

MEMORIAL SERVICES

HELD IN THE SUPREME COURT OF ILLINOIS AT THE OCTOBER TERM, 1907, ON THE LIFE, CHARACTER AND PUBLIC SERVICES OF HON. JACOB W. WILKIN, DECEASED.

At the hour of three o'clock P. M., October 17, other business having been suspended, the Hon. JOHN P. HAND, chief justice of the court, said:

The hour set apart by this court for appropriate memorial services commemorative of the life and public services of Judge JACOB W. WILKIN, who was a distinguished member of this court for many years, has arrived. The court is informed that the State Bar Association of Illinois, represented by Mr. Capen, and the Vermilion County Bar Association, represented by Mr. Calhoun and Mr. Cannon, will present memorials. The court will hear the memorial of the State Bar Association.

Mr. CHARLES L. CAPEN, in presenting the memorial of the State Bar Association, said:

If the court please—At the annual meeting of the State Bar Association, saddened by the then somewhat recent decease of Mr. Justice WILKIN, a committee was appointed to submit a memorial to this court, to express, as well as may be, the reverence and honor so justly due to the memory of this distinguished jurist and in the largest measure entertained by the entire bar of the State.

It is scarcely proper I should attempt to review the important part he took as a member of this august tribunal; his great ability as a judge; his unwearied industry; his rare practical common sense, and his unfaltering endeavor to do exact justice in all that

came before him. All this is forever embodied in our jurisprudence,—a priceless heritage to future generations. Rather, we think of him from another standpoint,—that of love and affection. Lord Lyndhurst has said, the highest requisite of the good judge is always and under all circumstances to be a gentleman, and this includes, among other important things, constant patience and kindly consideration for the frailties and imperfections of the practitioner. Justice WILKIN was all this and in rare measure went still further. He was one of those delightful spirits whom Providence, at intervals, seems to delight in bestowing upon a community. His sunshine was willingly given at our meetings. One could not meet him without becoming a better and a happier man. His intercourse with the brethren of his profession was not lessened when he took his seat upon the bench. At my own local bar he joined in our festivities, so that they would have been much less enjoyable and complete had he denied his presence; and in our bereavements his sympathy was extended. This has been fitly expressed by one of our most distinguished fellow-citizens, the reporter of the decisions of this court. Of all the members of this court who have departed to the higher court above, none has left behind him a deeper feeling of personal loss, of more grateful remembrance for kindly acts toward one and all, for the warm grasp of the hand, the encouraging word, and that atmosphere of purity and good cheer which ever attended him. We all have lost one of our wisest, noblest and truest friends.

The memorial, if the court please, was prepared by the distinguished lawyer, Mr. Gregory, of Chicago, the chairman of the committee. Very much to his and to our regret he is unable to be present here to-day.

The memorial read by Mr. CAPEN was as follows:

“The members of the Illinois State Bar Association desire to record some expression of their sincere regret at the death of JACOB W. WILKIN, for many years a member of our court of last resort, and their high appreciation of his character, attainments and extended and valuable public services.

“Judge WILKIN was born at Newark, Ohio, June 7, 1837, but was reared and educated in Illinois. He served in the Union army

during the civil war from 1862 to 1865 and became major of the 130th Illinois Infantry. He studied law in the office of the late Judge Scholfield, and was his partner at Marshall, in this State, from 1867 to 1873, when that profound lawyer and great judge was elected to the Supreme bench. In 1879 Judge WILKIN was elected circuit judge of the fourth judicial circuit of Illinois, re-elected in 1885, and in June of that year assigned by the Supreme Court to the Appellate Court for the Fourth District, where he served with marked ability and conspicuous fidelity until his election, in 1888, as a justice of the Supreme Court from the Third District, a position in which the people of his district retained him with unchanging confidence up to the time of his death. He died on Sunday, April 3, 1907, at his home at Danville, to which city he had removed in early life and where he had resided for many years.

