



Yours with sincere Esteem
J. Williams

JUDGE JOSEPH WILLIAMS,

Associate Justice of the Supreme Court of Iowa Territory, 1838-1846; Chief Justice,
June, 1847 to January 5, 1855.

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JUDGE JOSEPH WILLIAMS.

BY HON. EDWARD H. STILES.

Of the early judges who have adorned the bench of the Supreme Court of Iowa the memory of none has been so keenly kept alive as that of the subject of this sketch. By reason of his strongly marked individuality, he was always a center of interest and observation with the people of his own time, and traditional influences have in great measure perpetuated that interest down to the present. Instances illustrating his unique traits, his versatile talents, his varied accomplishments, his keen sense of humor, his easy transition from the grave to the gay, his amusing anecdotes, his charming presence, his delightful talks, what he did and said on certain occasions, and even what others said about him, his strong sense of justice, his unbounded generosity, have been variously told and retold, orally and through newspaper and periodical for half a century. And while it is likely that some of these narrations and incidents were overdrawn, or fictitious, or colored by personal or political considerations, I am firmly of the opinion, that, taken altogether, the characteristics they exhibit largely account for the great popular esteem in which Judge Williams was held while living and the affectionate regard cherished for his memory since his death.

What I have just said is illustrated by an article which recently appeared in one of the newspapers of the State, in the course of which the author erroneously says, that of the boyhood and youth of Judge Williams but little is known. The article was evidently written in good faith; but some of the statements therein contained, to point out which

would serve no useful purpose, were founded on mere hearsay, which is not admissible in a court of justice even when only the most trivial rights are concerned, and in this case must have been without any foundation in fact upon which to rest, as I think will clearly appear from the considerations hereinafter presented.

It was my good fortune to become acquainted with Judge Williams when I was a young man, more than forty years ago. I have ever since been interested in his personality, and have intended for a long time to give my impressions of him, from both a personal and legal standpoint, to THE ANNALS. The spirit of history, whether of individuals or events, must be the spirit of truth, and in sketching him now, it is my endeavor to draw as true and faithful a picture of him as my poor ability and limited space will permit. He was born in Huntingdon, Westmoreland county, Pennsylvania, as were his brothers William and Robert. The first of these became Major William Williams—a name as familiar as a household word in Iowa—who went with the United States troops in 1850 to establish a fort where now stands the city of Fort Dodge; who, after the troops removed, purchased the site upon which that beautiful city was built, laid out the town, gave it the name it now bears, and labored a quarter of a century in its upbuilding. Through the deeply packed snow-drifts of the trackless prairies, and in the face of the most difficult conditions, he led the troops that went to the relief of the settlers at the time of the Indian massacre at Spirit Lake, and was subsequently appointed by Governor Kirkwood to defend that frontier of the State. His daughter became the wife of another distinguished Iowan, whose name is closely identified with the history of the State, and whose services were invaluable in its development and in the moulding of its laws and institutions, that splendid gentleman, John F. Duncombe, one of the strongest lawyers and ablest men the State ever had.

The other brother mentioned, Robert Williams, also removed from Pennsylvania to Iowa in an early day and for

many years was an honored citizen of Muscatine, where he died some years ago. From the daughters and a son of Robert, still residing in Muscatine, and from the only surviving child of Judge Williams, Mrs. William C. Brewster of New York, I learn, through the kindness of Judge W. F. Brannan of Muscatine, whose name and long judicial services are well known to Iowa lawyers and whose high character is a perfect guaranty of the reliability of the medium, that Joseph was born in 1801; that he was the junior of William and the senior of Robert; that their father died in 1822, when Joseph was about twenty-one years of age, and that the latter had lived at home and under the direction of his father until that time; that the children were devotedly attached to the father and he to them, and that Joseph was always distinguished for his kindness and affection.

