

A Texas Portrait

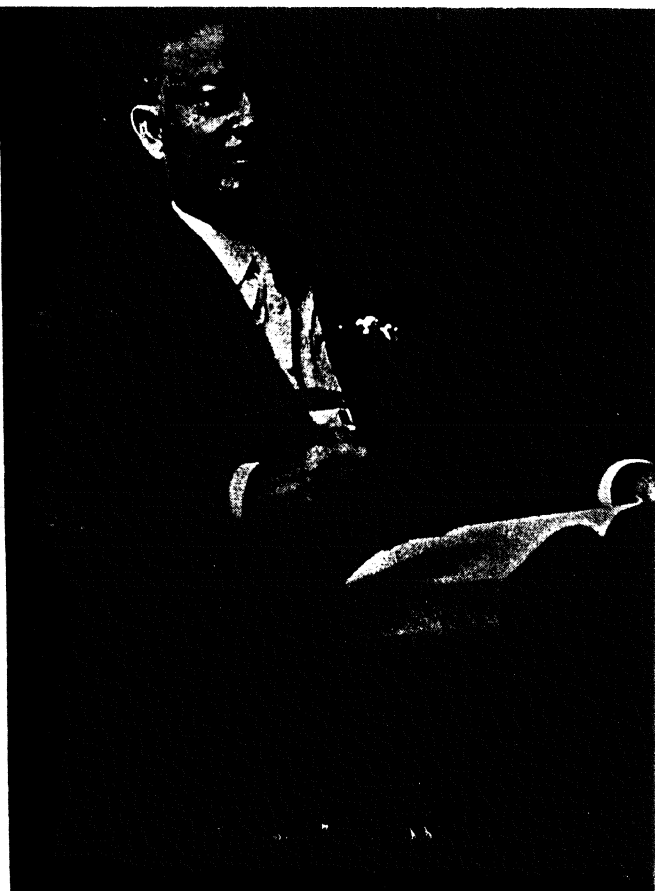
William Buck Wynne

By FRED V. HUGHES of Tyler

William Buck Wynne, Dean of the East Texas Bar and President of the Van Zandt County Bar Association, was born in Rusk County, Texas, April 3, 1856. He was the son of Buck Wynne and Mary Moore Wynne. He came to Van Zandt County in 1877, settling at Wills Point, which was the base for the exercise of his profession. He married Miss Margaret Welch Henderson 59 years before his passing. He was engaged in a large law practice throughout the state until his death on October 31, 1937, which was in his 82nd year. He was buried in the Wills Point Rose Hill Cemetery.

We quote, in part, from the Wills Point Chronicle of that date:

"Sorrow was cast over Wills Point and Van Zandt County Monday morning when William Buck Wynne, loveable Dean of not only the East Texas Bar, but Dean of gentlemen as well, died Sunday night at 10:30 o'clock in the Medical Arts Hospital in Dallas. . . . Mr. Wynne married 59 years ago to Miss Margaret Welch Henderson after he had come to Wills Point and established himself in the law practice. In fact he began law practice so young that he had to have his disabilities removed before practicing law. Coming to Wills Point



WILLIAM BUCK WYNNE, dean of the East Texas Bar, was famous as a courtroom tactician, churchman and trap shooter.

after studying law under an older brother, Mr. Wynne had nothing but a clean name, saddle bag containing his clothes, a saddle and a fine Mustang pony. He has thoroughly lived the life of the Biblical character who received talents from the Lord and multiplied them over and over. . . . Everyone was Mr. Wynne's friend, because they could not help but be such. His attitude toward humanity was ever congenial and helpful. He never lost sight of his purpose in life, and did everything in his power to make life easier for others. There can be no better and more impressive testimony to his life and his principles than the fact that he and his companion have reared to manhood and womanhood as eight such sons and daughters as theirs."

We quote, in part, from the Dallas Morning News of the same date:

"William Buck Wynne, Dean of the East Texas Bar, is dead here at 81. Famed courtroom tactician, also churchman and noted trap shooter. William Buck Wynne, 81, of Wills Point, Dean of East Texas Bar and father of several attorneys of prominence, died Sunday night in a Dallas hospital.

