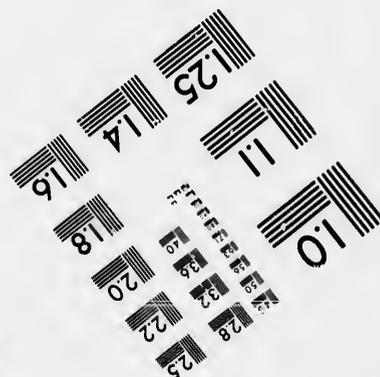
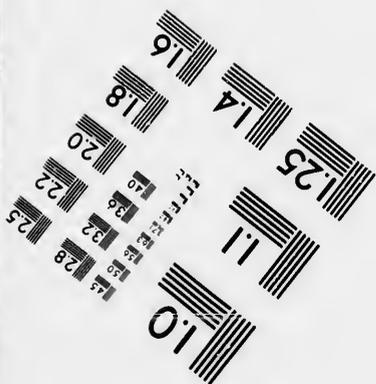
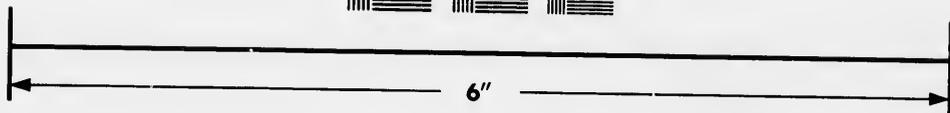
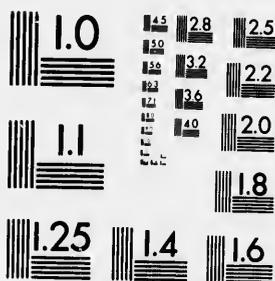


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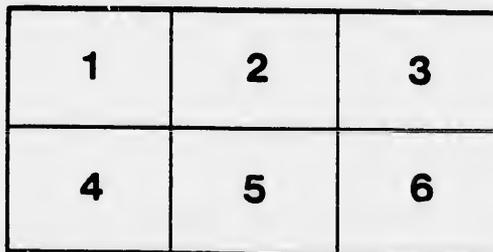
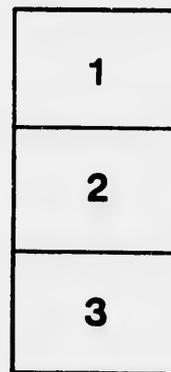
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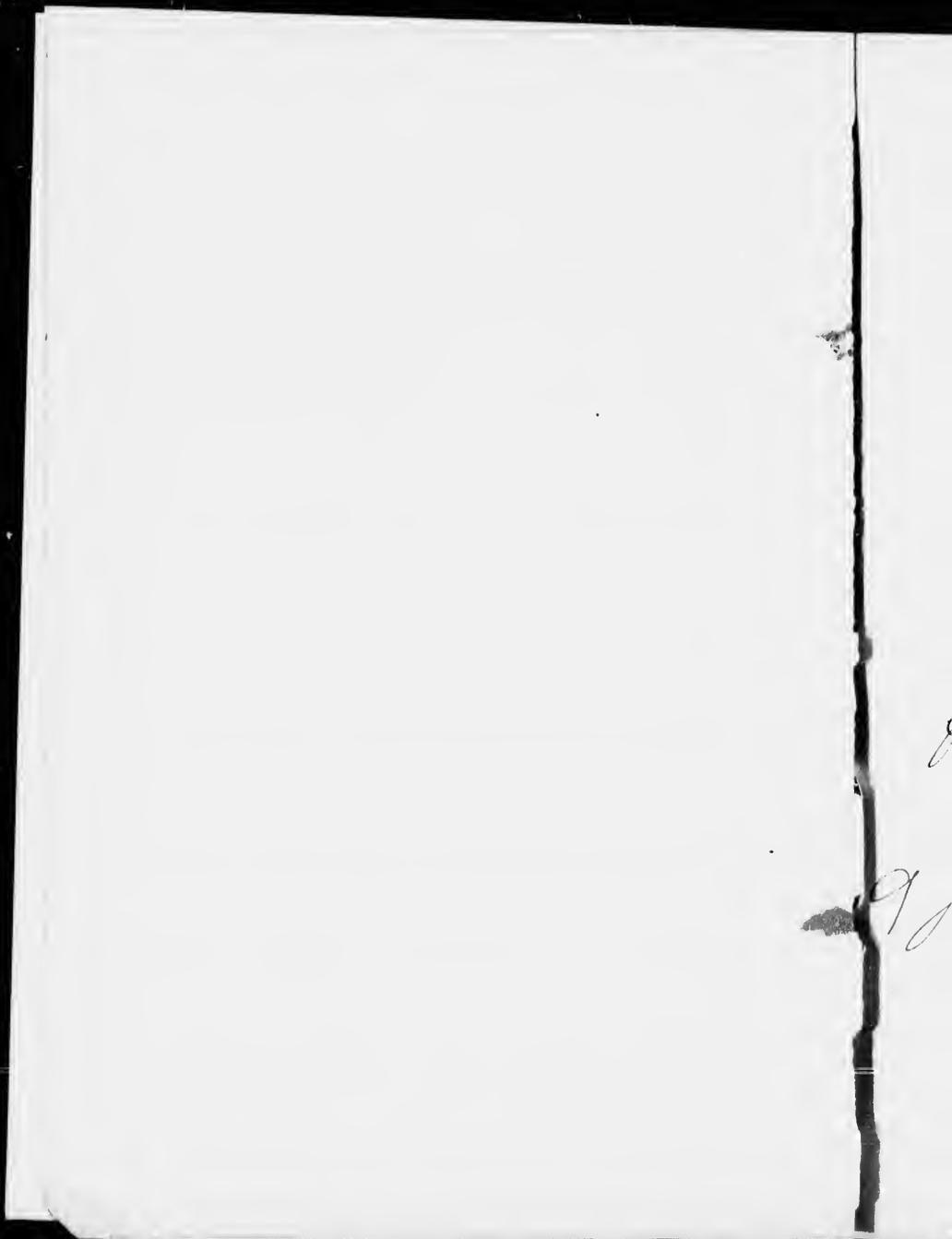
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GLEANINGS FROM THE PRESS

TOUCHING HIS CAREER.

Compiled by a Member of the Bar of Ontario.

TORONTO,
1890.



Henry J Morgan Esquire
Office of Secy of State
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Francis Judge Larwan

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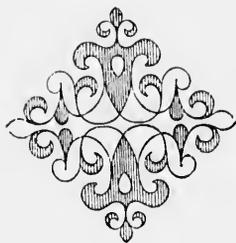
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IN October, 1883, the Honourable James Robert Gowan retired from the Bench, having occupied the Judicial office for almost forty-one years. In January, 1885, he was appointed by the Crown a Senator of the Dominion of Canada.

On both occasions a number of addresses were presented to him, and his long and useful public services were recognized, and his career made the subject of general and favourable comment by the Press.

These addresses, with an account of the proceedings connected therewith, and gleanings from the public Press referring to the ex-Judge and Senator, were brought together by the writer and printed for circulation amongst friends,* but not in sufficient number to give copies to all who desired to have them. The writer has now determined to reprint these papers, with some additional matter, extending his gleanings from the Press to a later period.

With the exception of a few corrections, and the added matter, bringing the memorial to the present time, the papers referred to are reprinted as they originally appeared.

