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SIR J. EARDLEY WILMOT.

1709—1792.

The life of a distinguished and yet unambitious lawyer deserves to be recorded on account of its singularity. Some have sacrificed their principles to their ambition; Sir John Eardley Wilmot was unwilling even to abandon his case.

He was born on the 16th August, 1709, at Derby, and was the second son of Robert Wilmot of Osmaston, in the county of Derby, Esq., and of Ursula, one of the daughters and co-heiresses of Sir Samuel Marow, of Berkswell, in the county of Warwick, Baronet. [Note 45.] He acquired the first rudiments of his education at the free school of Derby, and was afterwards the pupil of the Rev. Mr. Hunter, at Lichfield, where he was contemporary with Garrick and Johnson. In the year 1724, he was removed to Westminster School, and subsequently to Trinity Hall, Cambridge, where he contracted a passion for study and retirement, which formed one of the most prominent features of his character. This disposition led him to prefer the church as his profession; but, at the wish and by the advice of his father, he adopted the law, and, after prosecuting his legal studies with much diligence, he was called to the bar by the Society of the Inner Temple, in June, 1732.

Of the life of Mr. Wilmot, for many years after the commencement of his practice at the bar, few particulars have been recorded. In 1743 he married Sarah, the daughter of Thomas Rivett, Esq. of Derby, afterwards the representative of that borough in parliament. His practice during this period was chiefly confined to his native county; but his reputation in his profession gradually became considerable, and he attracted the esteem and friendship of Sir Dudley Ryder, the attor-

ney-general, and of the chancellor, Lord Hardwicke. In the year 1753, the rank of king's counsel, and subsequently of king's serjeant, was offered to Mr. Wilmot by the chancellor, both of which marks of favour he declined, in consequence of a wish to retire into the country. In a letter to a friend on this subject, he thus expresses himself:—"Consider it well, and tell me what you think of it, for when I have once struck the sail, I cannot set it up again; and, therefore, it requires a proper consideration and digestion in every respect: one thing I am sure of, that any change must be for the better. The withdrawing from the eyes of mankind has always been my favourite wish; it was the first and will be the last of my life." This design, which had also induced him to refuse several offers of a seat in parliament, Mr. Wilmot actually carried into effect, and settled in his native county as a provincial counsel. The ease, however, which he thus sought, he was not destined long to enjoy. Soon after his retirement, Sir Martin Wright, one of the judges of the court of king's bench, died, and it was rumoured that Mr. Wilmot was to receive the vacant appointment. By the person to whom it related, the report was discredited, as no application whatever had been preferred by himself for the office. An official intimation of his majesty's pleasure put the question beyond doubt; but it was not without much persuasion on the part of his friends, that Mr. Wilmot was induced to accept the honour thus offered to him. The influence to which he owed this appointment was unknown to him; but it probably proceeded from the friendship of Lord Hardwicke and Sir Dudley Ryder. He took his seat in Hilary term, 1755, and, according to custom, was knighted.

Another proof of the high esteem in which his professional character was held, was given in the following year, when, in conjunction with the Lord Chief Justice Willes and Sir S. S. Smythe, he was appointed one of the commissioners of the great seal, on the resignation

of Lord Hardwicke. In the opinion of many persons, Sir Eardley Wilmot was the person to whose sole custody the great seal would shortly be committed, an event, the possibility of which he seems to have regarded with much apprehension. In a letter to his brother, Sir Robert Wilmot, he says, "The acting junior of the commission is a spectre I started at, but the sustaining the office alone I must and will refuse at all events. I will not give up the peace of my mind to any earthly consideration whatever. Bread and water are nectar and ambrosia when contrasted with the supremacy of a court of justice."

In the year 1757, Sir Eardley Wilmot had a most remarkable escape at Worcester, the particulars of which are related by him in the following letter to his wife:—

"I send this by express, on purpose to prevent your being frightened, in consequence of a most terrible accident at this place. Between two and three, as we were trying causes, a stack of chimneys blew upon the top of that part of the hall where I was sitting, and beat the roof down upon us; but, as I sat up close to the wall, I have escaped without the least hurt. When I saw it begin to yield and open, I despaired of my own life, and the lives of all within the compass of the roof. Mr. John Lawes is killed, and the attorney in the cause which was trying is killed, and I am afraid some others: there were many wounded and bruised. It was the most frightful scene I ever beheld. I was just beginning to sum up the evidence, in the cause which was trying, to the jury, and intending to go immediately after I had finished. Most of the counsel were gone, and they who remained in court are very little hurt, though they seemed to be in the place of greatest danger. If I am thus miraculously preserved for any good purpose, I rejoice at the event, and both you and the little ones will have reason to join with me in returning God thanks for this signal deliverance: but if I have escaped to lose either my honour or my virtue, I shall think, and you ought

all to concur with me in thinking, that the escape is my greatest misfortune.

