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ADDRESSES AND PROCEEDINGS

AT A MEETING OF THE

BAR OF NEW-YORK,

ON THE OCCASION OF THE DEATH

OF

WILLIAM KENT.





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Yours affectionately
W. Keble

ADDRESSES

AND

Proceedings

AT A MEETING OF

THE BAR OF NEW-YORK,

ON THE OCCASION OF THE DEATH

OF

WILLIAM KENT.

THE HISTORY OF

THE CITY OF BOSTON

FROM 1630 TO 1800

1800

WILLIAM KENT,

BORN AT ALBANY, ON THE 2^D OCTOBER, 1802.

DIED AT FISHKILL,

DUTCHESS COUNTY,

JANUARY 4TH, 1861.

JUDGE KENT

DIED AT HIS COUNTRY RESIDENCE

(FISHKILL, DUTCHESS COUNTY),

ON THE 4TH JANUARY, 1861.

WHEN the melancholy intelligence of his death reached the city, on the following day, it was announced in feeling terms in the various Courts which were then in session, all of which adjourned, in token of their respect for his memory, and of their sense of the great loss sustained by the public.

A meeting of the Bar, called to express the feelings of the profession on the death of their distinguished brother, was held in the General Term room of the Supreme Court, on the 12th day of January, 1861. The following record of its proceedings is published by its order.

NEW-YORK, 1861.

THE BIRMINGHAM

1877

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PROCEEDINGS.

THE meeting was called to order by E. L. FANCHER, Esq., on whose motion (pursuant to request of the Committee of Arrangements appointed at a previous informal meeting of the Bar) the following gentlemen were unanimously appointed as officers :

President.

HON. DANIEL P. INGRAHAM,
of the Supreme Court.

Vice-Presidents.

HON. SAMUEL R. BETTS,
of the U. S. District Court.

HON. MURRAY HOFFMAN,
of the Superior Court.

HON. GREENE C. BRONSON,
ex-Judge of the Supreme Court.

HON. LEWIS B. WOODRUFF,
of the Superior Court.

HON. CHARLES P. DALY,
of the Court of Common Pleas.

HON. JOHN R. BRADY,
of the Court of Common Pleas.

DANIEL LORD, Esq.

Secretaries.

WILLIAM FULLERTON, Esq.

ALEXANDER HAMILTON, JR., Esq.

J. C. CARTER, Esq.

D. B. EATON, Esq.

Judge INGRAHAM, the Chairman, said :

We are convened, on this occasion, for the purpose of paying a tribute to the memory of one long known and honored in the midst of us, the late Judge Kent ; and probably there was no one at the Bar of New-York whose loss will be more deeply felt, and whose death more sincerely lamented, than his. A long acquaintance with him, commencing more than a quarter of a century ago, and continued with unabated kindness on his part, down to the period of his death, taught me to love and respect him, and I doubt not, the feelings which I entertain will find a response in the heart of every one who had the privilege of his friendship. Immediately after his admission to the Bar, Judge Kent entered into the practice of the profession in this city, and early obtained a rank which older practitioners had failed to reach. In the year 1841, he was appointed a Judge of the First Circuit Court, then a branch of the Supreme Court, and so discharged the duties of that station, that his resignation, in 1845, was received with universal regret. Slight attacks of that disease which has since prostrated him, induced by an ardent desire, on his part, to break down a long calendar left to him by his predecessor, caused his retirement from the bench. I well remember, when remonstrated with, in reference to the excess of labor which he was, at that time, performing, that he expressed the utmost confidence in his strong constitution and uniform good health ; but a few months taught him, as it has others of us who have succeeded him, the error which he was committing, and his resignation soon followed. To those who knew Judge Kent, it would be needless for me to speak of his uniform courtesy and kindness, of his great simplicity of character, of his high literary

attainments, of his legal learning, of his judicial ability, and of his undoubted integrity. In all these respects he was pre-eminent. As a judge, as a lawyer, he displayed eminent ability, and I think I may say, without hesitation, there never was on the bench of the Supreme Court, in this State, a judge more courteous to the Bar, and more kind to the young practitioner, or more acceptable to the profession, than Judge Kent. But I forbear to speak in detail of his character and virtues. It is sufficient for me to say, that in private life, Judge Kent was a Christian gentleman, without reproach. As a lawyer, he was an ornament to the profession. As a judge, he was able, learned, and upright. No man could see him but to respect him. None could know him but to love him. In all the relations of life he was honored; in death he will be mourned. We do well, then, to pay honor to his memory, and to record our esteem of his character and of his works, that others may be induced to imitate his example, and to emulate his virtues.

HON. JOHN VAN BUREN said :

MR. PRESIDENT: The Bar of the City of New-York have received, with emotions of unaffected grief, the sad and startling intelligence of the death, in the meridian of his life and usefulness, of one of their most interesting, accomplished, and distinguished members; and an informal committee of their number have asked me to propose to this meeting, called by them, resolutions expressive of our feelings upon this occasion. Summoned to this melancholy duty, I have supposed I should best consult the proprieties of my position by presenting for their consideration an expression, in the most simple and unadorned phrase, of the sense we entertain of the character of our lamented brother,

and of the loss we have experienced. Intimately associated with him in the latter years of his life, admiring his brilliant intellect, thorough and general learning, rare acquirements, and high personal qualities, it is to the native diffidence of his character that I offer tribute in the simplicity of the resolutions I propose ; and upon my assurance of what his own modest nature would have preferred, that I venture, when I confine the proposed general expression by us within such limited terms. Those present, who will speak in detail of the life and character of William Kent, will be unable to restrain themselves within such narrow bounds. Dwelling upon the incidents of his judicial and professional career, and lingering over the recollections of his charming personal life, enthusiasm becomes natural and eulogy just. And if the veil should be drawn aside which conceals from public observation his domestic life, and we should stop to contemplate the happy relations of dependence and love which this death has severed, it would almost cause a murmur at the decree of Providence that occasions an affliction so sad for a purpose so inscrutable.

Mine be the more humble office of presenting, for your unreserved disposition, resolutions touching the more general and striking features in the character of William Kent, appropriate, as it seems to me, for adoption by this meeting, dictated in sincerity and truth by those who respected and loved him while living, and will ever honor his memory.

Resolved, That the members of the Bar of the city of New-York are profoundly sensible of the loss sustained by them in the death of their late associate, William Kent.

That, in contemplating the character of our deceased brother, we naturally and fondly revert to those qualities of his mind and heart which graced his personal demeanor and intercourse ; to his ever-cheerful temper, his warm affections, and genial sympathies, his fresh

and playful spirit, and to the rare, varied, and extensive literary and classical acquirements which he possessed in such richness, and held in such ever-ready command.

That, while thus mindful of the personal attractions now lost to us forever, we should not omit to testify our high appreciation of the professional learning, the clear and persuasive method of reasoning, the nice power of discrimination, unvarying industry, strict sense of justice, inflexible integrity, and great practical wisdom, which illustrated and adorned his career as a leading member of the Bar, and as a distinguished Judge of this Circuit, reflecting additional honor upon the great name he inherited, and placing his memory justly by the side of that of his illustrious father.

That we tender the expression of our sincere condolence to the afflicted family of the deceased, and that a copy of these resolutions, signed by the officers of this meeting, be transmitted to them, and be also published in the newspapers of this city.

BENJAMIN D. SILLIMAN, Esq., spoke as follows :

MR. PRESIDENT : I move the adoption of the resolutions which have been presented by Mr. Van Buren. They express, I am sure, the feelings and the judgment of this numerous meeting of the Bar, which is not convened in mere accordance with the usage of rendering the tribute due to the honored dead, but the spontaneous impulse of our hearts has brought us together to give utterance to our grief at the loss of one whom we have long loved as well as honored.