"A native of Rusk County, Mr. Wynne began the practice of law in 1886 in Wills Point, and in his long career practiced in all local Courts, the District Court of Appeals, the State Supreme Court and the United States Supreme

FRED V. HUGHES

Mr. Hughes has practiced law in Tyler since his admission to the bar in 1915 with the exception of four years he spent in Houston. During World War II he was with Baker, Botts, representing the U. S. War Shipping Administration.

A native of Dallas, he attended Cumberland University and the University of Texas, where he was a member of Phi Kappa Psi fraternity.

Mr. Hughes is a former city attorney of Tyler and served on the State Bar's Administration of Justice Committee during 1946-47.

He is a veteran of World War I.

Court. A life-long Democrat in politics, Mr. Wynne attended State Conventions for many years, but never sought public office. He was a member of the Methodist Church and active in his home congregation. He was also noted as a sportsman and held the trap shooting championship of this section of the state for years.

"Mr. Wynne's four sons were associated with him in the practice of law, Angus G. Wynne in charge of the Longview office, Toddie Lee Wynne of the Dallas office, and Jim Buck Wynne and Gordon Russell Wynne with their father at Wills Point. On May 26, 1924, Mr. Wynne and three of his sons, Angus G., Jim Buck, and Toddie Lee were admitted simultaneously to practice before the United States Supreme Court. It was said to have been the first instance of its kind in the history of the tribunal.

"As court room tactician, Mr. Wynne was famous. He successfully defended 179 men and 18 women for capital offenses. Out of the total, only 18 received extended prison sentences. None were executed. Mr. Wynne is survived by his wife; the four sons, four daughters, Mrs. Winona W. Montague, Wills Point, Mrs. E. R. L. Wroe, Austin, Mrs. W. M. Harrison, Fort Worth, Mrs. Jack T. Life, Athens, and a sister, Mrs. W. A. Williams, Dallas. The body was taken to Wills Point for funeral service and burial."

The issue being dedicated to him on the date of June 10, 1937, with respect to the occasion of opening the new Van Zandt County Courthouse, the Canton Herald, in part, says:

"Mr. Wynne, affectionately known to practically every citizen in Van Zandt County, as 'Big Buck,' moved to Wills Point, Van Zandt County, in 1877, where he lived continuously except one year when he lived in Terrell. Because of his outstanding ability and his everlasting popularity, he is at present the President of the Van Zandt County Bar Association, which position of distinction and honor he has held for a long number of years. Mr. Wynne is also Dean of the Van Zandt County Bar, having practiced law for more than 50 years and on the opening of a new Court House, it was deemed necessary by the entire Bar and citizenship that our own Buck Wynne should be present; so he was, despite the ill health he had experienced recently prior to the occasion.

... He and his family are staunch workers in the Methodist denomination as evidenced by their recently showing their deep appreciation for the Church at Wills Point and its membership by placing therein a beautiful electric organ. . . . Van Zandt County as a whole will always love Mr. Wynne. To meet him is to like him; to hear him is to admire him; to converse with him is to respect him, to know him is to love him. So we dedicate a portion of this paper to the President and Dean of Van Zandt County Bar, William Buck Wynne, who is an example of that kind of material that has made possible our new Court House and our reputable court procedure."

His son, the Honorable Angus G. Wynne, eminent Dallas attorney, tells the writer:

"He practiced in many counties in the State including Tarrant, Dallas, Ellis, Hunt, Kaufman, Van Zandt, Wood, Rains and Henderson Counties. During his life his firms had been Wynne and Russell, Wynne and Blanks, Wynne and Collins, Wynne, Wynne and Gilmore, and Wynne and Wynne. His four sons all became lawyers and his daughter, Ada, of course, married a lawyer, Mr. Jack T. Life of Athens. Dad was born near Kilgore, Texas, at a place now called Pirtle. Most of his education came from studying around camp fires when he was hauling freight from Jefferson to Kilgore and towns in that vicinity. He left Pirtle with his Dun horse and two law books. He had always been a member of the Methodist Church and occupied most every position that the lay members of the Church could fill, including Sunday School Superintendent and other lay offices."

