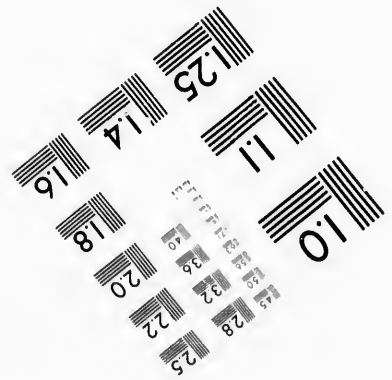
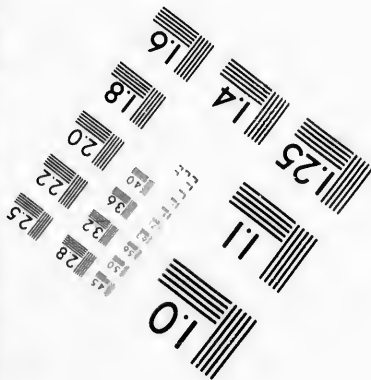
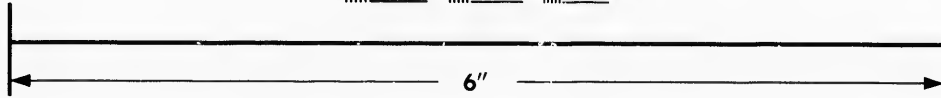
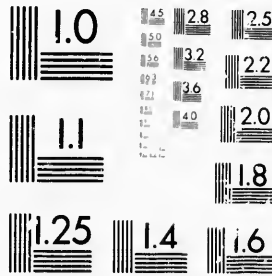


