

PRESENTATION OF THE PORTRAIT
OF
HON. GEORGE HOWARD

TO THE
SUPREME COURT OF NORTH CAROLINA

BY
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May it Please Your Honors: George Howard, a native of the city of Baltimore, just past his majority, and his wife, Alice Clark Thurston, a native of Caroline County, Virginia, March 25, 1824, made their home in the town of Halifax, North Carolina. They brought with them mental and physical health, moral integrity, and steadfast purpose. They practiced industry, economy, and patiently abided results. Upon these primary conditions, and by adherence to these essential virtues, they laid the foundation upon which they builded their life work, bringing to themselves, and their children, success, happiness, and the esteem of those among whom they spent their lives.

Mr. Howard established, edited, printed and published a weekly newspaper, which he called the *Free Press*. Two years thereafter he moved to the town of Tarboro, Edgecombe County, where he continued the publication of his paper, under the same name, until 1836, when he called it the *Tarboro Press*. He continued its publication under this name until 1852, when, for reasons easily understood by those familiar with our political history and the drift which, at that time, gave direction to party divisions, he changed it to the *Tarboro Southerner*, and so it has continued until this day—enjoying the distinction of being the oldest newspaper in the State. Mr. Howard resided continuously in the town of Tarboro, having, in an unmeasured degree, the esteem and confidence of the people of the town and county, until his death, 25 March, 1863. He was survived many years by his wife, a woman of marked force of character, strong intellect, and high moral qualities.

George Howard, the first son of Mr. and Mrs. Howard, was born in Tarboro, N. C., 22 September, 1829, where, with the exception of ten years, he resided until his death, 24 February, 1905. I am commissioned by his sons and daughters to present to the Court, and request that it be placed in association with the portraits of other eminent citizens of the State, the portrait of their father, one of Edgecombe's honored sons and of the State's most patriotic and loyal citizens. May I say to your Honors that this privilege gives me peculiar pleasure

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because, in addition to my admiration for his character, his mental and moral qualities, I hold his memory in sacred keeping as a dear and loyal friend. Although many years my senior, I enjoyed and returned, for more than twenty-five years, his manly affection and perfect confidence. His friendship and wise counsel were to me, at all times, never failing sources of strength, and of unalloyed pleasure. He was no summer friend, but one whose grip strengthened with the stress of the storm.

In accordance with the custom which, with the approval of your Honors, prevails on such occasions, I desire to speak regarding the life and character of this man, citizen, lawyer, judge; to set forth what he was, and what he did, which makes it appropriate that his portrait be given place with those of other citizens who in his and their day and generation did the State some service.

It is instructive and interesting to make inquiry concerning the environment, social, industrial, political, and religious, in which a man, in the study of whose character we are concerned, was born and spent the plastic period of his life. The opinions, views, and conduct of every man, and especially every strong man, is, to a degree, the result of his environment. It is no disparagement of what we term personality, or force of individual character, to find in a man's opinions, conduct, attitude towards his fellow-men, and questions regarding his social, political, or business relations, the influence of environment or association. It is in this sense that we speak of representative men, those men who, by force of intellect, character, and effort, stand out, with more or less prominence, as representative of the whole.

The county of Edgecombe, from every viewpoint, was in its early settlement, its growth and development during the first half of the last century, a fertile soil and congenial climate for the development of a strong political and social democracy. It was not settled so early as the coastal section of the State. Its population was drawn largely from those who first settled in Virginia, and instead of moving into the higher regions of that State, sought fertile lands, accessible to the markets by means of rivers and creeks. They found, on the banks of Tar River and the creeks flowing into its waters, a pleasant country in which to dwell. The lands were easily cleared, yielding kindly to tillage and intelligent cultivation. The ridges, or what were then regarded as the uplands, were well timbered with the long-leaf pine, which at an early period became valuable for the gathering of turpentine and its distillation into rosin. After the counties of Nash and Halifax were set off from its territory, Edgecombe included, until 1855, in its boundaries the larger portion of the county of Wilson.

When the troubles with England disturbed the peace of the Colony, the people of Edgecombe promptly and actively took part in the cause

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of independence. Her delegates to the Congresses at New Bern, Hillsboro and Halifax were actively patriotic, some of them later serving in high civil position and others giving their lives to their country. William Haywood, Elisha Battle, Thomas Hunter, and others were delegates, while Col. Henry Irwin fell by the side of Gen. Francis Nash at the battle of Germantown, and Col. Jonas Johnson, wounded at Stono, died on his way home. Exum Lewis, Sherwood Haywood, and Henry Horn and others served as officers in the Army. In civil life, after the war, Thomas H. Hall, Thomas Blount, James W. Clark, and Richard H. Hines of Edgecombe represented the district in the Federal Congress. The county developed its agricultural resources in marked degree, and at the outbreak of the Civil War led all of its neighbors in the cultivation of its lands. An intelligent observer says: "Those who, at an early age, assisted or directed nature in the use of her forces and by the skillful application of fertilizers and by the careful husbanding and manipulation of all domestic stores of fertility made Edgecombe conspicuous as one of the best and most profitably cultivated counties of the State." This condition is worthy of note because in it we find the expression of the high order of intelligence and sound judgment of the citizens of the county. While there was a steady growth in wealth, as the reward of intelligent industry, it was so equitably distributed that there were but few very wealthy men in the county. The people lived in comfort, but without extravagant or useless display. They educated their children at home, and at the academy in the county town, until their sons were prepared for the University and their daughters for the schools at Salem and Raleigh. The prevailing religious thought was Calvinistic, as held by the Primitive Baptist Church, of which many of the people were members and a number were elders. They were not interested in the work of "internal improvement," and in those days public sentiment had not become largely interested in education by the State. These came later. They valued and promoted education by individual and community effort, rather than through the agency of the State. One who by heredity, birth, residence, and intelligent study understands the genius of the people of Edgecombe County, writes: "They were a people whose word was their bond and whose democracy was the expression of their freedom and independence. Edgecombe County was for years the banner Democratic county of the State. The purest democracy, as practiced and lived, is found only among a pastoral and home-loving people, and such were the people of Edgecombe. Living and working along the lines of principle that required the citizen, when demanding the protection and enforcement of his rights, to recognize and regard the rights of the other man, they resisted monopoly and decried preferment by special privilege; they wanted every man to have a fair

