

# THE PALIMPSEST

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## Judge Joseph Williams

When the Territory of Iowa was established in 1838 President Martin Van Buren appointed Charles Mason and Thomas S. Wilson of Iowa, and Joseph Williams of Pennsylvania to be the judges of the Supreme Court. The Organic Act creating the Territory provided that each of the three judges should be assigned to a separate district in which he should reside and hold court at stipulated intervals throughout the counties of which the district was composed. The Act further provided that the judges should meet as a Supreme Court once a year at the capital of the Territory. Judge Williams was assigned to the second or middle district which at first was composed of the counties of Louisa, Muscatine, Cedar, Johnson, and Slaughter, later renamed Washington. He took up his residence at Bloomington, now Muscatine, and entered vigorously upon the career which won for him the popular esteem



and affectionate regard of hosts of his fellow Iowans.

Judge Williams was thirty-seven years of age when he came to Iowa, and he had already acquired a reputation in his native State as a formidable lawyer whose ready tact and rapier-like wit was dangerous to an opponent. At the age of twenty-one he had begun the study of law in the office of Chauncey Forward, one of the ablest lawyers of the Keystone State, where he had for a fellow student, Jeremiah S. Black, who afterwards became Chief Justice of Pennsylvania and later Attorney General of the United States. Both Williams and Black soon made their influence felt before the Somerset bar to which they were admitted.

On one occasion before coming to Iowa, Williams was defending a client in Pennsylvania against the claims of a quack doctor who had instituted a suit for surgical services. The following cross-examination of the plaintiff reveals the skill of Williams as a practitioner.

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.”

Williams was a man of many accomplishments and wherever the duties of his position took him, he was held in high esteem. At his home in Bloomington and throughout the district he was the center of interest at every gathering which he attended. He could sing well and could play many instruments — the fife, the flute, the banjo, and the violin. Like Abraham Lincoln he had an inexhaustible fund of stories which he could relate in an inimitable style. His charming manners, his conversational gifts, his keen humor, and his generosity made him a favorite. And although he was the life of the company in the evenings at a tavern, on the bench he was sedate and performed the duties of a Judge of the Supreme Court with distinction and dignity.

During the early years of the Territory of Iowa the three judges of the Supreme Court were compelled to hold court in many odd temples of justice. A half-finished log cabin served as a court room in



one county, a trading house in another, and a log barn became a courthouse for the nonce in a third. Boxes at one place, and walnut planks laid on barrels at another were used as tables for the lawyers and clerk. Usually the sheriff had to shift for himself. Splint-bottomed chairs were sometimes provided for the lawyers, while jurors, litigants, and spectators often sat on planks laid on blocks of wood. His honor, the judge, sat in a rocking chair on a raised platform at one county seat, in an arm chair loaned for the session at another. Jury rooms were hard to find and consequently the deliberations were held oftentimes in a convenient, secluded glen with a bailiff keeping the curious crowd away from the open-air jury room.

Attending court in those days was no easy task for the lawyers and judge who plodded their way over the prairies and through the timber around the circuit. Rivers, without bridges and out of their banks after spring freshets, had to be forded. Muddy roads, sometimes mere blind paths, and bottomless sloughs were encountered between one settlement and another. Many of the inconveniences, too, were due in a large measure to lack of boarding accommodations. One who rode a judicial circuit in the Territorial days has left this picture:

“I can see yet the tin wash pans with buckets of water and dippers ranged on a board on the back porch, or in black bar-room, the crash towels on rollers, the old brush and comb with hairs enough in



each, to set up a wig maker in no very small business. I can see yet the swimming islands of fat and lean bacon, the hammer proof eggs, the rich golden biscuit, the pies of wonderful tenacity, the plates, cups and saucers and glasses filled with marmalade, jellies and all imaginable mixtures made of the plum, the crab-apple and the pumpkin.

“I think I can smell and taste that same coffee served in cups, black enough to enjoy the right of suffrage, and weak enough to win the indorsement of any committee. Remember, too, a dozen or more huddled into one room with too much ventilation or none, sleeping on the floor and sometimes not at all; our horses in sheds or without any shelter after going through rain, and sleet, and cold, or heat.”

