

ADDRESSES

AT

THE UNVEILING AND PRESENTATION TO
THE STATE OF THE STATUE

OF

THOMAS RUFFIN

BY THE

NORTH CAROLINA BAR ASSOCIATION

*Delivered in the Hall of the House
of Representatives, 1 February, 1915*

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INTRODUCTORY NOTE

On the evening of February 1, 1915, in the Hall of the House of Representatives, at Raleigh, the North Carolina Bar Association presented to the State of North Carolina a bronze statue of the late Thomas Ruffin. The statue was executed by F. H. Packer of New York. Hon. H. G. Connor, Chairman of the Committee of the Bar Association, presided at the exercises. An address on the life and character of Chief Justice Ruffin was delivered by Hon. Walter Clark, Chief Justice of North Carolina. The statue was presented to the State by Hon. J. Crawford Biggs, President of the North Carolina Bar Association, and accepted on behalf of the State by Governor Locke Craig. It was unveiled by Thomas Ruffin and Peter Browne Ruffin, great-grandchildren of Chief Justice Ruffin, and has been set up in the State Administration Building in which the Supreme Court of North Carolina holds its sessions.

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OPENING REMARKS

BY HON. H. G. CONNOR, UNITED STATES JUDGE FOR THE
EASTERN DISTRICT OF NORTH CAROLINA.

Among the purposes for which the North Carolina Bar Association was formed and maintains its organization, is the perpetuation of the memory of those who, at the Bar and on the Bench have, by rendering service to the State, won distinction and are, to this and future generations, exemplars of life and conduct. We conceive that in rendering this service, we not only contribute to the honor and glory of the Commonwealth, but set an example worthy of emulation, to other organizations of our citizens to contribute in like manner to the perpetuation of like characters in the varied departments of service to the State. Inspiration to higher and nobler lives, we are taught, is imparted not alone by the story of the life and work of the great and good, but in the preservation of their form and feature by the art of the painter and the sculptor. In pursuance of this purpose and, we think, in performance of this service, the North Carolina Bar Association has, by its own contribution, aided and supplemented by the North Carolina Historical Commission and others who honored his memory, caused to be cast in bronze a statue of the form and face of one who, among notable and worthy associates, in like position, has rendered high service, we think it is not exaggeration to say, is recognized as North Carolina's Great Chief Justice, Thomas Ruffin. The work of the artist having been completed, the privilege and duty of taking order for its placing and presentation to the State, was committed to a committee, named by the Association, composed of Mrs. George P. Collins, Mrs. Charles R. Thomas, Major John W. Graham, Hon. Francis Nash, Col. Bennahan Cameron, A. B. Andrews, Jr., Esq., and to me was accorded the honor of being named Chairman. The statue is the work of Mr. Frank H. Packer, a justly celebrated artist. It will stand as a memorial of the past, and an inspiration for the

future, at the entrance of the State's Administration Building, wherein her Supreme Court sits. Having appointed this hour for the completion of our undertaking, we have assembled in this, the Hall of the Representatives of the people, to hear from one amply fitted to tell the story of his life, and to present with appropriate, simple and yet dignified, ceremony, to the State the statue of Thomas Ruffin. The Right Reverend Joseph Blount Cheshire, Bishop of the Diocese of North Carolina, will invoke the blessing of God upon the work in which we are about to engage.

THOMAS RUFFIN

BY WALTER CLARK, CHIEF JUSTICE OF NORTH CAROLINA.

“Man is a noble animal, splendid in ashes, pompous in the grave, solemnizing nativities and deaths with equal lustre, nor omitting ceremonies of bravery in the infamy of his nature.” When a great State and a great profession present to the public this memorial of a great citizen who in his day has served them both with fidelity, it is proper that some mention should be made of the circumstances which justify the occasion. These ceremonies and this statue cannot bring honor to him. That is beyond our power. The tale of what he wrought is complete. We can add nothing to it. In the dreamless dust neither honor nor censure nor praise nor calumny can move him. Like Duncan “nothing can touch him further.”

The significance of this event is to us and to those who shall come after us. The honor is to those who erect this memorial and to those who approve it. The ideals of a nation are the surest gauge of their worth and of the place they fill. Could the star of Bethlehem vanish in eternal night, men would again incarnate as gods, and erect altars, statues and temples to the virtues which they chiefly admire. We should see well to it that no memorial is placed to one who does not measure up to the highest ideals of the people.

Who is this man and what did he do that this brilliant assemblage should be here and that this statue should be unveiled to excite the emulation of aspiring youths in the days to come? To few of the sons of men can this honor be paid, and perhaps to fewer still should it be rendered. The vast majority must be content to believe that their names are in the registers of God though not in the records of man.

