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## In Memoriam

On Tuesday, January 11, 1944, at a session of the Court of Appeals, memorial services were held in honor of the late Judge Benjamin A. Johnson, whose death occurred October 22, 1943. Addresses were made by Attorney General Walsh and other members of the State Bar, and Chief Judge Sloan responded on behalf of the Court. The addresses and the response follow:

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### ATTORNEY-GENERAL WALSH:

In accordance with time honored custom, these memorial services are being held in commemoration of a former member of this Court, the late Benjamin Alvin Johnson, and as Attorney-General of the State, it becomes my sad duty to formally announce to your Honors the death of Judge Johnson on October 22, 1943.

Judge Johnson was the son of the late Rufus Johnson and Tibitha Davis Johnson, and was born December 23, 1887, on the Johnson farm in Wicomico County, which farm was owned by Judge Johnson's ancestors before the Revolution and which he still owned at the time of his death. Judge Johnson attended the public schools and a business college in Salisbury, and was graduated from Washington College, Chestertown, Maryland, in 1911, with the degree of Bachelor of Arts. Later that year and during 1912 he worked in the Douglas Shoe Store and for the Western Maryland Railway Company in Baltimore and attended the Baltimore Law School at night. He was admitted to the Maryland Bar in 1913, and at once began the practice of law in Salisbury in the office of the late Judge Joseph Bailey. He became City Solicitor of Salisbury shortly afterwards, and while holding that office he compiled and published the City Ordinances in book form, and this Code of Ordinances is still in use. In 1915 he and Curtis W. Long formed the law firm of Long & Johnson, which firm continued until Judge Johnson was elected Chief Judge of the First

Judicial Circuit of Maryland, and it is interesting to note that he was the first Chief Judge of the First Circuit ever elected from Wicomico County.

In 1915 he married Ethel Holloway, of Newark, Maryland, and this union was blessed with six children, Alvin H. Johnson and Martha Jane Johnson, both deceased, William Benjamin Johnson, a graduate of the University of Pennsylvania and now a member of the United States Army, Rufus Clay Johnson, also a member of the United States Army, Frances Perdue Johnson, a junior at Goucher College in Baltimore, and Mary Jane Johnson, a freshman at the University of Maryland.

Judge Johnson was elected Chief Judge of the First Judicial Circuit of Maryland in 1934, and served in that capacity and as a member of this Court until his retirement because of ill health in May, 1943. He was a member of the Board of Visitors and Governors of Washington College and of Morgan College, and was for a number of years President of the Farmers Bank of Willards, Maryland. He was a member of the Sons of the American Revolution, the Kiwanis Club, the Elks, Greenhill Country Club and of several honorary fraternities.

The reported opinions of Judge Johnson as a member of this Court begin with the case of *American-Stewart Distillery, Inc. v. Stewart Distilling Company*, 168 Md. 212, and run through the succeeding volumes to Volume 180 of the Maryland Reports, and these opinions are a tribute to the ability and industry of their author. Prior to his elevation to the Bench, Judge Johnson had acquired an enviable record for hard work and unusual skill as a practicing lawyer and his services were widely sought throughout the First Circuit. These outstanding attributes were fully displayed in his work as a Judge both at *nisi prius* and in this Court, and when added to his courage and ability in reaching sound conclusions brought him great distinction during his decade of judicial service.

In addition to his standing as a lawyer and judge Judge Johnson also took a leading part in the civic

affairs of his community, and was for many years prior to his death one of the most prominent and highly respected citizens of the Eastern Shore of Maryland. Like many other Marylanders, he loved the outdoors, and whenever the opportunity offered he was to be found in the fields with his gun and dogs, and his reputation as a sportsman and hunter is second only to his outstanding position in legal circles.

In January, 1942, he was stricken with illness, and while he thereafter attended sessions of this Court and of the Circuit Courts in the First Judicial Circuit, his condition gradually became worse, and by the end of that year his condition made it impossible for him to continue his work. By Chapter 854 of the Acts of 1943, he was retired by the General Assembly of Maryland.

