

## EDWARD EYRE WILLIAMS (1813-1880) JUDGE OF THE SUPREME COURT OF VICTORIA

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Mr Justice Edward Eyre Williams  
[from J Forde, *The Story of the Bar of Victoria*, p104.]

### Introduction

It is an oft-repeated phrase: “Like father, like son”, but in many ways it is an appropriate one to describe their Honours, Sir Edward Eyre Williams and Sir Hartley Williams. They were both successful advocates at the Victorian Bar, they both served on the Victorian Supreme Court bench for at least two decades, they were both bestowed with a Knighthood and they spent the eventide of their lives in England.

It has been suggested that Sir Edward Eyre Williams was “less able and less industrious” than his colleagues,<sup>1</sup> and his son, Sir Hartley Williams never “made the mistake of over-working himself”.<sup>2</sup>

However, these descriptions are not made out on the evidence and should be firmly rejected. Each made significant contributions to the legal system in Victoria. Mr Edward Eyre Williams was an impartial, patient and assiduous judge whose intimate knowledge of that branch of law known as ‘pleading’ was especially recognised by those who practised before him.<sup>3</sup> Sir Hartley Williams showed considerable aptitude for the work of the Criminal Court<sup>4</sup> as well as finding time to issue pamphlets on theological and philosophical subjects.<sup>5</sup> In many ways, father and son were so much alike, that most of Sir Hartley’s characteristics seem to have been hereditary rather than acquired.<sup>6</sup>

### Background

**Edward Eyre Williams** was born in 1813<sup>7</sup>, the sixth son<sup>8</sup> of Burton Williams,<sup>9</sup> Esquire, a planter of Trinidad, West Indies, who married Miss Jane Hartley, the daughter of Major Hartley.<sup>10</sup> He was called to the Bar by the Honourable Society of the Inner Temple in November<sup>11</sup> 1833.<sup>12</sup> On 13 March 1841, he married Jessie (born 29 August 1814), daughter of Rev. Dr Charles Gibbon<sup>13</sup> of the Manse, Lonmay, near Mintlaw, Aberdeenshire, Scotland, by Miss Duff his wife, cousin to the Earl of Fife.<sup>14</sup>

### Arrival at Port Phillip District

Mr and Mrs Williams sailed from Plymouth on 2 November 1841 in the *Andromache*, a barque of 468 tons, and they arrived at Port Phillip 93 days later on 13 February 1842.<sup>15</sup> Garryowen observed: “He was the only member of the original Port Phillip Bar who came provided with a wife to the new settlement”.<sup>16</sup>

### Commencement of Professional practice

Mr Williams soon made contact with other members of his profession<sup>17</sup>, and on 30 March 1842<sup>18</sup>, on the motion of Mr Croke, leader of the Port Phillip Bar,<sup>19</sup> he was admitted to practise in the Supreme Court.<sup>20</sup> He then set up his office at Port Phillip Chambers,<sup>21</sup> and on 7 April 1842 appeared for the first time professionally having been assigned by Judge Willis as counsel to a prisoner indicted for stealing a note from a fellow prisoner in the watchhouse.<sup>22</sup> *The Port Phillip Gazette* noted that “Mr Williams acquitted himself in a manner to establish his credit as a quick examiner and a self-possessed speaker.”<sup>23</sup>

Apparently at about this time, Mr Williams could not decide whether he should take up his profession or try his hand at squatting.<sup>24</sup> According to a contemporary account, a barrister named Baker had decided to sell his law books and return to England, whereupon Mr McCrae advised Mr Williams to buy all Mr Baker’s books, and to practise his profession. Mr Williams at once decided to do so.<sup>25</sup>

### Residence

By 17 March 1842<sup>26</sup> Mr and Mrs Williams had set up a cottage in Brunswick Street, Fitzroy,<sup>27</sup> nearly opposite *Blakemount House*—a villa formerly occupied by Major St John, the Police Magistrate, and in later times by Mr John Edwards jun., a well known solicitor.<sup>28</sup> In his *Port Phillip Directory* of 1842, Kerr states that Mr Williams resided at ‘Collingwood’ but another account gives his address as ‘Newtown’.<sup>29</sup>

In 1839 stage two of the Government sale of land began on the Eastern Hill.<sup>30</sup> There, Benjamin Baxter intersected his field with a neat crossroad pattern (i.e. Gertrude and Brunswick Streets) and began disposing of the new frontages. This intersection was situated about 200 yards beyond the crest of the Hill and a village called at first ‘Newtown’ but more commonly ‘Collingwood West’ developed there, the first settlers being ‘gentlemen’ from Melbourne.<sup>31</sup>

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### Judge Willis

Now that Mr Williams had decided to practise his profession, he began appearing in the Supreme Court before that “controversial and eccentric” judge, John Walpole Willis.<sup>32</sup> The barristers who pleaded in Willis’ Court and formed the first bar were Croke, Barry, Stawell and Williams<sup>33</sup> and although the Bar had a troubled infancy “when it had got its teeth it showed them at least once”.<sup>34</sup>

When Judge Willis said something in Court one day offensive to the Crown Prosecutor Mr Croke, Mr Croke bowed to the Bench and left the Court followed by the other barristers present. A manifesto was afterwards drawn up by the Bar,<sup>35</sup> declaring the Judge’s remarks were unwarranted and thanking Mr Croke for the way he had maintained the dignity and privilege of the Bar.<sup>36</sup>

Willis’ treatment of witnesses and litigants was no more lenient, nor was his running battle with the Press,<sup>37</sup> but Mr Williams was able to remain on friendly terms with Willis; in fact there seemed to be a good deal of rapport between the two. For example, on 24 May 1842 in a case wherein Mr Williams appeared for the defendant, Judge Willis said:<sup>38</sup>

“If Mr Williams you wish to appeal, I shall be most happy to render you every facility in my power to facilitate your object and reserve the case for decision of the Judges in Sydney”.

and again on 2 June 1842:<sup>39</sup>

“Judge Willis: Pray, go on with your case.  
Mr Williams: Your Honor, I am most anxious to do so.  
Mr Croke: Well, prove the authority from M’Dermott to Conolly and Hinton to save this notice of dishonour.  
Judge Willis: If you don’t interrupt Mr Williams and let him go on, I dare say he will prove it. These interruptions, Mr Croke are very unseemly.  
Mr Croke: Indeed they are.”

Garryowen<sup>40</sup> states that “there never occurred anything like a shindy between the two – a circumstance difficult to be accounted for, because Williams was about the last man to patiently submit to a brow-beating”. And it was ex-Judge Willis whilst he was absent in England seeking redress for his summary dismissal<sup>41</sup> who entrusted to Mr Williams the defence of an action by CH Ebden for damages for false imprisonment. Damages of forty-two shillings were awarded in Ebden’s favour.<sup>42</sup>

### Libel Actions

In the early 1840s, libel actions seemed to occupy much of the work of the Supreme Court. Mr Williams with Mr Murray appeared for the defendant in the first criminal libel case heard in the Colony.<sup>43</sup> TM Marshall, a commission agent sued George Arden, the editor of the *Port Phillip Gazette* and an award of £50 was made against Arden.<sup>44</sup>

During the municipal elections agitation of 1843,

a candidate for a seat in the Town Council was “scurrilously attacked” in an article in *The Herald* by Mr Geo. Cavanagh, the proprietor.<sup>45</sup> In the ensuing action for libel, Mr Williams, who appeared for the defendant, addressed the Court at much length and made a very forcible appeal to the presiding judge for leniency.<sup>46</sup> The defendant was fined £50.