On a marble slab in St. Matthew's churchyard in Hillsboro there is carved the following inscription which sums up the

salient features of a long, useful, and most distinguished career :

THOMAS RUFFIN,
 The first born of
 STERLING RUFFIN AND ALICE ROANE.
 Born at Newington,
 King and Queen County, Virginia,
 17 November, 1787.
 Died at Hillsboro, Orange Co., N. C.,
 15 January, 1870.

Graduated at Nassau Hall,
 Princeton, N. J., 1805,
 Admitted to the Bar in N. C. in 1808.
 Intermarried with Anne M. Kirkland,
 9 December, 1809.

A member of the State Legislature, Speaker of the House
 of Commons; a Trustee of the University, twice
 Judge of the Superior Court; in 1829, Justice
 of the Supreme Court in which he
 presided for 19 years as
 Chief Justice.

Labor ipse est voluptas.

In the 83d year of his life, in full possession of his faculties, ripe in learning and in wisdom, crowned with public honors and confidence, rich in the affection of his kindred and friends, he closed his long, active and useful life in the consolation of an enlightened and humble Christian faith.

“A man resolved and steady to his trust,
 Inflexible to ill and obstinately just.”

This is not the occasion for an extended biographical statement of his services. It will be possible to fill out merely some of the details of that well rounded and busy life.

The mother of Chief Justice Ruffin was cousin german of Chief Justice Spencer Roane of the great State of Virginia, and he was born 17 November, 1787, at the residence of her father, in the county of King and Queen in that State. His father, Sterling Ruffin, of a long descended line of ancestry, was

a resident of the neighboring county of Essex in that State. He was a planter of means, but later in life he joined the Methodist church and served in its ministry till his death.

His early life was passed, like that of most distinguished men, in the country and on a farm acquiring that sturdy stock of health which is necessary to enable them to breast the obstacles to success in after life. After attendance upon the neighborhood schools he was sent to Warrenton, N. C., and placed under the instruction of Marcus George, an Irishman, a fine classical scholar and skillful instructor, where he had as school-mates and friends many who afterwards attained prominence in the State. Among them were Col. Cadwallader Jones, then of Halifax, later of Orange, Robert Brodnax of Rockingham and Weldon N. Edwards of Orange, afterwards a member of Congress and President of the State Convention of 1861.

From Warrenton Academy young Ruffin passed to Nassau Hall, Princeton College, N. J., where his room mate was the late Governor Iredell, and among his associates were many who afterwards achieved high distinction in many States of the Union. He graduated in 1805, being 16th in a class of 42. Returning home he entered the office of David Robertson at Petersburg, Va., as a student at law, and remained there through the years 1806-7. Mr. Robertson was a Scotchman by birth, the reporter of the Debates in the Virginia Convention which adopted the Federal Constitution and reporter of the trial of Aaron Burr for high treason. He gained high distinction at the Bar. Ruffin's associates under his instruction were John F. May who was later Judge May of Petersburg, and Winfield Scott, the hero later of Chippewa and Lundy's Lane in 1812 and commander-in-chief of the army of the United States that entered the city of Mexico in 1846, Whig candidate for President in 1852, and head of the army at the outbreak of the great Civil War. He met Judge Ruffin after a separation of 47 years in New York in 1853 when the latter was attending as a delegate the General Convention of the Protestant Episcopal Church. In recalling the pleasure of the reunion General Scott speaks of their association as law students with manifest pride and pleasure. He also refers to his subsequent meeting with the Chief Justice in 1861 when the latter was serving as a member of the

Peace Congress, and says that if the sentiments of Ruffin and Crittenden had prevailed the sad infliction of the war, which was raging when he wrote, would have been avoided. A letter from President Buchanan to Governor Swain in 1867 expresses the same belief.

In 1807 Rev. Sterling Ruffin removed to Rockingham County, North Carolina, whither his son accompanied him. Though he had studied for two years for the Bar he continued his studies at Hillsboro under Judge A. D. Murphey until his admission to the Bar in 1808. By this thorough preparation he laid broad and deep the foundation for his successful career. In June, 1809, he established his home in Hillsboro and on 9 December in that year he was married to Anne Kirkland, the eldest daughter of William Kirkland, a prominent merchant and leading citizen who a few years before had moved to Hillsboro from Ayrshire in Scotland. The husband was a young lawyer just turned twenty-two and the bride was barely fifteen years of age. During their married life of over sixty years she was the surest resource and support of her distinguished husband in good and evil fortune and he was her adoring lover to the last.