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and equal show. This being assured, the result of his life work was his concern. . . . The basic principles of democracy had been so successfully practiced and lived that a high degree of civilization had been attained, assuring the right of personal liberty, the appreciation of respectability, and the even administration of justice; the sun shone on an enlightened, contented, and happy people." It was in this environment that George Howard was born, educated, lived his life, did his work, expressed and illustrated its dominant thought and qualities. It is in the light of this fact that we may interpret his character and attitude towards life, its privileges, duties, and responsibilities. He received his education at the Tarborough Male Academy, a school like many others of those days in the county towns, maintained by the leading citizens, controlled by a board of trustees, and conducted by teachers having liberal education. It was here that, with those of his age, who in peace and in war maintained the honor and promoted the welfare of the county and State, he was prepared for the work and service into which he was called. At an early age we find him assisting in and later assuming the editorial control of his father's paper. Coming into the editorial work in the early fifties, he was confronted with, and engaged in, the study and discussion of the questions which united the South, but divided parties, resulting in the secession of the Southern States and the Civil War. *The Southerner*, true to its past, and expressing the convictions of its editors, father and son, stood strongly for the adoption of the free suffrage amendment to the State Constitution (1856), removing the provision which required the ownership of land to entitle a citizen to vote for a State Senator. An editorial written by him when a very young man discovers a remarkably clear understanding of the distinction between the alleged right of the State to nullify an act of Congress, and to secede from the Union, and the status of a citizen in respect to his allegiance to the State and Federal governments. In those days questions of public interest were discussed by intelligent citizens in articles, and by the editors of the local papers, to a much larger extent than now. The editorial work on a weekly paper did not offer a sufficiently large field for his purpose in life; hence, we find him at the University, studying law under Judge William H. Battle and Hon. Samuel F. Phillips, for both of whom he ever retained a high esteem. Of Judge Battle he always spoke in affectionate terms.

At the Spring Term, 1850, he received his license from the Supreme Court and was at the next succeeding term of the county court of Edgecombe admitted to the bar, receiving his Superior Court license a year thereafter. He was immediately elected county solicitor by the Court of Pleas and Quarter Sessions of Greene County.

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At this time the people living in that portion of Edgecombe now within the county of Wilson, by reason of the distance from Tarboro and the expense and time required to attend the courts, inaugurated a movement for the establishment of a new county. The town of Wilson, recently chartered, had begun to grow in population and importance, attracted the attention of the young lawyer, resulting in his settling there in 1854. He at once became one of its leading citizens, giving to the new county movement his earnest and enthusiastic support. He went to Raleigh at the opening of the Legislature, November, 1854, for the purpose of urging the passage of the bill establishing the county, when, without solicitation and against his wish, the Democrats having a majority, he was elected Reading Clerk of the House of Commons. By his attractive manners and efficiency in the discharge of the duties of the office he made friends for himself and the measure in which he was so deeply interested so that, overcoming the opposition, the bill establishing the county, commemorating the name and services of Gen. Louis D. Wilson, one of Edgecombe's distinguished citizens, legislators, and soldiers, was passed and ratified, February 15, 1855. He at once became one of its most popular citizens, taking an active part in the organization of the new county and assisting in launching it upon its successful career. At that time the population was but 9,000. He lived to see it equal the population of the mother county, being in 1905 more than 25,000. He was actively interested in and promoted the growth of the town of Wilson, and, although guided by a sense of duty to and in accordance with the wish of his widowed mother, at the end of the Civil War he returned to Tarboro, Judge Howard always retained a strong affection for the county and town of Wilson, rejoicing in their growth and prosperity. Between the older citizens and himself there existed a warm attachment. Of this I speak from personal knowledge, derived from long association with both. He secured a large and lucrative practice in Wilson, Wayne, Edgecombe, and adjoining counties. He shared with William Norfleet, John L. and Robert R. Bridgers, William H. Johnston, and L. D. Pender of Edgecombe, William T. Dortch, George V. Strong, and W. T. Faircloth of Wayne, Edward Conigland of Halifax, and William H. Bunn of Wilson, the practice in the courts which he attended. While not seeking political position, he took an active interest in the questions which were stirring the thought and, to some extent, the passions of the people in the State and Nation, giving cordial and active support to the Democratic Party, its policies and candidates. Upon the resignation of Judge Ruffin, and the promotion of Judge Manly to the Supreme Court (1858) he was tendered the appointment, by Governor Ellis, and his council, as one of the judges of the Superior Court. At the next session (1859) of the General Assembly he was

