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THE FUTURE

— OF THE —

West Virginia Bar Association

— ADDRESS OF —

WELLS GOODYKOONTZ

OF THE WILLIAMSON BAR

Before the Association at Parkersburg,
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MR. PRESIDENT AND GENTLEMEN OF THE
ASSOCIATION:

The Executive Council, in preparing the program for this Jubilee Meeting of the Association, arranged for what might be termed companion papers, the one which you have already heard dealing with the Past; the other—which you are now about to hear—relating to the Future.

One of the most interesting pictures ever wrought upon canvas is the painting by Kenyon Cox, entitled "Hope and Memory", represented by the symbolic figures of two beautiful women; one, of them —Memory—is halting, hesitating to go forward. Her sad, sweet face is turned toward the past, and looking backward she seems to be torn by conflicting emotions—filled with mingled feelings of regret and pleasure. Not so with Hope, who, standing erect, looks forward beyond the horizon of the present into the Future; her heart possessed of fortitude, her mind of noble thoughts and with happy anticipations for the realization of her fondest dreams.

Our scholarly brother has condensed into

beautiful narrative, a record of the past, but it remains for me to tell of the future. He has dealt with reminiscence and has paid tribute to the pioneer members, many of whom are already gone to the dominions of silence and whose lives are as an open book. The footprints of these are to be seen upon the sands. There may be found a distinct record of their achievements, preserved by Tradition, perpetuated on the printed page and existing, as a sweet memory, in the minds of many now living.

But my subject is more difficult. Mr. Hubbard has dealt with a known past, while I must look ahead and speak of the unknown future. To me is delegated the performance of the difficult task of entering into the realm of conjecture and making investigation of *nebulae* that I cannot see and of holding converse with those whose voices I cannot hear.

I shall have to rely upon a somewhat vivid imagination and upon your credulity as well. But I shall not be restrained. No constitutional limitations will hold me in leash. Like the after dinner speaker, I may go somewhat afield and wander away from the fields of fact into the domain of fiction. What I shall say must not be challenged, for am I not the duly appointed soothsayer of the Association? Else why should I have been entrusted to deal with matters arising *in futuro*.

Perhaps I should follow the example of the Delphian Oracle. It is said that the responses of the Oracle, particularly those that involved a knowledge of future happenings, were made ob-

scure and quite ambiguous, so that they might harmonize with the event, irrespective of how matters should turn out. For instance, we are told in classic literature that Croesus, at the time he made war on Cyrus, was informed by the Oracle that if he undertook the war he would destroy a great empire. He did, but the empire was his own.

Whilst "The Future of the Association" is the title of my subject, yet the topic has to do with the individuals constituting this body in their collective capacity, but a discussion of the subject, even when limited to its literal terms, necessarily involves a consideration of the future of the integral units of that Association.

WILL THE LAWYER BECOME EXTINCT?

As bearing on this subject, the first thought which comes to mind, is the *query*: Will the lawyer in the course of time, like the Behemoth of old, lose his identity or become extinct? Will the changed condition of society or the operation of economic laws, promulgated in the future, by an ever increasing civilization and state of enlightenment, result in the superseding of the law as a profession? I think not, yet I admit that the natural trend is in the direction of a restricted bar. Also that the professional energies of the lawyer will be exerted generally along lines somewhat different from those of the present. The lawyer of the future will become more of a counselor, a guide and a friend. Belligerency at the bar

will fade away and the lawyer more than ever, will realize that he is a minister of public justice.

I am not, however, sufficiently optimistic to believe that the millenium is near. Nor am I willing to blast the Hope, of any who entertain the view, that it may be attained; but I do believe that this millenium is sufficiently remote from the present day as not to interfere with our professional activities or the like activities of our children or of our children's children.

Some years ago I read with profit a book, written by Mr. W. D. Howells, entitled "A Traveler from Altruria". The title of the book is indicative of its subject matter. It portrayed a land peopled with men who dwelt in perfect love and peace. There were no wars nor "rumors of war". There were no sinister or quarrelsome people; no contests between capital and labor; no litigation; no courts; and as a corollary, I presume, no lawyers. Everything there was peace, harmony, concord and when that happy day comes in reality—if it ever does—we will have already journeyed to the undiscovered land and so will not be affected by the decrees evolved by the natural laws of that far distant day. *Ad interim* there will be lawyers as there have been lawyers in the past, endowed with learning and possessed of courage, to assist the helpless and the oppressed, to vindicate the citizen in his right to life, liberty and property, and the pursuit of happiness, according to the guaranties of a constitutional government.

