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Autobiographical Sketch of Chancellor Kent.

We are indebted to R. McPhail Smith, of the Nashville Bar, for the following very interesting fragment of autobiography which is now published for the first time. It is from the pen of no less a personage than Chancellor Kent. The history of it is as follows: In the year 1828, the late Thomas Washington, one of the most eminent of the Bar of Tennessee, and a warm admirer of Chancellor Kent, wrote to the latter, enclosing a very elaborate argument of his own, and requesting to be favored with a familiar account of his life, studious habits, etc. This request was complied with. The letter containing the desired autobiographical sketch was at different times shown by Mr. Washington to several of his professional brethren, and among others to Return J. Meigs, John M. Lea, and John Trimble. Mr. Smith first heard of the document from Mr. Trimble, who related in conversation Chancellor Kent's description of the manner in which he was accustomed to make up his judgments. Afterwards, upon mentioning this to Mr. Meigs, in Washington, D. C. where he now resides, Mr. Smith was informed by him that he had retained a copy of the letter in question, which, however, he could not just then conveniently lay his hand upon. Subsequently, at the urgent request of Mr. Smith, the copy, having been found in the meantime, was mailed to him at Nashville, who copied it accurately before returning it;

and Mr. Smith's copy of Mr. Meigs's copy of the original letter of Chancellor Kent to Mr. Washington, is now laid before the reader.

Since this letter was written, nearly half a century has rolled by, and every person therein alluded to has passed away. The letter was written in a spirit of entire unreserve, implying the absence of any idea in the mind of the writer of its ever being made public; but the contents are not such as to render its publication at all improper. Chancellor Kent is one of the brightest stars in the firmament of American jurisprudence, and he was hardly more distinguished for pre-eminent ability than for the simplicity, purity, and elevation of his character; and everything nearly relating to him is matter of profound and general interest, at least to the legal profession; and this delightful narrative from his own pen ought not to be permitted to die.

Mr. Smith informs us that a friend, formerly one of the ablest and most accomplished of our state judiciary, and now hardly less useful and influential in private life, who had read the original of the letter in question, said to him that while upon the bench he often recalled Chancellor Kent's statement of the manner in which he formed his judicial opinions, and that from the recollection thereof he derived additional impulse to act in the same spirit.

Upon the arrival of the news of Chancellor Kent's decease in December, 1847, there was a meeting of the members of the Bar of the middle division of the state, then in attendance upon the Supreme Court, to adopt resolutions appropriate to the occasion. The preamble and resolutions adopted, which are prefixed to the 8th volume of Humphrey's Reports, flowed from the eloquent pen of Thomas Washington. We give the letter aforesaid, without further remark:

NEW YORK, October 6, 1828.

Dear Sir: Your very kind letter of the 15th ult. was duly received, and also your argument in the case of Ivey *vs.* Pinson. I have read the pamphlet with much interest and pleasure. It is composed with masterly ability. Of this there can be no doubt; and without presuming to give any opinion on a great case still *sub judice*, and only argued before me on one side, I beg leave to express my highest respect for the law, reasoning, and doctrine of the argument, and my admiration of the spirit and eloquence which animate it. My attention was very much fixed on the perusal; and if there be any lawyer in this state who can write a better argument in any point of view, I have not the honor of his acquaintance.

As to the rest of your letter, concerning my life and studies, I hardly know what to say or do. Your letter and argument and character and name, have impressed me so favorably that I feel every disposition to oblige you if it be not too much at my own expense. My attainments are of too ordinary a character, and far too limited, to provoke such curiosity. I have had nothing more to aid me in all my life than plain method, prudence, temperance, and steady, persevering diligence. My diligence was more remarkable for being steady and uniform than for the degree of it, which never was excessive, so as to impair my health or eyes, or prevent all kinds of innocent or lively recreation.

I would now venture to state briefly, but very frankly, and at your special desire, somewhat of the course and progress of my studious life. I know you can not but smile at times at my simplicity, but I commit myself to your indulgence and honor.