"Judge WILKIN was a man of sterling character and fine natural equipment for judicial office. Of professional attainments quite adequate to his high office, he yet there commanded professional and public confidence quite as much by his strong common sense, his inherent fairness and love of justice and his universal courtesy and kindness, as by his learning and technical knowledge. In conference with his associates he was invaluable. His personal relations with them were such and their confidence and regard for him so great that in their councils his opinion was weighty and often prevailing. His knowledge of men and affairs and his extended experience in public life added justly to the great value of his views upon different matters and to the confidence with which they were received by his associates. In his death at a time when it might not be unreasonable to hope he might be spared, in the full maturity of his power, for useful and important service, the people of this State have suffered a great loss, which the members of this association more keenly realize and deplore than can any others not in the immediate circle of his domestic life and influence. He was always interested in the association, almost invariably attended its meetings, and always, by his genial and cordial presence and obvious kindness, earned and retained the affection and regard of our members.

"It is therefore resolved, That the members of the association tender to the bereaved family and widow of Judge WILKIN assur-

ances of the most profound sympathy in the great affliction which has come to them; and we venture also to express the hope that it may be some consolation to them to realize how universal was the esteem in which he whom they mourn was held by all who knew him, and how sincere and earnest are the expressions of sorrow and regret at his death.

"And it is further resolved, That this minute and resolution be inscribed upon the permanent records of the association, and that a copy thereof, suitably engrossed, be transmitted by the secretary to Judge WILKIN's widow and family, and that the committee of five be appointed by the president to present these proceedings to the Supreme Court at its next term."

Mr. CAPEN :

May it please the court—In the name of the Illinois State Bar Association and of all its members, and expressing, as I know I do, the sentiment of the entire bar of the State, I present this memorial to the court and respectfully ask that it be received and ordered spread upon the records.

The Chief Justice: The memorial of the bar of Vermilion county will now be received. The court will hear from Mr. Calhoun.

Mr. WILLIAM J. CALHOUN then spoke as follows :

The Vermilion County Bar Association has adopted certain resolutions commemorative of the late Justice WILKIN. I have been asked to present the resolutions to this court. Before doing so I beg leave to make a few remarks upon the life, character and public service of our deceased friend.

I will not attempt any extended narrative of his life. The story, though marked by successful achievement, is, nevertheless, a simple one. Judge WILKIN was in many respects a great man—certainly an unusual one. To those who knew him best he stands out clearly defined from ordinary men. His life, however, is marked with the simplicity which was characteristic of the man. The story is one of every duty well performed, of every obligation, public or private, readily assumed and honorably discharged. His way through life

was, for the most part, along the quiet paths of human activity. He cared nothing for the blare of trumpets. He avoided the lime-light of publicity. In his quiet way he was honorably ambitious and he strove for success in whatever line of duty he followed, but every honor that came to him was earned by hard work and genuine merit.

JACOB W. WILKIN was born in Licking county, Ohio, on June 7, 1837. He died in Danville, Illinois, on April 3, 1907. When eight years old his parents brought him to Clark county, Illinois, where he spent the greater part of his life. He was reared on a farm, where he passed through the experiences common to farmers' boys. In the summer he worked in the fields; in the winter he attended the district school. One who knew him in those early days describes him as a bright, cheerful, happy-dispositioned boy, ambitious to learn and diligent in his studies. He supplemented his common school education by a course of study in McKendree College, after which he began the study of law.

It is doubtless true that temperament has much to do with the formation of a man's character. Emerson said, "People are born with the moral or the material bias." Judge WILKIN was naturally a good man,—we cannot think of him as being anything else. But allowance must also be made for environment. A naturally good spirit may be weakened and perverted by adverse extraneous conditions, by sordid wants or luxurious vices; on the other hand, it may be strengthened and made more beautiful by influences which expand the soul and enlarge the mind.

