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OUR FIRST PRESIDENT—THE HON. JOHN WILLIAM
RITCHIE, 1808-1890.

BY HON. LAWRENCE G. POWER, K. C., HALIFAX.

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THE HONORABLE JOHN WILLIAM RITCHIE, 1808-1890.

By the HON. LAWRENCE G. POWER, K. C., Halifax.

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Theophilus Parsons, who was many years ago Dane Professor of Law in Harvard University, delivered about once a year an address to the students, on the great lawyers whom he had known. I had the pleasure of hearing the address which has never altogether left my memory. I still recall some of the things he told us of men like Pinckney and Jerry Mason; but nothing so vividly impressed itself on my mind as a quotation which he used. "Gentlemen," the old Professor said, in a rather tremulous voice, "The names of our profession are written in water." The object of the yearly address was to preserve from oblivion the names and the deeds of the leaders of the profession with whom in his earlier days he had been more or less closely associated. He pointed out that, no matter how able or successful a lawyer might be, if he confined himself to the work of the profession and did not enter public life, he was sure to be forgotten, except of course, by the members of his immediate family, very shortly after quitting the scene of his labors.

I had long realized the soundness of the views set before the law students by Professor Parsons; and I had felt for some time that it was in a sense the duty of the society to pay a tribute to the memory of its first President, while it was also the duty of such of our members as belong to the legal profession to place before the public an appreciation of the character and works of one who, whether as a practising barrister, or as a judge, had no superior. The performance of this duty has been too long delayed; and, during the twenty-five years that have passed since Judge Ritchie's death, most of those who knew him best have followed him into another world. Then again, the sub-

ject of this paper never kept a diary and, having lived almost continuously in Halifax, did not leave behind him many such letters as might be used to eke out a biography. Under all the circumstances, I trust that the members of the Society will be a little blind to the shortcomings of this paper.

If we have little information as to the record of Judge Ritchie, we are better off as to his forbears. A deal of valuable information with respect to his father is to be found in the *History of Annapolis County* by the late Mr. Calnek and His Honor Judge Savary, while the small volume, *Recollections of a Georgia Loyalist* by Mrs. Elizabeth Lichtenstein Johnston, is replete with curious and interesting knowledge as to his maternal ancestors.

John William Ritchie, eldest child of Thomas and Elizabeth Ritchie, was born at Annapolis March 26th, 1808. His father, Thomas Ritchie, was at that time a successful barrister and a member of the Provincial Legislature. The father of Thomas Ritchie was John Ritchie, a gentleman of Scottish birth who came to Annapolis from Glasgow by way of Boston, not later than 1774, went into business as a merchant, married Alicia Maria Le Cain, became a captain of volunteers, was elected in 1782 to fill a vacancy in the House of Assembly and died in July, 1790, at the early age of forty-five. Thomas Ritchie was the second son of John Ritchie and was born in Annapolis, 21st September, 1777. He studied law in the office of Thomas Barclay and was admitted to the bar before the close of the century. Shortly afterwards, upon Mr. Barclay's appointment as British Consul-general at New York, he succeeded to that gentleman's large practice. In 1806 he was elected as one of the County representatives in the House of Assembly. He was elected without opposition and continued to be so chosen until his elevation to the Bench in 1824. There is, I believe, no other instance in our provincial history where a member has been elected without a contest at four successive general elections. From this circumstance alone we can gather that Thomas Ritchie was a notable man, both for

character and ability. He married, on July the twenty-seventh 1807, Elizabeth Wildman, fifth child and second daughter of Doctor William Martin Johnston of Liguana, Jamaica.

In the Legislature, he helped in the consolidation and revision of the law relating to the Militia. He became Lieutenant Colonel of one of the Annapolis Regiments and so conducted himself in that capacity as to receive in 1827 the special thanks of Sir James Kempt, the Lieutenant Governor of the time.

2 In 1834 Thomas Ritchie was appointed President of the Inferior Court of Common Pleas for the Western District, which embraced the present counties of Annapolis, Digby, Yarmouth and Shelburne. Beginning with 1824 the President of this court had to be a barrister, although there were apparently four lay members. It was Judge Ritchie's custom to submit to the Lieutenant-Governor after the close of each term, a detailed report of the business of the courts over which he had presided and of other local matters of interest to His Excellency. On the 17th of March, 1828, he was appointed President of the Court of Sessions, and in 1832 he became *Custos Rotulorum*.

