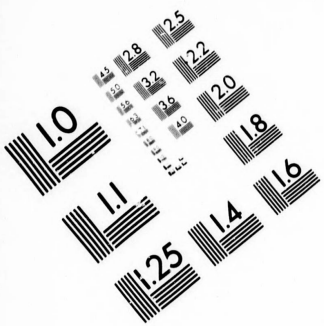

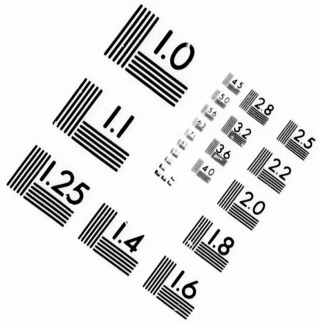

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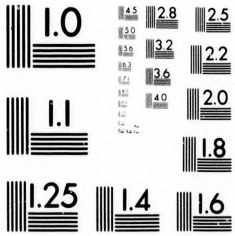

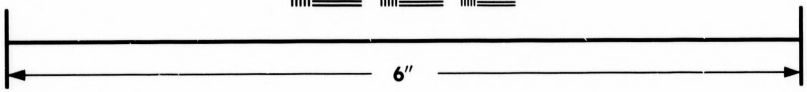

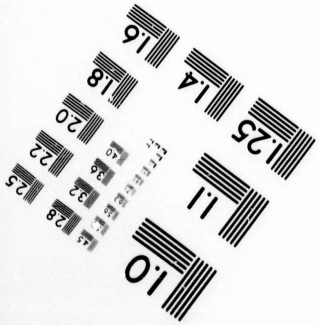

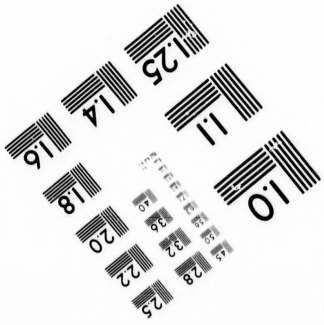

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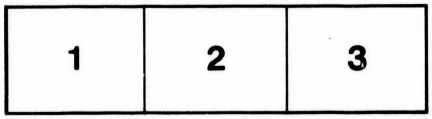

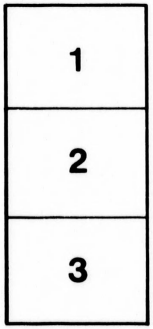

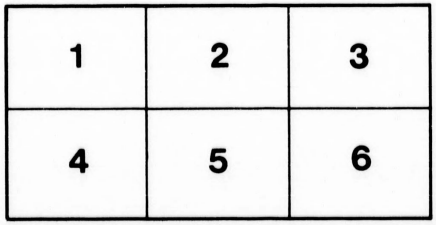

THE

ADDRESSES AND PROCEEDINGS

IN CONNECTION WITH THE RETIREMENT

FROM THE BENCH OF

"Not published"

WITH THE COMPLIMENTS OF THE WRITER.

A MEMBER OF THE ONTARIO BAR.

1884.

1884
(3)

A generally expressed wish for a full account, in compact form, of the addresses and proceedings which followed the recent retirement of the Senior Judge of this Judicial District has induced the writer to select from the public journals and other published material within his reach, the necessary matter to enable him to present a brief memorial of the subject, with some particulars respecting a man deservedly respected by all classes of the community—some particulars which may serve to show that the references, especially in the address from the Bar as to the "influence of Judge Gowan's abilities and industry in various directions" were not mere words of compliment from partial friends.*

His Honor James Robert Gowan, late Local Judge of the High Court of Justice for Ontario and Senior Judge of the Judicial District of Simcoe, was no ordinary man, and his retirement from office no ordinary event. Actively engaged in the judicial office for nearly forty-one years,† a longer service than that of any other

* The addresses referred to, it is thought, will find a more fitting place further on.

† On 24th June, Trinity Term, 1834, he was admitted as a Student of the Law to the Law Society, having passed the necessary examinations and on 5th August, 1839, Michaelmas Term, he was called to the degree of Barrister-at-Law *(U. C. Gazette, Vols. 9 and 14)*. Appointed to the Judicial Office, 17th January, 1843 *(Canadian Legal Directory, 78)*. Retired, 24th October, 1883 *(Canada Gazette)*.

Judge in the Province, it is not a matter of surprise that much interest should be felt in a career, without parallel for duration in any Colony of the Empire, marked as it was throughout, and to the very close, by a vigorous discharge of every duty, as well as by varied and important services, outside the duties proper of the office he held.* His official life was one of uniform and extended usefulness, and he has carried with him, into a well earned retirement, the approving testimony of those who recognize the value of fidelity and courage as well as ability in the discharge of important public functions. It is worthy of note that Mr. Gowan was the youngest man ever entrusted with Her Majesty's Commission as a Judge,† and this fact may explain the energy and working powers he retained up to the moment of his retirement, for his present age could not preclude the idea of years of further usefulness, indeed his retirement took many by surprise.‡ He had no doubt undergone trying hardships in the early settlement of the new district, to which he was appointed, which a man with a less elastic constitution would

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* We believe Chief Justice Bowen of Lower Canada was nominally in office for nearly fifty years, but for more than ten years before his death he never sat or performed any duty; virtually then Judge Gowan is the longest holder of judicial rank, seeing that he discharged the active duties of his office during the whole period of his tenure, nearly forty-one years.

† Canadian Biographical Dictionary, page 26. Canadian Portrait Gallery, Vol. 3. Morgan's Canadian Directory of 1878. "The Irishman in Canada."

‡ "The announcement of the retirement of Judge Gowan took every one "by surprise, on Friday and Saturday it was the absorbing topic of conversa-"tion in public places," says the *Weekly Gazette* of 3rd Oct., 1883. "The "general topic of conversation in town * * * was His Honor Judge "Gowan's resignation, the announcement of which was sudden and unexpect-"ed. It was anticipated His Honor would seek a milder climate for the "winter as his health has been the reverse of robust for the past year or so. "It seems however that Judge Gowan prefers to resign an office he has held "so long and filled with such singular ability for the past forty years that "not a single important decision of his has ever been overruled." —*Examiner* of 4th Oct., 1883.

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have succumbed to.* But though they were not without producing their effect upon his health, they were not probably the operating cause of his retirement. He himself says in his address to the Bar: "Let me say one word as to my retirement. As you are aware this is the largest Judicial District in the Province, having a population, not very long since, equal to that of Manitoba and British Columbia together. The duties are very onerous, requiring the services of at least two active men to perform properly with the promptitude demanded in the various duties made incident to the Judge's office, and I felt the time had come when in

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* Living himself after his appointment in a new District, the only means of locomotion a saddle horse or one's own stout legs, for the position of a Judge "was attended in those days with a good many inconveniences which have disappeared with advancing civilization. The roads were in such a condition that he was generally compelled to make his circuits on horseback. Judge Gowan's district was the largest in the Province, and stretched over a wide tract of country, the greater part of which was but sparsely settled. He was frequently compelled to ride from sixty to seventy miles a day, and to dispose of five or six hundred cases at a single session. One of the newspapers published in the County of Simcoe gave an account. several years ago, of some of his early exploits; from which account it appears that he was often literally compelled to take his life in his hand in the course of his official peregrinations. It describes how, on one occasion, he was compelled to ride from Barrie to Collingwood when the forest was on fire. The heat and smoke were sufficiently trying, but he had also to encounter serious peril from the blazing trees which were falling all around him. On another occasion, while attempting to cross a river during high water his horse was caught by the flood and carried down stream at such a rate that he might well have given himself up for lost. He saved himself by grasping his horse's tail, and thereby keeping his head above water until he came to a spot where he could find foothold, and so made the best of his way, more than half drowned. to the shore He was also frequently compelled to encounter dangers from which travellers in the rural districts of Canada are not altogether free even at the present day—such dangers, for instance, as damp beds, unwholesome and ill-cooked food, and badly ventilated rooms.—*Law Journal and Canadian Portrait Gallery.* "Mr. Gowan," says the able and accomplished author of "The Irishman in Canada," "is one of the most venerable and learned "figures on the Bench When in 1842 Mr. Baldwin made him Judge of "the District of Simcoe he was the youngest Judge of the Province. Many "a time in those days he had to ride seventy miles a day to meet his "court engagements and his adventures by flood and field would make a "little volume; yet he was scarcely ever absent from his duties."

justice to the public and my brother Judges I should make way for a younger man. My age and uncertain health demanded more repose than I could properly ask or take, and so I sought retirement, and after forty-one years of hard work it cannot be said that my appeal to be relieved was in any sense premature. Indeed, I have the satisfaction of knowing that His Excellency the Governor-General appreciates as he is pleased to communicate, my 'faithful, efficient and impartial conduct during my long term of Judicial service.' "

The Judge could, probably, have gone on without remark or complaint, doing such work as uncertain health permitted; but he evidently felt that it was not consistent, with a proper sense of duty, to retain office, when unable to give the full measure of service he had been accustomed to perform. Retirement meant a diminished income, but he had evidently made up his mind, as to what was right to do, and did it without hesitation; not even we believe advising with anyone on the subject; certain it is, as already mentioned, it took the public, the Bar, and even his own intimate friends by surprise, for, up to the day it was announced, he had held the courts as well as discharged the duties of Chambers, with all his accustomed energy and assiduity. The first public announcement was in the early part of October last, and a few extracts from the public journals may serve to show the feeling that prevailed. "As we "go to press, we notice the retirement of His Honor "James Robert Gowan. * * * Those only, "and the circle of these is no limited one, who know "of his learning, his large and ripened experience, and "his great service to the country in numberless ways, "can measure the loss this will be to the Bench, of "which he was *facile princeps*. * * * * Judge "Gowan occupies as strong a position in the hearts of "his friends and acquaintances, from his high personal

" character, as from his Judicial excellence. A kind
" thoughtfulness for others, and a benevolent disposition
" endeared him to the community in which he has
" heretofore passed his long and useful life. Spotless
" purity, entire freedom from undue influence, and an
" earnest desire to do justice have characterized him as
" a Judge. Great force of character, combined with
" cordiality and courtesy of demeanour, and a high con-
" sideration for the performance of his duties, have
" distinguished him as a citizen. * * * * *
" He takes with him into his well earned retirement,
" the best wishes of a large circle of friends and ad-
" mirers for his future health and happiness. And we
" trust, that in some way or another, the country may
" still have the benefit of his ripe experience. His
" career is a brilliant example to those who occupy
" similar positions of trust and dignity to emulate,
" which will be a duty, and to equal which will indeed
" be difficult." (*Canada Law Journal*, Oct. and Nov. Nos. 1883).