It might, perhaps, be difficult to say whether Judge Kent was more remarkable for his intellectual and professional, or for his moral superiority ; but that which, in this hour of bereavement, touches us most nearly, is the surrender which we must make to the remorseless grave of one whose generous and gentle nature, whose genial sympathy, whose warm affections, had so endeared him to us, that our admiration of the lawyer, the jurist, and the scholar, was even exceeded

by our attachment, by our love for the man. He is cut off from us in the very glory of his manhood, with his faculties and his affections in the fullness of their strength and action—ere age had dimmed their brilliancy, or impaired their power, or chilled their ardor.

Judge Kent was born in Albany, in 1802. He had the best advantages of education. After being graduated at Union College, he pursued the studies and entered the profession in which his father, the great Chancellor, stood pre-eminent. He commenced his career as a lawyer, in one respect, under a disadvantage—that of the shadow of a great name. The world is apt to measure the son of a great man by an unfair standard. Instead of passing on his merits and talents by comparison with those of other young men—his cotemporaries and peers—it withholds its commendation unless he displays ability which would add to his father's fame. But Mr. Kent quickly showed himself equal even to such a test. He was early engaged in very important causes, in which he manifested powers and learning that placed him at once in the foremost rank of the profession; and well did he sustain his place there, adding new lustre to the illustrious name he bore.

His natural gifts were of the highest order, and his attainments were such as would have rendered a man of merely common mind distinguished. He possessed remarkable power of analysis, and saw, with the quickness of intuition, the right and morality of a case, and the principles of law involved, and he was ever ready with the learning of the law requisite for their illustration. The force of his argument was aided by the singular felicity and purity of the language in which it was always clothed. So beautiful and attractive was his style, so happy his illustrations, so

abounding in wit, and grace, and learning, and thought, that, whether he was arguing a case or trying a cause, not only the court or jury which he was addressing, but all who were present, having no concern with the subject, including alike the members of the bar and mere spectators, were always eager and delighted listeners.

The time and occasion hardly warrant me in adverting in detail to the leading cases in the arguments of which Judge Kent was distinguished. There are present many who were engaged with him, either as associates or opponents, in those cases, and none can be more earnest than they in commendation of the power and learning manifested by him in their discussion.

He continued in the active practice of the profession until 1841, when he was appointed to the office of Circuit Judge, on the retirement of the Hon. Ogden Edwards, and "when the ermine rested on his shoulders, it touched nothing less spotless than itself." Never were the high duties of a judge performed with more of purity or fidelity. Never were the scales held by a more even hand. Never were the kindly and charitable impulses of a gentle nature more entirely restrained and subordinated to the duty of an inflexible and impartial administration of the law, whether in criminal or in civil cases. In 1844, his health having been impaired by too close application to his judicial duties, he resigned his station on the bench, to the great—it is not extravagant to say the universal—regret of the profession and of the community.

He then visited Europe, and while there, in 1846, received the invitation, which he accepted, from Harvard University, to succeed Judge Story in the Law School at Cambridge. The same industry, and success, and usefulness, which had

marked his previous career, attended his services in the Law School, until the close of 1847, when he resigned his professorship, that he might be with his venerable father, whose twilight was then fast fading into night.

Judge Kent then resumed the practice of the law, and from that time forward continued it in this city with eminent success. Among the remarkable cases in which he bore a distinguished part, was that of *Clarke vs. Fisher* (reported in *1st Paige R.*), in which were considered the nature and degree, and condition of mental power of the testator, requisite to make a valid will. His argument was one of singular ability and learning. It was one of the earliest cases in which he was engaged, and one in which, in the judgment of the bench and the bar, he achieved just, as well as great, distinction.

I may also mention the case of the *State of Illinois vs. Delafield* (8 *Paige*), as to the power of State officers to bind the State in borrowing money for its use, and the limitations of such power; the cases of *Warner vs. Beers*, and *Bolander vs. Stevens* (23d *Wendell*), involving the momentous and vital question of the constitutionality of the General Banking Law; the great case, so universally known in the profession, and out of it, of *Curtis vs. Leavitt* (17th *Barbour* and 1 *Smith*), in which many most important principles were discussed, and an immense amount of property was at stake; and that of *Beekman vs. The People* (27th *Barbour*), involving the law and recondite learning of charitable uses. In these cases (not to speak of very many others) Mr. Kent exhibited ability of the highest order and the rarest learning, and earned a reputation which (in the language of one of the resolutions before us) placed his memory justly by the side of his illustrious father.

The great men of the bar were engaged in the learned discussions of those cases. I may not name those of them who are still among us, and most of whom are now present, but of those who are gone were Jones and Jay, and Ogden and Webster, and Griffin and Sandford, and Spencer and Beardsley, and Hill and Butler. Such were the allies and the adversaries of our departed brother—such were his friends and compeers—such were the great intellects with which his own found congenial intercourse.

He had latterly withdrawn somewhat from his practice in the courts, but still continued in the active duties of the profession. His opinion and advice were sought in important cases. Difficult and intricate cases were constantly referred to him for decision, and weighty and responsible trusts, embracing vast interests and amounts of property, were eagerly confided to his charge and guidance by individuals and by the courts.

Judge Kent possessed, as did his father, a most remarkable memory. He forgot nothing. Every fact, every rule, every principle, when once attained, remained with him always. He combined what are, perhaps, rarely combined, large general knowledge with great accuracy of knowledge. As a *belles lettres* scholar he had few equals in this country. His reading was not limited by the ordinarily wise rule, "*non multa sed multum*," but it was both *multa et multum*. Whatever he studied he studied thoroughly. He read everything, and he remembered everything. What he read did not remain with him a mere accumulation of knowledge and ideas, but became part of his mental nature, storing and strengthening his mind without impairing its originality. A mind thus enriched, and with such resources, could never have suffered from solitude. It would find

within itself abundant and choice companionship. Eminently was this the case with our departed friend and with his venerable father.

Chancellor Kent, during his last illness, passed many silent watches of the night without sleep. When asked if in those long, sleepless hours, he suffered from depression and sad feelings, he replied that he did not—but that, on the contrary, he then derived great satisfaction in reviewing in his mind sometimes some leading principle of the law—going back to its origin—to the reasons from which it sprang—and then recalling in their order the subsequent cases, in England and in this country, in which it had been considered, shaped, enlarged, or qualified down to the final settled rule ; at other times he would select some period of history—perhaps some English reign—and recall its politics, its law, its eminent men, its military acts, and its literature, in connection with the cotemporaneous history and condition of other countries ; sometimes a campaign, perhaps of Alexander, or Cæsar, or Marlborough, or Napoleon, with its plan, its policy, its incidents, and its results.

Judge Kent's general reading was but little inferior to his father's. I doubt whether the Chancellor, at the same period of life, had been able to devote so much of his time to other reading than of law, as his son had done.

One of the early symptoms of the disease which terminated Judge Kent's life, was the loss (some months ago) of vision of one of his eyes. He had reason to fear that he should become entirely blind, but when he spoke of it he added, that it would not make him sad or unhappy, for he remembered all the books he had read, and when he could no longer see he should mentally re-peruse them all.

It is a grateful reflection that, until his last illness, his

life had been one of almost unclouded happiness, save in the loss of his parents. Honors sought him, prosperity attended him, friends loved him, and now deeply lament his loss. I have never known a man whose happy temper, and warm heart, and kind and genial sympathies, so won and attached to him all, of all classes, who came in contact with him, or so conduced to the happiness of all about him. I have never known a man whose wit, and humor, and knowledge, and wisdom, were so abounding and so blended, and the instructiveness, and beauty, and grace, and simplicity of whose conversation, so attracted and fascinated. I have never known a man more fearless in asserting the right, and in the performance of what he deemed his duty. I have never known a man more inflexible in principle, or more strictly upright. Though to a stranger what I have said might appear the strained language of eulogy, yet this meeting is full of witnesses of its truth.