"I desire you will communicate this to my friends, lest the news of such a tragedy, which fame always magnifies, should affect them with fears for me.

"Two of the jurymen who were trying the cause are killed, and they are carrying dead and wounded bodies out of the ruins still."

In another letter Mr. Justice Wilmot says, "It was an image of the last day, when there shall be no distinction of persons, for my robes did not make way for me. I believe an earthquake arose in the minds of most people, and there was an apprehension of the fall of the whole hall." The modesty of the writer has induced him to suppress the fact, that his safety was owing to the presence of mind which he displayed in remaining in his place till the confusion was over.*

For many years Mr. Justice Wilmot continued to exercise the duties of a puisne judge in the king's bench, having the satisfaction of acting in conjunction with Lord Mansfield and those excellent lawyers, Mr. Justice Dennison, Mr. Justice Foster, and Mr. Justice Yates. Still his desire to occupy a less conspicuous and laborious station remained, and upon two several occasions he attempted to exchange his seat in the king's bench for that of chief justice of Chester. While he was meditating this retreat, Lord Camden, the chief justice of the court of common pleas, was raised to the woolsack, and Sir Eardley received an intimation from his brother, Sir Robert Wilmot, that it was in contemplation to confer upon him the vacant office. Having proceeded on his circuit, Sir Eardley received a letter from Lord Camden announcing the king's intention of removing him to the chief justiceship of the common pleas, if such a change should be agreeable to him. The purport of this letter was communicated by Sir Eardley to his colleague Sir Joseph Yates, with an intimation of his intention to decline the honour thus unexpectedly tendered to him.

* Cradock's Memoirs, vol. i. p. 86.

Sir Joseph, for some time, in vain endeavoured to dissuade him from his purpose, and it was only by sketching an answer to Lord Camden's letter himself that he prevailed upon his friend to revoke his determination. Sir Eardley accordingly accepted the office, and in the month of August, 1766, received his appointment.

In the evening of the day Sir Eardley kissed hands on being appointed chief justice, one of his sons, a youth of seventeen, attended him to his bedside. "Now," said he, "my son, I will tell you a secret worth knowing and remembering: the elevation I have met with in life, particularly this last instance of it, has not been owing to any superior merit or abilities, but to my humility, to my not having set up myself above others, and to an uniform endeavour to pass through life void of offence towards God and man."

Among the congratulatory letters which Sir Eardley received on this occasion, none were warmer or more sincere than the following from his friend Sir Joseph Yates:—

Clifton, August 30. 1766.

"My dear Lord Chief Justice,

"I have now the satisfaction of addressing my friend by the title I so ardently wished him, and blessed as you are with the liveliest feelings of a friendly heart (one of the greatest blessings that man can enjoy), don't you envy me the joy I feel from this event? I should indeed have been heartily chagrined if you had missed it; and, had the fault been your own, should have thought you exceedingly blamable. My casuistry would then have been staggered indeed, and would have found it a difficult point to excuse you. But now it is quite at peace and entirely satisfied. You do me great honour in rating it so high, and I am sure you speak from the heart. It is the privilege of friendship *to* commend, without the least suspicion of compliment, and I shall ever receive any approbation of *yours* with superior satisfaction. But no man breathing can have a surer guide or a higher sanction for his conduct than

my friend's own excellent heart. Of this the very scruple you raised would alone have convinced me if I had no other proofs. I have not the least doubt that you will find your new seat as easy as you can wish, and *all* your coadjutors perfectly satisfied. There is but one of them that could entertain any thoughts of the same place for himself; and as he knows that in the present arrangement he had not the least chance of it, I dare say he will be pleased to see it so filled. And, as to the rest of the profession, I can affirm with confidence (for you know I have but lately left the bar, where I had a general acquaintance with the sentiments of the hall), that no man's promotion would have given so universal satisfaction as yours. I repeat this to you because it certainly must give you pleasure. Success is never more pleasing than when it is gained with honour and attended with a general good will. It will rejoice me highly to shake your hand before I go northwards; and if I knew what day you would be at Bath, I would give you the meeting there. I long to hear a particular detail of every thing that has passed.

"Your most affectionate friend,

"J. YATES."