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elected to the position for life. He was at this time thirty years of age, receiving from his practice an annual income of more than \$5,000, which he surrendered to accept the judgeship, with the salary of \$1,950. At the same time Judge Osborne of Charlotte and Judge Heath of Edenton were appointed to the bench. Major Moore in his history, written years afterwards, says: "Judge Howard was much younger than his colleagues, but had for several years divided with Hon. William T. Dortch the honors and emoluments of the Goldsboro district, then presenting the richest legal harvest to be found in eastern North Carolina. His fine presence, quickness of apprehension, and legal abilities gave him large success upon the bench, while his personal qualities brought troops of friends wherever he was known." His elevation to the bench met with general approval and, as was prior to 1860, the custom in this State, would probably, but for the Civil War, have resulted in his remaining in that field of labor during the remaining years of his active life. While in the usual sense of the term Judge Howard was not a "close student" of the law or literature, he was well grounded in the principles of the Common Law, its procedure and practice. An opportunity to be familiar with the books which he gathered during these years of preparation shows that his reading, in the sphere of law, history, and polite literature, was well chosen and diligently pursued. His conversation in later years gave unmistakable evidence of careful, intelligent study. He maintained on the bench his reputation as a lawyer, and as a presiding and administrative judicial officer he was not excelled by any. The political conditions resulting, soon after his appointment, in the secession of the State and the Civil War, overshadowed judicial work and reduced litigation in the courts. Such of his decisions as found their way to the Supreme Court are reported in 52, 53, 59, and 60 N. C. Reports. They compare favorably with the record made by our ablest Superior Court judges.

Judge Howard's mind was too well poised, his judgment too clear, his moral and intellectual convictions too firmly fixed upon principle to carry him to the support of radical men or measures. He favored the nomination of and at the election of 1860 voted for Stephen A. Douglas for President. When the State Convention, May, 1861, was called, Judge Howard and Hon. William S. Battle were elected delegates by the people of Edgecombe and that portion of Wilson then voting with the mother county. When we recall the fact that such men as William A. Graham, Thomas Ruffin, George E. Badger, E. J. Warren, Bedford Brown, Col. Dennis D. Ferebee, John Manning, John A. Gilmer, Kenneth Rayner, Asa Biggs, William S. Ashe, Robert H. Cowan, Gen. Bryan Grimes, David S. Reid, Dr. Kemp P. Battle, Governor Holden, and Weldon N. Edwards were delegates, it is manifest that, without

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regard to the final outcome of what was done, North Carolina called into her service her choice men in this her day of trial. Judge Howard accepted the doctrines of the State's Rights school of constitutional construction. He believed that, as "by the exercise of the sovereignty of the people of the State in Convention assembled" the State had entered into the Union, "when, in like manner, they chose to exercise their sovereign right again, they could withdraw from the Union, and that, in doing so, they could not be guilty of treason to either State or Federal government." Holding this opinion, he voted against the ordinance introduced by Mr. Badger, justifying the separation of the State from the Union upon the course pursued by Mr. Lincoln, and basing its action upon the right of revolution, and voted for the substitute offered by Mr. Craig, whereby the ordinance of November, 1789, was "repealed, rescinded, and abrogated," thus asserting, as an act of sovereignty, residing in the people of the State the right to withdraw from the Union and reassume the status of an independent sovereign State. It is well known to those familiar with the State's history that this ordinance received the unanimous vote of the delegates. This fact has an interesting relation to later events. In the organization of the Convention, Judge Howard was made chairman of the Committee on Military Affairs. It is difficult to repress the query why a judge of the State court should be placed at the head of this committee. That he served acceptably is evidenced by the journal of the Convention, which, with several adjournments, continued in session until May, 1862. He made a number of important reports, which were uniformly sustained. He was also made chairman of the Committee on "The Executive Department." His personal relations with Governor Henry T. Clark, of Edgecombe, who, as President of the Senate, succeeded Governor Ellis, were intimate. While a number of amendments were debated, and several adopted, they were never incorporated into the Constitution. The war, with its incidents and demands, absorbed the time and thought of the delegates.

At the conclusion of the war, and the organization of the Provisional Government by President Johnson, the State officers were superseded by his appointees, and, of course, Judge Howard was not of those appointed. That his course as their delegate in the Convention of 1861 met with the approval of the people of Edgecombe and Wilson counties is evidenced by his election, with Mr. John Norfleet, a delegate to the Convention called by the President, which met in Raleigh, October 2, 1865. This Convention was representative, in the majority of its members, of the Union sentiment then existing in the State, although there was a strong minority of men who, while recognizing that the State was to be restored to its place in the Union, with an acceptance of the prac-

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tical results of the war, were unwilling to renounce their honest convictions or, by any act of theirs, place these whom they represented in a false position. The Convention contained a large number of the State's strongest, ablest men. Of the Whig and Union element, the most prominent were Bartholomew F. Moore, Edwin G. Reade, Lewis Thompson, Patrick H. Winston, Samuel F. Phillips, Nathaniel Boyden, Gen. Alfred Dockery. Of the Democrats were Judge Matthias E. Manly, Judge Allmand A. McKoy, Col. William A. Allen, Edward Conigland, Bedford Brown, Judge E. J. Warren, Col. Dennis D. Ferebee, Giles Mebane, Judge D. H. Starbuck, Judge R. P. Dick, and Judge Howard had been members of the Convention of 1861. William P. Bynum, Thomas J. Jarvis, William Eaton, Judge Robert B. Gilliam, Montford McGhee, were also members of this Convention.