In 1844, when Stephen, a member of the Town Council was libelled by McCombie, the proprietor of the *Port Phillip Gazette*, Mr Williams appeared for the defendant who was ordered to pay £50 damages.<sup>47</sup>

In 1848 there was much animosity between the Mayor of the Melbourne Town Council Mr William Kerr and the ex-Mayor, Henry Moor, and Mr Williams was firmly enmeshed in the conflict. In February 1848 when the Speaker of the Legislative Council of Sydney was on a visit to Melbourne, he was entertained by the Mayor (Mr W Kerr) at a dinner “to which the usual select coterie were invited”.<sup>48</sup> The acceptances were general, but Mr Brewster the member in the Legislative Council sent an apology “as he understands he would have to associate with Mr William Kerr”. Mr Williams and Cr. Moor declined to accept the honour on similar grounds.<sup>49</sup> The next month the libels against Moor began to appear in *The Argus*.

In March 1848, Mr Williams appeared for Moor in the libel action against Kerr in which damages were awarded to Moor for £250.<sup>50</sup> Three days later, Moor was again libelled, and in the ensuing action, Messrs. Williams and Stawell gained a verdict in Moor’s favour of £500 damages.<sup>51</sup>

On 13 March 1851 Moor was again in Court, this time alleging that he had been libelled by Wilson and Johnston, the proprietors of *The Argus* wherein they described Moor as a “double-faced, unprincipled schemer”.<sup>52</sup> And once again Messrs. Williams and Stawell appeared for Moor gaining a unanimous verdict in their favour. Damages: one farthing.<sup>53</sup>

### General Practice

Libel actions were not the only cases in which Mr Williams appeared. In fact, he was a thorough master of every matter he took in hand and the care and completeness with which he placed his case before the Court went far to make up for any forensic deficiencies beyond his control.<sup>54</sup>

Before his clash with William Kerr, Mr Williams had appeared for him in an action against Major St. John for false imprisonment.<sup>55</sup> On 19th August 1851, he defended Patrick Kennedy who was charged with the murder of his wife.<sup>56</sup>

There are many other cases which cannot be canvassed here, but Mr Williams was popular with the attornies,<sup>57</sup> and no doubt he would have created a distinct impression upon all those who saw him in Court. As Garryowen states<sup>58</sup>:

“Mr Williams was given to a spasmodic style of address – something of a melodious bark, largely tintured with bounce and so loud lunged that a poetaster once in a local squib designated him as:- ‘The Boanerges<sup>59</sup> of the Melbourne Bar’<sup>60</sup>”

### **Involvement in Community Affairs**

Mr Williams did not simply busy himself in legal affairs. In truth, ‘his portly figure was frequently to be seen, with a stout shoulder to the wheel, whenever any question affecting the public welfare required a strong helping push.’<sup>61</sup> For ten years, he took a keen interest in community affairs and made a significant contribution to the establishment of many social and religious institutions.

As the areas of Newtown (Fitzroy) and Collingwood increased in population in the early 1840s, the erection of a church on the Eastern Hill was an object of first importance.<sup>62</sup> In the spring of 1843, the Right Rev. Dr. Broughton made his second Episcopal visit to Port Phillip,<sup>63</sup> to infuse new life into a movement which had become semi-dormant.<sup>64</sup> As a result of his visit, one of the best attended and most influential gatherings yet held in connexion with church matters was held on 13 November 1843 in Bowens Building, at which the speakers were, Bishop Broughton, EE Williams, J Simpson, JD Pinnock, RW Pohlman, P Davis, J Clutterbuck, Drs. Palmer and Campbell and Major St John.<sup>65</sup>

On 12 September 1848 at a meeting in the Temperance Hall in Russell Street, the Diocesan Society was established to promote the building of churches, maintenance of the clergy, circulation of Bibles and prayer-books and advancement of true religion consistent with the discipline of the United Church of England and Ireland<sup>66</sup> in the Diocese of Melbourne.<sup>67</sup> Mr Williams was one of the many speakers at this meeting.<sup>68</sup>

In September 1855 Mr Williams<sup>69</sup> took the chair at a public meeting held at Dr. Cairns old church in Collingwood for the purpose of forming an association to provide the better observance of the Sabbath in the Colony.<sup>70</sup> The meeting was “very numerously attended” and it was resolved, *inter alia*, that an association of eighteen laymen and of all the members of the Protestant denominations in Melbourne be formed to promote the better observance of the Sabbath.<sup>71</sup> Thus for a long period, Mr Williams was actively engaged in fostering religion in the Port Phillip community.

He was also concerned with hospital matters. In 1845 moves were afoot among the Port Phillip community to build a hospital. On 7 February 1845 a meeting was held at the Royal Hotel to discuss the means of acquiring the necessary funds to build a hospital.<sup>72</sup> The meeting was presided over by the Mayor, Mr Henry Moor and a *pro. tem* executive was nominated, consisting of Supt. LaTrobe as President, Capt. Wm Lonsdale and Mr Williams as Trustees.<sup>73</sup> In January 1846 a contract was entered into for the

erection of a main building of the Hospital,<sup>74</sup> and on 16 June 1847 at a meeting of the Governors of the Hospital, Mr Williams was selected as one of twelve persons constituting the first committee of Management.<sup>75</sup> He maintained his interest in this project for many years and was one of only four citizen subscribers present at the Annual Meeting in January 1850.<sup>76</sup>

### **The Transportation issue**

Transportation also called forth Mr Williams’ energies. As early as 1844, there was a distinct conflict of opinion on the subject of “receiving labourers who had the taint of prison on them”<sup>77</sup> and there were many protracted discussions and much angry feeling in the period between 1844 and 1849 as to the right of the British Government to continue the transportation of felons to Australia.<sup>78</sup> Garryowen declared:

“No man of the time was more denunciatory of the attempts periodically made to turn the district into a cesspool of convict iniquity than Mr Edward Eyre Williams”.<sup>79</sup>

On 1 March 1847, a meeting was held in Queens Theatre, Queen Street as to whether convicts should be admitted in any shape and upon any condition.<sup>80</sup> The Mayor (Henry Moor) was appointed chairman and addresses “in tone and language as unmistakable as the cheering” were delivered by Dr P McArthur, WF Stawell, Edward Eyre Williams, J O’Shannassy, W Kerr, S Stephen, W Hull, HW Mortimer, Major. St. John and B Reynolds. At one stage of the meeting, Mr E Curr who was sympathetic as an employer of labour to procure that article by any means commenced to address the meeting, whereupon he was overwhelmed by a torrent of disapprobation.