Judge WILKIN was reared in a farmer's home, simple in all its appointments, but for those who lived therein the twin stars of love and faith ever shone in the heavens, however dark the night. It was a home wherein the religious spirit was cherished, leaving a lasting impression upon the character of the inmates. It was there he learned those sweetly solemn hymns which in after years he loved to sing, and which, notwithstanding all our advanced science and higher criticism, best express the emotions and aspirations of the human heart. In this home he was taught those moral principles and rules of conduct which guided him through life, and which inspired him with a love of truth, justice and righteousness. He lived the greater part of his life in the country or in a rural vil-

lage, where he was close to nature. He was enough of a poet to love it. In later years, when weary of his arduous labors, he loved to mount his horse and ride far out into the country. He found rest in the breath of the fields, in the hush of the forest, in the freedom of the hills. He was fond of horses and dogs, of outdoor sports, the hunt and the chase, and was a most congenial companion around the fisherman's camp fire. This environment was best adapted to his nature. It helped to make him the pure-minded, sweet-hearted man that he was.

Just as he was entering upon his law studies the civil war broke out. It was a time of great public excitement. There was a clamor of voices, mingled with the tramp of armed men, the hoof-beats of galloping squadrons and the rumble of artillery. There was a loud call for men to defend the country. Judge WILKIN heard and promptly answered that call. We can readily understand that with him it was only a sense of duty which prompted him to become a soldier. His was no war-like spirit. He was too kind and gentle to enjoy the ferocity and destructiveness of a bloody war. He was not animated by any love of adventure, or by partisan animosity, or by personal ambition. He was an earnest, thoughtful man, who acted in all things with deliberation and from conviction. It was the call of duty that prompted him to take up arms. Once he heard the call, once his mind was made up, he acted without hesitation or fear. He enlisted as a private. Although young in years and experience, his comrades understood his worth. They elected him their leader,—their captain,—and at their head he marched away. His company was mustered into the service as Company K, 130th Illinois Infantry. We can easily imagine what kind of a soldier he was: cheerful in privation, patient in suffering and fearless in the presence of danger. His modesty prevented him from talking much about his experience as a soldier. He seldom spoke of it, except to intimate friends; but he saw much service. He was with Grant in all the battles which led up to and included the siege of Vicksburg. For a time, during the siege, he commanded the guard at Gen. Grant's headquarters. He participated in the Red River campaign, and later on assisted in the capture of Spanish Fort and Fort Blakely, near Mobile, Alabama, which were among the last battles of the war. He was mustered out of the

service in the fall of 1865, with the rank of major,—a promotion bestowed, as officially declared, “for gallant service in the field.”

He returned to Clark county and resumed the study of law. He entered the office of John Scholfield, in Marshall, as a student, and in the year 1866 he was admitted to the bar. He immediately formed a partnership with Judge Scholfield, under the firm name of Scholfield & Wilkin, which continued until Scholfield was elected a judge of the Supreme Court of this State. The faith, respect and confidence these two men had in and for each other, engendered a friendship so intimate and tender that it finds few parallels in song or story. In many respects their history was the same. Scholfield was a native of Clark county. He was born amid the poverty and hardship incident to a frontier country. His education was limited and largely obtained in the school of experience. He was, however, a great man, intellectually and morally. No one could look into his luminous eyes or upon his clear-cut, classic features, without realizing that he was no ordinary man. Although he spent his whole life in what may be called a country village, he became one of the best known lawyers in the State. Upon his election to the Supreme bench he soon took rank as one of the great judges of the country. Although he has been dead for some fourteen years, his memory lives and his influence continues.

I make this reference to Judge Scholfield because the names of the two men are so closely identified we can hardly mention one of them without at the same time thinking of the other. Their lives ran together in an unusual way. They were associated in the practice of law. Scholfield was elected to the Supreme bench in 1873. Until 1879 Judge WILKIN continued in the practice at Marshall. In 1879 he was elected to the circuit bench. He was re-elected in 1885, and soon afterwards he moved to Danville, where he lived until his death. By this removal WILKIN acquired a residence in a different district or grand division of the Supreme Court, but he still retained a residence in the judicial circuit for which he was elected circuit judge. After serving a time on the Appellate bench of the Fourth District, in the year 1888 he was also elected to the Supreme bench. In this way he again became associated with Judge Scholfield. The close intimacy of former years was renewed and remained unbroken until Scholfield's death, in 1893. His death

was a terrible blow to Judge WILKIN. The latter mourned for his dead friend as for a beloved brother. When Judge WILKIN died he was carried back to Marshall. He is buried in the same cemetery where Judge Scholfield is buried. Their graves are but a few rods apart. And now that their work is done they are again together in the eternal rest.

