

## PROCEEDINGS

MEMORY OF

### HONORABLE THOMAS WILSON.

On the afternoon of June 10, 1910, in the court room at the State Capitol, Charles W. Bunn, Esq., chairman of the committee appointed to draft a memorial of Honorable Thomas Wilson, a former Associate and Chief Justice of the Court, addressed the Supreme Court, then in session, and presented the following memorial with the recommendation for such disposition thereof as is customary

#### MEMORIAL.

Of once Associate Justice and the second Chief Justice of this Court, died in St. Paul on the third day of April last. His eminent services to the people of Minnesota, as Judge Wilson When Court, as a legislator and as a lawyer, make it fit made of those services.

Judge Wilson was born in County Tyrone, Ireland, May 16, 1827. When twelve years old he emigrated with his parents, who settled on a farm in Venango county, Pennsylvania, where Thomas lived, alternating working on the farm and attending the common school, until he was twenty. He then entered Allegheny College, graduating in 1852. Then commencing the study of law in Meadville, Pennsylvania, he was there admitted to the bar in 1855. Two months later he removed to the territory of Minnesota, where he commenced his professional life at Winona. He was a member of the Constitutional Convention of 1857, and in the fall of that year became District Judge of the Third District, which office he held for six years. He was appointed by the Governor an Associate Justice of this Court and in the subsequent autumn, 1864, was elected Chief Justice. This office he held for four years and a half, resigning in July, 1869, to resume practice. He was a member of the House of Representatives of the State in 1880-1881 and of the State Senate in 1883-1885. In 1881 he was the Democratic nominee for United States Senate and declined a nomination to Congress in 1884. In 1886 he was elected to Congress where he served one term. In 1890 he was the candidate of the Democratic party for Governor of Minnesota.

In the autumn of 1892 Judge Wilson was appointed General Counsel of the Chicago, St. Paul, Minneapolis & Omaha Railway Company, and thereafter lived in St. Paul, active in professional duties up to the very day of his death. In 1891 he received the degree of LL.D. from Allegheny College, and the same degree from Macalester College in 1892.

For fifty-five years he was prominent in the affairs of Minnesota, standing in the foremost rank of the legal profession of the state. During much of this time he commanded an unsurpassed clientage and was engaged in much of the most important litigation. A sound constitution and abstemious habits extended his active and useful life beyond the ordinary. Exemplary living preserved his health and physical and mental faculties unimpaired to the end. And without exaggeration it may be said that every day of his long life in Minnesota produced fruits of his unflagging industry.

Good mental and physical equipment was in Judge Wilson supplemented by remarkable

industry, capacity for work, tenacity of purpose and loyalty to his clients. But he was more than a judge and lawyer, he was a loyal and generous friend, a good neighbor and good citizen. He was more than a student of the law and an advocate for his clients, he was a lover of justice, considered much the public good and stood for that even against the interest of clients.

Charles W. Bunn,  
L. L. Brown,  
W. W. Billson,  
William D. Mitchell,  
John Lind,  
William E. Hale,  
Charles C. Willson,  
James B. Sheean.  
*Committee.*

William D. Mitchell, Esq., then addressed the Court and said:  
May it please your Honors:

An intimate friendship for over half a century between Thomas Wilson and those near to me gave me the privilege of a close association with him. That association was of as intimate a nature as is possible where great disparity in age exists, and while my own capacity to truly judge his qualities has been limited to the closing period of his life, I feel that the lifelong and beautiful friendship which endured between Judge Wilson and the late Justice Mitchell makes fitting that some expression should be made by a member of my family.

The final impression left by Judge Wilson is that of distinct individuality. He was a most unusual man, unusual in more separate respects than any man within my knowledge. He belonged to none of the types in which we are accustomed to classify our acquaintances, and those who knew him best will agree that they have never known and do not expect to know any man who remotely resembles him.

It is appropriate that I should speak only of a few of his personal qualities. As a young man what at first struck me most forcibly that there seemed an absence from his life of recreation. He had no taste for hunting, fishing or either outdoor or indoor sports of any kind. He went rarely to the theatre, he had no small vices or amusements, he never played cards or used tobacco, and took no interest in any of the pastimes or playthings to which men of his class usually turn for recreation. His life was absolutely devoted to his family, his professional work, his books, and the society of his friends. The whole of his tremendous energy was turned in these directions, and in them he found his pleasure and recreation. His devotion to his wife and only daughter, when living, and to their memories after their death, was refined and beautiful, and his high ideal of the domestic relations was one of his most striking qualities. His conduct of life and habits of thought and speech were as pure as crystal. He was as modest as a woman. His loyalty to and activity for his friends was intense, and while it was inevitable that a man of his temperament should have enemies, it will be found that they were chiefly made in the causes of his friends, an injury to whom he often remembered long after the friend himself had forgotten or forgiven. His private papers have disclosed what was never published by him, that he has in years past given a respectable fortune to objects of charity and friends in need.