“In the midst of this clamour, out jumped before the curtain Mr Edward Eyre Williams who, like an English bull-dog tackled the bear in such a style that the old agitator withdrew with the utmost reluctance and ill grace.”<sup>81</sup>

On 6 March 1849 another meeting expressing opposition to the transportation of convicts was held, but prior to the meeting it became known that the occasion would be turned into an effort for making a covert attack upon Supt. LaTrobe.<sup>82</sup> For this reason, Messrs. Stawell, Williams and others foremost in weight and influence kept aloof.<sup>83</sup> Just eight months later the transportation to Port Phillip ceased.<sup>84</sup>

### **Local Administration**

In 1842 an Act for the Government of New South Wales and Van Diemens Land<sup>85</sup> was passed by the Government providing for the establishment of District councils to carry out local administration. Out of tolls, rates and penalties, the District Councillors were expected to provide roads and public buildings to defray prescribed expenses for the administration of justice and for the maintenance of police and to establish and support schools.<sup>86</sup>

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In the face of much opposition, Governor Gipps proceeded to incorporate 28 Districts, nominate their first members and to arrange for the election of councillors. One of these Districts was the County of Bourke, and it was on 31 May 1844 that Edward Eyre Williams, Edward Curr, Peter McArthur and Thomas Wills were appointed as members for a period of three years.<sup>87</sup>

But because the boundaries of these districts were so large,<sup>88</sup> it was impossible that such a small number of men could superintend with much effect. As a result, few of these District councils ever had a council except on paper<sup>89</sup> and the Bourke District Council existed for a few years without achieving any notoriety.<sup>90</sup> Nevertheless, on 30 September 1851 as the vacancies in the Bourke County were not filled up by election on the first Tuesday in May, Joseph Hawdon, Edward Eyre Williams and Charles Hutton were appointed to hold office till 1 May 1854.<sup>91</sup>

### Other involvements

Concurrent with Williams' appointment as a councillor of Bourke County, on 9th November 1844, he, William Byam Wilmot<sup>92</sup> and Archibald McLachlan<sup>93</sup> were appointed trustees of the Port Phillip Savings Bank.<sup>94</sup>

Mr Williams was also a leading influence in the establishment of the Society of St George which was founded on 29 January 1845 at a meeting held at the Royal Hotel in Collins Street.<sup>95</sup> Some preliminary consultations had previously been held in the chambers of Mr Williams whereat a Code of Rules was prepared and an enrolment of 37 individuals who constituted the original members.<sup>96</sup> On 23 April 1846, a dinner was held to celebrate the National Anniversary of the Society with Mr Henry Moor presiding and Mr Williams in the Vice-Chair.<sup>97</sup> Mr Williams was again Vice-Chairman in 1847, but 1849 was an *annus non* and it faded into obscurity.<sup>98</sup>

Mr Williams was also on the committee of the Mechanics' Institute.<sup>99</sup> Princes Bridge was opened on 16 November 1850 by Supt LaTrobe. After the opening, a celebration was held at the Botanic Gardens and 2000 buns were distributed to children of all denominations. Georgiana McCrae states: "Deduct from these, two begged by Mr Edward Williams for his little boy Hartley aged 7."<sup>99a</sup>

### Melbourne Town Council

As Mr Williams was involved in many affairs of the Port Phillip community, it was inevitable that he should have close contact with the Melbourne Town Council. When the Council began to expand, so did its liability to law suits.<sup>100</sup>

On 17 July 1845 in the Proceedings of the Melbourne Town Council, it was an order of the Day that the Council consider the propriety of appointing one or more Standing Counsel to the Corporation. As a result Edward Eyre Williams and A Cunninghame were retained by the Council,<sup>101</sup> and it was not long

before Mr Williams was called upon by the Council for his professional advice.

On 19 September 1845 nominations took place for the successor to Benjamin Boyd to the Melbourne Town Council. Mr E Curr, who was proposed by Thomas Wills and seconded by Edward Eyre Williams,<sup>102</sup> was elected a week later. A dispute then arose as to the order in which all the recently elected Councillors would retire from the various wards. Mr Williams resolved the matter in an opinion submitted to the Council on 29 October 1845.<sup>103</sup>

On 20 July 1848, nominations were being taken for the political representative of the Legislative Council in Sydney. Mr JL Foster was nominated by Thomas Wills and seconded by Edward Eyre Williams; however, a few of the leading public men held a consultation and decided that an effort should be made to return an 'empty' writ, and as a result no candidates were proposed.<sup>104</sup>

### Political Life

In 1851, Mr Williams decided to enter the political arena, whereupon on 10 July 1851 he advertised a letter in *The Argus* addressed to the Electors of the Pastoral District of Loddon stating that he was desirous of becoming one of the representatives of the people in the first Legislative Assembly. His policy was to preserve the common weal, the attraction to our shores of industrious and well-conducted people and opposition to the introduction of a convict population.<sup>105</sup> He said he was also sensible of the expediency of affording the squatter every encouragement<sup>106</sup> and protection which he was legitimately entitled to expect.<sup>107</sup>

This address, which does not appear to be particularly controversial was well received. A correspondent to the *The Argus* said that Mr Williams was generally supposed to be 'a man of talent. He promised to be a Law Reformer; a better man could not have set the example.'<sup>108</sup>

### New Appointment

But his effort to solicit the suffrages of the electors<sup>109</sup> was cut short by his appointment on 15 July 1851 as the Commissioner of Court of Requests for the City of Melbourne and County of Bourke.<sup>110</sup>

Just three months before this on 1 April 1851, he had taken a similar appointment as Chief Commissioner of Insolvent Estates<sup>111</sup> during the temporary absence of Mr Pohlman in Sydney. But Mr Williams was about to progress soon to much grander things. In response to a request from the Chief Secretary offering him the dual appointment of Commissioner of Court of Requests and Chairman of Quarter Sessions, Mr Williams indicated his willingness to accept the proffered appointments<sup>112</sup> and on 22 January 1852 he was formally appointed to those positions.<sup>113</sup>

These were short-lived appointments for, on 21 April 1852, Mr Williams was appointed Solicitor-General of

the Colony of Victoria,<sup>114</sup> by virtue of which position he became a non-elected member of the Legislative Council.<sup>115</sup> The time during which he was permitted to enjoy these honours unfortunately was too short to enable him to leave any mark on the legislation of the country.<sup>116</sup>

### Appointment to Supreme Court

By July 1851, the Executive Council thought it was advisable that the vacant seat on the judicial Bench should at once be filled up, and the several claims of the various legal officers having been duly considered, the Council further concurred, that without attaching any weight to the fact that Mr Williams had within the last twelve months filled the office of Chairman of Quarter Sessions, Commissioner of Requests and Solicitor-General, and giving Mr Pohlman's long period of service full consideration, it was for the public advantage that preference should be given to Mr Williams' superior standing and qualifications for the office in question, and that an offer should be made to him of the provisional appointment of the third Judgeship.<sup>117</sup>

Apparently, Mr Croke who had received his appointment as Solicitor-General in Mr Williams' stead, applied at the same time to be raised to the Bench, but His Excellency felt himself at liberty to appoint a third judge without reference to Mr Croke, and Mr Williams, very much to his surprise, being quite prepared to go back to the Commission of Court of Requests was appointed to that high office.<sup>118</sup>

Mr Williams accepted the appointment and on 21 July 1852 took the oaths of office and allegiance and subscribed the same.<sup>119</sup> Just prior to this, the fact that he held the appointments of Chairman of Quarter Sessions and Commissioner of Court of Requests did not debar him from continuing practice in the Supreme Court of which he appeared to have had at that time the 'lion's share'.<sup>119a</sup>