His son, the Honorable Toddie Lee Wynne, eminent Dallas attorney and businessman, tells the writer:

"He could whip a fly rod or casting rod to place his bait wherever he wanted it. In his 82nd year, I had the pleasure of standing with him in the surf in the Gulf of Mexico and watch him catch those redfish and trout. As a hunter and as a shot, there have been few who were his equal. He held the live bird championship for some time.

"One of his hunting companions was Mr. Bob Williams of Wills Point. They hunted and fished together a great deal. Mr. Williams often tells the story of the time that he went hunting with Papa the first time after he had gotten the automatic shot gun. Birds were plentiful in those days and the dogs they had were excellent. Mr. Williams said that as the different coveys would rise Papa would say, 'Well, Bob, we got 4,' or 'Well, Bob, we got 5,' when he, Mr. Williams, knew he missed instead of hitting. The next covey rise, Papa turned to him and said, 'Well, Bob, we got 5,' and Mr. Williams said, 'Yes, Buck, like heck we did, I didn't fire a shot.' Yet they picked up the five quail.

"Mr. Williams often tells this story of the two friends from Dallas who came down hunting with them. Papa had two field trial win-

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7. "A people shows more respect of justice, nor refuses submission, when it has seen their author obedient to his own laws." Claudian, *Panegyricus de Quarto Consulatu Honorii Augusti*.

8. *But see*, "I am always at a loss to know how much to believe of my own stories." Washington Irving, *Tales of a Traveler, To the Reader*.

9. "Wisdom has taught us to be calm and meek
To take one blow, and turn the other cheek;
It is not written what man shall do
If the rude caitiff smite the other too!"

Oliver Wendell Holmes,
Poems: Non-Resistance

See also, Webster, *New Collegiate Dictionary* (1953),

"caitiff (kā'tif) . . . *n.* A base, despicable person; a mean and wicked man."

10. E.g., "When you have no basis for an argument, abuse the Plaintiff." Cicero, *Pro Flacco*.

11. *But see*, "We never do anything well til we cease to think about the manner of doing it." William Hazlitt, *Sketches and Essays, On Prejudice*.

12. "Sir, I have found you an argument, but I am not obliged to find you an understanding." Samuel Johnson, *Boswell's Life of Johnson*.

13. *See, e.g.*, "The first thing we do, let's kill all the lawyers." Shakespeare, II *Henry VI*, iv; "Sometimes a man who deserves to be looked down upon because he is a fool is despised only because he is a lawyer." Montesquieu, *Persian Letters*, xlv; "I would be loth to speak ill of any person who I do not know deserves it, but I am afraid he is an attorney." Samuel Johnson, *Mrs. Piozzi*; *but see*,

"Who calls a lawyer Rogue, may find, too late,
On one of these depends his whole estate."

George Crabbe,
Tales, II, *The Gentleman Farmer*.

14. *Cf.* "With us, law is nothing unless close behind it stands a warm, living public opinion. Let that die or grow indifferent, and statutes were (*sic*) waste paper, lacking all executive force." Wendell Phillips; *See also*, "If the law supposes that," said Mr. Bumble, 'the law is an ass.'" Charles Dickens, *Oliver Twist*, Ch. 5.

15. "Do the duty that is nearest thee, which thou knowest to be a duty! Thy second duty will already become clearer." Thomas Carlyle, *Sartor Resortus*, ii.

16. "Once the people begin to reason, all is lost." Voltaire, *Letter to Danielaville*, 1 Apr., 1776.

17. "And do as adversaries do in law, Strive mightily, but eat and drink as friends." Shakespeare, *Taming of the Shrew*, i, 2.

18. "Every quotation contributes something to the stability or enlargement of the language." Samuel Johnson, *Dictionary of the English Language*, preface; *compare*, "Well, if I called the wrong number, why did you answer the phone?" James Thurber, *Men, Women and Dogs*, title of cartoon; "Led go! You are hurtig be!" Kipling, *Just-So Stories, The Elephants Child*.