In 1830 he was a candidate for the office of Attorney-General, made vacant by the death of Richard John Uniacke. At page 396 of the *History of the County of Annapolis* we read the following: In a document found in the public archives, dated October of that year, his public services are thus summarized: "The public were largely indebted to him for the consolidation and amendment of the Militia Laws; he was the originator of the treasury note system which had proved so beneficial to the country since 1812; the loan bill introduced by him to alleviate the distresses caused by the change from war to peace, which became law in 1819 and had produced the results intended, was his work; as chairman of the Committee on the Consolidated Revenue Acts, he had done good service; he had been offered the Speakership of the House, but felt it his duty to decline, and he was then the oldest member of the

bar after the chief Justice and the Master of the Rolls and Judges Wilkins and Wiswall". Judge Thomas Ritchie died in 1852 being then in his 76 year.

John W. Ritchie's mother was Elizabeth Wildman, fifth child and second daughter of Doctor William Martin Johnston and Elizabeth Lichenstein Johnston, both of Georgia. Doctor Johnston was a son of Doctor Lewis Johnston a native of Scotland and at one time a surgeon in the Royal Navy, who was a considerable land owner in Georgia, and Laleah Peyton of Saint Kitts. William Martin Johnston was a student of medicine in Philadelphia when the revolutionary war broke out. He became a captain in the New York Volunteers, afterwards the Third American Regiment, a loyalist corps which saw much service during various campaigns. William Martin Johnston made a distinguished record in the course of the war, showing a courage and resourcefulness not exceeded by his border ancestors in Annandale. After the close of hostilities, he went to Edinburgh, where in 1784-5 he continued his medical studies. He afterwards went to Jamaica and practised his profession there up to his death in December, 1807. His wife, the author of the *Recollections of a Georgia Loyalist* was the only child of John Lichtenstein (anglicized Lightenstone) a native of Cronstadt and said to be of Austrian descent. He died in Annapolis in 1813, at a ripe old age. Mrs. Lichtenstein Johnston was a woman of great energy and ability, devoted to her family and exceedingly religious. She died at Halifax, 24th September, 1848. It will have been noticed that both of John W. Ritchie's grand-fathers were Scottish or of Scottish extraction. Speaking of his mother, Mrs. William Martin Johnston says, at page 132 of the *Recollections*, "If I were called upon to bear testimony whose individual character I had ever known most free from selfishness, I could with truth and boldness say it was my beloved Eliza's. In early childhood she evinced the disposition to impart to others whatever she had, and the disposition grew with her growth." She died 19th June, 1819. If I seem to have dealt at undue length with the histories of Judge Ritchie's ancestors, it is

partly because there is so little to be known about his own life and partly because much as to his character and abilities can be gathered from what we know of those who had gone before him. That the character and abilities were largely hereditary is indicated by the facts that while John W. Ritchie ended his professional career as Judge in Equity of his native province, the third brother in the family, William Johnstone Ritchie, was successively *puisne* judge and Chief Justice of New Brunswick and a Judge and Chief Justice of the Supreme Court of Canada, and that Joseph Norman Ritchie was for several years a Judge of our Supreme Court. George Wildman died before attaining the age looked upon as qualifying for a seat on the Bench, and James J. disqualified himself by giving up law for the higher calling of divinity. He however left two sons, who became prominent members of his original profession, and one of whom occupies, to the great satisfaction of suitors and counsel, the judicial position which seems to be in some sort a belonging of the Ritchie family.

