

THOMPSON AS A LAWYER.

HE WAS SECOND TO NONE IN THE COUNTRY.

His Opening—The Celebrated Case of Woodworth v. a Troop et al.—His Answer to Blake in the Hall Case—His Wonderful Readiness and Cleverness.

The following article on Sir John Thompson a lawyer is from the pen of Richard Armstrong, and appeared in the January number of the Barrister, a new Toronto Magazine:

Sir John Thompson's life has many lessons for the young lawyers of Canada. He was a self-made man; by hard work and steady application he won his way upward. In every position which he occupied he did his work faithfully. It is the object of this sketch to show who and how he succeeded. He was born in Halifax on the 10th of Nov., 1844. His parents were not wealthy, and so he did not receive a finished education. He attended the common school and free Church academy, and at the age of 17 he entered on the study of law in the office of Henry Prior, in Halifax. The Hon. Robert Sedgewick, of the supreme court (who was a student then), remembered Thompson at that time attending the Law Students' Literary and Debating Club, and says he remembers him as a slight, delicate youth, very bashful and diffident, and but seldom taking part in the debates or programmes, and but little noticed by the other students. In July, 1865, Johnnie Thompson, as he was then known, was called to the bar, and began the practice of law, but he failed to draw clients around him, and, having learned shorthand writing when a student, turned his attention to reporting for the Legislature. He was thus employed during the following four years.

In 1869, Mr. Joseph Coombes, then a celebrated lawyer of Halifax, took Thompson in as a junior partner. This gave Johnnie Thompson his great opening. He seized it, and from that time he worked incessantly until the time of his tragic death. While he was with Coombes he did the office work and prepared the briefs—working late and early, filling his mind with legal knowledge, until it became a vast store-house, from which he was afterwards able to draw on with such telling effect.

When he first started taking common law, he did so in the Equity Court, but soon practised in all the courts, taking a great deal of jury work. In 1874 we find him for the first time, in the case of Wythe et al. vs. The Union Marine Insurance Co., appearing in the Supreme Court of that province. He acted as junior counsel to Mr. Weatherbe, now Judge of that court. Mr. Rigby, Q. C., acted for the plaintiffs. A few months after that he acted as counsel in the case of Parker vs. Fairbanks, in the same court, with Mr. Rigby, Q. C., against him; evidently he had taken his own measure in the previous case, for we now find him acting alone, and though he lost the case, Judge Wilkins, who delivered the judgment, complimented him in the following words: "I cannot but help admiring the manner in which Mr. Thompson marshalled the evidence to have it appear that the weight of evidence did not show that the defendant interfered with the flow of the stream." Shortly after this he was retained as counsel with McDonald, Q. C., in the case of Woodworth vs. Troop et al. This was the most celebrated case of its time. The plaintiff was a member of the House of Assembly of N. S., and in a speech made on the floor of the House in session, charged the Provincial Secretary with having altered and falsified certain public records and grants of the Crown Lands Department, after the signature of the Lieutenant-Governor had been appended. A committee was appointed to investigate this charge, and reported that there was no foundation whatever for the same. A resolution was then passed demanding an abject apology from Woodworth, which he declined to make. Then a resolution was passed expelling him from the House—in conformity with this the Speaker ordered the Sergeant-at-Arms to eject him, which was done. Woodworth then brought action against the Speaker and the members of the committee.

The question was, had the Court power to review the action of the Legislature. Thompson and MacDonald acted for the plaintiff. The action was begun in 1874, and passed through the various courts until it was finally argued in the supreme court of that province in 1876. Party feeling ran high over it, and the whole province took sides. In this case Thompson first displayed that wonderful knowledge of the rights, duties and prerogatives of parliament which afterwards in the house of commons was the admiration of his friends and the wonder of his opponents. Thompson's argument won this case and settled the power of the provincial legislature to punish for contempt. His argument was a surprise to his best friends, and he leaped into public favor at once. After that, he was in a majority of cases of importance in the supreme court, and his success was unbroken until he retired from practice to adorn the bench before whom he had so often triumphed.