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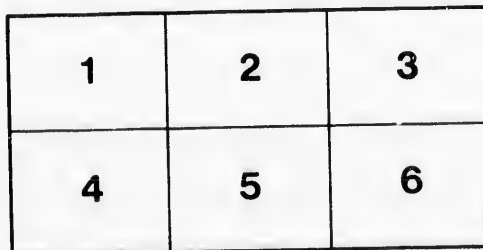
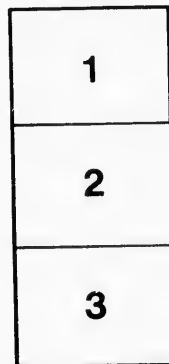
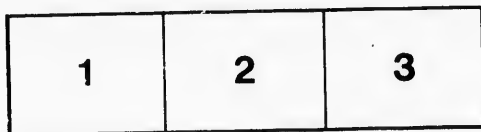
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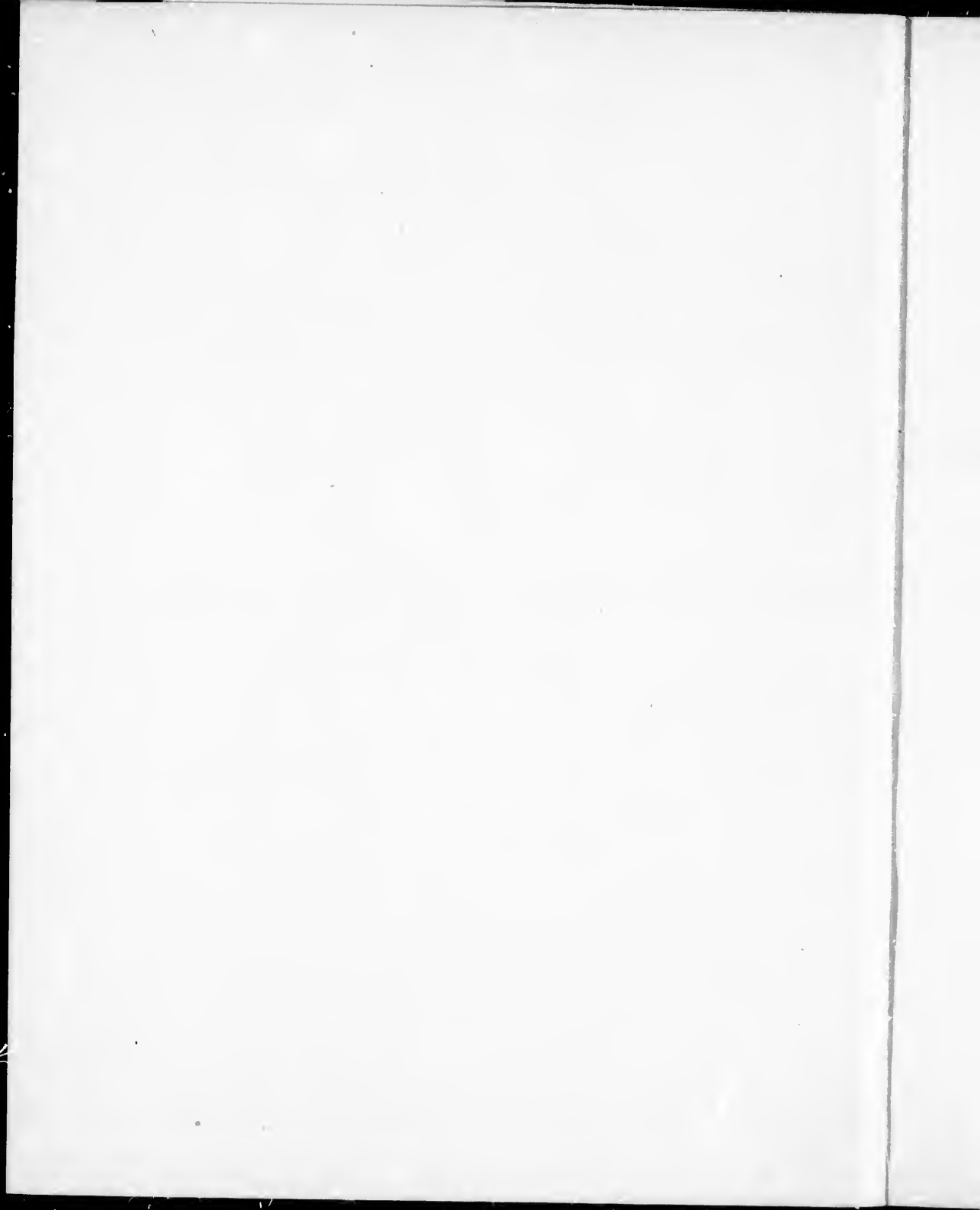
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JOHN BUCKWORTH PARKIN, Q.C.