Mr. President, death has of late swayed his scythe fearfully through the ranks of our profession. How many familiar faces have disappeared—how many voices of the learned, the wise, the brilliant, the good, to which we have listened within these walls, are stilled forever. Of your honored companions who dispensed justice from the Bench, Jones, and Morris, and Edwards, and Sandford, and Paine, and Oakley, and Duer, and Mason, have gone in close procession; and, among others from the Bar whose learning, and talents, and virtues, adorned our calling, the grave now hides forever from us the forms of Hoffman, and Ogden, and Griffin, and Sandford, and Spencer, and Hill, and Wood, and Butler, and Miller, and him to whose memory we are now assembled to pay this last tribute of affection and respect.

His death was one of peace, as his life had been one of uprightness. He had so lived and so believed, that when he came to walk through the dark valley he "feared no evil ;" but, leaning on the rod and the staff which can alone support man in that dread hour, he was

——— "sustained and soothed

By an unfaltering trust, and approached his grave

Like one who wraps the drapery of his couch

About him, and lies down to pleasant dreams."

I will not trust myself to speak of the personal relations and almost life-long intimacy that make his death to me indeed a calamity, nor of the hopeless sorrow of that home of which he was the light, the pride, and the joy ; but, with the same beautiful invocation which he so lately uttered on the death of Mr. Butler, let me say : "Tread lightly on his ashes, ye men of genius, for he was your kinsman ! Weed clean his grave, ye men of goodness, for he was your brother."

Ex-Judge FOOT said :

Mr. CHAIRMAN : The duty of seconding the adoption of the resolutions which have been presented to the meeting, has been assigned to me. That duty is freely discharged, as I fully concur in the sentiments expressed in the resolutions, and it is moreover grateful to my feelings to have so suitable an opportunity to manifest my regard for the memory of our deceased brother, with whom I have stood in intimate relations of business and friendship for a lifetime. After graduating with credit at Union College, he was placed by his distinguished father, Chancellor Kent, at Kinderhook, under the instruction of Peter Van Schaick, one of the most learned and accomplished lawyers of this

State, and who had then been compelled to retire from active service by reason of his impaired sight. There he passed, I think, two years, studying and acquiring a knowledge of the principles of his profession. He then came to Albany, where his father resided, and, in the year 1822, entered my office to complete his clerkship, and more especially to acquire a knowledge of pleading and practice. He remained with me until the autumn of 1823, when his father removed to this city, and he came with him. While in my office he was active, attentive, and studious. He finished his clerkship in this city with the Hon. Josiah Ogden Hoffman, and, on being admitted to the Bar, entered into copartnership with him. I removed from Albany to this city in May, 1828, and entered into copartnership with our deceased brother. We continued in copartnership for two years, and occupied offices in connection with his father. In June, 1828, the Franklin Bank failed, and Chancellor Walworth appointed Chancellor Kent receiver. The affairs of that bank were greatly extended and complicated, which gave our firm of Foot & Kent a large and lucrative business. My nephew, Henry E. Davies, the present Judge of the Court of Appeals, having removed from Buffalo to this city, a new business arrangement was made in the spring of 1830. Mr. Davies entered into copartnership with me, and Mr. Kent formed a connection with William S. Johnson. The partnership of Foot & Davies continued till the spring of 1847, when I removed to Geneva, and then our deceased brother took my place, and formed a copartnership with Mr. Davies. This connection continued for several years. On my way home from this city to Geneva, near the end of the month of September last, I stopped at Fishkill to pass a Sabbath with my relative, Judge Davies, and visit

my friend, Judge Kent. At the close of the Sabbath, Judge Davies and I called upon Judge Kent. We found him walking in his lawn. As soon as he saw me he approached and met me. It was our first meeting since his illness. Enfeebled by sickness, he could not command his feelings, nor could I entirely command my own. After walking with him some time over his beautiful grounds, conversing sparingly, and on topics least calculated to excite our sensibilities, we entered his house. A pleasant conversation with him and his family ensued. Fearing to prolong my visit, though urged by him to do so, I took leave of him, apprehensive that it would be, as it was, our last meeting. Thus closed an intimate business and social intercourse, which lasted for thirty-seven years, without an incident or a remark to interrupt or mar its happiness. This enables me to speak of our deceased brother with knowledge, and to say, what simple truth requires me to say, that he was an honest man, a good lawyer, a learned and upright judge, a ripe scholar, and a finished gentleman. In one respect he excelled all men I have ever known, and that was, in the care and watchfulness with which he avoided injuring the feelings of others. No person, high or low, rich or poor, ever heard him make a rude, harsh, or unkind remark. It was a lovely trait of his character, and one which rendered him so acceptable, as he was, to all. I could recall and dwell for hours on pleasing incidents of his well-spent life, but they are more appropriate for the social circle, or retired contemplation, than public exhibition. My feelings lead me rather to think than to speak of him; and I will close my remarks with the observation that we may justly be proud of our country and institutions, when in the one, and under the fostering influence of the other, men like William Kent are raised, live, and die.

Judge THOMAS W. CLERKE said :

Mr. CHAIRMAN : At the request of the Committee, I rise most cheerfully, and yet most sorrowfully, to concur in the resolutions.

For the period of thirty years, during which I have been engaged at the Bar, and on the Bench, in the administration of the law in this city, this is the first time I have felt justified to speak to a resolution upon an occasion of this kind. Not that all the individuals, whose death summoned assemblages of their brethren to testify their respect and grief, were unworthy of eulogy, but because I could not, with truth say, that I personally knew enough of their characters and manner of life to enable me to offer any satisfactory comments concerning them. Besides, on some of those occasions, I imagined a disposition to bestow praise without discrimination, to give credit for qualities not possessed ; or, at least, to exaggerate the merits of the deceased. But, on the present occasion, I may truly say, I speak that which I know ; and, although I had not frequent opportunity of very familiar intercourse with Judge Kent, I have been rather intimately acquainted with him during the whole period of my professional and judicial career. His sagacity, his suavity, and his legal learning, attracted my early notice and regard ; and I have not been inattentive to the incidents and course of his professional and public conduct. Therefore, the trifling and imperfect tribute which I am able to offer on this occasion, is not offered in obedience to frigid custom—is not the tribute of dry routine—is not the hollow adulation of the lips, but is the voluntary homage of the heart, founded on sufficient knowledge of the man, and fortified by the unhesitating voice of the community in which he lived.

To say that William Kent was a gentleman of integrity, of unblemished life, of elevated and honorable sentiments, of great discernment and intelligence, exhibiting affable manners, and possessing professional skill and knowledge, would only be saying what could, with equal truth, be said of many others. These qualities, indeed, he possessed and exhibited in an eminent degree. But I should be doing injustice to my subject, if I did not mention the characteristics which, I think, distinguished him from ordinary men. To a profound knowledge of the principles and history of the law, he added the graces of superior literary culture, and a thorough and extensive acquaintance with the classic authors of our language. This infused into his mind a taste, which manifested itself in all his compositions, legal or general. In these you discover no cumbersome redundancy, no attenuation of the thought, no straining for display, no useless parade of authorities, no abortive attempts at high rhetorical flights, which the subject did not require, or which the writer could not sustain. His style was lucid, complete, and elegant. He disdained unnecessary words and meretricious ornament. In short, he was learned without pedantry, precise without ostentation, and copious without prolixity.