He always retained a strong liking for and loyalty to those of his own nationality, and the possession of Irish blood was no mean advantage to any one seeking his aid. He was fond of

books, and had the social instinct developed to a high degree. He liked people, and enjoyed being with them, especially if he was entertaining them.

The qualities of which I speak are necessarily the possession of one who is capable of writing such a beautiful, sincere and touching tribute as Judge Wilson presented to this Court on the occasion of the death of his lifelong friend and companion.

It is difficult to believe that a man who took a leading part in the constitutional convention of 1857, and who was Chief Justice of this Court in 1864, was not only active but effective in the practice of his profession until some few weeks ago. It is ten years since he presented to this Court his parting tribute to his oldest and best friend. He was then seventy-four years of age. His, beloved wife and daughter had gone before, and now his friend as well. That address breathes the thought of one who finds himself alone, and sees the shadows deepening around him. It was the speech of a man who felt that life had nothing more to hold for him, and yet for ten long years afterwards, with sadness in his heart, but with all his old dauntless and cheerful courage, he lived his life as he had always lived it. And what a wonderful old man he was! What courage, what industry, what a fighting spirit he possessed, and yet, what gentle modesty and purity of heart and mind! It has been a great privilege to know him, and it is a great privilege to have this opportunity to speak from the heart what as between men often remains unspoken.

Honorable Charles C. Willson, then addressed the Court and said:

If the Court please: I have known Judge Wilson fifty-odd years since 1856. I shall speak of him plainly, as he would have me do it.

Honorable Thomas Wilson was the second Chief Justice of this Court. He succeeded Honorable Lafayette Emmett, January 10, 1865, and presided a few days over four and a half years. He was a practical man of affairs, keen to discern and sure to disregard adulation and flattery. Had he arranged the presentation of our memorial, he would have admonished us in the language of Othello: "Speak of me as I am; nothing extenuate, nor set down aught in malice." Hence the plain directness of what I intend to say in support of the motion of our chairman.

Honorable Thomas Wilson was born May 16, 1827, Tyrone county, northern Ireland. He came with his parents in 1838 to Venango county, western Pennsylvania. There he spent his youth, a farmer's son on the banks of the Allegheny. At Meadville, in the adjoining county, in 1852, he graduated from a Methodist Episcopal school, Allegheny College, and in February, 1855, was admitted to the Pennsylvania bar. Three months later he came to Winona, Minnesota, and entered into partnership with M. Wheeler Sargeant from Franklin county, northern Vermont. Sargeant was a land surveyor as well as lawyer, and came to Minnesota in 1854 in the employ of William Ashley Jones, who had a contract with the Secretary of the Interior to survey public lands in the vicinity of Winona.

In 1856 William Windom, a young lawyer from Knox county, in central Ohio, was admitted to the firm, and its name became Sargeant, Windom & Wilson. The United States land office, for the sale of public lands in southern Minnesota north of Township 104, was located at Winona, and the law practice of the firm was largely in controversies between settlers before the register and receiver of this land office. The business of the firm was not wholly professional. They ventured into speculation in lands and town lots and were caught in the financial revulsion of 1857. Wilson early foresaw the probable extent of the disaster. He dissolved the partnership, paid his third of the liabilities, got release from the residue and remained solvent. The others

were more confident and less fortunate.

At the election of delegates to the constitutional convention which convened July 15, 1857, Thomas Wilson was elected, on the Republican ticket, from Winona county. Ex-Governor of the territory, Willis A. Gorman, was elected, on the Democratic ticket, from Ramsey county. Each party claimed to have elected a majority of the members of the convention. Each party organized a convention and both, were anxious to have the territory admitted as a state. A conference was agreed upon to which each party sent five of its members. Wilson was one on the Republican side and Gorman on the Democratic. Wilson said in the conference there were some men there in whom he had no confidence, personally or politically. Gorman asked if he applied that remark to him, and Wilson said he did. Whereupon Gorman struck him violently with his cane, breaking it over his head. Others interfered, and the parties were separated. The Democrats excused Gorman by saying Wilson was highly provocative and too loquacious. But the Republicans claimed the incident to be a local repetition of the then recent attack in Congress of Brooks upon Senator Sumner, and signified their approval of Wilson by nominating him for Judge of the Third Judicial District, the district then embracing the five southeastern counties. His Irish birth attracted his countrymen, who were mostly Democrats, and he was elected, although the three Democratic nominees for the Supreme Court had majorities in the district and were elected.

