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WILLIAM WIRT.

THE lawyer who confines himself lifelong to the practice of his profession is not only circumscribed in action, but his reputation is ephemeral. Though he be known and honored in his life by the people of his county or district, whom he edifies and pleases in the court-room or on the rostrum, when he dies he is usually forgotten ere the lapse of a generation. Shakspeare says, "if a man would be remembered beyond the period that the bell tolls and the widow weeps, he must give his money to churches." If the observation be not an axiom, there is certainly philosophy in it.

The most distinguished and astute lawyers of the last age, or of the present, are hardly mentioned or heard of beyond the precincts of their immediate neighborhood. Those who have given the world a direction towards the good, by wise counsel, by patriotism and virtue, have had their names inscribed on the bright page of history and canonized in the hearts of the people. But, aside from the renown achieved by meritorious service and high-minded statesmanship, the case lawyer can never be known to posterity save by hearsay and impression.

Believing it pleasant and elevating, and that it tends to prompt to nobler action, to dwell on the character, the purity of motive, and devotion to truth of men who have ennobled their calling, who have struggled, perchance against untoward fortune, and at

last reached the goal for which they labored, let us with candor take a retrospective glance at the life of him who passed the shoals and reefs of a lawyer's career and achieved an eminence in jurisprudence both honorable and praiseworthy.

WILLIAM WIRT was once as familiarly known to the people of this country, and as highly revered as a jurist, as any member of the profession now living. Like thousands of men, he was from early life obliged to cut and carve out his own pathway. He was in every sense the architect of his own fortune. Although accidents occasionally conduce to a man's success, yet, chiefly, the mould of his fortune is in his own hands. "*Faber quisque fortuna sua*," saith the poet.

He realized the pain as well as the pleasure of adversity. Seneca was wont to say, after the manner of the Stoics, that, "the good things which belong to prosperity are to be wished; but the good things that belong to adversity are to be admired." The early trials through which he passed served only to strengthen, quicken, and make him the more able to grapple and cope with the intricate questions of jurisprudence and of state which were pressed upon him in after-life. Through tribulation he was made strong. The achieving and winning of renown with him did but reveal his virtues and worth without disadvantage.

His noble person, and nobler mind, seemed to fit him by nature for an advocate and jurist.

William Wirt was born at Bladensburg, in Maryland, on the 8th day of November 1772. He was of humble and respectable parentage. His father was a native of Switzerland; his mother, of Germany. His parents died before he had attained the age of nine years, when he was taken into the family of his uncle, Mr. Jacob Wirt, under whose guardianship he passed his boyhood.

He spent two years, without making much progress, in a school at Georgetown, now of the District of Columbia, when he was placed in a classical school in Charles county, Maryland. Being by nature a lively boy and given to saying witty things, "and singing songs of humor very well," he became a favorite with his mates.

Upon this period of his life he thus descants: "From the time I rose until I went to bed, the livelong day, it was all enjoyment, save only with two drawbacks, the going to school, and the getting

tasks on holidays; which last, by the by, is a practical cruelty that ought to be abolished." During his four years' tuition under the Rev. James Hunt, he became quite proficient in the classics and mathematics. The preceptor's library afforded him ample opportunity for general reading, of which he availed himself. His favorite authors at this time, whose works he read with avidity, were Josephus, Pope, Aldison, Horner's Elements of Criticism, and Gay, the Earl of Warwick.

He delved in the rich field of *belles lettres*, which gave tone and vigor to his moral and intellectual nature. He once fancied, as did Blackstone in his youth, that he possessed something of the "divine afflatus," and devoted much time to poetry; though it is said his thought was sacrificed to rhythm, the realization of which fact doubtless discouraged his muse. He perhaps believed in the old partition of time which Lord Coke sanctioned "for the good spending of the day"—six hours of the twenty-four to the "sacred muse."

"Sex horas somno, totidem des legibus aquis  
Quatuor orabis, des epulisque duos  
Quod superest ultra sacris largire camenis."

We would not regret that Wirt relinquished poetry, nor are we ready to exclaim, as Pope did of Lord Mansfield, "How sweet an Ovid was in Murray lost!"