There is ample material upon which to enlarge, but the writer has not gone over all the public services

*The first paper was printed in August, 1884; the second in December, 1885.

rendered by Senator Gowan, because his design from the first was merely to give, in convenient form, the addresses and proceedings above referred to, and the later incidents in his career, not given in the several biographical works already published.*

In thus recording some incidents in the career of a distinguished public man, who has spent nearly half a century in the public service of his country, the writer is animated by an abiding feeling of respect and veneration for the Honourable Judge and Senator, whom he has known nearly all his life,—first as a school boy at the Barrie Grammar School,† afterwards as a law student, and later as

A MEMBER OF THE BAR OF ONTARIO.

Toronto, June, 1890.

* "The Canadian Legal Biography," "The Canadian Biographical Dictionary of Eminent Men," "The Canadian Portrait Gallery," "Morgan's Canadian Directory," and "Irislumen in Canada,"—these were published years ago. The sketches in "The Parliamentary Companions" and a "Cyclopædia of Canadian Biography of Men of the Times" are more recent publications.

† The old Barrie Grammar School and Collegiate Institute, at which the greater number of men who practised at Judge Gowan's Courts received their early education, has been conspicuous for more than forty years as one of the best and most successful institutions of the kind in Canada. On its roll are to be found a great number of men who have distinguished themselves in the professions and in every walk of life. In the Law the writer can recall the names of nine now on the Bench, and a considerable number at the Bar, who have attained the rank of Q. C.; and in Parliament, in the County Councils, as well as the Civil and Military service, the school is well represented.

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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 judge in Canada, 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

* 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*).

† 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.

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, and to which a man with a less elastic constitution would have succumbed.‡

* "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 conversation in public places," says the *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 unexpected. 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.

‡ 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.

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

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 hands 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."

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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 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 consideration 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 admirers 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 forty-one 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 honourable record. His services have been recognized by magistrates, 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.

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in the position he held in office for forty years, a reputation for the most important of the important long a service, he an active judicial Gowan extends his name known in spheres his efforts in doing happy results."—

more than any other man he has ever seen a very honourable man recognized by the public generally, and not only of his country but of the Government. His services have brought him the highest occupant of the office, the faithful disinterestedly earned retirement. *Telegraph*, Oct.

"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 ornament, 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 vigour, 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 untrammelled 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 voicing 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

* "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

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acted in the presence of a large and able Bar, and amongst "an intelligent and educated people, very tenacious of their 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

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, however, 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.

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 transactions, 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 painstaking 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

* Edited by the late Hon. Jas. Patton, Q.C.

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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.

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

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

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 examples are mainly due the existence of a Bar in this county, which will compare favourably with any in the Dominion, and that this result has been obtained without, in the smallest degree fostering it at the expense 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 prevades 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 favour, 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 profession have paid tribute to your worth."

This was followed, shortly after, by an address from the Simcoe County Council, expressive of their "lively

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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 refer-
 ring 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 suc-
 cessful 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 ap-
 pointment 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 resided 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 approbation of thinking men of all parties in this community, 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 appointment stood with the public. He says: "No less than eight were elected Reeves, and some of them re-elected again and again, and three served in the honourable 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 public 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

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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 workings that animated those, whose actions and motives it was necessary he should discover and understand. He could at once gauge a man, and, as the result generally 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 administration 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 a caprice. But I hold the power of removal as a trust, and may not decline to exercise it, when inability or misbehaviour in office is made to appear to my satis-

faction. * * I reckon confidently on an energetic and diligent discharge of duty, a prompt and cheerful 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 Gowau 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

* "Towards the organization and practical working out of our complicated municipal system, Judge Gowau 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 was open to few. This special knowledge, added to his well known legal attainments, and the confidence which was felt in his judgment and knowledge in high quarters, gave him the opportunity to mould much needful and practical legislation—legislation, which otherwise would

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aid towards 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 draughtsman had commended him to the Honourable Robert Baldwin during the time of his government, who availed himself of his ser-

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 labours as his—and the labours of many others, too, who are entitled to be credited with efforts in the same direction—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.

vices 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 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

* 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.

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of magistrates, which he had introduced into the
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 sures 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 Attorneys-General 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 John's health being
 proposed by the chairman, who referred to his twenty-
 five years of office, the wise and well considered legis-
 lation 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 assist-
 ance he received from Chief Justice Draper, an "able
 legal draughtsman," 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." *

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 commis-

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

commenting on Macdonald "paid, not of all when he holding so high a office before the public, as it is, we believe, the duties of his office with the ability, still finds which every lover of improvement of his the more pleased with this expression of the Attorney-General as it preceded us, in we are under many of his most valuable variety of subjects." from whom we judge, he is yet an open mind in all the

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sion, 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 indefatigable labours in the work—and that the work was a formidable one is easy to understand when it is said, that some 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 services rendered by Judge Gowan the Government, the Legislature and the public, as well

as myself, are indebted 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 labourious 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 (caps. 17 to 37 in the Statute book of 1869) in force all over the Dominion. A valuable and necessary measure and wonderfully complete as a criminal code.

When the Honourable 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.*

* Judge Gowan's appointment was most favourably noticed by the Press. We may quote from the *British American Presbyterian*, of the 26th May, 1876, as an example: "In a recent number of the

For this important service he was a recipient from 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 for 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

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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 suggestion 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.'

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 Sir Thomas Galt, C.J. C.P.), 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 be expected in a matter

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

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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.

"Mr. Gowan has been for the past twenty-five years the confiden-
tial adviser and personal friend of Sir John A. Macdonald, has pre-
pared some of his measures, and received such favours 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. Per-
haps he sees this prize within his grasp at the present moment."—
The Globe.

"Against the personal character of Judge Gowan, or against his
impartiality 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 Macdonald in everything he does * * It is merely a white
washing commission composed of devoted followers and dependants
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 Govern-
ment to get credit for an honest course, or an impartial decision, it
will bring nothing but suspicion and may end in loosing 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

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

circumstance 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 reformer; Mr. Gowan a moderate one." After speaking of his appointment as Judge by the Baldwin-Lefontaine Government of 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."

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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, J. W. Gwynne, S. H. Strong, and C. S. Patterson,* 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. Patter-

* Sir Adam Wilson recently retired from the office of Chief Justice of the Common Pleas. The other three are now Justices of the Supreme Court of Canada.

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

son, 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 Crown 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, M.A., 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

*The other members of the Board are: Judge Ardagh, Judge Boys, the Very Rev. Dean O'Connor, Mr. Sheriff McConkey, and Mr. Reeve Ross. This note was made in 1884. In 1890, Senator Gowan was again elected chairman. The following changes in the *personel* of the Board occurred: The Very Rev. Dean Cassidy to the place vacated by Dean O'Connor on his appointment to the R. C. Bishopric of Peterboro'; the Rev. Mr. McKee, Presbyterian Minister, to the place of Mr. Sheriff McConkey, deceased; and Dr. McCarthy, Reeve of Barrie, had some time before taken the place of Mayor Ross.

Crown; afterwards, the power of appointing was transferred to the representatives of the people in their county councils, 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

* It is a remarkable fact that in the forty-seven years of its existence, this Board has had but two chairmen,—the Rev. S. B. Ardagh and Senator Gowan. The latter is the only surviving member of the original Board. Amongst the Judge's early coadjutors on the Board, where 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 labour. 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.