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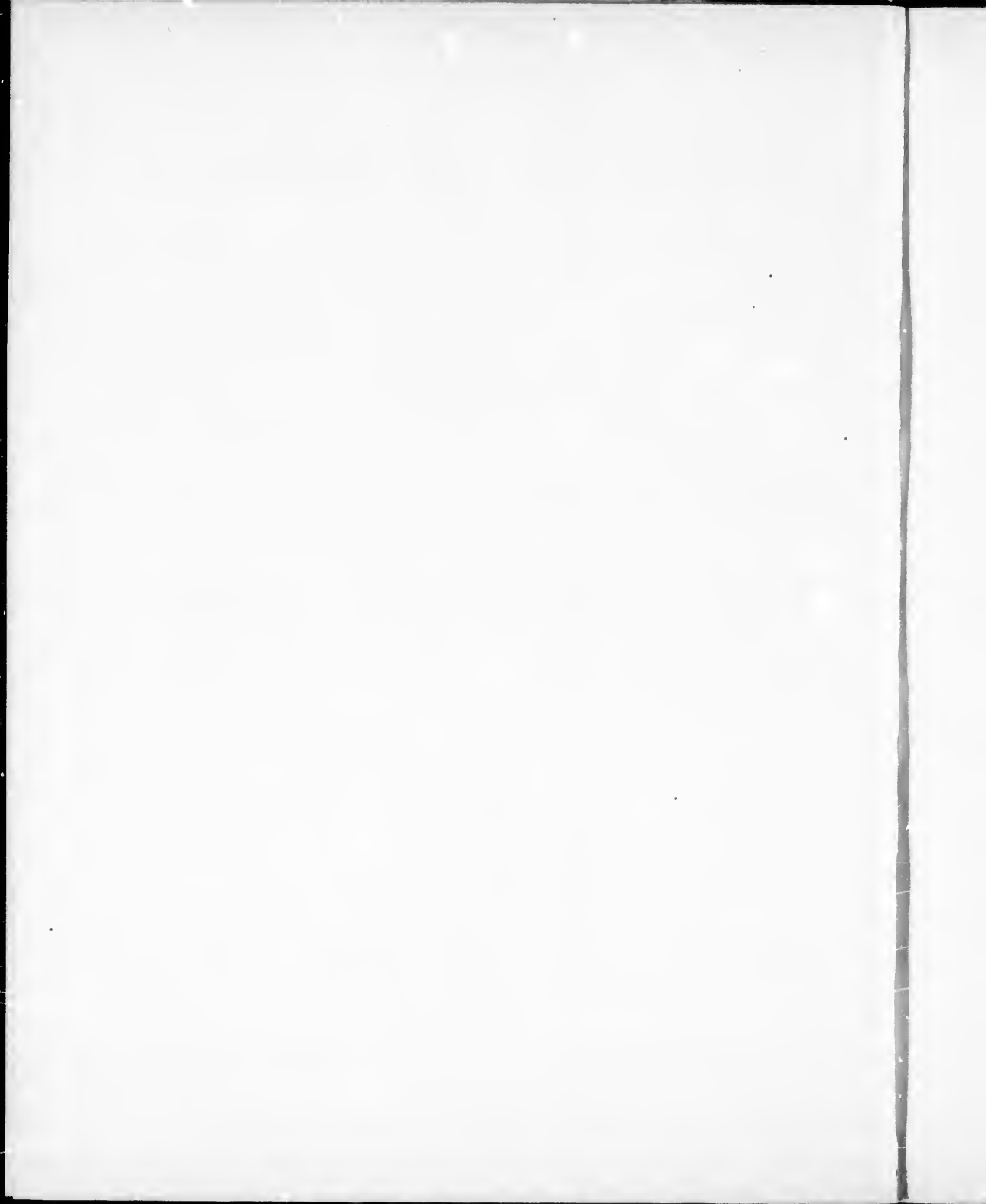
GIVEN BEFORE THE BAR OF QUEBEC

BY

THE HONORABLE CHARLES LANGELIER

TRANSLATED FROM THE FRENCH BY
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JOHN BUGK WORTH PARKIN, Q.C.



At the beginning of these lectures, the eloquent magistrate, Hon. Judge A. B. Routhier, whom we always enjoy hearing, made a statement I recollect; he said his position was very much changed, "Generally," he added, "when I ascend the Bench it is to condemn someone, and often to fulfil a painful or disagreeable duty. To-night, however, it is with a light heart that I ascend, because I came to fulfil a most pleasant task; I have only congratulations to offer."

My position at present is much more perilous than that of the learned Judge. It is, in fact, the first time I ascend the Bench, and you may be assured that, contrary to "Dandin," it is not the inordinate desire to judge that brings me here. On the contrary, I regretted for a moment the rash promise I made to give a lecture. It seemed to me as if I were going to the scaffold as I walked up the steps. My head was in a whirl when I saw how the positions were reversed; the Judges at the foot of the Bench, and I on this formidable height. Far from me the thought of wishing to revive that infamous calumny, invented by I do not know whom, which tried to impress one that a great many men lost their heads on ascending the Bench. I regret with all my heart this villanous assertion.