As to just what his educational training was I am unable to say. It probably did not reach beyond that furnished by the common schools, rounded off, perhaps, by a term or two at the Academy, but in any case it must have been reasonably good, judging from the correct and virile use he made of the English language in his published opinions, in his utterances from the bench, in conversation, and on all occasions; and judging also from the fact that he was deemed sufficiently equipped to enter as a law student, soon after his father's death, the office of Chauncy Forward, one of the most celebrated lawyers in Pennsylvania. In this office he found for a fellow-student Jeremiah S. Black, who afterward became Chief Justice of the Supreme Court of Pennsylvania, and later Attorney-General of the United States, and established an enduring national fame as a great lawyer and a great man. Between these two students there was formed a strong personal friendship that lasted and grew stronger to the end. For a number of years after their admission they were rivals in practice at the Somerset bar, one of the strongest in the state, and that Mr. Williams was considered a formidable one by Mr. Black will be clearly shown farther along.

It is proper to note that we now see Mr. Williams in a situation most favorable to legal learning and development; his school, the office of a distinguished lawyer; his instructor, that lawyer himself; his fellow-student and friend, one of the most talented young men of the nation. How could a student as bright and intuitive as young Williams fail to legally thrive under such circumstances? That he did thrive is shown by his years of successful practice in Pennsylvania before the President placed him upon the Supreme Bench of Iowa, and by the regard in which he was held as an able lawyer by such a distinguished man as Judge Black.

After the death of that great man, his daughter, Mary Black Clayton, prepared and published a book entitled "Reminiscences of Jeremiah Sullivan Black." In this she states that her father commenced to write an autobiography which was never finished, but from which she quotes as follows: "My competitors were exceedingly formidable men; half a dozen of them achieved great reputation in public life, and some of them were well known for their talents. I need not give you any extended account of them, but I will enumerate them and mention some of their characteristics". He then proceeds to mention, first, Chauncy Forward, next, Charles Ogle. I now quote from what the daughter herself says, which comes immediately after what her father has said of Ogle in the autobiography referred to:

The next person mentioned as a rival at the Somerset bar is Joseph Williams, afterwards Chief Justice of Iowa. Many years after they had lived together in Somerset, he called on the Chief Justice of Pennsylvania at a New York Hotel. Not finding him in, he left on his table the following:

"Salutations of the Chief Justice of Iowa to the Chief Justice of Pennsylvania.

"Oh, Jere, dear Jere, I have found you at last,
Now memory, burdened with scenes of the past,
Restores me to Somerset's mountains of snow,
When you were but Jere, and I was but Joe."

She then quotes from the autobiography what her father had set down therein concerning Judge Williams as follows:

“Joseph Williams was a practising lawyer whose ready tact was very dangerous to an opponent, and he was well up in the books. After he left Somerset he became Chief Justice of Iowa, and later he was a federal judge in Kansas. He never got over his fondness for fun, but he performed his judicial duties worthily and well for he was a sincere lover of justice. These are the men whose competition I had to face; my seniors and superiors in everything that makes practical power.”

In 1856 David Paul Brown, the then great criminal lawyer of Philadelphia, prepared and published a book entitled “The Forum”, contained in two volumes. His references were mostly to men who had gained a reputation at the bar. From pages 375 and 376, Vol. 2, I quote the following to show that Mr. Williams was regarded as one belonging to that class, as well as to illustrate Mr. Williams himself in the role of a practitioner:

Before Mr. Williams was appointed United States Judge for the territory of Iowa, he was defending a client in the interior of Pennsylvania, against the claim of a quack doctor who professed everything and knew nothing, and who had instituted a suit for surgical services, and had marked the suit to the use of another, in order to become a witness. The following was the cross-examination.

Mr. Williams—“Did you treat the patient according to the most approved principles of surgery?” Witness—“By all means—certainly I did.”

Mr. Williams—“Did you decapitate him?” Witness—“Undoubtedly I did—that was a matter of course.”