Another celebrated case that was of great importance to the province, and in which the constitutional issue was involved, was the Windsor and Annapolis Railway Co. vs. the Western Counties Railway Co. The questions here were:

(1) Did the British parliament have power to pass and did it pass, by the British North America Act, to Canada, a private and exclusive title in this railway?

(2) Had it the power to pass and did it

pass full legislative power over this railway?

By the time he was one of the recognized leaders of the Nova Scotia bar, and the leader, certainly the leader of the conservative lawyers. When the fisheries commission sat at Halifax under the Washington treaty, it was but natural that the United States government should retain him as one of their counsel, as two or three of the leading Liberal counsel of Halifax had been retained by the Canadian Government. There can be no doubt that in the close study necessarily given to the whole fishery question at that time, and the inner knowledge he must have obtained of the United States position was of great value to him, and through it to Canada on more than one occasion since: notably when representing the Government of Canada at Washington in conjunction with Sir Charles Tupper in 1888, and when representing Great Britain and Canada at Paris on the Behring Sea award in 1893.

It has been freely stated that when associated with the world's greatest jurists at Paris, he not only commanded their respect but won their admiration, and we can now understand how the work done and knowledge obtained in 1876 must have made him early the peer of any judge on the Behring Sea award. It was in our newspapers at the time that Sir John was noticed taking a nap a couple of times during the long weary arguments of counsel for the United States. We can well understand that listening to the stale old arguments which he himself had had to work off 17 years before against Canada made him weary enough to take a nap. He must have smiled often to himself as he noticed the serious way his associates listened to the sophistical arguments of Mr. Carter. He could have slept half the time and then known more about the case than any of his associates.

He was urged upon to enter the legislature, and, much against his will, consented, and was elected for Antigonish in a by-election in December, 1877. On the government being returned in the following October, 1878, he was appointed attorney-general and discharged the duties of his office with conspicuous ability and satisfaction. At the same time he carried on his practice at the head of the largest law firm in the province, and neglected no briefs.

In his dual capacity as attorney-general and working head of a large practice, he first displayed that tireless energy and wonderful capacity for work that he never ceased until he literally consumed himself. He assumed the premiership of Nova Scotia in 1882, but was defeated a few months afterwards, and retired to the supreme court, which was more congenial to him than politics. No judge in his province ever possessed in the same marked degree the gift of orderly, easy, and accurate expression of his views. He always endeavored to get at the truth, at the very heart of a case, and he was not willing even to deceive himself; he was always great enough to find the truth, and strong enough to pronounce judgment upon it, as his own desires. He had no whims, no fancies. He had a clear, logical mind, and in its presence the obscure became luminous, and the most complex and intricate legal proposition became simple. He knew the great ideas should be expressed in the simplest manner possible, and his judgments were models, and appeals against them seldom succeeded. When in 1885 he was called to be minister of Justice of Canada, the whole bar of Nova Scotia regretted his removal.