Without praising myself beyond measure, I may say I have very often gained my cases, though sometimes bad ones; but alas! how often have I not lost, and such excellent ones, according to my mind. I was then obliged to console my clients, which very often was more difficult than losing the case itself. They soon found out that lawyers carry many schemes and excuses in their bags. I discovered an infallible method, which I recommend to all young lawyers; it is to join those poor wretches who fail in pleading and find fault with the Judge who rejects your petition. It is well understood that forty-eight hours is the time allotted for this fault finding, and I am sure that the task is conscientiously fulfilled. This privilege is not seen anywhere in the law books, but it has become such a custom that it has never occurred to anyone to contest it. Lawyers identify themselves so much with the case of their client, that often they are obliged to join them in saying something bad about the Judge. I myself have on my conscience several of these small sins, but I think by the confession I make of them

to-night, joined with a firm purpose never to fail again, ought to make me worthy of absolution from these learned Judges who are kindly present to-night.

If in this distinguished audience there is one, and I hope there is, ready to find fault with the Bench such as it is to-night, I cannot complain, as it would be the just return of human things. Judge Routhier gave us a brilliant lecture on magistrates and lawyers. He showed us all that was grand, beautiful, and noble in this career of men who consecrate themselves to the study of law. Later, no doubt, some of my contemporaries will come to speak to us of those great men who have made the French Bar famous, such as Dupin, Berryer, Lachana, Marie, Bethmont, Allou, Jules Favre, Cremieux, and many others. Before commencing the history of these stars who sparkle with such brilliancy in the Judicial pantheon of France, I wish to remind you of a lawyer of our own time. I want to recall his marvellous talent, vast knowledge, and his warm eloquence; this lawyer, whose name is on your lips, is JOHN BUCKWORTH PARKIN, Q.C. My goodness! how quickly one is forgotten? How many are there who recollect Parkin? I had to have recourse to our oldest members to gather the information necessary for this sketch. A remarkable thing is that though Parkin was such a learned man, he left no writing of any consequence. Liberal of principle, he never allowed himself to be carried away by the turmoil of politics. There is but one of his pleadings that I was able to procure, thanks to Mr. Dunbar, who had conserved it, but unfortunately I am unable to speak of it. It is then very difficult to render justice to him who is the subject of this work.

The souvenir of Parkin brings me back twenty-five years and reminds me that I have grown a quarter of a century older. When I commenced as a student to go to the Court House, there were a score of distinguished men: Messrs. Fournier, Tessier, Irvine, Plamondon, Holt, Angers, Lelievre, Jacques Malouin, O'Kill Stuart, Jean Langlois, Montamblaut and our venerable judge, Sir L. N. Casault, who was then in the first ranks. Several of these men have disappeared, after having had brilliant careers, some on the Bench, others at the Bar.

The Court of Justice is an arena where we like to see the best fencers cross swords.

I was young, my mind still filled with classical souvenirs. These struggles reminded one of the ancient times, and I thought how grand it

must have been to assist at these spectacles, which for a long time were the admiration of Greece. The two immortal rivals, Eschin and Demosthenes, permitted the men of their time to contemplate and study the splendor and the power of eloquence, interpreted by those who joined strength to genius. The eloquence of the Bar demands a great deal of work and talent; this is what caused Paillet, a distinguished member of the French Bar to say: "Give a man all the qualities of mind, give him all those of character, let him see everything, learn everything and remember all, let him be at once a literary man, a critic and a moralist, let him have the experience of old age, the ardor of youth, the infallible memory of a child, say in fact that all the fairies came successively to sit at his cradle and showered him with all faculties, and perhaps, with all that, you may arrive at forming a perfect lawyer." The profession of law is difficult. If we have had spiritual slanders in Montaigne, Erasme and Moliere, we have also admirers who do honor to our profession by their genius.