Mr. Boyden introduced an ordinance declaring that "The ordinance of 21 November, 1789, was now and had at all times since its adoption been in full force and effect, notwithstanding the supposed ordinance of 20 May, 1861, which is now and hath at all times been null and void." Colonel Ferebee at once introduced a substitute providing that the ordinance of 20 May, 1861, "is hereby repealed, rescinded, and abrogated." This at once launched the delegates into a spirited, and on the part of some, bitter debate. Mr. Moore, Mr. Phillips, Judge Warren, Mr. Thompson, supporting the ordinance, Judge Manly, Judge Howard, Colonel Ferebee, Mr. Conigland, Mr. Mebane, Mr. Eaton, Mr. Brown, defending the substitute. This is, probably, the last occasion in a parliamentary body in North Carolina on which the legal and political effect of the ordinance of secession was debated. The speeches of several of the delegates were published in full in the *Raleigh Sentinel* and *Standard*. Mr. Moore's was, probably, the best considered argument for the ordinance and Judge Manly's for the substitute. It was rejected by a vote of 94 to 19. The original ordinance was adopted, 105 to 9. It is a matter of interest to note the names of the nine who refused to vote what they deemed a "renunciation of their convictions." They are William A. Allen, Thomas J. Faison, D. D. Ferebee, George Howard, H. Joyner, M. E. Manly, A. A. McKoy, H. F. Murphy, and R. H. Ward. Of course, there was room for honest difference of opinion in regard to the "logic of the situation"—novel and difficult at best. Probably it is not far from the truth to conclude that the American people had for nearly a century been dealing with it without much regard to logic.

When it was proposed to submit the ordinance to the people for ratification several of the delegates insisted that the question should be so submitted that the people should be required to vote "Secession" or "No secession." In regard to this proposition, Judge Howard said:

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"It is not my purpose to prevent the ordinance being submitted to the people; I hope it will be—nor is there any reluctance on my part, or on the part of my constituents, to comply with the wishes of the General Government. We submit to its requirements without complaint. But the ungenerous action of several members of the Convention, representing constituencies so lately engaged in a common cause with my own, requires, at my hands, a word in behalf of the citizens of my county. For myself, when this ordinance was under discussion, I besought no leniency, but pursued the course which my judgment dictated and my conscience approved. I hoped that when submitted to the people whom I represented they would be allowed to vote 'Ratification' or 'No Ratification,' as they might be willing to accept it, or not, as a part of the terms of readmission to our rights as a State in the Union. *Here*, it was open as a question of principle; with them, it would be presented as a proposition for reconciliation. But gentlemen seem to be unwilling to permit them to show their submission, and I cannot sit quietly by and witness, unmoved, this attempt to place them in a false light or to insult them. They stand ready to ratify the ordinance and to abide by it in good faith as a settlement, now and ever, of this question. . . . But they will vote no falsification of their principles. I am proud of my constituency. They are true men; they stood nobly by their principles in the past, and it is the best guaranty of their faithfulness in the future. He that is false once, knowingly, will ever be uncertain when moved by ambition or interest. . . . In the noblest and most republican of all pursuits they brought themselves, by their soundness of head and heart, to the position of the banner county of the State, and with every characteristic of true, conservative republicanism, through self-reliance, seeking neither position nor place, nor power, with no airs of superiority, cherishing always great veneration for law and order, an earnest devotion to the Constitution of our fathers and faithful adherence to what they believed to be the true interests of their country. Amid the wreck of their prosperity and the desolation of their homes, they stand ready to bury the past and to devote their energies to rebuilding the waste places and to developing the new civilization by which they are surrounded. Thus situated, it can but bestir my indignation when I see them pardoned by their Government and generously treated by such Union men, Union men always, as the delegate from Wake (Mr. Moore) and the delegate from Forsyth (Mr. Starbuck); proffered insult by the proscriptive action of men who if during the Confederacy they ever spoke or acted for the Union it was never known, even to persons who, like myself, traveled over nearly every portion of the State. As in the past, they respected the rights of all, . . . so, in the present, they demand immunity from insult and wrong."

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Without hesitation, he voted for the ordinance abolishing slavery. The work of the Convention, otherwise than in disposing of the questions relating to the admission of the State and to her status in the Union, was not satisfactory to nor ratified by the people.

Judge Howard represented Edgecombe and Wilson in the Senate of 1865-66. While he maintained, with perfect consistency his attitude towards questions relating to the status of the people of the State during and immediately subsequent to the war, he actively participated in and was the author of legislation necessary to the adjustment of their relations to the conditions created by the results of the war. He voted for Judge Manly for the Supreme Court, for whom he always entertained a high regard and profound respect. He strongly favored and supported Governor Graham for the United States Senate, and opposed John Pool. He was the author of the "Stay Law," rendered necessary by the conditions existing at that time. It delayed the enforcement of the collection of "old debts." Later it was declared by the Supreme Court to be unconstitutional. He advocated and voted for the statute permitting negroes to testify in the courts and the enactment of "Lord Denman's Act," enabling persons interested in litigation to testify. His attitude, as expressed by himself, was "In all things true to the honor of the South and to Democracy; he believed in burying the past and promptly adjusting our laws to the civilization of freedom; without hesitancy sustained all measures necessary to that end." He said that he "was conscious of his own good faith to the Government. He neither approved nor would he follow the course of those who stood ready to defame any portion of the people of the State. He believed they were all loyal and their character would ultimately stand vindicated before the Nation. He had always acted, and he should continue hereafter to act, while representing his constituency as a freeman, representing freemen." During this session the lines which have for fifty years divided political parties in North Carolina were established, and men assumed, with more or less regard to past alignment, their political positions. The conservatives, representing those who stood for the old order, adjusted to new conditions, supported Jonathan Worth, a consistent Union Whig, for Governor, and those who stood for the new order upon radical lines of change ranged themselves under the lead of W. W. Holden. Judge Howard stood firmly, constantly, consistently with the former. Events so well known and so unhappy in their effect upon the welfare of the State that we would willingly forget them, rendered the work of the Legislature of 1865-66 of but little permanent value. Those who, like Judge Howard, did not see their way clear to accept the "new order" as worked out through the reconstruction acts, and their supporters, found themselves unable to exert any political influence on the dominant

