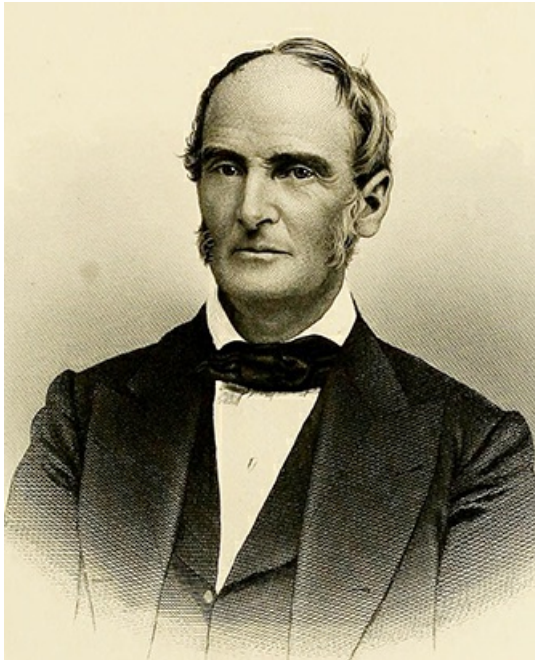


## **Pearson, Richmond Mumford** <sup>[1]</sup>

### **Pearson, Richmond Mumford**

by Memory F. Mitchell, 1994

**28 June 1805–5 Jan. 1878**



An 1880 engraving of Richmond Mumford Pearson. Image from Archive.org.

<sup>[2]</sup>Richmond Mumford Pearson, jurist and law teacher of note, was born at his father's home, Richmond Hill, in Rowan (now Davie <sup>[3]</sup>) County. He was the son of Revolutionary War <sup>[4]</sup> veteran Colonel Richmond Pearson, who had moved from his native Virginia after the war, settled in the forks of the Yadkin River, and established himself as a successful merchant, mill owner, and planter. His mother, Elizabeth Mumford Pearson, was the daughter of Robinson Mumford, a former officer in the British navy, who had come to North Carolina following a period of residence in Jamaica. She was descended from the elder William Brewster of New England.

For several years prior to the death of his father in 1819, young Pearson was primarily under the care and supervision of his half brother Joseph <sup>[5]</sup>, a U.S. congressman who resided near Washington, D.C. During these formative years in the nation's capital, the future chief justice of North Carolina is known to have attended a Roman Catholic school and to have been baptized in that faith by Archbishop John Carroll. It is reasonable to assume that the ambiance of Washington's social and political activity imbued young Pearson with the desire to enter public life. Returning to North Carolina in his early teens, he completed his college preparation at the Statesville Academy under the stern tutelage of the Reverend John Mushat.

In 1820 Pearson entered The University of North Carolina <sup>[6]</sup>. There he is said to have "devoted but little time to the beauties of poetry and the elegancies of polite literature." Instead, he studied avidly the histories of Greece, Rome, and England, with special emphasis on the long, painful evolution of the law in both its philosophical and practical aspects. In 1823 he received the A.B. degree, sharing first honors in a graduating class of twenty-eight members. Soon after his graduation, Pearson entered the law school of Judge Leonard Henderson <sup>[7]</sup> near Williamsboro in Granville County <sup>[8]</sup>. Among his fellow students at Henderson's school was William Horn Battle <sup>[9]</sup>, who in later years would become his chief rival as the preeminent legal educator in North Carolina. Pearson was licensed in 1826 and began a law practice in Salisbury, where he soon established a reputation for hard work and careful attention to detail.

In 1829 Pearson entered public life as a representative from Rowan County <sup>[10]</sup> to the state House of Commons, where he served until 1832. In 1835 he was defeated in a bid for a congressional seat. During the following year he was elected a judge of the superior court, and as he rode the circuits he won acclaim for his ability as a trial judge. Twelve years later, in 1848, the Democratic General Assembly elected Whig Pearson to fill the seat of Justice Joseph J. Daniel <sup>[11]</sup> on the state supreme court <sup>[12]</sup>, and on 30 Jan. 1849 the new justice took the oath of office before Governor Charles Manly <sup>[13]</sup>. A decade later, following the death of Chief Justice Frederick Nash <sup>[14]</sup>, Pearson was named to that post.