Voltaire wrote in his correspondence: "I would like to have been a lawyer, it is a most beautiful state in life." La Bruyere, on his side praised the profession admirably: "The duties of a lawyer," he wrote, "are painful and laborious, and supposes in the one that practices law a good foundation and inexhaustible resources. He is not only like the preacher destined to give a certain number of sermons, composed at leisure, recited from memory, with authority and without fear of contradiction, and with slight changes are made to do for more than once. But the lawyer pleads forth seriously before Judges who can impose silence, and against adversaries who interrupt him, he must always be ready with a reply. In one day he may speak in several tribunals and different cases. His home is not a place of rest nor refuge from clients, who come with overwhelming questions and doubts. He does not retire to bed, no refreshments are prepared for him. He does not gather in his room a concourse of people of all states and sexes to compliment him on the politeness of his language. He refreshes himself after long discourses by writing longer documents, he only changes from work to fatigue. I dare to say that he is in his way what the first apostolic men were in theirs."

Parkin understood quite early the principles of the masters. He had, besides his profound wisdom of justice, acquired all sorts of knowledge. His searching and eager mind had studied the human heart. He under-

stood the truth of these words by Juvenal, for men who wish to make for themselves a position at the Bar :

*“ Quid quid agunt homines, votum, timor ira, voluptas
Gaudia discursus, nostri est farrago libelli.”*

To the study of justice he had joined those of history, literature, and philosophy. He was equally familiar with French and English classics. He could recite long passages from Cornelle or Racine, he knew by heart the most beautiful parts of Shakespeare, Moore, and Byron. Beranger's songs amused him very much, and he knew several, which he loved to sing. Greek or Latin had no secrets for him, and sometimes at his office he would suddenly, whilst conversing about art or literature, start and recite pages at a time from Homer. Parkin had a really artistic nature; not only had literature a charm for him, but he was also fond of art of all kinds, so much so, that when he went to visit his parents in England, 1834, he thought of abandoning the study of law and devoting himself to painting, for which he had a decided talent. He painted many pictures, the principal one of which I think is in the possession of the family of the late Sheriff Alleyn. However, his father persuaded him to return to Quebec and finish his studies.

During his stay in England he was passionately fond of study. “He never went out,” someone wrote who knew him well, “without taking with him a favorite book, especially poetry, and he learnt pages at a time by heart.” His mother was justly proud of his efforts, and she did not a little contribute to this grand soul and great heart.

A word of biography now. Parkin was born in Dewsbury, Yorkshire, England, in 1816, and his parents came to this country in 1818. His father, the Rev. Edward Parkin, was made pastor of the church at Chambly, P.Q., and opened a school which was patronized by many, some of whom afterwards became remarkable men in Quebec and Toronto. It was at this school Parkin received his first education. His comrades were Andrew and Henry Stuart; Horatio and John Anderson; the Moffats of Montreal; the three Galts, Thomas, John, and Alexander, and the De Salaberrys.

It was on February 23rd, 1837, that Parkin was admitted to the Bar. His commission is signed by Lord Gosford, then Governor-General. He entered his profession well prepared by the profound studies of justice for the noble struggles at court.

"Are they not beautiful but also delicate," says Bonnet. "These functions of the oracles, forerunners of those of justice! what broadness of mind, what justice of judgment, what purity of soul is required. Who would not tremble to think that his word decides his client, to give in or to contest; to stop or to follow it up. On one side the danger of exposing him to the ruinous expenses of an unsuccessful law-suit; on the other side the fear of ordering the sacrifice of legitimate rights. Here the scruple to refuse a just authority of his name and renown, and there the scruple, more founded, to lend his opinion to an illegitimate claim. Everywhere this delicate sentiment of beautiful soul that makes them dread being the arbitrators for others, and makes them a thousand times more heedful in the interest of others than in their own. How much light and equity is needed to conciliate everything to your own interior contentment.

"For a man animated with veritable Justice, there are also other snares to avoid, on the part even of those who come asking his advice. There are obstinate people who are determined in advance not to follow your advice unless it agrees with their own idea, they do not conceal from you that they are tormented by thirst for quarrel and trial, as it were to lead you on to think as they do. And if you have the courage to blame them for being so obstinate, and to show them how weak their case really is, they leave you with all the signs of discontentment in the hope of finding elsewhere a more accommodating lawyer.

