

PRESENTATION OF THE PORTRAIT

OF

JOSEPH BRANCH

Chief Justice
SUPREME COURT OF NORTH CAROLINA
1979-1986

Associate Justice
SUPREME COURT OF NORTH CAROLINA
1966-1979

May 20, 1993

RECOGNITION OF FORMER JUSTICE DAVID BRITT

BY

CHIEF JUSTICE JAMES G. EXUM, JR.

Chief Justice James G. Exum, Jr., welcomed official and personal guests of the Court. The invocation was pronounced by Dr. T. L. Cashwell, Retired Senior Minister, Hayes Barton Baptist Church, Raleigh, N.C. The Chief Justice then recognized Former Associate Justice David Britt, who would address the court:

I am pleased now to call to the podium former Associate Justice David Britt, a long-time and close friend of Chief Justice Branch, and a distinguished North Carolinian. He served with great distinction as a member of the House of Representatives, becoming Speaker in the 1967 Session. He was a charter member of the Court of Appeals and served there for eleven years. He then joined this Court as an Associate Justice in 1978 and served here until his retirement in 1982. He is the recipient of numerous awards and recognition for his public service and contributions to the legal profession, including the North Carolina Bar Association's John J. Parker Award. Justice Britt was born in McDonald in Robeson County. When he felt the need to get out of Raleigh for some deserved rest and relaxation, his parting words to us would most often be, "I'll see you in McDonald." Former Associate Justice David Britt.

PRESENTATION ADDRESS

BY

THE HONORABLE DAVID M. BRITT, RETIRED JUSTICE,
SUPREME COURT OF NORTH CAROLINA

As we assemble here this afternoon, I consider it a great honor to be asked by the family of the late Chief Justice Branch to present on their behalf his portrait to the Court that he served and loved for twenty eventful years.

My acquaintance with Joseph Branch began in 1933 when we were freshmen at Wake Forest College, then located in Wake County. Our initial acquaintance very soon ripened into a close friendship that gradually grew closer, not only during our college years but in the years that followed. Part of the time we were in college we were roommates and that was the case during the summer of 1937 as we attended summer school and prepared to take the bar examination a year before we were supposed to. Fortunately for us we both passed the examination. Our friendship culminated when we served on the Supreme Court together for four years.

Joseph Branch was born in Enfield, Halifax County, North Carolina, on 5 July 1915, the fifth and last child of James Clarence Branch and Laura Applewhite Branch. Both of his parents were natives of Halifax County. Joseph's siblings were brothers Stafford, Edwin and Harry Branch, and sister Virginia Branch, later Virginia Branch Pope. A foster sister, Elise Dunn Kimball, also grew up in the Branch home.

Following his graduation from Enfield High School, Branch entered Wake Forest College in the fall of 1933. It will be noted that 1933 was one of the years of the great depression and student Branch found it necessary to earn part of his college expenses. For several years he worked for his meals in a boarding house—washing dishes, cleaning floors, and waiting on tables.

Very soon after entering law school in the fall of 1935, he decided to work toward taking the bar examination in August of 1937. To accomplish this he would have to attend two regular sessions of law school and two summer sessions. At that time while a law degree was not a prerequisite to taking the bar examination, it was necessary to take and pass certain courses of study required by the Board of Law Examiners. By taking the full course load allowed by the law school, by monitoring several courses, and working long and hard he took and passed the ex-

amination in 1937. He then returned to Wake Forest for the fall semester and was awarded his law degree in January of 1938.

Branch's love for and devotion to his alma mater did not terminate with his graduation. Beginning in the mid sixties, after the college was moved to Winston-Salem and became Wake Forest University, he served numerous terms as one of its trustees, and during most of two terms he served as chairman of the board. At the time of his death he was a Life Trustee of the University. He devotedly served Wake Forest with his talents and means and exerted his best efforts to preserve the heritage of his alma mater as a Christian institution.

Immediately following his graduation, Branch returned to his home town of Enfield and entered the practice of law with an older lawyer, the late D. Mack Johnson. His legal career was interrupted for two years during World War II when he served in the U.S. Army. After his discharge from the army, he resumed his law practice in Enfield. Shortly thereafter, on 7 December 1946, he was married to Frances Jane Kitchin of Scotland Neck, North Carolina. His bride was a member of one of our state's most prominent families. Her father, A. Paul Kitchin, served in the State Senate; his brother W.W. Kitchin, a resident of Person County, served six terms in Congress from the state's Fifth District and served as Governor from 1909 to 1913; his brother Claude Kitchin, a resident of Halifax County, served eleven terms in Congress from the Second District and for four terms served as Democratic Majority Leader; and another brother, Dr. Thurman D. Kitchin, served as president of Wake Forest College for some twenty years. During the fifties and early sixties, Mrs. Branch's brother, A. Paul Kitchin, Jr., a resident of Anson County, served as congressman from the Eighth District.