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ners. One was named Myrtle. Papa was delayed and couldn't go with them when they started, but was to meet them at noon. He says that shortly after they got out of the surrey that the dogs pointed and the three of them came up behind and when the covey rose they all missed. This happened the second time, and then they got a single. When they missed this single, as Mr. Williams expressed it, 'Myrtle turned and looked at them with a look of disgust and trotted home. She just wasn't used to hunting without results.'

Forever recorded in the Minutes of the District Court of Van Zandt County, and in the Minutes of its Bar Association, are the Resolutions, "In Memory of the Honorable William Buck Wynne," in part, as follows:

"In the loss of William Buck Wynne, the legal profession of the State of Texas has lost one of its most honorable and profound lawyers, one who had known but never feared adversity; whose 60 years of service in his profession covered more than half the time that has elapsed since Texas threw off the yoke of Mexican rule and became a free and independent State; one who at all times acquitted himself with credit to himself, satisfaction to his clients and honor to his profession and the judiciary of the State; one who was a worthy match to the eminent and learned lawyers whom he met in legal battles during his long record; one whose record is to be found in the law books of the last 60 years and also in the minds and hearts of the legion of his friends and acquaintances, and will be passed on from generation to generation, from father to son, until it become legend and tradition."

We quote the Dallas Morning News editorial of November 2, 1937:

"A Livable Lifetime. It is so true that we get out of life what we put into it that it is tragic so little of humanity does make its sojourn in the world livable. Col. Buck Wynne dying at 81, can have had few regrets for his long span of years. He had lived them so thoroughly, that he came in time to typify The East Texas, where he spent his whole active life, where he knew almost everyone from high to low, and where everybody knew him. Probably nobody knew that his first name was William, but they all knew Buck Wynne. To the practice of his profession he brought a zest for its adventure that made the law a game to him. The Court room was a dueling ground for the play of wits in which the Colonel seldom came off second best. The stories of his legal career are innumerable, and it can be said beyond question that his was a figure that looms large among the little groups that typified the Texas Bar for half a century as suc-

cessful in its belated polite phase as in its early rough and tumble years. He could appeal to the bench with all the learning of the law, but he could go to the hearts of the jury with all the skill that is bred of knowledge of man. Not East Texan, but East Texas was Buck Wynne, a kindly, genial gentleman, a man never to be forgotten by those who knew him, an understanding leader to whom politics and the law were fun and life something to be lived."

And live life with a zest he did, every golden moment of it. His diversion from his strenuous law practice was found in the great outdoors. The whirr of a quail covey, the ripple of a stream, the mirrored expanse of lake, the undulating waves of our gulf shores, he was master in all phases, a great hunter and skilled fisherman.

The writer's memory goes back 60 years to a day's hunt in his father's bottom pasture. Mr. Wynne had with him his famous bird dogs. Several other men, all good shots, were with him on the hunt. More than 130 quail were killed, mostly by Mr. Wynne. The rapidity of the firing and unerring aiming (three to five birds out of each covey) was startling.

Vibrant personality

Over the stretch of years from before the turn of the century the writer, as child, youth and man, saw and heard this great man, his masterful work in the Court room, his daily contact with the people in our little town, where in common with all little towns, its main street was drab and dreary. It came to life as he would walk down it, his lion-like head erect, his firm and purposeful step, his eyes asparkle, a quip and sometimes a humorous and good natured barb for many, a smile for all, his presence and personality was like a shaft of light across a dull and darkened land. For the writer the shadows lengthened, the years have gone by like pickets on a paling fence all too many and all too soon, but forever etched in his memory will be this shaft of light.

In this day of changing and kaleidoscopic values as uncertain in existence and position as the undulating waves that wash our gulf shores, we can hold fast to what he exemplified. No sheltered desk sitter, but foremost in the vanishing breed of battling lawyers, whose breasts are ever bared to the battle, Buck Wynne was a giant in the Court house lists. Whether to the lowly suit of some distressed tenant

farmer involving a few, but to him most important dollars, or to suits representing vast interests involving millions, in all Courts, State and Federal, from the lowly Justice Court to the United State Supreme Court, he gave alike his great talents.

