

HON. WILLIAM HENRY DRAPER, C.B.

great predecessor, Sir John B. Robinson. The latter evinced a desire in his judgments to convince the parties of the correctness of the conclusions at which his mind had arrived, a kindly endeavour from out the large-hearted sympathy of his nature, to prove even to the disappointed suitor that the law was right and he was wrong. Although this feature prevented the former from winning the hearts of the people to the extent that the latter did, it nevertheless makes his judgments possibly of greater value to the profession as purely legal problems.

No judge on the Canadian bench, with the exception of Chief Justice Robinson, whose judgments must be looked at from a somewhat different standpoint, has left his mark so distinctly on the jurisprudence of this country. His law is clean cut, no jagged edges; no ends to pick up at the end of a judgment. He never deviated from the point at issue. He gave the law, the whole law, and nothing but the law on the particular subject in question at the time. No *obiter dicta* were dropped, as they too often are, to obscure the legal proposition before him, or to give rise thereafter to the endless perplexity of case lawyers or diffusive judges. It has been said that Sir John Robinson resembled Lord Mansfield in his desire to soften the rigour of the Common law. The tendency of Mr. Draper's mind was rather to uphold the law and its practice in their strictness; but this even had its advantages, as expressed in what has been said of Mr. Draper's rulings, "that one knew always where to find him."

As a judge at Nisi Prius he was pre-eminently satisfactory to the Bar and to the public. His demeanor was dignified and courteous; and he brooked no interference with or derogation of the majesty of the law. His decisions were given in his own peculiarly clear, unhesitating

manner, carrying conviction with them, and rarely reversed in Term. Juries, as a rule, paid great deference to views expressed by him in charging them, but he was as careful to leave them to perform their proper functions without interference, as he was to reserve to the Court its duty in laying down the law regardless of consequences. But though his charges were admirable, they were not always sufficiently down-right and plain spoken for the average jurymen. We remember hearing an old friend of his, who held a brief in the case, a heavy commercial suit with a special jury, speaking of an incident illustrative to this. The Chief took great pains to explain the matter, and delivered what the Bar spoke of as a faultless charge. At its conclusion to his great mortification, as he afterwards stated, one of the jury asked him a question which shewed that he had utterly misunderstood the real nature of the dispute. In his sentences in criminal cases he was said to have been somewhat severe, having a strong opinion that this was necessary for the protection of the public.

We have before us an address presented to him on 10th October, 1868, by the grand jury of the city of Toronto. His reply exemplifies traits in his character which were well understood by those who knew him well. In one part of the address the grand jury, after speaking of the urgent necessity for the establishment of a reformatory for girls, spoke of the propriety of inflicting corporal punishment in certain cases. The Chief Justice in his reply is reported to have said:

"The allusion to the reformatory for boys and girls, the propriety of establishing which had been so frequently discussed by the public press, afforded him an opportunity of expressing as he had always done when the subject was mentioned, the hope that the government would consider it their duty to prepare for the erection of such institutions, and he had no doubt that the beneficial effect would soon evi-