Young Ruffin must have been of more than usual promise, for in a letter from Judge Murphey to him published in "Murphey's Correspondence," written in 1809 soon after Ruffin's admission to the Bar, he expresses his confident assurance that the young man was destined to a most distinguished career. His relations with his instructor and friend, Judge Murphey, as shown by their correspondence were always close and cordial.

In 1813, 1815 and 1816 Ruffin was a member of the House of Commons from the borough of Hillsboro, which was one of the six towns which, following the English custom, continued to send representatives until the adoption of the amended Constitution in 1835. In 1816 he was unanimously chosen Speaker of the House. In 1815 and 1816 the town of Hillsboro was represented by Judge Ruffin and the county of Orange by Judge Murphey in the Senate, and Judge Nash in the House.

It is said that on first coming to the bar Judge Ruffin's efforts at argument were diffident, and his speech hesitating and embarrassed. His friends candidly advised him to abandon the

profession, but he felt that he had the "root of the matter" in him and held on. He was well grounded by his studies in a knowledge of the law, and experience soon cured his defects of speech. At a strong bar he soon became a leader, and seven years later, in 1816, while Speaker of the House, he was chosen a Judge of the Superior Court, at the early age of 29, to fill the vacancy caused by the resignation of Duncan Cameron. This position he resigned after two years on the circuit, and returned to a lucrative practice at the bar. He was an indefatigable student, and a frame of iron permitted him any amount of application. For forty-three weeks of the year he had engagements in Court which he kept regardless of weather and bad roads. He was also for one or two terms reporter of the Supreme Court, but was compelled to relinquish the position by the demands of his practice. His work as reporter will be found in the first part of 8 N. C. Reports (1 Hawks). In the summer of 1825, upon the resignation of Judge Badger, he again accepted the position of Judge of the Superior Court, and during the next three years he administered its duties in such a manner that he was generally designated by public opinion for the succession to the Supreme Court upon the occurrence of the first vacancy. In 1824 he was a candidate upon the electoral ticket in favor of William H. Crawford for President.

In the fall of 1828 the stockholders of the State Bank of North Carolina, at Raleigh, at whose head were Col. William Polk, Peter Browne and Judge Duncan Cameron, in view of its embarrassments and threatened litigation, prevailed upon him to take the presidency of the bank with an increased salary and with the privilege of practicing his profession. He again resigned his Judgeship and accepting the offer, by his diligence and practical business knowledge and the faith imparted by his acceptance of its headship, he effectually reinstated the bank in public confidence, and relieved it of its embarrassments. About this time, there being a vacancy in the United States Senatorship by the appointment of Governor Branch to the head of the Navy Department, he was solicited to become a candidate for the vacancy, with strong prospects of success. This he declined, saying as he often did, that "after the labor and atten-

tion he had bestowed upon his profession he desired to go down to posterity as a lawyer." While employed in the affairs of the bank he still remained in full practice at the bar, and his reputation as a lawyer suffered no eclipse. On the death of Chief Justice Taylor in 1829, Governor Owen appointed to the Supreme Court Judge Toomer, a lawyer of deserved eminence in the profession, and of a singularly pure and elevated character; but public opinion and the sentiment of the bar had so decidedly marked out Judge Ruffin for the succession that when the Legislature met in the fall of that year he was elected to the position.

In 1833, upon the death of Chief Justice Henderson, William Gaston was elected to the Bench. At that time the Chief Justiceship was not, as now, a distinct office, but one of the three Judges then composing the Court was chosen as Chief Justice by his two associates. Judge Gaston was the older man and had a national reputation from his services in Congress and in many notable cases at the Bar. On the other hand Ruffin had served, with reputation second to none, not only on the Superior Court Bench but for four years on the Supreme Bench. The relations between him and Judge Gaston were exceedingly cordial and indeed intimate. The two men would have voted for each other and the other Judge (Daniel) doubtless wished to be spared the choice between them. In this emergency, as is stated in a letter from Gaston to Chancellor Kent, they resorted to the blind goddess and drew lots. The result was in favor of Ruffin who thereafter presided for nineteen years as Chief Justice.

In the autumn of 1852 while at the height of his fame and not yet oppressed by the weight of years he resigned office, intending to retire forever from the profession and the studies in which he had won renown. But in 1858, on the death of his friend and successor, Chief Justice Nash, he was recalled by the almost unanimous voice of the Legislature, though in his 72d year, to resume his place upon the Supreme Court Bench. This he did but did not insist upon resuming the Chief Justiceship which went to Judge Pearson. After something more than a year's service he found the duties somewhat irksome after

six years of leisure and resigned again. It was his singular fortune to have resigned twice from both the Superior and Supreme Courts. In 1854 the General Assembly being Democratic, Chief Justice Ruffin's name was among those presented by their friends for one of the two United States Senatorships then vacant, but after a long contest Governor Reid and Judge Biggs were chosen.