Judge Wilson presided in the district for six years with general satisfaction. Some of us, the younger practitioners, if beaten, thought the elderly lawyers won from age and condescension and not on the merits, and we sometimes appealed to this court with success. During those six years twenty-five appeals from decisions in that district were taken. Fifteen of them were reversed. But this is no decisive test of the ability of a judge. Honorable William Mitchell, while on the same district bench, was, on appeal, often reversed, but the fame he subsequently acquired while a member of this Court is known wherever the Minnesota Reports are studied.

In 1864 the two Associate Justices of this Court resigned, and the Governor appointed District Judges Wilson and McMillan in their stead. In November of that year Justice Wilson was the candidate for Chief Justice, on the Republican ticket, and was elected. His judicial opinions written while on this bench appear in Volumes 9 to 14 inclusive, of the Reports. On July 14, 1869, he resigned this high office, and Honorable James Gilfillan was appointed in his stead.

It was surmised at the time in the profession that the Chief Justice became ambitious of a more active political career; thought that the isolated and exacting duties of a judicial station were unsuited to his temperament, that he was better equipped for legislative or executive office and that he acted on such conviction.

He resumed the practice of law at Winona and obtained throughout the state great celebrity as an able lawyer and an artful advocate. He won many important cases. An example of his untiring persistence and his sagacity is seen in the Reports of the case of the City of Winona against Horace Thompson and Minnesota Railway Construction Company, reported at different stages in 24 Minn. 199, 25 Minn. 328, 27 Minn. 415, 29 Minn. 68, and 93 U.S. 612. By this litigation he relieved the city of Winona from the payment of its bonds for one hundred thousand dollars, issued in aid of the construction of a railroad with truss bridge at that point across the Mississippi river.

In 1872 Judge Wilson, becoming estranged from the Republican party on account of its reconstruction measures and its protective tariff legislation, joined the movement for the election of Horace Greeley as President, and thereafter affiliated politically with the Democrats.

In November, 1882, he was elected, on the Democratic ticket, from the Winona District to the state senate and served one term. In November, 1886, he was elected by the same party to the federal congress and served two years. In 1890 he was the Democratic nominee for Governor, but was defeated by Honorable William E. Merriam by the small plurality of 2,267 votes. Meantime the immigration of Norsemen was unprecedented and practically they all joined without further inquiry the party of Lincoln that had abolished slavery. Judge Wilson found that for political success he should have suppressed his convictions on federal policy and remained a Republican. His integrity forbade him such betrayal of his convictions.

He removed to St. Paul in 1892 and became the chief counsel of the Chicago, St. Paul, Minneapolis & Omaha Railway Company. He served it in that capacity to its entire satisfaction to the time of his death.

He was a moral, upright and honest man. He had a vigorous constitution and by exercise and a plain diet he enjoyed robust health throughout his long life. The younger men of the profession can discern, if they will, in the story of his life the wisdom of refusing office. Join the party of your choice, take part in shaping its policy and advocate its principles before the people, but beware its offices and honors. Uninterrupted devotion to your profession will, in nearly every instance, bring greater rewards and a happier life.

Richard L. Kennedy, Esq., then addressed the Court as follows:

May it please the Court:

While concurring fully in all that has been said, and passing over without further comment Judge Wilson's remarkably successful professional and political career, I desire to emphasize his private life,—honorable and without a flaw; that he was an ideally devoted husband and father, and a royal friend. What I have said as to his private life can be attested by all those here today.

Of his family life, I know little personally, as I became intimately acquainted with him after the death of his immediate family. I have been informed of it, however, by those who knew him intimately during that entire period, and their testimony is unanimous—without a dissenting voice.

That he was a royal friend I can attest, and all who knew him best and enjoyed his friendship will join with me in paying him this tribute.

Underlying it all was a deep and keen sense of honor and justice, which was the keynote of his character.

CHIEF JUSTICE START, then said:

Gentlemen of the Bar:

It was my privilege to know Judge Wilson for more than forty-six years, and I can bear witness to the justice of your eloquent memorial. He was a masterful man, of pure life and high ideals. He leaves behind him the memory of a great lawyer, an able and just judge and a good man. It is therefore fitting that your memorial should be entered in the record of the Court, and that the Court adjourn as a tribute to his memory.

It is so ordered.