Mr. Williams—“Did you perform the Caesarian operation upon him?” Witness—“Why, of course; his condition required it, and it was attended with great success.”

Mr. Williams—“Did you, now Doctor, subject his person to an autopsy?” Witness—“Certainly; that was the last remedy adopted.”

Mr. Williams—“Well, then, Doctor, as you performed a post-mortem operation upon the defendant, and he survived it, I have no more to ask, and if your claim will survive it, quackery deserves to be immortal.”

I have thus particularized, not only for the purpose of throwing light upon the personal history of my subject and properly sketching him, but to remove doubts which have sometimes been expressed by the uninformed as to whether a man so variously gifted that he could play the violin, the

flute, the fife, sing well, lecture entertainingly, tell funny stories, and charm every company he entered by his conversation and wit, could really have had the time or inclination to become much of a lawyer before he was elevated to the bench. I do not myself think he was a plodding student, or as described by Milton, "Deep versed in books, but shallow in himself;" but that he was a well equipped and well read lawyer, there can be no manner of doubt. Judge Black put it as we have seen, that he was "well up in the books." Certainly every lawyer and presumably every layman knows what that means. Not only this; Judge Black in the unfinished autobiography referred to, declares him to have been one of the most formidable rivals he had to contend with. The foregoing would seem sufficient to forever put a quietus upon any doubts that may have been entertained on the subject of his prior qualifications.

Let us now turn to his career on the bench. Upon the organization of the territory in 1838, President Van Buren appointed as the Judges of the Supreme Court, Charles Mason, Joseph Williams, and Thomas S. Wilson, Mason being named as the Chief Justice. As the subject of the length of service of these judges and their immediate successors seems to have been somewhat mixed in the different narrations, I will quote what Judge Mason says concerning this in a manuscript relating to the Bench and Bar and Leading Public Men of Early Iowa, which he was kind enough to prepare and send to me when he learned I was collecting material for future publication on that subject. Judge Mason says:

The first information I had on the subject was that the bill organizing the new territory had passed and that I had been appointed by President Van Buren, Chief Justice, with Joseph Williams of Pennsylvania and Thomas S. Wilson of Dubuque as my associates. We were all reappointed in 1842 by President Tyler and again in 1846 by James K. Polk.

Upon the organization of the state government in December, 1846, the condition of the parties in the legislature was such that it was found impossible to elect judges or senators, and accordingly under a provision of the state constitution, which had been adopted, the territorial judges

held over as judges under the state government. In May, 1847, however, I resigned my office and Judge Williams succeeded me as Chief Justice, the vacancy being filled by the appointment of John F. Kinney, as an associate. In December, 1848, the deadlock having been removed, senators and judges were elected and Joseph Williams thereby became Chief Justice with John F. Kinney and S. C. Hastings as his associates. A new election of judges was held two years later and Joseph Williams, as Chief Justice with John F. Kinney and George Greene as his associates, became the judges of our supreme court.

I must be pardoned for saying a word, *en passant*, of that tribunal as thus constituted. Charles Mason was a man of towering intellectuality; Thomas S. Wilson, though the youngest of the three, was a decidedly able and well trained lawyer, and Joseph Williams we have already had a glimpse of. They were all men of dignified bearing on the bench, typical gentlemen of the old school. I venture to state that not any of the numerous territories organized by the government, ever presented a court more prepossessing in character and appearance or more able and efficient in execution. Their services were invaluable in the formative period of Iowa and none of them should ever be suffered to lapse into oblivion.

Joseph Williams served as Judge of the Supreme Court from 1838 to 1855, a period of about seventeen years, and the last eight years of this period as Chief Justice, when he was succeeded by Judge George G. Wright. His opinions will be found in the Reports of Morris and Greene.