But the evenings at the taverns and boarding houses when court was in session were passed in an atmosphere of cheerfulness and hilarity. Men played pranks on one another, volleys of sarcastic wit passed back and forth, and jest and quip, sharpened perhaps by the spur of a jorum of rum, incited uproarious laughter. Then suddenly, ridicule and badinage would give place to stories, anecdotes, and songs.

Judge Williams was invariably the life and center of attraction of the social circle in the evenings at the tavern where he stopped. As a comedian he kept the crowd gleeful, while as a master of the violin he changed the mood of his auditors from gay to grave at will by the tunes he played. Sometimes



he gave a lecture on temperance filled with eloquence and spiced with humor. Again, his singing "Little Billy Peal" or other favorites evoked a round of hearty, boisterous applause such as would greet a star actor after a particularly pleasing bit of work.

Although hardships and inconveniences of holding court were many during the early years of the Territory of Iowa the three judges of the Supreme Court performed their duties with credit to themselves and the profession to which they belonged. They handed down many decisions and established precedents that had a marked influence upon judicial affairs in after years. One of their most noteworthy decisions was rendered in the fugitive slave case, *Montgomery v. Ralph* (a negro), in which it was held that a slave under the laws of another State, brought by his master to Iowa, while under the protection of the laws of Iowa must be permitted to go free.

As the four-year term of the three judges drew to a close it was expected that John Tyler, a Whig, who had succeeded to the Presidency upon the death of William Henry Harrison, would appoint three men of his own political faith to succeed Mason, Wilson, and Williams, all of whom were Democrats. In fact, certain politicians in Bloomington had prepared a statement, purporting to be the sentiment of the district, asking for the removal of Williams. This statement was sent to Washington where it came to the attention of a friend of Williams who



secured a copy and returned it to the supporters of the Judge in Iowa. Although his friends had no difficulty in securing a numerously signed counter petition, Williams thought that his chances for re-appointment might be helped by a personal visit to Washington and so, armed with the endorsement of his friends, he set out on his journey to see the President. T. S. Parvin, who knew Judge Williams intimately, has given the following account of the incident.

“In those days he had to travel by steamer to St. Louis, up the Ohio to Maysville (which was then the terminus of the great ‘National Pike’ commencing at Cumberland, Maryland). Taking a stage at Maysville he soon found himself seated in front of a lady, pretty, brilliant and entertaining. The Judge was, both by nature and by practice, a ladies’ man and sought to ingratiate himself into her favor by making himself as agreeable as possible, which was no difficult task for he was a gentleman of Chesterfieldian manners. He communicated to the lady his name, his rank and the purpose of the journey eastward, and strange to say, for the Judge was not a bashful man, he never learned her name, or her position. Reaching Baltimore, they separated, the Judge stopping to visit some friends, and a few days later wended his way to Washington, where, having made his toilet at his hotel, he called upon his excellency, John Tyler, President of the United States. Upon his name being announced he was received,



much to the surprise of the Judge, with unusual courtesy and kindness of manner, bade take a seat and immediately the President entered into familiar conversation with him as though he had known him a life-long period, asking him many questions about Iowa, in whose history he seemed to take special delight, of his associates in office and other public men of the Territory, until the Judge quite forgot the purpose for which he had come; rallying, however, he ventured to suggest the matter of his re-appointment to the President. 'Oh,' says the President, 'that matter is all fixed to your satisfaction, Judge,' and immediately commenced to talk upon other subjects. After a little the Judge renewed his attack, when the President said, 'Your appointment has been made and the Secretary will furnish you with your commission when you are ready to return to your distant home.' 'But,' says the Judge, 'I could not think of going back with a commission of reappointment and my associates being left out in the cold.' 'That matter too you will also find all to your satisfaction, Judge; I have reappointed all three of you. By the way, Judge,' said the President, 'there is a lady in the adjoining room who would I know be much pleased to meet you and I have to request that you join me in a call upon her.' The Judge had the courage to say that he was quite sure it would afford him as great a pleasure to meet the lady, (although he did not know who she was), so accompanying the President they entered the



golden room, when a lady, as we have said, beautiful in appearance, graceful in manner, and with an earnestness quite unusual among strangers, the good woman rushed to the Judge, seized him by the hand and cordially greeted him. As soon as the Judge could recover from his astonishment the President said 'Judge Williams, Mrs. Tyler, my wife,' and lo and behold! she was the woman with whom he had travelled some three days and as many nights over the mountains and through the valleys from the Ohio to the Potomac. 'I hope, Judge,' said the lady, 'you have found everything to your satisfaction; I spoke to the President as soon as I got home and asked him to reappoint you and your associates to office, and he promised he would do it.' 'Yes,' said the Judge, 'he has,' and thereupon the three joined in familiar conversation as though they had known each other many a year."

