-1883

November 17, 2005

OPENING REMARKS
and
RECOGNITION OF FORMER
JUSTICE FRANKLIN FREEMAN

by
CHIEF JUSTICE I. BEVERLY LAKE, JR.

The Chief Justice welcomed the guests with the following remarks:

It is my distinct pleasure to welcome each of you on behalf of the Court to this special ceremony honoring Associate Justice Thomas Ruffin, Jr. Due to the efforts of the Supreme Court Historical Society, the presentation of Justice Ruffin's portrait today makes a significant contribution to our fine collection and closes a significant gap in our portrait collection.

This ceremony today connects us with an important part of the history of the Court. On March 6, 1888, the portrait of Chief Justice Thomas Ruffin was presented to and accepted by the Court. Chief Justice Ruffin was the father of Thomas Ruffin, Jr., whom we honor today. How appropriate it is that we have returned to the Capitol, the former home of the Supreme Court where Chief Justice Ruffin presided, to accept the portrait of his son Justice Thomas Ruffin, Jr. This Capitol building was also the home of the Court during the time Thomas Ruffin, Jr. served on the Court, so in a real sense Justice Ruffin has come home.

I am now very pleased to recognize Associate Justice Franklin Freeman, President of the Supreme Court Historical Society, to present the portrait to the Court.

PRESENTATION ADDRESS

BY

**THE HONORABLE FRANKLIN FREEMAN,
FORMER JUSTICE,**

SUPREME COURT OF NORTH CAROLINA

May it please the Court:

On behalf of the North Carolina Supreme Court Historical Society, I am honored to be here today and to represent the Society on this historical occasion.

The tradition of presenting portraits of former justices to the Court began on March 5, 1888. The occasion was the formal opening of the new Supreme Court and Library Building which is now the Labor Building. At 10:00 A.M. Governor Alfred Scales presented the building to a Court composed of Chief Justice William Smith and Justices Augustus Merrimon and Joseph Davis. Following acceptance of the building by the Chief Justice, three portraits of former members of the Court were formally presented: the life size portrait of Chief Justice Thomas Ruffin and portraits of Justice Edwin Reade and Justice Thomas Ashe. For one hundred seventeen years since, this practice has continued, and today we reach a milestone with this portrait presentation: all of the justices who served on the Court during the nineteenth century will be represented in the portrait collection of the Court.

The name of Ruffin has been connected to the Supreme Court for one hundred eighty-five years; primarily that of the eminent jurist, Chief Justice Thomas Ruffin. However, there was another Ruffin by the same name who served on the Court, Thomas Ruffin, Jr., the fourth son born to the great Chief Justice Thomas Ruffin and his wife Anne Kirkland Ruffin. Today we seek to remove Justice Thomas Ruffin, Jr. from the shadow of his illustrious father.

Raleigh artist, Mike Pullium, created the portrait to be presented today. Because of an imperfection of one eye, Associate Justice Ruffin never sat for a photograph or a portrait. The only image of Justice Ruffin that could be found was a postmortem photograph which posed a challenge to the artist in capturing a "lifelike" image.

Thomas Ruffin, Jr. was born at Ruffin Hall in Hillsborough on September 21, 1824, into one of the most prominent families in the state. His father was at the height of his legal career, as well as

being an extremely successful planter and agriculturalist. Ruffin's paternal great grandfather was Chief Justice Spencer Roane of the Supreme Court of Virginia. His maternal grandfather was William Kirkland, the leading merchant in Hillsborough. William Kirkland resided at *Arymont*, which still stands today as a prominent landmark in Hillsborough. Young Ruffin enjoyed his young years with the comforts that being the son of a successful planter could supply. After attending the highly regarded Samuel Smith Academy in Rockingham County and receiving instruction from private tutors, Ruffin entered the University of North Carolina in 1840 at the age of sixteen.

