

Jacob W. Wilkin 1888-1907

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A law student of future Illinois Supreme Court Justice John Scholfield, Jacob Wilson Wilkin was born near Newark, the seat of Licking County, Ohio, on June 7, 1837.

He was the fifth of nine children of carpenter Isaac Wilkin and his wife, Sarah Burner Wilkin, both natives of Virginia. In 1844, the family moved to Crawford County, Illinois, where Isaac purchased 320 acres of land and became a successful livestock dealer. Jacob received an education in the country schools and enjoyed hunting in nearby forests.¹



For two years, Jacob Wilkin pursued classical studies at McKendree College in Lebanon, Illinois. Following his father's advice, he began studying law in Scholfield's office in Marshall, Clark County in 1861. During the Civil War in the spring of 1862, Wilkin interrupted his studies to enlist as a private in the Union Army. Promoted to Captain of Company K, 130th Illinois Infantry, he served with his regiment in the Army of the Cumberland, then in the Department of the Gulf, participating in campaigns at Vicksburg and the Red River. He fought at Sabine Cross Roads and assisted in the capture of Spanish Fort and Fort Blakely, near Mobile, Alabama, which were among the final battles of the war. Wilkin later served at the

headquarters of General Ulysses S. Grant, before his discharge in August 1865 with the rank of Major, “for gallant services in the field.”²

Returning to Illinois, Wilkin married Alice E. Constable on September 21, 1865; she was the daughter of Judge Charles H. and Martha Constable of Marshall. The Wilkins became the parents of four children, one of whom died in infancy.³

Wilkin resumed his law studies under Scholfield and in March 1866, at age twenty-eight, was admitted to the Illinois bar. The two men partnered under the firm name Scholfield & Wilkin until Scholfield’s 1873 election to the Illinois Supreme Court. Wilkin then formed a partnership with a younger brother, maintaining, according to a court historian, “a general country practice, trying all kinds of law-suits, most of the trials being by jury, and full of excitement and interest to both clients and lawyers.”⁴

Active in Republican politics, Wilkin was a presidential elector for Ulysses S. Grant in 1872 and became the unsuccessful candidate for the Fifteenth Congressional District two years later, losing to Democrat John R. Eden.⁵ Wilkin also served on the board of trustees of the new Southern Illinois Normal University in Carbondale.⁶ In 1879, he was elected judge of the Fourth Judicial Circuit, comprising the counties of Clark, Edgar, Coles, Vermilion, Douglas, Moultrie, Macon, Piatt, and Champaign.

Alice Wilkin died in March 1883, and in July 1885, he married Sarah E. Whitlock Archer, daughter of Judge William C. Whitlock of Marshall. Reelected circuit judge that year and assigned to the Fourth District Appellate Court, Wilkin moved with his family to the larger town of Danville. They became members of the Methodist Episcopal Church, and he served as a trustee.⁷

In 1888, he won election to the Supreme Court, succeeding the retired John M. Scott.⁸ Wilkin “represented a large and populous district, which contains many able and ambitious lawyers,” recalled an area attorney, “a district in which there is a sharp division between the two great political parties that represent the opposing political forces in this country; yet both of these parties practically united in supporting his election.”⁹ Wilkin enjoyed sharing the Supreme Court bench with his mentor John Scholfield. “The close intimacy of former years was renewed,” added the attorney, “and remained unbroken until Scholfield’s death, in 1893.”¹⁰

Considered for the 1891 Republican Senatorial nomination, Wilkin remained in the Illinois judiciary.¹¹ That year, he delivered the opinion in *Morgan v. People*, a case involving the inferred waiver of a trial by jury. After indictment in the Jefferson County Circuit Court for assault with intent to murder, defendant George Morgan entered a plea of not guilty. The judge, acting as “the court,” found Morgan guilty and ordered him to serve six years of hard labor in the penitentiary.