" Judge Gowan recently retired from the position he
" has so creditably filled. He held the office for 41
" years. He has earned for himself a reputation for
" ability and integrity in the discharge of the important
" duties entrusted to him. After so long a service, he
" naturally desired to withdraw from active judicial
" work. * * * * * The esteem for Judge
" Gowan extends far beyond official circles, he is well
" known in spheres of Christian philanthropy, and his
" efforts in doing good have in many cases led to happy
" results." (*Canada Presbyterian*, Oct., 1883).

" He has been longer on the Bench than any other
" Judge in the Dominion, and has made a very honorable
" record. His services have been recognized by magis-
" trates, lawyers and the public generally, and he enjoys
" the respect and esteem, not only of his brother Judges

" and the members of the Government, but of all with " whom his duties have brought him in contact. We " know of no occupant of the Bench, who by long " service and the faithful discharge of his duties, has so " richly earned retirement as has Judge Gowan." (*Toronto Telegram*, Oct., 1883).

" To say that we regret that he has divested himself " of the ermine, is but to echo the sentiments of every " one who knew him. * * *" (*Muskoka Herald*, 16th Oct., 1883).

" Whilst we, in common with the community at " large, cannot but regret that Judge Gowan has left " the Bench, of which he was so distinguished an orna- " ment, we can easily understand that he wished to " divest himself of the ermine, whilst his mental " faculties were undoubtedly unimpaired and in more " than youthful vigor, because tempered by years and " enlarged and varied experience, and cultivated, by not " merely legal lore, but by extensive literary reading " and study, which it is to be hoped, now that he is un- " tramelled by judicial fetters, the country may at no " distant day reap the benefit of, in some form or other." (*Examiner*, 4th Oct., 1883).

We might multiply quotations in this connection, for the subject was noticed, very generally, by the public press, and all, without exception, gave expression to regret and spoke in eulogistic terms of Judge Gowan's varied services, during his long career. It is believed they spoke the mind of every thinking man in the community, and we are borne out in this by the language of the Presentment by the Grand Jury, at the Court, next after the Judge's resignation.

" This being the first Grand Jury that has met since " the retirement of Judge Gowan, we cannot allow the " opportunity to pass, without expressing our high sense

"of the long and faithful service he has rendered in "this County. * * * * * We take peculiar "pleasure, being in a sense representatives of the "people of this County, in placing on record our high "sense of the great esteem and respect in which Judge "Gowan has always been held by the residents of this "County, and in doing this we know that we are voic-"ing the unanimous sentiments of all. Judge Gowan "has many happy causes for gratification in looking "over his long judicial course, and we think it will not "be least among them to know, that he always carries "with him the goodwill and highest esteem of the "people with whom he has been so long identified. "*Grand Jury Room, Barrie*, 13th Dec., 1883."

To find such unanimity of expression, touching any public man, is rare, and especially in the case of one, who in the position of a judge, must have many times crossed the interests of the losing parties, in the many thousands of cases, which came before him during the long time he held office, but his fearless honesty was only equalled by his industry and produced a confidence almost without parallel in all his decisions. This, the fact that appeals from his decisions were almost unknown, * abundantly proves, seeing that he acted in the presence of a large and able Bar, and amongst "an intelligent and educated people, very tenacious of their

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* "We believe that throughout the whole of his judicial career but two of "those pronounced were reversed. * * * All of his judgments that we "have read are clear in diction, dignified and concise * * * entirely free "from any parade of learning or affectation; two objects seemed to absorb "the attention of the Judge (1) properly to adjust the disputed rights of the "parties (2) to establish a rule by which similar questions may be solved in "the future, and if possible to bring each case within the scope of some "general principle which he had enunciated and defined, guarding it how-"ever with proper conditions and exceptions. * * * The soundness of "his judgments and the care with which he prepared his decisions is evinced "by the fact, before mentioned, that but two of his judgments appear to be "reversed on appeal."—*Canada Law Journal*, Nov., 1883.

rights." This fact has been referred to in several quarters. We learn from older members of the Bar that there never was a feeling in this Judicial District that "it depended upon the humour of the Judge what character the law assumed." So far from that, every practitioner felt confidence in advising his client, upon ascertained facts, what the decision would probably be. This was a matter of great importance in those days when the bulk of the law business was done in the Division Courts, and when there was no appeal from the decision of the Judge acting in these Courts; though retained in the other Courts over which he presided. The feeling of confidence and certainty to which we refer, was conspicuous very early in Judge Gowan's judicial life, and in this connection may be given the language of an address, presented to him in 1852, by the magistrates, councillors and others, residents of the western townships, after a new District was set off from the territory then in his jurisdiction, and formed into the District of Grey. The address speaks of the manner in which the duties in the particular Court for the locality had been performed; "and "the usefulness of that Court, under your Honor's "jurisdiction, in giving soundness to pecuniary trans-"actions, confidence in commercial affairs and a high "tone of moral feeling;" and adds: "on your separation "from this Division in taking leave of you, we beg to "assure you that it is with mingled feelings of respect "and regret; respect for you as an able and upright "judge, and regret that we have lost your valuable "services." Referring to this Address, the *Barrie Herald* of 7th April, 1852, says, amongst other things: "From "personal attendance for a period of more than six "years at many of the Courts, over which Judge "Gowan presides, we are warranted in expressing our "conviction that to his integrity, ability and painstak-

" ing efforts, and not merely to the value of the system
" itself, may be traced the existence of the order of
" things fitly described in the address to him as 'giving
" 'soundness to pecuniary transactions, confidence in
" 'commercial affairs and a higher tone to moral feeling'
" throughout the county."

Not only was the Judge earnest with the performance of his regular work, but he took much trouble in aiding every official, within his jurisdiction, by instruction and advice, a matter of no small moment, in the early settlement of the country, when in the nature of things, the same educated intelligence could not be expected, as can now everywhere be found in those who hold positions of trust.

His kindness in this particular was felt and appreciated, and has frequently been acknowledged; one such instance may be mentioned. In July, 1844, the magistrates of the Judicial District presented him with a gold snuff-box of very beautiful design bearing the inscription: "Presented to His Honor Judge James Robert
" Gowan by the Magistrates of the District of Simcoe,
" who gratefully acknowledge his invaluable services
" in the judicial organization of this new District, and
" his uniform kindness to them personally."*

The Municipal Councils all over the District, on many occasions, in resolutions and addresses, thankfully acknowledged his services: indeed it is rare to find the career of any public man marked by such constant appreciation, and every possible occasion used to give it expression. One, within the recollection of the writer, may be mentioned, as showing how he was revered by the profession, as well as the public, in his judicial District, who were justly proud of his well deserved fame.

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* *Canadian Biographical Dictionary* page 26, and Toronto Newspapers.

In 1868, when he had completed a quarter of a century on the Bench, he was presented by the Bar of the County, in which he had so long presided, with a life sized portrait in oil of himself in his robes. "The "Portrait was accompanied by an enthusiastic address "expressive of the respect and esteem in which he was "held by the donors." We extract a couple of paragraphs: "We feel that to your wise counsels and ex-"amples are mainly due the existence of a Bar in this "County, which will compare favorably with any in "the Dominion, and that this result has been obtained "without, in the smallest degree, fostering it at the ex-"pense of the public interest. * * "We believe that to "your firm and dignified administration of the laws is "mainly to be attributed the comparative freedom from "crime, which, we rejoice to know, distinguishes the "County of Simcoe, and the respect for law and order, "which pervades all classes of our community.

"The Profession have long felt that some public "recognition of your extended and valuable services on "the Bench, and your kindly spirit towards themselves, "was due to you, and we now beg your acceptance, at "our hands, of this life sized painting of yourself, in "your official chair and robes, as a mark of the respect "and esteem in which you are held by us; and while "making it, as we do, your own private property, we "ask the favor, that it may for a time be permitted to "hang in the Court Room, so that all may have an "opportunity of seeing it and learning that the pro-"fession have paid tribute to your worth."