Branch's law practice was quite varied. While he represented several sizeable businesses and handled numerous estates, he appeared in many criminal cases in the Superior and County courts of Halifax and surrounding counties. Because of his recognized integrity and winsome personality he was a very popular and successful attorney. The judges, prosecutors and even his adversaries at the bar liked and respected him. One of his adversaries was quoted as saying that he did not relish appearing in cases in which Branch was his adversary because it appeared to him that just about everybody involved in the cases was trying to help Joe Branch.

Although Branch was a very busy lawyer, he found time for public service. He served as chairman of the Halifax County

Democratic Executive Committee and then served with distinction in the state House of Representatives from 1947 through 1954. In those days local politics were rough in Halifax County, there being two Democratic factions that fought each other tooth and toenail. Although Branch was identified with one of the factions, many members of the other faction quietly voted for him, thereby making his elections relatively easy.

During the 1957 session of the General Assembly, Branch served as legislative counsel for Governor Luther Hodges. During the remainder of the Hodges Administration, Branch was a close and valuable advisor to the Governor.

Late in 1963, former Superior Court Judge Dan K. Moore, then a resident of Haywood County but a native of Jackson County, prevailed on Branch to manage his 1964 campaign for Governor. Although Moore was well and favorably known in the western part of the state, he knew very few people in the eastern section of North Carolina. He was the least known of the three major candidates for the Democratic nomination, but with Branch's able managership, Moore came in second on primary day. He was entitled to call for a second primary and did so. His nomination was assured when the third candidate actively supported Moore in the second primary and was able to carry his followers with him. Moore was an easy winner in the November general election.

During the 1965 session of the General Assembly, Branch served as Governor Moore's legislative counsel and was very effective in shepherding the Governor's program through the Assembly. In August 1965, a vacancy occurred on the Supreme Court and Governor Moore immediately offered the position to Branch. While Branch was interested in serving on the Court, he declined to accept the appointment and insisted that the Governor appoint another highly qualified person who was very instrumental in Moore's becoming governor. At that time Branch had no way of knowing that Governor Moore would have the opportunity to make another appointment to the Court.

As fate would have it, another vacancy occurred on the Supreme Court in 1966 when death claimed the highly respected Justice Clifton L. Moore. There was no doubt as to who would fill that vacancy. On 29 August 1966 Attorney Joseph Branch became an associate justice of the Court and began a distinguished twenty-year tenure on our state's highest tribunal. In November of 1966 he was elected to complete his predecessor's unexpired term and he was re-elected without opposition in 1968 and 1976.

As an associate justice Branch applied himself to the fullest in living up to the oath of office he had taken. While he did not always agree with the law he was sworn to uphold, he dutifully followed the law as written.

Upon the retirement of Chief Justice Susie Sharp in July of 1979, Governor Hunt appointed Branch chief justice and the following year Branch was elected to fill her unexpired term. Joseph Branch was the twentieth chief justice to serve our state. He was the fourth native of Halifax County to fill the position, the others being Chief Justices Walter Clark, M. V. Barnhill and R. Hunt Parker. Three of these chief justices were natives of Enfield, Chief Justice Clark being the exception.

The new chief was quite at home in his new role. He presided over sessions of the court with dignity and great patience. In like manner he presided over conferences of the justices with enduring patience in spite of the sharp differences of opinion that were often expressed.

Since the creation of a unified court system in our state in the nineteen sixties, the duties of the chief justice are much more extensive than just presiding over sessions and conferences of the Supreme Court. The person holding the office is now the chief justice of North Carolina with administrative duties extending to every lawyer of our judicial system. It was in this capacity that Chief Justice Branch truly excelled. He enjoyed the confidence and respect of judges and other personnel at every level, and he spent much of his time conferring with the many who sought his wise counsel.

Chief Justice Branch not only was interested in seeing our state have the best courts possible, he was anxious to have our courts perceived by the public as being tribunals that dispensed true justice. Consequently, during his years as chief justice he accepted as many invitations as he could to speak to groups all over the state. He also made himself easily accessible to the news media. In spite of the tendency of the public generally to criticize not only the courts but most other public institutions, he did much to instill confidence in our courts. His affable manner and his love for people made it easy for him to mingle at gatherings, and as he made friends for himself, he caused many people to increase their respect for the courts.