It is worthy of note also that in 1848 all three of the Supreme Court Judges (Ruffin, Nash and Battle), the Governor (Graham) and one of the United States Senators (Mangum) were all from the single county of Orange, and in 1841 both Senators (Graham and Mangum) were elected by the Legislature from the same county of Orange in which the Chief Justice then resided. The only situation at all parallel, in this State, occurred in 1815 when the Governor (Miller), both United States Senators (Macon and Turner), and Judge Hall were all from the county of Warren. It was a remarkable coincidence that these two U. S. Senators (Macon and Turner) had served in the Revolutionary War together as privates in the same company.

During the six years between Chief Justice Ruffin's resignation in 1852 and his reelection in 1858 and again after his second resignation in 1859 he accepted the office of Justice of the Peace in Alamance County to which he had then removed, and he held the county court with the lay justices as their presiding justice. Another eminent lawyer, Thomas P. Devereux, having retired from the Bar, upon falling heir to a princely fortune, discharged the same duty for years as presiding justice of the county court of Halifax; and George E. Badger, ex-U. S. Senator, ex-Secretary of the Navy, and ex-Judge, presided as a Justice of the Peace in the county court of Wake, and there were other instances of like nature. It is related that a Northerner of some distinction being at the Yarborough House in Raleigh walked across to the courthouse on one occasion when Mr. Badger was presiding with his fellow-justices of the peace, and on his return to the hotel said with evident sincerity, "I do not know who that old fellow in the middle is, but he certainly is no fool."

The law is well said to be a "jealous mistress," but Judge Ruffin took an intelligent and practical part in stock raising,

orchards, and agriculture and found his recreation in those pursuits. It was no mere compliment to a distinguished citizen that the State Agricultural Society of North Carolina elected him in 1854 to its presidency and retained him in that position for six years. By his industry, frugality and capacity for the management of property he accumulated a large estate.

Until superseded by the changes in 1868, he had been for many years the oldest Trustee of the State University, and took an active interest in promoting its welfare. For more than forty years a communicant of the Protestant Episcopal Church, he was one of its most active members in this State and more than once represented the Diocese in the Triennial General Convention. Though a follower of Jefferson in politics he was a warm admirer and personal friend of Marshall and Kent.

As an advocate, Chief Justice Ruffin was vehement but logical. It is said that in the heat of argument to the jury he would rap the floor with his knuckles. He placed small reliance on rhetoric and appeals to the imagination. He was physically and mentally capable of vast application and he did not spare himself any amount of labor. He was in the habit of exercising his mental faculties by daily going over the demonstration of some theorem in mathematics.

His capacity as a business man was shown in the executive talent displayed by him on the Superior Court Bench, where there is full scope for it, and in which particular the occupants of that Bench are more often lacking than in the knowledge of law. In administering the criminal law upon the circuit, the extent of punishment depends very largely upon the discretion of the judge. Judge Ruffin's sentences while not cruel were such as to be a terror to evil doers. His practical mind realized that punishment of criminals was required for the protection of law-abiding men. Consequently whenever he rode a circuit crime decreased. He sat upon the Supreme Court bench twenty-three years consecutively, from 1829 to 1852, during nineteen years of which he was Chief Justice. In 1858 and '59 he again occupied a seat on the bench for a year and a half. His opinions thus covered nearly a quarter of a century, and will be found in thirty-five volumes, from 13 to 45 N. C. Reports, inclusive, and also in the same Reports, vols. 51 and 57. He

wrote while on the bench more opinions than any other Judge. His opinions embrace almost every topic of the civil and criminal law. They are usually long, full and show the concentration of a powerful mind upon the subject in hand. His opinions are well beaten out. The print of the hammer is there.

The chief corner-stone of his fame must rest upon his recorded Judicial Opinions. Were this a meeting of the State Bar Association it would be appropriate to discuss some of the more characteristic of them, but this would be too technical for this occasion and time is inadequate, to give them proper consideration. An inadequate discussion would be insufficient for any occasion. The verdict of the Bar and Bench of North Carolina has long been rendered that he was the ablest Judge who has ever presided in this State. He reached the rare distinction of being equally great in both the common law and as an equity lawyer. Chief Justice Pearson, his immediate successor, probably equaled him as a common law lawyer, but fell far short of him in the grasp and application of the great principles of equity.

