

## MEMORANDA

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THE Honorable JAMES MOORE WAYNE, Esq., Senior Associate Justice of this court, departed this life, at his residence in the city of Washington, on the 5th day of July, 1867. He was born in Savannah, Georgia, about the year 1789, and was the son of Richard Wayne, a respected citizen of that place. Having enjoyed, by the advantages of birth and connections, the opportunities for good early education, and profited by them, himself, he was found well prepared to enter Princeton College at an early age. He was graduated there in 1808, and having chosen the law as his profession, studied it at New Haven, Connecticut, under the care of the Honorable DAVID DAGGETT, well known as Chief Justice of that State, and as Professor of Law in Yale College. He was admitted to practice in the courts of Georgia about the year 1810, and in the Federal court at Savannah in 1813. In our war of 1812, with Great Britain, he entered the volunteer military service, and was an officer of the Georgia cavalry. His spirit and personal bravery were at all times universally conceded. In 1819 he was Mayor of Savannah, and in the same year was elected the first judge of the Court of Common Pleas—now the City Court—of Savannah, then recently established by the legislature; an office which he continued to hold until 1822, when he was elected to the Bench of the Superior Court. He presided continuously, and with dignity and independence, over the Superior Courts of the Eastern District of Georgia until the year 1828, when he was sent a representative from his State to the Congress of the United States. Soon after this time the State of South Carolina began to oppose herself to the execution of the laws of the United States, and the heresy of "Nullification" became prevalent in her immediate region. Mr. Wayne gave to it no countenance at any time. In 1832 President Jackson issued his Proclamation levelled against it. This was followed by the Act of Congress of March 2, 1833, known as the Force Bill. To both Mr. Wayne, who was again in Congress, gave his approbation, and was the only representative from Georgia who voted with the majority for the bill.

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Although his support of the measures of that bill alienated many of his former friends, it gave to him the hearty support of the Union party of Georgia, then rising into power, and in 1834 he was again re-elected to Congress by a higher vote than that given to any other candidate. On the 9th January, 1835, during the session of the Twenty-third Congress, he was appointed an associate justice of this court in the place of Mr. Justice William Johnson, of South Carolina, then recently deceased.

In the late unhappy rebellion he sided, as it might have been anticipated, from his education and previous fidelity, that he would do, with the Government, and from the beginning to the end of the war, was faithful to the cause of the Union. He had not, however, been less truly the friend of his native State. From an early day he sought to promote learning there, and to develop all its natural advantages. For many years he was one of the Trustees of the University of Georgia, and for a considerable time presided over the Georgia Historical Society. In 1836 he represented Chatham County in the Knoxville Convention, the object of which was to unite the Atlantic seaboard of Georgia with the productive regions of the West; and was at all times ready to serve and be useful to the people to whom he more especially belonged.

Mr. Justice Wayne possessed the advantages of a fine person and engaging countenance, and was distinguished by manners singularly elegant and attractive. Animated as these and all his conversation and conduct were, by real goodness of heart, it is not surprising that he should have been, as he was, extensively beloved. He was a member of the Protestant Episcopal Church, and communicant in the same. For several years before his death he resided principally in Washington City, where his house was the centre of hospitality to very numerous friends. His illness was not long, and its fatal termination was obviously hastened by a general declining strength, perceptible for some time before. During his long service upon the bench he sat with twenty-one or twenty-two different judges, and at the time of his death was the sole survivor of the court as constituted in the presidency of MARSHALL.

Previous to the assembling of the court upon the bench at the opening-day of this term, a meeting of the bar and officers of the court was held, and a committee appointed to prepare resolutions expressive of the affection and veneration enter-

tained by them for the late departed Justice. These resolutions the meeting requested the Attorney-General, Mr. Stanbery, to be good enough on its behalf to present to the court.

On the subsequent assembling of the court, the Attorney-General, having introduced the subject in some appropriate and feeling remarks, read the preamble and resolution as follows:

The members of the bar and officers of the court here assembled unite in the sincere expression of their respect for the memory of the late Mr. Justice Wayne, and their sorrow that they shall see him no more in the place which for nearly a third of a century he filled with uniform dignity and usefulness, and with unblemished honor.

Called to the bench on the nomination of President Jackson, in the year 1835, in the very noon of life, each succeeding year of his long service only made him more and more alive to the high duties of the judicial office, and, if possible, more resolute and constant in devoting to their fulfilment, without fear, favor, or affection, all his capacities, acquirements, and energies.

To the debt which the country owes for this long and faithful judicial life the bar must add the acknowledgment of its own peculiar and grateful obligation for the habitual courtesy and unaffected kindness which distinguished his deportment as a judge, and which everywhere marked him as a true and accomplished gentleman. Therefore

*Resolved*, That this public expression of the high esteem and affectionate regard in which we held the late Mr. Justice Wayne, and of our sincere sorrow at his death, be laid before the court, and that Mr. Attorney-General be requested to move that it be ordered to be recorded upon the minutes of the term.

*Resolved, further*, That the chairman communicate a copy of these proceedings, and of such orders as the court may take thereon, to the family of the deceased, with the assurance of our sympathy and respect.

He then moved that the resolutions should be entered upon the minutes of the court. The preamble and resolutions having been handed to the court, the Chief Justice said:

We all feel most sensibly the loss of our brother Wayne. The preamble and resolutions which have been adopted by the bar fitly express their sentiments of honor, veneration, affection, and sorrow, and express also, not less fitly, our own. We will direct that the proceedings of the bar, and the observations just made by the Attorney-General, in all of which we fully concur, be entered upon the records of the court.

Mention has been made of the fact that our departed brother was nominated to the bench by President Jackson. It was the remarkable fortune of that illustrious President to fill a majority of these seats by appointments to vacancies which occurred during his Presidency. Of the judges appointed by him our brother was the last survivor. He had previously acquired an honorable distinction as a member of the State judiciary of

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Georgia, and he well maintained his honors here. With what learning, with what ability, with what courtesy, with what integrity he performed his various and responsible duties during his protracted service, those who knew him best and longest, whether associates on the bench or counsel at the bar, testify most fully and most cordially. Our lamented brother was not only a learned and conscientious judge, but a sincere and honest patriot. It was with no common devotion that he loved his country and that Union which made his country great and honorable among the nations. Nor were his titles to love and reverence less complete in his private than in his public relations. In sympathetic kindness for the lowly, in the delicate observance of all the proprieties of social intercourse, and in that nice sense of right which permits no deviation from the straightest line of rectitude, he was never wanting. More than all, he was a Christian. He acknowledged the incomparable work of Christian faith, and felt in his own experience the efficacy of its consolations. My personal acquaintance with him was comparatively recent; but it was sufficient to inspire sincere attachment and heartfelt respect. I can never cease gratefully to remember and acknowledge the kindness with which he welcomed me to his place, or the wisdom of his counsels, or the steadiness of his support. He has gone from among us full of years and full of honors. Let us tenderly cherish his memory and constantly follow his example.

The Chief Justice then directed that the proceedings should be entered upon the minutes, and announced that no ordinary business would be transacted this day. Whereupon the court adjourned.

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The duties of the CHIEF JUSTICE as President of the Senate, during the late trial of the President of the United States, prevented almost wholly his participating in the business of the court during the last week or two of the term.