This was followed shortly after by an address from the Simcoe County Council, expressive of their "lively "appreciation of Judge Gowan's long judicial services," and assuring him that the same sentiments "of esteem "and high respect that animated the Council towards "his person were equally shared by the people at large."

As the *Canadian Biographical Dictionary*, in referring to this matter says: "Energetic and earnest and fearless " and firm as a Judge, yet his relations have always " been pleasant with those having business before him, " and he has secured the regard and respect of the legal " profession."

Upon this graceful act the public press commented in terms of approval, and it must have been gratifying as it was encouraging, and that he retained their regard and respect to the very close of his career on the Bench, we shall have occasion to show before closing this sketch. Perhaps the most striking evidence of his great aptitude for the position was his wise and successful administration of patronage, in the selection of officers for the several Division Courts over which he presided. Until very recently the duty of appointing all the officers of these Courts belonged to the senior Judge—the power of appointment and removal—for all held office during the pleasure of the Judge In Judge Gowan's extended jurisdiction he had the appointment to some twenty-five offices, several of them, at the time, giving an income, from fees, larger than the Judge's own salary. During the whole period of his incumbency over one hundred officers were appointed by him, and so judicious had been his selection that only four men of his appointment were removed for misconduct or neglect in the long period of forty years. The other changes that occurred in that time were due to resignation, removal or death. A few years ago an ex-M.P. who spoke: "from actual knowledge, having re- " sided in the County longer than the Judge himself, " and somewhat intimately acquainted with public " feeling"; in a letter published, at the time, refers to the Judge's administration, in this particular as, "a matter " which has deservedly long since obtained the appro- " bation of thinking men of all parties in this com-

"munity, namely, the wise and just manner in which, "for over a third of a century, the Judge has exercised "the large patronage vested in his office"; and in proof mentions a fact to show how well officers of his appointing stood with the public. He says: "No less than "eight were elected Reeves, and some of them re-elect-"ed again and again, and three served in the honorable "office of Warden, with several others, chosen to fill the "office of councillors in local Municipalities," and he might have added, more than one elected to the Legislature. In commenting on this the *Advance* newspaper says: "It may seem a simple thing to many, to choose "always the best men for such positions, but such a "choice requires two things, and these two the Judge "possessed in a singular degree. The first, an insight "into character, a capability of judging what a man "really *was*, no matter what he *seemed to be*. It has been "remarked, even by some who grudgingly conceded "praise to those who differed from them, that the Judge "possessed in a most remarkable way, the faculty of "reading character, and of detecting the secret work-"ings that animated those, whose actions and motives "it was necessary he should discover and understand. "He could at once guage a man, and as the result gen-"erally showed, correctly. The other faculty required, "as to such appointments, is the courage to appoint the "best man, once he was found, despite the many adverse "influences brought to bear. 'The public good' was, "in an essential manner, Judge Gowan's motto. We "have before us a 'paper' issued by him to officers of "his Division Courts some years ago, and we make one "extract which will serve to show how he exercised "the patronage reposed in him.

"'The letter of the Statute makes the tenure of office, "'for both Clerk and Bailiff, during the *pleasure* of the "'Judge; but an Office connected with the administra-

" 'tion of justice ought, at least practically, to be upon
" 'a more certain tenure—and while willing and able
" 'to do the duties required of him faithfully, discreetly,
" 'and in the mode prescribed, every officer should be
" 'able to feel assured that his position was secure.
" 'These, my early formed and known sentiments, need
" 'no repetition to convince Officers in this County that
" 'the exercise of my *pleasure* will not be bottomed on
" 'caprice. But I hold the power of removal as a trust,
" 'and may not decline to exercise it, when inability or
" 'misbehavior in office is made to appear to my satis-
" 'faction. . . . . I reckon confidently on an energetic
" 'and diligent discharge of duty, a prompt and cheer-
" 'ful compliance with the various regulations, by
" 'which the full benefit of the Courts may be secured
" 'to those who have occasion to use them.'"

We will only add, Judge Gowan may be said, in a certain sense, to have been exacting in the case of officers appointed by him, but he was just, and that he was revered by them to the end is manifest by their final address to him on his retirement, to be hereafter noticed. Nor did he confine himself to the effective organization and administration in the courts, but, active and energetic in everything calculated to promote the public good, he engaged himself ever since the year 1843, in assisting by his co-operation and advice, in the working and development of our municipal system,* and it enabled him to give much valuable aid towards

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* "Towards the organization and practical working out of our complicated
" municipal system, Judge Gowan has contributed more than any other one
" individual. Living himself after his appointment in a new District—
" brought into daily contact with the immigrant and the old settler, forced
" to hold his first Division Court in localities to which, for a time, the only
" means of access would be a bridle path, and the only means of locomotion
" a saddle-horse or one's own stout legs—he was brought face to face with the
" wants and peculiar requirements of settlements hewn out of the primeval
" forest, and the learned Judge thus acquired a practical experience which

the legislation which has gradually brought it to its present admirable condition. But we refer now more to the advice, encouragement and sustenance, which he continually gave, not merely to the members of the several Municipal Corporations in his extensive District, but to the Council for the County, which has been frequently acknowledged; the last time, after his retirement, will meet with more extended reference before this paper is closed.

Amidst all the demands which varied duties of the judicial office entailed upon him it is marvellous that he found time, in so many ways, to aid in promoting matters of importance to the welfare of the country. His ability as a legal draftsman had commended him to the Honorable Robert Baldwin during the time of his government, who availed himself of his services and suggestions for reform and improvement in matters of legal administration, and the Attorney-General of nearly every government since then, has in various ways sought his aid which was always as freely given, as it

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"was open to few. This special knowledge, added to his well known legal "attainments, and the confidence which was felt in his judgment and know-"ledge in high quarters, gave him the opportunity to mould much needful "and practical legislation—legislation, which otherwise would have been "largely theoretical and of questionable value. In all such matters Judge "Gowan did not confine himself solely to the limited sphere of his local "judicial duties, but with pen and voice brought under public notice any "notable abuse, or suggested some sensible amendment of the existing law, "which would bring order out of chaos, and tend to reduce the constant "friction which is an incident to all newly devised systems, no matter how "carefully framed. Through such labors as his—and the labors of many "others, too, who are entitled to be credited with efforts in the same direc-"tion—we have perfected a most flexible and workable system of local self-"government, which while a boon to the various local communities, is at the "same time a monument more enduring than brass of the untiring energy "and patriotism of men like the late Judge of the Judicial District of Simcoe." *Canada Law Journal*, Nov., 1883.

has been generously acknowledged.* For example in October, 1863, Sir William B. Richards, in replying to the Grand Jury at the County of Simcoe Assizes, shortly after his appointment to the Bench, refers to the "suggestions and able assistance rendered to him by Judge "Gowan, when he was Attorney-General, in preparing "legislation touching legal improvements." "With "regard," he said, "to the measure for consolidating the "Statutes bearing upon the duties of Magistrates, which "he had introduced into the Legislature and several "other important public measures relating to administration, amongst them the Division Court law, he felt "called upon to state, the country was mainly indebted "to Judge Gowan, with whom the suggestions had "originated, and he had reason to believe that other "Attorney-Generals had availed themselves of his suggestions and assistance on important measures of law "reform." And in 1866, when Sir John A. Macdonald, then Attorney-General, was entertained by the Upper Canada Law Society, the Profession being represented from all parts of the country and the Judges, heads of Colleges, Bankers, Members of Parliament and other prominent citizens being also present as guests. Sir

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* His skill, as a legal draughtsman, was such that Mr. Baldwin, who at the time of Judge Gowan's appointment, was Attorney-General for Upper Canada, availed himself of his services in preparing various important measures, which were afterwards submitted to Parliament. This was a remarkably high compliment for a young man of twenty-five to receive, but there is no doubt the compliment was well merited, for the measures so prepared were models of compact statutory legislation, and gained no inconsiderable *eclat* for the Administration. The example, set by Mr. Baldwin, has since been followed by other Attorneys General, and Judge Gowan has thus made a decided mark upon our Canadian legislation and jurisprudence. * * *Canadian Portrait Gallery.* It is well known that many important Acts of Parliament, and many valuable amendments of existing statutes have originated in his fertile brain. and any suggestion coming from this eminent Judge, with his known experience and ripe judgment, it may well be believed, was eagerly and gladly made use of by the officers of the Crown, for the time being. and speedily these suggestions would be found reflected in the Statute Book.—*Canada Law Journal*, Nov., 1883.

John's health being proposed by the chairman, who referred to his twenty-five years of office, the wise and well considered legislation promoted by him during that time; Sir John in the course of his remarks in reply, after a tribute to the memory of the late Sir James Macaulay and in equally complimentary terms alluding to the assistance he received from Chief Justice Draper, an "able legal draftsman," paid a handsome compliment to Judge Gowan: "to whom next to Sir James Macaulay "and Chief Justice Draper," said he, "I owe a debt of "gratitude for assistance of this nature;" and referring to various enactments of the Statute Book said: "if you "refer to these, you will recognize the careful and legal "mind and hand of my friend Judge Gowan." The Upper Canada Law Journal, in commenting on the proceedings said, Sir John Macdonald "paid, perhaps, "the most graceful compliment of all when he spoke "of one, who though not holding so high a position and "not so prominently before the public, as either of the "other gentlemen named, is, we believe, second to none "in devotion to the duties of his office and, who while "discharging those duties with the utmost exactitude "and with much ability, still finds time to add his "quota to the cause which every lover of his country "has at heart—the improvement of his country's laws." * * * "We are the more pleased to have the opportunity of recording this expression of opinion on the "part of the Attorney-General as we ourselves, as well "as those who preceded us, in the management of this "Journal, are under many obligations to Judge Gowan "for his most valuable information and assistance on a "variety of subjects." As well put by the graceful writer from whom we have already quoted: "a pioneer "Judge, he is yet an erudite lawyer and has had a "leading mind in all the great law reforms."*

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* *The Irishman in Canada*, by N. F. Davin, Esq.