Mr Williams was now set for a career on the Supreme Court Bench which was to last nearly 22 years. And excepting his interest in the Sunday Observance issue<sup>120</sup> nothing was afterwards heard of him in public life<sup>121</sup> save in connexion with his judicial duties.<sup>122</sup>

Despite the unfounded allegation that Mr Williams did not take so large a share of the labours of the Court as his learned colleagues<sup>123</sup>, nevertheless he was still regarded as an upright, learned judge and a fine specimen of the English gentleman.<sup>124</sup> As an all-round judge, he was held in much esteem by the legal profession.<sup>125</sup>

### Career on the Supreme Court Bench

Mr Justice Williams spent a lot of time on circuit,<sup>126</sup> disposing of the work of the Court speedily so that he would arrive at the next Circuit Court in order to commence on time. But because of the large amount of work often listed at the Courts, Mr Justice Williams was obliged to sit until late at night. For instance, on 2 May 1870, the *Ballarat Courier* complained

about the haste which Mr Justice Williams was obliged to employ in order to finish the Circuit Court at Ballarat in time to open the Geelong Sessions.<sup>127</sup> The *M A Mail* made a similar complaint in regard to the Castlemaine Circuit Court which commenced on Tuesday 26 April 1870 and the Court had to sit until 2am as the Judge was due at Sandhurst on the Wednesday<sup>128</sup> and Mr Justice Williams had to do his best to get through his business as he had to return to Melbourne to assist at the Divorce Court.<sup>129</sup> On Saturday, 18 February 1871 at the Circuit Court of Belfast, the jury were discharged without a verdict at eleven o'clock at night.<sup>130</sup>

### Sentencing

With such a large output of cases over a period of 22 years, it is difficult to assess whether Mr Justice Williams' penalties were balanced, unduly harsh or otherwise.

Of the 606 people sentenced to death in Victoria between 1842-1967, 185 were actually hanged. 21 of these were hanged after 1900. 358 people came up before Judge Barry on capital charges, and of these 10.6% were hanged. Of those brought up before Judge Williams, 14.2% were hanged and Judge Molesworth recorded 10.1%.<sup>130a</sup>

One of the first cases Mr Justice Williams dealt with<sup>131</sup> was a charge of assault in company wherein the offender was sentenced to three years' imprisonment. This sentence provoked an immediate reaction from the *Melbourne Morning Herald*:

"This sentence appears to be holding out a premium for criminals of the description referred to. 10 years labor on the roads of the Colony would have been nearer meeting the ends of justice. Mild sentences in all similar cases must act most injuriously on the community at large"<sup>132</sup>.

In 1870, Mr Justice Williams sentenced a bank clerk named Draper to 12 months' imprisonment for embezzling the sum of £1030.9.6, whereupon a member of the Legislative Assembly moved for a return showing all the convictions recorded in the Supreme Court and Quarter Sessions in the previous five years.<sup>133</sup> The member said:<sup>134</sup>

"What must the public think without such an inquiry, of a sentence of six months imprisonment for stealing a 2d. stamp and of only twelve months imprisonment for a man occupying a position of wealth, of high social consideration and high standing in a banking establishment who plundered his employers of £16,000.<sup>135</sup> There is a somewhat widespread feeling that the sentences passed by different judges ... are not so much in accord as they should be".

On the other hand, we might consider these cases before Mr Justice Williams:

<sup>136</sup> John Williams charged with forging and uttering a £5 cheque. Sentence: 4 years hard labour.

<sup>137</sup>Michael Walsh charged with larceny of a watch and chain which he said he had only taken for a “lark”. Sentence: 3 months’ imprisonment.

<sup>138</sup>George Williams charged with forging and uttering a money order. Mr Justice Williams said that there was “no need for leniency” as the prisoner had been previously imprisoned for obtaining goods under false pretences. Sentence: Hard labour on the roads for two years.

On 19 February 1872 at the Bendigo Supreme Court, John Doolan (1856-1923) (wrongly charged as James) was tried and convicted for robbery under arms. Mr Justice Williams, believing deterrent sentences to be appropriate, gave him 14 years’ imprisonment with hard labour. Only two years before this in 1870, Harry Power, then Victoria’s most notorious bushranger, had been given only 15 years. Doolan’s mother became distraught and disrupted court proceedings with ‘a piercing lamentation’, crying repeatedly ‘my poor boy!’ The local press reacted by criticising the severity of the sentence and a petition was circulated seeking consideration of Doolan’s age. It failed, but remissions reduced Doolan’s term to ten and a half years, served mainly in Pentridge gaol, Melbourne.<sup>138a</sup>

### Other Judicial Work

Mr Justice Williams was a judge of impartial cast of mind and it was said that he never took a side during a trial or an argument.<sup>139</sup> For instance, at the Sandhurst Circuit Court on 28 April 1870, Mr Justice Williams presided in the matter of *The Queen v Virtue* wherein the defendant was formerly acting Clerk of Petty Sessions at Haywood and Huntly who was charged with receiving an affidavit fee after he had been suspended from the Civil Service.<sup>140</sup> Mr Justice Williams directed the jury that if the defendant took the fee knowing he was no longer a Commissioner of the Supreme Court for taking affidavits, then he was guilty of false pretences; if he believed he was still a Commissioner, even though relieved of his Clerkship, then he had no fraudulent intention.<sup>141</sup> Verdict: Not Guilty.

There were complaints that he was not so impartial. On 1 October 1855 John McCabe was charged with the murder of Louis Walker. He was not represented by Counsel and Mr Justice Williams refused an adjournment for counsel to be procured.<sup>142</sup> McCabe was found guilty and according to William Prentice, an eye-witness at the trial, McCabe was convicted on ‘questionable circumstantial evidence’.<sup>143</sup> The *Argus* lamented:

“Though tried by a judge honoured and respected for his impartiality Mr Justice Williams is not infallible in his conclusions. To say the least, the conduct of the judge was open to animadversion.<sup>144</sup> McCabe had no fair trial, the proceeding was a mockery of justice. Judge Williams has done irremediable harm.”<sup>145</sup>

sought damages for false imprisonment. The plaintiff was arrested for representing himself to be a Police Constable. He was confined for two days at the Sandridge Police Station when a telegram from Deniliquin said he was a member of the New South Wales police force. Damages in the sum of £100 were awarded. Three witnesses who were called for the plaintiff declined to be sworn without payment first of their expenses. Mr Justice Williams intimated that whenever any question arose as to the expenses of witnesses it was a matter to be settled out of court.<sup>145a</sup>

In a case involving directors of the Provident Institute which had been going for four days, Mr Justice Williams asked counsel for the prosecution whether they could carry the case any further because he thought it was only just to say that there was no evidence against the defendants. The case continued and after a hearing lasting seven days, the jury were unable to agree on a verdict.<sup>145b</sup>

### Homily from Bench

It is worth noting that in accordance with the custom of British criminal courts, a judge might accompany a sentence of death or of long imprisonment with a sanctimonious homily and an exhortation of repentance.<sup>146</sup> Mr Justice Williams took full advantage of this usage at the McCabe trial.