Although his reputation was made in his judicial career, Richmond M. Pearson was also prominent because of his law school. Originally opened in Mocksville about 1836, this school was moved some ten years later to Richmond Hill in

present-day Yadkin County <sup>[15]</sup> when Pearson acquired a sizable plantation on the Yadkin River. There the law school <sup>[16]</sup> continued to operate with conspicuous success until his death more than three decades later, with spring and fall sessions alternating regularly with the terms of the supreme court.

As a teacher of the law Pearson employed a rigorous Socratic method involving intensive discussion and examination of both the law and its underlying principles. Instruction was offered both to those students who were studying for their county court licenses, and to those more advanced students preparing for practice in the superior courts. In addition to attending lectures and participating in discussions, students were expected to read deeply and repetitively the works of certain American and English legal authorities, especially the writings of the seventeenth-century English jurist, Sir Edward Coke. <sup>[17]</sup>

Pearson himself claimed to have instructed "more than a thousand law students" at Mocksville and Richmond Hill, and many of these achieved distinction in the legal and political life of North Carolina and the nation. Three of his students, Thomas Settle <sup>[18]</sup>, William P. Bynum <sup>[19]</sup>, and William T. Faircloth <sup>[20]</sup>, later served with him as associate justices of the North Carolina Supreme Court <sup>[12]</sup>. After his death, three other students, Alphonso C. Avery <sup>[21]</sup>, David M. Furches <sup>[22]</sup>, and William Alexander Hoke <sup>[23]</sup>, were also elevated to the supreme court bench. Indeed, Faircloth and Hoke went on to become chief justices, following in the footsteps of their mentor. Three of Judge Pearson's students, Daniel G. Fowle <sup>[24]</sup>, John W. Ellis <sup>[25]</sup>, and Robert B. Glenn <sup>[26]</sup>, became governors of North Carolina and at least three others, John Steele Henderson <sup>[27]</sup>, Joseph J. Martin <sup>[28]</sup>, and William H. H. Cowles <sup>[29]</sup>, became U.S. congressmen. A student from Mississippi, Jacob Thompson, served as secretary of the interior under President James Buchanan. In addition to these, many Pearson students distinguished themselves as superior court judges and as members of both houses of the North Carolina legislature.

Pearson is, of course, best remembered for his supreme court opinions, which reflect his learning in the law, his keen intellect, the strength of his convictions, and his ability to penetrate quickly to the heart of a question. He used many everyday, down-to-earth illustrations in his opinions and expressed them with clarity and forcefulness.

During the Civil War <sup>[30]</sup>, his decisions in exemption and habeas corpus cases raised storms of protest in North Carolina and throughout the South. Time after time, he asserted the rights of the individual and the sanctity of contract over the dictates of military necessity, holding that the conscription <sup>[31]</sup> laws of 1862 had exempted those engaged in certain occupations and had provided to all men the clear option of furnishing able-bodied substitutes in lieu of military service. Confederate authorities, he argued, had no right to violate and abrogate these laws. Over and over again he issued the writ of habeas corpus when men seeking release from military service applied to him for exemption from conscription. The interpretation of conscription and exemption laws occupied much time of the justices, both while court was in recess and in full session. Pearson's colleagues tended to side with him in the early months of the war but the tide shifted as time passed. In 1864, when the Confederacy suspended the writ of habeas corpus, Pearson refused to uphold the suspension and continued his practice of releasing many individuals who applied to him for relief.



A portrait of Richmond Mumford Pearson by William Garl Browne, 1892. Image from the North Carolina Museum of History.

<sup>[32]</sup>It was widely known that Pearson, a staunch Federalist <sup>[33]</sup> and old-line Whig <sup>[34]</sup>, had previously opposed the nullification <sup>[35]</sup> movement of the 1830s, and that he had similarly set his face against the secession movement <sup>[36]</sup> and the dissolution of the Union. Many detractors now saw in his actions a deliberate attempt to betray the South by undermining its military might, but all evidence indicates that his actions were, instead, based on sincere moral, legal, and constitutional convictions.

