

GEORGE W. BROOKS

Last Federal Judge of the State of North Carolina and First Judge of the Eastern District

By Hon. Francis D. Winston, and read by him on the occasion of the presentation Monday night, September 6, by sons and daughters of Judge Brooks, of a portrait of their father to the U. S. Court at Raleigh.

The sons and daughters of Hon. George W. Brooks, last federal judge for the State of North Carolina and first judge of the eastern district, request that your Honor receive, for a place on the walls of this court-room, this portrait of their honored father. It is the work of one of the foremost portrait painters of America.

They do me the very high honor of entrusting the presentation to me, and for this honor I thank them. Our fathers were friends of a life time, had much in common of early struggle, and of final success, and were closely allied in legislative and convention labors. Their children are friends.

The artist has, with master strokes, placed on his canvass the face and form of Judge Brooks, and as one studies the portrait, the marked characteristics of the man are discovered, order, decision of character, neatness, reserve, fixedness of purpose, determination, poise.

It is appropriate, and custom warrants, that I should accompany this request with a sketch of his life, and a tribute to his worth. I can speak but little from personal acquaintance. I first saw Judge Brooks when he was a member of the convention of 1865. I appeared in his court but once, at the last term held by him, and then only for a formal entry of a consent judgment.

One who studies the life of another with whom his personal contact was limited, must find his material in the conversation of those who knew his subject well, from traditions and from what has been published of him and by him. Judge Brooks never spoke, nor wrote, for publication. Those who were actors with him have mainly followed him. No lawyer is living who ever saw him at the bar. If these sources of information are scant, we are fortunate in knowing the pivotal points of his life and from them we can see clearly the moving causes of his conduct. The spot of ground on which a man is born, the character and location of the school he attends in youth; the environment of his professional preparation, decidedly mark his habits and character, and shape and control his conduct. If these surroundings are unusual, then their impress is the more certain and the more controlling.

In these respects we have a striking illustration in the life of Judge Brooks.

His love of liberty was intense. He was born in that atmosphere.

The colonial record of organized government in North Carolina is of a general assembly by the people of the colony near the home of Captain Hecklefield, which is now supposed to have been located near the present site of Nixonton, in Pasquotank county.

In his "Grandfather's Tales," the late Col. Richard Benbury Creecy makes the following narrative in support of the tradition:

"Gen. Duncan McDonald, of Edenton, was my kinsman by marriage, a good man, fond of children, indulgent and liberal with them. He was a military man by training and position, and his official business often called him to distant places in his military district. On one of these occasions he was called to Elizabeth City to review the militia of Pasquotank county. I was to accompany him. On the day appointed we equipped ourselves with a double rig and a nice stepping horse and started on our day's journey. The general was kind, chatty and companionable. Towards evening we crossed Hall's Creek bridge, in Pasquotank county, half a mile from Hecklefield farm, near Nixonton. On rising the hill at Hall's Creek, the general stopped the horse and said to me:

"The first General Assembly of North Carolina met under that tree," at the same time pointing to a large oak tree on the left-hand side of the road that towered above the oaks that surrounded it. Gen. McDonald was a man of extensive information, of liberal culture, and particularly fond of antiquarian and historical lore."