During the Government of Sir John Macdonald, the difficult task of consolidating the public statute law of the country, involving the re-casting and classification of the whole body of the statute law from 1792 to 1858, on the work of a former commission, was at first committed to Sir James Macaulay alone, but the undertaking being a very formidable one, at his suggestion, Judge Gowan was requested by the Governor-General to co-operate in this important work, which he did; and in a published report, touching the consolidation of the laws applying exclusively to Upper Canada, when the work was completed, Sir James Macaulay speaks in very warm terms of the assistance rendered by Judge Gowan, and his indefatiguable labors in the work—and that the work was a formidable one is easy to understand when it is said, that some thirty or forty volumes were consolidated in *two*.

This consolidation was submitted to the Legislature and accepted without debate, and is a monument of the industry, care and ability of the men who prepared it.

This consolidation became law, and the Statute provided that the public Acts of the same session should be incorporated therewith, and the body of the Statutes, thus consolidated, proclaimed as law. Sir James Macaulay and Judge Gowan accomplished this delicate task for Upper Canada, and the test of years has shown that that learned jurist Sir James Macaulay was justified in speaking thus of the work: "I feel every confidence "that a good work has been achieved and a desirable "basis laid for future legislation. And for the able ser-"vices rendered by Judge Gowan the Government, the "Legislature and the public, as well as myself, are in-"debted to him." The public general Statutes applying to both Upper and Lower Canada were consolidated at the same time. G. W. Wickstead, Esquire, Q.C., the present Law Clerk of the House of Commons, a very

able jurist, taking the main and chief part in that work, as Sir James Macaulay did in the consolidation applying exclusively to Upper Canada. Both Mr. Wickstead and Sir James Macaulay officially recorded their "grateful "indebtedness to Judge Gowan for most valuable "advice and assistance" in advancing also this difficult and laborious work to completion.

Judge Gowan again, under Sir John Macdonald, with Mr. Wickstead and Hewit Bernard, Esquire, Q.C., Deputy Minister of Justice, lent his aid in preparing the bills submitted by that gentleman to make the Criminal law uniform all over Canada, embodying a consolidation of the Criminal laws in force, in the several Confederate Provinces, with several valuable additions and improvements in procedure, which became law and is now on the Statute Book of 1869, and in force all over the Dominion. A valuable and necessary measure and wonderfully complete as a Criminal Code.

When the Honorable Attorney-General Mowat determined on the Consolidation of the Statute law for Ontario in 1876, Judge Gowan was appointed, with other judges, on a commission issued for that purpose and rendered zealous and efficient aid in the work.*

For this important service he was a recipient from

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* Judge Gowan's appointment was most favorably noticed by the Press. We may quote from the *British American Presbyterian*, of 26th May, 1876, as an example: "In a recent number of the *Canada Law Journal*, the "following appears: 'We are glad to learn that His Honor Judge Gowan has "'been added to the Commission for consolidating the Statutes of Ontario, "'and is taking an active part in the Revision of the work already done, "'and in suggestions for its future prosecution. Probably no man in Canada "'could be found who is more familiar with the Statute Book, and his ripe "'judgment, and the experience gained by him, when on the Commission for "'Consolidation of the Statutes of old Canada, will be of the greatest benefit. "'We congratulate Mr. Mowat on securing his services.' Everyone, who "knows anything of Judge Gowan, will cordially endorse our contemporary's "eulogy, as being eminently well deserved. The Hon. Attorney-General has "certainly made a most judicious appointment."

the Government of Ontario of one of the gold medals struck to commemorate the event. A valuable and beautiful work of art and a well deserved acknowledgment, for on this, as in other matters referred to, his was a work of love—entirely gratuitous.

Judge Gowan was engaged in several other matters of public interest. The dispute between the Government and the Contractors for the erection of the Parliament Buildings at Ottawa, involving a very large amount, had been a subject of controversy for years and was unfortunately cast into the arena of party strife. After the Hon. Mr. Brown entered the Macdonald Government it was arranged that the matter should be settled by arbitration; Mr. Page, the Government Engineer, acting for the Government; the late Mr. Cumberland for the contractors. It was agreed that some Ontario Judge, both parties could agree on, should be the third. Judge Gowan was the first named, and both the Government and the Contractors, at once, agreed to select him. Of this Tribunal, two only were necessary to a decision. The trial took place; some of the ablest counsel in the country acting for the parties; the Hon. S. Richards, Q.C., for the Crown; Mr. T. Galt, Q.C. (now a Judge), for the Contractors. After a protracted enquiry, the matter was brought to a close by an unanimous award of the three arbitrators. It was said that neither party felt, as might be expected, the result to be what they desired, but it was admitted on all hands that Judge Gowan, who presided, conducted the proceedings with singular patience, judgment and ability. The award made remained unquestioned by the parties and unassailed by the public Press.

On another occasion the Judge was not so fortunate. He was one of the Judges appointed on the Royal Commission in the well known matter of "The Pacific Railway Scandal," as it was called. The Hon. C. D. Day, a

retired Judge, and the Hon. A. Polette, a Lower Canada Judge, being the other Judges appointed. The matter had evoked profound feeling and intense party bitterness, and all the Judges named were assailed, with great acerbity, by a portion of the Opposition Press,* as might

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* As we have given extracts from the Press favorable to the Judge, we have thought it proper to give also all that has ever been said against him.

"Mr. Gowan has been for the past 25 years the confidential adviser and "personal friend of Sir John A. Macdonald, has prepared some of his "measures, and has received such favors from his hands as could be thrown "in the way of a Judge by an Attorney-General or Minister of Justice. "Judge Gowan has already done a good deal of servile work for Sir John A. "Macdonald, but has never gained the object of his aspirations—a seat in "one of the higher courts. Perhaps he sees this prize within his grasp at "the present moment."—*The Globe.*

"Against the personal character of Judge Gowan, or against his impartial-"ity in his official capacity, no one can truly utter a word, but it is very "different with his politics. He is known * * * as an extreme Tory "and an ardent admirer and zealous defender of Sir John A. Macdonald in "everything he does * * *. It is merely a white washing commission "composed of devoted followers and dependents of Sir John, chosen not because "of any special legal qualification or eminence of position or reputation, but "because they were thought suitable for the dirty work to be done. We are "sorry to find that Judge Gowan has committed himself to the business. He "has been too active a politician and too prominent a defender of the Gov-"ernment to get credit for an honest course, or an impartial decision, it will "bring nothing but suspicion and may end in losing that public confidence "he has so long enjoyed."—*The Expositor.*

"As to Mr. Gowan we are also ready to award him the praise of being a "highly respectable magistrate * * * * *. There is however one cir-"cumstance which makes his appointment exceedingly indecent * * * "* * this is his well known friendship for Sir John A. Macdonald."—*Montreal Herald.*

But Lord Dufferin, the Governor-General of Canada, in the memorandum accompanying his despatch to Lord Kimberly, of 18th August, 1873, referring to the *personel* of the Commission, says of Judge Gowan: "When at the "Bar he was partner of the late Hon. J. E. Small, who was Solicitor General "for Upper Canada in the reform government of 1842, when Mr. Robert "Baldwin was Attorney-General. Mr. Small was considered an extreme re-"former; Mr. Gowan a moderate one." After speaking of his appointment as judge by the Baldwin-Lafontaine government in 1843. It is added: "He "has held that position ever since and exhibited therein the best qualities of "a Judge," and after mentioning several appointments and work performed by him concludes with the observation: "He has been consulted by each "successive Attorney-General for Upper Canada since 1842, on the subject of "proposed changes in the Criminal, Municipal and other laws."

be expected in a matter which was used, and used successfully in the end, to overturn the government of the day. Judge Gowan's appointment was challenged on the ground of his being a personal friend of the Premier and as one looking for preferment on the Bench; a preferment, as was subsequently known, he had before actually declined, and it was alleged that these considerations would influence his judgment. The Government papers, on the other hand, spoke in high and eulogistic terms of the *personel* of the Commission.

The Judges on the Royal Commission had very serious and responsible duties cast upon them. They became, in effect, "buffers" between the two great contending political parties in the state and the Governor-General, and must have known, in accepting the position, they could not escape hard blows in the *melee;* but they, doubtless, felt they would be lacking in what was due to the representative of the Sovereign, if they declined to act in the emergency as confidential agents of the Crown. We do not desire to enter upon a buried subject, but Judge Gowan had the satisfaction of knowing that the representative of the Sovereign fully appreciated the services he was able to perform under the Commission, and one of the ablest publicists in Great Britain, who happened to be in Canada at the time, we know, fully approved of the course taken by the Commissioners and the manner in which they conducted the enquiry. And in the debates, which afterwards followed in the Commons, the evidence taken before the Commission was used by both parties.