Judge WILKIN was a religious man,—that is, the religious sentiment was highly developed in him. He belonged to the Methodist Episcopal Church,—the church of his fathers,—and he conformed to its rules and practices; but in his religious profession, as in everything else about the man, there was no affectation or display. I fancy he cared little for dogmas, for controversy over creeds or for denominational distinctions. He believed in freedom of thought and of conscience. He was too broad-minded to be either a bigot or a dogmatist.

While his personal habits were correct, his convictions sincere and his faith strong, his sympathies were warm and tender. His love for his fellow-man was never warped or strained. His vision was never obscured by prejudice. While he was one of the cleanest-souled men I ever knew, while he abhorred everything vicious or vulgar, yet he was most tolerant of human nature and all of its faults and frailties. His interest in humanity was naturally great and his training as a lawyer increased it. He studied men more than he studied books. Outside of his professional work he was not a great reader of books, but he knew the story of human life in all its phases. He was familiar with men of every rank and condition. He knew the depths of their feelings and the height of their aspirations. In passing judgment upon them he did not condone their faults, neither did he overlook their virtues. He seldom spoke harshly of any one. He was patient even with those who tried him sorely or who most deserved his condemnation.

He had little regard for social position. He cared nothing for rank or wealth. In his intercourse with men he never seemed to notice the artificial distinctions which separate men into social classes. Neither was he in any sense a demagogue. He neither fawned nor followed to curry favor. He was seldom seen on the streets. He never loafed or loitered about public places. He rarely attended clubs or social functions. He loved his family, his home

and his work. To them he gave all of his time, thought and effort. He carried himself with a quiet dignity that prevented undue familiarity and with an air of self-respect that commanded respect from others, yet he was one of the most approachable of men. If a thin veil of exclusiveness seemed at times to envelop him, it was more the result of innate modesty than any assumption of superiority.

His death is so recent that his personality is still very close to us. The wound caused by his death is still fresh and bleeding. We can hardly realize that we will never again see his kindly smile or feel the warm grasp of his hand. Those who loved him most are naturally disposed to dwell longest on the charm and worth of his character. They forget for the moment the record of his work; they think only of the man, the friend and neighbor, rather than of the lawyer and the judge. As Mr. Phillips, the reporter of this court, has so fittingly said of him: "Another generation of lawyers will know Judge WILKIN by the opinions he wrote; they will know him as we now know Scates and Lockwood and Caton and Treat. Of WILKIN the man, radiating social kindness and cheering the drooping spirits of his associates, they must necessarily remain forever ignorant."

As a practitioner at the bar I saw nothing of him. His practice extended through a range of counties somewhat removed from the neighborhood in which I lived. He practiced in the counties of Clark, Crawford, Lawrence, Jasper, and, perhaps, somewhat in Coles. He came on to the stage when the old-time lawyers who used to "travel the circuit" were disappearing. He knew many of them and was fond of telling stories about them. He had a keen sense of humor, a quick appreciation of the ridiculous, which made him an inimitable story-teller. He was one of the prominent lawyers in his section of the State. He took part in most of the noted cases which make up the legal history of his time and section. It is said he was very diligent in the preparation of his cases, and presented them in a plain but forcible manner and with an air of sincerity that carried conviction to the mind of the court or jury. He was a pleasant public speaker. He had that charm of manner, that sympathy of feeling sometimes called magnetism, which drew men to him when he spoke. He made no pretense to oratory, but

when his heart was stirred his speech flashed with brilliancy and eloquence.

As a *nisi prius* judge he was dignified and firm but patient and kind. He preserved decorum in his court, expedited public business, and gave to each case tried before him his close attention and best judgment. His greatest work, however, was done in the Supreme Court. He was first elected a justice of this court in 1888. He was re-elected in 1897 and again in 1906. As an evidence of the high appreciation in which his service as a judge was held, after a continuous service of eighteen years it is a notable fact that his last election was practically without opposition. He represented a large and populous district, which contains many able and ambitious lawyers,—a district in which there is a sharp division between the two great political parties that represent the opposing political forces of this country; yet both of these parties practically united in supporting his election. This was a compliment, an expression of confidence by the bar and by the people, which he appreciated beyond measure.

