

PRESENTATION OF THE PORTRAIT
OF
CHARLES FREDERICK WARREN
TO THE
SUPREME COURT OF NORTH CAROLINA
BY
HON. STEPHEN C. BRAGAW
1 SEPTEMBER, 1914*

Judge BRAGAW said:

Because of the high esteem in which I held him while he lived, and of my deep respect for his memory, now that he is dead, the privilege of presenting his portrait to this Court has been graciously given me by the family of the late Charles Frederick Warren. There are many of his contemporaries—some still engaged in active practice at the bar, and others who add great strength and dignity to the bench of North Carolina—who could speak with more accurate and complete knowledge of his character and career, and more fittingly pay tribute to his memory; lawyers who in the stress of combat have feared and felt his power in opposition, or have leaned on his great strength in association; judges who have profited by his profound learning and exhaustive research and been aided to correct conclusions. But there is none who can speak from a heart more full than mine of kindly thought of him as he returns to us in remembrance today.

Born in the town of Washington, in the county of Beaufort, on 6 September, 1852, Charles F. Warren had but just attained to the full measure of intellectual strength and power, with a future filled with great promise apparently before him, when, on 11 July, 1904, "the pallid messenger with the inverted torch beckoned him to depart."

An unusually useful life ended, a good man gone, a splendid citizen called to his everlasting home, when he had lived but little more than two-thirds of the three score years and ten allotted to man. But what a memory remains! It lives today, after more than ten years have passed, moves men with compelling force and keeps high the standard of morals in the relations of men, wherever its influence touches. No greater commendation can come to a member of the bar of his county than that it be said of him, "He reminds me of Warren."

Charles F. Warren was the son of Judge Edward Jenner Warren, who was born in Vermont, graduated at Dartmouth College, and shortly afterwards moved to Beaufort County, where later he practiced law. He belonged to a distinguished family which produced many eminent

*This address has but recently been furnished.

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men who had great part in developing and shaping the destiny of New England.

In mind and personality Judge Edward Warren seemed to typify the strong, stern and rugged State from whose loins he sprang. Of high character, deep purpose, uncompromising will and great intellectual strength, he made lasting impress upon those among whom he "lived and moved and had his being." He soon took high rank in his profession. In 1862 he was elected to the State Senate, and was again a member of the Senate in 1870-'71 and 1872 and its president. In 1866 he was appointed judge of the Superior Court of North Carolina.

The mother of Charles F. Warren was, before marriage, Deborah V. Bonner. She was the daughter of Colonel Richard H. Bonner of Beaufort County, a man of ability and distinguished lineage. The mother survived her son and died in Washington only a few years ago. Another daughter of Colonel Bonner was the mother of Associate Justice George H. Brown, now of the Supreme Court of North Carolina.

The University of his native State at the time offering no opportunity, in 1869 Charles F. Warren was sent to Washington College at Lexington, Va., to the presidency of which the South's beloved chieftain had been called almost from the field of Appomattox. High among the mountains at the head of the Valley of Virginia, for more than half a century this had been the intellectual center of the Scotch-Irish population of the valley, and many of the Nation's strongest men of today were once of its student body. It was not until after the death of General Lee that its name was changed to Washington and Lee University. It was first called Liberty Hall, and later was named after George Washington, who tendered it its first considerable donation.

Mr. Warren graduated from this institution with high honors in 1873, and during all the later years of his life his love for and loyalty to his *Alma Mater* never faltered nor grew cold.

It was while young Warren was a student there that Robert E. Lee died, and it is said that, upon General Lee's desk, among the papers left by him and still undisturbed, preserved intact just as his hands placed them, are examination papers of Charles F. Warren.

It is of interest to note that among his college mates and associates were many who have since taken high rank in the Nation in various fields of usefulness. Among them were James L. Slayden, member of Congress from Texas; George E. Chamberlain, formerly Governor of the State of Oregon, and now one of its United States Senators; Harry St. George Tucker, of Virginia; Thomas Nelson Page, of Virginia, author and Ambassador to Italy; Julius Kruttschnitt, director of maintenance and operation of the Union Pacific and Southern Pacific Railroad systems; Rt. Rev. J. R. Winchester, Bishop of the Diocese of

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Arkansas; and Prof. Chas. A. Graves, Professor of Law at the University of Virginia.

After his graduation in 1873, Charles F. Warren returned to Washington, studied law under his father, and was admitted to the bar of North Carolina by the Supreme Court at June Term, 1874, and immediately began the practice of law in Beaufort County. He was at once associated with his father, Judge Warren, the late Colonel David Miller Carter, and William Rodman Myers, under the firm name Warren, Carter, Myers & Warren. Later Colonel Carter moved to Raleigh, Judge Warren and William Rodman Myers died, and Charles F. Warren succeeded to the practice of the firm and continued alone until his death. Among those who recognized and valued merit, ability, integrity, and absolute justice in every relation, he never lost a client.