I was educated at Yale College, and graduated in 1781. I stood as well as any in my class; but the test of scholarship at that day was contemptible. I was only a very inferior classical scholar, and we were not required, and to that day I had never looked into any Greek book but the New Testament. My favorite studies were Geography, History, Poetry, Belle-Lettres, etc. When the College was broken up and dispersed in July, 1779, by the British, I retired to a country village; and finding Blackstone's Commentaries, I read the four volumes. Parts of the work struck my taste, and the work inspired me at the age of sixteen with awe, and I fondly determined to be a lawyer. In November, 1781, I was placed by my father with Mr. (now called Judge) Benson, who was then Attorney General at Poughkeepsie, on the banks of the Hudson, and in my native county of Dutchess. Here I entered on law, and was the most modest, steady, industrious, student that such a place ever saw. I read the following works: Grotius and Puffendorf, in large folios, and made copious extracts. My fellow students, who were more gay and gallant, thought me very odd and dull in my taste; but out of five of them four died in middle life drunkards. I was free from all dissipation, and chaste as pure, virgin snow. I had never danced, or played cards, or sported with a gun, or drank anything but water. In 1782 I read Smollett's History of England, and procured at a farmer's house, where I boarded, Rapin's, (a huge folio) and read it through, and I found during the course of the last summer among my papers my MS. abridgement of Rapin's dissertation on the laws

and customs of the Anglo Saxons. I abridged Hale's History of the Common Law, and the old books of Practice, and read parts of Blackstone again and again. The same year I procured Hume's History of England, and his profound reflections and admirable eloquence struck most deeply on my youthful mind. I extracted the most admired parts, and made several volumes of MS. I was admitted to the Bar of the Supreme Court in January, 1785, at the age of twenty-one, and then married *without one cent of property;* for my education exhausted all my kind father's resources, and left me in debt $400, which it took me two or three years to discharge. Why did I marry? I answer,—at the farmer's house where I boarded, one of his daughters, a little, modest, lovely girl of fourteen, gradually caught my attention, and insensibly stole upon my affections; and before I thought of love, or knew what it was, I was most violently affected. I was twenty-one, and my wife sixteen, when we married; and that *charming and lovely girl* has been the idol and solace of my life, and is now with me in my office, unconscious that I am writing this concerning her. We have both had uniform health and the most perfect and unalloyed domestic happiness, and are both as well now, and in as good spirits, as when we married. We have three adult children. My son lives with me, and is twenty-six, and a lawyer of excellent sense and discretion, and of the purest morals. My eldest daughter is well married, and lives the next door to me, and with the intimacy of one family. My youngest daughter is now of age, and lives with me, and is my little idol.

I went to housekeeping at Poughkeepsie in 1786, in a small snug cottage, and there I lived in charming simplicity for eight years. My practice was just about sufficient to redeem me from debt, and to maintain my wife and establishment decently, and to supply me with books about as fast as I could read them. I had neglected, and almost entirely forgotten, my scanty knowledge of the Greek and Roman classics, and an accident turned my attention to them very suddenly. At the———in 1786, I saw E. Livingston (now the codifier for Louisiana), and he had a pocket Horace, and read some passages to me at some office, and pointed out their beauties, assuming that I well understood Latin. I said nothing, but was stung with shame and mortification; for I had forgotten even my Greek letters. I purchased immediately Horace and Virgil, a dictionary and grammar, and the Testament, and formed my resolution promptly and decidedly to recover the lost languages.