He had high regard for the dignity and responsibility of his office. He instinctively loved his work. His sense of duty prompted him to give thereto his best thought and effort. He was ambitious to keep his work up. He never forgot his duty to the litigants in each case, and he was equally solicitous for the reputation of the court of which he was a member. He had those attractive personal qualities which might have won for him high political honors. He had the ability to have acquired a lucrative practice. Thus he might have won fame or fortune had his ambition led him in that direction. But his ambition was to be a good judge,—to have the confidence of the people and the respect of the bar. What nobler impulse can prompt the action of a man?

It has been well said that the power of concentration is one of the means by which success in any line of effort is achieved. The men who amass great wealth, who organize and conduct great industrial enterprises, who do the great things which mark the advance of our civilization, have this power. It is often mistaken for genius. Most men who fail do so because they do not have it. Their interest takes too wide a range. They dissipate their strength by desultory or scattered effort. They might have succeeded if

they had concentrated their time, energy and thought upon some one line of work. Judge WILKIN had this power in a high degree. He gave to his work all the mental and physical strength he possessed. Every record was studied with conscientious thoroughness, every question was investigated with diligent inquiry, and every opinion he wrote expressed his best thought. For years past his health was delicate. At times he suffered great pain, but, regardless of his bodily ailments, he clung to his work with a pertinacity that was sometimes pathetic, oft-times heroic.

It is said his opinions are distributed through more than one hundred volumes of Illinois Reports. This is the record by which future generations will know him. These opinions are indicative of the man. They are well thought out, clearly expressed and well written. There is no affectation of learning, no attempt at fine writing, no high sounding phrases or rhetorical flourishes. His style, if he had anything that might be called a literary style, is simple, direct and forcible. The facts are clearly stated and the legal propositions cogently expressed. His friends have no fear for the place he will occupy in the history of this court. His clear, well-ordered mind and his conscientious industry have made for him a record that will live long after his sweet gentleness and his unselfish kindness have faded from the memories of men.

I move, if the court please, that the resolutions of the Vermilion County Bar Association be received and spread upon the records of this court.

Said resolutions are as follows:

"At a meeting of the members of the bar of Vermilion county held upon the day of the funeral of Judge JACOB W. WILKIN, a committee consisting of Judge E. R. E. Kimbrough, Judge M. W. Thompson, J. B. Mann, I. A. Love and Frank Lindley was appointed to express the love and respect entertained for Judge WILKIN by his fellow-citizens of Danville, and especially by the members of the bar of Vermilion county. In fulfillment of the duty confided to them the committee present this testimonial:

"In the death of Judge JACOB W. WILKIN we have each lost a friend, this community has been deprived of a useful and worthy citizen, and the State has lost a public servant whose absence from

the councils of its highest tribunal must be deeply felt. The highest tribute within our power to pay to our brother is to say, 'He was a just judge.' That he filled to its fullest measure the title we bestow upon him cannot be for an instant doubted by those who knew him as a *nisi prius* judge and as an occupant of the bench of the Supreme Court. And while the memory of his eminent abilities and high character as a judge will never be forgotten by us, yet the most cherished memory remaining with us, his intimate associates, will be of his kindness of heart, geniality of conduct and the warmth of his friendship. We will this day assist in the sad duty of committing his body to the grave. Our tears will mingle with those of his family and kindred, and to them we tender all that human sympathy can give.

"At the proper time we will present this inadequate testimonial to the Supreme Court of Illinois, and ask that it be spread upon the records of the court and that a certified copy of the same be sent to his bereaved family."

The Chief Justice: The court will now hear from Mr. Cannon.