It is a coincidence that just as now, when his portrait is presented, a Beaufort County lawyer is one of the Supreme Court justices of this State, so when young Warren applied for admission to the bar in 1874, Judge William Blount Rodman, a distinguished lawyer of the Beaufort County bar, was an honored member of the Supreme Court as then constituted.

In 1879 Mr. Warren married Elizabeth Mutter Blount, daughter of Major John Gray Blount, of the family referred to by the late Governor Henry T. Clark, who is quoted in Wheeler's "Reminiscences" as expressing the opinion that "No family whose name now survives in the State can trace its origin back to a period so remote in the history of North Carolina."

Surviving Mr. Warren were his widow, his mother, an only sister, Mrs. Lucy Warren Myers, widow of William Rodman Myers, now living in Washington, this State, two sons and two daughters. The elder son, Frederick B. Warren, of New York, is a successful journalist connected with the Hearst papers, and said to rank, on the general staff, second only to Arthur Brisbane. The younger son, Lindsay C. Warren, of Washington, N. C., is a successful lawyer of great promise, possessing many of the qualities and characteristics of his distinguished father. He is a member of the firm of Daniel, Warren, Manning & Kitchin.

Charles F. Warren was but a boy when this country writhed in the mighty throes of Civil War. He would have made a magnificent soldier. No man ever lived who knew less of the sensation of fear. He was the bravest man I ever knew. When one of his officers asked Napoleon's greatest soldier, Marshal Ney, if he never felt fear, Ney replied: "I never had time." If Warren had been asked the question, he could have truthfully answered, "I do not know its meaning." He gloried in a fight. Whether from his association with the greatest war

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captain of all time, during the days he sat at the feet of Robert E. Lee, he imbibed a love of things military, or whether he inherited the instinct from his ancestors of New England or his Southern forebears, one cannot know; but the militant spirit was strong within him. It is doubtful whether the State had a more thorough student of the history of the period from 1861 to 1865, or one more accurately and fully informed, other than those who took part in the great conflict.

Mr. Warren was profoundly interested in politics and was not without political ambition; but it was an ambition based upon the earnest desire to be of service to his State, and not the selfish yielding to the lure of office from the mere sordid lust for office. The term "politician," in its modern acceptation, had no application to him. He could not dissemble, and had supreme contempt for political duplicity and the doctrine of political expediency. He formed and expressed his opinions of men and measures without thought of the effect of such expressions upon himself. He was mayor of Washington for five years from 1881 to 1886. In 1886 he was elected to the State Senate, where he took first rank with the ablest lawyers and statesmen in that body.

It is my impression that he introduced the bill, or was chiefly instrumental in procuring the enactment into law of what is now section 614 of the Revisal of 1905, providing that whenever any civil action or special proceeding begun before the clerk shall be, for any ground whatever, sent to the Superior Court before the judge, the judge shall have jurisdiction, and shall, upon request of either party, hear and determine all matters in controversy in such action, unless it shall appear to him that justice would be more cheaply and speedily administered by sending the action back to be proceeded in before the clerk, in which case he may do so.

In 1896 Mr. Warren was a delegate to the National Democratic Convention held at Chicago, at which William J. Bryan was nominated as the party candidate for the presidency. His enthusiasm in describing the stirring scenes of that memorable gathering was unbounded. In 1898 the opportunity was given to him to accept the nomination for Congress from the First Congressional District, the Hon. John H. Small having declined to permit the use of his name until after the nomination had been tendered to Mr. Warren and by him refused.

In 1899 he was unanimously elected President of the North Carolina Bar Association, being the second president of that organization, succeeding Hon. Platt D. Walker, now associate justice of the Supreme Court of North Carolina, who was the first president of the State Bar Association. Mr. Warren's administration of this high office was eminently satisfactory, and aided in strengthening the influence of the association for more progressive methods and higher ideals. To his

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interest, zeal and admirable address as president in 1900 should be attributed the requests made by the Bar Association to the Supreme Court for a restoration of the requirement that a two years course of study be a condition upon applicants for license to practice law in the State, and that Sharswood's "Legal Ethics" be added to the course of study. It is gratifying to recall that both requests were promptly granted by the Supreme Court. Your speaker recalls that previously he had prepared and procured the adoption by the local bar of Beaufort County of a condensed Code of Ethics applicable to the members of that bar.