Judge Johnson was an able and courageous Judge, a devoted husband and father, and a true and steadfast friend, and his illness and death were a severe loss to the community in which he lived, the Judicial Circuit over which he presided, and the State which he served so well as a member of this Court.

Mr. Stanley G. Robins, of the Wicomico Bar, and Mr. Godfrey Child, of the Worcester Bar, will also speak on Judge Johnson, and I now respectfully move that this Honorable Court have appropriate minutes entered upon its records in commemoration of the distinguished Judge in whose honor we meet.

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STANLEY G. ROBINS:

It is indeed tragic that Judge Johnson's health became impaired at the time he was just beginning to render most valuable service to his State and to his community. After having served slightly more than eight years as Chief Judge of the First Judicial Circuit, his physical condition became such that he was unable to properly discharge the duties of his office, and he therefore felt constrained to request that he be relieved of them. He lived not many months after his retirement.

Having been born in a rural section of Wicomico County on the twenty-third day of December, 1887, he was reared on his father's farm and it was in that environment that he began in his youth to develop those qualities which later served him so well as a lawyer and as a judge. As he grew to manhood he received his higher education at Washington College, at Chestertown, and at Baltimore Law School, from both of which institutions he received degrees.

In the year 1913 he began the practice of his profession in Salisbury and from the beginning it was apparent that he would have a successful career. He soon became one of the outstanding trial lawyers of the Eastern Shore of Maryland, and his keen mind, ready wit and knowledge of the law made him a worthy adversary at any trial table.

In 1934 he became a candidate for the office of Chief Judge of the First Judicial Circuit and was elected by a large majority, thereby becoming the first Chief Judge ever to come from Wicomico County. Upon assuming his duties as a member of this Court it soon became apparent that in time he would become one of Maryland's outstanding judges. His opinions were clear and concise and were invariably well received by the Bar throughout the State.

However, despite the general excellence of his work as a member of this Court, the real test of Judge Johnson, not only as a judge but also as a man, came several years ago during his sitting as a *nisi prius* judge in Wicomico County. About this time there was a financial, political and social upheaval in Wicomico County caused by a reported shortage in public funds. Subsequently indictments were found against a number of public officials who, by law, were charged with the control and custody of these funds. Practically all of those involved had been political associates and were social friends of Judge Johnson, yet he sat in the trial of these cases and unflinchingly and unswervingly administered justice as fairly and impartially as though to him the parties were unknown. Here, then, was the real test of the

judge and of the man. It was here that became apparent those fine characteristics which made him worthy of his office; his fairness, sense of justice, resoluteness and indomitable will all contributed toward making him the excellent judge he was. But the strain under which he labored in the trial of those cases exacted a toll and gave added impetus to his already failing health. By many who knew him best, it is felt that these cases had much to do with his early demise, which occurred on the twenty-second day of October, in the year nineteen hundred and forty-three.

He left surviving him his beloved wife and four fine children, of whom he was justly proud. His loss is mourned not only by them, but also by all of those who truly knew him.

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#### GODFREY CHILD:

I feel certain that I speak, not only for the entire Bench and Bar, but also for a large majority of the people of the First Judicial Circuit of the State, when I say that in the passing of Judge Benjamin A. Johnson, we have lost a talented lawyer, a brilliant jurist and, above all, a kind and helpful friend.

I knew Judge Johnson, the lawyer, and can here pay tribute to the studious and careful manner in which he prepared the law and arranged the facts of his cases.

It was my privilege to try cases before him as Judge and again I pay tribute to his superior knowledge of the law, to his kindness and courtesy to the members of the Bar and to the clarity, force and courage of his decisions.

But it was as a friend that the people of his Circuit knew him best.