At an early age he composed well in prose, and many of his schoolboy essays attracted the favorable attention of those who were judges of erudite composition.

Good Mr. Benjamin Edwards, father of the Hon. Ninian Edwards, who was a strong-minded and reflective man, took much interest in young Wirt after reading some of his productions, and rendered him assistance, not only pecuniarily, but afforded him every advantage to acquire a liberal education, and to follow the genius of his own mind.

He commenced studying law in 1790 in the office of the son of his former preceptor; but after one year's guidance there, removed to that of Mr. Thomas Swann, of Leesburg, in Virginia, where he made good progress, and, in the autumn of 1792, was admitted to the bar. At that time his stock of books was decidedly limited, his library consisting only of a copy of Black

stone, two volumes of "Don Quixote," and one volume of "Tristram Shandy."<sup>1</sup>

He experienced, like thousands of young, aspiring lawyers in commencing, the perplexity and embarrassment, the doubts and forebodings which Sir William Blackstone depicted of himself. Nothing can be more hazardous or discouraging than the usual entrance upon the profession of the law.

"An inexperienced youth," he observes, "in the most dangerous season of life, is transplanted on a sudden into the midst of allurements or pleasure, without any restraint or check but what his own prudence can suggest, with no public direction in what course to pursue his inquiries, no private assistance to remove the distress and difficulties which will always embarrass a beginner. In this situation he is expected to sequester himself from the world, and, by a tedious, lonely process, to extract the theory of law from a mass of undigested learning."

Mr. Wirt commenced his professional career at Culpepper Court House. He realized that the "law is a jealous mistress," and he devoted himself assiduously to her. At that time the profession seemed to him crowded, hardly a standing-place; but ere long he found, as Mr. Webster once told a student of his who had just been admitted to practice who complained there was "no room," that there was "room enough *up stairs*."

His first case is worthy of mention. It was a case of joint assault and battery, with joint judgments against three, of whom two had been released subsequently to the judgment, and the third, who had been taken in execution and imprisoned, claimed the benefit of that release as enuring to himself. Under these circumstances, the matter of discharge having happened since the judgment, the old remedy was by the writ of *audita querela*. Young Wirt, and his new-fledged associate, had learned from their Blackstone that the indulgence of courts in modern times, in granting summary relief in such cases by motion, had, in a great measure, superseded the use of the old writ; and, therefore, presented their case in the form of a motion. Mr. Wirt's friend, with all the alarm of a first essay, opened the case.

The bench was then in Virginia county courts composed of the ordinary justice of the peace; and the elder members of the bar.

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<sup>1</sup> "Memoirs of Wirt," by John P. Kennedy.

by a usage the more necessary from the constitution of the tribunal, frequently interposed as *amici curiæ*, or informers of the conscience of the court. "It appears," says the record, "that upon the case being opened, some of these customary advisers denied that a release to one after judgment released the other, and they denied also the propriety of the form of proceeding. The ire of our beginner was kindled by this reception of his friend, and by this voluntary interference with their motion; and when he came to reply he forgot the natural alarms of the occasion, and maintained his point with recollection and firmness. This awakened the generosity of an older member of the bar, a person of consideration in the neighborhood, and a good lawyer. He stepped in as an auxiliary, remarking that he also was *amicus curiæ*, and perhaps as much entitled to act as others, in which capacity he would state his conviction of the propriety of the motion, and that the court was not at liberty to disregard it; adding, that its having come from a new quarter gave it but a stronger claim to the candor and urbanity of a Virginia bar.

The two friends carried their point in triumph, and the worthy ally said to his brethren, in his plain phrase, "that they had best make fair weather with one who promised to be a thorn in their side." From this time Mr. Wirt's practice began to increase. He extended his circuit into the neighboring county of Albemarle, where in two or three years after he married. The father of the fortunate young lady was a particular friend of Jefferson, Madison and Monroe, whose acquaintancè Mr. Wirt afterwards made greatly to his advantage.