Hon. JOSEPH G. CANNON, speaker of the national house of representatives, then spoke as follows:

May it please the court—When I came to Springfield to-day to attend the memorial exercises on the late Judge WILKIN I met the reporter of this court, who suggested that I submit a few remarks. I felt my own inability to do so adequately and had no thought of paying other than a silent tribute to the memory of the dead jurist; and yet Judge WILKIN and I lived in the same city for so many years,—were, I may say, such close friends and I held him in such high esteem as a man and as a judge,—that, after all, I am glad of the opportunity to speak of him. He was a member of this court for many years. My field of work was elsewhere, and it was only during our vacations that I came in close contact with him, but, outside of his family, few men, perhaps, were more attached to him than I was, or had greater respect for his good manhood, for his courage, for his patriotism and for his genuine wisdom.

The Greeks had a fable that one of the tasks assigned to Hercules was to meet Antæus and overcome him. The secret of the

power of Antæus was, that every time he touched the earth his strength was renewed. Hercules, discovering this secret, overcame Antæus by throwing his arms around him and holding him in the air until he died of inanition. Even to-day strength comes from the soil, and while it is not literally true it is substantially so, that in our country's history the men who have accomplished great things have sprung from the soil, where, under the hand of necessity, strength of character is formed. With few exceptions the men who have sat upon the bench, the men who have practiced at the bar, the men who have become distinguished in politics in our country, have touched the soil. It is not a misfortune for a man in his early years to be compelled to toil with his hands and to obtain his education by effort and sacrifice. It is a blessing rather than a curse. Judge WILKIN had such a beginning, and he took advantage of its possibilities. I could say much of his splendid personality and his lovable qualities, but the members of this court and bar were well acquainted with them. They were qualities of good manhood and courage crossed upon courtesy and intellectual force, and they made him an ornament to the bar and an efficient worker upon the bench. He has been called from our midst, but, as Mr. Calhoun has well said, his presence is preserved in the records of this court, and no man can have a greater monument.

He is, indeed, fortunate who has successfully filled the office of judge. It is a place of grave responsibility. We have a government by the people, with national and State constitutions, with the legislative, executive and judicial functions acting as checks one upon the other, but in the last analysis the construction and application of the fixed law lies with the judiciary. The judge is called upon to decide questions of weighty and far-reaching import, and what he does appears in black and white, and forms a part of the law that thenceforward is to govern the relations of men to each other and the disposition of their property. And it is through the judiciary that the principles of law are applied to changing conditions.

Judge WILKIN was a man of great charity. The shortcomings of his neighbors were forgiven and minimized; their good qualities were recognized and treasured. His home life was ideal. In public meeting he was forceful and as a member of the church he was

broad and catholic in spirit. He was a man who liked to be, and deserved to be, well regarded by his neighbors. He had great respect for the legislative branch of the government, great respect for the executive branch, and he fully understood the duties of the judiciary and the responsibilities that rested upon him as a member thereof. Clothed with power, he was not vain, but when it became necessary to say that a legislative enactment was contrary to the fixed law of the land he did not hesitate courageously and strongly so to declare.

If I may be allowed to say so, the State of Illinois may well be proud of its court of last resort. From the beginning to the present time it has performed its high duties intelligently and fearlessly, and one who dies yet clothed in its ermine need claim no greater honor. Nor can greater tribute be paid to one who has sat upon the bench than to have it said of him by those who follow after: "This man performed his duty, understanding the genius of our institutions, keeping pace with the progress of the country, and appreciating the necessity for maintaining inviolate all the checks and balances instituted by the fathers for the safeguarding of the common good." The judge who is conscious of having come up to this standard can well lay down his burdens realizing that he has made his contribution to the cause of his country and civilization. No less than this can be said of Judge WILKIN.

The Chief Justice: Judge WILKIN became a member of this court in 1888 and at the time of his death was the senior member. His opinions may be found in volumes 126 to 227 of the published Reports of the Supreme Court of Illinois. They are a monument to his industry and to his learning. Judge WILKIN was a great judge, a fearless, painstaking, hard-working, conscientious judge. He possessed in a high degree the affection of his associates and the confidence of the people, and in his death this court has lost a valuable member, the State a most noble citizen, his family an affectionate father and a loving husband, and each of us a dear friend.