Turning now to the more immediate subject of this paper, we learn from the *Recollections of a Georgia Loyalist* that, when Mrs. William Martin Johnston returned from Jamaica to Annapolis in 1810, she found that "My Eliza had two dear boys. John was two and a half years old, Thomas, a stout boy, ten months old." Further on we are told, "As soon as I went to housekeeping I relieved her (Mrs. Thomas Ritchie) of part of her care by having John stay with us." We are also told that John was a special favorite of his great-grandfather John Lightenstone. At page 124 of the *Recollections*, Mrs. Johnston says that, "Until John was three years of age, he lived with me, and from an old fashioned prayer-book with large print I taught him his letters and to spell little words." Mrs. Ritchie died on the 19th of June, 1819, when John was something over eleven years of age. In connection with her daughter's death we have the following from Mrs. Johnston. "I soon broke up housekeeping to live with Mr. Ritchie and watch over his children's health and morals. I stood to them

now in the place of their dear mother, for I knew well her wishes, plans and hopes for her children. Her great principle was to exact from them implicit obedience, and those who were old enough at her death evinced by their conduct the benefit they derived from her discipline."

For many years after this somewhat indirect mention, there is not, as far as I know, any written or printed record dealing with the history of John W. Ritchie. I have learned from a member of his immediate family that he did not go to college, but was educated at home under the care of tutors provided by his father. As to this point, I made a mistake in stating in the memorial appended to the seventh volume of our Collections, that Mr. Ritchie was educated at the Pictou Academy. His brother William did study at that excellent and well known school.

In due course, he was articled as a clerk to his Uncle James W. Johnston, and, after the usual term of service, was admitted as an attorney of the Supreme Court on the twenty-fifth of January 1831 and as a Barrister on the twenty-fourth of the same month in the following year.

For some time clients were exceedingly few; and Judge Ritchie told me that for ten years after his admission to the bar he had had almost no practice. Wiser than most young lawyers, he devoted his abundant leisure "to patient and thorough study of the law. The result of this quiet work, combined with great business capacity and a most honorable and upright character, was that, when practice came it found him admirably prepared, and increased rapidly, so that in a comparatively short time he took his place amongst the leaders of the profession."

At the general election held in November 1836, young Ritchie was a candidate with W. H. Roach for the County of Annapolis. Their opponents were, William Holland of Wilmot and Frederick A. Robicheau of Clare; and, notwithstanding the personal popularity of Mr. Roach, who had repre-

sented the County for eighteen years, and the high respect in which he and his youthful colleague were held, the opposition was successful. *The History of the County of Annapolis* speaks of the result of the election as being due to the wish of the people of the eastern and the western ends for a division of the County. No doubt this had not a little effect; but the fact that before Mr. Robicheau, no Acadian candidate for the House of Assembly had come forward was probably an equally important factor. Possibly also the reform movement championed by Howe and others was beginning to make itself felt throughout the Province. Mr. Ritchie himself credited the Acadians with his defeat.

He never afterwards appealed to the electorate and often expressed the opinion that his defeat in the Annapolis election was a blessing in disguise. There is no doubt that to a man of his tastes, habits, and character the position of a member of the Provincial Legislature would have offered few attractions and would have presented many drawbacks.

In 1838 Mr. Ritchie married his handsome cousin Amelia, eldest daughter of the Honorable Doctor William Bruce Almon. The young couple lived in a house on the west side of Hollis Street, north of what is now the annex to the Queen Hotel, in which was the bridegroom's office. The Union begun in 1838, lasted without flaw or cloud for over half a century; and, as Judge Ritchie died the year after his wife, it can be said that in death they were not divided.

One finds that in the Session of 1840 John W. Ritchie was Law Clerk of the Legislative Council, having been appointed probably in 1839. The position, which he held for twenty-four years, was one well suited to a man of his training and cast of mind and one which enabled him to do a deal of valuable though unobtrusive legislative work. Were we in a position to learn, we should probably find more than traces of his handiwork in many of the acts passed during his term of office. His appointment is not a matter of surprise, because apart from his

special qualifications for the position, he was the son-in-law of a prominent member of the Council and the nephew of a leader of the Government in that House. In 1850 and the two following years he was associated with the Honorable William Young, Jonathan McCully and Joseph Whidden, Clerk of the House of Assembly, in preparing the First Series of the Revised Statutes, a masterpiece of its kind. No similar Legislative work was undertaken, until after the lapse of some years, by any other British Colony. Mr. Ritchie undoubtedly found it most congenial.