While he had due regard for precedent he was great enough not to be hampered by them in reaching a just conclusion. He realized that the object of the administration of justice is to do justice. In *S. v. Moses*, 13 N. C., 452, he upheld the intent of the law-making power to do away with "those fetters of form, technicality and refinement which do not concern the substance of the charge and the proof to support it." He said that they were a reproach to the Bench and the object of the statute was to disallow and do away with the whole of them. Mr. Justice Holmes has recently in *Paraiso v. United States* (207 U. S., 368), strikingly characterized the technical construction of indictments in favor of defendants as "the inability of the seventeenth century common law to understand or accept a pleading that did not exclude every misrepresentation capable of occurring to intelligence fired with a desire to pervert."

In *S. v. Benton*, 19 N. C., 131, he established clearly the practice as to trials for homicide and challenges to jurors. In *R. R. v. Davis*, 19 N. C., 452, he laid down the doctrine (then a new one) of the right of the Legislature to provide for condem-

nation of a right of way for railroad purposes and that in such cases the landowner did not have a constitutional right to a trial by jury to assess the damages which could be assessed in any manner provided by law, and that payment of compensation did not necessarily precede taking possession of the right of way. In *S. v. Rives*, 27 N. C., 297, he held that while the interest of a railroad company in its right of way can be sold under execution the corporate franchise is not thus liable to sale. In *Webb v. Fulchire*, 25 N. C., 485, is laid down the proposition that where a man is cheated out of his money, though it is in playing at a game forbidden by law, he may recover back what he has paid from the person who practiced the fraud upon him. The game in this case was "three card monte," and the very learned Judge seems as much puzzled as to how the trick was worked as the simple-minded plaintiff himself. His dissenting opinion in *S. v. Caesar*, 39 N. C., 391, is a fine example of his inexorable logic.

In *S. v. Boyce*, 37 N. C., 584, there is a very interesting discussion by him of the right of the owner of slaves to permit them to meet and dance on his premises on Christmas Eve and other holidays, and he shows his humanity by saying that no one should "feel aggrieved that these poor people should for a short space be happy at finding the authority of the master give place to his benignity and at being freed from care, and filled with gladness." When on the Superior Court Bench two persons laid a wager as to a law point and brought an action to have the correctness of his opinion determined. Judge Ruffin promptly solved the difficulty by holding that the point of law in such case was one of fact and therefore the Court could not determine it and dismissed the action, making each party pay costs with an intimation that it was leniency for the Court to go no further.

There not being time, as I have said, to discuss many interesting opinions delivered in his twenty-four years upon the Bench, we may mention, however, that he fixed two notable departures in equity from the English precedents, simplifying our system and freeing it from embarrassments: 1. Refusing the doctrine of *Part performance* as a basis for decreeing the specific execution of a verbal contract for sale of land. 2. Discarding the

doctrine of *Vendor's lien* upon land sold upon credit. There were many other salutary reforms which he instituted by strong and convincing argument in which he has been followed not only by our Court but in many other States. His familiar knowledge of affairs, especially banking, and his practical knowledge of everyday life were of great advantage to him on the Bench. He was, as Tennyson says of Wellington, "rich in saving common sense."

His fame as a Judge is established wherever the English law is known. Mr. Justice Miller, who was the ablest judge probably ever on the U. S. Supreme Court (Marshall not excepted), said it was recreation for him to read Ruffin's superb opinions. Prof. Roscoe Pound of Harvard names as the most distinguished State Chief Justices in our history, Gibson of Pennsylvania; Shaw of Massachusetts; Ruffin of North Carolina, and Doe of New Hampshire, and adds that their only competitors in national fame are Marshall, Kent and Story. Professor Thayer in his Essay on Constitutional Law mentions "Marshall, Shaw and Ruffin," as preëminent in that department. It is not necessary to quote the opinion of North Carolinians who are unanimous in their admiration, and I will cite only a letter from Judge R. T. Bennett who said that it was his deep conviction that "Chief Justice Ruffin is the greatest Judge who ever administered justice in an English speaking community."

The lawyers present who are familiar with the opinions of Ruffin's great contemporaries on the English Bench—Lords Lyndhurst, Brougham, and Denman—will concur with me that Ruffin was their equal in all respects. While he was not as versatile as Lord Brougham he was more a master of our common English tongue. He was not as subtle in expression as Lyndhurst, whose shades of thought were like shadows passing over a bending field of wheat, but he was a straightforward, sincere man, which John Copley, Lord Lyndhurst, was not. There came not before him the myriad forms of commercial law from a great metropolis as to Denman, but he was a better lawyer and a better Judge than either of the three.