After my own connection with the Supreme Court as the Reporter of its decisions had been terminated, I prepared and gave to the profession a Digest of all the decisions of that court from the earliest territorial period to that time. It became my duty to digest with care every opinion that had been delivered and published in the Reports. And I can say without hesitation and with emphasis, that if there be any one who doubts that Judge Williams was a clear-headed and able judge, let him study that judge's opinions as closely as I did in the course of that work, and his doubts will be thoroughly dispelled. Taken as a whole, they dis-

play acumen, clearness, learning and force, and some of the more important ones, remarkable intuitiveness and wonderfully quick appreciation of the points presented and the conditions surrounding them. I personally know that this estimate has been held by some of the best lawyers Iowa has had. For instance, during a recent visit to Iowa, I met at Ottumwa my old friend and co-worker, William McNett, who is well known as one of the ablest lawyers of the State. In our conversation we touched upon Judge Williams. He thereupon remarked that he had in hand an important case in which was involved a difficult question; that to properly solve it he had gone to many decisions and authorities and at last had found one that went to the bottom of the matter and contained a clearer solution of the question involved than all the others, and this was an opinion by Judge Williams in Third Greene's Report. He also recalled an incident, of which we were both witnesses, that occurred at the opening of the Supreme Court room of the new Capitol at Des Moines. Many visiting lawyers were present. Among them was Judge Samuel F. Miller of the United States Supreme Court, the greatest constitutional lawyer the nation ever had, excepting, always, John Marshall. He made some remarks on the occasion, in the course of which he referred in the most earnest and touching manner to Judge Joseph Williams. He said he regarded him as one of the clearest, most intuitive, and best judges that had ever graced the bench of the Supreme Court of Iowa, and that his decisions had operated as an important factor in properly moulding the jurisprudence of the State. What higher compliment could any judge wish for than that?*

*NOTE.—Since writing the above I have received the following letter from Mr. McNett in reply to one I wrote him on the subject, which I deem it proper to set forth in this note:

MY DEAR STILES:

I have your letter of the 23rd instant. The case I refer to is the first case in 3 G. Greene, *Taylor v. Galland*, page 1, and the particular feature of the opinion to which I was attracted, will be found on pages 20 to 25 inclusive.

Here he considers and states one of the main important principles of the law of evidence, as I conceive it, in as clear and terse a manner as it ever has been stated anywhere. You will appreciate this by consulting the leading case of *Seitz v. Brewers' Refrigerator Co.*, 141 U. S., 510.

I cannot recall with much distinctness what Justice Miller said about Judge

Of him Judge Mason says in the manuscript hereinbefore referred to, "Judge Williams was one of the most companionable and entertaining men I have ever known, and although perhaps not what would be termed a very close student, was a man of exceedingly quick parts and arrived at just conclusions as if by intuition."

In 1857 he was appointed one of the federal judges for the territory of Kansas and continued to act in that capacity until the state was admitted. He was also appointed by the President in 1863 judge of the court established at Memphis under military authority. In these positions his duties were discharged with ability.

I distinctly remember the announcement of his death before the Supreme Court in 1870 by Henry O'Connor, who was the Attorney-General of the State. In the course of his remarks, Mr. O'Connor said:

His character was above even the eulogy of gratitude. The simple story of his life is his highest eulogy. An able and learned lawyer, a just and upright judge, a patriot beyond the reach of suspicion, a citizen above reproach, an honest man, and a friend whom adversity did not frighten. It may be said of Judge Williams what can be said of few men, that he made a friend of every one with whom he came in contact and that he never lost one by desertion or neglect. His reputation and fame were national. The sunshine of life seemed to be in his keeping, and in every company of which he formed a part, he dispensed its light and warmth with a hand as lavishly generous as its sources were inexhaustible. He had no thought of the morrow, cared not what he should eat or wherewith he should be clothed. His faith in humanity was less only than his faith in God.