METHOD OF LOCOMOTION.

How will the future lawyer travel? Of one thing, we may be sure, he will ride, not walk. He first got from one county seat to another on horse back, then he took to the stage coach; still later he rode on the steam boat and in the railway coach; more recently he has moved himself about by the use of the automobile, propelled by the agency of electricity and of gasoline. The lawyer of the future will ride in the air. Aerial navigation will then be practically free from danger—there will be no running over the bank of the river; no collisions with rail cars at highway crossings. The air being free from impedimenta, all that will be required is that Flying Craft shall follow well known lanes or routes of public travel according to the state, national and international laws, regulating the same.

The lawyers of the future will vie with each other in the character of their aerial vehicles. One will insist that the monoplane is just the proper thing; another that the biplane is *plus ultra* and others that the dirigible, fitted with a gyroscope, is the best of all. Whatever may be the form of the vehicle, I feel quite sure that aerial craft, before many years, will come into use as a common means of locomotion for lawyers in West Virginia in getting from one place to another. So firm am I in this faith, that thus far I have excused myself to a certain lady for not buying an auto, upon the ground that it were a pity to waste the money; that auto carriages must soon become obsolete and be

superseded by craft flying through the air. It must be admitted that aerial navigation will have some drawbacks, as for instance—borrowing a story—an aeroplane flying between London and Hongkong, a distance of ten thousand miles, on a schedule time of ten hours, was found by the navigator not to be on time. Rushing out to the engineer, he exclaimed, “what is the matter? We are going to reach Hong Kong thirty minutes late”. The engineer replied: “True, but we have been passing through the milky way and the propeller is full of butter.”

ADMISSIONS TO THE BAR.

The future membership of this Association will be of educated lawyers. Academical, as well as legal erudition, will be indispensable. But there is a limit to all things. The lengthening of the law term, as for instance to three or four years, will not be demanded. To do so would tend to favor the wealthy and close the door of opportunity to the young man less highly favored by circumstance. Being an undergraduate, perhaps my opinion on this subject is not entitled to serious weight. It must be admitted that the practice of the law brings an education within itself. Marshall, Lincoln and Carlisle were not educated in law schools. But their day is not our day and both the times and conditions have changed. An education is just as necessary to a lawyer as good tools are to a workman. The mechanic may do good work, even with poor tools, but with good tools, he

can do much better work. Therefore, my suggestion is that, for the future, our Association, while standing for a reasonably high standard of education, in academical preparation and legal study, also stand for some other factors, equally important, which are necessary elements in the make-up of a Gentleman at the Bar, such as for instance, that the candidate possess a legal mind—not necessarily that he be a so-called “born lawyer”, or a genius—but that he possess an intellect capable of culture and have a personality favorable to a successful career at the bar. In addition, the moral segment of the candidate must be examined more critically than ever before, as the membership is already too numerous. Too many lawyers are dangerous to the public welfare—are an economic waste—parasites on the body politic—in other words a liability rather than an asset. The elimination of unworthy members is a great difficulty and there are others who have certain vested rights which they will not surrender.

Salutary laws, such as the “Workmen’s Compensation Act”, will, with the passing of time, operate more and more to restrict the activities of the lawyer. Thus we see in England the average annual income of the barrister—the higher class of the English lawyers—to be only about 400 pounds. I believe it to be our duty as lawyers to encourage, as applicants for admission, only that class of young men whose special fitness and aptitude render it possible for them to succeed at the Bar.

Furthermore, statutory barriers must be

thrown up to prevent lawyers licensed in foreign jurisdictions, from entering this State as resident practitioners unless and until they shall have submitted to the same examination and be admitted under the same rules—including proof of good character—as now obtain *quoad* our own citizenship seeking to be licensed under the laws of this State.

We have in West Virginia twice as many lawyers as are needed. I am saying this from the standpoint of the public alone. The less prosperous members of our profession, through stress of circumstance, are prone to bring forward cases having little or no merit, but this class of cases must be defended and therefore add to the business of some other—generally the more prosperous lawyer. The fewer lawyers, the less litigation. This Association showed its disinterested patriotism, when, at its White Sulphur Meeting, it voted as an unit to support the Workmen's Compensation measure, and thereby help along a scheme which has cost the membership thousands upon thousands of dollars. But we did nothing more than our duty and would do the same thing over again. Moreover we hold ourselves in readiness to do any similar act of self abnegation at any time in the future, when justice and humanity require it to be done. What we now have to ask is that the public shall unite with us in insisting that the next Legislature pass an act amending the present law which compels a West Virginia boy, before he shall have gained admission to the Bar of his State, to go through a severe course of study, involving the

work of years and after having obtained his license to meet at that Bar, a stranger, hailing from a distant State, having a license to practice the profession of law, obtained from a notorious college such as exist in several of the States of the Union, where a few weeks pretense of study and a few dollars get a diploma and the latter a license to practice under the law of that State. Under our present statute, that licensee is entitled to hang out his shingle and practice in all the courts of this state as a resident lawyer. This condition of the law is not only discouraging but palpably discriminating against the young men of the State. I feel that when this defect in the law has been called to the attention of our distinguished Governor, he will assist us in bringing the matter before the Legislature for proper treatment.