As we all know, he was the son of one of the most eminent jurists whom this country has produced, and although, in some respects, it is an advantage to inherit the name of a distinguished parent, yet it is not without its drawbacks and difficulties. Too much is generally expected from a person inheriting such a name, and everything he does in his profession, even when he exhibits considerable attainment and capacity, is apt to be severely criticised, and unfavorably contrasted with the riper endowments of

his father. This is often accompanied by a popular opinion, founded on something savoring of a superstitious notion, that great abilities are seldom transmissible to a man's descendants—a notion undoubtedly at variance with the teachings of experience and of mental science, but, nevertheless, like a host of other errors, very generally held. The subject of our remark, I suppose, encountered those difficulties, but he successfully surmounted them; and although he was not as extensively known as the Chancellor, all who did know him, capable of forming an opinion, believed that the ability and learning of the son were not inferior to those of the father. He was only a short time, comparatively, on the bench, and he never wrote a voluminous work, like the Commentaries on American Law; but I am sure, if he remained long enough on the bench, or if he chose to employ his talents in the production of a legal treatise, his reputation would not suffer in comparison with that of his father. Indeed, he could have attained fame and the highest position in any pursuit requiring the exercise of high intellectual qualities; but his ambition was chastened and moderate, and he seemed to have no aspirations for place or popular applause. He was one of those, of whom the poet says,

“Although he could command, he slighted fame.”

All who knew him, I am persuaded, feel this day that the Nation, the State, and the local community in which he lived, have sustained a serious bereavement. But our loss is, I trust, his gain. He has left us in the height of a fearful crisis in our country's history. In the words of the evangelical prophet, I may say: “The righteous perisheth, and no man layeth it to heart; and merciful.

men are taken away, none considering that the righteous are taken away *from the evil to come.*" Our departed brother is spared, probably, the necessity of witnessing what to him would be worse than many deaths—the dread catastrophe which, we have too much reason to fear, is now impending over us—which I pray God, even now, in His infinite mercy, to avert. Judge Kent would rather have died, if it were left to his option, than to behold the great Republican Empire of the West shattered into miserable fragments—freedom's brightest hopes obscured, perhaps forever blighted—the utter and shameful failure of the most goodly and most complete experiment of self-government ever designed. No, he loved his country too fervently to desire that he should survive her downfall. To such a mind as his there is something agonizing in the thought of the extinction of this nation; and, if such a direful calamity should be approaching, many a patriotic heart in this land would consider William Kent a happy man in dying before its consummation.

I conclude, sir, by cordially concurring in the resolutions proposed.

SAMUEL E. LYON, Esq., said :

Mr. PRESIDENT: The custom of meeting, as a body, to testify our respect for the memory of a departed brother, obtains only, so far as I have observed, among our own profession, and the havoc that death has made among us within a few years, has called us together with painful frequency. These meetings are characteristic of our profession; for any one who is familiar with our traditions, or has noticed the daily incidents of our lives, must have seen that we are more closely allied to each other, and more

really interested in the success and advancement of each other, than is the case in most other callings in life; and when death comes among us, it seems to me that we really feel that we have had, in the kindly language of our guild, a brother taken from us. To-day, no term less near would symbolize our feelings, for our departed friend was in truth beloved by all who came within the sphere of his attraction. To-day, we think only of his heart, and that great flood of warmth which he shed upon those whom he loved. To-day, we forget that luminous mind and exhaustless memory, and pay our tribute to the true man and cordial friend, the grasp of whose hand will meet ours no more. At a future time some fitting pen will do justice to his intellect—for the present we commune over his ashes in view of the things which the head did not fashion, the recollection of which almost makes children of us, and seeks to express itself in words and forms as simple as children would use, grieving over a lost companion.

No one realizes a great loss at the moment the blow falls. God, in his mercy, has made this to be so: but those of us who have known Mr. Kent for many years, and have been admitted into the inner temple of his friendship, and have passed that period of life after which men make few new friends, will realize, with a consciousness deepening day by day into our hearts, that no inconsiderable part of our store of interest and affection has gone down with him into his grave forever. Yet the memory of his kindly smile and genial tones will stay with us as long as we have a memory to hold the precious gifts of life.

But, outside of this small circle, and still outside of that larger circle who esteemed and admired him from the most casual acquaintance, Mr. Kent held a peculiar relation to

all the lawyers, and, indeed, I might say with truth, to all the people of this State.

We held him as one of the heir-looms of the law, and cherished him as a birthright of the profession. There was not a law student, in the most remote county in the State, with whom the name of Kent did not become associated with his first lesson in jurisprudence, and who knew that down in the city of New-York there was one upon whom the name had descended, worthy to bear the great and spotless mantle that had fallen upon his shoulders. As the only son of him who may be said almost to have created that branch of our jurisprudence upon which especially he shed the light of his intellect, and bestowed the labor of the best part of his life, we considered the child of his loins, in one sense, a co-heritage with that monument of his judicial life, and while we gave to the one our admiration, we added for the other our esteem and love. Even at this moment we rejoice to know that they will go down to the coming years together, and that, joined as they were in life, in death they are not severed.

I do not believe there is a name connected with the history of this State, whose work commenced after the adoption of our Federal Constitution, which is held in the same degree of affectionate regard, even among laymen, as that of Kent. Its inscription upon the roll, where we preserve our honored names, stands in more clearly defined characters now, than on the day when his life passed into the domain of history. It is the best tribute that, in this hour of bereavement, we can render to the memory of our departed friend, that he never sullied that name, or darkened one ray of its conspicuous lustre; and we cling the more fondly to the memory of our brother, for that he did maintain the

high standard of his inheritance, in spite of his eminently good fortune. With such a name to fall back upon, with ease, if not affluence, always at his command, and never feeling the spur of necessity, why should he enter the arena of that hard struggle, which begins with its summons upon a wearied brain as the new year dawns, and does not end when the old year goes out? the soreness of which you, my brethren, alone know, and which these faces around me, pallid with toil, and seared with tracks not made by years, too well attest.

That he did so, and made a record for himself that would have been honored and loved if his father had left him obscure in name and poor in purse, is one of his highest claims to our respect, and while we will pay a proper homage to his lineage, we will cherish his memory in our heart of hearts, for those best things which he himself bestowed upon us.

WM. FULLERTON, Esq., said :

MR. PRESIDENT : In speaking to the resolutions offered, I shall not enter into any detail of the life or character of William Kent. That would be but a repetition of what has been so well said by those who have preceded me. In offering my feeble tribute to his memory, I shall ask your attention, therefore, but for a moment.

This saddened audience recalls to our minds the many occasions on which we have been assembled, within the past few years, to honor the worthy dead.

How many shining lights of the Bench and the Bar have, within a brief period, been extinguished by the hand of death !

Judges Jones, Edwards, Oakley, Duer, and Ingersoll, no

longer adorn their wonted places, and the voices of Sandford, Wood, Butler, and Hill, are no longer heard in the peaceful conflicts of our Courts.

Thus, one after another, the good and the great are passing from among us,

“ To keep
That calm sleep
Whence none may awake.”

No man would be more missed by his circle of friends than Judge Kent. For, who of them has not been the recipient of his kindness? Who of them has not felt the magic of his presence, and been charmed by his genial wit and humor? Who of them has not profited by his counsel, and enriched himself from the treasures of his learning? And above all, who of them has not been strengthened by that unbending integrity, that strong sense of justice, which marked his whole life, whether he held the scales between contending parties, or moved in the less conspicuous sphere of private or professional duty?

He will be missed by judges: for he had an experience from which they could learn wisdom.

He will be missed by lawyers: for whose name was so readily agreed to, to determine the rights of litigating parties, in that important class of cases which are tried out of court, as his—not more for his great learning, than because his name was a guarantee that those rights would be judged, not only by a sound and discriminating mind, but by one whose integrity was above every earthly temptation.

He will be missed by his personal friends: for his winning manners, amiable temper, and kind and affectionate nature, made him a companion never to be forgotten.

There is another place where he will be missed, of which

it is scarcely proper for me to speak. But who that has seen him surrounded by the sweet attractions of a home, where he was the beloved and honored head, can fail to contemplate the desolation which has fallen there ?

Judge Kent's death, though sudden, was not unexpected. The character of his disease was such, that for many months past it has been certain that his active usefulness was at an end, and his days numbered.