It may not be uninteresting or improper to notice in this connection a touching incident, which is told by a noted lecturer, of our hero, and the charming lady he married, to the effect that he was somewhat addicted to intemperance even after he was affianced. And that, on one occasion while intoxicated and lying in the gutter, the noonday sun blazing on him, the lady of his love chanced to pass that way, and seeing his condition, with deep emotion and commiseration, took her beautifully embroidered handkerchief and laid it over his face. We may premise, that she was as devoted as Mr. Moore's lovers, for she clung to him still, and practically exemplified, that love is not love—

"If 'tis not the same

Through grief and through danger, through sin and through shame."

He remained in that position for some time. Upon rising he took the handkerchief which had shielded his face, and, without particularly noticing, placed it in his pocket. Being wayworn and exhausted from drunkenness he walked to a grocery, and called for some brandy. As he was about to place the glass to his lips he took the handkerchief, belonging to his betrothed, to wipe his parched and perspiring brow, when, to his utter amazement, he discovered the name on it of her whom he adored, and was so overwhelmed with a sense of shame that he threw aside the glass which awaited him, and then and there resolved never to touch another drop of the enemy which steals away the brain. Whether the incident be true or not, that he kept the pledge we have no reason to doubt.

In 1799, Mr. Wirt removed to Richmond, where he was elected clerk of the House of Delegates, which office he held for two years, during which time he appeared occasionally as an advocate. Three years later the legislature appointed him chancellor of the eastern district of the state, upon which he took up his residence in Williamsburg; but finding the salary inadequate for the support of his family he soon resigned the office, and returned to the bar in Norfolk. As early as in 1802, Mr. Wirt was a brilliant and successful lawyer, and, as he somewhere says, his income was then £1200 a year. Upon visiting New York and Boston about that time, he was surprised at the smallness of lawyers' fees, and said a Virginia lawyer would starve on them.

After practising in Norfolk with success for three years he removed to Richmond, and, in 1807, achieved great distinction in the trial of Aaron Burr.

In that case Mr. Wirt displayed the qualities of an able lawyer and eloquent advocate. There are passages in his speech on the occasion which will compare favorably with any in Burke's speech in the trial of Warren Hastings. The gems of rhetoric scattered through it have often been selected for school declamation. The part commencing "Who is Blennerhassett?" is not only historical, but full of imagery and poetic diction. In portraying the character of Blennerhassett, and the injuries he sustained at the hands of Burr, he breathes the fire of his own impassioned heart. His eloquent and powerful argument elicited the favorable comment and admiration of the court, as well as the public at large.

He has justly been considered the hero of that occasion. He

might well be estimated thus, for the toil of his life had been to achieve those solid attainments which alone make brilliancy of utterance enduring in a court of justice.

There can be little doubt from the tone of Mr. Wirt's argument that he believed Burr guilty of treason.

The defence, led by the eccentric and powerful Luther Martin, endeavored to show that Burr was merely accessory. "Upon the whole," said Wirt with much emphasis, "reason declares Aaron Burr the principal in this crime, and confirms herein the sentence of the law; and the gentleman, in saying that his offence is of a derivative and accessorial nature, begs the question, and draws his conclusions from what, instead of being conceded, is denied." That Aaron Burr did not "derive his guilt from the men on the island, but imparted his own guilt to them:" that "he is not an accessory but a principal."

Luther Martin, it will be remembered, who was opposed to Mr. Wirt, took such a zealous interest in the trial that he was suspected by some of being a party to the crime of Burr. Mr. Jefferson, who, it is evident, became disgusted with the character of the defence, wrote Mr. Hay, the district attorney, to inquire whether it would not be advisable "to commit Luther Martin as *particeps criminis* with Burr?"

Mr. Wirt was then but thirty-five years of age, yet he exhibited a Websterian power of logic and legal acumen which never fails to charm and convince.

His argument in the *Cherokee Case*, on a motion for an injunction to prevent the execution of certain acts of the legislature of Georgia in the territory of the Cherokee Nation of Indians, in behalf of the Cherokees, is also an argument of great power and analysis.