So widely was he known that President Jackson contemplated placing him upon the Supreme Court Bench of the United

States, but the exigencies of politics required the selection of another. Many years later when George E. Badger was appointed by a Whig President to the U. S. Supreme Court, but was rejected by a Democratic Senate, the name of Chief Justice Ruffin was suggested to the President for that honor. Though he was not appointed it may well be doubted if he could have been of more service to the profession or have added more to his own fame than he did by remaining in a position whose duties he knew so well and among a people who honored him so entirely. Take him all in all we have not "seen his like again."

While this is not the time and place to discuss the many great opinions delivered by the Chief Justice, opinions which in every line show deep thought, conscientious consideration of the points at issue, and attention to the argument on every side and of the precedents, it would perhaps be deemed an omission by future students if on this occasion no reference were made to the most debated opinion rendered by that Court—*Hoke v. Henderson*, 15 N. C., 1. Having myself opened the attack upon that opinion, and assailed it by every argument in my power until it was overturned, it is due to myself, as well as to Chief Justice Ruffin, to say that that opinion should be judged from the standpoint of the times in which he labored and not by the views of the present day. Had I been one of his associates at that time it is probable that I should have concurred. I am equally frank to say that if the Chief Justice had been on the Bench when it was reversed with the gathered light shed upon that opinion, and its practical results by the experience of seventy years, he would, in my opinion, have concurred in overruling it. He did not have that pride of opinion which prevented him from overruling some of his own decisions while yet upon the Bench.

The women of this day are so rapidly achieving their demand for the suffrage that I fear they do not sufficiently appreciate the fact that the men had a far longer and more arduous struggle to achieve manhood suffrage. For thousands of years and until a comparatively short time before the American Revolution, suffrage was unknown, and then only in England where

it was confined to large property holders and even that controlled by governmental influence. It is true that the Mecklenburg Declaration and the Declaration at Philadelphia penned by Thomas Jefferson, declared the equality of all men, but he is a poor student of history who thinks that suffrage was then conferred upon the masses. Both in our State Constitution at Halifax in 1776 and by the Federal Constitution in 1787 the people were permitted to vote for only one-sixth of the government, *i. e.*, the lower house of the legislative body. Suffrage was new, the propertied classes were alarmed at giving power to the masses, and they had reason to be because the people were unused to the exercise of power, and were illiterate. In North Carolina the Senate was made elective by men who owned fifty acres of land or more. The Governor, all the State officers, and the Judges were made elective by the Legislature, and the Judges for life, and the county officers, including the sheriff, were made elective by magistrates who themselves were chosen by the Legislature, and the clerks of the Superior Court were appointed by the Judges to hold for life. It was not considered safe to jeopardize the rights of property by giving the people any more than the mere semblance of power in the election of the lower house. When the Supreme Court was created in 1818 it was not, as now, provided for in the Constitution but was established by an Act of the Legislature, and that body could at any time repeal the Act and abolish the Court. Regularly at every session of the General Assembly for many years a bill to that effect was introduced. Under these circumstances an Act was passed to take out of office the clerks of the court who held for life under judicial appointment, and to make them elective by the people at the polls. This was considered the first step towards abolishing all the checks which for nearly sixty years, under the Halifax Constitution, had protected society and property against what the ruling class considered the dangerous power of the mob. In this emergency seeing matters as they understood the situation and fearing the power of an uneducated, and as they thought, a dangerous constituency, the Judges held that this act took from a man an office in which he had a life interest and bestowed it upon another, and not unnaturally they held such act to be, in the phraseology of the present day,

not "due process of law," and that it deprived the officer of his property without compensation.

It is true that this opinion was not followed in other States nor by the U. S. Supreme Court, but conditions elsewhere were different. In 1868 when the new Constitution was established all the life Judges were turned out of office and those who succeeded took their offices in absolute denial of the principle laid down in *Hoke v. Henderson*. Yet with a strange inconsistency when four years later the Democratic party came into power the Republican Supreme Court revived the doctrine of *Hoke v. Henderson* in entire denial of the right of the legislative department of the government to take control of the official machinery to execute their views. They extended the doctrine, and when again the same condition occurred in the advent of the Democratic party to power in 1900 the Republican members of the Court extended the application of that decision from places whose salary as in Patrick's case was \$2 per year to the control of all the offices of the State which had been created by legislative enactment. Under these circumstances a decision which had seemed not unreasonable when rendered in 1833 by so great a court as Ruffin, Gaston and Daniel, but which by its expansion had in later times assumed the character of a judicial veto of the people's control of their own government through their Legislature, could no longer be sustained. It was seen by a practical people that such a system was subject to abuse and was no longer workable. Assailed by a series of dissenting opinions which brought the matter to the attention of the people and the Bar of the State, it was debated and considered and with that sound practical sense which enables the Anglo-Saxon race to govern itself, when new Judges were placed upon the Bench they promptly overruled the decision in *Hoke v. Henderson* which the Judges who had appealed to it had so often held to be "that mine from which so much pure gold has been dug." This meant simply—"that decision which has been so useful in retaining our friends in office."