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 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, most 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

* 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 Richard Bernard, Barrister-at-Law, and subsequently by William D. Ardagh, (now a judge in Manitoba), and by the late Chief Justice R. A. 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, Barrister-at-Law.

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 farewell 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 recognition 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 impression 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, etc., etc.

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 important 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 honour 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 honoured 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 labours, 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 honour—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 honourable 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 honourable 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 endeavour 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 honourable Bar, who could 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

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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 honourable 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

* Seeing that his retention of the position of Chairman of "The Board of Judges" prevented the promotion of the Senior Judge to that post, Senator Gowan some three years after resigned to make way for his friend Mr. Justice Jones the present Chairman.

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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 honoured 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 honour 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, etc., etc.

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 honourably 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 County 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,
H. WILLIAMS.

BARRIE, Oct. 18, 1883.

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 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

* *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.

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. Barric, 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 greeting 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 preserving, of rare abilities, in the faithful discharge of duty—to abundant and successful effort to promote the public good.†

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

† 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 throughout many years."

"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 Country understood and valued his great industry and ability, another instance of the vigour 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 distinguished 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 that he had been treated unfairly by the

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

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 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, etc., etc.

The Warden and members of the County Council of the County of Simeoe feel that they cannot allow the event of your resignation of the position of Judge of the County Court of the County of Simeoe 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

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

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.

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 impassable, and even the common comforts of life not attainable—the least those who enjoy the fruits of your labour 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 honourably 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 County Council of the County of Simcoe.

ROBERT T. BANTING,

County Clerk.

G. M. EVANS,

Warden.

Council Chamber, Barrie, 16 Nov., 1883.

The Judge's reply was subsequently 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 honoured 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 endeavour 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 recognize 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 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 honourable 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 labour 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 honourable 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 honour 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.*

The Judge's likeness, extremely well executed, now occupies the place of honour 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:

* The review of recent Legislative enactments was usually a prominent feature in these addresses, but other questions referred to were frequently discussed and favourably noticed by the public press. Referring to one of these addresses, *The Montreal Gazette* says: "Mr. Justice Gowan, than whom perhaps 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."
* *

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 attention."

We may now 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 leading Old Country Paper, *The Irish*

"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 late 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.

* Up to that time the distinction had been conferred on merely thirteen laymen, namely: "The Marquis of Lorne, Sir John A. Macdonald, The Hon. Oliver Mowat, Robert Bell, M.D., Edward J. Chapman, Alexander F. Kemp, Peter McLaren, George Romanes, William Tassie, John Thorburn, Alpheus Todd, George Paxton Young, and Sir William Young.

Times, thus refers to the matter: "We are gratified to find in the *Toronto Mail*, of the 1st of May, a report of proceedings of peculiar interest in the Convocation Hall of the University of Canada, when the degrees were conferred 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 honour 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 moved to have the names of three* eminent gentlemen added to the list of those bearing honorary titles conferred by this University. In doing so he moved the following three addresses:

Mr. Vice-Chancellor,

I have the honour 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

* 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.

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 procedure in courts, and the revision, consolidation, and classification of the statutes, first of Upper Canada and subsequently of Ontario. For his labours in this latter work it may be mentioned that he was presented 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 discharge 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."

In one of the addresses presented to Mr. Gowan on his retirement it was said :—

"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 have the benefit of the vast

amount of experience that you have acquired during so long and active a public life." This expression proved to be a correct forecast. Mr. Gowan left for Europe immediately after his retirement, returning in the Autumn of 1884. He was not long allowed to remain in private life, for within three months after his return he was recalled to the service of his country in another field, receiving the Queen's summons to the Senate of Canada. The appointment was favourably and generally commented upon by the Press, and the writer has brought together selections from what was said, and has given some of the addresses presented showing that, as in the case of his retirement from the Bench, the "old Judge's" appointment to the Senate called forth abundant expression of the public estimate of his worth.

"The Senate in Canada stands in the same relation to the other house as the House of Lords to the Commons in England," and the body possesses the independent power and privileges of an Upper Chamber as a constituent part of the Parliament of Canada. The appointment of Senators is for life. The position of a Senator is therefore properly regarded as the most honourable distinction that can be conferred in this Dominion.* Indeed the idea, as well as the intention, of a second chamber would seem to be, that

* By "The Table of Precedence within the Dominion of Canada" Senators take rank before the speaker of the Commons and before the Puisne Judges of the Courts of Law and Equity.

such body should comprehend men of high character and position, representing the professional and other prominent classes—men of mature judgment, animated by zeal for the public interests, rather than party attachments—men of independent means. In a word, educated, grave, fair-minded men, imbued with a high sense of honour and true national spirit—"of the people and from the people," and possessing a deep stake in the welfare of the country.

To proceed with the task the writer has undertaken.

The Ottawa correspondent of the *Toronto Mail* on the 27th January, 1885, writes to that journal:—"Judge Gowan has been appointed to one of the vacant Senatorships for Ontario, his well-known ability and profound knowledge of legal lore will make Senator Gowan an acquisition to the Senate," and this was the first public intimation of the intended appointment. Her Majesty's writ summoning Mr. Gowan to the Senate is dated the 29th of the same month. The *Canada Gazette* of the 31st contains the official notice of three appointments to the Senate in the following order:—"His Honor James Robert Gowan, of Barrie · Dr. Michael Sullivan, of Kingston, and the Honourable Theodore Robitaille, of New Carlisle, member of the Privy Council, formerly Governor of the Province of Quebec."

Before the issue of the royal *Gazette*, a number of the leading public journals had referred favourably to the appointment of Mr. Gowan, and some extracts

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from these are subjoined. "No one will question the eminent fitness of His Honor Judge Gowan to be a Senator of the Dominion, even though that body were the most important branch of our legislative system. His known ability as a jurist, and his intimate acquaintance with all the varied needs of this great country, peculiarly fit him for senatorial honours, or to hold a portfolio in some government. And although it is many a long year since Senator Gowan took any part in Canadian politics, he has, as his friends are well aware, kept abreast with the times, and is really better posted on the leading political and social issues of the day than many an M.P. or M.P.P. He has had, too, the advantage of having been able to take a dispassionate view of all questions before the country; and in this respect, as in some others, Senator Gowan will compare favourably with 'Bystander' in the view he takes of the measures agitating the country, for his mental vision is not obscured by Old Country notions or prejudices. He is gifted with a robust intellect, and so can never become a mere party man. He will in fact be as much an ornament of the Senate as he has been of the Bench these forty years past. We heartily congratulate Judge Gowan on his appointment to the Senate, and hope he may be spared many years to do the country further service in his new sphere of usefulness."*

* *Examiner*, January 29th, 1885.

After giving a sketch of the Judge's career, the *Manitoba Free Press* of the 30th January, says:—
 "He is credited with being the author of a large amount of useful legislation before and since Confederation; and is known to have more than once declined removal to the upper Bench. He has always had the goodwill of, and possessed influence with, every Government, local or general, which has been in power since his appointment. * * His ability as a jurist and his general practical knowledge of business, and latterly his long experience, added to a great capacity for work, have in many instances enabled him to render valuable service to the Government of the day, and to the country.