If somewhat out of the order of date, it may here be mentioned, that in 1871, Judge Gowan was appointed, with four other gentlemen, Messrs. Adam Wilson, now Chief Justice of the Court of Common Pleas; J. W. Gwynne, now a Justice of the Supreme Court; S. H. Strong, also of the Supreme Court, and C. S. Patterson,

now a Judge of the Court of Appeal, a Commission to enquire into the constitution and jurisdiction of the several courts of Law and Equity, Superior and Inferior, Appellate and Original, and into the operation and effect of the present separation and division of jurisdiction among the courts, etc., similar to the English Judicature Commission.* A change in government took place and the Commission was superseded, not however before certain members of the Commission, namely: Mr. Gwynne, Mr. Patterson and Mr. Gowan had made considerable progress in formulating a bill, on the basis of a fusion of law and equity.

In the cause of public Education, Judge Gowan has always been a conspicuous worker. In 1843, he was appointed by the Government one of the Trustees of the District Grammar School, and he has ever since been connected with that Institution. Since the death of the first chairman, the Rev. S. B. Ardagh, he has held the position of chairman and is now chairman of the Barrie Collegiate Institute. "It is perhaps the only "body of the kind in the country, in which complete "harmony of feeling and action has always prevailed."† He was also chairman of the Board of Public Instruction at Barrie, during the whole time of its existence. A body, that for many years gratuitously performed the duties of Examiners and to a certain extent of Inspectors, indeed, a large share of the duties, which are now committed to salaried inspectors and examiners. The appointments were, at first, by the Government; afterwards, the power of appointing was transferred to the representatives of the people in their County Councils,

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* The Canadian Biographical Dictionary, Canadian Portrait Gallery, Canadian Legal Directory.

† The other members of the Board are, Judge Ardagh, Judge Boys, the Very Rev. Dean O'Connor, Mr. Sheriff McConkey, and Mr. Reeve Ross.

the tenure being for three years; but Judge Gowan's appointment has invariably been renewed on the expiration of every term. The Chairman is annually elected by the Board.*

In connection with education, it must be mentioned that to Judge Gowan, the Profession in this Province owed the establishment in 1855, of their first legal periodical, *The Upper Canada Law Journal*, which has continued its prosperous career to the present time. To this publication he was, for many years, the main and almost the only contributor of original matter, and afterwards largely aided with material support to keep the publication abreast of the requirements of the day,† and this, with a single eye to legal reform and improvement, and without seeking or obtaining any pecuniary advantage to himself. It is not for the writer, in this sketch, to speak of the benefits of such a publication, but one fact may be mentioned; that many improvements in the law, advocated in the early years of the *Law Journal*, are now to be found on the Statute Book. With the same unselfish feeling, Judge Gowan was

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* Amongst the Judge's early coadjutors on the Board, were men whose memory and services will always be held in remembrance, namely: The Rev. S B. Ardagh, Mr. James Dallas, the Rev Dr. Fraser, the Rev. John Gray and the Rev. F. Osler. Mr. Gray, the venerable Dr. Fraser and Mr. Osler are still living; all three gentlemen were pioneer ministers of the Gospel in the District. The Rev. Mr. Gray recently retired from active duty, after between thirty and forty years of arduous labor. His career, in many respects, was like that of his friend Judge Gowan; marked by the same earnestness of purpose, wisdom in counsel, courage and kindness of heart as of manner. Mr. Gray's resignation was received with universal regret, and he too carries with him into his retirement the respect and regard of all who knew him.

† At first it was published by the Hon. James Patton, Q.C., and conducted by him and Hewitt Bernard, Q.C., at Barrie for several years. It was afterwards carried on by Mr. Richard Bernard, and subsequently by Mr. William D. Ardagh, (now a Judge in Manitoba), and by the late Chief Justice Harrison, to within a short time before he was raised to the Bench. It is now, and for some years past has been, under the able management of Henry O'Brien, Esquire.

ever ready to aid those, who entered the field of legal literature.

He placed all the material he had been collecting, with a view to a work on Municipal Law, at the disposal of the late Chief Justice Harrison, when he found that that gentleman had undertaken such a work, and read and revised upon every page of the Common Law Procedure Act and Municipal Manual, as Mr. Harrison in his Preface, and otherwise, very gracefully acknowledged. And so with Mr. O'Brien, in his well known Manual on Division Court Law; and Mr. Boys, now a Junior Judge, in his excellent work on Coroners—the Judge showed the same desire to aid young authors. Both these gentlemen expressed their appreciation and respect by dedicating their works to him.

The marvel of so much and so varied work being within the compass of one man to accomplish, may be explained by the fact, that Judge Gowan was a persistent and rapid worker, and very methodical, and followed the habit of early rising. We have already said that the announcement of his retirement took everyone by surprise; but it had scarcely become public, when the Bar, the County Officials and the Officers of the Courts took steps towards giving expression to their feelings. At a meeting of the Bar, called on the occasion, it was resolved to present the Judge with a suitable address and a testimonial, in the form of a piece of plate. The Officers of the Courts determined to do likewise, as did the County Officials

These several addresses—each in itself a fine specimen of the illuminating art—were enclosed in beautifully enriched frames, and were all three presented to the Judge on the same occasion, the very day before he left home, for a visit to England. The public journals fully reported the proceedings, and we can give but a condensed account from the several reports.

The presentations were made in the large Council Chamber, at Barrie, in the afternoon of the 15th day of October, 1883. A large assembly of ladies and gentlemen were present to witness the ceremony, besides those who took part in it. "The sombre spectacle of a "group of gowned barristers would, at any other time, "have compelled the idea of tiresome, intricate and "angry argument, but on the present occasion, peace, "good-will and respect were enshrined in the hearts of "the many participants in the demonstration. In a "word, the occasion was the formal expression of fare-"well on the part of the Barristers. Solicitors, Officials, "and Division Court Officers of the County, to His "Honor Judge Gowan, on his retirement from judicial "life and temporary departure from Canada. It was a "ceremony fraught with much food for reflection. It "was a tribute to a life of many years of judicial energy "and perseverance, at a time when the institutions of "civilization in this part of Canada were only inceptive. "It was more than that, it was the crystalized recog-"nition of scholarly distinction in the judiciary of the "Dominion of Canada. No one acquainted with the "history of the subject of these words can accuse us of "fulsomeness, in saying that the natural and acquired "ability of Judge Gowan has left an indelible impres-"sion on the judicial history of Canada; and that his "name as a jurist will continue to hold an important "place in the annals of this country.

"At about three o'clock p.m., His Honor, accompanied "by Wm. Lount, Esq., Q.C., entered the Chamber, and "was ushered to a seat immediately in front of the "Bench, the Bar greeting his entrance by rising. The "Crier of the Courts commanded 'silence,' and Mr. "Lount proceeded to read the following address, the "members of the Bar standing.*

* *Examiner*, of 18th October, 1883.

His Honor James R. Gowan, late local Judge of the High Court of Justice, and Senior Judge of the Judicial District of Simcoe.

We, the practising barristers and solicitors of the County of Simcoe, cannot allow the occasion of your retirement from the judicial bench to pass without testifying, however inadequately, the high esteem in which we hold you, and our regret that the relations so long existing between us, are about to be severed.

The benefits derived by this County during the last forty-one years from your high attainments and administrative ability, have been incalculable. Courts have been organized; the legal business has been conducted with precision and decorum; and the judgments you have given in the vast number of cases that have come before you, have been luminous, dignified and impartial. Nor can we forget that some of the most importtant enactments on our statute book owe their development and moulding into shape, to the sagacious advice you were at all times willing to afford, when called on by the rulers of the state.

And not to this county alone have your services been beneficial, for your system of organization, and the example of your courts, have spread beyond our borders, and have had marked influence in every county of the Province, but space will not permit us to enlarge on this, otherwise we should be led into a general reference to the affairs of the Province, and possibly of the whole Dominion, so great has been the influence of your abilities and industry in various directions during your term of office.

To us, you have ever been courteous, considerate and kind; to your discouragement of all that is unworthy, by your inspiring sense of honor we attribute the high standing we have attained, and we feel assured that the tradition of your career will be long remembered, not

only by the generation now living, but by those who may come after us.

We accordingly contemplate, with affectionate concern, the withdrawal from us of one to whom we owe so much.

We trust, however, that your intended sojourn in a more genial climate will produce every good result, and that under the care of an all-disposing God, your return to us may be the commencement of a new era in your life, and you may be enabled to pursue it with continued usefulness.

That you may be sometimes reminded of the cordial relations that existed for so many years between yourself and the Bar of the County of Simcoe, we desire to present you with a piece of plate, which we know you will value, not for its intrinsic worth, but for the feelings that prompted the gift.

On behalf of the Bar of the County of Simcoe.

JOHN DICKINSON,

BARRIE, October 16, 1883. Secretary.

The address was handed by Mr. Lount to Judge Gowan, who read the following reply:

Mr. Lount and Gentlemen,

I thank you with all my heart for the very kind address with which you have honored me. I wish I could feel that I fully deserved all you say. Ever sensible of my many deficiencies, I tried to make up for them by a laborious assiduity and exactitude in fulfilling every known duty, to the utmost of my ability. It is the only merit I can claim, and I am by no means sure I could have done much, had I been without the stimulus which a learned and energetic Bar always gives to the Bench. And now, in retiring from the accustomed scene of my labors, and severing the relations that have connected us for so many years, the

sadness, to me, is soothed by the regrets you express; and the approving testimony you bear to my humble services is the best award any public servant could desire.