“With the introduction of somewhat unorthodox theology, he began administering the usual doses of spiritual advice. It is marvellous how the Judge who hurried on this unsatisfactory trial could venture to preach to this unfortunate man a homily after his conviction and to round the solemn sentences with religious representations.”<sup>147</sup>

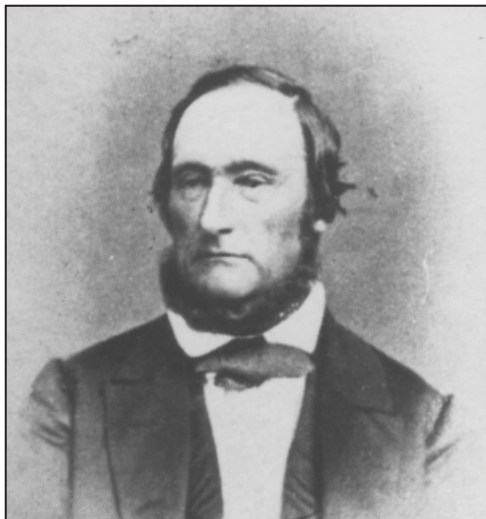
### Justice Williams’ Health issues

The reason advanced for Mr Justice Williams being unable to share the industry of his colleagues, was that for many years he was in delicate health.<sup>148</sup> In April 1859<sup>149</sup> he took a two year leave of absence and visited England: however, his health did not improve.

By April 1871, it was rumoured that he was going to retire because of the fact that Mr Michie, the Attorney-General had been defeated in the election for the seat of South Gipps Land, and that Mr Justice Williams had sold his furniture and effects.<sup>150</sup> However the rumour proved to be false, because in that same month he was well enough to participate in a Commission set up to inquire into and report upon the construction and nature of the accommodation to be provided in the new Court house to be erected at the corner of William and Lonsdale Streets.<sup>151</sup>

The circumstances leading up to his retirement gave rise to some unpleasantness. On 27 March 1874, *The Argus*<sup>152</sup> stated that a rumour had been current for some time that Mr Justice Williams intended to resign his position on the Supreme Court bench.

*Barnardo v Alexander* was a case where the plaintiff



**Mr Justice Molesworth**

[from J Forde, *The Story of the Bar of Victoria*, p104.]

However, according to *The Age*<sup>153</sup> the unexpected retirement of Mr Justice Williams was some five months sooner than he originally intended and ‘curiously’, the announcement of his proposed retirement coincided with the nomination of his son, Hartley for the seat of St. Kilda in the Legislative Assembly,<sup>154</sup> such seat being held by the Attorney-General Mr Wilberforce Stephen.

*The Age* alleged that by a family arrangement, Mr Stephen would accept the vacant judgeship and Hartley would get his seat without a contest.<sup>155</sup>

“It could only be though inadvertence that Mr Justice Williams could injure his son’s prospects by throwing a cloud over his introduction into political life, and rather than run such a risk, we should imagine that he would prefer to withhold his resignation till a more favourable opportunity presents and one which he could avail himself without compromising his own neutrality”.<sup>156</sup>

### **Resignation as Judge**

Nevertheless, Mr Justice Williams was advised by his doctor that he must do no more circuit work,<sup>157</sup> whereupon he forwarded a letter of his resignation to the Crown Law Offices with a request that it date from 15 April 1874 and that he be paid a retiring pension of £1,500pa.<sup>158</sup>

He then arranged for the month of April 1874 to take the Criminal Court business and his colleague Mr Justice Molesworth would take the Circuit Court business.<sup>159</sup>

In the meantime, the Attorney-General declined to “accept the ermine” under the circumstances alleged by *The Age*,<sup>160</sup> and he contested the seat of St. Kilda on 22 April 1874 with success.<sup>161</sup>

### **Farewell ceremony**

In accordance with the practice common in England on the retirement of a judge from the Bench, it was determined that a “demonstration” should take place when Mr Justice Williams should cease to be

a judge of the Supreme Court.<sup>162</sup> As a result “nearly all the barristers in Melbourne” (except those who usually practised in the County Court) attended in the Supreme Court on 30 April 1874 shortly after 11am to hear the Attorney-General express some feelings of regret ‘when we for the first time lose from the Bench one of those gentlemen to whom we have become so accustomed.’<sup>163</sup> Mr Justice Williams spoke a few words in reply and it was said that ‘he appeared somewhat affected and his remarks were hardly audible’.<sup>164</sup>

His Honour said:

“I have to thank you for the opinions which you have expressed, and which I am sure you entertain towards me. During a career of more than 20 years on the judicial Bench there are sure to be many acts in one’s life which one might wish undone, and many words said which one might desire to withdraw; but I fully concur with the remarks of the Attorney-General as to the friendly feelings which have always existed between the Bench and the bar. I am unable to say more at present, but I must reciprocate the views which you have all expressed towards me.”

With that, His Honour then retired from the Bench and the business of the Equity Court was proceeded with before Mr Justice Molesworth.<sup>164</sup>

On 28 May 1874, Mr Justice Williams and Mrs Williams were ready to leave Melbourne. A deputation from the Law Institute waited upon him at the M & HBU railway station immediately before his departure and presented him with an address which was read by the Hon H Ramsay MLA.<sup>165</sup>

“The uniform courtesy which you have always shown to the profession will be long remembered and they desire, in bidding you farewell, to express a sincere hope that the rest and change of scenery which you will experience may speedily lead to your complete restoration to health”.

The address which was handsomely engrossed and bound was signed by the office-bearers of the Institute: R Ramsay, FG Moule, H Taylor, AB Malleon, HJ Farmer, GT Sims, E Bardwell, JM Davies, J MacGregor, AP Blake, W Davies and RS Anderson.<sup>166</sup>

In reply Mr Justice Williams said that:<sup>167</sup>

“he had ever felt that anyone who desired to be thoroughly educated in the legal profession ought to spend some time in a solicitor’s office, and he stipulated with Mr Bullen, the eminent pleader, when his son, Mr Hartley Williams was being educated at home that he should spend one year in a solicitor’s office. His son he had every reason to believe, had greatly benefited by that year’s experience of solicitor’s work. He was confident that certain technical knowledge which he himself possessed, had always been of great service to him”.

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The deputation then took leave wishing the Judge a pleasant voyage and a thorough enjoyment of his well-earned rest.<sup>168</sup>

### Return to England

On 28 May 1874 Judge Williams and Mrs Williams left in the *City of Melbourne* bound for Sydney *en route* to Europe.<sup>169</sup> Mr Justice Williams was created a Knight in 1878,<sup>170</sup> and died on 30 April,<sup>171</sup> 1880<sup>172</sup> at 9 Raby Place, Bath, England.<sup>173</sup> He was aged 66 years. He left a widow,<sup>174</sup> two sons, Edward Eyre<sup>175</sup> and Hartley<sup>176</sup> and a daughter Annie Grace.<sup>177</sup> His will dated 10 July 1856 was proved and the personal estate<sup>178</sup> sworn under £6,000 was bequeathed entirely to his widow.<sup>179</sup>

### Conclusion

Sir Edward Eyre Williams' career in Australia was not controversial but it was a valuable one to the Port Phillip community. He was an able advocate at the Bar and did much to improve the standard of law in the Colony.<sup>180</sup> He was instrumental in setting up many community projects and in this field we owe him a debt of gratitude.