"His call to the Senate must be looked upon as a recognition of merit rather than a political appointment. Judge Gowan's politics, when he was in a position to have any, being evidently (judging by his appointment) Baldwinite, or Reform. Judge Gowan is said to be still full of mental vigour, and it is almost to be regretted that his talents as a legislator could not have been called into requisition in a more congenial atmosphere than that of the Senate Chamber. Judge Gowan has on many occasions during his judicial career, as well as at its close, been the recipient of flattering but well-merited indications of the high esteem and appreciation in which he was held by the Bar, and the people of the county in which he resided."

The *Barrie Gazette* of the 25th January, in announ-

cing the appointment, speaks as follows:—"Of the Judge's fitness for the position there can be but one opinion,—that of his being thoroughly competent, his long service as a judge, now retired, entitles him to consideration."

It may be remarked that these extracts are from the Opposition press.

"It is almost unnecessary to add," said the *Toronto Mail*, "that his elevation will give universal satisfaction; a profound and experienced lawyer, he also possesses a wide acquaintance with all the leading issues of the day."—"There is not a man in the Dominion better fitted to do the duties of a Senator and to add dignity to the second Chamber. * * His scholarly bearing, his vast legal attainments, and the dignity and suavity of his manner, will make Judge Gowan a real acquisition in the Canadian House of Lords."—*Barric Advance*, 29th January.

"Every inhabitant of glorious old Simcoe, and many in every other portion of the Dominion, will read with pleasure that Judge Gowan has been appointed to one of the vacant senatorships for Ontario. His well-known ability and profound knowledge of legal lore will make Senator Gowan an acquisition to the Senate. Dr. Sullivan, of Kingston, has also been appointed to the Senate."—*Orillia Packet*.

"The two latest appointments to the Senate were not made from the ranks of the professional politicians, and that is at least something in their favour. One

was a judge and the other a doctor, and so long as the Senate must continue to be constituted on the nominative principle the nominations should be made as much as possible from the ranks of the professional or mercantile classes. The country will thus be able to secure the services of representative men. Judge Gowan has done yeoman service on the Bench, and his long and faithful discharge of judicial duties deserves some such mark of national appreciation as that which has been conferred upon him. Dr. Sullivan, of Kingston, is one of the most popular Catholics in the country, and his elevation to the Senate will be especially acceptable to that section of the community. If the Senate is in the moribund condition it is represented as being, it is just as well to have a few doctors in at the death."—*Toronto Telegram*, 30th January.

"No more popular selection could have been made for this district. Had the office been elective, the leading men of both political parties would have united in choosing the Judge. He will honour the Senate, by becoming one of its number, more than that august body will honour him by receiving him as one of its members. Had Sir John A. Macdonald been equally happy in his selection of senators, as in the case of his first appointment from this county, the outcry against the Senate as a refuge for broken-down politicians would have been groundless. This most fitting appointment is, moreover, an incentive to our

young men to be active and energetic, in the position into which the Great Creator has put them."

After referring to Mr. Gowan's appointment to the Bench at the early age of twenty-four, and his long and earnest labours, especially to make the Courts as easy to the poor man as to the rich, the journal we quote adds, "And now in his declining years, with his natural powers as vigorous as ever, honours are heaped upon him, which are the more valuable, because they are richly deserved. Our sincere wish is that the venerable Judge may be spared for many years to enjoy the rewards of his past labours and efforts to do good."—*Orillia Times*, 5th February.

Immediately after the official announcement in the *Gazette*, other leading journals commented upon the appointment. *The Week*, a thoroughly independent journal, and one of the ablest and best conducted on the continent, in its issue of the 5th February, 1885, thus refers to the nominations:—"Judge Gowan is a personal and political friend of Sir John Macdonald, but he has never taken an active part in politics nor can his appointment be fairly said to be the reward of partizanship. By his long service in the judiciary, and by his liberal and comprehensive view of law, as well as by his character and position, he is well fitted to represent his profession in the Senate, and to play a useful part in moulding legislation, and especially in the codification of the law. The selection was as creditable as any selection could be in which party

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lines were not entirely ignored. We hailed it as a new departure, and began to surmise that beneficent influence might have been exercised in a quiet way by the Governor-General, who is ostensibly responsible, and to whom, in an hour so critical for second Chambers, the condition of the Canadian House of Lords must be far from a pleasant spectacle." And in a later issue of this journal, while objecting to "investing men with legislative powers for life as rewards for party services which were not also services to the country," adds, "Mr. Gowan's services were services to the country."

The *Canada Law Journal* of the 15th February, comments upon the nomination: "The appointment has been accepted by parties of all shades of politics as creditable to the Government of the day and an honour deservedly bestowed on a faithful servant of our country. * * We look upon this appointment as the establishing of a happy precedent. A retired judge whether of the county Bench or Superior Court, in many instances will preserve sufficient mental vigour and physical strength to discharge the duties of a legislator—especially in the less partizan atmosphere of the upper chamber of our Dominion Parliament. The appointment of Judge Gowan opens up a new and useful field for men of this class in which the ripened experience and trained abilities of some of our ablest judicial minds may find congenial occupation, and at the same time afford an honourable and fitting termination to many eminent careers."

Only one leading journal, the *Toronto Globe*, speaks in non-approving terms of the appointment. "We do not know that any remarks need be made on these Tory appointments, except that it is remarkable to find a gentleman unable because of infirmity to retain his seat on the Bench, selected for the Senate." This statement refers to Mr. Gowan, but is neither fair nor correct. It was not because the Judge was "unable because of infirmity to retain his seat on the Bench" that he sought retirement--though his tenure of office was for a longer period of actual service than that of any other judge in any colony of the Empire, fifteen years beyond the time he might have retired under the Statute. Indeed he probably might have gone on for years at the full salary for such work as he was able to do. His own explanation as given in reply to the Bar address in 1883 is, "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

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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," and continuing he said, "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 live an idle life." And that Mr. Gowan was willing at an advanced age to give his services to the country for some months every year is all to his credit. It is scarcely necessary to say anything of his mental fitness for the duties of a Senator; as expressed by leading Liberal journals in his own district. "Mr. Gowan's natural powers are as vigorous as ever, * * of his fitness for the position there is but one opinion, that of his being thoroughly competent." And his record during the first session he attended, sustains the correctness of these assertions.*

He introduced four Bills into the Senate, three of them for amending the criminal law. Of these four

* In examining the Journals of the Senate and Hansard for 1885, we find that Mr. Gowan was appointed to and served upon three joint committees of both houses—on the Consolidation of the Statutes, on the Library and on Printing, also on the committee on Standing Orders and Private Bills, and on several special committees. Acting as chairman in three out of the six divorce cases that came before Parliament in the Session of that year.

Bills three passed the Senate, the fourth was rejected by a majority of one, but received the support of the Minister of Justice and the leader of the Opposition.

We observe also, Mr. Gowan's name frequently appearing in the debates, speaking not merely on the Bills he introduced, but on the N.-W. Property Bill, The Franchise Bill, The Maritime Court Bill, The Criminal Evidence Bill, The Temperance Act Amendment, on questions of Order, Divorce practice, Divorce cases and other matters. And that Mr. Gowan's usefulness was recognized in the Senate, the following extract from one of the public journals we think indicates:—

“Senator Power, an eminent lawyer from Halifax N. S., and a member of the Opposition, concluded his speech in support of the Bill * * with the following reference to Senator Gowan:—I think that this Bill and two others which we have had before us already go to show the wisdom exhibited by the Government in placing the hon. member from Barric in this Chamber. From his position, my hon. friend learns what the defects are which the judges, who are now on the bench, find in the criminal law, and he is able from his own experience to recognize defects that have existed for some time. Legislation such as he has introduced, is just the kind of work which is calculated to give this Senate weight and respectability through the country; and I think that measures of this sort do us a great deal more service in public estimation

than debates, extending no matter how many weeks, on the general question of our utility."