At the age of eighteen, as most college students are apt to do, Thomas Ruffin was questioning his plight in life. What would his profession be? Although his father was Chief Justice of the state Supreme Court, his brother William was one of the leading attorneys in the state, and his brother John a leading physician, Thomas seemed unclear as to direction. In writing to his father in February of 1842, he stated that he wished to "lay open" his plans for his future. He asked his father's permission to "quit college and go to sea," explaining that this desire was more than "a mere fancy, boyish and childish, for I assure you I have thought over it often." He continued by saying, "It is my opinion that I cannot succeed at the Bar or in the practice of medicine, and I distain[sic] to become a petty [sic] politician, who can alter his sentiments according to popular caprice." However, in September of the following year, young Ruffin seemed to have matured somewhat and wrote again to his father from Chapel Hill:

"The time has now arrived when I begin to appreciate your kindness, in offering an education, and the benefits to be derived from one. Indeed I may say that a complete change has been wrought in my ideas of what is right and what is wrong. I have determined to be something and not to leave this world, to be remembered as one, who came into it, merely to enjoy its sweets and to submit to its misfortunes, and then to leave it, without one deed, which may have had a happy influence on some fellow being."

He continued in the same letter by saying, "When I shall glide from the quiet labors of a college life, into the bustle and confusion of the world, and I begin to consider what shall be my occupation in future life, however, I have resolved to leave this point to be settled by a kind parent, who is so much better acquainted with the world and its ways and to whom I know my interest is such care."

In January of 1844, just months before he graduated from college, Ruffin again wrote his father and asked what profession his father had chosen for him. He said he was ready to leave college as a man and would dedicate himself to whatever occupation his father chose whether it be “cornfield or the highest profession.” After his graduation from the university, Ruffin managed part of his father’s extensive land holdings in Alamance county and began his legal studies under the tutelage of his brother, William, and, when not in Raleigh for court, his father, the Chief Justice. His frequent letters to his father gave accountings of the activities on the farm as well as kept his father updated on his studies. In one report he stated he had read the second volume of *Blackstone’s Commentaries* ten times and had asked his brother William for an examination, “thinking I would make a great display of my legal acquirements.” Before too many questions were asked by his brother, young Ruffin realized he had made “small progress.” His studies next included the third volume of *Blackstone*, and *Coke Upon Littleton*. These treatises were required reading by the Supreme Court before one could “stand for the bar.” At the time those words were literal: when an applicant took the bar exam, he stood before the Supreme Court in the courtroom and the justices asked questions from the bar exam, which of course the applicant was required to answer orally. His brother, William, by all accounts was an excellent instructor, as well as one of the leading attorneys in the state. Young Ruffin passed the bar and received his license to practice in the inferior courts in 1845 and in the superior courts in 1846.

After receiving his license from the Court which he would join some thirty-five years later, Ruffin began his practice in Yanceyville, the Caswell County seat. In 1848 he moved to the Rockingham County seat, Wentworth, and began a practice with John H. Dilliard, thereby forming a partnership and friendship. The friendship would be lasting. Due to the attention paid to their clients, the Dilliard-Ruffin practice flourished. John Dilliard, along with Judge Robert Dick, conducted the famous Dick-Dilliard Law School in Greensboro. John Dilliard was elected to the Court in 1878, and, when Dilliard resigned in 1881, Thomas Ruffin was appointed to take his seat.

In 1850 Ruffin was elected to the North Carolina House of Commons to represent Rockingham county. During Ruffin’s single term in the House of Commons, bills were introduced to call a constitutional convention. One of the amendments proposed would change the method of selecting Supreme Court justices, who were then elected by the General Assembly for terms of “good behavior,” amounting to

life terms on the Court. The proposed amendment would place justices' elections in the hands of qualified voters and would replace life terms with a "term of years." These provisions would be extended to the superior court judges, the attorney general, solicitors, the secretary of state, and the state treasurer.

During the debate on these amendments, Ruffin wrote his father asking his opinion on the proposed changes. Although we do not know the response of the Chief Justice, it is believed he advised Ruffin, Jr. against supporting the amendment because when the amendment came to the House for a vote, the amendment failed by a vote of thirty-eight yeas and sixty-six nays, Representative Ruffin voting in the negative. Ruffin introduced two bills while a member of the House: one created the town of Madison, and the other declared the "Dan River from Madison, to the Stokes County line a deep water course and sufficient instead of a fence." His neighbors did not want to erect a fence to enclose their fields, which was required by law. For his service in the House, he was paid the handsome sum of \$237.00.