His address as President of the North Carolina Bar Association in 1900 was on the subject, "The Standard of Admission and Legal Ethics," and those who heard, or have read it, agree that no stronger appeal was ever made in a worthy cause. To those who knew Charles F. Warren it is manifest that he wrote and spoke as he practiced; that he was expressing in precept the faith that he expressed in daily work and living.

For several years preceding his death he suffered, intensely at times, from an incurable malady which ultimately proved fatal; but with a courage and devotion that no Roman centurion ever surpassed, and with the fortitude of an ideal martyr, he sat at his desk day after day and far into the night guarding the interests of his clients, and ceased from labor only when the stricken and weary body could no longer respond to the strong and ever ready will. In the great battles of war, when a soldier falls, another takes his place and the gap is closed. When Warren fell, among all the worthy ones left there was none to take his place; and it is no disparagement of my brethren to say, the vacancy created when Charles F. Warren was called remains today unfilled.

As briefly as possible, and I trust without tax upon your patience, I have traced the bare outlines of the life of this strong man. The proprieties of the occasion do not admit of more. You who knew him know how inadequate is human language for appropriate tribute to him.

Charles F. Warren was a great lawyer. All size is relative. The true measure of a man and lawyer is taken by comparison with his associates and contemporaries. Warren, in the activities of professional life, stood by the side of or before Judge W. B. Rodman, Colonel David Miller Carter, Hon. James E. Shepherd, who later became Chief Justice of North Carolina, Hon. George H. Brown, now a member of this Court. He met in combat and in conference Major Lewis Latham, Governor Jarvis, Thomas G. Skinner, James Edwin Moore, W. D. Pruden. And measured by these men of great height, he was known

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among them and in comparison with them as a great lawyer and a strong man.

He was cautious and safe in counsel, giving no opinion not fortified by authority searched for and found. Earnest, forceful and convincing as a jury advocate; always frank and respectful to the court, but unyielding and fearless in demanding due consideration for himself and his cause by the court; bold in presenting and plausible in maintaining his side of a debated and debatable question; quick at courthouse repartee, and a past-master in the art of direct and cross-examination, he was without a superior, within my observation, in the *nisi prius* court. Yet nothing contributed more to his success in the trial of causes, with all his skill and ability, than his fixed habit of thoroughness in preparation. He left nothing to the element of chance or luck. He hunted for the weak points of his own case with pitiless thoroughness and prepared the case of his adversary as though it were his own. To investigate and master the two sides of a controversy thus, and yet to remain the partisan advocate, with keenness and zeal and courage unabated, requires a mental fiber and a moral temper precisely as rare as real greatness.

In the appellate court this habit of thoroughness was again apparent. He never concluded and completed the preparation of his case till further preparation could no longer avail. The call of his case for argument in this Court usually interrupted his continued search for authority to sustain him.

His energy and zeal in a cause depended in not the slightest degree upon the personality or position of his client. The humblest negro became the biggest man in the land to Warren when that negro's case was in his care. The strongest storms of public clamor against his client swayed him not the slightest nor caused him to abate one jot or one tittle in the defense of his cause. When the Prince of Wales had pleaded with Lord Erskine to decline to defend Tom Paine, and public opinion desired Paine's destruction, Erskine declared: "From the moment that any advocate can be permitted to say that he will not stand between the Crown and the subject arraigned in the court where he daily sits to practice, from that moment the liberties of England are at an end." This was Warren's view. On the other hand, no man, nor combination of men, could ever control him or cause him to swerve from the course his conscience directed.

He was absolutely honest with himself, his neighbor and his God, and no man ever had a higher sense of honor. It never occurred to any who knew him to question his word or his complete fidelity to every trust. His final account required no auditing. In one respect he was weak in

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discernment. He could not see a fault in a friend, nor believe an unworthy thing of one whom he trusted. He was intemperate in loyalty to friend and client and cause espoused. He faced foe with the spirit and courage of a lion, but by the side of a friend he was as Jonathan to David. A striking illustration of his loyalty came under my observation as he sat through the weary hours of an intensely hot summer night and till long after the break of dawn in a convention at Greensboro in the interest of an old friend, without hope of success, held only by the sense of loyalty, suffering acutely, too weak to walk, conscious even then that the night of his life was near and its shadows falling upon him, yet taking no thought of self.