On the chief seat of the common pleas Sir Eardley conducted himself with the same candour, modesty, and good sense which always distinguished his judicial character. Though presiding in a court in which he had many of his seniors on the bench, his fine temper and natural urbanity overcame the feelings of regret or chagrin which might have arisen in their minds from his elevation. The firm and impartial hand with which he administered justice between the crown and the subject was well manifested in the memorable case of *Wilkes* v. *Lord Halifax and others*, in which, after much argument, judgment was given against the legality of general warrants, notwithstanding the long course of office in favour of such a practice. "There is no doubt," said his lordship, "but that the warrant, whereby the plain-

tiff was imprisoned and his papers seized, was illegal: it has undergone the consideration of this court, and likewise of the court of king's bench, and has very properly been deemed so by every judge who has seen it; and there is no pretence or foundation for the defendant in this cause to make any stand against this action, by way of justification, in the way he has done, because it clearly and manifestly is an illegal warrant, contrary to the common law of the land. And if warrants of this kind had been found to be legal, I am sure, as one of the plaintiff's counsel observed, it is extremely proper for the legislature of this kingdom to interpose and provide a remedy; because all the private papers of a man as well as his liberty would be in the power of a secretary of state, or any of his servants. The law makes no difference between great and petty officers. Thank God, they are all amenable to justice, and the law will reach them, if they step over the boundaries which the law has prescribed."

In the year 1770, on the resignation of Lord Camden, and the death of Mr. Yorke, the chief justice of the common pleas was considered the fittest person to supply the vacancy; and the great seal, with other honours, was tendered to him by the Duke of Grafton. The day before the resignation of Lord Camden, that nobleman came up to Sir Eardley Wilmot in the house of lords, and, pointing to the great seal, said, "There it is, Sir Eardley; you will have it in your possession to-morrow." Sir Eardley shook his head, and begged to be excused. The highest place in his profession, and the prospect of hereditary honours for his family, had few charms for a man who so deeply loved the calm pleasures of private life. Without hesitation, the chief justice declined the honours which were within his grasp, and though in the course of the same year the great seal was again pressed upon him by Lord North, he persisted in his modest but firm resolution. Indeed, at this time, his health had so far declined as to render it necessary for him occasionally to obtain the assistance of his brethren to preside at the

sittings, and, instead of accepting a more arduous office, he contemplated the resignation of his place in the common pleas. In a letter to Lord Hardwicke, dated the 29th of December, 1770, he says, "My health necessitates my retreat from public business, and all that I ask of his majesty is, that he will be graciously pleased to accept my resignation, for I have desired that it may be communicated to the king in the most humble manner from me, that I do not wish or mean to be an incumbrance to his majesty by any provision out of his civil list." And in another letter, addressed, about the same time, to his brother Sir Robert Wilmot, he expresses himself in the same manner. "I would much rather resign without any remuneration at all. The *plus* or the *minus* of sufficiency lies only in my own breast. I hate and detest pensions, and hanging upon the public like an almanan." In January, 1771, his resignation was accepted; and it was at the particular request of the king himself, which he thought it would be vanity and affectation to refuse, that he received a pension for his life.

Being thus released from the toils of office, Sir Eardley devoted much of his time to pursuits in which he had always taken delight, being a frequent visitor in the reading rooms of the British Museum. For a considerable period also he attended the argument of appeals before the privy council; a duty which he only declined when compelled to do so by his increasing infirmities. At length he retired wholly from public business, enjoying only the society of a very few friends, amongst whom were numbered Lord Shelburne, Sir Thomas Parker, Lord Huntingdon, Lord Hardwicke, and Lord Bathurst; the latter of whom, while he held the great seal, was accustomed frequently to apply to Sir Eardley Wilmot for counsel and assistance. But his principal society was that of his own family, the formation of whose characters he watched over with the most assiduous care, inculcating in the most affectionate manner the noblest lessons of virtue and honour. Many of his letters

to his children have been preserved, and abound in pure and elevated sentiments. In a letter to one of his sons, a boy of fifteen, he says, "I take the first vacant hour I have had this month, to acknowledge the receipt of your letter, and to assure you of my love and affection. I do not in the least doubt but you will merit every past and future instance of them, by seconding my endeavours to cultivate your mind, and principally to impregnate it with those principles of honour and truth which constitute a gentleman, and which I received in the utmost purity from my own father, and will transmit to you, and to your brothers and sisters, as unsullied as I received them; and however fortune may exalt or depress you in the world, the consciousness of having always acted upon those principles will give you the only perfect happiness that is to be found in this world. But, above all things, remember your duty to God, for without his blessing my love and affection for you will be as ineffectual to promote your happiness here as hereafter; and whether my heart be full of joy or of grief, it will always beat uniformly with unremitting wishes, that all my children may be more distinguished for their goodness than their greatness."

Until the year 1786, Sir Eardley Wilmot enjoyed a tolerable state of health; but from this period till the close of his life sickness rendered the continuance of it undesirable. In a letter dated in the above year he says, "I thought you would be glad to see under my own hand that I *exist*, both in body and mind, but can neither go nor stand, nor eat nor sleep; and the worst is, that I am in no danger of being relieved from this painful situation." In this state he lingered for some years, and died on the 5th of February, 1792, aged eighty-two years.