When I recall the state of things as they were, when I first set foot here, and the wonderful improvements that have, since 1843, been effected in our legal, municipal and educational systems, the increased facilities for travelling, and the marvellous progress and prosperity of the country at large, there is opened to me a wide and pleasant field for observation, upon which I should like to dwell, but it is not possible to do so at present. This I may say, however: in no particular is progress so marked as in the growth of the Bar here and elsewhere, in numbers, in influence and trained knowledge.

The rapid flight of time is brought before me, when I remember that of the present large Bar several of the seniors were school boys when I was appointed to the judicial office, and several others were born since my first Court was held in the District. It has been my great good fortune to be surrounded and aided in the discharge of my official duties by those whom I have known from their childhood, and never, in a single instance, has anything disturbed the pleasant relations between the Bench and the Bar in this judicial district. You can understand, then, how warmly I reciprocate all you can possibly feel towards me. I well know that the industry and ability of the Bar has smoothed many a difficulty for me in the way of judicial investigations, and it is exceedingly gratifying to me to recall the high professional tone which always prevailed, and could always be safely confided in, being grounded on convictions of duty, and a nice sense of honor—securing a liberality in practice beneficial to clients, and speeding the disposal of matters really in dispute between litigants. I

am proud to know that this Bar is conspicuous in the Province for the ability of its members, the number who have attained high position in their own peculiar field, as well as in public life, who have ably served the public in the courts and elsewhere with all the honesty, zeal and courage which have secured for our honorable profession its high standing amongst an educated and most intelligent people very tenacious of their rights—such is the simple fact, and if indeed I have in any degree impressed upon the profession my views of their honorable and responsible duties, I feel thankful indeed. I may repeat what I said, on an occasion similar to the present, that I felt it was right that I should endeavor to discharge every duty, faithfully and fearlessly, to create confidence in and to secure to suitors the full benefit of the several courts over which I presided, and to impress the public with the feeling of respect never withheld from a court of justice, however limited its sphere, where order and decorum obtain; that from the first I felt that this could best be done with the aid of an educated and honorable Bar, who would feel with me that we were all ministers of justice—all equally striving for the same great end. What I said fifteen years ago, I can emphatically repeat, that from the profession in this County I have always received the greatest aid in the discharge of my judicial duties, and it is to your cordial co-operation and support I am indebted for a measure of success that, unassisted and unsupported, I could scarcely have obtained. In gladly according to the Bar every privilege they could fairly claim, in fostering a right feeling in their intercourse with each other, in publicly combating prejudices against them, I have ever felt I was strictly within the line of duty; but I think you will acquit me of the weakness, which fails to look for the inherent merits of a case in admiration for the skill and zeal of counsel.

The kind consideration you have always shown me I have every confidence you will extend to my successors. It is a consolation to me to know that my learned brother Judge Ardagh takes my place, educated in the country, and with an experience of some ten years on the Bench, the Profession and the public will not lose by the change. You all know Mr. Boys, who will be the Junior Judge, and his very honorable position at the Bar. With two such worthy men on the Bench of this Judicial District, both in the prime of life—the profession and the public, I repeat, will gain by my retirement.

Though giving up active duty, I shall still consider myself in a sense, with harness on my back, being empowered still to take occasional duty, and I may mention that the Government of Ontario continues me in the position of Chairman of the Board of Judges.

Let me say one word as to my retirement, as you are aware this is the largest Judicial District in the Province, having a population not very long since, equal to that of Manitoba and British Columbia together. The duties are very onerous, requiring the services of at least two active men to perform properly with the promptitude demanded in the various duties made incident to the Judge's office. And I felt the time had come when in justice to the public and my brother Judges I should make way for a younger man. My age and uncertain health demanded more repose than I could properly ask or take, and so I sought retirement, and after forty-one years of hard work, it cannot be said that my appeal to be relieved was in any sense premature. Indeed I have the satisfaction of knowing that His Excellency appreciates, as he is pleased to communicate, my "faithful, efficient and impartial conduct during my long term of Judicial service." You are good enough to refer to other work I have been engaged

in—I did try to be of some use outside my official engagements, when employed in matters of public interest and concern. It was, I felt, only my duty to render such willing aid as was required of me, by those who were anxious to promote all that was good and safe in the improvement of the law and its administration, and who were in the high position which enabled them to give effect to their desires. And should I return, as I trust I shall, with restored health, I hope to find some opening for usefulness, for I feel that I am not without a residuum of energy, and I could not well live an idle life.

I would fain say more, and with all the warmth that words can convey, but you will know how much I am occupied, as I leave for England to-morrow, and how disturbing are necessary preparations, and will excuse my imperfect expression of thanks. I should indeed be insensate if I were not touched deeply by your kindness. I may well feel honored by this last mark of your regard, by the more than kind words you have addressed to me. I am deeply grateful—but not content with words, you have thought it right to order a piece of plate to be presented to me, I can but accept your gift at such time as you think proper to give it. I did not need it to deepen the impression your generous testimony has made upon me. Whatever it may be, I shall prize it as my most valued possession, more to me than any other honor that could be conferred, for you use it to set the seal, as it were, to what you in your spontaneous kindness have said. It is not the only token I have had from the profession of their regard, and I should feel humbled to the very dust if I had not aspired, from the first, to accomplish some of the good, that in your partial judgment you couple with my poor efforts.

I would thank you, once again, for the unbroken attention, respect and kindness of years, and my earnest

prayer is that God may bestow upon you, and those dear to you, His richest blessings here, and an eternal life beyond.

I bid you an affectionate farewell.

After a brief interval the High Sheriff, at the head of the County Officials, approached to where His Honor was standing, surrounded by the Bar and read the following address:

His Honor James R. Gowan, late local Judge of the High Court of Justice, and Senior Judge of the Judicial District of Simcoe.

We, the undersigned Officials of the County of Simcoe, having heard, with sincere regret, that your Honor has resigned your Judicial office, a position that you have so ably and honorably filled, for upwards of forty-one years, to the entire satisfaction of all classes of the community, cannot allow your Honor to withdraw from your official position, without an expression of unfeigned sorrow, at the severance from us of a gentleman, with whom we have been so long officially connected, and whose wise counsels were always beneficial to us in the discharge of our multifarious, and often perplexing duties.

We cannot but remember the early days, when your official duties required you to travel what was then a wilderness, but what has since been converted into peaceful homesteads, peopled by a law-loving and law-abiding community, and we are not saying too much, when we say, that the law and order for which this County is noted, is in a great measure attributable to your Honor's wise and firm, but gentle administration of justice.

We trust that yourself and Mrs. Gowan may have a pleasant tour, and return before long to the County in which so many of your best years have been passed.

We feel satisfied, notwithstanding your retirement

from the Bench, that your matured knowledge will not be lost to the country, but that in some shape, the community will yet receive the benefit of the vast amount of experience that you have acquired during so long and active a public life.

T. D. McConkey, Sheriff,
J. R. Cotter, } Clerk of the Peace and Crown Attorney,
J. McL. Stevenson, Clerk of Co. Court,
Samuel Lount, Registrar,
H. R. A. Boys, County Treasurer.

To this address the Judge's reply was as follows:

Mr. Sheriff and Gentlemen,

While it is a source of deep and sincere gratification to me to receive from you an address conveying such kindly expressions of appreciation and regard, I cannot conceal from you that such an occasion as this produces within me feelings of sincere regret, for I know that our association together, as public servants, now practically ceases—an association that has been fraught with pleasant recollections of the work in which we were engaged. If I was able to be of use to you in any way, it is so long since, and the occasions were so infrequent, that I had forgotten it; and now, no one familiar with the efficient manner in which your duties are performed, could suppose that you need aid or suggestions from any one. I am happy to acknowledge your courteous and unremitting kindness to me personally, and the great satisfaction I have had in my necessary official intercourse with you for many years. It is well when public officers, who are in close and intimate relation of duty, are able to work harmoniously together. It is satisfactory to themselves. It is a benefit to the public. That satisfaction I have shared without a single drawback and am bold to say nowhere have the public been

more faithfully and zealously served than in this extensive and populous jurisdiction. The very best officers are liable to have their acts misunderstood, and their services under-rated, and they are sometimes called upon to stand upon their defence. I cannot recollect, however, a single instance in which a well grounded complaint against any one of you came under my notice, and I am glad to bear testimony to the faithful, careful and discreet way in which your duties were ever performed.

I can say, without flattery, that our officials stand in knowledge, character and ability second to none in the Province. If God grant that I return with renewed health, I hope to find congenial work of some kind for the good of our country, and possibly I may at times put on my old harness, and I am sure I should enjoy, as in the past, our communion of work: but the strong motive for work that I had in the past will not be there, for I feel that my object has now been attained, and my able successors will well and faithfully carry on the work that, as Chief Magistrate, I inaugurated, and which has been brought to a fair state of completeness through the very efficient help that has been accorded to me.

I need not allude, in detail, to the many kind things you have said of me in your address. You have given me something by which to remember you in the days to come, when I shall not meet you in daily converse; but partings are sad, and I do not feel equal to more extended remarks.