Whilst on the Supreme Court bench, he tackled his work in a capable manner and it was said that whilst some judges thought it necessary on nearly every occasion to assert their individuality by giving their reasons for concurring in the judgment of the Court, Mr Justice Williams seldom occupied time in this way.<sup>181</sup> And yet close observers could frequently perceive that the judgment delivered was materially influenced by his opinion.<sup>182</sup> Questions of pleading and practice he seemed to take up *con amore* and on these his authority was unquestioned.<sup>183</sup>

Mr Justice Williams did not seek the limelight nor was he as colourful as his colleagues, Stawell and Barry JJ, but he provided a reliable and solid basis on which the early law of the Colony could stand. To dwell unnecessarily upon the suggestion that he lacked industry grossly distorts the man and his 22-year career as a judge and ignores his considerable achievements not only as a distinguished Judge of the Supreme Court but as a community leader. He was industrious and committed to his work, often sitting until late hours in order to complete the list and never missed a Court for ten years. History should conclude that Mr Justice Edward Eyre Williams (and his son Sir Hartley Williams) were persons who made a valuable and lasting contribution to the law and the welfare of the state of Victoria.<sup>184</sup>

### Key dates:

|      |   |
|------|---|
| 1813 | Born, 6th son of Burton Williams, a planter of Trinidad.                        |
| 1833 | Called to Bar of Inner Temple.  |
| 1841 | Married Jessie Gibbon.  |
| 1842 | Arrived at Port Phillip. Admitted to practise in the Supreme Court of Victoria. |
| 1844 | Elected Member of Bourke District Council.                                      |
| 1846 | Resided at <i>Como</i> .  |
| 1851 | Appointed Commissioner of Court of Requests                                     |

and Chairman of Quarter Sessions.

|         |   |
|---------|---|
| 1852    | Appointed a Judge of the Supreme Court of Victoria. |
| 1855    | Presided at the murder trial of John McCabe.        |
| 1859-61 | Leave of absence.                                   |
| 1874    | Resigned as Supreme Court Judge.                    |
| 1878    | Created a Knight.                                   |
| 1880    | Died on 30 April.                                   |

### Footnotes:

<sup>1</sup> A Dean, *A Multitude of Counsellors*, Melb. 1968, p70. This "impression" was said to be confirmed by the fact that in the course of the tribute to His Honour in *The Australian Jurist* of 19 May 1874, pxxvi, the explanation for his not taking so large a share in the labours of the Court as his colleagues was that his health limited his activities. This does not prove that he lacked industry, commitment or dedication.

<sup>2</sup> *The Australasian*, 23.5.1903, p1157.

<sup>3</sup> *The Australian Jurist*, 19.5.1874, pxxvi.

<sup>4</sup> *The Argus*, 16.7.1929, p6.

<sup>5</sup> *The Australasian*, 23.5.1903, p1157.

<sup>6</sup> *ibid.*

<sup>7</sup> *The Times*, London 5.5.1880, p5.

<sup>8</sup> *ibid.*

<sup>9</sup> Sir JB Burke, *Colonial Gentry*, vol 1, London, 1891, p179.

<sup>10</sup> *ibid.* cf. *The Times*, *op cit*, states "Captain Hartley of the 48th Regiment of Foot".

<sup>11</sup> *The Australian Jurist*, 19.5.1874, pxxvi.

<sup>12</sup> F Johns, *An Australian Biographical Dictionary*, London 1934, p379.

<sup>13</sup> Garryowen, *Chronicles of Early Melbourne*, 1888, ii, p869. Rev Charles Gibbon was born in November 1789 in Aberdeen, and was married in 1813 to Ann Duff (born 17.11.1787); he was the Minister of Crimond, Lonmay parish, in NE Aberdeenshire for many years. Ann died 11.12.1867, aged 80 yrs, he died 5.2.1871, aged 81 yrs.

<sup>14</sup> Burke, *op cit.* p179.

<sup>15</sup> Biddle, *Transactions of British Ships in the Melbourne Trade in 1842*, p3. Also *Port Phillip Gazette* 16.2.1842, p2

<sup>16</sup> Garryowen, *op cit*, p869.

<sup>17</sup> e.g. on 1 March 1842 he was at "early dinner" with a solicitor Andrew McCrae. H. McCrae ed. *Georgiana's Journal*, Sydney, 1934, p61.

<sup>18</sup> Garryowen, *op cit.* states "22nd March 1842", p865.

<sup>19</sup> H McCrae ed. *op cit*, p44.

<sup>20</sup> *Port Phillip Gazette*, 2.4.1842, p3.

<sup>21</sup> Kerr, *The Port Phillip Directory*, 1842.

<sup>22</sup> *Port Phillip Gazette*, 13.4.1842, p3.

<sup>23</sup> *ibid.*

<sup>24</sup> H McCrae ed. *op cit*, p65.

<sup>25</sup> *ibid.* This date was 15 May 1842 and is a diary note added later by Georgiana. *Quaere* if it should have been 15 March 1842 or thereabouts.

<sup>26</sup> *ibid.* p62. Georgiana visited Mrs Williams at 'Newtown'.

<sup>27</sup> Garryowen, *op cit.* p26. From April 1846 to 30 March 1852, Mr Williams owned Como Estate (selling it to FW Dalgety). Edward Eyre Williams proposed to his future wife Jessie Gibbon beside Lake Como in Italy and named their home in honour of this wonderful occasion. For 95 years the Armytage family lived on the estate and continued the tradition of romance with the 1906 marriage of Constance Armytage to the Aide-de-camp of the Governor of Victoria, Captain Arthur Fitzpatrick. Later, Mr Williams moved to South Yarra and later St Kilda.

<sup>28</sup> J Forde, *The Story of the Bar of Victoria*, Melb. 1892, p299.