In 1901, in his admirable address as President of the North Carolina Bar Association, Hon. Charles M. Stedman, describing the "Model Lawyer," said: "The simplicity of his character commands confidence. He loves the companionship of friends. He delights in the society of books. A pure and irreproachable private life places him above the shaft of petty gossip. He is free from any taint of malice, envy or falsehood. He is brave and chivalrous, always respectful to, but never obsequious to the judge. His clients confide to him their troubles with a confidence that he will not reveal them. He is fearless when combatting for his client the whole weight of an irresistible clamor. He is cool, though tried by all the means which could overcome the firmest patience. He is cautious when prudence counsels reserve. He is aggressive when the moment for action has arrived. The love of gain does not tempt him. He is learned in the law; well versed not only in its technicalities, but in its broad and deep principles. He manifests and feels a strong interest in all that affects the welfare of the community. In advancing his client's interest he spares no labor, but is governed by a supreme sense of duty. He has an absolute scorn for every artifice or trick by which an undue advantage might be gained. He fights his battles in the open field." It is said that later a number of prominent lawyers of wide acquaintance among the members of the bar of this State were discussing this address and the question arose as to what lawyer then living the description would most accurately fit. I have heard that it was agreed that none came nearer to the realization of this ideal than Charles F. Warren. From an intimate knowledge and close observation of him, it is my deliberate judgment that every sentence in that description fits Charles F. Warren, the lawyer, without exaggeration.

A description which fits him as a man so strikingly that one could almost believe the writer knew him and had him in mind as he penned the lines, are the words of Dr. J. G. Holland:

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"Men whom the lust of office does not kill ;
 Men whom the spoils of office cannot buy ;
 Men who possess opinions and a will ;
 Men who have honor and who will not lie :
 Men who can stand before a demagogue
 And damn his treacherous flatteries without winking.
 Tall men, sun-crowned, who live above the fog
 In public duty and in private thinking."

Such a lawyer and such a man was Charles F. Warren. In his death our profession and the State sustained immeasurable loss. All too soon he died. "The broken shaft stands by the wayside—from the base to the point of cleavage the chiseling is that of a master hand, and the size and the perfect workmanship tells to the passer-by how tall and beautiful it would have been if the years had been bidden to place the crown and capital upon the completed column."

I present this portrait to the Court. It is eminently proper that it hang in the gallery of North Carolina's great men and great lawyers. It is well that those who knew him may have the opportunity to gaze upon the semblance of his features and be reminded of his high character and honorable career to their benefit, and that others who knew him not may learn of him and how he lived, as lawyer and man, and profit by the learning.

ACCEPTANCE BY CHIEF JUSTICE CLARK

Judge Edward J. Warren was one of the most forceful and able men that this State has produced. His son, Charles F. Warren, lived scarcely past his meridian, but he inherited his father's ability, and though he did not live long enough to render the full measure of service to his State and people of which he was capable, he lived long enough to establish his own fame and to entitle him to an acknowledged place among the leaders of the bar of North Carolina.

It is well that these memorials of the great lawyers of the State should be placed by the bar on the walls of this building. No men exert a wider influence, or command more ready respect, than the leading lawyers among a free people. They are not only usually the leaders of the people on great political occasions, but they formulate in their studies, and hammer out on the anvil of debate the great thoughts which, when adopted by the courts, after due consideration, shape the judicial history of a people and decide their economic status and the progress or otherwise in the betterment of the condition of the masses. Yet, unless these great lawyers should happen to fill some official posi-

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tion by which their names become recorded as a part of the history of the State, their memory is soon forgotten and passes away. No matter how much they have contributed to shape judicial decisions, there is nothing on record.

As Chief Justice Crewe of England, in passing upon the great peerage case of De Vere, said, in regard to the fleeting fame of the great feudal families, "Where is Bohun? Where is Mowbray? Where is Mortimer? Nay, which is more and most of all, where is Plantagenet? They are entombed in the urns and sepulchres of mortality!" So we may well say, Where are the names of the great lawyers who, failing, or not choosing to fill, official positions, yet once shaped legislation, the course of judicial decisions and political events by their eloquence, their force of thought and their personal popularity? Who remembers now these giants of the past, these intellects which shaped events and made the history of North Carolina? Who remembers the great occasions when by their eloquence in the forum, or on the hustings, they stemmed or changed the tide of thought and action and altered the course of events? Who can recall even the names of these great men of days gone by? All thought and memory of them "melts like a fleecy cloud on the infinite azure of the past."

It is just, it is appropriate, therefore, in gratitude, to preserve the portraits of these men who did so much for the people among whom they lived, who stood for the advancement of justice and ever held high the best traditions of the bar.

We welcome to these walls the portrait of the distinguished lawyer which has been so handsomely presented by Judge Bragaw, and the marshal will hang it in its appropriate place among his peers as a worthy tribute to one who served well and ably his State and its people.