The *Canada Educational Monthly* speaks also of the appointment as exceedingly popular, and refers to it as 'an event of interest to all friends of education. The new Senator can probably claim to have served longer as a school trustee than any other man in the Province. He was, we believe, a member of the original Board of Grammar School Trustees at Barrie, more than forty years ago, and he is to-day the respected chairman of the Collegiate Institute of that town."

One quotation more may be made from the *Irish Times* of February 19th, a leading paper in Mr. Gowan's native country. "It is with much satisfaction we learn from the journals of Canada, received by the mail delivered yesterday, that on the 3rd of the present month, a distinguished Irish jurist, who had before attained the highest distinction in Canada, for many years in a judicial capacity, and more lately as a principal commissioner for the codifying of the laws of the Dominion, has been raised to the dignity of the Senate of Canada by command of Her Majesty. The Hon. James Robert Gowan, is a native of the County of Wexford, and a gentleman of genius and experience. * * The universal respect in which the new Senator is held and his conspicuous fitness for the Council room of a great State must be a matter of pleasing record for all Irishmen who delight to hear of the superior display of talent and energy by their

countrymen abroad, of the success which attends them in the noblest walks of life, and the usefulness to society of the career in which they have risen to eminence."

Amongst the congratulations offered to the newly appointed Senator, there was one that seems to call for a fuller notice, namely, the address from the Council—the great representative body of the judicial district in which he has resided for so many years. And the following account is condensed from reports by three of the public journals, representing both political parties in the county, namely, *The Gazette*, *The Examiner*, and the *Advance*.

"The Council lost no time in congratulating His Honor Judge Gowan on his elevation to the Senate. A special committee was struck to frame an address as soon as it became known that the appointment had been made. It was carried by acclamation, and the Council then adjourned till four o'clock in the afternoon of the same day, the 6th February, 1885. At the hour named the Council assembled, and shortly after the newly appointed Senator and ex-Judge entered the Council Chamber, and was conducted to a seat beside the Warden; the members and numerous visitors rising at his entrance. The address was read by the Warden, as follows :

'To His Honor James R. Gowan, late Local Judge of the High Court of Justice.

"We, the members of the County Council of the County of Simcoe, have heard with extreme gratification that you have been called to the Senate of the Dominion of Canada, and we cannot allow

the occasion to pass without extending to you our sincere congratulations on the high honour you have received. We feel, both personally and collectively, that no better selection could have been made, and we heartily trust that you may be spared health and many years to enjoy your proud position. We venture to express the opinion that the intention of the founders of our Senate has been fully carried out in the elevation to that distinguished assembly of so eminent a public servant as yourself. You will bring to that body a mind highly cultivated and trained by a judicial experience of more than forty years, and never having taken a prominent part in the political warfare of the country, you will adjudicate on matters brought under your notice impartially and without bias. Having assisted in the consolidation of our laws and been instrumental in framing many of our statutes which by their permanence on the Statute book, testify to the thoroughness and foresight with which they are framed, it may safely be predicted that in your new and exalted sphere the country will gain the benefit of your matured experience in compiling other enactments equally advantageous to our Dominion at large.

'We have no doubt that the Chamber that you are now henceforth to occupy, will not only receive additional lustre from your presence, but that your wise counsel and clear intelligence will mould their discussions and affect the result of their deliberations in a marked and beneficial degree.

'As representatives of this large district, we feel a pride in reflecting that the advice and counsel you always so freely accorded us and which we were always willing to be guided by, have been recognized to be of such worth—recognized by the highest authorities of the State. And we trust that the wise and prudent advice so inculcated may ever be handed down to future representatives as a priceless tradition never to be forgotten.

'ROBERT T. BANTING,
County Clerk.

'ROBERT PATON,
Warden.

'Council Hall, Barrie, 20th January, 1885.'

'The Senator replied verbally with a good deal of feeling. Naturally, for he stood in the presence of

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prominent men who had known him for years, amongst whom he had spent the greater part of his life, and fulfilled the duties of the judicial position. He returned sincere and hearty thanks for the honour, said it was specially gratifying in view of its being unanimous and because it represented even in committee, men of various political convictions coming from all sections of the district. The Senator continuing said: "Mr. Warden and Gentlemen, I would gladly take you into my confidence if I had anything to impart; but you know almost as much as I do in respect to my appointment. On Monday last I had the first intimation that it was desired I should take a place in the Senate. It was wholly unexpected by me, and I need scarcely say I never sought it. The offer was entirely spontaneous, and after seeing the few friends I could consult—seeing that a prompt answer was necessary—I determined with some mis-giving to accept, for I could only bring to the place a residuum of former energy, and much could not be expected in a man not very far from three-score years and ten.

"Why the appointment was offered to me I can only surmise. I had neither suffered nor bled in political warfare; had not even drawn the political sword. If for a short time in early life I was in the heat of a political blaze, more than forty years in the quiet shade was sufficient to remove dye or freckle. I had no claim of this kind to bring me into notice. Several members of the Government had known me for years

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and I have for them a warm personal regard and respect, especially for Sir John Macdonald, with whom I had more contact and for whom I occasionally worked as you know. But public men are not and ought not to be governed by personal feelings, and so I must surmise it was some supposed aptitude for the position that influenced my selection. You are good enough to think the intention of the founders of the Senate is fully carried out by my appointment. I hope you may be right. It is at all events most grateful to me to know that the action of the Government, so far as concerned me, meets your unqualified endorsement—a most valuable endorsement it is, from the freely chosen representatives of a district with a population not very long ago, exceeding that of two provinces in the Dominion, and now not far behind that of Manitoba and British Columbia together.

“You are pleased to say I may have some influence in the Senate. The utmost I hope for is to be of some use in a quiet way, and as I fancy the best part of the work in deliberative bodies is done in committee, a place of usefulness may be found for me—it is my only aim and will be my reward. If I find in the body to which I shall have the honour to belong, as much earnest, well-directed effort as amongst you I shall be content.

“In conclusion the new Senator again thanked them for their kind and courteous words and their promptness in endorsing his appointment by valuable and deliberate testimony.

"The Hon. Senator after greeting warmly several members of the Council, retired amid great cheering."

It was a magnificent and well-deserved ovation by men of all parties, representatives of the people, to an eminent man who deserved well of his country—an honour few men could boast of—few could receive without being deeply touched.

It rarely falls to the lot of any one occupying a judicial position for over forty years to receive from public representatives of the people, men who knew him well, such a flattering demonstration of respect and regard. It may be mentioned that the address presented was subsequently engrossed and illuminated in high art, in a magnificently bound album and transmitted to Ottawa, to Mr. Gowan. His acknowledgments addressed to John Dickinson, Esquire, Barrister, one of the Reeves and chairman of the committee appointed to prepare the address, afterwards appeared in the journals of the Council.

"I never saw" said the Senator, "anything of the kind better done, or in better taste, both as regards binding and illumination. * * Sending it to me here has enabled me to show to Senators and others this mark of your regard. * * It was greatly and universally admired. Need I say 'the Senator from Barrie' was gratified in the fact. * * I have already told your body how much I was touched by their extreme kindness, but I should like them to know what I now say."