An indication of his success in making a favorable impression on groups and institutions are the numerous awards and honors

that were extended to him. Only a few will be mentioned. Wake Forest University bestowed many honors upon him, including the honorary degree of Doctor of Laws. Similar degrees were conferred by other schools including Campbell University and Elon College. The North Carolina Bar Association presented him with its highest award, the Judge John J. Parker award "In Recognition of Conspicuous Service to the Cause of Jurisprudence in North Carolina." The N.C. Academy of Trial Lawyers presented him with its Outstanding Appellate Judge Award, and the North Carolina Citizens for Business and Industry awarded him its citation for Distinguished Public Service.

Chief Justice Branch voluntarily retired from the Court on 31 July 1986. The many written opinions he authored for the Court are found in Volumes 268 through 313 of the Supreme Court Reports.

While he relished his work on the Court, he never lost his love for and his deep interest in the legal profession. During his tenure, he supported many progressive programs proposed by the State Bar. As Chief Justice he had the statutory duty to pass on proposals to amend the rules and bylaws of the State Bar. He admired good lawyers and it grieved him greatly to learn that a lawyer had breached his trust. He was a moving force in the creation of the Client Security Fund program by the State Bar, and at the time of his death he was serving as a member of the Client Security Fund Board.

To borrow a phrase much used in recent years, Chief Justice Branch had his priorities straight. I will comment briefly on a few of them.

He was a man with deep religious convictions. While living in Enfield he was an active member and leader of the Enfield Baptist Church. He served that church as a deacon and teacher of a men's Bible class. Immediately after he moved to Raleigh in 1966, he became a member of Hayes Barton Baptist Church where he served several terms as deacon and trustee. He also served Hayes Barton as one of the teachers of an adult Bible class. He was a genuine Christian in the true meaning of those words.

He was genuinely devoted to his family, not only to his wife, children and grandchildren but to his extended family as well. He was seldom too busy or too tired to spend evenings watching his high school son, and later his grandson, play basketball and join them in other wholesome activities.

In his public service he was never satisfied with anything less than the best that he was able to render. As a member of the Legislature, as a trusted adviser to governors, and as a member and leader of our state's highest court he applied those basic qualities of greatness, namely, honesty, integrity, patience, humility, and friendliness.

Lastly, he truly loved his fellow man. To borrow a line from a well known poem that most of us learned in grammar school, "he did not sit in the scorner's seat nor hurl the cynic's ban." On the contrary he appeared to find something good in just about every person he encountered. In my judgment, at the time of his death no person in North Carolina had more true friends than did Joseph Branch.

On 18 February 1991, death claimed this great leader. He in survived by his wife of forty-six years, Frances Kitchin Branch; his daughter, Jane Branch McRee, her husband, William R. McRee, and their children, Mary Branch Burns, Joseph Chadwick Burns and William Douglas McRee; his son, James C. Branch, his wife Lizbeth Elkins Branch, and their children, Laura Caroline Branch, Lizbeth Elkins Branch, Joseph Edwin Branch and Jamie Hansen Branch; and his brother, Harry Branch. His sister, Mrs. Virginia Branch Pope, died subsequent to the death of Chief Justice Branch.

Joseph Branch dearly loved his home county and town. He was appropriately buried close to his parents, deceased brothers and other loved ones in the Branch family plot in the Elmwood Cemetery in Enfield. More than a thousand people attended his last rites, and properly so, because in the death of Joseph Branch North Carolina lost one of its premier public servants.

The portrait which is about to be unveiled was painted several years before Chief Justice Branch retired by Artist Rebecca Patman Chandler of Raleigh. Artist Chandler studied at two of the better art schools in America and at three of the renowned art schools in Italy. During her thirty-three year career she has had numerous shows in this country and in Italy.

ACCEPTANCE OF CHIEF JUSTICE BRANCH'S PORTRAIT
BY CHIEF JUSTICE EXUM

On behalf of the Court, I thank Justice Britt for his remarks on the life and work of Chief Justice Joseph Branch. I thank all of Chief Justice Branch's family for the gift of the portrait to the Court, a gift which the Court now gratefully accepts. Justice Britt's remarks will be spread upon the minutes of the Court and the portrait will be hung in this chamber together with the other portraits of former Chief Justices which you see hanging here.

All of us now on the Court knew Chief Justice Branch well, and several of us had the privilege of working here with him. To us he was not only an able colleague but also a loyal friend and a wise counselor. After he retired and while he lived, I continued to seek and rely often on his advice. And since he has been gone, I often ask myself in difficult situations, "What would Joe do?" His portrait hanging here will serve to remind us of his wit, his wisdom, his knowledge and his faith in and love of people. It will remind us of how much we enjoyed being in his presence. It will be a source of inspiration to all who knew of him, but most particularly to those of us who knew him, worked with him and loved him.