In overruling the decision in *Hoke v. Henderson* every Judge who concurred in that action (*Mial v. Ellington*, 134 N. C., 131), expressed the highest reverence for the Court that had rendered it, and reversed the opinion, as Ruffin himself would

have reversed it, because the legal thought of the country and the experience of our State had demonstrated that, however wise and just the decision had seemed when rendered, it had become out of line with the thoughts and the needs of a new generation, and the Constitution, as we now understand its spirit.

There are many interesting details and many sidelights that might be thrown upon the character and career of Chief Justice Ruffin by citing from his own correspondence and that of others of that time and by quoting from the newspapers of that era, but such matters will be more appropriate in a complete biography which it is to be hoped that some member of the profession will yet write of him. It may be mentioned here that his name given at the baptismal font was Thomas Carter Ruffin. He still retained that name for some years after he began the practise of law, for Judge Murphey so addressed him in a letter written early in 1814. However when he became a member of the Legislature in 1813 he signed the roll as simply Thomas Ruffin. The eagle had begun to wing his flight. He saw the future before him and laid aside every encumbrance in the "race for the immortal garland," as Milton styles it. Such instances are not rare. Two young men who grew up to manhood as Stephen Grover Cleveland and Thomas Woodrow Wilson entered the White House as Grover Cleveland and Woodrow Wilson. Hiram Ulysses Grant, by the mistake of his member of Congress in naming his appointee to West Point, later wrote his name as commander in chief of the armies and president as U. S. Grant, and there is authority that the greatest of them all, received at baptism the name of George William Washington. Not to go further afield the pale Italian lad who on the baptismal registry and among his friends and family bore a name of eleven syllables as Napoleonné di Buonaparté, when fame began to fill her bugle with the music of his name dropped half of those syllables and climbed to the supremest heights of power as Napoleon Bonaparte. His great, though hostile, biographer, Sir Walter Scott, had the justice to say that "surely he was entitled to write as he chose the name that he himself had made famous." Whatever the reason that moved young Ruffin to shorten his name at the outset of his career, when he reached the icy, storm-swept height which he had viewed from the valley

he wrote "on the dusty roll the ages keep" his name as Thomas Ruffin.

Chief Justice Ruffin was a delegate to the Peace Conference of 1861, and after its failure he was a delegate to the Secession Convention of 1861 from the county of Alamance. He then lived at the "Hermitage," formerly the residence of Judge Murphey, about three miles south of the town of Graham, and was active like another Cincinnatus in the pursuits of agriculture. After the war, owing to changed conditions he sold his farm and returned to Hillsboro where he died 15 January, 1870, after an illness of four days, in the 83d year of his age. He raised a family of thirteen children, out of fourteen born to him, and his descendants are among the best known and most prominent people of the State. One of his sons, Thomas Ruffin, Jr., became a Judge of high distinction both on the Superior and Supreme Court. The companion of his life, a bride at fifteen and a wife for more than sixty years, survived him many years to receive the love and affection of her numerous posterity and the homage of a wide circle of friends.

Like other men he must have had his defects and his disappointments. His great and shining quality was that he overcame them. The promise, as I understand it, is to "him that overcometh."

Look at his tall, sinewy figure as you shall soon see it, in monumental bronze; his firm mouth; his nose like an eagle's beak, his flashing eyes. He was a man of iron will, a man of determination, a man who would not be denied. He was every inch a man among men. Those who are familiar with the origin of family names say that "Ruffin" is Norman-French. He must have been the descendant of some Viking of old, who standing on the prow of his storm-tossed vessel, gazed intent upon the pleasant land of Normandy that he came to take for his own, and he took it. Fortune and fame came not to him as an unwooed bride. With him, as with all great men,

"While others slept,
He was tolling upward in the night."

He had a "frame of adamant and a soul of fire." His eighty-three years attest his splendid physical organization, and his

life work proves his mental capacity in every sphere of activity and his intense application.

It was Jeanie Deans who said, "When you come to die it is not what you have done for yourself, but what you have done for others you will think on most pleasantly." Through all the work that brings abiding remembrance—that fame which is but another word for a people's gratitude, there runs ever the two words "Duty" and "Sacrifice." We honor the soldier because he endures hardship and stands ever ready to sacrifice his life for his country. The keynote, the corner stone of the Christian religion is worship of Him who gave His life for others. The mere attainment of wealth or of office will never bring remembrance or honor after death. That is reserved for those, who like this man, "live laborious days and scorn delights," to serve the public good, and for this do men honor and remember them.