I thank you for myself and my wife, for your kind wish in reference to our journey. I will only add that each of you possesses my warm regard, and that I part from you, I hope only for a short time, with earnest wishes for your well being, in both your official and private lives. I bid you a warm farewell.

Mr. Adam Dudgeon, Mayor of Collingwood, and Clerk of the Fourth Division Court, then advanced to the table, followed by a large number of the officers present, and read the following address, to His Honor:

We, the officers of the Division Courts of the County of Simcoe, feel that, after so many years of official and personal intercourse with you, it would be impossible for us to permit the occasion of your retirement from active service to pass without giving some formal expression to our sentiments. We regret very deeply that you have found it necessary to resign the position of Senior Judge of the County, which you have so worthily and acceptably filled for so long a period. We desire to express our gratitude to you for the many acts of kindness and attention which we have received at your hands in the direction of our official duties. We have never sought advice or instruction from you in vain, but we have always found you to be ready and willing to assist us in every way to perform our duties, and full of solicitude for the best interests of both officers and suitors. The relations between a Judge and his subordinate officers are not always of the most friendly description, and it gives us unfeigned satisfaction to be able to bear our unanimous testimony to the unvarying kindness and courteous consideration with which you have at all times treated the Division Court officials of the County. We are firmly of opinion that a great part of the success which has attended the administration of justice in the "People's Court" of this County, is owing to your jealous care and supervision, and to the signal ability with which you have conducted their affairs. As a very slight token of our esteem and regard, we cordially beg your acceptance of the accompanying small gift (a handsome gold-headed cane on which was engraved His Honor's name, etc.), and it

is our earnest hope that your future life may be fully laden with all possible happiness and comfort.

ADAM DUDGEON.
BARRIE, Oct. 18, 1883. H. WILLIAMS.

In reply, His Honor expressed his regret that the intimation of this Address and Presentation came too late for him to write his reply, but his thanks, he said, were none the less hearty and sincere. He had appointed over one hundred subordinate officials, only four of whom he had had occasion to remove, and many of whom had since been appointed to responsible positions in the County and Province. He had looked only to personal fitness in all his appointments. The law was, however, now changed, and all such appointments were vested in the Government of the day, and although they had, of course, a much more limited field to select from, he hoped the best available men would be chosen to fill the subordinate Division Court offices, as had been the case in the late appointments. Formerly those who held these offices received large fees, but now their emoluments were reduced to the lowest living point. But he hoped the law would be so amended as to supplement these fees by a small salary. His Honor concluded by again thanking them for the good wishes expressed in the address just read, and the accompanying beautiful present.*

The piece of plate, referred to in the address from the Bar, Mr. Lount explained, could not be procured in time. It was subsequently obtained in England† from "The

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* *Examiner*, 18th Oct., 1883.

† The Bar were fortunate enough to secure the valuable aid of James Hore, Esquire, of Drinagh, Dulwich, England, himself a retired Judge of the Indian Bench, in carrying out their intention in respect to the testimonial, and that gentleman most kindly in their behalf, arranged with the manufacturers, as to the design and execution.

Goldsmith and Silversmith Manufacturing Company," Regent Street, London, and is a very beautiful work of art. It is in the form of a silver centre-piece, designed in the Greco-Roman style of art. From a handsome triangular base, richly decorated with shields, enriched with the maple leaf and bearing the Arms of Canada and of the Province of Ontario, as well as a design from the Arms of the Law Society of Ontario, and the recipient's own Arms, spring three columns supporting a canopy under which stands a majestic figure of Justice. From the centre of the canopy spring three richly wrought branches and a centre stem, each supporting glass dishes for fruit and flowers. On one of the shields is the inscription: "Presented by the Bar of the Judicial "District of Simcoe, to His Honor Judge Gowan, on "the occasion of his retirement from the Bench, as a "mark of their appreciation of long and valuable public "services and as a token of their personal esteem and "regard. Barrie, 16th October, 1883.*

The cane presented by the Division Court officers was unique, of its kind the finest that could be procured in the country, and the solid gold head bore the following inscription: "Presented to His Honor Judge Gowan, "on his retiring from the Bench by the Division Court, "Officers, County of Simcoe."

After the ceremony had closed, the Judge received the warm greetings of his friends, and bade good-bye to those present.

The whole scene was touching and interesting; it was the severing of a connection of over forty years, with the spontaneous testimony, of those best capable of forming an opinion, to a well-spent life—to the employment, continuous and persevering, of rare abilities,

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**Canadian Gazette*, London, January 17th, 1884.

in the faithful discharge of duty—to abundant and successful effort to promote the public good.*

"No man in the length and breadth of the land was "better known. The old Judge, as he was familiarly "called, has been a prominent figure for half a century, "the venerated Chief Magistrate of two generations. "His high legal attainments and keen perceptive "faculties were not alone appreciated by the Bar, the "whole County understood and valued his great in-"dustry and ability, another instance of the vigor and "intelligence of the Celtic race. Like Lord Brougham, "with a wealth of legal lore he possessed also a highly "cultivated mind, and did his part amongst us in the "advancement of Learning, Science and Art, at once "the true patron of the student and a most distinguish-"ed Judge."†

The sentiments expressed in the addresses were not, as we have said in the early part of this paper, mere words of compliment, they were evoked by facts; and moreover Judge Gowan had won the respect and attachment of those with whom he had been in contact for many years.

His ambition was not to shine, but to be useful in the position he filled and he ever governed himself under a conscientious sense of duty and right. With an eminently judicial frame of mind, impartial, discriminating and clear, he was prompt and firm. Whatever the advocate might think of the result he never felt

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* In referring to Judge Gowan's career in Canada a prominent Dublin journal, *The Irish Times*, thus concludes a leading article: "We recognize in the "life-work and brilliant success of our brother Irishman another proof that "in the Colonial field Irish success often eclipses that of men of every "other nationality and earns for our people a higher regard in the world. "Judge Gowan's scholarship and literary skill, added to his legal qualities, "have rendered him one of the most accomplished jurists of Canada through-"out many years."

† *Collingwood Enterprise*, 25th Oct., 1883.

that he had been treated unfairly by the Judge, or that arguments submitted had failed to receive full consideration at his hands; even the losing party left the court, if not convinced by his reasoning, satisfied at least that he had had a fair and patient hearing. There was such a moderation—calmness, such an evident desire to do justice in every case, that absolute confidence was the result.

In the administration of the Criminal Law, he was said to have looked somewhat leniently on first offences of a light kind, such as assaults growing out of sudden affrays, only too common in the country till of late; on the other hand, he meted out the most severe punishment in any case where a deadly weapon was used, or where treacherous or brutal conduct was involved in the act. His sympathy with the weakness of human nature was intense, as was his abhorrence of all that was vile or unmanly. No liberties were taken with Judge Gowan, and he looked for and secured the respect to which his position entitled him. At the same time he was very jealous for the Bar and never failed to respect their just rights or vindicate its members individually and as a class against impertinence or unjust aspersion.

The Judge left for England the day after the presentation of these addresses. The first meeting of Simcoe Municipal Council took place at Barrie the following month. This "House of Representatives," composed of over fifty Reeves and Deputy-Reeves, elected by an annual vote of the registered voters in the several municipalities, in Council, unanimously expressed their regret at Judge Gowan's retirement, and determined that an address from their Body should follow him to England and that the Council should otherwise mark their high estimation of the Judge. Finally, it was determined that his likeness should be procured* and

* The Deputation appointed to pronounce upon the fidelity of the likeness

hung in the Council Chamber in the Court House, where the session of the Council is held and where, when the Civil and Criminal business of the Courts occasionally divide, Judge Gowan usually sat.

Not long after, the address, in album form, bound in high art style and richly and beautifully illuminated, followed the Judge to the Old Country and it must have been more than gratifying to him, a stranger and sojourner in the "Old Land," to receive this token of remembrance from his far off home. This address was as follows :

To His Honor James Robert Gowan, late Judge of the County Court of the County of Simcoe, and Local Judge of the High Court of Justice in Ontario.

The Warden and members of the County Council of the County of Simcoe feel that they cannot allow the event of your resignation of the position of Judge of the County Court of the County of Simcoe to pass without giving some expression of their very high appreciation, not only of the many kindly services willingly rendered them during that lengthened period, but of the great interest at all times taken by you in the public affairs of the County, and more particularly of the assistance given in bringing the Municipal Laws of the Province to their present state of great efficiency, and also in the consolidation and revision of the general laws of this Province. And the members of this Council have always felt a just pride in the knowledge of having one to refer to in any matter of importance, and one so willing to give his best assistance at all times.

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consisted of His Worship the Warden, Colonel Banting, County Clerk ; O. J. Phelps, Esq., M.P.P., G. P. McKay, Esq., M.P.P., Charles Drury, Esq., M. P. P., Henry H. Hammell, Esq., M. P. P., William Lount, Esq., Q. C. A sufficient guarantee that the wishes of the Council have been faithfully carried out.

When a man has given the best years of his life to the service of his country—and particularly in such an arduous position as you occupied, for many years in the earlier days, after your appointment as Judge, when the country was sparsely settled, and roads often next to impassible, and even the common comforts of life not attainable—the least those, who enjoy the fruits of your labor, can do is in some way to recognize those services.

The County Council, as a very small recognition of your services to that body, have determined to place a well-executed and framed likeness of your Honor in the Council Chamber over the seat you have so long honorably and efficiently filled; and they trust you will approve of this simple tribute to your worth not only as a public man, but as a citizen of this County, in the spirit in which it is done.