I have a painfully vivid recollection of the day when his physician, for the first, communicated to him the fatal nature of his malady. Up to that time it had not been suspected. Surrounded as he was by everything that could contribute to human happiness, and possessing an exquisite taste for the world's innocent enjoyments, the announcement was a blow as severe as it was unexpected. He yielded to his fate with a becoming submission, but from that time he sank,

——— “yet so calm and meek,
So tearless, yet so tender—kind,
So grieved for those he left behind,”

that the close of his life was a continued exhibition of those graces which were so prominent in his character.

In honoring such a man we honor ourselves.

I will not consume the time which belongs to others, but close my brief remarks by adverting to the moral beauty, as well as propriety, of these proceedings.

As a class, we have paused for an hour, arrested the business of our offices and courts, that the death of one of our number, eminent for his virtues and noble life, may make its suitable impression upon our own hearts, to the end that we may, to some extent, imitate those virtues, and follow his example.

Nothing would so much honor the memory of him whom we all deplore. For thus would our lives become his living monument, and the principles which guide us, his appropriate epitaph.

Happy will it be for us, and for those around us, if the contemplation of the character of Wiliam Kent shall enable us to shed around our path some of the many blessings which ever irradiated his.

Mr. MAXWELL said :

After what has been said so eloquently and so well, little remains to illustrate the character of our lamented friend and brother. The young and the aged meet together to do honor to the memory of Kent. I come to claim the privilege of lamenting, in common with my younger brethren, the death of our friend ; and though our eyes be somewhat dim—though the words flow less readily from the tongue than they were wont to do—we are not less deeply affected than younger men who deplore the death of the good and the wise—one whom we loved and honored for his excellence of mind and heart ; and we come, on this occasion, impressed with the sentiment of the great English moralist, “ Far from us be that frigid philosophy that would conduct us, indifferent and unmoved, over any ground ennobled by wisdom, learning, or virtue.”

We have heard from eloquent gentlemen a just eulogium on the professional and moral character of Judge Kent. They have referred to the overshadowing influence of his father's name, and how the son persevered, with modest views of his own personal merits, relying upon them alone for professional success.

Undoubtedly there might have been a drawback, from the

fact that the public attributed to the illustrious Chancellor acquirements which were scarcely to be obtained by the exertion of the son. This may, in some degree, be true; but I think the young men at the Bar will not fail to recognize and do honor to the moral beauty and courage in the character of Kent, as exemplified by the unaffected, simple demeanor of his life and manners. At an early age he was thrown into frequent intercourse with many distinguished men, who frequented the house of his honored father. This brought with it the danger of an exaggerated self-esteem—a false estimate of one's self, under such circumstances—too often the infirmity of common men. But, gentlemen, from this trial Kent came forth unscathed. He came forth without a taint of affectation, without a taint of arrogance or presumption. Was not such an ordeal more hazardous than that trial which attends so many young men of the profession—who are obliged to fight the battle of life to attain a position only to be won by nights of study and days of toil, and often amidst the ills of adverse fortune?

My friend, Mr. Silliman, has spoken of the genial temper and of the kind feelings in social life by which Judge Kent was endeared to his friends. There are some here who have seen him in moments when he threw off the cares and anxieties of judicial and professional life: some of us—alas! how few—have met him in the brotherhood of the Bar, when “the feast of reason and the flow of soul” consecrated and ennobled the “*scæne noctes quis deorum.*”

Allusion has been made to the literary character of our lamented friend. He was eminently distinguished as a scholar of highly cultivated taste. In the range of French and English literature, few professional men excelled him in the extent and variety of his reading. He was well versed

in the classics of Greece and Rome. From such sources we may conclude that he acquired, cherished, and honored the glorious sentiment of Robert Burns :

“The rank is but the guinea’s stamp,
The man’s the gowd, for a’ that.”

Mr. President, you have referred, in eloquent terms, to Kent as a lawyer and a judge ; others have united in similar terms of eulogy. The gentlemen and scholars of Cambridge have testified to the high estimate you have expressed, accustomed to judge others by the standard of their Websters, their Everetts, and their Storys. Kent was thought worthy of distinguished professional honors of Harvard. Then, what shall be said of him in his judicial character ? You have said, Mr. President, that the ermine he wore was pure and untainted. You may say, too, with truth, that he came upon the bench with sentiments without which the character of a judge, under our present system, is hardly respectable. He came upon the bench with a just appreciation of the dictanter of Lord Mansfield : “I wish popularity—popularity which follows, not that which is run after—popularity which, sooner or later, will not fail to accomplish noble ends by noble means.” He felt the truth and force of the sentiments of the great Roman magistrate : “*Ego hoc animo semper fin ut invidiam virtute partam—gloriam non invidiam putorem.*”

Sir, he was honored and beloved for his intellectual excellence, and for the best impulses of a pure and noble nature. He has left an example which, I trust, will find many imitators among the young men of the profession. After a long sickness, the command of Heaven was heard : “Set thy house in order ; thou shalt die, and not live.” We

have reason to believe, Mr. President, that the voice of God fell not upon heedless ears. We have reason to believe and to rejoice, that Kent died in the full fruition of Christian faith and hope.

JAMES T. BRADY, Esq., said :

You may be surprised, Mr. President, that I should rise to address this meeting of my brethren at so late an hour of the day, and after the touching display that has been already made in doing justice to the memory of the worthy man whose loss we now deplore, and whose virtues we commemorate. He has been spoken of in fitting terms of eulogy by his opponents, his associates, his intimate friends; by the young with reverence, by the old with grief—and, of these latter, by one who comes among us almost from a past generation,* in the full fruition of the honors he so deservedly wears. We hear his welcome voice proclaiming, in words of truth, the great merit that belonged to the deceased, and the solemn duty we owe his memory.

This, sir, would be enough for any man in any period of the world's history. It would have been an adequate tribute if offered in behalf of that great orator who flourished in the palmiest days of Rome, and to whom our friend, Mr. Maxwell, referred, when he quoted to our delighted ears a beautiful passage in that grand old tongue which, it would seem, no worldly change can eradicate, no lapse of time efface.

I am compelled to say, that I feel reluctant to disturb the harmony of these proceedings by the unconsidered phrases which I must employ at this time. In endeavoring to express myself as I should wish, I feel not less

* Hon. Hugh Maxwell.

hopeless than did poor Ruth, when she "stood amidst the alien corn." There is, in truth, no gleaning to be done here. All that I can attempt, is to take the thoughts and words that lie scattered in my intellect, or rise unbidden to my tongue, and lay them as a heartfelt offering, and with all sincerity, on the grave of my departed friend. His exquisite taste, his matured judgment, would enable him, were he here, to estimate their truthfulness, and to say whether there was any beauty in the sentiments they expressed. He might exclaim :

" We perish as the flowers do,
 And breathe away
 Our lives upon the passing wind,
 Even as they !"

When I was engaged, while yet a boy, in the study of the law, it was one of my pleasures to attend before the good and gifted Riker, in the Criminal Court, where he presided with so much dignity, and which he quitted amid the regrets of all who had experienced his amenity, or knew his love of truth and right. Our good friend, Mr. Maxwell, in speaking of those of our brethren who have gone before us, reminds me, that in those days when he was so deservedly eminent, there were among the men who appeared in the same tribunal, the lamented Graham, the warm-hearted Blunt, the eloquent Hoffman, and many more whom it is needless to recall—all gone, but still remembered for their genius, their acquirements, and their virtues.

Fortunately or unfortunately, there was then a throb of hope in my breast, that the time would come when even so great and solemn a responsibility as that of defending a man whose life was in jeopardy, should devolve upon me.