Apparently political life was not to his liking, and he did not seek re-election. However, two years later in 1854 Ruffin was elected solicitor of the fourth judicial circuit. The vote for Ruffin was thirty-four in favor and thirteen against in the Senate and fifty-three for and fifty-one against in the House. I might add that during this period, all statewide officers were elected by the General Assembly rather than by popular vote. By all accounts of the period, Ruffin became an absolute master of the criminal law, was attentive to his duties, and apparently was without peer as solicitor. He was again elected solicitor in 1858, this time by wide margins in both the House of Commons and the Senate, and he served as solicitor until he resigned in March 1860. In 1858 he married his first cousin, Miss Mary Cain of Hillsborough, and moved from Rockingham County to the Alamance County seat of Graham. Four children were born to the couple: Thomas III; William; James; and Mary.

At the start of the Civil War, Ruffin heard the call of battle and joined a group of his neighbors as a private to form the Alamance Company of the Thirteenth Regiment of North Carolina Troops. At the first election of officers on May 3, 1861, he was elected captain of his company. In October of 1861, upon the death of superior court Judge Robert P. Dick, Governor Clark offered the position to Ruffin and Ruffin accepted. Ruffin resigned his position as captain of Company E, North Carolina's Thirteenth Regiment on October 20, 1861 and conducted court during the fall term. However, on April 16, 1862,

he was elected lieutenant colonel of the Thirteenth Regiment and from the battlefield in July of 1862 sent his resignation as superior court judge to the Governor.

In the summer of 1862, Colonel Ruffin lead the Thirteenth in the battles of Second Manassas, Sharpsburg, and South Mountain. On September 13, 1862, during the Battle of South Mountain, the regiment became separated from the remainder of the brigade and soon found itself completely surrounded by federal troops. Neither desiring to surrender nor to see his men killed by the circle of gunfire, Colonel Ruffin ordered a frontal attack on the federal army and drove them back, then rapidly turned his men around, charged the federal troops to the rear and drove them back also. The federal troops were so astonished by this maneuver, which was accompanied by a deafening rebel yell, that they were routed and withdrew in confusion. Although severely wounded with a musket ball to his hip, Colonel Ruffin and the Thirteenth held the field and returned to their brigade. While General Garland and Ruffin were mounted and discussing a replacement for the injured Ruffin, Garland received a gunshot wound from retreating federal troops and fell from his horse mortally wounded. He died a few minutes later.

Throughout his entire military career, as shown through statements made by his men and his superiors, Ruffin displayed an extraordinary concern for his troops. During battles he would constantly encourage his men to take advantage of rocks and trees as cover and would refuse to let the troops take undue risks. In February of 1863, due to injuries he received at South Mountain, Ruffin resigned his commission and was appointed judge of the military court of the Trans-Mississippi Department, General Kirby Smith's Corps.

While in the Confederate Army, Ruffin, Jr. would not hesitate to call on his father for political help. From Camp Garysburg he asked Chief Justice Ruffin to speak to Governor Ellis to arrange to have Ruffin assigned to the same company as some of his cronies.

After Ruffin's troops had lost their supplies Ruffin wrote the Chief Justice and asked what food was available that might be sent to the battlefield. He also asked for the ladies to make shirts and asked for materials to make uniforms.

While on the battlefield Ruffin learned of the birth of his first son and stated that if the son were to be named Thomas, it would be in honor of the Chief Justice instead of himself.

After the war Ruffin returned to Alamance County to continue his practice. However, in 1868 Ruffin moved to Greensboro and formed a partnership with his old friends, John H. Dilliard and John Gilmer. In 1870 his health declined, causing him to abandon his practice. For a while he ran an insurance agency, but soon moved back to Hillsborough. By 1874 his health had improved, and he ran as an independent for the superior court seat against Judge John H. Kerr who had replaced Ruffin on the superior court when Ruffin resigned in 1862. It was a particularly bitter contest with Ruffin losing by just four hundred votes, judges now being elected by the people.

After losing the election, he began a practice with Major John W. Graham in 1875. This partnership would last the rest of Ruffin's life, with the exception of the time he was on the Court. As to his skill as a lawyer, one attorney who knew him personally and by reputation said: "He went into the trial of no important case without having full and complete knowledge of the witnesses and of their testimony and of the law applicable thereto. When this full preparation is imposed upon quickness of intellect, adroitness and common sense, a great trial lawyer is the result, and by almost universal testimony Colonel Ruffin was the greatest of his section. Colonel T. C. Fuller, himself at the head of the Bar, and having, perhaps, a more extensive acquaintance with the lawyers of the State than any other person in it, said he had never met his equal as a lawyer, and Attorney General Davison said of him that 'he stood first rank.' At the time of his death he was universally regarded as the leader of the Bar in North Carolina—a preeminence accorded to him without question and without envy."

