

APPENDIX

REMARKS OF MR. WILLIAM H. DAY IN PRESENTING THE PORTRAIT OF JUDGE BYNUM, 19 FEBRUARY, 1898

MAY IT PLEASE YOUR HONORS:

I have been requested by the Hon. Wm. P. Bynum, an ex-member of this Court, to present to you his portrait.

To me, for personal reasons, it is a pleasure; and I feel, in doing this, I am assisting in handing down to those who shall follow us here the features of a great jurist and a good man.

Had Judge Bynum lived during the period of our Revolution he would have been of the few who shaped and moulded government. Living in these days of banalities he, by his life, gives expression to the highest anticipation of the fathers.

Strong, virile, earnest, in his manliness, in his power!

These great attributes will leave upon coming generations the impress of this man. No influence can be exerted upon the life of another but by those who have a real life of their own. All other men are imitators. Judge Bynum is too original and sincere for this. He stands for himself: sometimes isolated, always erect. He was courageous enough, in 1865, to wring himself away from the baneful prejudices of 1861—a strength vouchsafed to but few men of those titanic days.

In her army, in her legislative halls, upon her bench, he has served North Carolina well.

Called to this Court in 1873, he at once commanded the respect and (1107) then the admiration of the legal profession, through it, that of our entire people!

His dissenting opinion in the *S. v. Blalock* rang out upon our profession like a tocsin in the dark; its clear tones aroused them to a full appreciation of their rights. So true was its vibrant ring, the next succeeding Legislature unanimously enacted it to be the law.

In *S. v. Turpin* (77 N. C., 473) his clear sympathetic reasoning exorcised from our State the last ghost of common-law brutality.

In his opinion in *S. v. Richmond and Danville R. R. Co.* (73 N. C., 640), with the keen foresight of a genuine seer he foretold the result upon our liberties of the aggregation of corporate power. Said he: "The rapid multiplication of these bodies, their resources and far-reaching ambition, their ubiquity and vast combinations, all moved and directed by concentrated power and talent, constitute them a distinct and almost independent overshadowing power in our Government, and, in fact, the great social and political problem of the age. Whether they shall control governments or governments shall control them are questions that are forcing themselves upon public attention and fast assuming practical importance. They should and will be maintained in the exercise of all their essential and legitimate powers, as necessary and useful institutions of modern civilization. But if, in addition to the dangerous power of transferring all of their property and franchises to anybody anywhere, it should also be held that their corporate powers are such contracts as puts them beyond the reach of all legislative check or control, then

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the problem will have been solved. But government, in my opinion, will have abdicated its sovereignty, heretofore supposed inalienable, and society will be without protection against chartered irresponsibility.

When these words were uttered, many called them wild; a few (1108) called them wise. Today every thinking man shudders to know that these truths fell upon deaf ears. Had this timely warning been his only life's work, it would not be flattery to say his services to the State had been great. I claim no North Carolinian is entitled more to this praise.

His opinion contained in our Reports, from Volume 70 to 79, rank him easily by the side of the greatest judges who have ever adorned your bench, and who have helped to make Anglo-Saxon law synonymous with human liberty.

Judge Bynum is the best misunderstood man in North Carolina. He will not be fully appreciated until we have lost him and he shall have joined the "silent majority." Then, not till then, will the unostentatious charity of his life be known—a charity "as broad and genial as the casing air."

But, your Honors, I am reminded I speak of a living man; in doing this I must not be as frank and candid as when speaking of the dead. So I leave unsaid today many things that will be said of him hereafter, all in his praise.

FAIRCLOTH, C. J., in reply for the Court, said:

The Court receives the portrait of Judge Bynum with pleasure, and tenders its thanks to the donor. The clerk will make a record of these proceedings and cause the portrait to be suspended in an appropriate place.