The following character is drawn by the hand of his son. If filial piety may have induced him to heighten the favourable colours, yet the outline and the lights and shadows are, doubtless, upon the whole correct.

"His person was of the middle size; his countenance

of a commanding and dignified aspect; his eye particularly lively and animated, tempered with great sweetness and benignity. His knowledge was extensive and profound, and, perhaps, nothing but his natural modesty prevented him from equalling the greatest of his predecessors. It was this invincible modesty which continually acted as a fetter upon his abilities and learning, and prevented their full exertion in the service of the public. Whenever any occasion arose that made it necessary for him to come forward (as was sometimes the case in the house of lords, in the court of chancery, and in the common pleas), it was always with reluctance; to perform a duty, not to court applause, which had no charms for his pure and enlightened mind.

"But although he was never fond of the practice of the law as a profession, he often declared his partiality for the study of it as a science: as an instance of this, after he had resigned his office, he always bought and read the latest reports, and sometimes borrowed MS. notes from young barristers.

"He was not only accomplished in the laws of his own country, but was also well versed in the civil law, which he studied when at Trinity Hall, Cambridge, and frequently affirmed that he had derived great advantage from it in the course of his profession. He considered an acquaintance with the principles of the civil law as the best introduction to the knowledge of law in general, as well as a leading feature in the laws of most nations of Europe.

"His knowledge, however, was by no means confined to his profession. He was a general scholar, but particularly conversant with those branches which had a near connection with his legal pursuits, such as history and antiquities. He was one of the original fellows of the Society of Antiquaries, when first incorporated in 1750, and frequently attended their meetings, both before and after his retirement: most of his leisure hours were spent in the above researches.

"But of all the parts of Sir Eardley's character, none

was more conspicuous than the manner in which he conducted himself on the bench, in that most delicate and important office of hearing causes, either of a criminal or civil nature. He was not only practically skilled in his profession, but his penetration was quick and not to be eluded; his attention constant and unabated; his elocution clear and harmonious; but, above all, his temper, moderation, patience, and impartiality were so distinguished, that the parties, solicitors, counsel, and audience went away informed and satisfied, if not contented, — 'etiam contra quos statuit, æquos placatosque dimisit.' This was the case in questions of private property; but when any points of a public nature arose, there his superior abilities and public virtue were eminently characterised; equally free from courting ministerial favours or popular applause, he held the scale perfectly even between the crown and the people, and thus became equally a favourite with both. This was conspicuous on many occasions, but particularly in the important cause related before between Mr. Wilkes and Lord Halifax, in 1769.

"In private life he likewise excelled in all those qualities that render a man respected and beloved. His watchfulness, tenderness, and condescension as a parent, the letters in these pages will abundantly testify. May the remembrance and contemplation of his virtues inspire his descendants with a desire to imitate them! This he would have thought the most grateful reward, this the noblest monument! Such unaffected piety, such unblemished integrity, such cheerfulness of manners and sprightliness of wit, such disinterestedness of conduct and perfect freedom from party spirit, could not and did not fail of making him beloved, as well as admired, by all who knew him. Genuine and uniform humility was one of his most characteristic virtues. With superior talents from nature, improved by unremitting industry, and extensive learning, both in and out of his profession, he possessed such native humbleness of mind and simplicity of manners that no rank nor station

ever made him think highly of himself or meanly of others. In short, when we contemplate his various excellencies, we find ourselves at a loss whether most to admire, his deep and extensive learning and penetration as a lawyer; his industry, probity, firmness, wisdom, and patience as a judge; his taste and elegant accomplishments as a scholar; his urbanity and refined sentiments as a gentleman; or his piety and humility as a Christian."

The character of Sir Eardley Wilmot is touched upon by Horace Walpole with some bitterness; but it must be remembered that Sir Eardley was the friend of Lord Hardwicke. "Wilmot was much attached to Legge, and a man of great vivacity of parts. He loved hunting and wine, and not his profession. He had been an admired pleader before the house of commons, but being reprimanded on the contested election for Wareham with great haughtiness by Pitt, who told him he had brought thither the pertness of his profession, and being prohibited by the speaker from making a reply, he flung down his brief in a passion, and never would return to plead there any more." *

The judgments of Sir Eardley Wilmot are to be found in the reports of Sir James Burrow and Mr. Serjeant Wilson; and in the year 1802 a volume, containing various opinions and some of his more important judgments, was published from his own MSS. under the title of "Opinions and Judgments of Sir J. Eardley Wilmot."

SIR WILLIAM BLACKSTONE.

1723—1780.

WILLIAM BLACKSTONE, whose name has become perhaps more familiar than any other in the mouths of English lawyers, was the fourth son of Mr. Charles Blackstone, a silkman and citizen of London, by Mary the eldest

* Memoirs, vol. ii. p. 107.