I studied in my little cottage mornings, and dedicated one hour to Greek and another to Latin daily. I soon increased it to two for each tongue in the twenty-four hours. My acquaintance with the languages increased rapidly. After I had read Horace and Virgil, I turned to Livy for the first time in my life; and after I had construed the Greek Testament, I took up the Iliad, and I can hardly describe to this day the enthusiasm with which I perseveringly read and studied in the originals, Livy and the Iliad. It gave me inspiration. I purchased a French dictionary and grammar, and began French, and gave an hour to that language daily. I appropriated the business part of the day to law, and read Coke Lyttleton. I made copious notes. I devoted evenings to English literature, in company with my wife. From 1788 to 1798, I steadily devoted the day into five parts, and allotted them to Greek, Latin, law and business, and French and English varied literature. I mastered the best of the Greek, Latin and French classics, as well as the best French and English law books at hand. I read Machiavel and all the collateral branches of English history, such as Littleton's Henry the second, Bacon's Henry the seventh, Lord Clarendon on the Great Rebellion, etc. I even sent to England as early as 1790, for Warburton's Divine Legation and the Lusiad.

My library, which started from nothing, grew with my growth, and it has now attained to upwards of 3,000 volumes; and it is pretty well selected, for there is scarcely a work, authority or document, referred to in the three volumes of my commentaries, but what has a place in my own library. Next to my wife, my library has been the source of my greatest pleasure and devoted attachment.

The year 1793 was another era in my life. I removed from Poughkeepsie to the city of New York, with which I had become well acquainted; and I wanted to get rid of the encumbrance of a dull law partner at Poughkeepsie. But, though I had been in practice nine years, I had acquired very little property. My furniture and library were very scanty, and I had not $500 extra in the world. But I owed nothing, and came to the city with a good character, and with a scholar's reputation. My newspaper writings and speeches in the Assembly had given me some notoriety. I do not believe any human being ever lived with more pure and perfect domestic repose and simplicity and happiness than I did for these nine years.

I was appointed Professor of Law in Columbia College late in

1793, and this drew me to deeper legal researches. I read that year in the original Bynkershoek, Quinctilian, and Cicero's rhetorical works, besides reporters and digest, and began the compilation of law lectures.

I read a course in 1794-5 to about forty gentlemen of the first rank in the city. They were very well received, but I have long since discovered them to have been slight and hasty productions. I wanted judicial labors to teach me precision. I dropped the course after one term, and soon became considerably involved in business; but was never fond of, nor much distinguished in, the contentions of the bar.

I had commenced in 1786 to be a zealous Federalist. I read every thing on politics. I got the Federalist almost by heart, and became intimate with Hamilton. I entered with ardor into the Federal politics against France in 1793; and my hostility to the French democracy, and to French power, beat with strong pulsation down to the battle of Waterloo. Now you have my politics.

I had excellent health, owing to the love of simple diet, and to all kinds of temperance, and never read late at night. I rambled daily with my wife over the hills. We were never asunder. In 1795 we made a voyage through the lakes—George and Champlain. In 1797 we ran over the six New England States. As I was born and nourished in boyish days among the Highlands east of the Hudson, I have always loved rural and wild scenery; and the sight of mountains, hills, woods, and streams, always enchanted me, and does still. This is owing, in part, to early association, and it is one secret of my uniform health and cheerfulness. In 1790 I began my official life. It came upon me entirely unsolicited and unexpected. In February, 1790, Governor Jay wrote me a letter stating that the office of Master in Chancery was vacant, and wished to know confidentially whether I would accept. I wrote a very respectful, but very laconic, answer. It was that I was content to accept of the office if appointed. The same day I received the appointment, and was astonished to learn that there were sixteen professed applicants, all disappointed. This office gave me almost a monopoly of the business, for there was but one other Master in New York. The office kept me in petty details and out-door concerns, but was profitable. In March, 1797, I was appointed Recorder of New York. This was done at Albany, and without my knowledge that the office was even vacant, or expected to be. The first I heard of it was the appoint-