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and governing element, especially in the eastern counties, in which the negroes were in overwhelming majorities. They found such estates as they had gathered either endangered or encumbered, and the necessity for meeting obligations and providing for their families demanding their attention. Before the change came, many of them had passed the age at which men are willing to undergo the labor involved in practical politics, and younger men had taken control.

Judge Howard gave close attention to the practice of his profession until he had accumulated a fair estate, when he gave a larger share of his time to his business interest. While he conducted the trial of causes in the court with skill and success, he preferred the work of counselor, adviser, and manager of large business transactions, in which he was unsurpassed and had but few equals. He had a remarkable capacity for seeing quickly and clearly all of the phases of controversies and their relation to each other, and suggesting terms upon which settlements, compromises, and adjustments should be made, avoiding litigation. His judgment in regard to present and prospective values, especially of real estate, was remarkably accurate. Knowing the people, their characteristics and habits, his counsel in so adjusting their affairs that they might work out of the debts and embarrassments resulting from the Civil War was of immense value to them. In the preparation of legal instruments, setting forth lucidly and concisely terms and provisions of transactions, avoiding unnecessary technical terms, he was well-nigh perfect.

In his relations with the court he never merged his manhood, nor sacrificed his sense of duty as a citizen, to the office of attorney. He regarded them as not only harmonious, but that he rendered the best service to his client by securing for him justice according to law. He was intolerant of indirection or questionable methods in the practice of the law. He had no confidence in nor patience with "picking juries." I was of counsel for him in a case in which he felt strongly that his rights had been invaded, under the forms of law, by a public officer. When the cause was on for trial, the regular panel being in the box, his counsel asked him if its members were satisfactory to him, with some suggestion of local or other influence. He cast his eye over the jury and, with that quickness of perception and conclusion so usual with him, he replied: "They are fair-minded men; that's all I want. I am content." His faith was justified.

Referring to his early retirement from the active pursuit of his profession, one who from boyhood knew him well, spending some time as a student in his office, says:

"It seemed to me that his financial success deprived the State of one of its greatest lawyers and judges. His intellect was capacious, his mind

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clear, vigorous, active, and accurate in its processes; his will strong and masterful and his judgment singularly sound and balanced. He was skilled in the system of pleading and practice of the Common Law, and a strenuous opponent of the men and the methods by which the changes of 1868 were brought about. Yet he fully recognized many improvements and advantages of the new system, and was one of the first men of the old régime whom I heard commend the Code of Civil Procedure."

Another who, though many years younger than Judge Howard, practiced at the same bar and was intimately associated with him, thus concludes his estimate of him as a lawyer: "Having an active, comprehensive, and reflective mind, most excellent common sense, it is difficult to say whether he was most successful as a business man or lawyer, having attained great success in both vocations."

While Judge Howard did not, after 1866, hold public office, he was deeply interested in all questions and movements concerning the welfare of the State. He attended, as a delegate from the State at large, with R. C. Puryear, George Davis, and William A. Graham, the Convention which met at Philadelphia for the purpose of uniting the supporters of the President's policy in regard to the Southern States. He was also a delegate to the National Democratic Convention of 1868 and at Cincinnati, 1880. He served upon a commission with Maj. John W. Graham and Thomas W. Patton, appointed by Governor Scales, to consider and recommend reforms in the revenue system of the State. In 1878 his friends presented his name to the Democratic Convention for nomination as Associate Justice of the Supreme Court, at which he received a substantial vote; but with quite a number of strong candidates from the east, the nomination went to another section of the State. On this occasion he wrote a friend: "While it is true, as I stated to you, that the position of Supreme Court Justice will, if conferred, come very opportunely and turn my life into a channel very agreeable to my wishes, it is equally true that I shall not permit an adverse result to disturb me." He was a member of the board of trustees of the University, and for many years a director of the Wilmington and Weldon, and its successor, the Atlantic Coast Line Railroad Company. In the town of Tarboro and its welfare he was always actively interested—serving as a commissioner, president of the board of trustees of the Academy, president of the Pamlico Banking and Insurance Company, and director of the Tarboro Cotton Mills and Fountain Mills. He advocated and supported all measures promotive of public education.