"Others tell you all about the methods of Justice and its severity, and which in the austerity of principles seem in their eyes to favor their case and at the same time try to hide from you that which is odious from the side of equity. It is on such occasions that you have to show yourself with the generous firmness of virtue. It is on these occasions that your conscience as a lawyer should be a supplement to that of the client."

Unquestionably, Parkin was a great lawyer, he had great ability, full of methods and resources. His high qualities were appreciated by the government of that time and named him three times substitute Judge in the Superior Court. From 1853 he replaced Judge Power, who was chosen as a member of commission, charged to adjudge on the petitions of the elections. I have just spoken of his inexhaustible resources; here are two examples: It was 1872, during the electoral campaign, which was conducted by both sides with great tenacity. In a neighboring district of Quebec, a poor liberal, too zealous perhaps, was suddenly arrested. The

registrar who was going to try him, locked him in the vaults of the Court House and put the key in his pocket to be sure that his victim would not escape. The prisoner lamented and protested in vain, he was obliged to remain imprisoned with guardians and old dusty furniture. His position was not very bright, he knew that when he left there he would be thrown into prison. The sombre days of the famous "Starred Chamber" were going to be revived for this new "*Silvio Pellico*." How to manage to tear him away from the claws of this tyrant. In despair he decides to consult Parkin as to what course to follow in such a case. He knew that the great fame of his name would have a salutary effect on the old protonotary. Parkin comes to the place in question, notifies the improvised magistrate of a brief "*Super Sedeas*." At the name only of this antiquated proceeding, the snivers run down the old man's back. "*Super Sedeas*," what on earth could that legal machine be, which he had never heard spoken of before, and let us add that with this Latin had unfathomable mysteries for him, he had never learnt the rule of *Supine*. The proceeding was a marvellous success, the prisoner came out without even a trial. The old protonotary has ever since meditated on the effacacy of a brief "*Super Sedeas*."

Who does not remember our old friend John O'Farrell and his admirable talent; but he was ever at a loss how to use it. One day during the famous contest of Charlevoix's election, he wanted to bring a reluctant witness to court by force. The witness was an old maid, a real virago, as stubborn as could be. After the necessary proceedings and having obtained an order from the tribunal, O'Farrell constituted himself constable and arrested the said witness. He was conducted before the Council of the Bar, he was accused of having committed an act derogatory to the honor of the profession. Parkin defended him and declined the jurisdiction of the Council. This passed for nothing and the Council imposed a punishment on O'Farrell. The affair was brought before the Court of Appeal, where Parkin's claims were sustained. He urged the following point: The Council of the Bar had a right to punish any member who committed an act derogatory to the honor of the society, but it cannot decree itself what actions should be considered as such. This power depends on the legislature. They have been obliged since to bring in a law to determine in future, what actions would be considered as derogatory to the honor of the profession.

Without doubt Parkin was well versed in our laws, civil and commercial. But he was especially brilliant at our criminal assizes.

For more than thirty years he was closely associated with the most celebrated criminal cases. How often his voice has re-echoed in our courts how often has he not saved the life and honor of his client. His first case was in 1857. An accident occurred just near Quebec. The steamer "Montreal" caught fire just opposite Cap Rouge. In the panic the passengers were thrown into the river; 242 lives were lost. This terrible catastrophe threw a great many families into mourning. Who was the guilty one? There must be a guilty one. A victim was needed to satisfy public opinion, which was at its height. Captain Rudolph of the steamer was arrested. His defence in the face of public opinion, prejudiced as it was, was very difficult. Courage was wanted to face the storm. Parkin had this noble courage; he defended Rudolph with great ability, and succeeded in quieting all prejudice and assured the triumph of justice. His client was honorably acquitted.