ment announced in the papers. This was very gratifying to me, because it was a judicial office, and I thought it would relieve me from the drudgery of practice, and give me a way of displaying what I knew, and of being useful entirely to my taste. I pursued my studies with increased application, and enlarged my law library very much. But I was overwhelmed with office business, for the Governor allowed me to retain the other office also, and with these joint duties, and counsel business in the Supreme Court, I made a great deal of money that year. In February, 1798, I was offered by Gov. Jay, and accepted, the office of youngest Judge of the Supreme Court. This was the summit of my ambition. My object was to retire back to Poughkeepsie, and resume my studies, and ride the circuits, and inhale the country air, and enjoy *otium cum dignitate.* I never dreamed of volumes of reports and written opinions: such things were not then thought of. I retired back to Poughkeepsie in the spring of 1798, and in that summer rode over the western wilderness, and was delighted. I returned home, and began my Greek and Latin, French, English, and law classics as formerly, and made wonderful progress in books that year.

In 1799 I was obliged to move to Albany, in order that I might not be too much from home; and there I remained stationary for twenty-four years.

When I came to the bench there were no reports or state precedents. The opinions from the bench were delivered *ore tenus.* We had no law of our own, and nobody knew what it was. I first introduced a thorough examination of cases, and written opinions. In January, 1799, the second case reported in 1st Johnson's Cases, of Ludlow *vs.* Dale, is a sample of the earliest. The Judges when we met all assumed that foreign sentences were only good *prima facie.* I presented and read my written opinion, that they were conclusive, and they all gave up to me, and so I read it in court as it now stands. This was the commencement of a new plan, and then was laid the first stone in the subsequently erected temple of our jurisprudence. Between that time and 1804 I rode my share of circuits, and attended all the terms, and was never absent, and was always ready in every case by the day.

I read, in that time, Vattel and Emerigon, and completely abridged the latter, and made copious digests of all the new English reports and treatises as they came out. I made much use of the

Corpus Juris, and as the Judges (Livingston excepted) knew nothing of French or civil law, I had an immense advantage over them. I could generally put my brethren to rout, and carry my point, by my mysterious wand of French and civil law. The Judges were Republicans, and very kindly disposed to everything that was French; and this enabled me, without exciting any alarm or jealousy, to make free use of such authorities, and thereby enrich our commercial law. I gradually acquired proper directing influence with my brethren, and the volumes in Johnson, after I became Judge in 1804, show it. The first practice was for each Judge to give his portion of the opinions when we all agreed, but that gradually fell off, and for the two or three last years before I left the bench, I gave the most of them. I remember that in 8th Johnson all the opinions for one term are "*Per Curiam.*" The fact is, I wrote them all, and proposed that course to avoid exciting jealousy; and many "*Per Curiam*" opinions are inserted for that reason.

Many of the cases decided during the sixteen years I was in the Supreme Court were labored by me most unmercifully; but it was necessary, under the circumstances, to subdue opposition. We had but few American precedents, our Judges were Democratic, and my brother SPENCER particularly, of a bold, vigorous, dogmatic mind, and overbearing manner. English authorities did not stand very high in these feverish times, and this led me a hundred times to attempt to bear down opposition, or shame it, by exhausting research and overwhelming authority. Our jurisprudence was probably on the whole improved by it. My mind certainly was roused, and was always kept ardent and inflamed by collision.

In 1814 I was appointed Chancellor. The office I took with considerable reluctance. It had had no charms. The person who left it was stupid; and it is a curious fact that, for the nine years I was in that office, there was not a single decision, opinion, or dictum of either of my predecessors,—Livingston and Lansing, from 1777 to 1814, cited to me, or even suggested. I took the court as if it had been a new institution, and never before known in the United States. I had nothing to guide me, and was left at liberty to assume all such English chancery practice and jurisdiction as I thought applicable under our Constitution.

This gave me grand scope; and I was only checked by the revision of the Senate as a Court of Errors. I opened the gates of the

court immediately, and admitted, almost gratuitously, the first year, eighty-five counsellors; though I found there had not been but thirteen admitted for thirteen years before. Business flowed in with a rapid tide. The result appears in the seven volumes of Johnson's Chancery Reports.