In 1764 the Island of St. John, afterwards of Prince Edward, and at that time part of Nova Scotia, was divided into 67 Lots or Townships of about twenty thousand acres each, which with the exception of three small reservations intended for three county towns and the two lots 40 and 59, were disposed of in London by lottery before the Board of Trade and Plantations in one day. In August 1767 Grants were ordered to the several allottees. These Grants were in the form of long leases and contained provisions for the payment of quitrents and the placing of settlers on the lands, under penalty of forfeiture. As time went on much confusion and dissatisfaction arose in the Island as a result of these leases. The Proprietors, as the allottees and their successors in title were called, failed to carry out the conditions of the leases; while the tenantry did not, as a rule, pay the rent due to the Proprietors. By the middle of the last century, things were felt to call for some effective action. The Island Legislature attempted to deal with the matter in the interest of the tenantry, but its Acts were disallowed in London, and the Imperial Government declined to declare the leases forfeited for non-performance of the conditions by the Proprietors. After much correspondence, a Commission was on the 25th of June, 1860, issued by the Government to John Hamilton Gray of New Brunswick, nominated by the Duke of Newcastle, Secretary for the Colonies, the Honorable Joseph Howe, nominated by the Prince Edward Island Assembly, acting on behalf of the tenantry, and John William Ritchie,

nominated by the Proprietors. With respect to the differences which had arisen between the Proprietors and the Tenantry, the three gentlemen named were "to be our Commissioners for inquiring into the said differences, and for adjusting the same on fair and equitable principles."

The commissioners met at Charlottetown, on September the fifth, 1860, and continued to sit until October the first. They travelled through all parts of the Island and saw for themselves the exact condition of things; and in December they adjourned to Halifax where their report was prepared. It bore date the eighteenth day of July, 1861, and submitted a thorough, practical, just and effective scheme for settling existing differences. What is unusual in such cases, the report or award was unanimous and, if acted upon, would have brought the differences to a speedy end. His Grace the Duke of Newcastle "said that he was desirous of expressing his appreciation of the painstaking, able and impartial report which the commissioners had furnished, a report which would derive additional weight from its unanimity, and which was the result of an investigation so complete that it had exhausted the material for inquiry into the facts of the case."

Notwithstanding his high opinion of the report, the Duke refrained from allowing it to go into operation. The reasons alleged for this course strike one as being extremely technical, if not flimsy. One cannot go further into the history of the matter and must be contented with saying that the settlement of this urgent question was postponed for fifteen years, at the end of which time it was dealt with by what is sometimes spoken of as the Childers' Commission.

For several years Dalhousie College was in a moribund, or, to speak more accurately, a comatose state. In 1863 a Statute was passed. Chapter 24 of the Acts of that year, entitled "A act for the regulation and support of Dalhousie College," which infused a new and permanent vitality into the old institution and caused it to enter on the career of successful development of which each succeeding year offers additional

proofs. This Act placed the control of the renovated University in the hands of a Board of six Governors. The following were the gentlemen named in the first section, The Honorable William Young, the Honorable Joseph Howe, Charles (afterwards Sir Charles) Tupper, S. Leonard Shannon, John W. Ritchie and James F. Avery, Esquires. His appointment to such an important position goes to show the esteem in which the modest lawyer was held by those best able to judge of his qualifications. As to the way in which he discharged the Duties of Governor, I am pleased to be able to quote the Reverend Doctor Forrest who was associated with him for some eleven years. "When Dalhousie College was reorganized in 1863, Mr. John W. Ritchie was one of the Board of Governors appointed by the Act. He remained in active connection with the College till the time of his death and always took a deep interest in its affairs. Regular and attentive to all the meetings of the Board his judgment could always be depended upon, and he exercised a great influence in developing the reconstructed College. No one seemed so quick and alert in grasping any matter proposed. He seemed always ready with a suggestion which presented the line of action which was best in the circumstances. His judgment was almost invariably deferred to because he seemed always to be right. There was nothing at all overbearing in his manner. He was considerate and courteous. With strong opinions of his own he was willing to listen to the views of others, and the large influence which he exercised was clearly due to his sound judgment, courteous manner, and clear presentation of his case. Brought in close touch with him for many years in connection with College affairs, I was convinced that no institution could have had an abler or more judicious governor. To me he seemed the very ideal of what a judge ought to be".