Mr. Justice Cartwright, the senior justice of the court, will respond upon behalf of the court to the memorials and addresses which have been read in our presence and to which we have listened.

Associate Justice JAMES H. CARTWRIGHT, senior justice of the court, responded in behalf of the court, as follows:

The life of Judge WILKIN was one of useful service. He served successively his country as a soldier, his clients as a lawyer, his circuit and an appellate court district as a judge of the circuit court, and the State at large as a judge of this court. These are the divisions of his activities, in youth and manhood, with which the public have been concerned. In each of them he occupied a position of responsibility and he discharged the duties of each with courage and fidelity. He ungrudgingly gave years of his young manhood to the service of his country. It is not the present purpose to speak of that service except as it constituted a factor in the development of his character and influenced the course of his later years. With characteristic modesty he claimed nothing on account of that service, but looked upon it as a privilege, rather than a sacrifice. When he was reminded of the debt due to the soldier, he was accustomed to say that his army experience was the best thing that could have happened to him, for the reason that it taught him to attempt things in after life that he would not otherwise have attempted and to meet the duties and problems of life with courage. He recognized the truth that worthy action and devotion to the best ideals make character and develop and strengthen the individual.

A good cause is not the only beneficiary of a pledge of life, fortune and sacred honor, but the individual, also, is thereby ennobled and raised to a higher plane. If the time shall ever come when such pledges shall neither be required nor willingly given in a cause which is worthy of the sacrifice, nations and individuals will alike be losers. No people lacking in individual courage could ever achieve an honorable position, advance the cause of civilization or command respect. Whatever may be said of the barbarity of war, the defender of the liberty of his country has never been moved by barbarous or savage instincts; and whatever the humanitarian may accomplish in the way of eliminating wars for trivial causes, for commercial purposes or the acquisition of territory, the time will never come when the great contests for freedom or the preservation of free government will be regarded as manifestations of savagery

or the outgrowth of a barbarous age. Malice and cruelty are not the offspring of manly courage, but, rather, of cowardice and selfishness. Judge WILKIN was a gallant soldier, but he was also a living example of the truth that the bravest are the gentlest and that personal courage is not inconsistent with the warmest human sympathies. He had a most tender and affectionate heart, and if his judgment could be insensibly swayed by sympathy for misfortune, it was never inspired or influenced by malice or ill-will toward any litigant or class of litigants.

The effect of his army experience, to which he referred as leading him to courageously attempt things, perhaps led to his subsequent public official career. He became a lawyer, and as soon as opportunity offered, a worthy ambition led him to seek election as a judge. When he was elected he entered upon the discharge of his duties with the same courage which had marked his previous life, and performed them with such credit as led to his choice as a judge of this court. After his service as a judge in the circuit and Appellate Courts he realized the highest ambition of his life by becoming a member of this court, and he continued in active service for nearly nineteen years, when life and labor ended at practically the same time. His moral courage was soon put to the test, but he never faltered for a moment in declaring and upholding the law as he understood it.

A good illustration of his characteristics and conscientious determination to do his duty is found in a case which was brought to this court upon writ of error soon after he became a member of the court, in which he was charged with delivering the opinion of the court, reversing a judgment under which a citizen was to be executed and remanding the cause that the defendant might have a fair trial upon competent evidence. The evidence produced at the trial proved beyond controversy that the crime for which the defendant was indicted was committed by him, but the court admitted, over the objection of his counsel, evidence that half an hour after the killing he committed another and distinct crime of an infamous nature. Under our law the jury were clothed with a wide discretion in fixing his punishment at death or imprisonment for a term of years. The incompetent evidence as to the other crime was of a nature to inflame the minds of the jury, arouse the most