The time at length arrived. It so happened that a poor Irishman was charged with the crime of murder. He was an humble person, with few friends and no money. Of his friends, the fondest, most devoted and persevering, was a true-souled little woman, born like her husband, and my own ancestors, in that beautiful country on whose bosom so many generations of noble beings have laid themselves down in the last repose. She sought my aid in the hour of peril to him she loved, and I could not refuse it. None of my profession would. But it was with fear and trembling that I undertook the duty. If I had known the future terrors it was to bring upon my heart and brain, I would have faltered long ere I engaged in the cause. If ambition alone had impelled me to the undertaking, I would have dashed that impulse upon the ground and smiled upon the fragments of its ruins.

Without considering at large how the fortunate result in that case was accomplished, I may say that, in *purely legal* contemplation, the act proved was in any of its aspects a clear case of murder. It had not that awful feature, however, in its *moral* bearings, and my aim was, of course, to present, with whatever slender experience I possessed, all the extenuating circumstances that could be urged in behalf of the unhappy prisoner. I remember, with painful distinctness, that on the eve of the trial I walked homeward with the clerk of the court, and the then vigorous and effective District Attorney, who informed me that the guilt of the accused was so flagrant that it would be his solemn duty to make all legitimate efforts to secure his conviction. I leave my impressions, under the circumstances, to be estimated by those who have ever incurred an equal responsibility. Had I been obliged to undertake this defence where I should not

have received that kindness that was so delicately and so thoughtfully extended to me in that court, I know not what the result would have been to me personally. If there be anything in this life dreadful to contemplate, it is the annihilation of the fondest hopes we hug to our bosom—the destruction of the means by which we strive to attain even temporary distinction, and the laceration of the heart by which great disappointments, affecting our destiny or prospects, are sure to be attended. The trial proceeded, and, in its progress, it would seem that the jury were influenced, insensibly, by the exercise of that kindly nature which, radiating its benignity on me, and then bestowing its beam and its fructifying influence on the jurors, disposed their minds in his behalf. The judge charged, and charged in a kindly spirit, but omitting no part of the duty exacted by the law, of which he was the exponent. The man was not convicted of murder, but of manslaughter. I can see the jury now, in that room of the City Hall—one of the apartments now occupied by that court over which my friend, Judge Daly, presides—I can see in that dimly-lighted chamber the prisoner, his frame heaving with convulsive sobs, and the handkerchief in which he buried his face saturated with the perspiration that streamed forth in his agony. I can see, as they entered, the foreman, as he delivered the verdict that restored the trembling criminal to life and hope, and the mild and approving look of the judge as that verdict was announced. Above all, I can never forget the speechless joy of my client, and the features of his poor wife, imbued with the tenderness and fervor that inspires the humblest peasant girl that treads the green surface of the old land—never shall I forget her as she fell on her knees, and with clasped hands and in a voice choking with emotion, breathed in low

tones a prayer for the eternal preservation of him whose departure you are here to mourn.

We are told that the ocean, being in absolute repose, if a pebble were dropped in its centre, it is possible that the whole deep would be affected, and that the ripple thus created would reach the remotest shore. It is even supposed by some that in the transmission of a message over the electric wire, each particle of the metal, from end to end, is moved while the current is being sent forward. Nay, whether it be an effort of profound reasoning or of strong imagination, we have been assured that every word we utter so agitates all space, as to exercise an endless influence over the affairs of the world, and to be felt in some way throughout the universe. Imagination need not carry us so far to afford an assurance that the prayer of that poor woman, in that moment of heartfelt supplication and blessing; is even now pleading in behalf of our friend for the enjoyment of the infinite pleasures which crown a good life.

My poor client was sent to the State prison for a long term of years. His wife almost daily presented herself in my office to learn from me what could be done to effect his deliverance by a pardon. The time at last came when Judge Kent benevolently interfered, and the man was set free.

There came a bright, sparkling, Christmas day—and on its glorious morning that poor couple, with joyful and grateful hearts, wended their way to St. Patrick's Cathedral, and there, kneeling side by side, and joining in the solemn rites of that old faith, made dear to me by so many sacred memories—the faith in which I live, and in which I mean to die—repeated, with gratitude, with piety, with fervor, the prayer she had before uttered, from the depths of her pure and eloquent heart.

The characteristics of Judge Kent have been described to-day. May I recur to the subject? A prominent and striking feature in his intellectual organization, considered in reference to the ordinary demands of our profession, without confining myself to any particular department of it, was his gentleness of character. I do not mean that his mind had not intrinsically a power to develope all its energies, and to attain success, but it partook of all his nature. It was retreating, rarely satisfied with itself, not endowed with that confidence which we know is so useful to the advocate. He dreaded rude collision of thought—not that he was afraid of anything that might be said of him, but that he shrank from those assaults which men of hardier natures are accustomed to receive with coolness, repel with vigor, or treat with indifference.

I remember a case, when the community were in a state of ferocious excitement, clamoring for the life of an unfortunate man, whom I believed then to be, and still believe to have been, an innocent one; but who was sacrificed, in my judgment, to the blood-thirsty passions that sometimes sway the public mind. Judge Kent presided at his trial, and, on review, all his rulings were sustained. It occurred, however, to some gentlemen of the Bar, that one step might have been sanctioned in behalf of the accused, without any violation of the strictest legal requirement. That step was not allowed, and the community was loud in its approval of the refusal; and we, who differed from the public, took the liberty of expressing our dissent. At a public meeting of some members of the Bar, I took occasion to express my opinion to that effect; though, in my allusions to the judicial action of the deceased, I did not fail to speak of him with that respect which his high character, his position, and his learning, commanded.

Now, this sensitiveness to censure, allied with courage, exhibited itself in Judge Kent. The next time we met he called me to him, and addressed me in a tone and manner that I shall never cease to remember, and in terms that it would be ill-timed and indecorous, perhaps, for me to mention ; but his words impressed me with the conviction that he had a yet nobler character than even, with my high regard for him, I had before ascribed to him. In all my future intercourse with him, from that moment, I could see that if his bearing had changed to me, it was only to become more friendly, and seemed to manifest still more the feminine grace and gentleness which so largely entered into his nature—the natural attendant of his soft tones, and kind manner, his quiet speech, and thought, and feeling.

By some of the gentlemen who have already spoken, we have been informed as to his state of mind when he felt that the hand of death was upon him, and I am happy to hear that he was well prepared to take his leave of earth, and descend to that grave toward which we are all hastening. I do not regard the mere circumstance of physical death with any poignant emotion of grief or sorrow ; but I do contemplate with awe the destruction of an intellect. I can never bear to think, that when the body returns to dust, the mind which animated, vivified, and controlled it, is forever lost. I say, with a great writer—

“ Shall that alone which thinks
Be, like the sword, consumed before the sheath,
By sightless lightning ?”

I think the great dramatist made no greater failure than in his scene where he represents Hamlet holding in his hand the skull of the poor jester. It was an occasion which should have been surrounded with intense feeling, and made

eloquent with profound and elevating thought. Shakespeare must here defer to Byron, whose memorable lines you may not regret to hear :

“Look on its broken arch, its ruined wall,
 Its chamber desolate, and portals foul ;
 Yet this was once ambition’s airy hall—
 The dome of thought—the palace of the soul.
 Behold, through each lack-lustre eyeless hole,
 The gay recess of wisdom and of wit,
 And passion’s host, that never brooked control ;
 Can all saint, sage, or sophist, ever writ,
 People this lonely tower—this tenement refit ?
 Well did’st thou speak, Athena’s wisest son :
 ‘ All that we know is, nothing can be known.’ ”

We do not believe that this intellect perishes, though the frame may decay and dissolve into its elements. We hold ourselves to be dignified, as we are enlightened and sustained, by that faith to which the older gentlemen who addressed this meeting might more properly refer. We believe in the sweet assurance and the promise so sweetly expressed by that other great poet, Whittier, of whom our country may so justly boast :

“And Thou, oh, most compassionate !
 Who didst stoop to our estate,
 Drinking of the cup we drain,
 Treading in our path of pain.