From 1864 to 1867 he was a member of the Legislative Council and Solicitor General. In these capacities he continued the work to which he had probably devoted part of his time as Law Clerk, that is, bringing the law of the Pro-

vince on various subjects up to that of the Mother Country. One example of this legislation is Chapter 10 of the Acts of 1865, entitled, "An Act to amend the Laws affecting Trade and Commerce," which followed the lines of the English Mercantile Law Amendment Act of 1856; another is Chapter 12 of the Acts of 1866, intended to assimilate the law of this Province with regard to the limitation of actions to that of England.

In the Fall of 1866, Mr. Ritchie was appointed one of the Delegates from Nova Scotia to the Conference which met at London for the purpose of arranging the terms of Union between Canada, Nova Scotia and New Brunswick. It was understood that no radical change was to be made in the Resolutions adopted by the Conference held at Quebec in October, 1864, but that the phraseology might be altered and certain comparatively small modifications made in their substance. His co-delegates were the Honorable Charles Tupper, Provincial Secretary, the Honorable William A. Henry, Attorney General, the Honorable Jonathan McCully and the Honorable Adams G. Archibald. The Conference met at the Westminster Palace Hotel on the fourth of December, and sat almost continuously until the twenty-fourth of that month when the Resolutions were adopted. After that date, there were made at least five drafts of the Bill, which afterwards became *the British North America Act, 1867*. The final draft was submitted as a revise on the ninth of February, 1867.

We may assume that owing to his legal knowledge and ability and to his long experience as a legislative draftsman, Mr. Ritchie took an active part in the work of the Conference, and for this opinion we find confirmation in the very imperfect report of the proceedings of the Conference, prepared by the Secretary, Mr. Bernard, and, fortunately, made accessible in the volume of Confederation Documents published by Mr. (now Sir Joseph) Pope.

In 1867 Mr. Ritchie was appointed to the Senate of Canada, in 1870 he became a judge of the Supreme Court of Nova Scotia,

and in 1873, upon the declination of the office by the late Sir Adams Archibald, was chosen to succeed his uncle, the Honorable James W. Johnston, as Judge in Equity. In 1882 Judge Ritchie had a slight stroke of paralysis and decided to retire from the Bench. The First Minister of that day, Sir John A. MacDonald, wrote to him trying to induce him to retain his position, intimating that it was not necessary that he should work hard and expressing the opinion that by devoting half his time to the duties of his office he would render as great service as the ordinary judge who gave all his time. Notwithstanding this and notwithstanding that his faculties were impaired only slightly, Judge Ritchie persisted in resigning. In abandoning his high position, because he thought that he should give his country none but the best of his intellectual work he showed the loftiness of his character and "set an admirable example for succeeding judges." The fact that in 1878, when he was seventy years of age, he took part in the founding of this society goes to show that he had inherited the unselfish spirit and the desire for the welfare of others which, in a passage already quoted, Mrs. William Martin Johnston described as characteristic of his mother.

Judge Ritchie spent the eight years following his retirement from the Bench at his historic home of Belmont, devoting no doubt great part of the time to calm preparation for his departure from this life. He died on the eighteenth of December, 1890, aged eighty-two years and nearly nine months.

It would seem fitting to add to the foregoing imperfect sketch of Judge Ritchie's career some little statement of the light in which he presented himself to his associates and fellow-citizens.

He was somewhat below the middle height and remarkably well proportioned. His hair was dark and his nose aquiline, and there was a fair amount of color in his cheeks. Taking him altogether, he was a handsome man. I have fancied that I saw in the portrait of Judge Bliss in the Law Library, a marked resemblance to Judge Ritchie.