A key case, involving one Edward S. Walton, who had furnished a substitute early in the war but who was conscripted in 1864, received much publicity. The other two members of the court held that the amended law, making Walton subject to the draft, was constitutional. Pearson cast a dissenting vote, reasoning that when Walton furnished a substitute there had been a binding contract, a contract that the Confederate Congress had no power to violate. Therefore, he said, Walton should continue to be exempt from service. The *Carolina Watchman* quoted the reaction of the *Wilmington Journal* to

Person's position: "So uniform has been his course, so well known and decided are his proclivities, that, no matter what the case may be, the public are always prepared for the same result—a decision against the Confederate government." Despite the controversy surrounding his decisions, however, the fact remains that most North Carolinians retained their confidence in the chief justice.

When, after the war, all offices were vacated, Pearson was promptly reelected to his judicial post. Early in 1866 he was apparently considered by President Andrew Johnson <sup>[37]</sup> for appointment to the U.S. Supreme Court but was not nominated. Deceived in his hopes of reaching the federal supreme court bench, Pearson continued to serve as chief justice of North Carolina until 1868, when all offices were again vacated by congressional reconstruction. Once more he was reelected chief justice, having secured the nominations of both the Republican <sup>[38]</sup> and Conservative <sup>[39]</sup> parties for the post.

In 1868 Pearson, having identified himself with the Republican party, issued a statement setting forth his reasons for supporting Ulysses S. Grant for president of the United States. A protest in reply to the active political stand of Pearson, and other judges, was prepared under the leadership of Bartholomew F. Moore <sup>[40]</sup> and signed by 107 other lawyers including A. S. Merrimon <sup>[41]</sup>, Thomas Bragg <sup>[42]</sup>, and Z. B. Vance <sup>[43]</sup>; it was published in the 19 April issue of the *Raleigh Sentinel*. In their statement, the lawyers questioned the wisdom of permitting the judiciary to engage in political activity. As a consequence, the supreme court, on 8 June, took steps to prevent those of the protestors who practiced before the supreme court from again appearing there. Initially, the rule was served on only Moore, Thomas Bragg, and E. G. Haywood; after those affected disavowed any intention of holding the court in contempt, the rule was discharged on 19 June.

In 1870, during the Kirk-Holden war <sup>[44]</sup>, Pearson issued writs of habeas corpus for A. G. Moore and others held by military authorities. Governor W. W. Holden wrote to the chief justice and, after explaining that Alamance County <sup>[45]</sup> was in a state of insurrection, took the position that public interest required that no military prisoners be surrendered to civil authorities. Petitioners called for an attachment against George W. Kirk <sup>[46]</sup>, a military official, because of his failure to make returns to the writs; they also sought an additional writ to the sheriff of some county commanding him to take the prisoners from Kirk. Pearson's response held that Holden's reply should be considered part of the proceeding. He held further that the governor could not suspend the writ of habeas corpus but that Kirk had sufficient reason not to make returns. Pearson took the position that Kirk was acting under authority and orders of Holden, his commander in chief. He refused to take steps to assure enforcement of the writ, only referring the writ to the marshal of the superior court for enforcement, but with instructions to exhibit it to the governor; if the governor thereafter ordered the petitioner to be delivered to the marshal, well and good; if not, Pearson explained, the power of the judiciary was "exhausted." In many quarters Pearson was now denounced for abandoning the principle that he had often propounded during the Civil War: "Let justice be done though the heavens fall."

As chief justice of the state supreme court, Pearson was constitutionally bound to preside over the impeachment <sup>[47]</sup> trial of Governor Holden. In carrying out this duty he was at least outwardly impartial, but many believed that he sympathized with the governor and it was rumored that he privately advised those handling Holden's case. For a time there was a real danger that Pearson would be swept from office with Holden. Pearson himself feared impeachment and actually went so far as to prepare a defense. This he sent to the senate, where it was rejected. Support for Pearson by his former law students supposedly influenced the decision against impeachment.