After long study of his career and his opinions I have found no estimate clearer or more forceful than that made by the distinguished Senator who now represents the historic county of Orange, Mr. Nash, who in summing up the survey of his services has said "Ruffin was great as a lawyer, great as a Judge, great as a financier and as a farmer, a rugged and indomitable soul, in a frame of iron, made to conquer, and conquering every difficulty on every side."

No mortuary inscription has ever been more true and just than the quotation from the poet which has been engraved upon the marble memorial to the great Chief Justice which stands beneath the shadows of St. Matthew's Church:

"A man resolved and steady to his trust,
Inflexible to ill and obstinately just."

PRESENTATION

BY HON. J. CRAWFORD BIGGS, PRESIDENT OF THE NORTH
CAROLINA BAR ASSOCIATION.

Mr. Chairman, Your Excellency, Ladies and Gentlemen:

I am commissioned to perform a most pleasing task on this interesting occasion. These exercises are full of deep interest and significance, because they are an outward manifestation of our State pride, expressing itself in a new field of human endeavor, in so far as this State is concerned.

All North Carolinians are justly proud of the achievements of our great men of the past in the various activities of life, but we must recognize the fact that we have done little to perpetuate the proud heritage which they have bequeathed to us. North Carolinians have been content to make history, but have left it largely to others to record or preserve it. We have been content and satisfied with the knowledge that no State in the Union possessed a grander past; and until recent years we have not bestirred ourselves to see that North Carolina occupied its true place in history. We have not exerted ourselves to stimulate a healthy State pride, by preserving in marble and bronze the records of the past, by erecting statues and suitable memorials to commemorate the name and fame of the great men whose services have enriched and glorified the traditions of our Commonwealth. It is from the experience of the past that we draw inspiration for the future, and any act which emblazons in imperishable form the great deeds of our ancestors should be regarded with favor.

The Supreme Court of North Carolina has an honorable career covering more than a century. During all these years, the Bench and Bar of North Carolina have exerted a commanding, yea a controlling influence in the life of our State. We have erected statues to the statesmen and heroes of the Revolutionary War, of the Civil War and of the Spanish-American War. We have builded monuments to commemorate the valor of the soldiers of the Confederacy and to perpetuate the heroism

and self-sacrifice of our women in that titanic struggle. We have in like manner honored the memories of some of our great leaders of education.

But this is the first statue in the long history of our State to be erected to any Judge, and it is especially appropriate that this signal honor to the Bench should be accorded to that jurist who, not only among us but throughout this Nation, is justly regarded as the greatest judge who has ever adorned our highest judicial tribunal and whose life, character and services have been so splendidly portrayed this evening.

On behalf of the North Carolina Bar Association, composed of over six hundred lawyers, who desire to show in some measure their regard and esteem for one who embodied the highest ideals of our profession, I have the honor to present to the State of North Carolina, through your Excellency, this magnificent statue of Chief Justice Thomas Ruffin. May it stand for all time as a fitting memorial of him whom it represents, and may present and future generations of the Bench and Bar and the people draw from it inspiration for high and unselfish service to the cause of jurisprudence as exemplified in his magnificent career.

ACCEPTANCE

BY HON. LOCKE CRAIG, GOVERNOR OF NORTH CAROLINA.

We have listened with pleasure and profit to the fitting and eloquent tributes pronounced upon Judge Ruffin.

It has been the duty of the State to erect a statue to our prominent jurist. We accept this splendid statue with gratitude to those who gave it. In just recognition of the character and the intellect of the great Chief Justice, we will place it in the entrance hall of this building, the place for the memorials of the highest and noblest of our men in all generations. There it will live through the centuries, typifying in majestic form the majestic man of pure purpose and master mind. In the plastic years of our history he gave form and order to our jurisprudence. He interpreted statutes and constitutions with the wisdom of the sages, and delivered judgments that are enduring precedents of righteousness. He was our judge, a distinctive product of North Carolina, but his influence is beyond the limitations of the State and the Nation. He is recognized everywhere as one of the greatest judges that our race has produced. In the uttermost parts of the earth, where the English jurisprudence exercises its beneficent rule, he speaks and will speak to legislatures, to courts, and to executives, directing and enlightening them in the way of truth and in the conception and the administration of justice.

We raise the statue in gratitude that the Old North State too, has produced a judge who gives laws to the judges of the earth. We raise the statue to teach to us and to our children the power and the majesty of an exalted life.