Judge Howard was, in his political convictions and sympathies, intensely Democratic—in the largest sense of that frequently misunderstood term. His democracy was based upon his faith in his fellow-men. He held with unswerving tenacity to the belief which he ever wished to

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be given practical effect, that political sovereignty rested in the people, and that governmental power was delegated by them to their agents by means of a written constitution, which, he thought, should contain a well defined, clearly expressed Bill of Rights and the framework of the system of government, leaving to the Legislature the power and duty of providing, within constitutional limitations, for the changing conditions and expanding demands of the State. He held strongly and uncompromisingly to the necessity of clearly defining and rigidly enforcing the limitations within which each department of the Government should serve the people. He also held that it was essential to the protection of the life, liberty, and property of the citizen that, whenever either was threatened by the enforcement of a statute the Judicial Department should, upon his appeal, declare and enforce his constitutional right and protect it from invasion by the exercise of power not granted to either department of the Government. This he regarded as a perfect representative—constitutional democracy—so far as human wisdom and experience could provide, a perfect form of government. He rejected, and had but little patience with, the theory that the State existed separate from the people; that the people existed for the State or that there was any place in a democracy for a governing class. He denied the power of the Legislature to create any corporation, either aggregate or sole, or grant any franchise, or bestow any office or privilege, with attributes of sovereignty, free from the power of governmental visitation, or withdrawal when required by the public welfare. To him the assertion of such power violated the basic conception upon which the American State was founded. He thought that Judge Ruffin, for whose ability, learning, and character he had the highest regard, fell into error in *Hoke v. Henderson*¹, in failing to note the distinction between the tenure by which public office and private property was held. He was greatly gratified when the Court overruled the decision². He thought that all private property should contribute to the support of the Government, and, therefore, although a director of the largest and wealthiest corporation in the State, claiming immunity from taxation, cordially concurred in the decision which resulted in its surrender. He refused to recognize a different standard of obligation or morals for the conduct of the State and the citizen. He, therefore, insisted that public obligations should be faithfully discharged. He regarded the laws as the recorded morality of the people, and patriotism manifested by cheerful obedience to them. While, by precept and example, he practiced and taught obedience to law and upheld its enforcement, he was jealous of his legal rights and prompt to resist, by legal methods, any infringement of them.

¹15 N. C. Rep., 1.²*Mial v. Elington*, 134 N. C., 156.

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Believing so strongly that the Government, its laws and their enforcement, should be an expression of the will of the people, should rest upon the consent of the governed, regarding as undemocratic any other restriction upon the suffrage than experience had taught to be necessary to the protection of the public welfare, he favored the largest practicable freedom of suffrage. He regarded the enforced enfranchisement of the negroes, without preparation, as a grave mistake. He thought that if freed from outside interference, the selfish greed of political adventurers, and left to the people of the State, they could, after the negroes were made free, by wise and gradually enlarging laws, bring the more intelligent, virtuous, and thrifty of the race into the electorate with safety. That their influence over the others would have been conservative and the prospect by education, economy, and obedience to law of securing the right to vote have stimulated them to preparation. He favored, even under the unfortunate and unfavorable conditions with which the people were confronted, an effort to reason with, and appeal to, the negroes to accept the leadership of and cooperate with the white people. As were many of our wisest citizens, who concurred with him, he was forced to the conclusion, after honest effort, that this was impossible. He, therefore, fully concurred in the policy adopted by the Democracy of the State to maintain white supremacy. Recognizing the evil effect upon the white race of suppressing the negro vote, he welcomed the Amendment of 1900 to the Constitution, which placed the suffrage upon an educational qualification. A few days before the election, November, 1898, he wrote: "The victory of Tuesday week will be but the getting in position for the most important work. In the present conflict the drift must be followed, but afterwards it will require the exercise of the highest quality of manhood for the guidance of the currents into wholesome channels. . . . The negroes are bound to us by so many ties, and have been led or forced into their present position so little of their own choice, I do pray for their deliverance from destruction, or further degradation, and hope that enough good, strong men may be found to protect them from the vile ambitions and low instincts of men of our race. The problem is an awful one, with so many tendencies to the degradation of both races; yet I feel hopeful that our Christian civilization will be able to master it." While the amendment was under discussion in the Legislature he wrote: "I do not see that you could do better than what you have done. Not that I think it the best, but it is the best that general public opinion will approve. . . . The proposed measure should certainly be passed."

He was always deeply concerned in the educational, moral, material welfare of the negroes, and opposed any measures or policy hostile to

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their advancement. Regarding them and the duty of the white race, he wrote:

"The first of all duties resting on the Southern whites, in justice on all whites, is to remedy this great wrong by upholding every movement so as to establish them (the negroes) in their proper places, . . . placing the colored races, as races, secondary. This, I believe, is the only settlement that can be permanent, even if this can be so. . . . Whatever may result, I am in thorough accord with Aycock in his clear enunciation of the duty of the democracy to carry out in good faith the two leading pledges of the campaign. I hope politics may not lower his standard. He is a true man. His inaugural is exactly the thing, and I enjoyed very much its wholesomeness." His faith in the ultimate outcome of Democracy was shaken at times by his fear of the influence of the political "boss," the demagogue and "concentrated wealth" misleading and prostituting the moral and political standards of the people. Of the latter he wrote: "So many multimillionaires, such vast rivalry in luxury, so strong materialistic tendencies, all conspire to destroy the better elements of our Christian civilization, I can but have doubts of the stability of the two great fundamentals—Liberty and Justice." But his faith sustained his optimism. He writes: "The great sweep of Providence through the world, constantly though slowly elevating and purifying, is, on the whole, making for better . . . It must be so . . . It is wonderful how the world is liberalizing, how Christian civilization, especially its chief characteristic, altruism, is pervading all society. It may become sufficiently potent to counteract the oppressive use of concentrated wealth." His faith in democracy, as he understood and interpreted it, made him patient, hopeful. He did not overestimate, or, indeed, attach great value to mere political mechanism or hastily enacted radical laws to meet temporary conditions.