Thomas Ruffin the younger was appointed to the Supreme Court by Governor Thomas Jarvis on February 11, 1881, following the resignation of his friend and former law partner, Justice John H. Dilliard. Ruffin joined Chief Justice William N. H. Smith of Wake and Associate Justice Thomas S. Ashe of Anson. While a member of the Court, Justice Ruffin wrote two hundred twenty majority opinions and five dissenting opinions, an average of seven and one-half opinions per month. These appear in volumes 84 through 88 of the North Carolina Reports. Perhaps of necessity, most of his opinions were short and to the point, and like his father's opinions, made little use of citations from other cases. However, a selected reading of the opinions reveals a jurist with a powerful intellect, an innate understanding of constitutional principles, and a keen sense of justice. In *State ex rel. King v. McLure*, 84 N.C. 153 (1881), an action in quo warranto trying the title to the office of constable in Mecklenburg

County, the Court was called upon on appeal to interpret the amended state constitution of 1875. Ruffin wrote:

“Keeping in view the rule, which is a cardinal one, that in giving a construction to the constitution the spirit and intent of its framers is the safest guide, and that in order to ascertain this intent, especially in the case of an amended constitution which is supposed to be changed because of newly discovered or newly arisen exigencies the mischief intended to be remedied is the surest test, we have felt constrained to give to the clauses under consideration an interpretation differing from that insisted on by the relator.”

Justice Ruffin’s reverence for the proper administration of justice and the absolute necessity for its proper conduct was reflected in a number of his opinions. In *State v. Noland*, 85 N.C. 576 (1881), a rape case involving the berating and intimidation of several jurors during the trial by the state’s attorneys, Ruffin, in writing for the Court’s award of a new trial, stated:

“To secure for the administration of the law that general respect and confidence, which it is of the highest public interest it should enjoy, it is absolutely essential that the business of the courts should be conducted with becoming gravity and dignity; that their judgments should be seen to be temperately considered and impartially delivered; and above all, that the verdict of the juries concerned should be known to be the result of serious convictions after dispassionate and free deliberations.”

In *State v. McDaniel*, 84 N.C. 803 (1881), a case involving the slander of a woman, he stated: “This presumption [of innocence] in favor of defendants on trial is too important, and has been found too useful in the protection of innocence to be sacrificed to a mere sentiment”

While he was on the Court, Ruffin’s health continued to fail, and on September 17, 1883 he resigned from the Court and returned to the practice of law in Hillsborough with his friend, Major John W. Graham. He practiced on a limited basis until he passed away on May 23, 1889 at the age of sixty-five. Thomas Ruffin, Jr. was laid to rest very near his father and mother and is now surrounded by the graves of other kinsmen in the burial ground of St. Matthews Church in Hillsborough.

Following Ruffin’s death, Chief Justice Smith observed of him: “He was not a member of this court at the time of his death, but he

had been, and served with great satisfaction to the court and with distinguished ability. His associates were greatly attached to, and highly appreciated him as a judge, and for his great personal worth. He was a learned lawyer and a very able judge. He possessed a powerful intellect, well trained by study and application. He was full of energy, had a strong will and a keen sense of justice. In his appearance, habits, opinions and mental characteristics he was strikingly like his distinguished father.”

Today, as the subject of the last portrait of a nineteenth century Justice to be presented, the distinguished Ruffin the younger joins his eminent father, Chief Justice Thomas Ruffin, whose portrait was the first of the nineteenth century justices to be presented. To this there is both symbolism and symmetry.

ACCEPTANCE OF JUSTICE RUFFINS'S PORTRAIT

BY

CHIEF JUSTICE LAKE

Thank you, Justice Freeman. I will now call upon Justice Willis Whichard, Chairman of the Supreme Court Historical Society's Board of Trustees, to unveil the portrait of Justice Ruffin.

On behalf of the Supreme Court, it is with pleasure that I accept the portrait of Justice Ruffin as a part of our collection. We are delighted to have this work of art, and we sincerely appreciate the efforts of all who helped to make this a reality.

Thank you for being with us today.