The writer has in an early part of this paper referred to the constitution of the Senate of Canada, and what in his judgment should be the requirements in the selection of senators. What has been collected in the foregoing papers furnishes abundant proof that in Mr. Gowan's appointment these requirements were fulfilled, and moreover that it was a popular appointment, and, as was said in a leading journal, one opposed to the Government that appointed Mr. Gowan: "Had the office been elective the leading men of both political parties would have united in choosing him. He never took an active part in politics. His appointment was not the reward of partizanship."*

He himself said: † "The offer was entirely spontaneous. Why offered to me I can only surmise. I had neither suffered nor bled in political warfare, had not even drawn the political sword. * * I had no claim of this kind to bring me into notice. * * So I must surmise it was some supposed aptitude for the position that influenced my selection. You are good enough to think the intention of the founders of the Senate is fully carried out in my appointment."

"By his long services in the judiciary," said the able writer in *The Week*, "and by his liberal and comprehensive views of law, as well as by his character and position, he is well fitted to represent his profession

* "The Week," "Law Journal," etc.

† *Vide* reply to Address of County Council.

in the Senate, and to play a useful part in moulding legislation."

"With no political influence to wield," said the *Canada Law Journal*, "with no political ambition to gratify, with no selfish purposes to serve, with means sufficient to make him thoroughly independent of any temptation to office, he is just the sort of man one likes to see in the halls of the legislature. His recommendation for the position was the record of a long and useful public life, with abilities and experience far above the average. He will bring to the discharge of his legislative duties a calm, highly-trained judicial intellect, a mind well stored, not only with legal lore, but with a large fund of general information, which cannot but make him a most useful member of the Upper House."

Unexpectedly and unsought, the position came to him, and it is believed that there is not one member of the Senate more thoroughly independent or less trammelled by party than he is. An incidental observation by Mr. Gowan in his speech on the Franchise Bill, gives some indication of his views on this point. He remarked: "Men summoned to the Senate are reasonably taken from amongst those whose views are in the main in accord with the Government of the day, and because of some fitness for the position. Will the most rabid politician contend for a moment, that any one appointed to this hon. body in accepting the summons forfeits the right to think for himself in any

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measure that may come up, or surrenders his conscience to the sway of party, however much he may differ from his party on the particular case—of course not; the Senate could in such case have no attractions for an honest man."

These are not the sentiments of one bound hand and foot by party, but of a man prepared to take a dispassionate view of all questions before the country.

The foregoing was printed at the close of 1885, and brought the subject undertaken up to that date; and now, as intimated in his preliminary remarks, the writer continues this memorial and his gleanings from the public press in reference to Senator Gowan.

Some reference has been made above to Parliamentary work in the session of 1885. The session of 1886 again found the Honourable Senator in his place at Ottawa, a regular attendant at the House, actively engaged in the business going on and taking part in several debates, and the same in the sessions of 1887, 1888 and 1889.*

* An examination of the Journals and Hansard of the Senate shows that he was no idle member. During these four years he served every session on three important committees: "The Joint Committee on the Library of Parliament," "The Joint Committee of both Houses on Printing," and "The Committee on Standing Orders and Private Bills,"—being chairman of the last mentioned committee in 1888. He also served as chairman on four committees upon as many contested Bills of Divorce. And he was a member, and acted upon the important special committee on "The Great Mackenzie Basin." He took part, also, in several debates in these sessions, speaking at considerable length on important questions touching legal matters.

In the session of 1888, he succeeded in carrying a very important scheme of reform, which deserves more particular notice. Early in that session, in an exhaustive and judicious speech, he drew attention to the subject of Marriage and Divorce in Canada and the United States, "showing emphatically that the fact that each State of the American Federation has sole jurisdiction over the subject, and has given the courts full power to grant divorces, has tended to the loosening of the marriage tie, and has been most injurious in that way to morals and the sanctity of home life, on which depend so much of the happiness of peoples."*

Under the power given by the B. N. A. Act, as observed by Mr. Gemmill, the author of "Parliamentary Divorce," the Parliament of Canada has exercised itself since Confederation in passing numerous Acts for the dissolution of marriage; but the system of procedure concerning Divorce Bills was incongruous, tedious and unsatisfactory, and a subject of constant reproach. The investigation of a case was divided between the House and a committee, which was almost always selected by the promoter of the bill, and the hearing of the evidence was conducted without regard to any settled rules of evidence. The rules of procedure were embarrassing to the practitioner, to officers, and to all engaged in administration. Moreover, they did not effectually guard against imposition on the House,

* From note by Dr. Bourinot, Clerk of the House of Commons.

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and doubts and difficulties were constantly cropping up. The radical defect in the mode of appointing the committee to enquire into the facts was severely commented upon, and numerous complaints found expression within, as well as outside, the Senate chamber. It became evident that a reform was necessary. The work of reform was undertaken by Senator Gowan, and earnestly pressed on the consideration of the Senate. His scheme was entertained, and the subject referred to a special committee, embracing men of large parliamentary experience and the best legal ability in the House.*

The subject was fully and carefully discussed in all its details by the special committee, and afterwards by a committee of the whole House. The body of rules submitted by Senator Gowan was finally, with some alterations, adopted by the Senate on the 11th of April, 1888: the old rules being rescinded. These rules and orders placed procedure for divorce on as sound and satisfactory a footing as was possible without special legislation of a radical character.†

* The committee proposed by Senator Gowan included leading Senators from several Provinces of the Dominion, viz.: Hon. Messrs. *Abbott*, Q.C. (leader for the Government in the Senate), Quebec; *Miller*, Q.C., Nova Scotia; *Scott*, Q.C., Ontario (leader for the Opposition); *Dickey*, Q.C., New Brunswick; *Pelletier*, Q.C., Quebec; *Power*, Q.C., Nova Scotia; *McDonald*, British Columbia; *Vidal*, Ontario; *Haythorne*, Prince Edward Island, and the Mover, Ontario. Four of the gentlemen named were Roman Catholics, but only one served.

† *Gemmill's Parliamentary Divorce*, pages 26, 75 and 76.

The above extracts sufficiently show the necessity for the reform carried out, and its beneficial results have been proved in the test of actual working.

Dr. Bourinot, from whom we have already quoted, referring to the fact that "it had been frequently urged the time had come for removing the trial of these cases from the Legislative tribunal to the Courts of Law," adds: "Perhaps there may have been some reason found for the argument in the relatively loose procedure which existed in the Senate previous to 1888; but it can now be urged that the improvements, which have taken place in that procedure under the energetic and learned supervision of Senator Gowan, in a great measure removes the objections that have been advanced against continuing so important a subject under the jurisdiction of Parliament."

Early in the session of 1889, Senator Gowan "called the attention of the House to the supposed uses and to the actual working of the grand jury system, in connection with criminal procedure in the several courts of Canada; also to the value and importance of the Ontario County Crown Attorney system in the same connection."

And asked "if the Government had had under consideration the propriety of submitting a measure to Parliament for the abolition of grand juries, and substituting therefor some general system of public prosecutors, similar to that which exists in Scotland; or whether the Government had under consideration

the desirability of extending the benefits of the County Crown Attorney system, in connection with criminal procedure, to all the Provinces in the Dominion."