“Through the doubt and mystery,
 Give us but thy steps to see,
 And the grace to draw from thence
 Larger hope and confidence.

“Show thy vacant tomb, and let,
 As of old, the angels sit
 Whispering by its open door,
 Fear not ! for HE has gone before.”

Mr. WM. CURTIS NOYES said :

Mr. CHAIRMAN : It is impossible to avoid, on such an occasion as this, some repetition, and it is to be hoped that any error of that sort may be excused.

In 1822, an obscure law student, living in a country town, presented to the great Master of Equity Jurisprudence, in this country, an order for the purpose of obtaining his fiat, so that it might be entered by the Register. He approached him with awe and diffidence. The order was perused, the magic words written on the back, and kindly he was told, " Young man, now take that to Brother Moss." There was something so familiar in the manner and mode of the address, that it led to conversation, and was followed, on his part, by words of encouragement and kindness, which left an impression and produced an effect that never can be forgotten. He was at that time sitting in a small rear room, in his dwelling in Columbia street, in Albany, his table loaded with books and papers, the walls covered with books ; and it was there, undoubtedly, that the great legal opinions which have furnished guides for you, and for the Judiciary generally, ever since that period, were prepared and sent forth to the world.

At the same time, there was another law student—distinguished—a son of the Chancellor of the State of New-York, studying law in a town adjoining that already referred to ; sitting every day at the feet of one of the wisest men I have ever known, the greatest common lawyer of his day—a man to whom " wisdom, at one entrance, was quite shut out"—and whose teachings were sought by others, like this young law student, anxious to drink in the words of wisdom and learning from his lips.

We know very little of the student life of the one last

referred to ; but we do know that he led afterward a life of purity, of high professional attainment, of unaffected and unobtrusive piety ; that he became a distinguished judge ; that he received and laid down academic honors and professorial places ; and that, at last, he closed his career by a Christian's death.

These two students followed different paths—one sought the interior of the State, the other its commercial metropolis. They met for the first time, at the first Young Men's Political Convention ever held, I believe, in the State of New-York, in the year 1828 ; and he who presided over that body, twelve years afterward, when Governor of the State (now, as is generally understood, to be the premier of this country, and who is to be "the pilot to weather the storm" to which allusion has been made, and I trust, successfully), conferred upon one of them the office of Circuit Judge of the First Circuit of the State of New-York. That judge was William Kent, whose memory we have now met to honor. A friendship then commenced between these young men (for they were still young men) which has lasted until it has been unfortunately severed by death.

It is not necessary to speak here, and in this presence, particularly of the life of one so well known and so universally esteemed in this community. His large learning, his professional industry, the unspotted integrity which distinguished him in all he did, in public and private, his social worth, his legal qualifications, have all been adverted to in terms of proper commendation.

It may be allowed to speak of his professional integrity here, with a view to its practical uses and the benefit of his example, more in detail. He seems to have fashioned his life, in that respect, upon the model given by the good Bishop Saundeson, in his advice to Pleaders :

“Not to think, because he has the liberty of the Court, and perhaps the favor of the judge, and that, therefore, his tongue is his own, and he may speak his pleasure to the prejudice of the adversary’s person or cause; and not to seek preposterously to win the name of a good lawyer by wresting and perverting good laws; or, the opinion of the best counsellor, by giving the worst and the shrewdest counsel; and not to count it, as Protagoras did, the glory of his profession, by subtlety of wit, and volubility of tongue, to make the worst cause the better; but like a good man, as well as a good orator, to use the power of his tongue to shame wit and impudence, and protect innocency; to crush oppressors and succor the afflicted; to advance justice and equity, and to help them to right that suffer wrong; and to let it be as a ruled case to him, in all his pleadings, not to speak in any cause to wrest judgment.”

A careful observation of his life for more than thirty years (a truth which my brethren will attest), authorizes the remark that, in no case, did he go beyond or fall short of these principles. His mental qualifications, so far as his professional course was concerned, are evident from what has been already said. He was too gentle in his feelings and sympathies for the rough and harsh methods of trial by jury. He had a great distaste for efforts of that description, and never sought, but rather declined them. But in the argument of cases at Bar, in the discussion of strict legal questions, no man was more thorough, none more honest, none more sound and logical, than he.

Allusion is undoubtedly allowable to some of the extraordinary cases in which he was engaged. They have been already mentioned; but a participator in some of them may be allowed to speak of him in reference to them. He was engaged, in 1840, in an argument before the Court of Errors, then consisting of the Lieutenant-Governor, the Senate and the Chancellor, of the cause involving the constitutionality of the general banking law. He had for his

associates and antagonists such men as Ogden, and Spencer, and Sandford, all of whom have gone down to the grave covered with professional honors—and in the discussion of the important questions in that case, upon which, so far as he was concerned, the existence of the Bank of Commerce depended, and the continuance of the best banking system this State has ever known, depended—in the discussion of these questions, he was fully equal to any who were engaged in the case. A reflection was produced by that argument which may have arisen in the minds of some of his brethren here assembled. He said everything so pleasantly, so gently, with so little effort, that he seemed to give scarcely any evidence of the power he possessed, and of the industry he had employed in making himself master of the subject. He never appeared to put forward his whole strength; there seemed to be always behind a reserved power, which he could command at any time, but which he did not think it necessary to bring forward. It was obvious, too, that he made no parade or pretence of learning. Everything flowed naturally. A beautiful allusion took its proper place without effort. Nothing was strained, nothing forced—all was natural; showing that what he had acquired had become a part of himself; was a portion of the man, and had been incorporated thoroughly into his mental constitution.

At a later period of his life, and just four years before the day on which his death was announced, he commenced in the Court of Appeals, with others, the argument of what has been mentioned as the “Million Trust Case.” There he had associates and antagonists with whom, if he was unsuccessful in presenting his views of the case, or inferior in power or learning, the contrast would have been

most unfortunate. Of the dead, he was associated with Mr. Butler ; and of the dead, among his antagonists, Mr. Hill and Mr. Beardsley—all honored names in our garner of legal worthies—were ready to watch, and to expose anything omitted, or improperly urged. By an arrangement between the counsel engaged in that cause, a particular department of it had been assigned to him in the Court below, and was, with a confidence that had no doubt, again intrusted to him in the Court of Appeals. He presented it, during an argument of two days, occupying some twelve hours in the whole, in the most forcible, in the clearest, and in the most satisfactory light. It was the mercantile part of the case, the integrity of the accounts, some questions of usury, the nature of the relations between this country and England, in regard to exchange, and the financial rules which regulate dealings in exchange—the whole question of commercial accounts and mercantile usage : and he presented everything regarding them with a fullness of knowledge, not only of mercantile and general law, but of the financial history of the time, in such a manner that it left none of us the slightest doubt of the success of the cause in that particular.

He was subsequently engaged, as I believe has been already mentioned, in what is known as the Barthrop Will Case. Having been present when he made a portion of his argument, and having gone over the same ground as his substitute in the case, after his health failed him, I may be permitted to say that there the reputation acquired by him was not only not lessened, but increased. It involved the entire doctrine of charitable uses, the origin and history of the law upon that subject, an inquiry into the civil and ecclesiastical law, as well as the common and

statute law of England and of this State ; and he made himself master of the subject. Happy will he be who represents the same interest, when the next discussion shall take place, if he can approach to the power and success of the argument which William Kent presented when the cause was in his hands.

And now, Mr. President, nothing is left us but the melancholy duty of paying our tribute of respect to the memory of a good and great man. He has suffered in contrast with his father, having, as has been said, had the misfortune (and in some respects it is a misfortune) of "inheriting a great name." Doubtless, it has its advantages—the advantages of early association—of imbibing, from such a father, day by day, and week by week, almost insensibly, the knowledge which he possesses, and which he willingly pours forth for the benefit of his son. But it has also its disadvantages. If he had been the son of one less distinguished he would, doubtless, have shone with a greater lustre.