PROGRESSIVE PRINCIPLES

The word Progressive has been so much abused of late as that it does not now imply its real significance. Nevertheless the lawyers and likewise the Judges should not be oblivious to the fact that great changes have been and are now taking places by reason of public thought and action. There have been abroad in the land forces potential for great good—for higher and better things—which have agitated the people. These factors—of human progress—must be kept constantly in mind. Reactionary principles should not obtain in our Association. The stand taken along this line by the American Bar Association should be

challenged, as for example, its exclusion of women lawyers from membership in that body. The women of this country are entitled to full liberty and they will overcome the power of resistance to their rights of political freedom and complete emancipation, which as of course, includes the matter of suffrage—just as they with the help of progressive men, succeeded in embedding into the statutory laws of the states of the Union, for *femme coverts*, the privilege of contract, and the right to acquire, hold and dispose of property as though they were single.

Again we should not be slaves to precedent. *Stare decisis*, especially as affecting title to property is good, but we should remember that the common law, in many cases, is sufficiently elastic to meet the changed conditions of society and that this flexibility gives opportunity for application of that law, as a remedy, for many of the wrongs and grievances now complained of. President Wilson in a recent address, had occasion to say that the law had a spirit—that statutes were mere patches on the fabric of the law. This, in a sense, is true; for instance, it has been judicially declared that the common law condemned combinations in restraint of trade, therefore, why the necessity of the Sherman and the Elkins Anti-Trust Acts? The courts have labored for a quarter of a century in construing and interpreting those acts when all relief, necessary, could have been obtained by simply invoking the common law, then already a part of the system of national, as well as of state, jurisprudence.

TEMPERANCE

Since our last meeting our old friend (?) John Barleycorn, has removed his domicile beyond the confines of this state. His principal habitat is now in the old Buckeye state. John is an outlaw, not only in this state, but in other states of the union, more recently the State of Virginia. Public opinion is against him and in the not distant future, he will be run down and annihilated. John has, hitherto, been much in evidence at our banquets. This year he will be conspicuously absent.

Whilst professing to be our friend, John was, in truth, a most subtle enemy. I think that I can, with reasonable safety, prophesy that in the future our banquets will be dry, even dusty. Rum has left us, we confidently hope, never to return. In its place may be found sobriety, industry and good fellowship. The genial souls who gather at the board will depart therefrom with clearer minds, purer thoughts and happier hearts than ever before. Time was that a lawyer might get on a spree, especially in term time and add merriment to the proceedings. In the future, as now, conditions of this sort will not be tolerated. Although never a teetotaler, as I must confess, I was willing to forego what little pleasure I should get from an occasional drink, in order that Temptation be removed from others. A majority of you gave voice to this sentiment at our Webster Springs Meeting, some four or five years ago, when you voted in support of a resolution to exclude wine from the banquet. The

resolution was adopted, but did not prove effective, for the supply had already been laid in and it was deemed best to consume it in order to prevent others from doing so. I think that most of us, weak and erring, were *particeps criminis*. All this tends to show the fallibility of human nature, but men must be judged by their good points, not by their bad ones. It were needless to say, the resolution was expunged in order that the members be not stultified.

CHRISTIANITY

Although our organic law guarantees religious freedom, yet ours is a Christian land. The legend upon the silver dollar, "In God We Trust" expresses the national sentiment and a return to Paganism would imply inevitable dissolution of the Government—the ultimate disintegration of all society, and the degradation of its people. The future successful men of our profession should be followers of the Gentle Master if they would be found in the class of Blackstone, the lawyer; Harvey, the doctor; Milton, the poet; Mozart, the musician; Raphael, the painter; and of Thorwaldson, the sculptor. The outlook of the Association, and therefore, of the West Virginia lawyers—barring the mere matter of pelf—was never more propitious. The Association's star "shines bright and clear".

In conclusion, permit me in the words of Rip Van Winkle, to express the sentiment, "May you live long and prosper."