We cannot close this Address without wishing yourself and Mrs. Gowan all the health happiness and prosperity that it is possible for any of us to enjoy in this life, and long may you both be spared in God's good providence to enjoy the wide-spread reputation you have so well and faithfully earned by a long life of hard and continuous work.

By and on behalf of the County Council of the County of Simcoe,

Council Chamber, Barrie, 16th Nov., 1883.

ROBERT T. BANTING, County Clerk. G. M. EVANS, Warden.

The Judge's reply was laid before the Council, and appears in the minutes of the following Session. It is as follows:

To the Worshipful Warden and Members of the County Council, of the County of Simcoe:

GENTLEMEN,—Your address has followed me to the Old Land, far away from the dear home where so many

happy years of my life were spent amongst you all. Such unexpected kindness touches me deeply, and no language can convey my sincere appreciation of your approving testimony.

The governing body in the largest and most prosperous County in Ontario, and I might add in the Dominion, representing not merely its Municipal powers, but its intelligence, its agricultural, commercial, manufacturing and professional interests, I may well feel honored in having received such an address from gentlemen whose position commands respect for their testimony; and, although there may be an element of personal kindness in your action, I trust I may regard it as a deliberate expression of opinion that I have not been wanting in an earnest endeavor to discharge my duty faithfully, that I have not been unmindful that it became me to assist, according to my opportunities, in all that was calculated to promote the solid good of those amongst whom my lot was cast.

I certainly have from the first been somewhat familiar with our District Councils, and although I recognized imperfection in the new scheme, I never faltered in the conviction that the advantages of safe self-government would ultimately be abundantly manifest. I was not mistaken. We can now fairly claim that we possess the most perfect system of municipal government enjoyed by any country, and have proved that an intelligent and educated people may be safely entrusted with the management of important matters demanding local administration—matters that would but retard and embarrass the proceedings of the higher legislative bodies, if indeed they were *there* able to secure the attentions they deserved.

The large powers you possess could however, as I think we feel, only be safely entrusted to fit and capable agents, and you will agree with me that our excellent

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school system has played an important part in producing the state of perfection in working, to which our municipal system has attained. The very small aid I have been able to give towards its safe development, would have had no practical result, if the public men, who from time to time shaped legislation, had not themselves earnestly desired to make our municipal law what it is; or if the county councils lacked the discretion and intelligence necessary for the due performance of their important and responsible duties.

I have always been proud of the high position of your body amongst the Councils of the Province, and not one of them has furnished more conspicuous evidence of the educating value of such bodies in fitting men for the higher duties of representatives of the people in the legislature

In many respects our County stands foremost, and having watched its progress from the primitive condition of a "new settlement," I am filled with admiration of the patient industry and intelligent energy that have accomplished so much in a period of forty-one years. You know that at first we had barely passable roadways through the "woods," that farming operations were conducted in a very imperfect way, that commerce and manufactures were scarcely in the bud, that the few schools which existed were imperfectly served and ill regulated, while the municipal system was a recent creation, and moreover that ready submission to the law of the land was *not* universal. Many of you will remember the time when this state of things prevailed, and will know what a contrast presents itself as you now look around you—the whole country accessible by excellent roads, and more than that, netted all over with railroads, agriculture in its various aspects carried on intelligently by an educated farming community, free public schools, with efficient teachers under a uniform

system, within easy access of all, the laws everywhere respected and cheerfully obeyed, and last though not least, our municipal system permeating every part with its healthy influences—yes, when you look around you you cannot help feeling that ours is a happy and honorable position, and must bless God every day that your lot is cast in a free country, where there is work for all, and bread for all; where honest labor meets its appropriate reward, and where any deserving man in the community may aspire to the highest place and the largest power for serving his country.

If we have contentions and some acerbity of feelings at times, I fear they are inseparable from our form of party government, but I do earnestly hope that whatever divergence may exist in matters of political concern, all will continue to be united in the effort to maintain and improve the prosperous and honorable position in which the County of Simcoe now stands.

The particular mode in which you have been pleased to recognize my desire to be useful is very grateful to my feelings, and I thank you sincerely for the honor you have done me in placing my likeness in your Council Chamber and in voting me your kind address in such beautiful form.

Mrs. Gowan cordially thanks you for including her in your kind wishes, which we both warmly reciprocate.

My earnest wish is that wisdom may direct all your deliberations and strengthen you in every effort for the public good; above all I desire that each of you individually, may possess the blessing which maketh rich and addeth no sorrow with it.

Believe me,

Most faithfully yours,

JAS. ROBERT GOWAN.

Kensington House,
Bournemouth,
Hants, England, Feb. 2, 1884.

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The Judge's likeness, extremely well executed, now occupies the place of honor mentioned in the address of the Council.

It is not possible, in a *brochure* such as this, to enter upon the subject of the numerous addresses by the Judge to Grand Juries, dealing in an instructive way, critical and suggestive, with a variety of questions, of Jurisprudence* and kindred topics of general interest, suffice it to say, such addresses were always well considered and opportune; in the words of "Bystander" the ablest and most accomplished writer in the country, "Judge Gowan's utterances always commanded atten-"tion."

Before closing this very sketchy paper, we have to mention an honorary distinction conferred upon Judge Gowan, while he was still in England.

The University of Queen's College at Convocation, in April last (forty-third session), conferred upon him the honorary degree of LL.D. This marked recognition of worth by a great University, very sparing of the distinctions she confers, was a compliment indeed, and must have been most gratifying to the Judge, as it certainly was to his friends in Canada and elsewhere. A

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* The review of recent Legislative enactmants was usually a prominent feature in these addresses, but other questions referred to were frequently discussed and favorably noticed by the public Press. Referring to one of these addresses *The Montreal Gazette*, says: "Mr. Justice Gowan, than whom per-"haps there is not an abler man upon the Bench in Canada, says in his "addresses to the Grand Jury" * * * * * "Mr. Gowan's opinions are "of great weight and will doubtless have influence in the discussion of the "subject next session of Parliament." * * *

"In his last address" says the *Canada Presbyterian*, "Judge Gowan made, "as he always does, a number of very sensible and timely remarks." * *

Some of the Judge's addresses were elaborate compositions. One is now before the writer, in the form of a re-publication, with notes by the Hon. Jas Patton, Q.C., under the caption of "The Canadian Constable's Assistant." It is really a treatise on the numerous and important duties of Peace Officers. —a compendium of the law on the subject.

leading Old Country paper, "The Irish Times," thus refers to the matter: "We are gratified to find in the "*Toronto Mail*, of the 1st of May, a report of proceed-"ings of peculiar interest in the Convocation Hall of "the University of Canada, when the degrees were con-"ferred and prizes distributed to a large number of "successful students. One of the most striking features "of the occasion was the giving of an honorary degree "to Judge Gowan, a distinguished Irishman, whose "career in Canada has been most successful. The honor "thus paid to Judge Gowan in recognition of his high "abilities and long service in the judiciary will not fail "to be appreciated by his countrymen."

We make an extract from the Report of the proceedings at Convocation, published in the *Toronto Globe:*

"Vice-Principal Williamson then advanced, and mov-"ed to have the names of three* eminent gentlemen "added to the list of those bearing honorary titles con-"ferred by this university. In doing so he moved the "following three addresses:

"Mr. Vice-Chancellor,

"I have the honor to present to you the name of "Judge James Robert Gowan as one on whom the "Senate desires to confer the degree of LL.D., in special "recognition of great public services, in connection "with our judicial system, the codification of our laws, "and the educational and religious life of our country. "It is scarcely possible to over-estimate the value of "Judge Gowan's services, continued unwearily for "nearly half a century, particularly as regards proceed-"ure in courts, and the revision, consolidation, and "classification of the statutes, first of Upper Canada

* The other gentlemen were the Rev. A. Geikie, D. D., of Bathurst, New South Wales, and the Rev. James Chalmers Burns, M.A., of Kerklestone, Scotland.

" and subsequently of Ontario. For his labors in this
" latter work it may be mentioned that he was present-
" ed with a gold medal by the Government of Ontario.
" His literary labours and the many important and
" official positions he has held have not prevented him
" from undertaking other onerous duties to which the
" voice of his fellow-citizens called him, and in the dis-
" charge of which he has displayed the highest
" qualities of a good citizen and of an earnest catholic
" Christian. He has acted for more than thirty years as
" Chairman of the High School Board of the County of
" Simcoe, has aided to the uttermost of his ability every
" good cause, and has endeared himself to his colleagues
" and the public by varied abilities, untiring industry,
" and sterling character."

There is ample material upon which to enlarge, but the writer has gone over, however imperfectly, the ground to which he limited himself. If he has not referred to all points of interest in Judge Gowan's career, or made mention of all the appointments he held and public services rendered, it is because the design of this paper was not to give an exhaustive account, but to show in convenient form the addresses and proceedings in connection with the Judge's retirement and to make such selection from other published matter as might serve to prove that the Bar and others who addressed him had, in what they said, overdrawn nothing.

The writer trusts he has succeeded in his purpose; and this paper is to him a small but heartfelt tribute of respect and veneration for "the old judge," whom he, as a child, has known—as a school boy at the Barrie Grammar School—as a law student and later as

A MEMBER OF THE ONTARIO BAR.

BARRIE, August, 1884.