When the news of the reappointment of Mason, Wilson, and Williams as judges of the Supreme Court of the Territory reached Iowa it was greeted with pleasure by the people irrespective of party. For four years more these men held court in their respective districts and met annually in the Old Stone Capitol at Iowa City for the sessions of the Supreme Court. They continued to contribute valuable service during this formative period of Iowa.

The fame of Williams as a wit, as a musician, and as a jolly addition to any company continued to grow, nor did his reputation as an able jurist suffer



from his popularity as an entertainer. Of his many tricks for amusing an audience during the evenings at a tavern perhaps the most effective was his weird, mysterious power of ventriloquism. He could imitate with such wonderful verisimilitude the cry of various kinds of animals that the uninitiated were completely deceived. For instance, he enjoyed imitating the squalling of belligerent cats in a roomful of ladies to the great mystification and alarm of the fair sex who could neither discover the brawlers nor learn from whence the sound came.

On one occasion, while holding court in his district, Judge Williams and the lawyers occupied beds in a down-stairs room of a tavern while jurors and other court attendants slept on the loose board floor of an unfinished room above. Sound carried between the two rooms almost as clearly as if no floor existed. After the candles were extinguished and conversation languished the two groups settled down to sleep. Suddenly the stillness was shattered by the terrific squalling of two tomcats in mortal combat in the midst of the men upstairs. Instantly all hands were up, candles were lighted, and a search for the disturbers began, but no cats could be found. The surprised boarders returned to their beds on the floor with no satisfactory explanation as to what had become of the nocturnal prowlers. But they had hardly composed themselves for sleep again when the loud growling, snarling, and snapping of two dogs in their midst brought them up again



swearing. Then until candles were lighted there followed an uproar, the dogs continuing to growl and bark, and the men endeavoring with all the noise they could make to oust them. How the dogs came to be there was a mystery, but the noisy evidence of their presence in the darkness was unmistakable. Presently the dog fight ceased and the uproar abated. Then came the solution of the mystery for no longer could the Judge and his companions restrain their merriment. A roar of laughter from below reminded the mystified lodgers above of Judge Williams's skill as a ventriloquist.

The reputation of Williams as a musician was no less than his standing as a fun-maker. He was in great demand to "fiddle" for dances, and the coming of the Judge for a term of court was the signal for the young folks to arrange a dance. His friends liked to relate an incident at Tipton where one day he sentenced a man for horse stealing. That evening the Judge furnished the music for a dance. He noticed one man on the floor who seemed to enjoy himself even more than the others. His appearance seemed familiar and at last Williams asked who he was, whereupon he learned that the enthusiastic dancer was the man whom he had sentenced for horse stealing that very afternoon. The sheriff, wishing to attend the dance and having no place to leave his prisoner, had brought him along for safe keeping. The music and the dance ended abruptly.

Anent his skill as a fifer, a St. Louis newspaper in



1846 carried the following item: "Judge Joseph Williams of Iowa, distinguished for his great versatility of talent, paraded with the (Texas) volunteers of Burlington, Iowa, and marched at their head playing a fife. The judge is a perfect specimen of a happy man. He is a devout member of the Methodist church and attends scrupulously to religious duties. He is also one of the best temperance lecturers we ever heard, is judge of the second district of Iowa; associate justice of the supreme court; a fine poet; a superior musician; fifer for the Texas volunteers, the tallest kind of a companion we ever met at the social board — and he tells the best story of any humorist of the day."

Even the cartoonist found the musical ability of the Judge a theme for his pen. In the early fifties Judge Williams vigorously opposed Le Grand Byington relative to the construction of a railroad from Davenport to Iowa City. In fact, Muscatine people generally opposed the plan for they desired the road to extend from Davenport to Muscatine, thence west to Oskaloosa. George Yewell, later the well-known portrait painter, expressed the sentiment in a cartoon in which he pictures Judge Williams playing a clarinet astride an enormous bull which stood on a railroad track. With tail erect and head down the animal, pawing and snorting, impeded the progress of a locomotive on which appeared Le Grand Byington as engineer. One character in the cartoon remarks, "Music won't charm a locomotive."