In reversing the decision, Wilkin wrote, “The record affirmatively shows, as we think, that plaintiff in error was tried for and convicted of a felony, upon his plea of not guilty, by the judge sitting as a jury. Consent of the defendant in an indictment for a felony can not confer jurisdiction upon the judge, or dispense with a finding of the fact of guilt by a jury.”¹² He remanded the case to the Jefferson County Circuit Court for a jury trial.¹³

In the 1893 *Friederich v. People* case, Wilkin reversed a St. Clair County Circuit Court attempted-murder judgment. During an argument, Edward Friederich had fractured the head of John Platt with a pine plank, causing his death some two months later.

Friederich was found guilty of assault with intent to commit murder and appealed his conviction. In delivering the Supreme Court opinion, Wilkin enumerated the arguments of both Friederich and the state before ruling “that the blow was struck upon a sudden heat of passion, and without malice.” He ordered the judgment reversed and the case remanded to the circuit court for further proceedings.¹⁴

Overwhelmingly reelected to the Supreme Court in 1897, Wilkin served as Chief Justice in 1894 and 1901. “His opinions are fine specimens of judicial thought,” wrote one observer, “always clear, logical, and as brief as the character of the case will permit. He never enlarges beyond the necessities of the legal thought in order to indulge in the drapery of literature.”¹⁵

On April 3, 1907, while working on court briefs, sixty-nine-year-old Wilkin died from acute Bright’s disease. Following Methodist services in Danville, his remains were transported on a four-car train to Marshall. “This train bore the most distinguished funeral cortege in the history of eastern Illinois,” reported the local newspaper. “There were the associate judges of the supreme bench, many men high in state positions, the entire bar of Vermillion county, as well as numerous close friends, beside the immediate family and other relatives, numbering more than 250, on the train.”¹⁶

At Marshall Cemetery, Wilkin was laid to rest with military honors near the grave of his friend John Scholfield. “One loves to think of these two unknown and almost friendless young men,” recalled Supreme Court reporter Isaac N. Phillips, “starting from the same law office in an obscure town of southern Illinois, without other aids than their own native ability and force of character, at length sitting together with credit on the

highest court of their state, and, finally, in death, lamented and honored by the millions of a great commonwealth.”¹⁷

¹ Isaac N. Phillips, “Judge Jacob W. Wilkin—An Appreciation,” *Illinois Law Review* 2 (June 1907), 68-69.

² 229 Ill. 14-15; *Past and Present of Vermilion County, Illinois* (Chicago: S. J. Clarke Pub. Co., 1903), 1087-88; *Portrait and Biographical Album of Vermilion County, Illinois* (Chicago: Chapman Bros., 1889), 608-09; *Robinson Argus*, 10 April 1907, 4.

³ *Clark County Herald* (Marshall), 10 April 1907, 8; William Henry Perrin, ed., *History of Crawford and Clark Counties, Illinois* (Chicago: O. L. Baskin & Co., 1883), 56; *Portrait and Biographical Album*, 608.

⁴ John M. Palmer, ed., *The Bench and Bar of Illinois; Historical and Reminiscent* (Chicago: Lewis Pub. Co., 1899), 68.

⁵ *New York Times*, 31 October 1874, 3.

⁶ William Eaton, “Scholarship, Virtue, and Religion; Robert Allyn and McKendree College, 1863-1874,” *Illinois Historical Journal* 78 (1985), 140.

⁷ *Past and Present of Vermilion County*, 1088.

⁸ *Portrait and Biographical Album*, 608.

⁹ 229 Ill. 18.

¹⁰ Phillips, 71-72; 229 Ill. 15; Palmer, 69.

¹¹ James E. Babb, “The Supreme Court of Illinois,” *The Green Bag* 3 (1891), 237.

¹² This case is described in the Joseph M. Bailey biography.

¹³ *Morgan v. People*, 136 Ill. (1891) 161.

¹⁴ *Friederich v. People*, 147 Ill. (1893) 310.

¹⁵ *Past and Present of Vermilion County*, 1089.

¹⁶ *Clark County Herald*, 8; *Robinson Argus*, 4; 229 Ill. 16.

¹⁷ Phillips, 72.