In submitting the question he delivered a long and carefully considered speech,* covering the whole ground, which elicited a full reply from the Honourable Mr. Abbott, leader for the Government, indicating a general assent to Senator Gowan's views, if with an expression of doubt as to whether public opinion was ripe for the change, as the following extract from Hansard shows. Hon. Mr. Abbott: "I am sure the House has listened with great interest, and is under deep obligations to my honourable friend, for the study and research which he has devoted to the question of the value of the grand jury in the administration of justice. It is probable that this venerable system is, perhaps, getting too venerable for the present age. * * The progress of our free constitutional system, under which offences are tried by judges entirely independent of outside influences, has rendered the protection which the grand jury was calculated to give the citizen, practically unnecessary. * * It is to be feared that at this moment public opinion has not reached a point where it will be safe or judicious to attempt to do away entirely with the

* To give even an epitome of what was said would be to extend this paper beyond the writer's design. The speech occupied more than twelve pages in the Senate Hansard of 1889. It was copied at length in the newspapers, and much commented upon.

grand jury system, and substitute for it any other, no matter how well conceived it may be. I can say, however, in answer to my honourable friend's question, that the attention of the Government has been attracted to this question for a long time past, and they have had it under very serious consideration. * * I hope before long, perhaps next session, that the Government may be able to present a measure, having the tendency which my honourable friend's address indicates that he desires, and which I think his address is well calculated to hasten."

The subject was debated at the time, other Senators speaking for and against.

Hon. Mr. Scott, the leader for the opposition, though not favouring the move, recognized Senator Gowan's careful study of the subject. "I listened," said he, "with a great deal of interest to the observations which fell from the hon. gentleman who brought this enquiry under the notice of the Senate, and he, no doubt, has given it a very exhaustive study, and his experience, from the position he held before he came to this Chamber, gave him a very large opportunity of studying the question. * *"

The Honourable Mr. Kaulback said: "I will not occupy the time of the House in making any extensive remarks; but I am sure we must all be thankful to my learned friend from Barric, for having brought this matter before us in the elaborate way he has done. He has shown us that there is great laxity in the

prosecutions for the Crown before grand juries, and miscarriage of justice in consequence."

The Honourable Mr. Trudell also spoke, concurring in the importance of the question, and expressing pleasure in hearing it was the intention of the Government to enquire into points submitted by Senator Gowan.

More could be said respecting Senator Gowan's work in Parliament, but enough has been brought out to show that, from the moment he entered the Senate, he was, in spite of his advanced age, a persistent and useful worker. There remains only to be told a noteworthy incident connected with his recent visit to Ireland.

Senator Gowan left for Europe after the end of the Parliamentary session of 1889, and in the autumn of that year visited his native country.

The success of Irishmen abroad is always a pleasant theme with their countrymen at home. The career of Irishmen in Canada had attracted attention, and that of Senator Gowan especially was favourably referred to by the metropolitan press of Ireland.*

* The following article from a leading Dublin paper, of 22nd October, 1889, bears out the writer's observation in the text:—"We have often had occasion to refer with just pride in these columns to the notable successes of Irishmen abroad, which in no quarter of the world have been more frequent or conspicuous than in the Dominion of Canada. If proofs were required of the intellectual triumphs that our countrymen have achieved in the great dependencies of the British Empire named, they will be found in the able work of a dis-

During a brief stay in Dublin the Honourable Society of King's Inns conferred upon him the distinguished honour of a call to the bar of Ireland.

The ruling body of this ancient society includes in its working members the Judges of the High Courts, as well as the leading Queen's Counsel and members of the Bar; and we believe Senator Gowan's was the

tinguished Irishman, Mr. Nicholas Flood Davin, who has written the biographical history of the vast trans-oceanic community from the first days of its settlement. The slightest glance at its pages proves that the genius of Irishmen has contributed vastly to the growth of the western community, which has before it a future of such brilliant promise. Founded upon the best models of the motherland, traditions legal and social have been preserved, though not slavishly. They have been adapted to the wants and requirements of a new country which is leading in the van of civilization, and is in a position to teach its neighbours in jurisprudential capacity. Canada owes a vast deal to what is acknowledged as the imported intellect of men of Irish birth. By merit alone their advancement has been secured, and the colonial as well as the home community acknowledges that the tribute to genius is an universal one. It would be unnecessary to repeat the names of those statesmen who have helped to make modern history in Canada, but if they were to be set out at length it would be found that Irish names predominated amongst them. That of Lord Dufferin, sometime Governor-General of the Dominion, will first occur to popular recollection; but working in coöperation with him, and thoroughly sympathising with his enlightened aims and purposes, there have been a band of eminent Irishmen whose records should not be forgotten, especially in times like these, when the bond of union between England and her colonies, and chiefly those of the neighbouring west, have been drawn so closely together. To emphasize this connection is alike our policy and our interest. The establishment of the Imperial Colonial Institute, asso-

first case in which the resident of a colony, receiving his legal training wholly there, and away from his native country for over fifty years, was thus honoured by an *unique* "act of grace," but, to use the words of a former Governor-General of Canada speaking of the act, "In honouring him Ireland's bar does honour to itself." There could have been no more worthy

ciated with the happy year of Her Majesty's Jubilee, is but the rational outcome of a common public opinion which England and her colonies alike share. Its objects contemplate not only a political but a social purpose. Society in these countries desires to know more of the personality of the heads of the governments to whom authority is entrusted abroad, and wishes to take every opportunity of making acquaintance with them.

"For some time past a very interesting representative personage, who has borne much of the heat and burden of the day in setting up judicial and local governmental institutions in the great Dominion of Canada, has been sojourning amongst us. The name of the Hon. Judge Gowan is not by any means unknown in Ireland. An Irishman by birth, he went to Canada at a comparatively early age, and, by the exercise of exceptional talents, very soon attained the highest position at the Canadian Bar. For nearly forty-one years he was actively engaged in the judicial office. He was the youngest man ever entrusted with Her Majesty's commission as a Judge. In the early days of the Canadian settlement it was well that the services of so distinctively able a jurist should have been available. We have before us the records of his long term of labour, and during its course he earned the respect, not only of the Canadian Bar and public, but of reflecting jurists at home, who recognised in his decisions the maintenance of the constitutional principles of law, applicable to the state of the country, and especially important as setting a series of judicial precedents, which have become part and parcel of the common law of Her Majesty's western territorial pro-

recipient, and it must have been as gratifying to the worthy Senator as it was to his friends in Canada and elsewhere. It was certainly also a high compliment to the Canadian bar, of which he is one of the oldest members.