Later, in 1862, we find him again before the criminal court. He came to lend his ministry to a murderer. The crime was committed in broad daylight, in the presence of several witnesses. It was an English soldier, called Crozier, garrisoned at Quebec, who killed a sergeant called Bewley. Parkin pleads the extenuating circumstances are provocation. He describes the sergeant as a villain, he showed him up as a tyrant who for years was trying to persecute and humiliate Crozier. One day, his soul filled with hate and out of patience, carried away by passion, Crozier points his gun, and the miserable sergeant falls dead. The case being so clear Crozier wished to plead murder. But I do not know by what influence Parkin was retained for his defence. He gave a marvellous account of all the circumstances which had provoked the crime. The jury pronounced a verdict of homicide only. It was a brilliant professional success.

Another sensational case was that of Bakers', accused also of murder. It was during the famous election of Ross and Cauchon in Centre Quebec. The struggle was ardent and bitter, and great excitement prevailed. In a mixed population such as ours, an appeal to the prejudiced sentiment of race is always dangerous. Couchon was a powerful speaker on the platform. His adversary was powerful on account of his immense fortune. They tried to win with money but did not succeed. The excitement was at its height. One day Pelletier goes to a bar kept by Baker; a discussion began, they warmed up and commenced to insult each other. Finally Baker sends off

his revolver and kills Pelletier on the spot. Parkin is called in for the defence. With his habitual calm he knew how to avoid the troubles connected therewith. He could not hope for acquittal, but he succeeded in drawing from the jury a simple verdict of homicide, and saved his client's head.

His last criminal case was Murphy's, a carter, who brutally killed constable Clark in front of St. Louis Hotel. It was a revolting murder; in a scuffle Murphy threw the constable and knocked his head on the edge of the stone pavement, leaving a great gash in the poor man's head, and left him there bathed in his blood. It was our friend Mr. Dunbar who took up the case, and since that time has acquired a great reputation as a criminal lawyer. Our excellent President, Mr. Lemieux, was acting as French counsel in the case. It was the first criminal case in which he took part; how often since has he not, by his eloquent pleading, made the jury weep. Unfortunately, this case offered none of the characteristics capable of awakening the sensitiveness of the jury. It was a brutal murder. The only element which could show itself was that the victim was a policeman, and though so necessary in the interest of peace, they are far from being popular with the masses. Mr. Dunbar, in asking Parkin to join him in the defence, showed him how unthankful the task was. Parkin, with his usual coolness, answered, "Well, Dunbar, as we don't make the cases, (the murderers do not consult us before committing their crimes), we will do our best."

It was during this case that Parkin was attacked with the illness which brought him to the grave. He left the court very ill, never to appear there again. The Court of Criminal Assizes, where so often his voice had been heard, was to see him no more. He died in harness; he died as a glorious soldier wounded on the field of honor. Although suffering a great deal, he called Messrs. Dunbar and Lemieux to his bedside; he showed them his views and directed them with the sharp perspicacity which distinguished him to such a high degree. Murphy escaped, the jury declared him guilty of homicide. When Parkin was told the result he felt happy. The wounded gladiator felt the joy of his last battle and supreme victory. His thoughts were taken for the last time to the arena where he so often fought his intellectual battles, and as the Roman soldier, *Dulces Moriens Remiiscitur Argos*. A few days later, in 1875, this great man passed away. One of the greatest lawyers, if not the greatest of the period, even though our judicial annals record so many glorious names.

His eloquence had a particular character; instead of speaking in a

way which fascinated for the moment, but did not convince, he appealed to the intelligence of the Jury from the feelings of his own heart. He had much the same manner as Lachaud. He spoke quietly and slowly, but always with force and precision. His language was irreproachable. The tribunal listened to him with marked deference, because they knew that what he was uttering had a serious meaning. He knew perfectly how to cross question a witness ; according to the case he was extremely polite, or he knew how to flatter if it was useful. Again he could be terribly severe. It was seldom he did not extract the truth from a witness. Parkin's triumphs in the precincts of justice might occur again ; but what can never be repeated is his eloquent language and the heart that inspired his pleadings. Those who assisted at the great Judicial dramas of our time, will long remember this eloquence, which always produced such a great effect on the Jury and the remembrance they have kept of it will help them to revive it. Parkin pleaded for more than thirty years and when quite young was celebrated.