A 1953 photograph of the interior of Richmond Hill, home of Richmond M. Pearson

<sup>[48]</sup>It was during the time of Governor Holden's impeachment and his own threatened impeachment that Pearson was most stridently accused of excessive drinking and relentless ambition, although these accusations were by no means new. They had been made previously in 1848 at the time of his elevation to the supreme court and in 1859 upon his becoming chief justice. The *Raleigh Sentinel* was especially vocal in its denunciations of Pearson. On 16 Jan. 1871, for example, it called for his impeachment and alleged habitual public drunkenness as a prime justification. The charge of religious skepticism was also leveled at Pearson, though as an adult he was at least nominally an Episcopalian <sup>[49]</sup> and, while in Raleigh, attended Christ Church.

Pearson was married twice. His first wife, whom he wed on 12 June 1832, was Margaret McClung Williams, daughter of

U.S. senator John Williams of Tennessee. Unfortunately, the first Mrs. Pearson, like the second, seems never to have been happy with the rather isolated and rustic existence at Richmond Hill. Moreover, she was tragically afflicted with a progressive and apparently congenital insanity which, during the last two years of her life, loomed darkly over the household. Correspondence between Pearson, doctors, members of the family, and friends is full of concern for Mrs. Pearson's health. Efforts were made to cure her, both at home and in Philadelphia, but to no avail. She died at Richmond Hill on 27 Dec. 1855, at age forty-two. The immediate cause of her death was deemed paralysis, which began in the hand but spread "until it was supposed to have reached the heart, when it resulted in sudden dissolution."

Pearson's marriage to Margaret McClung Williams had produced ten children. Eight of these children were alive at the time of their mother's death, but only three survived past their father's death some twenty-two years later. His daughter Ellen Brent married [Daniel G. Fowle](#) <sup>[24]</sup> in 1856 but died in 1862, long before he became governor of North Carolina in 1889. Another daughter, Mary Williams, married E. Hayne Davis and took up residence near Statesville. A son of the chief justice, [Richmond](#) <sup>[50]</sup>, was active in Republican politics in the late nineteenth and early twentieth centuries as a prominent legislator, congressman, and diplomat. He died at his Asheville home, Richmond Hill, on 12 Sept. 1923.

Pearson's second wife was Mary McDowell Bynum, widow of General John Gray Bynum and daughter of Captain [Charles McDowell](#) <sup>[51]</sup> of Quaker Meadows in [Burke County](#) <sup>[52]</sup>, near Morganton. They were married at Quaker Meadows on 22 Sept. 1859. It was during the following year that the present home at Richmond Hill was built, replacing the log structure that had been Pearson's home during his first marriage. For nearly two decades the second Mrs. Pearson assisted in the management of the household, plantation, and law school at Richmond Hill, but soon after her husband's death she moved her place of residence to Morganton. There she remained until her own death in 1886.

On 5 Jan. 1878 Pearson was in a buggy on the way to Winston, planning to get the train there to return to [Raleigh](#) <sup>[53]</sup> for the January term of court. There is no indication that he had been recently ill. The law school had been conducted normally during the preceding fall term, and plans had already been made for the spring term to come. Well before reaching Winston, however, he was already dying, and he quietly passed away soon after his arrival there. The *People's Press* of Salem carried the following account of his death in its issue of 10 January: "The community was painfully startled by the announcement, on Saturday last, that Judge Pearson had arrived at Winston in a dying condition, from acute paralysis of the brain. He had left home in the regular mail buggy, with no one but the driver, and was stricken when but a few miles from home, the driver failed to arouse him and in his condition he was lifted from the buggy in Winston and carried to his room in Wilson's Hotel. All attention was given to him by kind friends, but he sank rapidly, and gently breathed his last at thirty-five minutes past 10 o'clock Saturday night."

Following a period of confusion as to when and where the funeral and burial would be held, the remains of the chief justice were taken to Raleigh. Pearson lay in state in the rotunda of the state capitol prior to funeral services on the afternoon of 9 January at Christ Episcopal Church, conducted by the Right Reverend [Theodore Lyman](#) <sup>[54]</sup>. Burial followed in Raleigh's Oakwood Cemetery. In 1881 an impressive monument was erected at his grave by an association of lawyers, most of whom had studied under the chief justice. Inscribed thereon, under the seal of the North Carolina Supreme Court, are these words: "His epitaph is written by his own hand in the North Carolina Reports."

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