The *Irish Times* of the 6th November, thus speaks of the graceful act: "Yesterday, at the sitting of the

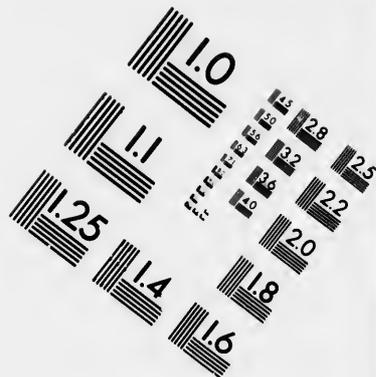
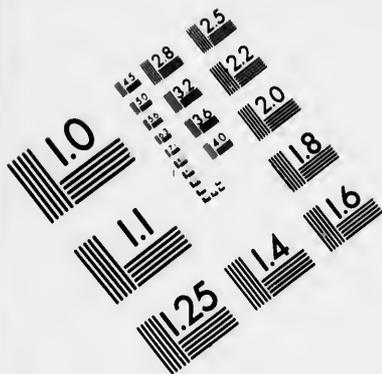
sessions. A work, well known in Canada, written by Dr. John George Bourinot, Clerk of the House of Commons of Canada, bears ample testimony to the supreme influence that Judge Gowan exercised in modelling the municipal system of Canada. Naturally his long tried experience was appealed to, and it was owing to his enlightened and prudent counsels that so much was so rapidly done to place them upon a practical working basis. Our Canadian countrymen have elected Judge Gowan to the highest position which it is in their power to confer. Some years since he retired from the bench, but he was immediately appointed to the Senate, a body corresponding to the House of Lords in England. Demands have since been made upon his learned judicial discretion, and never have been disappointed. No citizen of the Dominion occupies at this time a higher or better deserved position than Judge Gowan, Senator of Canada. In the highest ranks of English and Irish society he is honoured, and it would be unfortunate if his countrymen were not to recognise his presence amongst them with a word of cordial and kindly acknowledgment. Men like Judge Gowan sustain the honour of Irish intellect abroad, and we cannot but feel pride in the successes of such lives of labour and of notable talent. Judge Gowan has not obtruded himself upon public notice, but we cannot allow a distinguished countryman to leave us without, for our part at least, bearing testimony to his most interesting and honourable career. A timely opportunity may yet be found to pay such a compliment to him as would be grateful to the sentiment alike of the people of Ireland and of the loyal and noble colonial community to which he belongs."

Court of Chancery, an unusual and interesting ceremony took place in the special honourary call to the Bar, by the Lord Chancellor, of a distinguished Irishman, who has been staying for an interval amongst us, from the Canadian Dominion. The Benchers will be commended by every member of the profession, and the public will cordially endorse their action, for conferring such an honour upon the Hon. Senator Gowan. As we have said, Judge Gowan is a native of Ireland, and ranks high amongst the numerous body of able men who have risen to eminence in the colonies. * * We have no doubt that Senator Gowan very highly appreciates the honour done to him in associating him in fellowship with the Bar of his native country, and he will return to his high duties in Canada with, we should hope, a pleasing recollection of the hospitality shown to him, and the gratified consciousness that his abilities and character are known and appreciated alike by the legal profession in Ireland and by his countrymen generally."

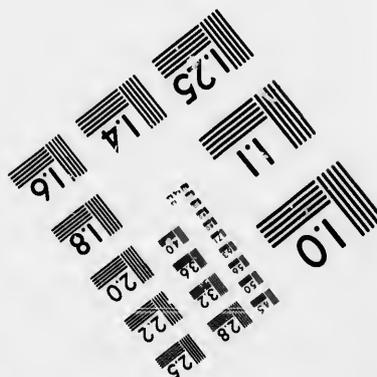
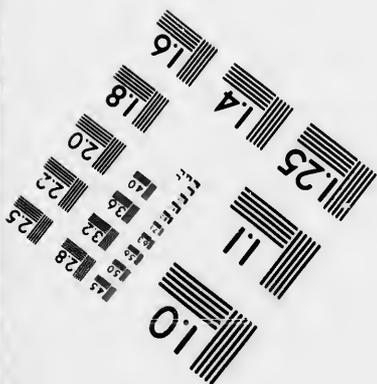
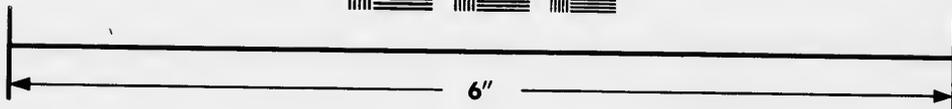
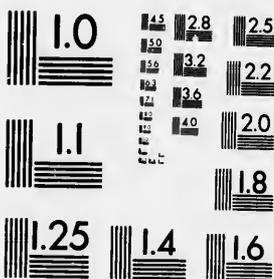
The *Canadian Gazette* of the 14th November (published in London),* also refers to the call: "The legal

* The same issue of this journal also refers to Senator Gowan's career in Canada as follows: "The Hon. James Robert Gowan, LL.D., upon whom this almost unique honour has been bestowed, can look back upon a long and honoured career in Canada. By birth Judge Gowan is an Irishman, owning Wexford as his native county. Early in life he came with his father, the late Mr. H. H. Gowan, to Ontario, and in 1834, when only nineteen years of age, was admitted as a student





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community of Canada has been singularly honoured by the distinction which the Irish Lord Chancellor has just conferred upon one of its representatives. On Tuesday of last week, at the sitting of the Court of Chancery in Dublin, Lord Ashbourne called to the Bar of Ireland the Hon. Judge Gowan, Senator of Canada, who for some time past has been sojourning in Ireland. Addressing Mr. Gowan, the Lord Chan-

by the Law Society of Upper Canada. In the succeeding years Canada was seething with unhappy rebellion, and in 1837-8, Lieut. Gowan served his country in the 4th regiment of the North York Militia. His studies, however, still progressed, and in 1839 he was called to the Bar of Upper Canada, and four years later was appointed judge of the district of Simcoe by the Baldwin-Lafontaine Reform Government, a position he filled with dignity and ability until his retirement in October, 1883. While on the bench Judge Gowan was able to render marked service in connection with legislative matters. Much of the reform and regulation of the legal procedure of the several courts in Ontario is due to his zeal and knowledge, while he gave invaluable aid in the codification of the criminal and statute law in the several confederated Provinces, and in the Dominion into which they formed themselves. He also served as chairman of the board of judges for Ontario from 1869 to 1887; as one of the commissioners appointed to enquire into the fusion of law and equity in Ontario, and as a member of the Royal commission to investigate the charges against the ministry in connection with the historic 'Pacific Scandal.' In 1882 he was appointed to the High Court of Justice, and three years later was called to the Senate, where his name has recently been prominently associated with the framing and introduction of the present procedure of the Upper House with respect to applications for divorce. He has in truth been well described as a 'pioneer judge, an erudite lawyer, and a leading mind in the great measures of law reform.'"

cellor said that, in view of his past distinguished career he had great pleasure in calling him to the Irish Bar as a member of a profession, in this his native country, which he ornamented in that of his adoption. The compliment was enhanced by the circumstance that the 'call' was a special one. Incidents of the kind were rare in the history of the Irish Bar, but in Canada, as in Ireland, the event would be recognised as a tribute of respect to the legal learning of the Dominion, which thus, in the person of one of its most prominent and respected representatives, was peculiarly acknowledged."

Canadian journals also made pleasant reference to the incident, appearing fully to "recognise it as a marked compliment to the whole legal profession in the country that one of their number should have been chosen for one of the most distinguished and seldom bestowed honours by the legal confraternity in Ireland."

Senator Gowan was only three years and six months at the bar when he was appointed a judge, and consequently was not entitled to be made a Queen's Counsel. But after his retirement from the bench, it is known, the dignity was offered to him. A new commission appointing a number of Q. C.'s was issued during his absence in Europe, and his name appeared at the head of the list.

The writer's design, mentioned in his prefatory remarks, to bring the memorial of facts touching Senator Gowan to the present time, is now accomplished; and he concludes, with a hope that friends who read this little *brochure* will excuse its many imperfections.

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