To exercise a great influence on others, a man must believe strongly in something himself, in love, in politics or in his country ; he must in fact have a passion at heart. Parkin had this passion, he loved his profession. He liked to struggle before an audience and defend the innocent, he had to succeed in proving that innocent, and protect the guilty against the severity of justice and public opinion. In his client he only saw an unfortunate man, who had to be protected against all, and often against himself ; it did not trouble him much if his client was rich or poor, he was identified with him and interested himself in his fate. And with what zeal he prepared the defence.

"Reflect a moment on the worries of a client," says Jules Favre, "troubled in his right, in his rest, in his interests ; threatened with a material loss and often with an attempt on his honor, he has very strong ideas of what ought to be said for his salvation, and yet he must have recourse to a stranger. This stranger is going to transform what he thinks, what he wants, and what he suffers ; he is going to become another himself, he is going to explain his life. What a mission and what a responsibility. Imagine the quantity of pre-occupations that are necessary to one who understands these things. It does not depend on the lawyer to have superior qualities, but what he can and what he should do, is to give to the one who comes to him every effort which reclaims his defence. This is an obligation ; to fail therein is failing in duty."

We may say of Parkin what was said of Lachaud: "In his hands a criminal affair was only a vulgar, common-place affair; its physiognomy was changed, You did not only see the crimes, the criminal, and the horror he inspired, but you also recognized in this criminal a human being, agitated like others with human passions. Each case then became a romance, an acted drama, and the lawyer was the one who staged it."

Parkin's triumphs were great and many. They never, however, had any influence on his good nature. Those who knew him must remember his animation, his good fellowship, his Athenian spirit, and his modesty, which made him so natural and amiable. How can I describe Parkin better than quoting the appreciation of his contemporaries even after his death. Here is the resolution adopted by the Bar, which was proposed by Mr. Hearn, and seconded by the late Judge Holt: "That in the death of the late John Buckworth Parkin, Q.C., the members of the Bar have to deplore the loss of an accomplished and courteous gentleman, whose high professional position was honourably won by the fullness of his learning and independence, skill, and brilliancy with which he discharged the duties of a great lawyer."

This beautiful testimony is well merited. I have tried to retrace the life of this clever lawyer, but I remain far from accomplishing my task. Happily for me, His Honor the Lieutenant Governor (Sir Adolph Chapleau,) who for a long time was the Prince of Orators at the Bar, has honored us with his presence and gives to my feeble words more authority. He knew this vigorous athlete better than I, he fought in the same arena, where he, himself, carried away so many laurels before politics robbed him from the profession. He can complete what I have omitted. Many years will pass, before, in our Bar, though there are so many who shine so brilliantly, that Parkin's place will be filled again. Where, in fact, can this supple and flexible talent be found? capable of talking all tones, and which knew how to lend its language to all elevated or inferior interests, to all causes from those that touch with propriety to those dramas which show up all the weakness, passions and miseries of the human heart. I feel as if I were abusing your kind attention, and yet what an imperfect sketch of such great talent. Others will complete this and say how with the jealous care of the privileges of a lawyer, he allied at all times the profoundest respect for the Magistrature. Others will tell of his charming spirit, agreeable manner. When we evoke the remembrance of these great names which have honored our society and makes us love our profession all the more.

Let us love this beautiful and noble profession. Let it be for us not only an occasion to spend our life, but also a field where we can exercise the modest faculties with which Providence has favored us. It gives to those who devote themselves to it, the consideration and public esteem and it can even give glory.

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