His political philosophy has been well stated by another: "It is always necessary to keep fresh in memory theoretical truth in its utmost purity, and to conform institutions to it as nearly as possible. But nothing is perfect which is the work of man, and the radical who makes war upon everything in which he can discern a fault becomes a destructive. . . . It is always necessary to keep bright in our recollection the eternal principles of justice, but instead of warring against all existing institutions, the wise statesman does not attempt impossibilities, but decides every question, as it presents itself, on the side of freedom, and in this manner assists to bring the actual state nearer to the best possible state."

His was a well poised, steadfast faith in an enlightened, educated, conservative democracy, inspired and controlled by a deep, pervading patriotism. This faith he always taught and practiced, and in this

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service his life and example add to the glory, honor, and welfare of the Commonwealth.

An intimate association, and admission into his confidence, for more than twenty-five years, impressed me strongly with the consistency of his life and conduct, of his mental and moral integrity; his adherence to principle as he saw it. While tenacious of the basic belief upon which his philosophy of life, its relationships, privileges, and duties were founded, "he had great intellectual generosity, power to entertain new truths and to see new relations of things." Referring to the reconstruction period and its effect upon the State, one who was in close association with him says: "In that period of transition it was difficult to tell what would be the ultimate result of the changes introduced into our Constitution and laws. He had the clearest view of any man I have ever known of what those results were to be. . . . He once said to me that, on the whole, he approved the changes made as to the status of married women as to their property rights. There was, he said, an element of justice in them. But, he added, it indicates a change in the conception of the whole place and relationship of woman. It means that the unity of man and wife is being lost sight of."

In his social relations Judge Howard was one of the most attractive men I have known. "His mind was well stored with information of the affairs of life, incidents of interest, occurring with the many people he had met and known, his conversation was amusing, interesting, and instructive," absolutely pure and elevating. He was singularly free from personal antagonisms. His public life left no ungratified personal ambitions, no unrealized personal aspirations. He was, in all respects, a healthy man, healthy in body, mind, and heart. His sympathies were keen and warm. He took a large view of life, its problems and experiences; he saw events as the expression of an orderly, divine economy, in which the eternal forces were working out the Divine purpose. Says he: "Of the wisdom of man, outside of simple trust, and present faithfulness to duty, I have a very poor opinion." On his seventy-fourth birthday he wrote: "The Great Adjuster is indeed merciful. He mingles with every trial some compensating comfort." That a man of faith should be glad, cheerful, pleasant, is assured. There was nothing secretive in his mind or conduct; his life was an open book to be seen and read of all men; he was intolerant of indirection and concealments.

His independence of character and ever-present desire to see justice done and a fair show given to every one was of controlling force in his conduct. "He possessed, in a marked degree, a most estimable and rare trait, the power and capacity to express himself clearly with great lucidity. When he had formed his mental conception of a subject or propo-

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sition, the very illuminating and clear way in which he stated it, so plain and direct that all could comprehend and understand." He did not pass through the more than three score and ten years allotted to him without trials and afflictions. He met them with fortitude and patience in a manly fashion.

Bishop Cheshire, from boyhood living within speaking distance of his home, enjoyed his confidence and esteem, says: "He had strong religious convictions, founded upon principles of Christian truth and a high sense of personal honor and dignity." His religious faith was manifested in his life and conduct. He was for many years a member and elder of the Presbyterian Church. He held strongly to Christian truth as set forth in the standards of this church, with an inclusive, catholic sympathy with the truth as held by all Christian people.

Judge Howard married Miss Anna Ragland Stamps, daughter of Dr. William L. Stamps, of Milton, Caswell County, North Carolina. In no event of his life was he so abundantly blessed as in this union. It was my privilege to visit often and be much in their home. Her deep, quiet, unobtrusive and yet pervading Christian faith and life impressed all who came within its influence—husband, children, servants, friends, church, and community. She passed away June 11, 1901, to the great sorrow of her husband and family. An appropriate memorial was erected by her husband at the Barium Springs Orphanage.

Judge Howard, on February 24, 1905, within a few minutes walk of the spot upon which he was born seventy-five years before, surrounded by his children, loved and honored by those and the descendants of those among whom he had lived his long, honorable, and useful life, passed away. He left surviving six children—George Howard, William Stamps Howard, Mrs. Julian Baker, Mrs. Job Cobb, Mrs. George A. Holderness of Tarboro, and Mrs. William T. Clark of Wilson, N. C.

He was of striking personal appearance, dignified and yet easy of manner. His features were strong, open, frank, inviting confidence. The portrait, the work of Mrs. Marshall Williams, to whose talent and accomplishment the State is so much indebted, presents and preserves his features and expression after he had passed middle life. In it we, who knew and loved him, see delineated the features of the strong, splendid man that we know him to have been.

ACCEPTANCE BY CHIEF JUSTICE CLARK

The address to which we have listened is a valuable contribution to the history of the State as well as a worthy tribute to the memory of the distinguished dead. Judge Howard early attained eminence and was one of the youngest judges who has ascended our Superior Court Bench. He filled so large a space in the public eye and was so much in touch with every public movement during his long and distinguished career that to portray its features is to touch upon the essential elements of our history for nearly three-quarters of a century.