Aside from his forensic efforts, one of the most finished productions of Mr. Wirt is his eulogy on Thomas Jefferson and John Adams, delivered in the Hall of Representatives, at the request of the citizens of Washington, on the 19th of October 1826. In this he reviews with peculiar accuracy and clearness the public services and characteristics of those revolutionary patriots, and illustrates his theme with a fund of classical allusion which enchants the reader, and could not have failed to command the admiration of those who heard it.

After delineating the greatness of Jefferson and Adams by

nature—the one, to borrow the language of Isaiah, called from the North, and the rising of the sun; the other, from the South, where he shows his glory in the meridian—he says, education was not with them, as with minor characters, an attempt to plant new talents and new qualities in a strange and reluctant soil; but “It was the development merely of those which already existed. Thus, the pure and disinterested patriotism of Aristides, the firmness of Cato, and the devotion of Curtius, only awakened the principles that were sleeping in their young hearts, and touched the responding chords with which heaven had attuned them. The statesmanlike vigor of Pericles, and the spirit-stirring energy of Demosthenes, only roused their own lion powers, and informed them of their strength. Aristotle, and Bacon, and Sidney, and Locke could do little more than to disclose to them their native capacity for the profound investigation and ascertainment of truth; and Newton taught their power to range among the stars. In short, every model to which they looked, and every great master to whom they appealed, only moved into life the scarcely dormant energies with which heaven had endowed them; *and they came forth from the discipline, not decorated for pomp, but armed for battle.*”

No one was better able to portray the life and public services of Jefferson than Mr. Wirt; for he had known him intimately for twenty-five years, and had studied his nature in every aspect. And the character and labors and moral worth of Mr. Adams he knew by heart. No one could have performed the duty of the occasion with more perfectness and ability; and he did it nobly, grandly.

From the facile pen of Mr. Wirt, we have also the *Life of Patrick Henry*, a work which has justly been considered as finished a piece of biographical writing as ever appeared in this country. The work is not only true and complete of the subject, but it is written in a clear and racy style, full of incident and illustration, which irresistibly carries the reader from chapter to chapter, as though it were a touching and charming novel. Mr. Jefferson said of it: “Those who take up the book will find they cannot lay it down; and this will be its best criticism.” Mr. Gallatin, it is said, in the later years of his life, often recurred to the pleasure he experienced in the perusal of it, declaring it was



“the most masterly handling of the pen of biography” he ever knew.

Mr. Wirt's writings have the vigor and richness of Macaulay, with the simplicity and correctness of Franklin. He was not wholly unknown to the literary world at the time his life of *Henry* appeared, for in 1802, he wrote the celebrated letters under the title of *The British Spy*, which passed through several editions; and is too well known to require an extended notice at our hand.

In 1808, he wrote a series of essays over the signature *One of the People*, in which he advocated with much earnestness the pretensions of Mr. Madison to the presidency. His articles entitled *The Old Bachelor*, which appeared in 1812, displayed great versatility, and were widely read and admired.

Mr. Monroe appointed him Attorney-General of the United States in 1817, which office he accepted, when he took up his residence in Washington, where he continued in the efficient discharge of his duties through the administrations of Mr. Monroe and Mr. Adams.

The official opinions of Mr. Wirt have been collected in three large volumes, which are worthy of consideration and study. At the bar of the Supreme Court, observes his biographer, “he found the highest forensic theatre in the country; and perhaps there never was one in any country that presented a more splendid array of learning and talent conjoined.” In the causes which it is the official duty of the attorney-general to prosecute or defend, the most conspicuous counsel of that bar are commonly combined against him.

In how many conflicts he sustained these odds against him, with a vigor always adequate to the occasion, is very well known to those who are familiar with our judicial history. After his term of office had expired, he continued to practise in the Supreme Court at Washington with signal ability. In the trial of Judge Peck, who was impeached by the House of Representatives, Mr. Wirt exhibited a marvellous power of analysis and legal knowledge, as a review of the proceedings will convince the reader.

In remembrance of the noble qualities and characteristics exhibited by Mr. Wirt, in his private and public life, we can cheerfully render to him the same encomium which he pronounced upon Patrick Henry. He had that foundation of strong natural