In his earlier days he was fond of shooting and riding, and during his whole professional career was alert and quick in his movements. He usually walked to and from his office, at which he arrived comparatively early and in which he generally remained until the close of the business day. In the office of J. W. & J. N. Ritchie, in which I served my apprenticeship, there was no coming back at night; but, as the senior partner did not as a rule leave the building during the day, luncheon being with him almost a matter of form, and as the work went on continuously from comparatively early in the morning till fairly late in the afternoon, there was perhaps as much accomplished as under what are supposed to be the more strenuous modern methods. John Ritchie sat by himself in the inner of the two offices and Norman, who was 26 years younger than he, with the clerks in the outer. Although the senior member of the firm was always courteous and affable, there was a certain element of dignity and aloofness about him which hindered us from being as free and familiar as we were with the junior. John W. Ritchie's attitude towards his clients was almost judicial: unless a case was legally and morally good, he would not undertake it; and he could be very clear and emphatic in the expression of his opinions of those whose cases did not measure up to a fairly high moral standard. The firm were noted for the moderation of their charges for professional work, a characteristic which, if it did not receive the unqualified approval of their brethren of the profession, was very favorably looked upon by their numerous clients.

I was not often a witness of Mr. Ritchie's conduct of a case in Court. He had no gifts of eloquence and was troubled with a slight hesitation of speech, but he was effective even in addressing a jury, because of his evident and well known regard for truth and because his speeches were earnest and to the purpose. In speaking to the Bench he was of course, entirely in his element.

There was about him in Court as elsewhere a complete absence of vanity and conceit. As to his qualities as a judge,

others, and particularly Mr. Justice Russell, are better qualified to speak than I. One cannot help, when reading his decisions as given in that learned gentleman's volume of equity cases being struck by their clearness and comparative brevity. They carry conviction to the readers' intellect as he goes along and are evidently the productions of a mind thoroughly saturated with the principles of law and familiar with its practical working.

From the Memorial of 1890, I may quote the following: "In the preface to the volume containing his decisions as Judge in Equity, the learned reporter, Mr. Russell, describes the Court during his term of office as in the language of Chancellor Kent, presenting the image of the sanctity of a temple where truth and justice seemed to be enthroned and to be personified in their decrees; and in the resolution of the Nova Scotia Barristers' Society, unanimously adopted just after Judge Ritchie's death, the following eloquent language is used with respect to the Equity Court: To the discharge of its duties he brought faculties and attainments of the highest order, and those judicial virtues without which even faculties and attainments of the highest order are no sure guarantee of success. Patient to listen and weigh, keen to detect fallacy, merciless in the exposure of fraud, severe and exacting with seniors, but gracious and condescending to juniors, he discharged for eight years the duties of his high judicial office with an unbending integrity, which is happily not exceptional, but also with an unquestioned authority, which is almost without a parallel in the judicial annals of the Province. After a long and busy career, crowded with the most useful and most fruitful activities through many years, in which he wore the white flower of a blameless life, he has gone from our midst, leaving to the generation that follows him a noble example of high devotion to professional and public duty, and to those that were privileged to know him intimately the memory of his many endearing qualities of head and heart".

John W. Ritchie's domestic life hardly comes within the province of the writer, but it may be said to have been almost ideal.

As a rule, in papers such as this, it is not customary to deal more than very briefly with the subject of religion; but Judge Ritchie's case was exceptional. He seems in early life to have taken to heart the lessons taught by his grandmother Johnston, and he was throughout his whole career a practical and devoted Christian. He really "reverenced his conscience as his King." He did not belong to what is known as the "Broad" section of the Church of England, but was a strenuous and sincere supporter of the views held by the administration of St. Paul's Church in this city. Indeed the first occasion on which, as far as I remember, I heard him speak in public was in 1863 when the Chapter of the Third Series of the Revised Statutes "Of the Church of England" was before the Legislative Council. Bishop Binney advocated the claims of the episcopate, which Mr. Ritchie on behalf of the parishioners at St. Paul's and those who felt with them strenuously resisted: The handsome stained glass window and the monument in that Church intended to honor his memory are not misplaced.

While a firm believer in the doctrines of his own faith and strict and scrupulous in the practice of his religion, he was not bigot, was not one who thought that all who did not agree with him were as the Heathen and Publican, and were on the path of perdition.

A touching illustration of this characteristic took place when Judge Ritchie was on his death-bed. An old Irish Catholic, who had for several years been employed in work that brought him to Belmont, was dying at the same time; and the Judge sent a message to him to the effect that he hoped they would soon meet again in a better world.

I conclude, with the expression of my regret at the imperfect nature of this humble tribute to the memory of one who was a great lawyer, an admirable judge, an ideal husband and father, and in the best sense of the words, a Christian gentleman.