- <sup>29</sup> H McCrae ed. *op cit.* pp 62, 65.
- <sup>30</sup> B Barrett, *The Inner Suburbs*, Melb. 1971, p17.
- <sup>31</sup> *ibid.*
- <sup>32</sup> BA Keon-Cohen, *John Walpole Willis the First Resident Judge in Victoria*, in *Melbourne University Law Review*, vol 8, September 1972, p703.
- <sup>33</sup> BH Rankin, *Sir William Stawell*. Vict. Historical Magazine, vol xxvii. p75.
- <sup>34</sup> Forde. *op cit.* p73.
- <sup>35</sup> now numbering six: Barry, Pohlman, Stawell, Raymond, Cunninghame and Williams. Per Forde. *op cit.* p73. On 11.2.1846 an address to Judge Therry was signed by the then Bar, Messrs Croke, Brewster, Barry, Pohlman, Williams and Stawell: per Garryowen, *op cit.* p85.
- <sup>36</sup> Forde, *op cit.* p73, also, Garryowen, *op cit.* p79.
- <sup>37</sup> Keon-Cohen, *op cit.* p709.
- <sup>38</sup> *Port Phillip Gazette*, 25.5.1842, p3.
- <sup>39</sup> *Port Phillip Gazette*, 4.6.1842, p3.
- <sup>40</sup> *op cit.* p369.
- <sup>41</sup> Keon-Cohen, *op cit.* p713.
- <sup>42</sup> Garryowen, *op cit.* p361.
- <sup>43</sup> Garryowen, *op cit.* p357.
- <sup>44</sup> *ibid.*
- <sup>45</sup> *ibid.* p362.
- <sup>46</sup> *ibid.*
- <sup>47</sup> *ibid.*
- <sup>48</sup> *ibid.* p286.
- <sup>49</sup> *ibid.* p287.
- <sup>50</sup> EG Coppel, *Sir William Stawell – Chief Justice of Victoria*. Aust. Law Journal, vol 27, p221.
- <sup>51</sup> Garryowen, *op cit.* p380.
- <sup>52</sup> Garryowen, *op cit.* p389.
- <sup>53</sup> *ibid.*
- <sup>54</sup> *ibid.* p869.
- <sup>55</sup> *ibid.* p359.
- <sup>56</sup> *ibid.* p361.
- <sup>57</sup> *ibid.* p869, “the attornies took to him”.
- <sup>58</sup> *ibid.* p869.
- <sup>59</sup> Son of Thunder: Luke ix, 54; Mark iii, 17.
- <sup>60</sup> Garryowen, *op cit.* p869.
- <sup>61</sup> *ibid.*
- <sup>62</sup> Garryowen, *op cit.* p123.
- <sup>63</sup> H McCrae ed., *op cit.* p110.
- <sup>64</sup> Garryowen, *op cit.* p123.
- <sup>65</sup> *ibid.*
- <sup>66</sup> The birth records at the Office of Births, Deaths and Marriages Melbourne relating to Mr Williams’ second son, Hartley, show his religion as ‘Presbyterian’. File No.4455/43 (NSW). cf. Burke. *op cit.* p179 says the family is of Welsh origin.
- <sup>67</sup> Garryowen, *op cit.* p128.
- <sup>68</sup> *ibid.*
- <sup>69</sup> Mr Justice Williams at this stage.
- <sup>70</sup> *The Argus*. 28.9.1855, p4.
- <sup>71</sup> *ibid.*
- <sup>72</sup> Garryowen, *op cit.* p229.
- <sup>73</sup> *ibid.*
- <sup>74</sup> *ibid.* p235.
- <sup>75</sup> *ibid.*
- <sup>76</sup> *ibid.* p239.
- <sup>77</sup> HG Turner, *A History of the Colony of Victoria*, Melb. 1904, p270.
- <sup>78</sup> *ibid.*
- <sup>79</sup> Garryowen, *op cit.* p869.
- <sup>80</sup> *ibid.* p520. *Port Phillip Gazette*, 3.3.1847, p2.
- <sup>81</sup> Garryowen, *op cit.* p520.
- <sup>82</sup> Garryowen, *op cit.* p522.
- <sup>83</sup> *ibid.* 84. Turner, *op cit.* p276.
- <sup>84</sup> Turner, *op cit.* p276.
- <sup>85</sup> *Gov. Gaz.* 9.7.1851, p19
- <sup>86</sup> Grolier, *Australian Encyclopaedia*. Sydney, 1965.
- <sup>87</sup> *Gov. Gaz.* 26.6.1844, p95.
- <sup>88</sup> County Bourke Letter Book, Public Records Office. “The Dandenong Creek from Port Phillip to the source. The range of hills thence to the Dividing Range at Macedon. Along the Range to head of Howey’s Creek and the eastern branch of the Werribee River to its mouth. The coastline from Werribee to the Dandenong Creek”.
- <sup>89</sup> Grolier ed. *op cit.* p90.
- <sup>90</sup> Garryowen, *op cit.* p869.
- <sup>91</sup> *Gov. Gaz.* 8.10.1851, p630.
- <sup>92</sup> Melbourne’s first coroner. H McCrae ed. *op cit.* p133.
- <sup>93</sup> Accountant. Kerr *op cit.*
- <sup>94</sup> *Port Phillip Gov Gaz.* 12.11.1844, p204.
- <sup>95</sup> Garryowen, *op cit.* p655.
- <sup>96</sup> *ibid.*
- <sup>97</sup> *ibid.* p657.
- <sup>98</sup> *ibid.* p657.
- <sup>99</sup> Miller R, *Australian Dictionary of Biography online*.
- <sup>99a</sup> H McCrae ed, *op cit.* p208.
- <sup>100</sup> Garryowen, *op cit.* 278.
- <sup>101</sup> *ibid.* p278.
- <sup>102</sup> *ibid.* p339.
- <sup>103</sup> Melbourne Town Proceedings in Council 1843-1847.
- <sup>104</sup> Garryowen, *op cit.* p341, Turner *op cit.* p292.
- <sup>105</sup> *The Argus*, 11.7.1851, p3.
- <sup>106</sup> *ibid.* cf. Garryowen, *op cit.* p869 “his proclivities were more anti than pro squatting”.
- <sup>107</sup> *The Argus*, 11.7.1851, p3.
- <sup>108</sup> *The Argus*, 15.7.1851, p2.
- <sup>109</sup> *The Argus*, 6.5.1880, p5.
- <sup>110</sup> *Gov. Gaz.* 15.7.1851, p80. *The Argus* extra 15.7.1851, p1. cf. Garryowen *op cit* p95 gives date as 21.7.1851.
- <sup>111</sup> Chief. Sec. Outwards Letter Book (Local) 17.5.1850 - 18.6.51, Book “U”, Public Records Office.
- <sup>112</sup> *ibid.*
- <sup>113</sup> *Gov. Gaz.* 22.1.1852, p70. *The Argus* 22.1.52 p2.
- <sup>114</sup> *Gov. Gaz.* 21.4.1852, p351.
- <sup>115</sup> *The Argus*, 6.5.1880, p6.
- <sup>116</sup> *ibid.*
- <sup>117</sup> Minutes of the Executive Council, 16.7.1852 - 21.11.1852, vol 1, p130. Minute No. 30. Public Records Office.
- <sup>118</sup> *Melbourne Morning Herald*, 21.7.1852, p3.
- <sup>119</sup> Minutes *op cit.* p131. Minute No.31. *The Argus*, 22.7.1852, p3. In 1865 His Honour’s Associate was TW Palmer: *Sands & McDougall’s Melbourne and Suburban Directory 1865*, p478.
- <sup>119a</sup> *The Argus*, 6.5.1880, p6.
- <sup>120</sup> *ante* p3.
- <sup>121</sup> He may have preferred to watch cricket. e.g. he was a spectator at a cricket match at the Melbourne Ground on Saturday 14 November 1863. He contributed 5s. to a fund for the Pearson family. *The Argus*, 16.11.1863, p4.
- <sup>122</sup> D Blair ed. *Cyclopaedia of Australia*. Melb. 1881, p745.
- <sup>123</sup> *The Australian Jurist*, 19.5.1874, pxxvi.
- <sup>124</sup> Forde, *op cit.* p215.
- <sup>125</sup> Garryowen, *op cit.* p869.
- <sup>126</sup> e.g. from 1864-1874 he never missed a Court: *Age*, 11.4.1874,

## SIR EDWARD EYRE WILLIAMS

p4. For a photo of Mr Justice Williams taken circa 1864, see <http://www.adb.online.anu.edu.au/biogs/A060435b.htm?hilit=e=Edward%3BEyre%3BWilliams>

<sup>127</sup> *The Australian Jurist*, 2.5.1870, pii.

<sup>128</sup> *ibid.*

<sup>129</sup> *ibid.* piii.

<sup>130</sup> *The Australian Jurist*, 27.3.1871, pvii.