intense prejudice against the defendant and banish every feeling of mercy or compassion for him. In the opinion then delivered Judge WILKIN declared the right of a citizen, although guilty, to the protection of the laws and to a trial free from incompetent, prejudicial evidence. He said that when all else had failed the defendant, he had a right to stand before a jury unprejudiced by incompetent, irrelevant evidence and to appeal to them to spare his life. These were manly words and fitly spoken in the face of popular prejudice and a belief on the part of the unthinking that one charged with crime may be deprived of the protection of the laws if only he appears to be guilty. If that were true and the only question to be considered is whether a defendant is guilty of the crime charged, and if one who is guilty may be deprived of life or liberty without a fair and impartial trial according to law, we ought to give our approval to the acts of a mob, provided, only, that it acts upon sufficient evidence of guilt. The expeditious methods adopted by a mob obviate delays and the disadvantages of legal procedure and secure the end of punishment, if that is the only thing to be attained. But few persons would subscribe to the doctrine when carried so far. But the difference in principle is not manifest. Where the law ends, tyranny and oppression begin, and in a government of laws the law must be supreme. It is essential to the safety of every one that the guilty as well as the innocent shall be secure in their legal rights, and the declaration of Judge WILKIN, in the case referred to, is a monument to his courage and adherence to the right. He manifested the same qualities to the end of his service, and sought only to declare the law, regardless of persons, parties or public prejudice.

He had the great advantage of a firm religious belief. He acknowledged his relations to God, and kept, in letter and spirit, the obligations which they imposed. Worthy action has no root in doubt or unbelief but finds its source and nurture in faith and belief. Men of strength and action who have accomplished great things and left their impress upon their time have been men of faith and convictions, and have not been found among those engaged in sowing the seeds of doubt or who were the apostles of unbelief. Knowing that the mere intellectual beliefs of one people or one age have been the follies and absurdities of other peoples

and other ages, and that theories as to almost every subject have been adopted only to be superseded or discarded, Judge WILKIN treasured in his heart and exemplified in his life the changeless truths of the heart and the moral nature which have endured in some form through all the ages and among all peoples. He gave little heed to the mere intellectual doubts which conflict with those truths or serve to weaken them. The beliefs of the moral nature, which recognize the existence of a supreme being and the accountability of the individual, have taken different forms and had different manifestations, according to the capacity of the individual, the tribe or the nation, to form just conceptions of such truths, but in their essentials they have been subject to no change and have been common to all. They found their culmination and highest manifestation in the Christian religion, to which Judge WILKIN gave his loyal adherence. A faith such as his is a source of strength. To one who recognizes his moral obligations and individual responsibility each act and decision has an added import, beyond mere responsibility to the individual and the present time. Judge WILKIN acted at all times with a deep sense, not only of his responsibility to the people and to litigants, but also in the fulfillment of the highest moral obligations.

The one characteristic, however, which will recur to every associate of Judge WILKIN when his name is mentioned is his charming and engaging personality. In the discussions of the conference room he was as unswerving in his adherence to what he believed to be right and in defense of his views as any, and yet he never gave offense. He was never boisterous in mirth, but he had a most charming and infectious smile. When arguments between the members of the court threatened to become heated or the situation was growing tense, he would make some remark or tell some story which invariably restored normal conditions at once. He had a great fund of stories of southern Illinois life and people, which he would tell in the conference room and apply to the question in hand and with which he would entertain his associates when they came together in the intervals of rest. He was always open to conviction, but when convinced that he was right his position could not be changed. He had that simplicity of mind, habit and character which is the greatest ornament of true manhood. His mind

was not only honest and sincere, but it worked in direct lines, and it had none of that nimble and flexible quality which enables its possessor to lead the discussion away from the central questions in the case or to divert attention from the main issue. The material questions upon which the rights of parties depended were never obscured or lost to his view. A judge of his character and standing is a tower of strength to any court, by inspiring confidence and maintaining respect for the court and the law. It is of the utmost importance that a court should have the entire confidence of the profession and the people, and no one ever doubted for a moment that the opinions and judgments of Judge WILKIN were sincere, honest and impartial.

It is a very great satisfaction to those of his associates in this court who remain, to attest the truth of everything that has been said here concerning him.

The Chief Justice: The clerk of this court will spread at large the proceedings of the hour upon the records of this court and the official reporter of this court will include them in the published volumes of this court, and as a further mark of respect to the memory of our deceased brother the court will now adjourn.

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