It has been said, in reference to meetings of this description, that they are almost entirely eulogistic. In some sense the remark is a true one ; but it would be difficult, if not impossible, to select the person who, in reference to him whom we now mourn, would suggest any fault in his character, except that which is common to every one, as a portion of the lot of his humanity.

Happy should we all be that he was one of our number—happy may any Bar be, that has among its members such a man as WILLIAM KENT !

EX-Recorder TILLOU said :

May I add a few words to the memory of this excellent man? I knew him for many years. I held for him sentiments of respect and admiration. All that has been, on this occasion, said of him, is true. He was, really, a gentleman of many virtues, of extensive learning, of extraordinary abilities. Yet in the picture of his character, which has been so eloquently presented, all its hues and blendings may not have been fully delineated.

His qualities of mind, of thought, of feeling, of judgment; his refined delicacy and sensibility; his modesty; his good sense, and his devotion to truth and fidelity, shone forth in his conduct and his actions. While his talents, his industry, and erudition, produced admiration—his kindness of heart, his gentleness, his benevolence of disposition, and his unvarying and graceful affability, secured to him esteem and affection.

Many years ago, when he was Circuit Judge, I was officially associated with him, in the Court of Oyer and Terminer. The profound learning in criminal law which he then displayed, the ready promptness with which he applied legal principles and decided important questions, and his easy reference to authorities, manifested, as it seemed to me, a rare accuracy of memory and judgment. But, more than these, the candor, compassion, and impartiality, the dignity, and the uniform suavity, with which he presided, compelled respect and attachment. Even the condemned were disarmed of all sense of injustice by his gentleness and kindness.

It is said that the education of Judge Kent, his training, and the good influences which were around him, essentially contributed to form his character. So far as this is ap-

plicable to his mental acquisitions, his habits, his professional pursuits, and the direction of his literary tastes, it, no doubt, is true ; but his amiable disposition, his affability, his gentleness and pure impulses, were gifts of nature which no art could create, no training could bestow. From these flowed the grace and beauty of his manner ; from these, his power over the hearts of others.

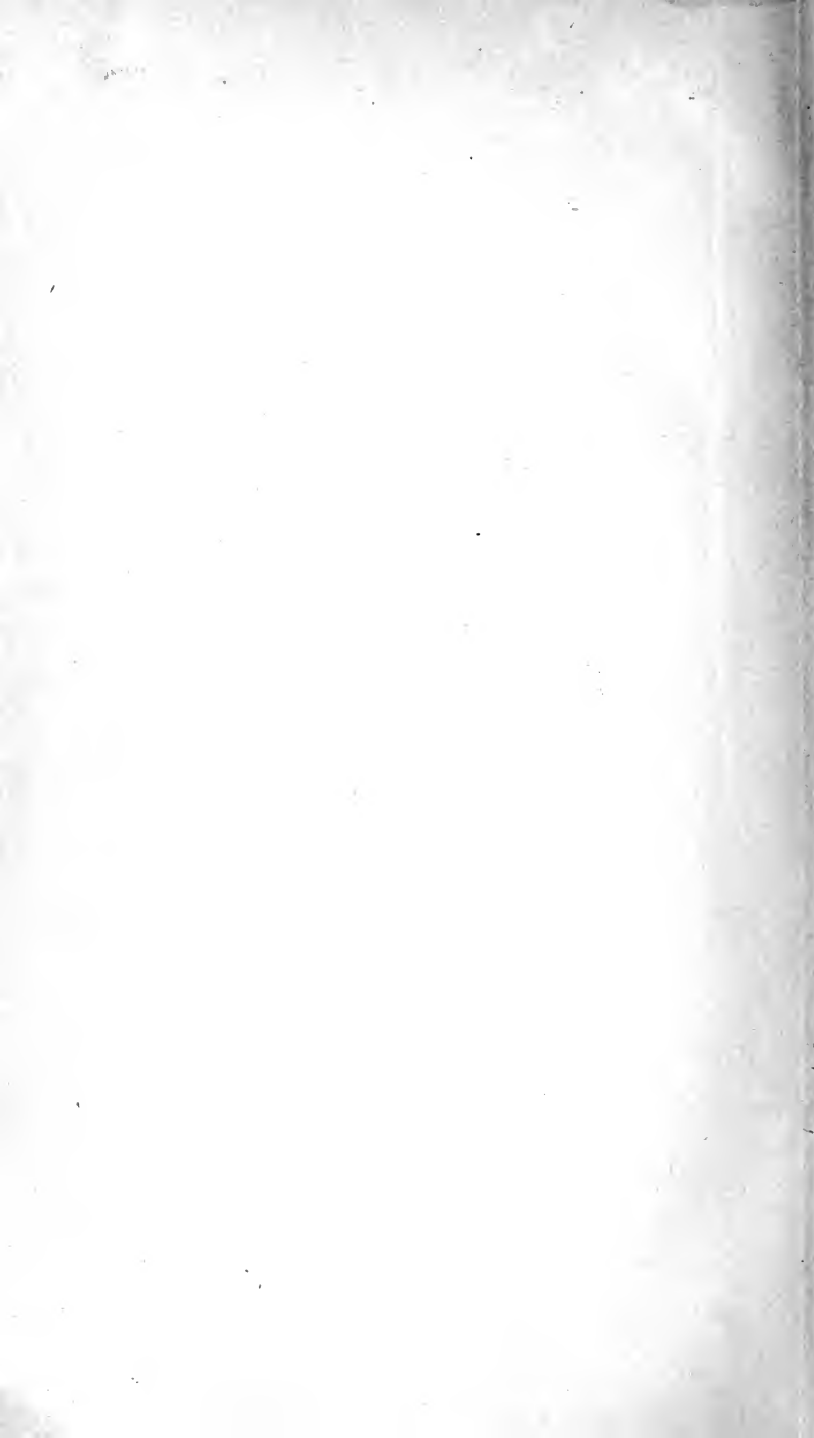
It is related of Petrarco, that, upon the trial of a case, he was summoned as a witness, and after the examination of the other witnesses he was called, and that on his offering to be sworn, the magistrate shut the Book, and said, "No, Petrarco, your word is sufficient." However questionable may have been the legality of the act, this public homage to that distinguished man was a high honor. Ages have passed, and yet the record of it remains ; generations have read it ; ages and future generations will come, and still the record will be read, and the great virtue of truth will, for all time, be known as one of those of which that fascinating poet and scholar was possessed. And this high quality belonged also to Judge Kent : he was its votary, its worshipper, its practiser ; he was tenacious in his strict adherence to it, in spirit as well as letter, and therefore was candid in all his statements : no suppression of a fact, no equivocation, no vague, ambiguous statements, would be tolerated by him ; the truth he regarded as the basis of honor.

Judge Kent, in his friendships, was fervent, constant, and unfaltering, as is verified by all those who stood in that relationship to him. On an occasion similar to this (the decease of his friend, Judge Edwards), in this same room, he pronounced a eulogy to the memory of the deceased, eminently impressive and eloquent—long remembered for its

elegance and its taste, and for the deep and exquisite feeling which he then manifested.

Again: Judge Kent was not only eminent as an advocate, but as Chamber counsel. And herein he was not only a legal adviser, but also a pacificator. Not only did he place before his client a legal view and exposition of his rights and remedies, but presented to him also a statement of the consequences of litigation, whether successful or unsuccessful, and candidly advised him what was best for his interests, his comfort, or his reputation: his advice was that of a kind friend, as well as counsel.

He was opulent in all that is opulent. He was wealthy in mental acquisition, in a vast store of learning, in a multitude of happy recollections, and in the respect, friendship, and attachment of the good, the virtuous, and the talented. He was pure in mind, in thought, in impulse. His was an uncommon union of great virtues and great abilities. His life is now a vision of the past—but one which presents a beautiful and interesting episode in human history.





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