<sup>130a</sup> R Douglas and K Laster: *A Matter of Life and Death: The Victorian Executive and the Decision to run 1842-1967*.

<sup>131</sup> On 16 August 1852 the Proclamation appointing Mr Williams as a Supreme Court judge was read, and Mr Justice Williams then took the Criminal Court business including this assault case: *Melbourne Morning Herald*, 17.8.1852, p2.

<sup>132</sup> *ibid.*

<sup>133</sup> *The Australian Jurist*, 7.3.1870, pii.

<sup>134</sup> *ibid.*

<sup>135</sup> The Prosecution only proved £1030.9.6 loss.

<sup>136</sup> *Argus*, 18.11.1862, p6.

<sup>137</sup> *ibid.*

<sup>138</sup> *The Argus*, 20.11.1862, p6.

<sup>138a</sup> GA Mawer, *Australian Dictionary of Biography* online.

<sup>139</sup> *The Australian Jurist*, 19.5.1874, pxxvi.

<sup>140</sup> *The Australian Jurist*, 2.5.1870, pii.

<sup>141</sup> *ibid.*

<sup>142</sup> *The Argus*, 22.10.1855, p3. The police informant was Inspector Robt O'H Burke.

<sup>143</sup> *ibid.*

<sup>144</sup> *ibid.*

<sup>145</sup> *The Argus*, 23.10.1855, p4.

<sup>145a</sup> *The Argus*, 17.11.1863, p4.

<sup>145b</sup> *The Argus*, 10.10.1863, p4.

<sup>146</sup> JV Barry, *The Life and Death of John Price*, Melb. 1964, p115.

<sup>147</sup> *The Argus*, 23.10.1855, p4.

<sup>148</sup> *The Australian Jurist*, 19.4.1874, pxxvi. *The Age* of 11 April 1874 noted that Mr Justice Williams would take the month of April criminal business and His Honour Mr Justice Molesworth would take the circuit business for the first time in 10 years. "This arrangement has been rendered necessary on account of Mr Justice Williams' indisposition."

<sup>149</sup> Sailed without Mrs Williams on *Malta RMS* on 17.4.59: *Argus*, 18.4.1859, p4. His Excellency the Governor, Mr Justice Barry, Mr J Pohlman, the Solicitor-General and a large number of the Bar were present to bid farewell to His Honour. Mr Justice Williams returned 2 years later on *Benares SSS* on 15.4.1861: *Argus*, 16.4.1861, p4.

<sup>150</sup> *The Australian Jurist*, 3.4.1871, px.

<sup>151</sup> *ibid.* 17.4.1871, pxxv. Report of the Commission is contained in *The Australian Jurist*, 28.1.1873, piii.

<sup>152</sup> p2.

<sup>153</sup> *The Age*, 28.3.1874, p4.

<sup>154</sup> *The Age*, 27.3.1874, p2.

<sup>155</sup> *ibid.*

<sup>156</sup> *ibid.* p2.

<sup>157</sup> *The Age*, 7.4.1874, p2.

<sup>158</sup> There was some discussion in Parliament about the large amount of the pension. The problem was that as s49 of the *Constitution Act* fixed the ceiling of £4,000pa for pensions for Supreme Court judges, then if the other two judges (Barry & Molesworth JJ) were to retire, the State would have to provide £6,250 instead of £4,000. *The Age*, 28.3.1874, p4. When Mr Justice Williams on 27 September 1858 applied for half salary whilst on 2 years' leave of absence from 15 April 1859, the Legislative Assembly intervened to refuse the application. Exec.

Council Minutes, 1859-1860, vol 5, p46. The salary of a puisne judge of the Supreme Court was £3000pa.

<sup>159</sup> *The Age*, 11.4.1874, p4.

<sup>160</sup> *The Age*, 28.3.1874, p4.

<sup>161</sup> *The Age*, 23.4.1874, p3.

<sup>162</sup> *The Australian Jurist*, 19.5.1874, pxxvii.

<sup>163</sup> *ibid.*

<sup>164</sup> *ibid.*

<sup>165</sup> *The Argus*, 29.5.1874, p5.

<sup>166</sup> *ibid.*

<sup>167</sup> *The Australian Jurist*, 9.6.1874, pxxxiv.

<sup>168</sup> *The Argus*, 29.5.1874, p5. In *In re Howard Spensley* (1864) Wyatt, Webb & A'Beckett Reports (1864) Mr Justice Williams said that "a gentleman seeking admission to the Bar of Victoria obtains that privilege upon much easier terms than gentlemen obtain the same privilege in England. Much less time, much less labour and certainly much less expense are required".

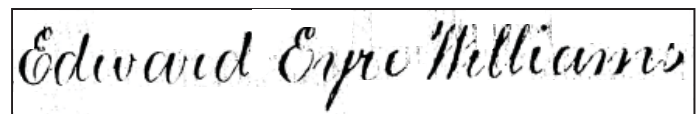
<sup>169</sup> *The Argus*, 29.5.1874, p4.

<sup>170</sup> F Johns, *op cit.* p379.

<sup>171</sup> *The Times*, London, 5.5.1880, p1.

<sup>172</sup> Not 1879 per Mennell P, *The Dictionary of Australasian Biography 1855-92*, London, 1892, p509 or Forde, p215, and not 1888 as per Dean, *op cit.* p70.

<sup>173</sup> *The Times*, London, 5.5.1880, p1. The cause of death as certified by Charles Coates MD was *degeneratio cordis* (heart failure). Present at the death was his son, E Williams of the 8th Kings Regiment, Warley, Essex: Certified Copy of an Entry of Death, in the Bath District, in the sub-district of Bathwick in the County of Somerset, No 348/1880. Following is a copy of the signature of Edward Eyre Williams to his last Will and Testament dated 10 July 1856:



<sup>174</sup> Who was still living in 1903 aged 90yrs: *The Age*, 23.5.1903, p8.

<sup>175</sup> A Colonel who married Harriet Ingram: Burke. *op cit.* p179.

<sup>176</sup> Then a leading Melbourne barrister.

<sup>177</sup> Who married Frederick Langloh Parker and had 3 sons and 2 daughters: Burke, *op cit.* p179. Williams' unmarried daughter, Jessie, lost her life when she fell down a precipice whilst mountaineering in Switzerland in 1872: *The Illustrated Australian News*, 27.7.1881, p138.

<sup>178</sup> *Australian Law Times*, 30.10.1880. pxxiv.

<sup>179</sup> *ibid.*

<sup>180</sup> He edited *Reports of Practice Cases in the Supreme Court of NSW for the District of Port Phillip* in 1846: CP Billot, *Melbourne to 1850*, p174.

<sup>181</sup> *The Australian Jurist*, 19.5.1874, pxxvi.

<sup>182</sup> *ibid.* <sup>183</sup> *ibid.*

<sup>184</sup> Dean in *A Multitude of Counsellors*, *op cit.* p70 states that Mr Justice Williams "avoided publicity, perhaps too successfully to please the historians, for they have largely ignored him." Having regard to the multiple involvements of His Honour in public and community affairs and a long career on the Supreme Court Bench, it cannot be said that His Honour "avoided publicity". In fact, the reverse is true. In relation to the historians, one hopes that this essay and the research involved will show His Honour in a new and favourable light.

### Bibliography:

See essay on Sir Hartley Williams.

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