In the interchange of jest or repartee seldom did anyone ever come out ahead of Judge Williams, yet once, during a session of court in Polk County, he met his match in a woman. The Judge boarded across the river from the temporary courthouse and made the trips back and forth in a boat, being rowed across sometimes by one man, sometimes by another. On one occasion when the Judge wished to cross the river no man was in sight, but he prevailed upon a young woman, Mary Hays, who was washing clothes near the bank, to row him over.

As soon as they set out from the bank the Judge began to tease Mary and jokingly proposed to turn the boat downstream, carry his fair companion off, and marry her.

At this Mary's provoked spirit fairly glittered in her eyes. With intensity of emphasis, she exclaimed, "You carry *ME* off! *You* marry *me*! I would not *have* such an old dried up cracklin'. I wouldn't marry *you* if you were the last man on earth, and a woman couldn't get to heaven without a husband; and if you don't stop your nonsense and behave yourself, I'll pitch you head first into the river, and *you* may make as long a voyage as you please, but one thing is certain, you don't take *me* with you!"

The Judge, it is said, stopped teasing her at this, laughing heartily at her Amazonian threats.

Judge Williams had a trait of caring little for money and often on account of his indiscriminate generosity he would find himself without funds.



Many times on the circuit he would give away money to someone in distress and then borrow from his lawyer friends to pay his own board bill. Once when he was on the way to market in Bloomington, a beggar accosted him, and Williams, taking a dollar bill from his vest pocket — all the money he had with him — gave it to the stranger and then bought goods on credit. At another time when a term of the Supreme Court had just closed at Iowa City, the Judge had barely enough money left to pay his stage fare to Muscatine. While he was waiting for the stage a man whom he had never met slouched up to him and asked to borrow enough money to go to Muscatine. Williams looked at the man a moment, saw that he was in distress, and reaching in his pocket gave him the money. Then to pay his own fare to Muscatine the Judge borrowed from a friend the amount he had just given the stranger.

When the Territory of Iowa became a State, Williams was made a member of the Supreme Court of the new Commonwealth, and he served as Chief Justice of that tribunal from 1847 to 1848, and again from 1849 to 1855.

It was during his term as Chief Justice of the Supreme Court of Iowa that Williams made a trip to New York City and learning that his old friend and fellow student, Jeremiah S. Black, was also there, he called at the hotel where Black was stopping. Not finding him in, Williams left the following note.



“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.”

It has often been asked whether a man so variously gifted that he could write poetry, sing well, tell funny stories, lecture entertainingly, play the violin, fife, and flute, and charm any company with his conversation could have had the judicial temperament and learning so necessary in an able jurist. Edward H. Stiles in his *Recollections and Sketches of Notable Lawyers and Public Men of Early Iowa* produces ample evidence that Judge Williams was a well-read and well-equipped lawyer who arrived at just conclusions as if by intuition. His written opinions, moreover, were remarkable for their clearness and terseness of diction.

In 1857 Williams was appointed one of the Federal judges for the Territory of Kansas where he soon became as popular as he had been in Iowa. Fortunate investments in land near Fort Scott — property which increased quickly in value — made him well-to-do and fortified him against the improvidence of earlier years. In 1863 President Abraham Lincoln appointed Williams judge of a court established at Memphis, Tennessee, under military authority. In this arduous position he discharged his duties with ability, and his strong sense of jus-



tice and kindness of temper won the respect and regard of those who were erstwhile enemies of the Union.

At the close of the war, Williams returned to Iowa and for a few years resided at the old home near Muscatine. In February, 1870, he made a trip to Fort Scott, Kansas, to attend to business matters in connection with his land. A short time after his arrival he was taken ill, his sickness developed into pneumonia, and he died at Fort Scott on March 31, 1870. His body was returned to Iowa and was buried at Muscatine.

The announcement of his death was made before the Supreme Court of Iowa by Henry O'Connor, who was then Attorney-General of the State. On that occasion 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 everyone 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."

And Judge George G. Wright on behalf of the Court responded: "By the aid of conversational powers unsurpassed, and social qualities which charmed and captivated the high and the low, the learned and 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 records shall be read. Such a life is a proud part of our State and professional inheritance."

BRUCE E. MAHAN