Lincolnesque in his rugged mental strength and indomitable will, he was self-educated. As a young man he was engaged in freighting. He studied his law books by campfire, when his wagon trains from East Texas points to Jefferson, then a river boat port, halted for the night. He was so young, still a minor when he passed the bar examination, he had to have his disabilities removed before he could practice law. He left Henderson for Wills Point horseback and, like Lincoln, with his law books and all his worldly goods in his saddle bags.

Trust existed

That gallant and saintly lady, his wife, used to meet life's problems with the statement that she put her trust "in God and Buck." The writer doesn't know what degree of trust Buck Wynne's clients put in Omnipotence, but in Buck it was very great.

There is a story extant about the comment of Van Zandt County's old-time (and constant) District Clerk Peg (Wooden Leg) Craft. When a jury came in with a "not guilty" verdict, Peg remarked "that Buck Wynne could clear the Devil." An old weather-beaten farmer standing near replied, "Don't know about plum clarin' him, but Buck could shore convince you of his good pints and maybe git a 'spended sentence."

To the average attorneys facts are as but mad gladiators tearing at each other's throats in an arena of uncertainty and their chances, their client's chances, precisely so equated. But as to Buck Wynne, he always seemed to choose the right side, and his great ability convinced the jury his side was just that—the right side. To the perjuring witness his cross-examination was like a combined thunderbolt and steel trap. To the shy, frightened or disturbed witness he was quite gentle and confidence compelling. He reduced the facts of a case to their least common denominator with simplicity and with clarity.

His was not just the art of making the worst appear the better reason. It was his superb work and masterful effort in so

digging deep into and presenting the evidence as to make the better reason come forth, and, in fact, appear. Members of the bar have often heard of the legend of the lawyer becoming the 13th juror. Buck Wynne closely approached it as, in marshaling the facts, his words over the keyboard of the jury's minds and hearts played their convincing measure.

To his family, William Buck Wynne gave in great abundance his love, care and training, culminating in their large and ever-widening parts, in their civic, cultural, social, professional, and Christianizing rules throughout the land.

To civic and church work he gave generously of his means, time and great talents.

To his brethren of the bar he gave his shining example and unstintingly of his continued service for many years as Dean of the East Texas Bar and President of the Bar Association until his death.

To his clients he gave his all—his indomitable will and loyalty, his untiring efforts and his supreme talents. Fitting here as an everlasting epitaph to his memory, we quote the following part of the Minutes of the District Court of Van Zandt County, forever placed in its records:

"He never failed or refused to assist and protect the poor, penniless and unfortunate, when the aid and counsel of one so well-fitted as he, was required, all without hope of fee or reward other than the knowledge that he was serving the community and mankind."

Life has been compared to one of those long Italian corridors with innumerable panels of paintings of various hands, some masters, many others not so. As time goes on many of them are blurred and much is entirely forgotten. Most are remem-

bered not at all. There are but few which abide with you, every line, every form and tone and shade, an ever-present, never-ending fact. William Buck Wynne is like unto one of those rare panels whose memory will abide with us always.

To a fearless and gallant warrior, hail and farewell.

Ex Post Facto

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separated from the frontier line of the main portion of our State by 200 miles of unsettled country, the situation presents the question in a manner more forcibly perhaps than it could be done in any portion of the Union.

As to whether or not a State Government can protect its citizens against the lawless acts of one clothed with United States authority and pretending to act under color of that authority—

The decision of the U. S. Supreme Court in *Ableman vs. Booth*,¹ says in effect that it is the duty of a State Court to issue the Writ of Habeas Corpus when properly applied for, that when it appears that the party is held by reason of an order or commitment from a United States Court, then the State Court must remand the party held to the custody of the U. S. Marshall.

The Statute of Texas, Art. 194, Code of Criminal Procedure, recognizes this doctrine; and if upon examination the evidence had shown that the arrest was made upon a warrant lawfully issued from a U. S. Court, or having the color of law or right, this Court could certainly entertain no jurisdiction of the matter either under the U. S. or the State law; but when the evidence clearly shows them to be forgeries, this Court holds that no law has been introduced that exactly decides the question of State jurisdiction. We presume that the reason of the silence of our lawmakers and supreme judges on that question arises from their never having contemplated such an act by a United States official.

That persons appointed to the high calling of

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