My course of study in equity-jurisprudence was very confined to the topic elicited by the cases. I had previously read, of course, the modern equity reports down to the time; and, of course, I read all the new ones as fast as I could procure them. I remember reading Peer Williams's as early as 1792, and I made a digest of the leading doctrines. The business of the Court of Chancery oppressed me very much, but I took my daily exercise, and my daily delightful country rides among the Cattskill or the Vermont mountains, with my wife, and I kept up my health and spirits. I always took up the cases in their order, and never left one until I had finished it. This was only doing one thing at a time. My practice was first to make myself perfectly and accurately (mathematically accurately) acquainted with the facts. It was done by abridging the bill and the answers, and then the depositions; and, by the time I had done this slow and tedious process, I was master of the case, and ready to decide it. I saw where justice lay, and the moral sense decided the case half the time. And then I sat down to search the authorities until I had exhausted my books; and I might, once in a while, be embarrassed by a technical rule, but I almost always found principles suited to my views of the case, and my object was so to discuss the point as never to be teased with it again, and to anticipate an angry and vexatious appeal to a popular tribunal by disappointed counsel.

During these years at Albany I read a great deal of English literature, but not with the discipline of my former division of time. The avocations of business would not permit it. I had dropped the Greek, as it hurt my eyes. I persevered in Latin, and used to read Virgil, Horace, and some of them, annually. I have read Juvenal, Horace, and Virgil, eight or ten times. I read a great deal in Pothier's works, and always consulted him when applicable. I read the Edinburgh and Quarterly Reviews and American Registers *ab initio* and thoroughly, and voyages and travels, and the Waverly Novels, etc. as other folks did. I have always been excessively fond of voyages and travels.

In 1823 a solemn era in my life had arrived. I retired from the office at the age of sixty, and then immediately, with my son, visited the Eastern States. On my return, the solitude of my private office and the new dynasty did not please me. I besides would want income to live as I had been accustomed. My eldest daughter was prosperously settled in New York, and I resolved to move away from Albany, and ventured to come down to New York, and be chamber counsel; and the Trustees of Columbia College immediately tendered me again the old office of Professor, which had been dormant from 1795. It had no salary, but I must do something for a living, and I undertook (but exceedingly against my inclination) to write and deliver law lectures. In the two characters of chamber counsel and college lecturer, I succeeded by steady perseverance beyond my most sanguine expectations; and, upon the whole, the five years I have lived here in this city since 1823, have been happy and prosperous. I have introduced my son into good business, and I live aside of my daughter, and take excursions every summer with my wife and daughter all over the country. I have been twice with them to Canada, and we go in every direction. I never had better health. I walk the Battery uniformly before breakfast. I give a great many written opinions; and, having got heartily tired of lecturing, I abandoned it, and it was my son that pressed me to prepare a volume of the lectures for the press. I had no idea of publishing them when I delivered them. I wrote a new one volume and published it, as you know. This led me to remodel and enlarge, and now the third volume will be out in a few days; and I am obliged to write a fourth to complete my plan.

My reading is now, as you may suppose, quite desultory; but still I read with as much zest and pleasure as ever. I was never more engaged in my life than during the last summer. I accepted the trust of Receiver to the Franklin (insolvent) Bank, and it has occupied, and perplexed, and vexed me daily; and I had to write part of the third volume, and search books a good deal for that very object, and I have revised the proof sheets. If I had a convenient opportunity, (though I do not see how I can have one,) I would send the third volume out to you. * * * * * *

Your suggestion of an equity treatise contains a noble outline of a great and useful work; but I can not and will not enter on such a task. I have much more to lose than to gain, and I am quite tired

of equity law. I have done my part. I choose to live now at my ease, and to be prepared for the approaching infirmities of age.

On reviewing what I have written, I had thoughts of burning it. I speak of myself so entirely, and it is entirely against my habit or taste. But I see no other way fairly to meet your desires.

I am with great respect and good wishes,

Your most obedient servant,

JAMES KENT.