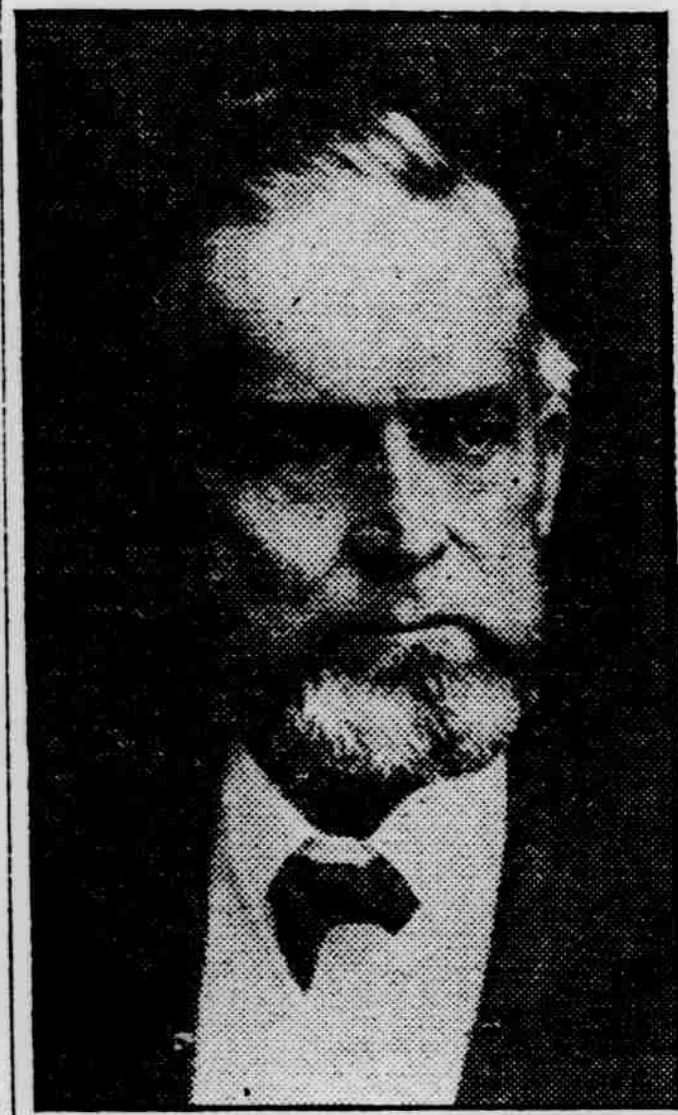
On the 11th day of June, 1910, at Hall's Creek church, a memorial stone was set up with appropriate ceremony, commemorative of the spot pointed out by Gen. McDonald, on which that assembly was held. The inscription on the stone reads: "Here was held the first Albemarle Assembly, February 6, 1665, erected by the Sir Walter Raleigh Chapter, Daughters of the Revolution, June 11, 1910."

Within a mile of this spot, in a plain country home, on the 16th day of March, 1821, was born George Washington Brooks. How much the historic tradition that enveloped the place of his birth entered into his life, is a matter for conjecture. It is a fact that fifty years afterwards, he issued the great writ of English liberty when those who sacred duty it

was to issue it, turned cowardly from the task.

He opposed slavery and was an advocate for peace. He was educated in those principles.

The Quaker element in our population was prominent in the early settlement of Eastern North Carolina, in the colonial period, in the revolution and subsequently thereto up to the half of the nineteenth century, when negro slavery and the threats of the war had much to do with the emigration of our North Carolina Quakers to Indiana and Illinois. Belvidere, in Perquimans county, still remains representative of that sturdy people who made their distinctive impress upon the character of that section. "The old time Quakers were a sturdy, stalwart people conservative, plain, direct in purpose and in speech, averse to worldly vanities, poised, prudent, undaunted by opposition, shrewd in trade, and thrifty in business." At Belvidere the Quakers maintained a first-class school conducted along the lines of



U. S. JUDGE GEO. W. BROOKS.

Quaker life and characteristics. Here young Brooks spent two years at school.

May we not trace to the training of these years in that surrounding his conservatism, his directness, his balance, his prudence, his aversion to all forms of slavery whether of mind or of body?

His devotion to the union was the all absorbing sentiment of his being. He opposed secession with all the intensity of his nature. He read law with a New Englander.

About the year 1820 there came from Norwich, Conn., to Norfolk, Va., on his way to Mobile, Ala., Charles R. Kinney, a young man about twenty-six years of age, destined, in after years, to fill a place in the influence, affections and bitter antagonism of the Albemarle bar. There happened in Norfolk at the same time, Miles Gregory, a wealthy farmer from Camden county, who was stopping at the same hotel with the young stranger and who in a chance conversation found that he was seeking employment. The conversation resulted in his making an engagement with Mr. Kinney to go to Camden county and teach the children of Mr. Gregory in his family. He went out to Camden by boat through the Dismal Swamp canal, and took charge of the Gregory children as a member of the household. While so engaged he became acquainted with John L. Bailey, a member of the Pasquotank bar and afterwards judge of the superior court. Mr. Bailey sympathized with the struggling, and soon found out the condition of young Kinney; a poor man, ardent, ambitious, educated, with refined and noble instincts, and every inch a man. The result of this friendship was the entrance of young Kinney as a student in the law office of Mr. Bailey. He made proficiency in his studies and was admitted to the bar. He located in Elizabeth City, and by his professional attainments, his superior natural gifts, and his impulsive and chivalrous nature, he became conspicuous with friend and foe. To his friends he was sympathetic, faithful, loving, making himself part and parcel of their joys and sorrows; to his foes he was dauntless, unyielding, firm, and as bold as a tiger with fresh blood upon his teeth. He was imbued with the New England theory of our American government, and was a firm adherent of the Webster school of construing our constitution.