In 1776, at Halifax, we established what the restricted ruling class of that day deemed a republican form of government, but sixty years passed before any citizen was permitted at the polls to express his wishes as to the government of the State or counties save in the election of the members of the House of Commons, as the lower branch of the Legislature was styled. Judge Howard was 7 years of age when the extension of suffrage to the people was granted of voting for Governor, in 1836. Twenty years more elapsed before any man was permitted to vote for Senator unless he was a landed proprietor of 50 acres. Nearly thirty-three years passed before he was allowed to vote for the other State officers and judges. The democratic demand for the extension of suffrage, for greater confidence in the people, and a larger share by them in the Government was not entirely repressed until it found expression in these successive acts of liberation. In 1832 the Legislature, voicing its inherent control over the offices created by it, changed the tenure of the Superior Court clerks, previously appointed for life by the judges, into a term of years, and made them elective by the people. On this the Supreme Court promptly placed its judicial veto in an opinion—*Hoke v. Henderson**—by one of the ablest courts of this or any other State—Ruffin, Gaston, and Daniel. This decision, inherently defective because a denial of the right of the people to control through their Legislature the offices created by that body, remained an obstruction in government for nearly seventy years, until at last the uneasy ghost was laid by an opinion in *Mial v. Ellington*† from this Bench, written by the distinguished judge who has just stated that Judge Howard had always deemed that the doctrine then overruled was in contravention of the constitutional rights of the people.

During the thirty years from 1820-1850 the population of this State remained almost stationary, for opportunity was not sufficiently open for those seeking to better their condition, and the West and South-

*15 N. C., 1.

†184 N. C., 156.

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west were filled up with the eager, earnest, and intelligent younger element of our population, whose descendants are now to be found from Tennessee to California. The order of things in this State, so comfortable only to those in the possession of power, could not last. In 1861 the storm burst. During the next ten years Judge Howard lived in the most critical and stressful period of our history. 1871 was removed one hundred years from the condition of affairs and of our ideas of 1861.

First, during four years the flower of the youth of our State fell before the fiery breath of battle like ripened wheat before the blade of the mower. Then came the emancipation of the slaves and the tearing up by the roots of our entire social system, which in every ramification was based upon it, and then with scarcely a breathing spell there burst upon us the black simoon of Reconstruction, when a military officer at Charleston was the dictator and Governor of the twin States of the Carolinas. An ignorant and deluded race, but recently emancipated, led by designing adventurers, made government a riot of plunder, one of whose effects was the vast issuance of fraudulent State bonds, whose validity has just been finally denied.

When, as was necessarily the case, the intelligent and moral forces of the State and the inherent vigor of the Anglo-Saxon race resumed control, there were those who wished to return as nearly as possible to the former state of things. The emancipation of the slaves could not be revoked, the slaughter and the devastation of the war could not be replaced by legislative enactment; but there were two cataclysmal changes which withstood strenuous efforts to revert. One was the absolute destruction of the legal practice and procedure, the growth of hundreds of years, under which form was more material than the merits of a cause and it was more important to decide whether an action was brought in covenant or debt when it should have been entitled in assumpsit or some other form, or whether a party should be turned out of court when he had sued in equity if his writ should have been issued in law, or *vice versa*, with privilege to come back again before the same judge in the same courtroom to debate the same controversy, after the loss of time and great expense. The mysteries of this learning were dear to the hearts of those who had learned it and wished to restore it. The young lawyers naturally opposed this, and Judge Howard, though then in middle age, with his broad catholic view, sustained them and aided them in their victory. Another great change which in its social effect was little short of that of the abolition of slavery was that made as to the property rights of women. Up to that time upon marriage, except in the rare cases of a special contract, the property of the wife became that of her husband, and in law her legal existence was merged in his. To those who feared this change and desired its abolition Judge Howard, as has been stated this

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morning, said that it was founded on justice, and whatever the prophecies of evil, the change should remain. About forty years previously the movement to give that half of the race equal education with the other had caused similar alarm, and similar prophecies of evil. Today the two halves of our population have equal education and an equal share of the property of the State. The irresistible and inevitable result is close at hand, for all history shows that when government is controlled either by an aristocracy or by a restricted suffrage, the demand of any excluded class which is possessed of equal intelligence, education, character, and property for an extension to them of an equal share in the Government can never be long denied, for power—the ultimate power of the State—abides in these things.

Judge Howard was a man of commanding appearance, attractive manners, of the highest personal character, a lawyer of great learning and a man of affairs. His influence on his times and the respect which he commanded cannot easily be overestimated. He was one of the directors of the Wilmington and Weldon Railroad, since expanded into the Atlantic Coast Line System. He had the breadth of view to see that the exemption of that great property from all taxation could not endure, and advised its abandonment. In the pursuit of business he achieved financial success. But he has left to his children and to the State more than this, a name above reproach and an influence and a memory which have served the best welfare of the people among whom he lived, and he has achieved, in the splendid address of presentation, the eulogy of the Roman—

“Laudari a viro laudato.”

This lifelike portrait is by the brush of a painter the excellence of whose work has shown that talent and capacity are individual and not limited by sex.

The Court is glad to add this portrait to those of the other noble sons of the State who have merited well of the Republic, and the marshal will hang it in its appropriate place on the walls of the Library of this Court.