Judge George G. Wright on behalf of the court said:

By the aid of conversational powers unsurpassed, and social qualities which charmed and captivated the high and the low, the learned and the unlearned, and yet making no one the less mindful of the sacred duties and obligations of life, he made impressions which will last while the State endures, and left monuments which will remain so long as our judicial

Williams at the dedication of our new Supreme Court room, and do not remember, and have no data to refresh my recollection, as to just when that was.

I do remember of his speaking of Judge Williams in very high terms, as a man of culture and high legal attainments. He also spoke of his comprehensive grasp of legal principles, and the clear and terse manner in which he stated them in his opinions. I do not think there was any one of the Iowa judges to whom he referred in higher terms of praise and commendation than to Judge Williams.

Yours truly,

WM. MCNETT.

records shall be read. Such a life is a proud part of our State and professional inheritance.

A multitude of amusing stories have been told about him which will be reserved for a more appropriate occasion. I cannot refrain, however, from relating one that illustrates his kindness of heart, and another, the charm of his conversation and manners. This one is from Judge Brannan:

The term of the Supreme Court had closed at Iowa City, Judge Williams had paid his hotel bill and had left barely enough money to take him to Muscatine. Travel was then by stage and passes were unknown. A man whom Judge Williams did not know, came to the Judge in apparent distress and asked him to give him money to go to Muscatine, saying that it was necessary that he get there at the first opportunity. The Judge looked at him for a moment, put his hand in his pocket and handed him the money he needed for his own passage, and then proceeded to borrow the amount he had just given to the other man.

This is the other one. The appointment of the judges in 1838 was but for four years. When that period had expired John Tyler had become President by the death of General Harrison. As some opposition was being made to the reappointment, Judge Williams was sent to Washington to look after the matter. It was before the days of railroads and the way was made partly by boat and partly by stage. One morning in the latter part of the voyage he found seated opposite to him in the stage a handsome and charming lady. During the long journey they naturally became acquainted, or engaged in conversation. They were congenial and, in a social sense, mutually attractive, in so much that the Judge disclosed to her his name and the object of his visit to Washington; but when the lady reached her stopping place, Baltimore, and they parted company, the Judge had not learned her name and did not know who she was. After reaching Washington, he sought an interview with the President who received him with great cordiality, and proceeded to converse with him in the most affable manner. The Judge was embarrassed at this unexpected effusion and personal kindness, but after a while ventured to suggest the nature of his business. "Oh that matter has already been attended to and my

secretary will hand you your commission," said the President. "But," said Williams, after recovering himself sufficiently, "I should not want the position unless my associates were also reappointed." "Oh, that has been attended to also and their commissions will be handed you along with your own," said the President. "And, by the way," he resumed, "there is a lady acquaintance of yours in the next room who would like to see you." Whereupon the folding doors were opened and Judge Williams was led into the presence of Mrs. Tyler, who was delighted to meet him again. She had arranged matters in advance with her husband, the President, and the Judge went his way home rejoicing.

The fact is, Judge Williams, by reason of his great versatility, was a genius, and if time and space would permit, I could more thoroughly demonstrate it. It has been said that the drafts which genius draws upon posterity, although they may not always be honored so soon as they are due, are sure to be paid with compound interest in the end, and if I have in this limited attempt even faintly verified the truth of that statement, I shall be content. Joseph Williams was not only an able judge who served well the State, but a kind and compassionate gentleman, whose sweetly fragrant memory will be affectionately cherished by the few cotemporaries who still survive him, and by them and through their efforts be wafted to their posterity. Of him may be fittingly said what was said of Charles York, Lord Chancellor of England: "His moral and intellectual worth and legal renown, and, more than all, his gentle goodness and attaching qualities of heart, will shed a calm and placid light over his memory, like the pure ray of some distant star which the mists of earth for a time obscured from our view."

KANSAS CITY, Mo., August 1, 1905.

NOTE.—Mr. Stiles, author of the foregoing article, was Reporter of the Iowa Supreme Court, 1867-74. See note on p. 624, Vol. III, 3d Series, ANNALS OF IOWA.

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