When he entered the federal arena the great race and religious storm swept this country, and yet he stood unmoved, patient, just, and candid amid it all, and within six months he probably won the greatest personal triumph of his life in the debate on the execution of Louis Riel. The Hon. Edward Blake, on that memorable occasion, arraigned the government as it had never been arraigned before, and it was felt that no man on the government side could reply to the greatest forensic orator Canada ever produced, and one who, in the opinion of the writer, may to-day be fairly ranked among the world's greatest forensic orators. Few, if any, in that house believed that Hon. John Thompson could make an effective, let alone a crushing reply. But there was one young man who probably had faith in him, and who was largely accountable for Thompson's entry into the Dominion house. That man was Charles Herbert Tupper, who had studied under the great jurist, and believed in him. Mr. Thompson had singular good fortune in that Mr. Blake finished his speech after midnight on Friday, the 19th day of March, 1886, and he had until Monday afternoon to prepare his reply. It will be remembered that Lord Erskine's first great triumph as a young brilliant barrister, was attributed largely to his having overnight to prepare his reply to the jury. In fairness to Mr. Blake it must be remembered that the resolution condemning the government or the execution of Riel was not one that Mr. Blake chose. Sir John MacDonald had very craftily put up a supporter to move this one, and consequently Mr. Blake was at a disadvantage. Further, he had undoubtedly underrated Mr. Thompson and made his argument wider than he would have otherwise done, had he anticipated that it would pass under review by a great legal mind. Thus stood the situation on the afternoon of Monday, the 22nd day of March, 1886, when Mr. Thompson stood up to make his reply to the leader of the opposition. The scene at that moment was intensely dramatic. The supporters of the Government scanned Mr. Thompson as he stood up, but there was nothing in his air or manner or the quiet little gentleman from down by the sea to give them hope or confidence, and a look of doubt and fear passed over their countenances. On the other side, the Opposition, as they surveyed the quiet, unassuming Minister of Justice, felt that they had nothing to dread from him. But the indefatigable work for years as lawyer, Attorney-General, and Judge, and months spent on Woodworth vs. Troop, when he had mastered the rights, duties, and prerogatives of the British Parliament for centuries, were now to stand him in good stead. And as he proceeded in his argument and exposed or brushed aside one after another, the sophistries of Mr. Blake and drew from his great storehouse of accumulated knowledge, fact after fact and argument after argument, he must have felt that his years of toil and midnight oil had not been spent in vain. All Canada knows the result of that debate. His party went wild over him, and he

woke up the next morning to find himself famous. It is honorable to the Ontario Bar to know that one of the most severe adversaries Mr. Thompson had when he faced his speech, was the Hon. Edward Blake. This feeling was reciprocated by Sir John Thompson, who in conversation with the writer a couple of years ago, said that Mr. Blake possessed the greatest legal mind he ever met, and expressed the opinion that Mr. Blake was very much underrated. The writer gathered the impression that there was a kindred feeling between the two men. This, probably, played no small part in the report on Charles Rykert, a session or two after, when Mr. Blake and Mr. Thompson were a sub-committee on that matter.

His next great argument was on the constitutional questions involved in the Jesuits' Estates Act—here, again, he was not without experience, for no province, with the exception of Ontario, had so discussed the question of provincial rights as Nova Scotia. His reply to Mr. D'Alton McCarthy on this occasion was a crushing one, and the Hon. Edward Blake crossed the floor to congratulate him, and the two greatest lawyers that ever adorned the House of Commons, clasped hands amid the applause of the entire House.

He had the faculty in an eminent degree of clothing his arguments in the language of the most difficult and involved propositions of law; he could make questions so clear that they no longer appeared to have ever been difficult. This wonderful faculty was not for many years appreciated by his legal opponents. Case after case he won, and year after year he continued to be successful before the courts. Yet to his opponents he did not appear to win by his ability—they put his success down to luck in always holding a brief on the easy side of the case. There never appeared to be any room to doubt the result; his side of the question was so right and simple it was as if it were a matter of course to opposing counsel. His manner reminds me of the old story of a father taking his son, who was studying law, to hear a celebrated lawyer plead, and when they retired from the court, the father said to his son, "What do you think of him?" and the son replied: "Why, father, he is not much of a speaker, I think he could do as well myself." The father replied: "Yes, son, but you noticed he got the verdict?" and so it was with Thompson, he got the verdict. He was not interested in impressing his auditors with his ability as many persons are who do so. He was a man who impressed the court or jury with their own cleverness, and conveyed the idea that they are trying to pull through a desperate case by sheer force of their great ability. These men do not wear a mask to hide their intellect, and they cannot believe that anyone could do so. Some of the best speakers I have ever heard of are not much of a speaker, I think he could do as well myself." 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