Under this master, George W. Brooks, entered as a student of the law; the relation was the most cordial and confidential. He read law until the failure of Mr. Kinney's health in 1844. Under this association and tuition it was natural that a consuming love for the union should take possession of the young student, such a love as neither local considerations, nor the example and beseeching of friends near and dear to him could change. It was a love that increased with maturity of body and mind.

We may well trace his life of liberty to the place of his birth; his love of freedom and peace to the place of his schooling and his love for the union to the atmosphere of his professional training.

His father was William C. Brooks, born in the county of Gates, and who was later a merchant of high character in Elizabeth City. The mother was Catherine Davis, of Pasquotank county, descended from brave and patriotic revolutionary ancestry.

The boyhood of George W. Brooks on his father's farm was marked by industry and intelligence in his tasks, by obedience to his superiors and by a love for reading. He was the foremost student of his day at Belvidere Academy. On leaving the office of Mr. Kinney, he entered the law office of John B. Ehringhaus and was licensed by the Supreme Court to practice in the county courts in 1845. In 1846 he received his superior court license. He located in the county seat of his native county. He married June 20, 1850, Margaret Ann Costen, of Gates county. Their children were William Costen Brooks, deceased, Dr. George Costen Brooks, of Suffolk, Va., James Costen Brooks, an attorney, of Elizabeth City, Sallie Costen Brooks, who married Harry W. West, of Courtland, Va., and Maggie Costen Brooks who married George W. Cobb, of Elizabeth City. His devotion to his wife is best seen in his giving her maiden name to each of their children.

Mr. Brooks was diligent and attentive to the small business that comes to the young lawyer. He was most exemplary in his habits at a time when some dissipation was the rule with his professional brethren. He was faithful to his client's cause. Diligence, attention, sobriety, faithfulness, then, as ever, put him to the front and in a few years he had a profitable practice. Unlike most of the lawyers of his day he did not ride the full circuit. He found work more profitable and life more congenial in his office and in his home. His pleadings were clear and concise. His method of trial direct and conversational. He made clear statements to judge and jury, rather than heated orations. He had a discriminating judgment, that was seldom at fault. His mind was of the judicial cast. He thoroughly weighed and examined every question in golden scales. He had courage of his convictions and an opinion once deliberately formed reached the verge of obstinacy, yet in times of stress and trial to his friends and to his community he was the "strong staff" on which they leaned for guidance and support. Physically and morally he shrank from no responsibility. He was thoroughly brave and of inflexible integrity. He was a conspicuous representative of that type of men, now so rare, who are "inflexible to ill and obstinately just." In him that noble quality was unquestioned and unquestionable. With him the love of the Union was a passion, an absorbing sentiment, which gave color to every act of his public life. It triumphed over party. It brought him into close relation with those who differed with him in all else. It estranged him from those bound to him by the most sacred ties of friendship who agreed with him in all else save that.

In 1852 he was elected a member of the House of Representatives from Pasquotank county. His service was honorable and was approved by his people. He never again sought political preferment. He was a member of the Methodist Episcopal church and a Master Mason.

George W. Brooks was not always in accord with the popular sentiment in the community in which he lived nor with the friends with whom he was intimate; but no man ever questioned the honesty, or sincerity of his convictions. It was this deep impression of his absolute honesty that enabled him sometimes to maintain his opinion in the face of a storm of popular sentiment that would have swept most other men before it. In an able editorial announcing the death of Judge Brooks, his intimate friend, Col. R. B. Creecy, wrote in his paper, the Economist:

"At the outbreak of the late civil war between the States this community and section were greatly divided upon the questions at issue and upon the policy of a resort to violent measures. The antagonism of the old parties was still active and in the presence of imminent danger the leaders stood apart. In this condition of things news came to the town through the Baltimore papers that a conflict had occurred in the streets of Baltimore between a Massachusetts regiment and the citizens in which blood had been shed on both sides. It fired the public mind and a public meeting was arranged for the next day in the court house. It was made the occasion to harmonize conflicting opinions. Leading representative men of every phase of opinion were invited to be present and address the assemblage. We have

never attended a more enthusiastic meeting. Every speaker in his turn fell into the sentiment that fired the heart of the body, and as they delivered their words the meeting was brought to the most intense excitement. Hinton in a burst of soul-stirring eloquence that we have never heard equalled, presented to the venerable John C. Ehringhaus, chairman of the meeting, a Confederate flag, wrought in richest embroidery. Later in the meeting it came the turn of George W. Brooks to speak. He was from truest convictions a Union man. All eyes were turned to him as he slowly and calmly rose to address the assemblage, burning with intense internal fires. His utterances were calm, deliberate, earnest, not aggressive. But he maintained his aggressive opinions, deprecated the resort to arms and argued its fatal results in so unequal a contest. No man doubted his sincerity. He was listened to patiently, as we believe no other man in that assemblage could have been, in uttering opinions not in accord with the current of that stormy gathering. We have always regarded his conduct at that time, although his opinions were not ours, as of the heroic."

At the close of the war the people of North Carolina held a constitutional convention for the purpose of adjusting the State to the changed Union. The States were to become one and indissoluble. His neighbors and friends, the people of his native county, instinctively called him to membership in the convention of 1865 which convened in Raleigh October 2nd. Among its members were few who had originally favored secession and none who were intimately associated with the secession party. Most of the members were old Whigs, who while opposed to secession had submitted to the will of the majority as expressed in the secession convention of 1861. With them was a number of Democrats who were members of the peace party before and during the war. Brooks was of that number, radically so. Every delegate was eager to restore the State to its normal relation with the Federal government. This sentiment appeared as the session lasted.

The prime struggle of that body was in dealing with the ordinance of May, 1861. That matter settled, all else progressed with small friction. The two constitutional schools were sharply arrayed. The ordinance finally adopted declared "that the ordinance of the convention of the State of North Carolina ratified on the 21st day of November, 1789, which adopted the constitution of the United States, and also all acts and parts of acts of the General Assembly ratifying and adopting amendments to the said constitution are now and at all times since the adoption and ratification thereof, have been in full force and effect, notwithstanding the ordinance of the 20th day of May, 1861, declaring that the same 'be repealed, rescinded and abrogated,' and the said supposed ordinance, is now and hath been at all times null and void." The vote on its final adoption was 94 in the affirmative and 20 in the negative. Of course Brooks voted with the majority. The teaching and conviction of his life found clear and definite expression in that vote. He voted as did every other member, for the ordinance abolishing slavery. I do not find that he took part in the debates on either of these ordinances. He spoke with force and feeling favoring the ordinance repudiating the State debt incurred in aid of the war measures. On April 23, 1861, Hon. Asa Biggs, the United States District Judge for the State of North Carolina, had resigned to President Lincoln and surrendered his commission. His resignation was couched in pointed and dramatic language. North Carolina was the first of the seceding States to re-establish its relations with the Federal government, and the first of those States in which the Federal courts were reopened. President Johnson tendered the appointment to the vacant judgeship to Hon. Robert P. Dick. He was not able to take the oath of office required by law as provided in the Act of Congress of March 2, 1862. President Johnson then appointed Hon. George W. Brooks to the vacancy. His nomination was quickly confirmed and he was commissioned January 22, 1866. He was the last Federal Judge for the whole State. It is coincidence that later, the State was divided into the present districts and both he and Judge Dick were at the same time United States District Judges. His entrance upon the duties of the bench was during a period of unrest and of abnormal conditions. We had just emerged from a Civil War and found the court system of the Union greatly enlarged. New principles had been invoked to extend it and new legislation had made its increasing power extremely unpopular. The name "Federal" was not then in good repute among us. The court as well as the law was out of favor with the people. But it was reserved for Judge Brooks to at once restore the court in the favor of his fellow citizens and make his own name dear to the popular heart of his native State. In the administration of the criminal law he was ever just, seeking at all times to uphold and enforce it, but never permitting it to be made an instrument of oppression, and never allowing the court to be converted into machinery to advance

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