Notwithstanding his busy personal and professional life, he found much time for association with the people of his native County of Wicomico and with those of the adjoining counties. He loved the life, the customs and his fellowman of the Eastern Shore. He mingled freely with all classes, discussing their problems, receiving their ideas and sharing their burdens.

From such intercourse he gained a keen knowledge of human nature, which contributed to his signal success as a lawyer and characterized his judicial opinions.

Those who knew him, and his acquaintances were legion, felt the charm of his personality, the warmth of his nature and the depth of devotion to friends. For he was a collector of friendships, and he never gave away or sold a single item of his collection.

I also pay tribute to his devotion as a husband and father and to the three sterling qualities of his character—his loyalty, his courage and his kindness.

His record is to be taken not from what we say here today, but rather from the manner in which he has inscribed his character, by word and deed, on the minds and hearts, and in the souls of men, as he journeyed through life.

His record, his history, his yesterday, make us all proud that we have known him.

It is difficult for mortals to understand why he was called to his Eternal Rest before his time. Yet he crowded into his fifty-six years enough of unselfish devotion and unremitting activity to have closed with honor a life much longer than his.

It is difficult for us of the First Judicial Circuit to realize that he is gone. We feel, as did James Whitcomb Riley when he wrote:

“I cannot say, and I will not say  
That he is dead. He is just away.

“With a cheery smile, and a wave of the hand,  
He has wandered into an unknown land.

“And left us dreaming how very fair  
It needs must be since he lingers there.

“And you—O you—who the wildest yearn  
For the old-time step and the glad return—

“Think of his fairing on, as dear  
In the love of There as the love of Here.

“Think of him still as the same, I say.  
He is not dead—he is just away.”

## CHIEF JUDGE SLOAN:

We fully agree with all that has been said, and so richly deserved, of our late associate, Judge Benjamin A. Johnson.

He came here in the January Term, 1935. Those of us who were then on the Bench had had no opportunity to have with him more than a casual acquaintance, only such as we had from his appearances in this Court as a capable lawyer. Later we knew by the election returns of the immense popularity he enjoyed among the people with whom he lived. We were not long in knowing why he had been so overwhelmingly elected and in realizing that we might have been a part of that majority had we lived where he did.

In the seventeen years since I have been here, I think of no one to whom the other judges became more quickly attracted and fondly attached than to Ben Johnson. He was a lovely, lovable character. Soon after he came here, we were impressed with his capacity for work, and not only work, but good work. The appraisal of an appellate judge's work is almost wholly the judgment of the members of his own profession. Judge Johnson's work here need have no fear of submission to their scrutiny and judgment. The public does not have much contact with or information from or knowledge of the work of this Court. Only lawyers become familiar with the work done here, which is detached from the people generally, and whatever of reputation we get is among the lawyers. Nevertheless, we can readily understand why Judge Johnson was so highly regarded among his own people. He was a man of courage, who could and would face any situation without flinching. We knew this at the time of the incident of which Mr. Robins has spoken. Judge Johnson was touched more by that experience than were any of those who were found guilty. He was a major sufferer, and he took it without a whimper, but it left its mark. They were cases of public officials, who had been his life-long friends and who had been indicted for dereliction in the performance of the duties of their offices. The cases came to us on the cold, printed record,



but it was easy to see his aim had been to do justice. If he could have exchanged places with his friends, he would have gladly done so, but for his sworn duty.

With all of his determination and courage, he was one of the gentlest, kindest, sincerest men I have ever known; he was full of human sympathy. His was not an easy life; of necessity he, in his youth, acquired habits of industry which never forsook him, and continued to his dying day.

When he attained the height of his career, he was as close to his people as when he began; he did not "Despise the steps by which he did ascend."

We experience now a profound sense of sorrow and grief at his loss. For us now to remember Ben Johnson is simply to mourn.

The Clerk is directed to enter today's proceedings in the Minutes of the Court, and out of respect to the memory of Judge Benjamin A. Johnson, the Court does now adjourn.